



# CITY OF PALO ALTO OFFICE OF THE CITY ATTORNEY

October 5, 2015

The Honorable City Council  
Palo Alto, California

## **Adoption of Two Resolutions Correcting Clerical Errors in Two Items Previously Approved as Part of the Fiscal Year 2016 Budget**

### **RECOMMENDATION**

To correct clerical errors associated with two items approved on May 27, 2015 and June 15, 2015 as part of the FY 2016 annual budget, staff recommends that Council approve the attached Resolutions.

### **BACKGROUND**

The purpose of this action is to correct errors that occurred with respect to two items that the Council approved as part of the FY 2016 budget:

- On May 27, 2015, the City Council adopted Resolution No. 9512 modifying the City's CLEAN Program. At the time of adoption of Resolution 9512, Exhibit A-1 was inadvertently omitted. Exhibit A-1 contains Eligibility Rules and Requirements associated with implementation of the CLEAN program. Adoption of the attached Resolution, with the correct Exhibit A-1, corrects this clerical error and confirms adoption of the CLEAN program Eligibility Rules and Requirements.
- On June 15, 2015 the City Council adopted Resolution No. 9526 adopting a residential Refuse Rate increase ranging between 9.0 and 19.0 percent as part of the implementation of a new residential food scrap collection program and amending Utility Rate Schedule R-1 to reflect the new rates. The new rates have gone into effect. Although the correct Rate Schedule was attached to the resolution, an incorrect resolution was inadvertently used. Adoption of the attached Resolution corrects this clerical error by amending Resolution 9526 to include the appropriate text. Rate Schedule R-1 is unchanged and those rates remain in force.

### **ENVIRONMENTAL REVIEW**

The proposed Resolutions correcting clerical errors are not projects subject to environmental review.

### **ATTACHMENTS:**

- A: Resolution correcting Resolution 9512 CLEAN Program (DOCX)
- Attachment A1 to Resolution (PDF)
- B: RESO Amending Resolution 9526 Refuse Collection July 1 2015 (DOCX)

- [Utility Rate Schedule R1 \(PDF\)](#)

Department Head: Molly Stump, City Attorney



RESOLUTION NO.:  
[Correcting Resolution No.: 9512]

Resolution of the Council of the City of Palo Alto Amending and Correcting Resolution No.: 9512 Reducing The Contract Price For The Palo Alto Clean Local Energy Accessible Now (CLEAN) Program from 16.5 ¢/kWh to between 10.3-10.4 ¢/kWh for Solar Resources, Expanding the CLEAN Program's Eligibility to Non-Solar Renewable Energy Resources and adding a 25-year Contract Term Option and adopting revised Palo Alto CLEAN Program Eligibility Rules Requirements

RECITALS

- A. On May 27, 2015, the City Council of the City of Palo Alto ("the City") adopted Resolution No.: 9512 modifying the City's CLEAN Program to:
- i. Add a 25-Year Contract Term Option in Addition to the CLEAN Program's Existing 20-Year Contract Term Option;
  - ii. Continue the Palo Alto CLEAN Program for solar energy resources, reducing the contract price from 16.5 cents per kilowatt-hour (¢/kWh) to a contract price equal to the avoided cost of solar energy resources of 10.3 ¢/kWh for a 20-year contract, and 10.4 ¢/kWh for a 25-year contract term, and to continue with a CLEAN Program limit for solar energy resources of 3 megawatts (MW); and
  - iii. Expand the CLEAN Program to allow non-solar eligible renewable energy resources to participate, and offer such resources a contract price equal to their avoided cost of 9.3 cents per kilowatt-hour (¢/kWh) for a 20-year contract, and 9.4 ¢/kWh for a 25-year contract term, with a program limit of 3 MW; and
  - iv. Authorize the City Manager or his designee to sign contracts for the output of one or more solar, or other non-solar eligible renewable energy resource meeting the CLEAN Program Eligibility Rules and Requirements described in Section 1. The total CLEAN Program cost commitment made by the City during the life of the program shall not exceed \$75,000,000, which is sufficient for a program cap of 3 MW of local solar generating capacity and 3 MW of local, non-solar generating capacity over a 25-year contract term.

