



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### AGENDA TITLE:

Approval of a Resolution Establishing New Solid Waste Rates

### RECOMMENDED MOTION:

Approve resolution adopting modified waste rates

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### DISCUSSION

The City of Sausalito's "Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services with Bay Cities Refuse Company" (Agreement), specifies a rate review process for solid waste collection, disposal and recycling services. The City and Bay Cities Refuse Company (Bay Cities) are now completing the second regular four-year cycle in which rates are adjusted for the year following a full rate review, and then are adjusted for the three subsequent years by the Consumer Price Index (CPI). This is a full rate review year for the contract. Rate adjustments are effective in January, and any adjustment made as a result of this rate review will be effective January 1, 2010.

In accordance with the terms of the contract, prior to September 15, 2009 Bay Cities submitted a formal written request for a slight revision to its current refuse collection rates to be effective January 1, 2010. Their request is for a two percent (2%) increase in in both commercial rates and residential rates. Their letter request is Attachment A.

Bay Cities submitted underlying documentation to support their projected increased costs for labor, fuel, maintenance due to California air regulations and dump fees. Bay Cities is also purchasing two refuse collection vehicles (dedicated to Sausalito) to replace existing older trucks.

Bay Cities also suggested that the City staff and Bay Cities staff work together to perform the "full rate review" procedures specified in the contract rate increase, rather than contract out the "full rate review" procedures, as had been the past practice of the City in managing the Franchise Agreement. The prior "full rate review" year was completed in December, 2005 effective for the rates during calendar year 2006. Brown Vence and Associates (BVA) was retained to prepare the necessary rate review. The full contract cost for BVA of \$12,000 and this amount was paid up-front by Bay Cities. The \$12,000 was amortized over the following four years as an allowable expense for rate recovery purposes.

The Finance Committee reviewed, deliberated and accepted Bay Cities request to forego the cost of a consultant to perform a "full rate review," and alternatively directed staff to perform an in-house full rate review.

A summary of actual and proposed rates are as follows:

Bay Cities Refuse Service Inc. - Proposed Adjusted Rates For Calendar Year 2010						
Service Category and Level	Prior Monthly Rates				Current Monthly Rates	Proposed Monthly Rates
	September 1, 2004 - December 31, 2005	January 1 - December 31, 2006	January 1 - December 31, 2007	January 1 - December 31, 2008	January 1 - December 31, 2009	January 1 - December 31, 2010
<b>Section 1. Residential</b>						
<b>a. East of 101</b>						
one 30-gallon can	26.15	28.10	29.2	30.2	31.45	32.05
two 30-gallon cans	52.30	56.20	58.4	60.4	62.90	64.15
three 30-gallon cans	78.44	84.30	87.6	90.6	94.35	96.25
four 30-gallon cans	104.59	112.40	116.8	120.8	125.80	128.30
one 40-gallon can	48.27	51.90	53.93	55.75	58.10	59.25
one 45-gallon can	55.45	59.60	61.95	64.05	66.75	68.05
one 50-gallon can	64.33	69.15	71.85	74.3	77.40	78.95
<b>b. West of 101</b>						
one 30-gallon can	27.62	29.70	30.85	31.9	33.25	33.90
two 30-gallon cans	55.25	59.40	61.7	63.8	66.50	67.85
three 30-gallon cans	82.87	89.10	92.55	95.7	99.70	101.70
four 30-gallon cans	110.49	118.80	123.40	127.60	132.95	135.60
one 45-gallon can	56.66	60.90	64.00	66.15		
<b>c. Bulk collections</b>						
curb service (cubic yd)	20.72	22.25	23.00	23.00	22.25	22.70
backyard (cubic yard)	23.47	25.20	26.15	26.15	25.20	25.70
<b>Section 2. Multiple Unit</b>						
apartments - 1 time per week	27.46	29.50	30.65	31.70	33.04	33.70
2 units, 2 30 gallon containers, once a week	54.91	59.00	61.30	63.35	66.00	67.30
<b>Section 3. Commercial</b>						
one 30-gallon can	26.58	28.55	29.65	30.65	31.95	32.59
bulk (per cubic yd)	23.86	25.65	26.65	27.55	28.70	29.25
compactor (per cubic yd)	49.98	53.70	55.80	57.70	60.15	61.35

During discussions, Bay Cities also offered to remit actual Franchise Taxes to the City on a monthly basis rather than on the current system of remitting advances each trimester with a retrospective "true-up." This will improve the City's cash flow for cash management and investment purposes.

