



Staff Report

Date: August 2, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Victoria Walker, Director of Community and Economic Development

Prepared by: Joan Ryan, Senior Planner
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Subject: **Considering adoption of Resolution No. 16-54 approving the Thirteenth Amendment to the Franchise Agreement between the City of Concord and Concord Disposal Service and adopting Resolution No. 16-6042.2 amending Exhibit A to Resolution No. 78-6042 Establishing Fees and Charges for Various Municipal Services in the City of Concord to increase residential solid waste fees.**

Report in Brief

The City's *Rate Setting Process and Methodology Manual for Residential Solid Waste Fees (Manual)* established policies and procedures for reviewing solid waste (garbage collection) rates in 1993 and has been updated over time most recently in 2012. On April 22, 2016, consistent with the *Manual*, Concord Disposal Service (CDS) submitted a Base-Year Rate Review Application (Application) requesting a rate increase for residential customers. The R3 Consulting Group, Inc. (R3) was retained to conduct the involved process of residential rate reviews. Staff coordinated with R3 to commence the review steps as outlined in the *Manual* and conduct a financial and rate analysis of the request as summarized in the *Draft 2016 Detailed Rate Review (Report)*, prepared for the City by R3.

Garbage and recycling services are provided to Concord residences and businesses through a franchise agreement with CDS, a local family-owned business. Resident surveys consistently recognize the City's garbage service as excellent or good, traditionally it receives the highest rating for a City service in City surveys. In November 2015, CDS coordinated with the City on a large scale rollout of new trash collection and street sweeping schedules that went smoothly with minimal complaints from residential

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City's Fees and Charges Resolution
August 2, 2016

customers in an effort to more efficiently optimize driver's collection routes throughout the City, reducing miles traveled and cross-over of routes; and to avoid street sweeping conflicts with trash collection. City staff coordinated closely with CDS to develop the City's sweeping schedule to avoid such conflicts.

The Council's Infrastructure and Franchise Committee (Committee) reviewed the request of CDS on June 13, 2016, and is supportive of the proposed rate changes, summarized below. If approved, CDS will send out notice of the rate increase on August 3rd and customers will see the increase in their August 15th bill. Even with these changes, the City's rates will remain well below the average of Central County cities for the majority of Concord customers. Additionally, the Committee supported adjusting the City's franchise fee from 12.29 percent currently to 13.5 percent over a two-year period, placing the City's franchise fee below the average of fees collected by the comparable cities.

The Thirteenth Amendment includes the following deal points:

- 1) In FY 2016/17 increase of 6.76% to the residential rates;
- 2) In FY 2017/18 an increase of 0.89% to the residential rates (to be added to any change in rates resulting from the Refuse Rate Index review that is applied annually between Base Rate reviews); and
- 3) Increase in City's franchise fee from the current 12.29% to 12.75% in FY 2016/17 and to 13.5% for FY 2017/18. At which point the franchise fee will be set. The City will re-evaluate the franchise fee during the next Base-Year rate review scheduled to occur in 2022.

Recommended Action

Adopt Resolution No. 16-54 (Attachment 1) approving the Thirteenth Amendment to the Garbage Franchise Agreement between the City of Concord and Concord Disposal Service; and adopt Resolution No. 16-6042.2 (Attachment 2) amending Exhibit A to Resolution No. 78-6042 Establishing Fees and Charges for Various Municipal Services in the City of Concord to Increase Residential Solid Waste Fees.

Background

In February 1993, the City Council adopted the *Rate Setting Process and Methodology Manual for Residential Solid Waste Fees (Manual)* which was later updated in 1997, 2006, 2007, 2010 and 2012. The national accounting firm Ernst & Young LLP developed the *Manual*, which provides a public process that is accountable to assure garbage rates in Concord are fair to residents and justified by audited financial records. The *Manual* incorporates the audit standards of the American Institute of Certified Public Accountants which issues the Generally Accepted Auditing Standards (GAAS).

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City's Fees and Charges Resolution
August 2, 2016

Under GAAS the auditor examines whether the accounting procedures of the audited company comply with Generally Accepted Accounting Principles.

The City entered into an Agreement to extend the original Franchise Agreement (Agreement) with CDS on July 14, 1980 to provide solid waste disposal services for the City of Concord. Since then, the City and CDS have amended the Agreement 12 times, most recently on July 10, 2012. The Twelfth Amendment provided that Base Year reviews would move from every 4 years to every 6 years after the 2016 review, and thus the next Base Year review is scheduled to occur in 2022. Interim year rate increases are tied to the Refuse Rate Index.

On January 26, 2016, the City Council authorized a contract with R3 to conduct the process of a solid waste residential Base-Year Rate Application Review in addition to providing technical assistance on a variety of efforts including preparation of the City's Annual Recycling Report for submittal to the State oversight agency CalRecycle. The consultant also conducted the 2012 Base Year review. R3 is a consulting firm with 35 years' experience with solid waste rate analysis with expertise in financial auditing and a comprehensive knowledge of the solid waste industry. A specialized consultant is needed to assist in the involved process of residential rate reviews. As a part of their scope of work, R3 conducted a survey of garbage rates in other Central County service areas.

On April 22, 2016, the City received a request from CDS with their Draft Base-Year Rate Application requesting an increase of 8.29%. The Application indicated that CDS was experiencing cost increases associated with providing residential solid waste and recycling services with respect to labor costs, tipping fees, and vehicle related costs over 2014 audited figures. City staff met with CDS on May 11, 2016, to review R3's analysis of the Application and the consultant's recommended adjustments. Based on relative agreement on general points, staff scheduled a June 13 Infrastructure & Franchise Committee meeting (Birsan and Helix) to provide feedback on the Rate Application review.

On June 13, 2016, the Council Committee held a public meeting and discussed the Application, the consultant's review, the City's franchise fee, and the proposed 6.76% increase for FY 2016/17 and 0.89% increase for FY 2017/18 to the residential rate for collection of solid waste and recycling. The Committee made recommendations on a rate increase, franchise fee, and the City's Fees and Charges. Each of the Committee's recommendations is presented under the "Discussion" section of this report and is contained in the attached resolutions.

Analysis

Rate Setting Manual and Methodology

The City's Franchise Agreement allows the City to set a new residential rate to address revenue shortfalls by the service provider, regulating residential rates by using the process within the City's *Manual*, during detailed base-year reviews. The City reviews all of CDS's revenues, costs and profits when it sets residential rates. CDS provides solid waste collection services to three service sectors: residential, commercial, and industrial. The City sets a rate structure for the residential sector based on the Manual specified revenue requirements for CDS. Rates are set to cover allowable costs and allow a reasonable profit to the provider. The City does not regulate commercial rates (which typically includes apartment complexes of 4 or more units) or industrial rates. However, the City reviews all CDS revenues and costs (including commercial and industrial) when it sets residential rates. Residential rate increases over the last ten years are shown in Table 1.

**Table 1
 Historical Residential Rate Increases**

	Year	Rate Increase
	2005	6.43%
Base Year	2006	6.22%
	2007	0%
	2008	7.62%
	2009	0%
Base Year	2010	17.4%
	2011	0%
Base Year	2012	11.85%
	2013	2.53%
	2014	3.67%
	2015	4.11%
Base Year	2016	<i>Proposal</i> 6.76%

During the 2012 Base-Year review it was determined that the City would begin using a Refuse Rate Index (RRI), rather than a consumer price index for interim year adjustments. The RRI is more targeted toward those costs associated with the garbage sector and the RRI was selected as a way to avoid the larger increases experienced in 2010 and 2012.

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City’s Fees and Charges Resolution
 August 2, 2016

The remaining staff report includes a short discussion of the following topics: A) Base-year rate review results; and B) the City’s Franchise fee.

A. Base-Year Rate Review Results

The City’s consultant, R3, utilized the guidelines in the *Manual* to review the 2016 CDS Application and prepared a draft report to the City (Attachment 3). The draft report provides background information, discussion of the *Manual*, analysis of projected costs, rate review results, and recommendations. The work tasks that R3 has performed include verifying the completeness of the Application, preparation of a detailed rate review including: actual and projected revenues for CDS, actual revenue levels achieved, determination of profit levels, determination of the components of the requested increase in residential rates, and preparation of a market survey of similar jurisdictions for residential and commercial rates. The allowable CDS profit range is also specified in the *Manual*. The *Manual* requires that the rates be set to allow the service provider range a profit of between 8.7% and 13.64%. Per the *Manual*, the following costs are reviewed: direct labor, tipping fees, corporate overhead, office salaries, other general and administrative costs, trucking charges, regulatory fees, and franchise fees. Of these costs, those that are identified as an unusual increase (or decrease) are further investigated. The R3 report notes a recommended increase of 6.22% to the residential rates, before factoring in an adjustment to the City’s franchise fee, representing a projected revenue shortfall to CDS of approximately \$763,000. This increase is 6.76% with the adjusted franchise fee factored in for FY 2016/17.

Table 2 provides a comparison of the current monthly rates with the proposed 6.76% rate increase for each of the residential service levels.