B. At the time of adoption of Resolution 9512, Exhibit A-1 to the Resolution was inadvertently omitted from the resolution. Exhibit A-1 contains CLEAN Program Eligibility Rules and Requirements necessary to implement changes to the Palo Alto CLEAN Program.

C. Based on the foregoing, the City Council of the City of Palo Alto finds and determines it advisable to amend Resolution 9512 of the City to add Exhibit A-1, CLEAN Program Eligibility Rules and Requirements.

The Council of the City of Palo Alto ("City") RESOLVES:

SECTION 1: Resolution 9512 is hereby amended to include Exhibit A-1, attached here to.

SECTION 2: This resolutions supplements, amends and corrects the original resolution No.: 9512 only to the extent necessary to include Exhibit A-1 and, except to the extent specifically amended by this resolution, the original resolution shall remain in full force and effect.

SECTION 3. The Council finds that the adoption of this resolution is not subject to California Environmental Quality Act (CEQA) review under California Public Resources Code section 21080(b)(8), because the rate adopted reflects the reasonable cost of the CLEAN Program's operating expenses. Approval of the amended CLEAN Program Eligibility Rules and Requirements is not a project under CEQA, and therefore, no environmental assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Senior Deputy City Attorney

\_\_\_\_\_  
City Manager



**PALO ALTO CLEAN (CLEAN LOCAL ENERGY ACCESSIBLE NOW)  
PROGRAM ELIGIBILITY RULES AND REQUIREMENTS**

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EXHIBIT A-1

**A. PARTICIPATION ELIGIBILITY:**

The Palo Alto Clean Local Energy Accessible Now Program (the "CLEAN Program") is open to participation by any Eligible Renewable Energy Resource, as defined in Section D.4, that satisfies these Program Eligibility Rules and Requirements.

**B. TERRITORIALITY REQUIREMENT:**

In order to be eligible to participate in the CLEAN Program, an Eligible Renewable Energy Resource must be located in and generating electricity from within the utility service area of the City of Palo Alto.

**C. PRICES AND TERM FOR ELIGIBLE RENEWABLE RESOURCES:**

The following purchase price shall apply to the electricity produced by an Eligible Renewable Energy Resource participating in the Program, except as provided in Section D.5.

Solar Energy Resources:

<u>Contract Term</u>	<u>Contract Price</u>
20 years	\$0.165 / kWh
25 years	\$0.165 / kWh

Other, Non-Solar Eligible Renewable Energy Resources:

<u>Contract Term</u>	<u>Contract Price</u>
20 years	\$0.093 / kWh
25 years	\$0.094 / kWh

**D. ADDITIONAL RULES AND REQUIREMENTS:**

1. The owner of the Eligible Renewable Energy Resource shall enter into an Eligible Renewable Energy Resource Power Purchase Agreement ("PPA") with the City of Palo Alto prior to delivering energy to the City.
2. The maximum, aggregate generation capacity from all solar facilities participating in the CLEAN Program is three (3) Megawatts ("MW") (the "Program Capacity – Solar", based on the generating facility's California Energy Commission rating, CEC-AC). Generating capacity from non-solar, eligible renewable energy resources will not be counted towards this 3 MW cap, but will be subject to a separate 3 MW cap of its own (the "Program Capacity – Non-Solar").
3. An application for participation in the CLEAN Program to sell output to the City (the "Application") may be submitted at any time. Applications will be considered in the

Effective \_\_\_\_\_

**PALO ALTO CLEAN (CLEAN LOCAL ENERGY ACCESSIBLE NOW)  
PROGRAM ELIGIBILITY RULES AND REQUIREMENTS**

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order received.