City staff reviewed actual and projected expenses for Bay Cities operations during the prior rate periods. City staff reconciled and validated actual amounts with audited financial statements. Staff reviewed Bay Cities labor agreements to verify projected future labor expenses of 3.4% for fiscal years ending through 2013: the next four rate years. Staff extrapolated CY 2009 and CY 2010 income statements. Results are as follows:

	2006	2007	2008	2009 Extrapolated	2010 Projected
<b>Revenue</b>	<b>3,014,681</b>	<b>3,095,256</b>	<b>3,164,660</b>	<b>3,250,671</b>	<b>3,299,431</b>
Personnel Costs	1,207,204	1,230,643	1,302,731	1,312,574	1,358,514
Truck Costs	282,778	326,434	378,986	397,935	430,964
Franchise Fees	440,107	451,480	462,911	487,601	494,915
Dumping Costs	224,296	203,498	226,768	232,437	251,729
Other Costs	327,164	391,856	377,913	440,034	476,557
Depreciation	104,310	143,183	157,319	151,625	151,625
Taxes	6,432	6,087	3,871	6,039	6,039
<b>Total Expenses</b>	<b>2,592,291</b>	<b>2,753,181</b>	<b>2,910,499</b>	<b>3,028,245</b>	<b>3,170,343</b>
<b>Net Income</b>	<b>422,390</b>	<b>342,075</b>	<b>254,161</b>	<b>222,426</b>	<b>129,088</b>

## ADDITIONAL BACKGROUND

The City of Sausalito entered into the Agreement in February 2002, with fixed rates for the two initial years of 2002 and 2003. The rates were then adjusted by 75 percent of CPI effective January 2004, and were again adjusted effective September 1, 2004 to reflect an increase in the Marin County JPA disposal pass-through expense, a change in the franchise fee from 12 to 15 percent, and application of the full CPI rather than 75 percent of the CPI. After the full rate review of BVA (described above), the rates for calendar year 2006 were increased by 7.5 percent, despite that Bay Cities only requested a 4.5% rate increase. The subsequent three year CPI increases were as follows: CY 2007 – 3.9%; CY 2008 – 3.4%; and CY 2009 – 4.1%. If calendar year 2010 was not a full rate review year, the contract prescribed methodology for calculating the CPI increase would have resulted in a 0.23% increase to all rates.

Bay Cities also provides additional City and Community Services under the franchise agreement. Bay Cities furnishes all labor, supervision, equipment materials, supplies and all other items necessary to perform:

- public litter containers and servicing;
- twice a year community wide cleanup services;
- city facilities and activities refuse services associated with city bins, roll-off bins, green waste bins and recycling containers;
- collection and disposal services for special events;
- downtown cleaning services; and street sweeping services (all residential once per month, commercial downtown area seven days per week, except holidays). The commercial area cleaning includes clean-off of the sidewalks, and cleaning of the drain inlets/catch basins along the route;
- conduct and fund a consumer information and education program

## Zero Waste Strategic Planning

To facilitate the City's continued compliance with the California Integrated Waste Management Act of 1989 (AB 939) and Marin Hazardous and Solid Waste Management Joint Powers Authority objectives for an increase in the rate of diversion of solid wastes from land disposal of 80% by 2012 and 100% (Zero Waste) by 2025, staff and Bay Cities will evaluate existing diversion rates, identify and evaluate alternative programs

for increasing diversion, and integrate those programs into future rate and service planning. These efforts will include comparing the services available in other franchise areas in Marin, Sonoma and Contra Costa Counties as well as the related recycling centers, transfer stations, composting and green waste centers, waste to energy and waste to fuel programs, other waste/reuse/recycling streams (including construction and demolition, wastewater, food, fats, oils and grease, household hazardous wastes, medical and other biohazardous wastes, pharmaceutical wastes) and land disposal sites. Staff will coordinate these activities with the Sausalito-Marin City Sanitary District and the Tamalpais Community Services District where appropriate. These efforts will allow the City to better structure its franchise hauler agreements in the future as well as provide Bay Cities with similar strategic planning benefits.

## **FISCAL IMPACT**

The proposed new rates are provided on Attachment B. The proposed rate change would increase solid waste rates by 2.0% for all customers: residential and commercial. For the typical residential customer (single can use) the rate increase will be \$0.60 (60 cents) per month. Multiple unit projects will pay a monthly increase of \$0.66 per unit. The monthly rates for commercial customers will increase \$0.64 per month for single can service and \$0.55 per cubic yard for non-compacted bin service.

Assuming that the total number of units to be billed remains the same as in FY 2009, the new rates will generate an estimated \$7,500 increase in City franchise fees during CY 2010. Bay Cities also offered to remit actual Franchise Taxes to the City on a monthly basis rather than on the current system of remitting advances each trimester with a retrospective "true-up." This will improve the City's cash flow for cash management and investment purposes.