**Table 2
 Recommended Year 2016 Residential Rates**

Service Level (Single Family) Container Size	Current Rates	13th Amendment (August 2016) Proposed Rates	6.76% Rate Increase (Per Customer, Per Month)	% of Accounts
96-gallon refuse cart	\$47.05	\$50.25	\$3.20	25.0%
64-gallon refuse cart	\$38.40	\$41.00	\$2.60	28.4%
32-gallon refuse cart	\$28.45	\$30.35	\$1.90	36.6%
20-gallon refuse cart ¹	\$23.30	\$24.90	\$1.60	1.5%
32-gallon (senior) cart ¹	\$23.95	\$25.55	\$1.60	3.8%
(Condo)				
96-gallon refuse cart	\$46.00	\$49.25	\$3.25	0.4%

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City's Fees and Charges Resolution
August 2, 2016

64-gallon refuse cart	\$37.40	\$40.00	\$2.60	1.2%
32-gallon refuse cart	\$27.45	\$29.35	\$1.90	3.0%
HOA exempt refuse cart	\$30.90	\$33.00	\$2.10	Total Accounts
Total units				28,635

Current rate is increased by 6.76% and rounded to the nearest \$.05.

¹ The 20-gallon cart and the 32 gallon senior cart are no longer available to new customers.

The proposed rate increase would become effective August 2. CDS would send out notification of the rate increase via a letter on August 3, 2016. Billings occur on the 15th of each month for the subsequent 30 days, and therefore the rate increases would first be reflected on August billing statements, sent out on August 15, 2016.

Comparison of Residential Rates in other Local Jurisdictions

Table 3 includes a comparison of residential rates taken from the R3 report which found that Concord's proposed rates will still be significantly below average (12% and 25.1%) among the local (Central County) jurisdictions examined for the 64-gallon and 96-gallon service accounts, representing 53% of all accounts. The 32-gallon service would be only slightly above (4.8%) the average rate for local jurisdictions.

**Table 3
Comparative Monthly Residential Rates per Service**

Residential Rates	32-gal. Service	64-gal. Service	96-gal. Service
Martinez	\$29.54	\$32.93	\$69.20
Pleasant Hill	\$24.64	\$33.62	\$50.43
Clayton	\$26.36	\$37.99	\$41.39
Concord Current	\$28.45	\$38.40	\$47.05
Concord Proposed	\$30.35	\$41.00	\$50.25
Walnut Creek	\$22.07	\$41.67	\$62.24
Pittsburg	\$35.95	\$43.95	\$49.30
Antioch	\$27.59	\$44.54	\$52.31
Danville	\$26.71	\$45.44	\$67.44
Lafayette	\$30.20	\$56.99	\$85.47
Moraga	\$29.98	\$59.95	\$89.93
Orinda	\$36.57	\$68.61	\$102.99
Average w/out Concord*	\$28.96	\$46.57	\$67.07
Concord vs. Average* (\$)	\$1.39	(\$5.57)	(\$16.82)
Concord vs. Average* (%)	4.8%	(12%)	(25.1%)

*Does not include City of Concord Current or Proposed.

Note: Cities are sorted on 64 gallon service low to high

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City's Fees and Charges Resolution
August 2, 2016

The Infrastructure and Franchise Committee recommends a residential rate increase of 6.76%. This rate increase is supported based upon the projected net shortfall for CDS for base year 2016, as analyzed through the City's adopted methodology outlined in the *Rate Setting Manual*. This rate increase includes the adjusted franchise fee factored in for FY 2016/17, discussed in the following section.

B. Franchise Fee

Franchise fees are collected to compensate cities for expenses in administering the franchise agreement and for damage to the roads, curbs, sidewalks, storm drains and other parts of the City's infrastructure during the process of providing solid waste services. Franchise fees among local jurisdictions in the County area range from 10% to 15%, with the most common currently being 10% to 12% (Attachment 3, in Appendix B). However, these cities have a variety of other solid waste fees that in total put solid waste fees within the County at an average of 14.02%.

The City is interested in increasing its franchise fee in a manner that allows the City to keep its trash collection rates competitive with surrounding cities and fairly compensates the City for the various impacts associated with the franchise. Increasing the City's franchise fee to 13.5% would keep the City below the average for local jurisdictions (see Attachment 3, in Appendix B) for solid waste fees, and this increase is proposed to be phased in over 2 years, starting at 12.75% in the first year and moving to 13.5% in the second year. The City's franchise fee would then be set, not to be re-evaluated until the next Base-Year Review, expected to occur in 2022. The table below outlines the current and recommended franchise fee adjustments:

**Table 4 - Franchise Fees
(Existing and Projected)**

Fiscal Year	Franchise Fee	Fee Percentage	Projected Rate Increase from prior year
2016/17	\$3,987,021 ¹	12.29%	Current rate
2016/17	\$4,158,326 ²	12.75%	0.54%
2017/18	\$4,440,822 ³	13.50%	0.89%

1. Estimated, based on first three quarters.

2. Estimate for 2016/17 revenues, based on current franchise fee, as shown in Table 2 of Appendix B (Att. 3)

3. Estimated based on 2016/17 and applying increased franchise fee percentages (Appendix B of Att.3)

City Council Agenda Report

Considering adoption of Resolution No. 16-54 Amending the Solid Waste Franchise Agreement with Concord Disposal Service and adoption of Resolution No. 16-6042.2 amending the City's Fees and Charges Resolution
August 2, 2016

The Infrastructure and Franchise Committee recommends the Council establish the franchise fee at 13.5%, phased in over two years. This change will keep the City's fee competitive with surrounding cities and compensate the City for the various impacts associated with the franchise. It should be noted that the impact of the year two increase to the City's franchise fee would result in a minor increase of between \$0.23 and \$0.40 in monthly rates, depending on the size of the customer's toter, which would be added to any potential RRI adjustment.

Alternatives

1. Alternative 1 --The Infrastructure and Franchise Committee Recommendation: Recommend the City Council adopt Resolution No. 16-54 (Attachment 2) approving the Thirteenth Amendment (Exhibit A) to the Garbage Franchise Agreement between the City of Concord and Concord Disposal Service; and adopt Resolution No. 16-6042.2 (Attachment 3) amending Exhibit A to Resolution No. 78-6042 Establishing Fees and Charges for Various Municipal Services in the City of Concord Fees to Increase Residential Solid Waste Fees.
2. Alternative 2. Do not adopt the above resolutions.
3. Alternative 3. Modify the action recommended by the Council Committee on Infrastructure & Franchise and adopt such modifications as deemed appropriate by the City Council.

Financial Impact

The fee increase proposal before the Committee would impact residential customers. Residential rates are proposed to increase by 6.76% in FY 2016/17 and 0.89% in FY 2017/18, based on a 2-year phase in of an increase to the City's franchise fee. The City's franchise fee is proposed to increase from 12.29% to 13.5% over a two year period. Residential rates would remain substantially below average in the central county. The increase to the City's franchise fee, when fully implemented, would result in approximately \$450,000 more revenue than currently collected to the City's General Fund.

Public Contact

Public notice has been supplied by advertising in the Contra Costa Times and posting of the agenda. A copy of this report has been mailed to Concord Disposal Service and the R3 Consulting Group, Inc.

Attachments

1. Resolution No. 16-54 with Exhibit A
2. Resolution No. 16-6042.2 with Exhibit A
3. R3 Consulting Group, Inc. Draft Report – *2016 Detailed Rate Review*

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Approving the Thirteenth Amendment
to the Garbage Franchise Agreement between the City
of Concord and Concord Disposal Service**

Resolution No. 16-54

WHEREAS, on July 14, 1980, the CITY and CONCORD DISPOSAL SERVICE entered into an Agreement entitled “Agreement to Extend Franchise” (the “Agreement”) which provides for CONCORD DISPOSAL SERVICE to collect and dispose of refuse in the CITY and provide recycling services subject to the terms and conditions set forth therein; and

WHEREAS, the Agreement has been amended twelve times since July 14, 1980; and

WHEREAS, the CITY is satisfied with the services of CONCORD DISPOSAL SERVICE; and the CITY has made substantial investment in the collection and service support infrastructure provided by CONCORD DISPOSAL SERVICE; and

WHEREAS, CONCORD DISPOSAL SERVICE’s residential solid waste collection rates compare favorably to surrounding communities; and

WHEREAS, City of Concord residents rate customer service provided by CONCORD DISPOSAL SERVICE as being good or excellent as shown by the CITY’s annual Customer Satisfaction Survey; and

WHEREAS, in 1993, the CITY and CONCORD DISPOSAL SERVICE entered into the Sixth Amendment to the Franchise Agreement wherein CITY and CONCORD DISPOSAL SERVICE adopted a “*Rate Setting Process and Methodology Manual for Residential Solid Waste Fees*” (the “Rate Setting Manual”) for the purposes of determining garbage collection rates which are fair to City of Concord residents while at the same time providing a fair return to the franchise hauler; and

WHEREAS, CITY and CONCORD DISPOSAL SERVICE have agreed to changes in the Rate Setting Manual since that time, with the last changes in 2012; and

WHEREAS, the City Council Committee on Infrastructure and Franchise at its meeting of June 13, 2016 received a report from the City Manager identifying the need for said increase; and

WHEREAS, the City negotiated with CDS to increase the City’s franchise fee from 12.29%

1 to 13.5% with a 2-year phase-in, resulting in an increase to rates by 0.54% the first year and 0.89% the
2 second year, resulting in a total rate increase of 6.76% in FY 2016/17, and a 0.89% increase in FY
3 2017/18 that would be combined within any requested Refuse Rate Increase adjustment, if appropriate
4 during that year; and

5 **WHEREAS**, the City Council at its meeting of August 2, 2016 held a public hearing, at which
6 time members of the public were afforded an opportunity to address the City Council regarding this
7 matter; and

8 **WHEREAS**, upon close of the public hearing the City Council deliberated upon all
9 information (including, without limitation, written materials and oral testimony) received during the
10 course of the public hearing process; and

11 **WHEREAS**, the CITY and CONCORD DISPOSAL SERVICE now desire to enter into a
12 Thirteenth Amendment to Franchise Agreement in order to effect such changes, a copy of which is
13 attached hereto as Exhibit A and incorporated by reference; and

14 **WHEREAS**, changes in refuse collection fees contemplated under the Thirteenth Amendment
15 to the Franchise Agreement are contingent upon the adoption and efficacy of Resolution No. 16-
16 6042.2 (A Resolution Amending Exhibit A to Resolution No. 78-6042 Establishing Fees and Charges
17 for Various Municipal Services in the City of Concord to Increase Residential Solid Waste Fees).