4. Eligible Renewable Energy Resource means an electric generating facility that: (a) is defined and qualifies as an "eligible renewable energy resource" under California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741, respectively, as amended; and (b) meets the territoriality requirement set forth in Section B.
5. The California Energy Commission's ("CEC") certification of the Eligible Renewable Energy Resource shall be required within six (6) months of the commercial operation date of the generating facility; the facility's owner shall provide written notice of the CEC's certification to the City within ten (10) business days of receipt of said certification. If the City agrees, in its sole discretion, to take delivery of the generating facility's electricity prior to the CEC's certification, then, as the facility's electricity cannot be considered in fulfillment of the City's RPS requirements, the price that the City will pay for the generating facility's electricity (the "Pre-Certification Price") will be set to \$0.076 per kWh (for a 20-year contract term) or \$0.08 per kWh (for a 25-year contract term), based on the estimated levelized cost of brown power over a 20-year or 25-year period, respectively. Upon the CEC's certification of the generating facility and the provision of notice of such certification to the City in accordance with this section, the City will pay the Price set forth in Section C of these CLEAN Program Rules and Requirements and the PPA (collectively referred to as the "Contract Price") for the generating facility's electricity delivered on and after the date of the CEC's certification. The City will, in its sole discretion, "true-up", as appropriate, the difference between the Contract Price and the Pre-Certification Price for any electricity received and paid for by the City, effective as of the date of certification of the Eligible Renewable Energy Resource.
6. If an Eligible Renewable Energy Resource is authorized to participate in the CLEAN Program, then that Resource shall not be entitled to receive any rebate or other incentive from the City's Photovoltaic (PV) Partners Program or any other similar incentive program funded by the City's ratepayers. To the extent any rebate or incentive is paid to the owner of the Resource, that rebate or incentive shall be disgorged and refunded to the City upon 30 days' notice, if the Eligible Renewable Energy Resource continues to participate in the CLEAN Program. If a rebate or an incentive has been paid to the Eligible Renewable Energy Resource, then that Resource shall be ineligible to participate in the CLEAN Program.
7. All electricity generated by the Eligible Renewable Energy Resource shall be delivered only to the City. No portion of the electricity may be used to offset any load of the generating facility (other than incidental loads associated with operating the generating facility).
8. A metering and administration fee will be charged to each Eligible Renewable Energy

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**PALO ALTO CLEAN (CLEAN LOCAL ENERGY ACCESSIBLE NOW)  
PROGRAM ELIGIBILITY RULES AND REQUIREMENTS**

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Resource that participates in the CLEAN Program. See Utilities Rate Schedule E-15 (Electric Service Connection Fees).

Effective \_\_\_\_\_

Not Yet Approved

Resolution No. \_\_\_\_\_  
[Amending and Correcting Resolution: 9526]

Resolution of the Council of the City of Palo Alto Adopting a Refuse  
Rate Increase and Amending Utility Rate Schedule R-1

A. On June 15, 2015, the City Council of the City of Palo Alto (“the City”) adopted Resolution No.: 9526 (“Original Resolution”) adopting a Refuse Rate Increase and Amending Utility Rate Schedule R-1.

B. Although the Rate Schedule attached to the Original Resolution was correct, the resolution itself was not.

C. Based on the foregoing, the City Council finds and determines it is advisable to amend Resolution 9526 to properly reflect the actions of the City Council.

Therefore, the City Council RESOLVES as follows:

SECTION 1: Resolution 9526 previously adopted on June 15, 2015 is amended in its entirety to read as follows:

1. Pursuant to Chapter 12.20.010 of the Palo Alto Municipal Code, the Council may by resolution adopt rules and regulations governing utility services and the fees and charges therefore.

2. The Council has considered residential refuse rate increases ranging between 9.0 and 19.0 percent as part of the implementation of a new residential food scrap collection program.

3. Pursuant to Article XIID Sec. 6 of the California Constitution, on June 8, 2015, the City of Palo Alto held a public hearing to consider all protests against the proposed wastewater collection rate amendments.

4. The total number of written protests presented by the close of the public hearing was less than fifty percent (50%) of the total number of customers and property owners subject to the proposed wastewater collection rate amendments.

The Council of the City of Palo Alto further RESOLVES:

SECTION 2. Pursuant to Section 12.20.010 of the Palo Alto Municipal Code, Utility Rate Schedule R-1 (Domestic Refuse Collection) is hereby amended to read in accordance with Sheets R-1-1 and R-1-2, attached hereto and incorporated herein. The foregoing Utility Rate Schedules, as amended, shall become effective on July 1, 2015.