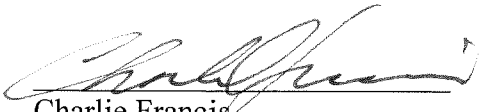
## **STAFF RECOMMENDATIONS**

Staff recommends that the City Council adopt the attached resolution (Attachment C) approving the new waste rates. Further, staff recommends that the Council accept Bay Cities' offer to waive any increases for future disposal increases during the current rate period and direct Bay Cities to work aggressively to increase compliance with the mandatory service requirements.

## **ATTACHMENTS**

- A-** Bay Cities Letter Request for Rate Increase
- B-** Adjusted Rates for Solid Waste Recycling and Green Waste Collection and Disposal
- C-** Resolution Adopting Adjusted Rates for Solid Waste Recycling and Green Waste Collection and Disposal
- D-** Comparison of proposed rates with prior years' and current rates
- E-** Marin County Rate Comparison
- F-** Exhibit I from Franchise Agreement – Rate Review Guidelines

**PREPARED BY:**



Charlie Francis  
Administrative Services Director

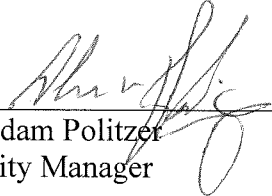
**REVIEWED BY:**

\_\_\_\_\_  
Jonathon Goldman  
Public Works Director

**REVIEWED BY:**

\_\_\_\_\_  
Mary Wagner  
City Attorney

**SUBMITTED BY:**

  
\_\_\_\_\_  
Adam Politzer  
City Manager



**BAY CITIES  
REFUSE  
SERVICE,  
INC.**

CITY - COUNTY - GOVERNMENT CONTRACTORS

P.O. BOX 277 - EL CERRITO, CALIFORNIA 94530 - PHONE (415) 332-3646

LEWIS FIGONE, PRESIDENT

City of Sausalito and City Council  
ATTN: Charlie Francis  
420 Litho Street  
Sausalito, Ca 94965

RECEIVED  
NOV 10 2009  
CITY OF SAUSALITO

Re: Refuse Collection Rate Increase

Dear Mr. Francis,

Bay Cities Refuse Service would like to request a slight rate revision to its current refuse collection rates to be effective January 1, 2010. Bay Cities has experienced normal operating expense increases over the past year. The increase would help offset these increased costs. For your review we have enclosed information regarding the increase.

1. Exhibit E 2009 current rates
2. Exhibit E Proposed 2010 rates
3. Other City and County rates in Marin County

Some of the areas where we have experienced increased costs are: **labor**, (wages, pension and health & welfare) **fuel**, (fuel prices tend to fluctuate and diesel prices have not dropped back down as much as gasoline) **truck maintenance**, (California Air Regulations) **dump fees** and **workers compensation insurance**. We are also purchasing two refuse collection vehicles to replace existing trucks which are old, one being a 1993 model.

We are requesting a 2% increase in commercial and residential rates. As records will confirm, historically the full rate increase is not realized as accounts, especially some commercial accounts tend to cut back on service. Although dump tonnage remains the same, some accounts find way to cut back service. We hope with this small increase, we will realize a better return on the increase as the impact may be minimized.

We look forward to discussing this further and providing you with any additional information regarding our services to the City of Sausalito.

Bay Cities Refuse Svc, Inc.

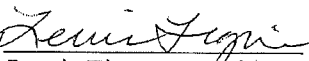
By   
Lewis Figone, President

EXHIBIT E

**CITY OF SAUSALITO – RATES FOR SOLID WASTE RECYCLING AND GREEN WASTE COLLECTION AND DISPOSAL**

**City of Sausalito—Proposed rates effective January 1, 2010 through December 31, 2010**

**Section 1. Residential garbage collection rates shall be:**

- a. For all portions of the City lying easterly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30- gallon can	\$32.05
Two	(2) 30-gallon cans	\$64.15
Three	(3) 30-gallon cans	\$96.25
Four	(4) 30-gallon cans	\$128.30
One	(1) 40-gallon can	\$59.25
One	(1) 45-gallon can	\$68.05
One	(1) 50-gallon can	\$78.95

- b. For all portions of the City lying westerly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30-gallon can	\$33.90
Two	(2) 30-gallon cans	\$67.85
Three	(3) 30-gallon cans	\$101.70
Four	(4) 30-gallon cans	\$135.60

- c. Bulk collections will be made in residential areas on twenty-four (24) hours notice at the following rates:

Curb Service	\$22.70/cubic yard
Backyard Service	\$25.70/cubic yard

**Section 2. Multiple Unit garbage collection rates shall be:**

- a. The maximum rate for once per week collection and disposal of garbage from apartment buildings for the period of January 1, 2010 through December 31, 2010 shall be \$33.70 per apartment unit.
- b. The maximum rate for once per week collection and disposal of two thirty (30) gallon cans from two-unit residences for the period of January 1, 2010 through December 31, 2010 shall be \$67.30 per month.