18 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
19 **RESOLVE AS FOLLOWS:**

20 **Section 1.** The Thirteenth Amendment to the Garbage Franchise Agreement between
21 CONCORD DISPOSAL SERVICE and CITY attached hereto as Exhibit A is hereby approved.

22 **Section 2.** The Mayor of the City of Concord is authorized to execute such Thirteenth
23 Amendment, subject to non-substantive changes approved by the City Manager and the City Attorney.

24 **Section 3.** This resolution shall become effective immediately upon its passage and adoption.

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THIRTEENTH AMENDMENT TO FRANCHISE AGREEMENT

1 This Thirteenth Amendment to Franchise Agreement dated for reference purposes as of
2 _____, 2016 is entered into by and between Concord Disposal Service Corporation, a
3 California corporation (“Concord Disposal” or “CDS”), and the City of Concord, a California
4 municipal corporation (“City”).

5 **WHEREAS**, on July 14, 1980, the CITY and CONCORD DISPOSAL SERVICE entered into
6 an Agreement entitled “Agreement to Extend Franchise” (the “Agreement”) which provides for
7 CONCORD DISPOSAL SERVICE to collect and dispose of refuse in the CITY and provide recycling
8 services subject to the terms and conditions set forth therein; and

9 **WHEREAS**, the Agreement has been amended twelve times since July 14, 1980; and

10 **WHEREAS**, the CITY is satisfied with the services of CONCORD DISPOSAL SERVICE;
11 and the CITY has made substantial investment in the collection and service support infrastructure
12 provided by CONCORD DISPOSAL SERVICE; and

13 **WHEREAS**, CONCORD DISPOSAL SERVICE’s residential solid waste collection rates
14 compare favorably to surrounding communities; and

15 **WHEREAS**, City of Concord residents rate customer service provided by CONCORD
16 DISPOSAL SERVICE as being good or excellent as shown by the CITY’s annual Customer
17 Satisfaction Survey; and

18 **WHEREAS**, in 1993, the CITY and CONCORD DISPOSAL SERVICE entered into the Sixth
19 Amendment to the Franchise Agreement wherein CITY and CONCORD DISPOSAL SERVICE
20 adopted a “*Rate Setting Process and Methodology Manual for Residential Solid Waste Fees*” (the
21 “Rate Setting Manual”) for the purposes of determining garbage collection rates which are fair to City
22 of Concord residents while at the same time providing a fair return to the franchise hauler; and

23 **WHEREAS**, the CITY and CONCORD DISPOSAL SERVICE have agreed to changes in the
24 Rate Setting Manual over time; and

25 **WHEREAS**, on April 22, 2016, CONCORD DISPOSAL SERVICE (CDS) submitted a draft
26 Base Year Rate Change Application (Application) requesting an increase of 8.29%; and

27 **WHEREAS**, the City’s consultant R3 Consulting Group, Inc., reviewed the application and
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made some adjustments, which were accepted by CDS, reducing the requested increase to 6.22%; and

WHEREAS, the City Council Committee on Infrastructure and Franchise at its meeting of June 13, 2016 received a report from the City Manager identifying the need for said increase; and

WHEREAS, the City negotiated with CDS to increase the City’s franchise fee from 12.29% to 13.5% with a 2-year phase-in, resulting in an increase to rates by 0.54% the first year and 0.89% the second year, for a total rate increase of 6.76% in FY 2016/17 and a second year rate increase of 0.89% in FY 2017/18 that would be combined within any requested Refuse Rate Increase adjustment during that same year; and

WHEREAS, the City Council at its meeting of August 2, 2016 held a public hearing, at which time members of the public were afforded an opportunity to address the City Council regarding this matter; and

WHEREAS, the CITY and CONCORD DISPOSAL SERVICE now desire to enter into this Thirteenth Amendment to Franchise Agreement in order to effect such changes.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreement set forth herein, the parties agree to the following terms, conditions, and amendments to the Franchise Agreement:

1. Rates. The approved rate per month for each level of service including weekly pick-up of a 64-gallon cart for single-stream recycling and a 96-gallon cart for yard waste is the following:

96-gallon refuse service – 8-2-16	\$50.25/month
64-gallon refuse service – 8-2-16	\$41.00/month
32-gallon refuse service – 8-2-16	\$30.35/month
20-gallon refuse service (closed program) – 8-2-16	\$24.90/month
32-gallon (senior) refuse service – 8-2-16	\$25.55/month
96-gallon (condo) refuse service – 8-2-16	\$49.25/month
64-gallon (condo) refuse service – 8-2-16	\$40.00/month
32-gallon (condo) refuse service – 8-2-16	\$29.35/month
Each additional recycling/yard waste container 8-2-16	\$10.35/month

Low Income Senior (32-gal)* 8-2-16.....\$25.55/month

*Low income senior is defined as 65 years of age, or older, and having an income below HUD (Housing and Urban Development) guideline for "Very Low Income" for the Oakland-Fremont area.

HOA exempt refuse service 8-2-16 \$33.00/month

CDS shall notify customers of the rate increase through letter notification on August 3, 2016 , such that the rate increase will be reflected on the August billing statements sent on August 15, 2016.

2. **Annual Franchise Fees.** CONCORD DISPOSAL SERVICE currently pays to the City a franchise fee calculated based on a percentage of gross revenues. For the period beginning July 1, 2016 and ending on June 30, 2017, the franchise fee shall increase from 12.29 to be 12.75 percent of gross revenues. For the period beginning July 1, 2017 and ending on June 30, 2022, the franchise fee shall be 13.5 percent of gross revenues. The franchise fee will be re-examined during each Base-Year Rate Review to confirm that the City's franchise fee is competitive yet reasonable in terms of the residential rate structure, with the next Base-Year scheduled in 2022.

3. Changes in refuse collection fees contemplated hereunder are contingent upon the adoption and efficacy of Resolution No. 16-6042.2 (A Resolution Amending Exhibit A to Resolution No. 78-6042 Establishing Fees and Charges for Various Municipal Services in the City of Concord to Increase Residential Solid Waste Fees).

4. Except as specifically amended herein, the terms and conditions of the July 14, 1980, Agreement and amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this THIRTEENTH AMENDMENT TO FRANCHISE AGREEMENT the day and year written above.

CONCORD DISPOSAL SERVICE, Inc.,
a California Corporation

BY: _____
Chief Operating Officer

CITY OF CONCORD, a municipal corporation

BY: _____
Mayor

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Attest:

Joelle Fockler, MMC, City Clerk

APPROVED AS TO FORM:

Susanne Meyer Brown, City Attorney

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Amending Exhibit A to Resolution No.
78-6042 Establishing Fees and Charges for Various
Municipal Services in the City of Concord to Increase
Residential Solid Waste Fees**

Resolution No. 16-6042.2

WHEREAS, the City of Concord provides a variety of municipal services; and

WHEREAS, the City Council adopted Resolution No. 78-6042 on October 9, 1978,
establishing a master resolution within which various municipal fees and charges would be located;
and

WHEREAS, amendments to Exhibit A to said Resolution are necessary to establish or delete
various fees and reflect negotiations between the CITY and CONCORD DISPOSAL SERVICE
regarding residential solid waste fees; and

WHEREAS, the City Council Committee on Infrastructure and Franchise at its meeting of
June 13, 2016 received a report from the City Manger identifying the need for said increase; and

WHEREAS, the City Council at its meeting of August 2, 2016 held a public hearing, at which
time members of the public were afforded an opportunity to address the City Council regarding this
matter; and

WHEREAS, upon close of the public hearing the City Council deliberated upon all
information (including, without limitation, written materials and oral testimony) received during the
course of the public hearing process; and

WHEREAS, the CITY and CONCORD DISPOSAL SERVICE desire to enter into a
Thirteenth Amendment to Franchise Agreement in order to effect such changes, a copy of which is
attached as Exhibit A to Resolution No. 16-54 (A Resolution Approving the Thirteenth Amendment
to the Garbage Franchise Agreement between the City of Concord and Concord Disposal Service);
and

WHEREAS, changes in refuse collection fees contemplated under the Thirteenth Amendment
to Franchise Agreement are contingent upon the adoption and efficacy of this Resolution No. 16-
6042.2.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES
RESOLVE AS FOLLOWS:**

Section 1. That Section F (Sanitation and Refuse Fees) of Exhibit A to Resolution No. 78-6042 be amended to read as follows:

F. Sanitation and Refuse Fees

1. Refuse Collection (**CMC 8.20.210**)

a. Collection of refuse once a week on a regular schedule up to 32 gallons, 64 gallons or 96 gallons, in containers supplied by the City’s Franchise Waste Hauler, each level of service includes 64 gallons of recycling and 96 gallons of yard waste per week, with monthly fees as follows:

1) 96 gallon refuse service	\$50.25
2) 64 gallon refuse service	\$41.00
3) 32 gallon refuse service	\$30.35
4) 20 gallon refuse service (closed program)	\$24.90
5) 96 gallon (condo) refuse service	\$49.25
6) 64 gallon (condo) refuse service	\$40.00
7) 32 gallon (condo) refuse service	\$29.35

b. Each additional recycling or yard waste container\$10.35

c. Low Income Senior (32-gal)*\$25.55

*Low income senior is defined as 65 years of age, or older, and having an income below HUD (Housing and Urban Development) guideline for “Very Low Income” for the Oakland-Fremont area.

d. HOA exempt refuse service\$33.00

Section 2. Future interim year increases are to be calculated using the Refuse Rate Index described in Exhibit A to Resolution No. 12-58 (2012), approved by the City Manager or designee,

1 and included with the annual fiscal budget process, with revisions through the annual Master Fees and
2 Charges update.