Not Yet Approved

SECTION 3. The Council finds that the revenue derived from the authorized adjustments of the refuse collection rates shall be used only for the purposes set forth in Article VII, Section 2, of the Charter of the City of Palo Alto.

SECTION 4. The Council finds that the adoption of this resolution does not meet the California Environmental Quality Act's definition of a project, pursuant to California Public Resources Code section 21065, therefore, no environmental assessment is required.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

APPROVED:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Public Works

**DOMESTIC REFUSE COLLECTION**

UTILITY RATE SCHEDULE R-1

**A. APPLICABILITY:**

This schedule applies to each occupied domestic dwelling as required by City ordinance, including separate single-family domestic dwelling and multi-unit dwellings (4 units or less). An occupied dwelling unit is defined as any home, apartment unit, cottage, flat or duplex unit, having kitchen, bath, and sleeping facilities, and to which gas or electric service is being rendered.

**B. TERRITORY:**

Within the incorporated limits of the City of Palo Alto and on land owned or leased by the City.

**C. RATES:**

The refuse rates below provide weekly collection, processing and disposal of materials properly deposited in the number of garbage containers indicated below, as well as weekly collection and processing of recyclables from blue carts (standard service includes one 64-gallon blue cart), weekly collection and processing of compostables (yard trimmings, food scraps, and food soiled paper) from green carts (standard service includes one 96-gallon green cart), ongoing maintenance of the closed Palo Alto Landfill, zero waste programs, street sweeping service, the household hazardous waste program, and the annual Clean Up Day.

**Monthly Refuse Services Cost**

**Garbage Cart Sizes**

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Mini-can/20-gallon cart *	24.30
1 32-gallon cart**	43.75
1 64-gallon cart	87.51
1 96-gallon cart	131.26

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\*Mini-can service cannot be combined with any other cart service

\*\*Standard cart service is one 32-gallon cart.

**D. SPECIAL ITEM CHARGES:**

1. Stove/washer/dryer/water heater pick up *	25.00
2. Freezer/refrigerator/air conditioner/garbage compactor pick up *	35.00
3. Upholstered furniture pick up (per unit) *	15.00
4. Mattress pick up *	15.00
5. Tire pick up (per tire, limit of 4 tires) *	20.00
6. Pallet pick up *	5.00

\* "Surcharge special" fee (see E5. below) applies when special item is not collected under the annual Clean Up Day Program guidelines.

**E. SPECIAL LABOR CHARGES:**

**DOMESTIC REFUSE COLLECTION**

UTILITY RATE SCHEDULE R-1

1. Return trip (next day service).....	24.00
2. Return trip (same day service) .....	36.00
3. Urgent special (for service outside standard weekly collection; charged per cubic yard)	55.00
4. Miscellaneous 2 person service rate (waiting time) .....	3.20/min
5. Miscellaneous 1 person service rate (pull out service) .....	2.20/min
6. Surcharge special (one time pick up of large or non-standard items; or delivery of containers for special events) .....	77.00
7. Repair rate .....	2.20/min + material
8. Extra can.....	10.60
9. Back/side yard collection of garbage (monthly charge per residence – available to current back/side yard service customer only) .....	3.66

**F. SPECIAL CART CHARGES:**

1. 32-gallon cart rental*** .....	3.00
2. 64-gallon cart rental*** .....	3.00
3. 96-gallon cart rental*** .....	3.00
4. 20-gallon cart purchase .....	60.00
5. 32-gallon cart purchase.....	51.00
6. 64-gallon cart purchase.....	57.00
7. 96-gallon cart purchase.....	62.00
8. Cart wash .....	25.00
9. Cart clean out (by hand).....	15.00
10. Recycling cart contamination (entire cart dumped).....	30.00
11. Damaged cart exchange (one allowed per customer each calendar year at no cost).....	20.00
12. Monthly key service (customer provided lock) .....	15.00
13. Lock (Collector provided) .....	25.00
14. Cart lock installation.....	40.00

\*\*\* Monthly charge for each additional cart of service above three carts for the compostable materials or recycling cart.