**Section 3. Commercial garbage collection rates shall be:**

The maximum rate for the collection and disposal of garbage from commercial areas in the City of Sausalito for the period January 1, 2010 through December 31, 2010 for garbage placed in thirty (30) gallon cans shall be \$32.26 per month.

The maximum rates for the collection and disposal of bulk garbage from commercial areas for the period January 1, 2010 through December 31, 2010 shall be \$28.98 per cubic yard.

The maximum rate for commercial compactor service for the period of January 1, 2010 through December 31, 2010 shall be \$60.75 per cubic yard.



EXHIBIT E

**CITY OF SAUSALITO – RATES FOR SOLID WASTE RECYCLING AND GREEN WASTE COLLECTION AND DISPOSAL**

**City of Sausalito—Rates effective January 1, 2009 through December 31, 2009**

**Section 1. Residential garbage collection rates shall be:**

- a. For all portions of the City lying easterly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30- gallon can	\$31.45
Two	(2) 30-gallon cans	\$62.90
Three	(3) 30-gallon cans	\$94.35
Four	(4) 30-gallon cans	\$125.80

One	(1) 40-gallon can	\$58.10
One	(1) 45-gallon can	\$66.75
One	(1) 50-gallon can	\$77.40

- b. For all portions of the City lying westerly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30-gallon can	\$33.25
Two	(2) 30-gallon cans	\$66.50
Three	(3) 30-gallon cans	\$99.70
Four	(4) 30-gallon cans	\$132.95

- c. Bulk collections will be made in residential areas on twenty-four (24) hours notice at the following rates:

Curb Service	\$22.25/cubic yard
Backyard Service	\$25.20/cubic yard

**Section 2. Multiple Unit garbage collection rates shall be:**

- a. The maximum rate for once per week collection and disposal of garbage from apartment buildings for the period of January 1, 2009 through December 31, 2009 shall be \$33.04 per apartment unit.
- b. The maximum rate for once per week collection and disposal of two thirty (30) gallon cans from two-unit residences for the period of January 1, 2009 through December 31, 2009 shall be \$66.00 per month.

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**Section 3. Commercial garbage collection rates shall be:**

The maximum rate for the collection and disposal of garbage from commercial areas in the City of Sausalito for the period January 1, 2009 through December 31, 2009 for garbage placed in thirty (30) gallon cans shall be \$31.95 per month.

The maximum rates for the collection and disposal of bulk garbage from commercial areas for the period January 1, 2009 through December 31, 2009 shall be \$28.70 per cubic yard.

The maximum rate for commercial compactor service for the period of January 1, 2009 through December 31, 2009 shall be \$60.15 per cubic yard.

Marin County Residential Rates September 2009

<u>City</u>	<u>1 can rate</u>	<u>Backyard pick up Distance Fee</u>	<u>Yard waste</u>	<u>Clean ups</u>	<u>Franchise Fee</u>	<u>Street Sweeping</u>
<b>San Rafael</b>	\$32.15	No—Distance fee included in rate	Yes/limited	No	12%	No
<b>Ross</b>	\$33.23	No—Distance fee included in rate	Yes/limited	No	10% ?	No
<b>Fairfax</b>	\$31.98	No—Distance fee included in rate	Yes/limited	No	10%	No
<b>Larkspur</b>	\$31.19	No—Distance fee included in rate	Yes/limited	1	15%	No
<b>Mill Valley</b>	\$33.07 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	20%	Yes
<b>Belvedere</b>	\$36.92 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	15%	No

County-serviced By MVRs	\$33.31 Includes 6.9% increase	Yes	Yes/limited	yes/ 2	15%	No
Corte Madera	\$34.05	Yes	Yes/limited	yes/2	16%	Yes
Tiburon	\$32.86 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	12%	Yes
Sausalito	* \$31.45	Yes	Yes/unlimited	2	15%	Yes

Note: \*Sausalito rate includes downtown street and bathroom service, 7 days per week and street sweeping.