3 **Section 3.** This resolution shall become effective immediately upon its passage and adoption;
4 provided, however, that the changes in fees established by this Resolution shall become effective on
5 August 15, 2016, with notification of the new rates provided by CDS on August 3, 2016, and first
6 billing of the new rates on August 15, 2016.

7 **PASSED AND ADOPTED** by the City Council of the City of Concord on August 2, 2016, by
8 the following vote:

9 **AYES:** Councilmembers -

10 **NOES:** Councilmembers -

11 **ABSTAIN:** Councilmembers -

12 **ABSENT:** Councilmembers -

13 **I HEREBY CERTIFY** that the foregoing Resolution No. 16-6042.2 was duly and regularly
14 adopted at a regular meeting of the City Council of the City of Concord on August 2, 2016.

15
16
17
18 _____
19 Joelle Fockler, MMC
20 City Clerk

21 **APPROVED AS TO FORM:**

22
23 _____
24 Susanne Meyer Brown
25 City Attorney

26 Exhibit A. Resolution 16-6042.2 Fees and Charges For Various Municipal Services
27
28

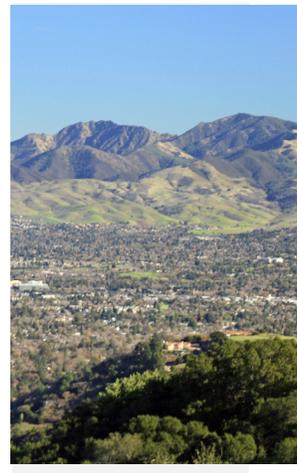
Date of Last Adoption: ~~6-23-15~~ 8-2-16
 Res. No.: ~~15-6042.1~~ 16-6042.2

**EXHIBIT A. RESOLUTION 16-6042.2
 FEES AND CHARGES FOR VARIOUS MUNICIPAL SERVICES**

	<u>Current Fee</u>
F. SANITATION AND REFUSE FEES	
1. Refuse Collection (CMC 8.20.210)	
a. Collection of refuse once a week on a regular schedule up to 32 gallons, 64 gallons or 96 gallons, in containers supplied by the City’s Franchise Waste Hauler, each level of service includes 64 gallons of recycling and 96 gallons of yard waste per week (1-1-10):	
1) 96 gallon refuse service (7-15-15) <u>8-2-16</u>	47.05 <u>\$50.25</u>
2) 64 gallon refuse service (7-15-15) <u>8-2-16</u>	38.40 <u>\$41.00</u>
3) 32 gallon refuse service (7-15-15) <u>8-2-16</u>	28.45 <u>\$30.35</u>
4) 20 gallon refuse service (closed program) (7-15-15) <u>8-2-16</u>	23.30 <u>\$24.90</u>
5) <u>96 gallon (condo) refuse service</u> (7-15-15) <u>8-2-16</u>	46.00 <u>\$49.25</u>
6) <u>64 gallon (condo) refuse service</u> (7-15-15) <u>8-2-16</u>	37.40 <u>\$40.00</u>
7) <u>32 gallon (condo) refuse service</u> (7-15-15) <u>8-2-16</u>	27.45 <u>\$29.35</u>
b. Each additional recycling or yard waste container (7-15-15) <u>8-2-16</u>	9.70 <u>\$10.35</u>
c. Low Income Senior* (7-15-15) <u>8-2-16</u>	23.95 <u>\$25.55</u>
*Low income senior is defined as 65 years of age, or older, and having an income below HUD (Housing and Urban Development) guideline for “Very Low Income” for the Oakland-Fremont area. (1-1-10)	
d. HOA exempt refuse service (7-15-15) <u>8-2-16</u>	30.90 <u>\$33.00</u>

DRAFT REPORT

2016 DETAILED RATE REVIEW



SUBMITTED TO:

City of Concord

June 8, 2016

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Table of Contents

Section 1: Executive Summary

1.1 Rate Application 1
1.2 Project Objective 1
1.3 Methodology..... 1

Section 2: Background

2.1 Franchise Agreement..... 3
2.2 Rate Regulation 3
2.3 Profit Level 4
2.4 Related Party Entities 4

Section 3: Review of Rate Application

3.1 Recommended Adjustments 5
3.2 Profit Level on Related Party Vehicle Related Costs..... 7
3.3 Real Value of Recommended Rate Adjustment 9
3.4 Rate Comparison 9
3.5 Assessment of the Reasonableness of the City’s Franchise Fee..... 10

Tables

1 Recommended Adjustments..... 6
2 Real Value of Recommended Rate Adjustment..... 9

Appendices

- A Rate Survey
- B Franchise Fee Analysis

R3

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Table of
Contents

DRAFT

R3

1.1 Requested and Recommended Rate Adjustment

R3 Consulting Group (R3), was engaged by the City of Concord (City) to review Concord Disposal Services' (CDS or the "Company") FY 2016/2017 Base-Year Rate Adjustment Application (Rate Application). CDS is a division of Garaventa Enterprises its parent company. The Company submitted its Rate Application to the City on April 22, 2016. The Rate Application requested an 8.29% increase to the residential rates representing a calculated 2016 revenue shortfall of approximately \$1.01 million on approximately \$33.1 million in expenses. Based on our review we are recommending a 6.22% increase to the residential rates, representing a projected revenue shortfall of approximately \$763,000, \$252,000 less than that projected by CDS.

1.2 Project Objective

- Review CDS's Rate Application to determine if:
 - ✓ It is mathematically accurate and logically consistent;
 - ✓ It is consistent with applicable terms and conditions of the Agreement; and
 - ✓ The basis for its projections are reasonable and supported with appropriate documentation, as applicable.
- Recommend adjustments to CDS's projections and recalculate the associated rate adjustment, as appropriate.

1.3 Methodology

Our review of CDS's Rate Application followed the guidelines set forth in the Rate Manual, and included, but was not limited to the following tasks:

- Reviewing the Rate Application for mathematical accuracy and logical consistency;
- Requesting and reviewing supporting documentation for various revenue and expense line items presented in the Rate Application;
- Reviewing the basis for CDS's Allowable Costs, including the handling of:
 - Non-allowable costs; and
 - Costs with limits specified by the Agreement (e.g., Corporate Overhead).
- Reviewing the reasonableness of the bases used by the CDS to forecast costs;
- Reviewing the reasonableness of related party expenses;¹

¹ Particular attention was paid to the reviewing the reasonableness of related party expenses, including "Vehicle Related Costs", which represents the single largest major line item expense, which CDS originally projected at approximately \$9.2 million for 2016.

Section 1

Executive
Summary

- Reviewing the basis for reported solid waste disposal tonnages and the forecasted disposal expense;
- Verifying use of the proper operating ratio;
- Recommending adjustments to CDS's revenue and expense projections, as appropriate; and
- Recalculating the required rate adjustment based on the recommended adjustments.

DRAFT

2.0 Franchise Agreement

CDS has been providing solid waste collection services in the City since the 1950's. The City entered into its current Agreement with CDS in 1980. Since then the Agreement has been amended twelve (12) times. The amendments have addressed a number of topics including establishing new base rates for residential users, extensions to the Agreement, and expansion of the services provided under the Agreement. The 11th Amendment to the Agreement extended the term of the Agreement fifteen (15) years and established an "evergreen" clause providing for an automatic annual extension to the Agreement so that the term of the Agreement would always be fifteen (15) years, unless the City or the Company terminates the automatic renewal provision.

2.1 Rate Regulation

The Agreement provides the methodology for regulating rates, which uses a combination of "base-year" and "interim year" adjustments. Interim year adjustments are based on a Refuse Rate Index (RRI), which calculates the rate adjustment based on the annual change in a series of specified indexes. During a base-year, CDS submits a formal Rate Application that is based on projection of its actual revenues and expenses. In 1993 the City Council adopted the *Rate Setting Process and Methodology Manual for Residential Solid Waste Fee Manual* (Rate Manual). The Rate Manual, which was updated in 1997, 2006, 2010 and 2012, provides agreed-upon rate setting "rules of the game" when reviewing a Base-Year Rate Application. The Rate Manual is incorporated by reference into the City's Agreement with CDS. The Rate Manual provides rate change policies, provides application forms, specifies reporting formats, and identifies required supporting documents. The Rate Manual specifies procedures for requesting, reviewing, and adopting residential rate changes.

The City regulates rates for residential solid waste, curbside recycling and yard waste collection. Residential rates are set to cover allowable costs and allow a reasonable profit to the hauler for providing residential refuse, curbside recycling, and yard waste collection services. The City does not specifically regulate commercial and industrial rates. Commercial and industrial rates are set by CDS. During "base years," in the process of setting residential rates the City examines all revenues and costs of CDS including residential, commercial, and industrial sectors. Without specifically setting commercial and industrial rates, the City thus effectively considers the impacts of the commercial and industrial businesses on residential rates.

In practice, for most "base years," when the City has approved increases to residential rates, the City has assumed that CDS will increase its commercial and industrial rates at the same level as residential rates. In some years, CDS does set commercial and industrial rates at these same levels, and in others commercial and industrial rate changes have differed from the residential rate changes.²

Per the 12th Amendment to the Agreement, base year detailed reviews are to take place every six years. Under this schedule the next anticipated detailed review was to be conducted in FY 2016/2017, with CDS's rate application due to the City by September 1, 2016, for rates to be

² NewPoint Group 2010 Base Year Rate Review and Operational Assessment of Concord Disposal Services (Page 1-3, Section B.2 Regulation of Residential, Commercial and Industrial Sectors).

R3

Section 2

Background

effective July 1, 2017. CDS, however, requested that it be allowed to submit its detailed Rate Application one year early, with the associated rate adjustment to take place on July 1, 2016. The City approved CDS’s request and engaged R3 Consulting Group to conduct a Detailed Rate Review (Base-Year Rate Review) of CDS’s FY 16/17 Base-Year Rate Application.

2.2 Profit Level

The Rate Manual provides for a profit based on a target operating ratio ranging between 88 percent and 92 percent. This is equivalent to a profit of between 8.7% and 13.64%. In the base year, if residential rates remain unchanged at an operating ratio between 88 and 92 percent, and the franchise hauler actually realizes an operating ratio within this range, then the same operating ratio resulting in no change is used, and no rate change occurs. Otherwise, a 90 percent operating ratio is used for the base year calculation.

A 90 percent operating ratio is equivalent to a profit of 11.11% on allowable expenses not including profit), and a 10.00% profit on allowable expenses including profit, as shown in the following example.

Operating Ratio | Profit Example

Allowable Expenses (not including Profit)	(A)	\$ 100.00	
Profit (@ 90% Operating Ratio)	(B)	\$ 11.11	((A)/.90) - (A)
Total Allowable Expenses (including Profit)	(C)	\$ 111.11	(A) + (B)
Profit (as a percentage of Total Allowable Expenses)	(D)	10.0%	(B) / (C)

2.3 Related Party Entities

CDS reported that it receives services and/or products from the following related party entities:

- **Contra Costa Waste** - For the disposal of materials.
- **SEG Trucking** - For trucks and equipment rental (*The “rental” charge includes all equipment capital costs, and operating cost such as fuel, repairs and maintenance, insurance, labor for maintenance, highway and vehicle taxes.*)
- **Garaventa Company** - For AS400 computer usage.
- **Mt Diablo Paper Stock** - For curbside buyback materials.
- **Candy Properties** - For office rent.
- **Delta Debris Box Service** – For Debris Box Services (*CDS charges customers for debris box service; however, Delta Debris Box Service provides the service and invoices CDS for the debris box charges (with a profit in 2014). In 2015 the arrangement was changed so that Delta Debris Box only charges CDS for its share of Delta Debris Box expenses. The 2014 audit of Delta Debris Box Service included a supplemental schedule of the costs without profit allocable to CDS. The method of allocation for the 2014 audit is materially the same as for 2015.*)



3.1 Recommended Rate Adjustment

Based on our review of the Company's Revised Rate Application we are recommending adjustments that result in a calculated residential rate increase of 6.22%, as compared to the Company's initial requested 8.29% rate increase. Our recommended adjustments are as listed below, and shown in Table 1, as supported by CDS.

1. **Disallow Increased Profit on Disposal Expense** - CDS currently receives profit on the Disposal expense associated with the tip fee up to \$51 per ton. The remaining portion (\$48 per ton) is handled as a pass-through expense not subject to profit. The Company requested that it receive profit on the entire Disposal expense, which is currently \$93 per ton increasing to \$99 per ton on July 1, 2016, and accounted for that additional profit in its rate adjustment calculation.

We removed the portion of Disposal expense above the \$51 per ton limit (~\$3.84 million in associated Disposal expense) from the profit base and treated it as a pass-through expense not subject to profit, consistent with the agreed upon Rate Manual methodology for handling this expense, and past practice.

2. **Non-Allowable Costs** - We remove expenses associated with Sponsorships (\$19,631), which are specified as Non-Allowable per the Rate Manual. We also removed AS400 computer expense of \$8,832, which the Company reported was an historical charge that should be removed.
3. **Corporate Overhead Charges** – We reduced the Corporate Overhead expense, which is not to exceed three percent (3%) of the Total Operating Costs, to reflect the above adjustments to the Total Operating Cost.
4. **Operating Ratio (Profit)** – We adjusted CDS's profit to account for the impact of the adjustments listed above.
5. **Vehicle Related Costs** – R3 made the following adjustments to CDS's Vehicle Related Costs, which are charged by a related party, SEG Trucking:
 - a. **Delta Debris Box Truck Allocation** – Increased the Delta Debris Box allocated cost to CDS by approximately \$117,000 to correct a mathematical error in the calculation.
 - b. **Corporate Overhead Charge** – Increased the Corporate Overhead Charge (set at 3% of the Total Operating Cost) to reflect impact of Increased Delta Debris Box Truck Allocation discussed above.

R3

**Table 1
RECOMMENDED ADJUSTMENTS**

Concord Disposal Services

2016 Rate Application - Summary

Revised 6-3-16

	Prior Year Audited Information 2013	Prior Year Audited Information 2014	Current Year Estimated Information 2015	Base Year Projected Information 2016	Adjustment #	Base Year Projected Information 2016
12. Labor Related Costs	\$ 5,102,730	\$ 5,563,792	\$ 6,086,786	\$ 5,902,627		\$ 5,902,627
13. Disposal Costs	3,684,444	3,657,618	3,560,565	8,400,139	1	4,555,801
14. Other Costs	3,822,303	3,999,723	3,615,226	3,409,020	2, 3	3,260,779
17. Depreciation	391,973	376,449	242,356	242,356		242,356
Total Operating Costs	\$ 13,001,450	\$ 13,597,581	\$ 13,504,934	\$ 17,954,141		\$ 13,961,563
18. Operating Ratio				90.00%		90.00%
19. Allowable Operating Profit (actual in prior years)	\$ 473,559	\$ (304,270)	\$ 366,782	\$ 1,994,905	4	\$ 1,551,285
Prior year allowable operating profit	\$ 1,444,605.58	\$ 1,510,842.35	\$ 1,500,548.17			
20. Vehicle Related Costs	\$ 8,958,592	\$ 9,143,495	\$ 9,168,331	\$ 9,168,331	5	\$ 9,096,972
21. Regulatory Fees (Community Benefit fee)	50,000	50,000	50,000	50,000		50,000
22. Tipping Fees (Pass Through)	3,523,043	3,713,578	4,149,735	3,844,338	1	3,844,338
23. Residential and Commercial Franchise Fee	2,580,370	3,175,492.67	3,773,556.93	3,970,551	6	3,987,021
24. Total Pass Through Costs	\$ 15,112,005	\$ 16,082,566	\$ 17,141,623	\$ 13,188,882		\$ 16,978,330
25. Total Operating Costs (Line 17) plus Operating Profit (Line 19) plus Total Pass Through Costs (Line 24)	\$ 28,587,014	\$ 29,375,877	\$ 31,013,338	\$ 33,137,928		\$ 32,491,178
Residential Revenue						
Account Type	8/15/2015 Current Rate/Month	Months	12/30/2015 Number of Accounts			
Legacy 32 Gal Container	\$23.30	12	420	117,432		
Senior 32 Gal Container	23.95	12	1,081	310,679		
32 Gal Container	28.45	12	10,494	3,582,652		
64 Gal Container	38.40	12	8,139	3,750,451		
96 Gal Container	47.05	12	7,167	4,046,488		
Legacy 32 Gal Container - Condo	23.30	12	9	2,516		
Senior 32 Gal Container - Condo	23.95	12	47	13,508		
32 Gal Container - Condo	27.45	12	870	286,578		
64 Gal Container - Condo	37.40	12	356	159,773		
96 Gal Container - Condo	46.05	12	108	59,681		
Sub-total						
Less: Allowance for Uncollectible Residential Accounts					45,483	\$ 12,329,758
Total Residential Revenue (without Rate Change in Base Year)	\$ 11,544,155	\$ 11,843,004	\$ 12,235,138	\$ 12,235,138	182	\$ 12,280,439
Commercial Revenue - Bins and Containers						
Commercial Revenue - Debris Box	\$ 14,095,247	7.2%	\$ 15,102,474	\$ 16,162,807	(121,563)	\$ 16,041,244
Less: Commercial Migration Revenue Loss	3,232,282	10.0%	3,523,036	3,577,732		\$ 3,577,732
Less: Allowance for Uncollectible Commercial Accounts		0.0%				\$ -
Less: Allowance for Rate Change in Base Year		0.4%	60,410	64,651	(486)	\$ 64,165
Total Commercial Revenue (with Rate Change in Base Year)	\$ 16,832,708	\$ 17,327,529	\$ 18,565,100	\$ 19,675,888		\$ 19,554,811
Recycled Material Sales (with Change in Base Year)	\$ 210,151	\$ 205,344	\$ 213,100	\$ 213,000		\$ (107,376)
Total Revenue (Lines 38 + 41 + 42)	\$ 28,587,014	\$ 29,375,877	\$ 31,013,338	\$ 32,124,026		\$ 31,727,874
Net Shortfall (Surplus)						\$ 763,303
24. Total Residential Revenue Prior to Rate Change (Line 38)	\$ 12,235,138	\$ 12,235,138	\$ 12,235,138	\$ 12,235,138		\$ 12,280,439
24. Percent Change in Existing Residential Rates and escalation rates (Line 44 div 45)	8.29%	8.29%	8.29%	8.29%		6.22%