## ATTACHMENT B

### CITY OF SAUSALITO – RATES FOR SOLID WASTE RECYCLING AND GREEN WASTE COLLECTION AND DISPOSAL

City of Sausalito—Proposed rates effective January 1, 2010 through December 31, 2010

#### Section 1. Residential garbage collection rates shall be:

- a. For all portions of the City lying easterly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30- gallon can	\$32.05
Two	(2) 30-gallon cans	\$64.15
Three	(3) 30-gallon cans	\$96.25
Four	(4) 30-gallon cans	\$128.30

One	(1) 40-gallon can	\$59.25
One	(1) 45-gallon can	\$68.05
One	(1) 50-gallon can	\$78.95

- b. For all portions of the City lying westerly of U.S. Highway 101, the maximum rate shall be:

One	(1) 30-gallon can	\$33.90
Two	(2) 30-gallon cans	\$67.85
Three	(3) 30-gallon cans	\$101.70
Four	(4) 30-gallon cans	\$135.60

- c. Bulk collections will be made in residential areas on twenty-four (24) hours notice at the following rates:

Curb Service	\$22.70/cubic yard
Backyard Service	\$25.70/cubic yard

#### Section 2. Multiple Unit garbage collection rates shall be:

- a. The maximum rate for once per week collection and disposal of garbage from apartment buildings for the period of January 1, 2010 through December 31, 2010 shall be \$33.70 per apartment unit.
- b. The maximum rate for once per week collection and disposal of two thirty (30) gallon cans from two-unit residences for the period of January 1, 2010 through December 31, 2010 shall be \$67.30 per month.

**Section 3. Commercial garbage collection rates shall be:**

The maximum rate for the collection and disposal of garbage from commercial areas in the City of Sausalito for the period January 1, 2010 through December 31, 2010 for garbage placed in thirty (30) gallon cans shall be \$32.59 per month.

The maximum rates for the collection and disposal of bulk garbage from commercial areas for the period January 1, 2010 through December 31, 2010 shall be \$29.25 per cubic yard.

The maximum rate for commercial compactor service for the period of January 1, 2010 through December 31, 2010 shall be \$61.35 per cubic yard.

ATTACHMENT C

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO  
APPROVING AN ADJUSTMENT IN RATES FOR THE SOLID WASTE,  
RECYCLABLES, AND GREEN WASTE SERVICES PROVIDED BY BAY CITIES  
REFUSE SERVICES, INC.**

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**WHEREAS**, the City of Sausalito has previously entered into solid waste franchise agreements with Bay Cities Refuse Service, Inc. (hereinafter referred to as "BCRS") on August 25, 1989, January 1, 1994, January 1, 1997, January 1, 2000, and February 5, 2002; and

**WHEREAS**, the current Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services provides that every fourth year a rate review shall be conducted to establish new customer rates; and

**WHEREAS**, the Franchise Agreement provides that solid waste rates for calendar year 2010 are to be established based on the results of a rate review; and

**WHEREAS**, the City of Sausalito has completed a rate review for 2010 examining recent past and projected revenues and expenses; and

**WHEREAS**, the rate review found that solid waste rates should be increased by 2.0 percent effective for the period January 1 through December 31, 2010; and

**WHEREAS**, the approval of this franchise agreement is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15273 and because it is not a project within the meaning of CEQA Guidelines Section 15378.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Sausalito does hereby:

1. Approve the 2010 rate schedule for BCRS services, attached hereto as Exhibit B.

**PASSED AND ADOPTED** by the City Council of the City of Sausalito at a meeting held on the 17<sup>th</sup> day of November, 2009 by the following vote:

**AYES:**           **COUNCIL MEMBERS:**

**NOES:**           **COUNCIL MEMBERS:**

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Item #: 6A  
Meeting Date: 12-13-05  
Page #: 817

**ABSENT: COUNCIL MEMBERS:**

**MAYOR OF THE CITY OF SAUSALITO**

**ATTEST:**

**DEPUTY CITY CLERK**

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Item #: 6A  
Meeting Date: 12-13-05  
Page #: 18



**City of Sausalito - Solid Waste, Recycling and Green Waste Collection and Disposal Service  
ATTACHMENT D**

**Bay Cities Refuse Service Inc. - Proposed Adjusted Rates For Calendar Year 2010**

Service Category and Level	Prior Monthly Rates				Current Monthly Rates
	September 1, 2004 - December 31, 2005	January 1 - December 31, 2006	January 1 - December 31, 2007	January 1 - December 31, 2008	
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<b>b. West of 101</b>					
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one 45-gallon can	56.66	60.90	64.00	66.15	
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compactor (per cubic yd)	49.98	53.70	55.80	57.70	60.15