- c. **Fuel Expense** – Reduced the Company’s 2016 projected Fuel expense to:
 - i. Reflect a 6% decrease in the Company’s projected 2015 expense, consistent with the change in the Diesel Fuel index for the January – June period the Company used to project its 2015 Fuel expense, and the change in the Diesel Fuel index for the January – December period) (a decrease of ~ \$55,000 in the projected Fuel expense).
 - ii. Set the 2016 projected Diesel Fuel and CNG (compressed natural gas) fuel cost at the Company’s projected cost less the 15% and 19.5% escalation factor the Company applied to the 2015 expense. This results in a decrease of ~\$141,000 in the projected Fuel expense.
- 6. **Franchise Fees** – We set the franchise fee percentage at 12.29% versus the 12.00% used by the Company for its Rate Application, consistent with the current 12.29% franchise fee CDS is paying the City. We also adjusted the Franchise Fee expense to account for the above adjustments.
- 7. **Residential Revenues** – Residential revenues were calculated based on the current rates and subscription levels, adjusted for projected uncollected revenues.
- 8. **Commercial Revenues** – Commercial revenues were set at 6.22% general consistent with the calculated 6.22% residential rate increase.
- 9. **Recycled Material Sales** – Recycled material sales revenues were set to cover the projected shortfall associated with the handling of CDS’S recycled tonnage at the processing facility.

3.2 Profit Level on Related Party Vehicle Related Costs

The Vehicle Related Costs charged to CDS by SEG (a related party) assumed a profit level of 15% of total expense. This compares to a 10% allowed profit (90% operating ratio) for CDS. A profit level of 15% on these expenses results in additional profit of approximately \$465,000 to Garaventa Enterprises than if these expenses received the same profit level as CDS’s other expenses (10%).

Table 1 assumes a profit level of 15% for these Vehicle Related Costs charged to CDS, as presented by CDS in its Rate Application. The use of a 15% profit level for this expense is past practice. It is not, however, consistent with how we have seen such similar expenses handled in all other rate reviews that we have been involved with. In all those cases Vehicle Related Costs, whether charged by a related party or not, receive the same level of profit as all other expenses subject to profit.

While the use of a 15% profit level for Vehicle Related Expenses has been past practice, we are not aware that this issue has ever been brought before Council for purposes of setting associated policy, and determining if this practice should continue. We are highlighting this issue so that Council can provide direction as to how this issue should be handled as part of this and future base year reviews. This business practice does not conflict with the Rate Manual.

R3

Section 3

Review of
Rate
Application**SEG's Position**

In support of its proposed Vehicle Related Cost, and associated profit, the Company provided comparable lease rates from three sources that it reported show that the SEG lease rate is reasonable and should not be subject to any scale back. It also reported that a 15% profit for SEG's Vehicle Related Costs is consistent with past practice.

R3 Response

It is not uncommon for companies within the solid waste industry to receive various services from related parties. When considering the reasonableness of any such related party charges as part of a rate adjustment request the standard is that any related party charge must be **no more than** the market rate (i.e., what the charge would be from a non-related party). That does not mean it should be set at the market rate, which can vary based on any number of considerations, only that it should be no more than.

The Rate Manual provides the following Policies that relate to the Company's profit level and the comparability of related party charges: (Section I.B (Policies) pg. I-1)

- The rates requested by the franchise hauler must be justifiable. A formal request to change residential rates submitted by the franchise hauler should provide the basis for all rate changes, include only allowable and necessary costs, and provide accountability for expenditures.
- The estimated costs of service and resulting solid waste collection fees should be reasonable. Charges by affiliated companies (e.g., truck-related costs) should be the same as, **or lower than**, those charged by other companies for comparable equipment and supplies.
- If the franchise hauler leases trucks and other equipment from an affiliated or parent company, then all trucking charges are considered a pass-through costs and no additional profit is allowed. **City staff will be responsible for determining if the trucking charges are reasonable;** and
- At the time a base year Rate Application is submitted, the franchise hauler shall provide the City with at least three comparable rates for trucking charges, office space, and warehouse space (a minimum of nine comparable rates).

The Vehicle Related Costs charged by SEG are similar in nature to vehicle related costs for virtually all other solid waste operations, which are an integral part of solid waste collection operations. In our experience, without exception, such costs whether part of franchised operations or charged by a related party have had the same profit level applied to those costs as all other franchised costs subject to profit.

R3

3.3 Real Value of Recommended Rate Adjustment

Table 2 below provides a comparison of the impact of the Company’s original requested rate adjustment and R3’s recommended rate adjustment would have on the major residential rate categories.

**Table 2
REAL VALUE OF RECOMMENDED RATE ADJUSTMENT**

Calculated Rate Change = 6.22%

Company's Calculated Rates (8.29% Rate Increase)					
Service Level	Current Rate	Adjusted Rate	Adjustments *	New Rate	Rate Increase
32	\$ 28.45	\$ 30.77	\$ 0.03	\$ 30.80	\$ 30.80
64	\$ 38.40	\$ 41.52	\$ 0.03	\$ 41.55	\$ 41.55
99	\$ 47.05	\$ 50.86	\$ (0.01)	\$ 50.85	\$ 50.85
Proposed Rate Adjustment (6.22%)					
Service Level	Current Rate	Adjusted Rate	Adjustments *	New Rate	Rate Increase
32	\$ 28.45	\$ 30.22	\$ (0.02)	\$ 30.20	6.15%
64	\$ 38.40	\$ 40.79	\$ 0.01	\$ 40.80	6.24%
99	\$ 47.05	\$ 49.97	\$ (0.02)	\$ 49.95	6.17%
Variance (Company vs. R3)					
Service Level	Current Rate	Adjusted Rate	Adjustments *	New Rate	Rate Increase
32	\$ 28.45			\$ 0.60	
64	\$ 38.40			\$ 0.75	
99	\$ 47.05			\$ 0.90	

* Values rounded to nearest \$0.05

3.4 Rate Comparison

R3 conducted a market survey of residential and commercial rates in neighboring jurisdictions. Per the Solid Waste Fee Survey Sample in the Rate Manual, the jurisdictions surveyed are to include the Central Contra Costa Solid Waste Authority, Antioch, Clayton, Martinez, Pittsburg, and Pleasant Hill. The results of the Rate Survey are provided in Appendix A.

In general, the survey found that the City’s residential rates are lower than the average of the jurisdictions surveyed while the commercial rates are higher. It should be noted however that there are any number of factors that can materially impact rate comparisons of this type including, but not limited to, differences in fees, services, and subscription levels.

R3

Section 3

Review of
Rate
Application

3.5 Assessment of the Reasonableness of the City's Franchise Fee

Per the Twelfth Amendment to the City's franchise agreement (Agreement) with CDS, CDS's franchise fees are to be re-examined during a Base-Year Rate Review to confirm that they are "competitive yet reasonable in terms of the residential rate structure". As part of this rate review, R3 conducted an analysis of the City's franchise fee. That review, which is provided in Appendix B, found that the City's current franchise fee (12.29%) is slightly higher than the average in Contra Costa County and the Bay Area. When all solid waste fees are considered (e.g., franchise fees, solid waste fees, vehicle impact fees), however, the City's franchise fee, is somewhat less than the average of all solid waste fees in Contra Costa County and the Bay Area.

Note: *The Company reported that there was an error in the language of the Agreement that provided for an annual CPI increase to the franchise fee percentage (Section 2 (Annual Franchise Fees) of the 12th Amendment to the Agreement). If the franchise fee rate is increased by the CPI every year, eventually the rate would be 100%. The intent was to get more franchise fees to the City, and this is done by allowing a CPI/RRI increase to the customer rates; thus effectively increasing the franchise fees. The Company also reported that for the last several years, it had been told that this would be remedied in the next base year review.*

Appendix A

Rate Survey

R3

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Rate Survey

As part of the Detailed Rate Review, R3 conducted a rate survey of various jurisdictions in the region. The results of that survey are provided below.

Objectives

The objectives of this analysis were to:

- Conduct a survey of local governments in the Contra Costa County area in order to compare residential and commercial rates in surveyed cities to those in the City of Concord; and
- Prepare a set of findings to inform the Base Year Rate Review process.

Survey Methodology

To give the City a better understanding of the solid waste operations in the surrounding communities in the Contra Costa County area, R3 conducted a Rate Survey to compare solid waste rates in Contra Costa cities to those in the City of Concord. The jurisdictions and haulers surveyed are listed below in Table 1. R3 surveyed 10 jurisdictions and received 8 complete responses. The survey focused on obtaining current residential and commercial rates.

The survey was conducted through telephone and email inquiries as well as internet research. For residential service, please note that there are various sizes of carts that are considered “small” (32-38 gallons), “medium” (64-68 gallons), and “large” (94-100 gallons) depending on the container manufacturer. For purposes of comparison, R3 uses the common values of 32, 64, and 96 gallons in the cost comparison tables in the following section. The map below/on the following page depict the haulers used by each jurisdiction for both residential and commercial services, and the following table (Table 1) shows the information in list form.

Factors Affecting Customer Rate

Many variables can affect the rates in a given jurisdiction including the rate structure (i.e., variable can rate or unlimited service), scope of services, amount of fees, the length of the agreement, diversion requirements, customer or company provided containers and “free” services. “Free” services included in franchise agreements in the surveyed areas included community clean-up days, passes to drop-off green waste and bulky items to the landfill, curbside bulky waste collection, curbside used oil and filter collection, holiday tree collection, city facility services, and bus stops, and park collection, to name a few.

Please note that for purposes of this survey, only solid waste rates were analyzed and not the variables discussed above. As a result, while service rates are used by many jurisdictions for comparison, it is impossible to make a valid comparison without knowing the contractual terms and conditions behind each rate.

The logo for R3, consisting of the letters 'R' and '3' in a stylized, blue, handwritten font.

Appendix A

Rate Survey



Table 1 - Market Area Franchised Haulers

Jurisdiction	Residential Hauler	Commercial Hauler
Concord	Garaventa	Garaventa
Pittsburg		
Antioch	Republic Services	Republic Services
Clayton		
Danville		
Lafayette		
Martinez		
Moraga		
Orinda		
Pleasant Hill		
Walnut Creek		



Residential Rates

Table 2 below provides a comparison of the residential solid waste rates for the cities, arranged by hauler, in the Contra Costa County area as of February 2016. The average for cities surveyed, without Concord, is \$28.96 for a 32-gallon cart, \$46.57 for a 64-gallon cart, and \$67.07 for a 96-gallon cart. As shown, the City’s rates are lower than the average when compared to residential 32-, 64-, and 96-gallon services. Like Concord, most cities offer residential rates for a 32-gallon cart in the mid-twenty to mid-thirty dollar per month range. For the larger container categories, some cities have rates approximately 50% higher or more than the City of Concord. Like Pittsburg, Concord does not have 20-gallon carts-- except for customers with grandfathered service. Rates for 20-gallon carts in cities surveyed are included below to provide a complete picture of the market area. See Attachment A-1 for figures detailing a comparison of residential rates in the market area.

Table 2 - Residential Rates						
Hauler	Jurisdiction	Effective Date	20-Gallon Cart	32-Gallon Cart	64-Gallon Cart	96-Gallon Cart
Garaventa	Concord	7/1/15	\$23.30	\$28.45	\$38.40	\$47.05
	Concord	Proposed	\$24.75	\$30.22	\$40.79	\$49.98
	Pittsburg	10/1/15	NA	\$35.95	\$43.95	\$49.30
Republic Services	Antioch	7/1/15	\$23.49	\$27.59	\$44.54	\$52.31
	Clayton	1/1/16	\$24.69	\$26.36	\$37.99	\$41.39
	Danville	3/1/16	\$24.09	\$26.71	\$45.44	\$67.44
	Lafayette	3/1/16	\$26.43	\$30.20	\$56.99	\$85.47
	Martinez	1/1/16	\$20.62	\$29.54	\$32.93	\$69.20
	Moraga	3/1/16	\$25.97	\$29.98	\$59.95	\$89.93
	Orinda	3/1/16	\$32.00	\$36.57	\$68.61	\$102.99
	Pleasant Hill	1/1/16	\$21.30	\$24.64	\$33.62	\$50.43
	Walnut Creek	3/1/16	\$18.70	\$22.07	\$41.67	\$62.24
Average w/o Concord			\$24.14	\$28.96	\$46.57	\$67.07
Concord Proposed Rate of 6.22% Increase			\$24.75	\$30.22	\$40.79	\$49.98
Concord Proposed Rate vs Average w/o Concord (\$)			\$0.61	\$1.26	(\$5.78)	(\$17.09)
Concord Proposed Rate vs Average w/o Concord (%)			2.45%	4.16%	-14.17%	-34.20%

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Appendix A

Rate Survey

The percent difference of the average (without Concord) of the cities surveyed from proposed City residential rates was also calculated, and is presented below:

- The average of \$24.14 for a 20-gallon cart is 2.45% below the City's proposed rate of \$24.75;
- the average of \$28.96 for a 32-gallon cart is 4.16% below the City's proposed rate of \$30.22;
- the average of \$46.57 for a 64-gallon cart is 14.17% above the City's proposed rate of \$40.79; and
- the average of \$67.07 for a 96-gallon cart is 34.20% above the City's proposed rate of \$49.98.

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Appendix A

Rate Survey

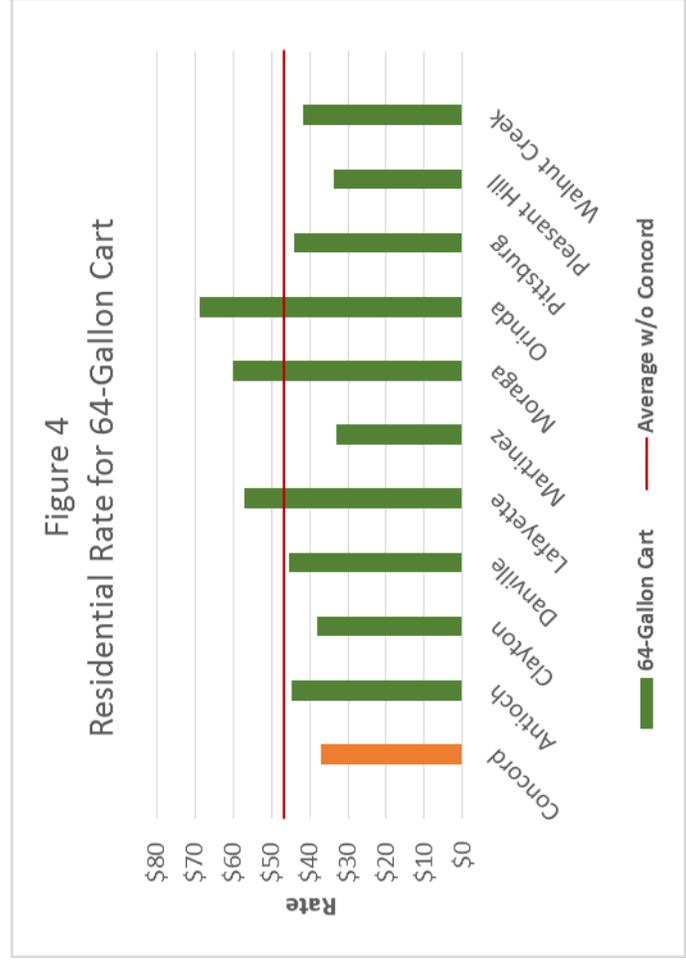
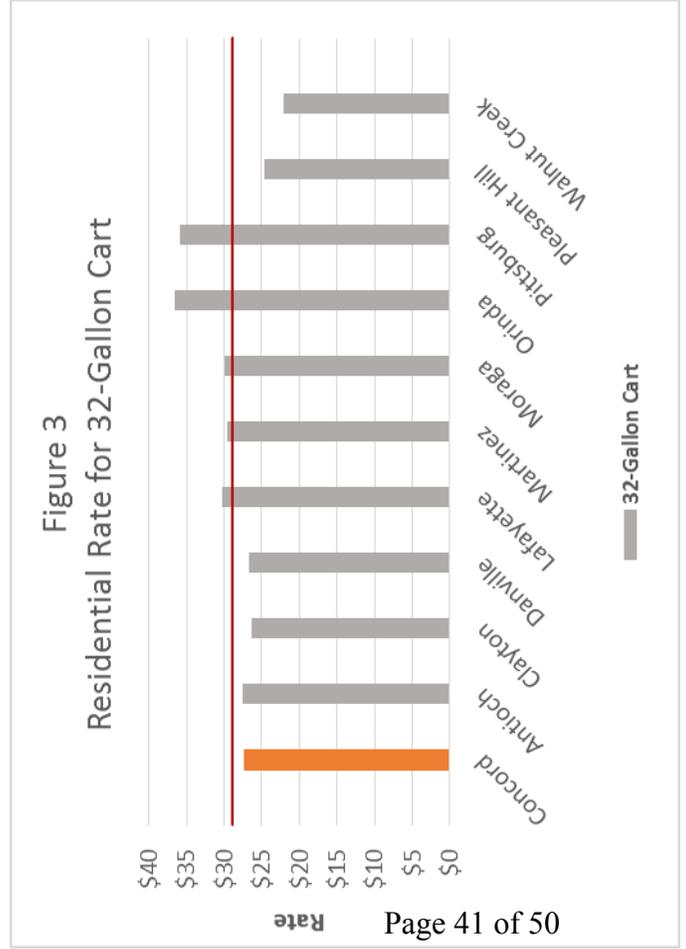
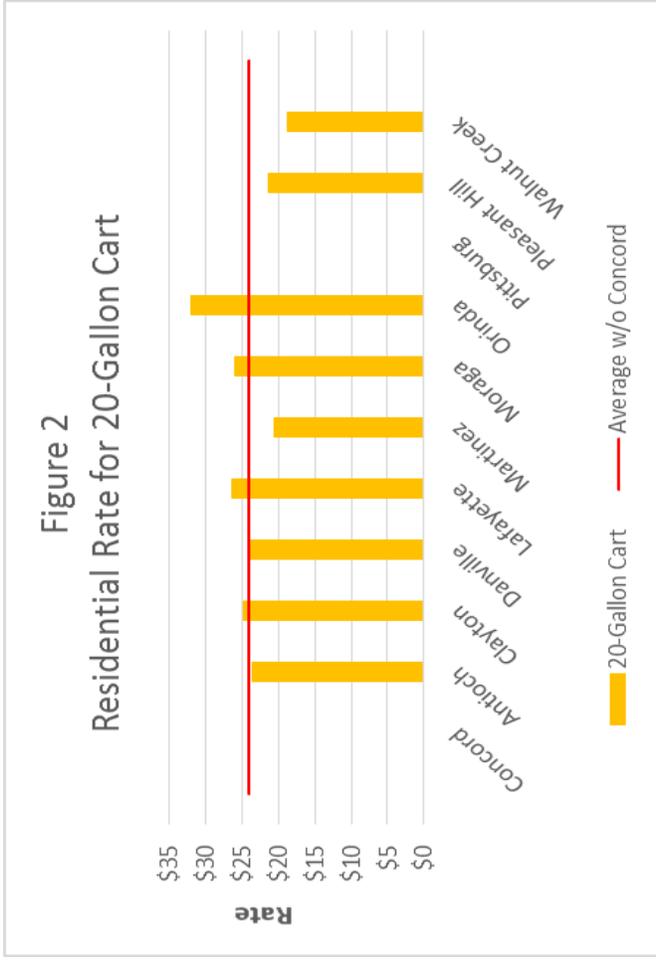
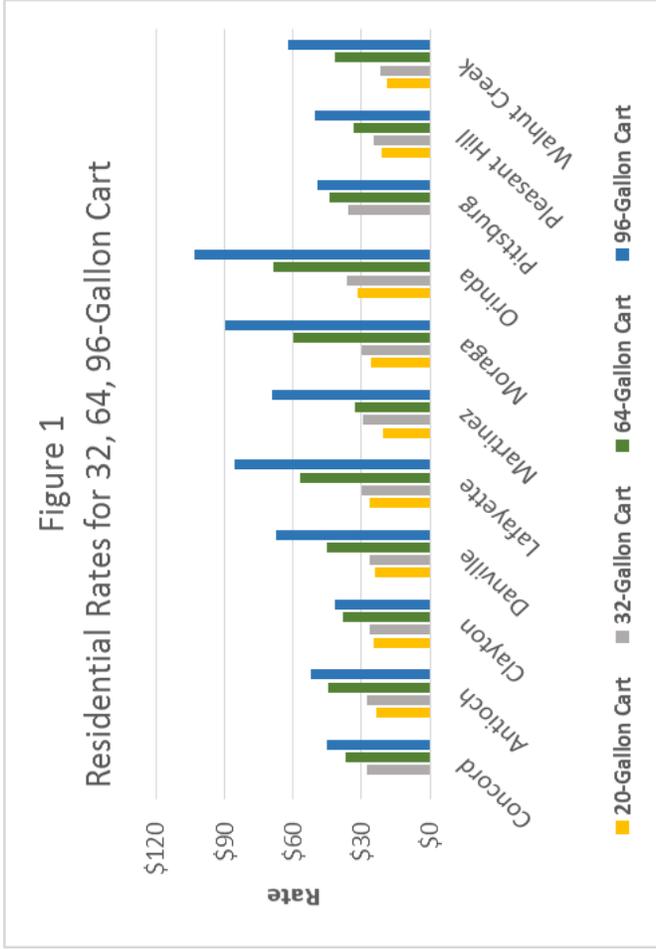
Commercial Rates