Comparison of prior current rates with proposed rates FY10PBC

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**Attachment E**

Marin County Residential Rates      September 2009

<u>City</u>	<u>1 can rate</u>	<u>Backyard pick up Distance Fee</u>	<u>Yard waste</u>	<u>Clean ups</u>	<u>Franchise Fee</u>	<u>Street Sweeping</u>
<b>San Rafael</b>	\$32.15	No—Distance fee included in rate	Yes/limited	No	12%	No
<b>Ross</b>	\$33.23	No—Distance fee included in rate	Yes/limited	No	10% ?	No
<b>Fairfax</b>	\$31.98	No—Distance fee included in rate	Yes/limited	No	10%	No
<b>Larkspur</b>	\$31.19	No—Distance fee included in rate	Yes/limited	1	15%	No
<b>Mill Valley</b>	\$33.07 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	20%	Yes
<b>Belvedere</b>	\$36.92 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	15%	No

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County-serviced By MVRs	\$33.31 Includes 6.9% increase	Yes	Yes/limited	yes/ 2	15%	No
Corte Madera	\$34.05	Yes	Yes/limited	yes/2	16%	Yes
Tiburon	\$32.86 Includes 3.1% increase	Yes	Yes/limited	yes/ 2	12%	Yes
Sausalito	* \$31.45	Yes	Yes/ <b>unlimited</b>	2	15%	Yes

Note: \*Sausalito rate includes downtown street and bathroom service, 7 days per week and street sweeping.

**EXHIBIT I**

**RATE REVIEW GUIDELINES**

**A. GENERAL PROVISIONS**

**1. Rate Review Years**

Formal rate reviews shall be conducted every four years, with the first adjustment to be effective January 1, 2006. Contractor shall submit a rate application, and on the basis of the review of the rate application and supporting documentation, and in accordance with the detailed guidelines provided below the City may increase, decrease, or make no change in the rates. Provided, however, that the City will not unreasonably reject a requested rate adjustment that is logical, fully supported, and consistent with the provisions of this contract. In no event shall a rate increase occur if there is an uncured Event of Default, as provided in Article 11.2.

**2. Non-Rate Review Years**

The initial rate adjustment under this contract is effective from, May 1, 2002 through December 31, 2003. For non-rate review years, beginning with January 1, 2004, the rates will be adjusted by the City to reflect 100 percent of the Consumer Price Index (CPI). For four-year cycles, beginning with January 1, 2007 through December 31, 2010 the first three years shall be non-rate review years and the fourth year a rate review year.

**3. Summary Table**

The following table summarizes the rate review process for both the Base Term and the Extension.

No Adjustment	Non-Rate Review Years (January 1 –CPI Adjustment)	Rate Review Years (January 1)
2002, 2003	2004, 2005, 2007, 2008, 2009, 2011, 2012, 2013, 2015, 2016, 2018, 2019, 2020, 2022, 2023, 2024, 2026	2006, 2010, 2014, 2017 <sup>1</sup> , 2020, 2025

<sup>1</sup> In the event of an Extension.

Due to the timing of the Extension, following the adjustment of rates on January 1, 2014 based on a rate review, the adjustments for 2015 and 2016 will be CPI-based. The January 2017 rate adjustment will occur if there is an Extension and will be based on a rate review. The four-year cycle of three years of CPI and a fourth year rate review begins again with January 2018. The last possible rate adjustment under this contract is a CPI adjustment effective January 1, 2026.

**B. DEFINITIONS**

“CPI” refers to the Consumer Price Index for All Urban Consumers for the San Francisco-Oakland-San Jose California Metropolitan Area, Standard Metropolitan Statistical Area, as

published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index.

"Current rate period" means the calendar year beginning with the effective date of any rate adjustment resulting from a rate review. Hence, with relation to the first rate review adjustment scheduled to be effective on January 1, 2006, calendar year 2006 is the current rate period.

"Fixed expenses" are those expenses that do not change with relation to the consumer price index, and include but are not necessarily limited to interest payments, lease payments, and continuing depreciation of specific vehicles. Fixed expenses do not receive adjustments during either rate review or non-rate review years.

"Pass-through expenses" are Contractor expenses that are determined by third parties, and include but are not necessarily limited to disposal expenses, green waste processing expenses, and the Marin County Joint Powers Authority Integrated Waste Management Fee. Subject to any restrictions on these expenses otherwise specified in this contract, pass-through expenses shall be adjusted during both rate review and non-rate review years to reflect the actual change in the expense.

"Prior rate period" means the calendar years immediately preceding the effective date of any rate adjustment resulting from a rate review. Hence, with relation to the first rate review adjustment scheduled to be effective on January 1, 2006, January 2002 through December 2005 constitutes the prior rate period.

"Rate revenue" means all revenues collected by the Contractor as a result of billing customers for franchise services using the City-approved rate schedule. Rate revenues do not include net revenues from the processing and sale of recyclable materials.

"Recycling revenue" means the net positive or negative revenues that result from the sale of recyclable materials less the cost of processing of the materials.

"Variable expenses" are those expenses that are subject to adjustment by the CPI during non-rate review years. Variable expenses include labor and fuel, and all other allowed expenses that are not either pass-through expenses or fixed expenses.

## **C. PROCESS DURING RATE REVIEW YEARS**

### **1. Schedule**

Contractor shall submit a rate adjustment application by the September 15 immediately prior to the effective date of each rate review adjustment. The City Council will act on the application no later than the December 1 immediately prior to the effective date of each rate adjustment, unless the City at its sole discretion believes there is a compelling reason to delay action on the adjustment. All rate adjustments shall be effective January 1, or retroactive to January 1 if the Council acts after December 1 and the Contractor can not complete mailing of bills in a manner that gives customers advance notice of an adjustment.

### **2. Rate Application**

Contractor's rate application shall include:

1. A summary letter describing the requested rate adjustment request and any key issues affecting service or the franchise that the City should be aware of, with a summary of:
  - a. Each expense to be adjusted.
  - b. The amount of adjustment for each expense as a percentage of that expense.
  - c. The total adjustment as a percentage of the actual rate revenues for the second year of the prior rate period.

2. A table of proposed adjusted rates showing the then-current rate and the proposed rate, including the franchise fee, for each type of service and service level.
3. A detailed description of the reason for the requested adjustment for each type of expense, including:
  - a. Analysis of the amount of the expense over each year of the prior rate period if Contractor is seeking an adjustment based on past changes in the expense.
  - b. Projections of any increase or decrease during the current rate period, and the reason for those projections if Contractor is seeking an adjustment for anticipated increases in expenses.
4. Audited financial statements for the first two years of the prior rate period.
5. Non-audited financial statements for the first eight months of the third year of the prior rate period. Contractor's expenses shall, unless by other mutual agreement with the City be grouped in all financial statements as follows:
  - a. Pass-through expenses.
  - b. Variable expenses.
  - c. Fixed expenses.
  - d. Franchise fees.
  - e. A subtotal for the four above categories of expense titled "Rate-Based Expenses".
  - f. Any disallowed and/or limited expenses that are not included in the rate base.
6. Brief discussion of how each expense or group of expenses is allocated to the City, in whole or in part.
7. Customer count for the most recent billing cycle, including:
  - a. Single-family residential can customers by service level, for regular and hill service.
  - b. Non-residential can customers by service level.
  - c. Number of bin customers by service level (bin size and frequency of collection).
  - d. Number of debris box hauls by box size.
8. Results of a field audit conducted by Contractor during a recent one month period documenting the number of cans, bins and debris boxes collected from City locations as part of unbilled services to the City, including in buildings and in outdoor public locations.
9. A list of all personnel assigned to the franchise during the first eight months of the third year of the prior rate period; their regular and overtime hours, hourly rates, total salary; total benefit cost; and total fully loaded cost for salary and benefits.
10. A listing of all vehicles used in providing franchise services including manufacturer, year of manufacture, year of Contractor purchase or lease, and function of the vehicle; a depreciation schedule for those vehicles being depreciated; and identification of any vehicles sold or salvaged since the last rate review with documentation of the amount of the transaction credited against franchise expenses.

### 3. Review Process

**Review of Expenses.** Each rate review entails:

1. Reconciling actual and projected expenses for the prior rate period. The projected expenses for the prior rate period are the three adjustments made during the prior rate period, one through a rate review and generally three through CPI and pass-through adjustments.
2. Projecting expenses for the current rate period.
3. Adjusting rates to reflect: the difference between actual and projected expenses for the prior rate period; and projected increases and/or decreases in expenses for the current rate period. To the extent that disposal tip fees cumulatively increased more than twenty (20) percent since the last rate review, and the Contractor did not receive adjustment for all of this increase during the non-rate review years as provided in Section D of this Exhibit I, Contractor's rates shall be adjusted as needed to reflect any ongoing expense projected forward, but not to recompense the Contractor for the past expense incurred since the last rate review.

The review of expenses for the prior rate period shall be based on actual expenses for the first full years of the prior rate period, and actual expenses for first eight months (January-August) of the last year of the prior rate period projected through the year. Except as otherwise stipulated in writing by the Contractor as part of its rate application and agreed by the City, the City shall assume that the expenses for the first eight months of the last year of the prior rate period represent two-thirds of the total expenses for that year.

Upon reasonable notice, Contractor shall allow the City and/or its representatives access to any financial and operational records related to the provision of franchise services, and reasonably required for review of the application. Contractor shall also facilitate access to any third parties assisting the Contractor in managing the franchise, including but not limited to accountants, attorneys, and insurance brokers.

**Disallowed and Limited Expenses.** The following types of expenses are disallowed or limited for the purposes of rate adjustment, and shall be excluded from the rate application and segregated on the Contractor's financial statements.

- a) City employee and consumer promotions: Provision of food or entertainment for City employees or customers.
- b) Contributions: Contributions to charities, churches, and/or foundations that exceed \$500.00.
- c) Political donations: Contributions to political acts, measures or persons, whether or not such expenses are allowed under state or federal law, and except as otherwise waived by the City.
- d) Fines and penalties: Fines and other financial penalties as levied by a federal, state, regional, or local governmental entity.
- e) Property damage: Direct and indirect expenses (such as legal expenses) related to payment to property owners for damage caused in provision of franchise services, and that exceed the applicable deduction(s).
- f) Salaries of Contractor officers: Salaries of Contractor officers shall be commensurate with the degree of management responsibility and the number of hours spent per year in discharging that responsibility.

- g) Unrelated travel: Expenses related to travel that is not directly related to provision of franchise services.
- h) Any other expense not directly related to provision of franchise services, or that is not normally allowed in regulation of municipal solid waste rates.

**Vehicle Expenses.** Vehicles and containers purchased prior to December 31, 2001 may be depreciated on a five year basis. Vehicles and containers purchased after December 31, 2001 shall be depreciated on a seven year basis.

Total lease payments for leased vehicles shall not exceed the total cost of depreciating the same vehicle, were it purchased outright, without prior agreement of the City..

The franchise shall be credited for the sale, salvage, or transfer to Contractor's affiliated operations of used vehicles and containers as follows:

1. 100 percent of the sale, salvage, or transaction proceeds for fully depreciated vehicles.
2. The percent of the sale or salvage proceeds that is equal to the percent of the portion of depreciation that occurred prior to sale, salvage or transfer.
3. Transfers shall be credited at the reasonable fair market value for the vehicle or equipment.

**Treatment Of Revenues.** Contractor accepts all risk with relation to changes and fluctuations in rate revenues. Contractor shall retain any recycling revenues, and accepts all risk related to changes and fluctuations in recycling revenues.

#### **4. Rate Adjustment**

Each rate adjustment shall consist of the increased expenses plus the then-applicable franchise fee percentage. The rate adjustment shall be calculated as the relative percentage change in the total rate revenues for the second year of the prior rate period.

### **D. PROCESS DURING NON-RATE REVIEW YEARS**

In non-rate review years, beginning with January 1, 2004, the City shall adjust the rates upward or downward by 100 percent of the CPI. The City shall finalize non-rate review adjustments by the December 1 immediately prior to each January of a non-rate review year.

Rates shall be adjusted by 100% of the CPI for the twelve month period beginning eighteen months prior to the effective date of the rate adjustment. Thus the CPI adjustment that is effective January 1, 2004 will be based on the CPI for July 1, 2002 through June 30, 2003. Should the CPI exceed a five percent increase for the given twelve month period, the CPI applied to the rate adjustment shall exceed the CPI only to the extent the Contractor demonstrates actual increases in excess of the CPI. Notwithstanding the above, the first CPI-based rate adjustment (effective January 2004) shall be calculated as follows:  $[ 1.0 - (08.44-07.05)] \times [\text{each rate}] \times [\text{CPI}]$ , or  $[0.986 \times \text{each rate}] \times [\text{CPI}]$ .

### **E. OTHER PROVISIONS**

#### **1. Additional City Rights**

**Contractor Information.** The City reserves the right to require the Contractor as reasonably required with relation to a review of rate adjustment to:



1. Provide information and data in formats that are acceptable to the City.
2. Provide additional or different types of information, data and/or supporting documentation than is specified in this exhibit.
3. Separate, track, and account for franchise expenses in more detail and/or by line of business, such as can refuse, bin refuse, green waste, curbside recycling, and debris boxes.

**Rate Setting.** City reserves the right to apply rate adjustments to the rates equally or on a differential basis.

#### **F. COST OF REVIEWS**

The City reserves the right to pay for third-party costs in conducting rate reviews through the rates or by other means.