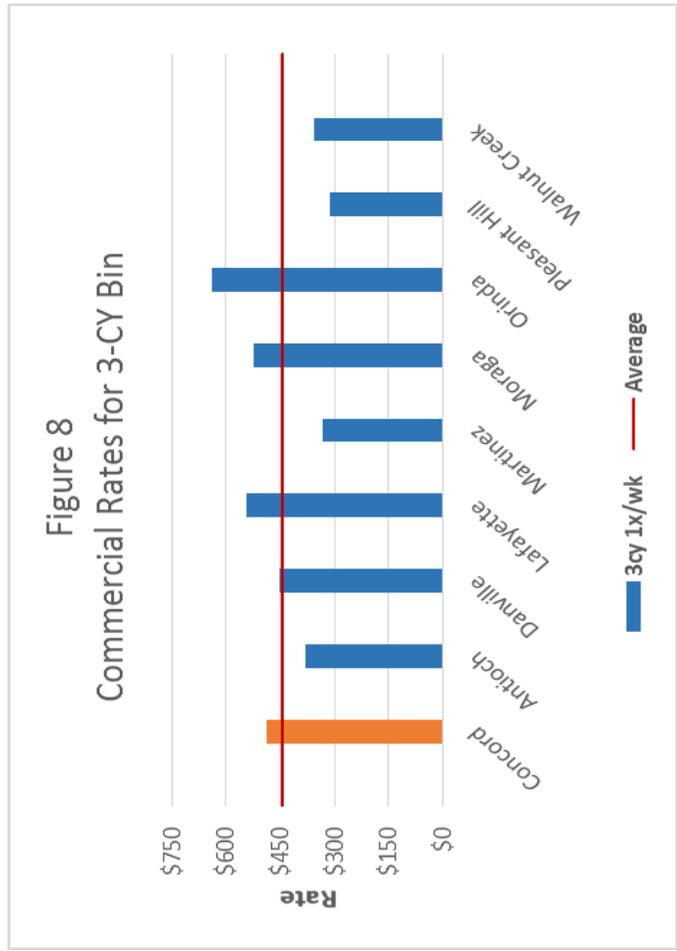
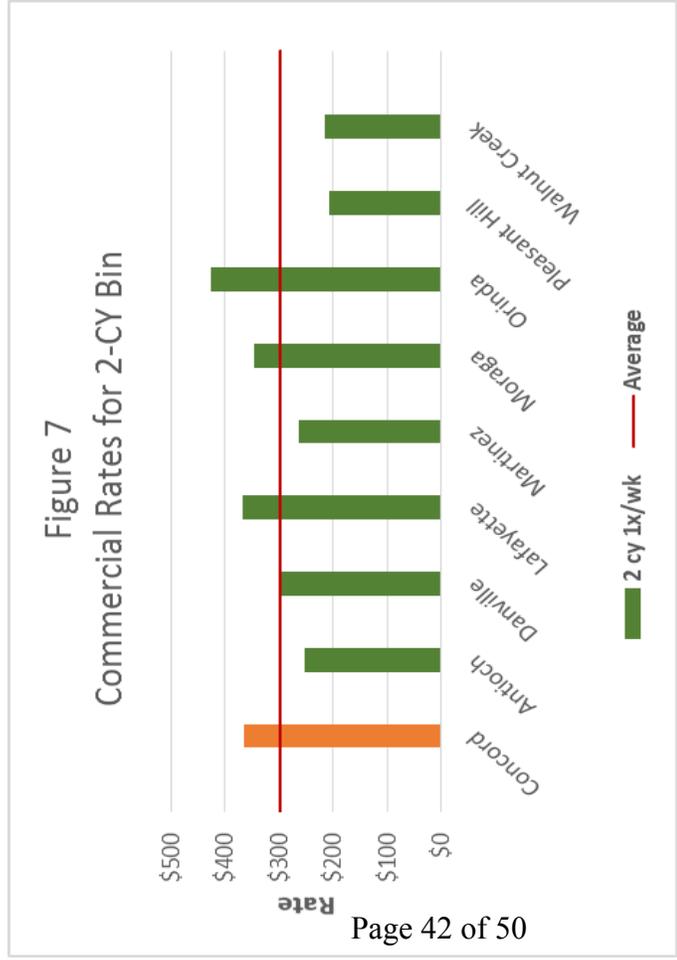
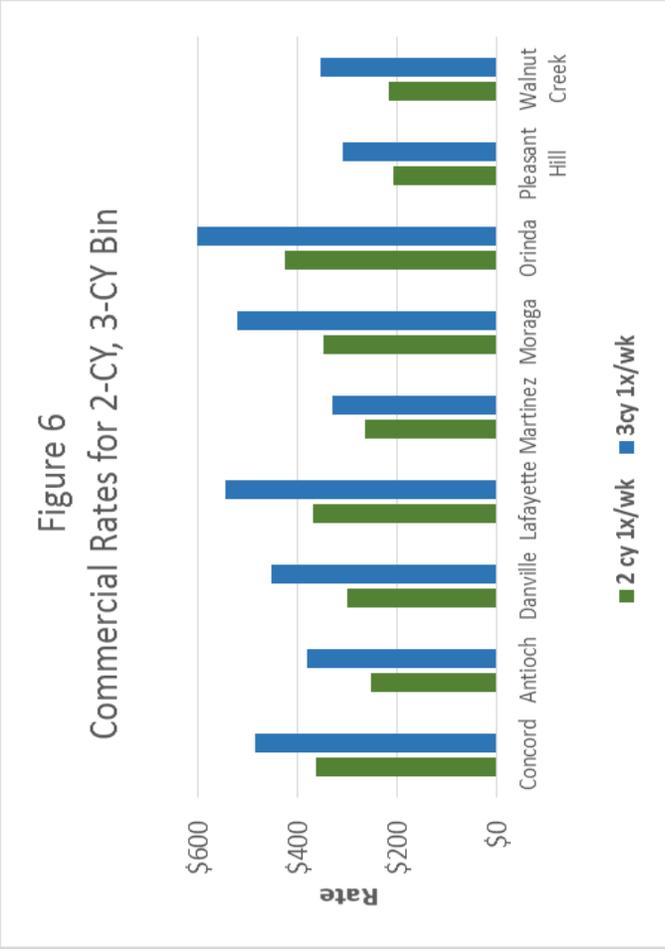
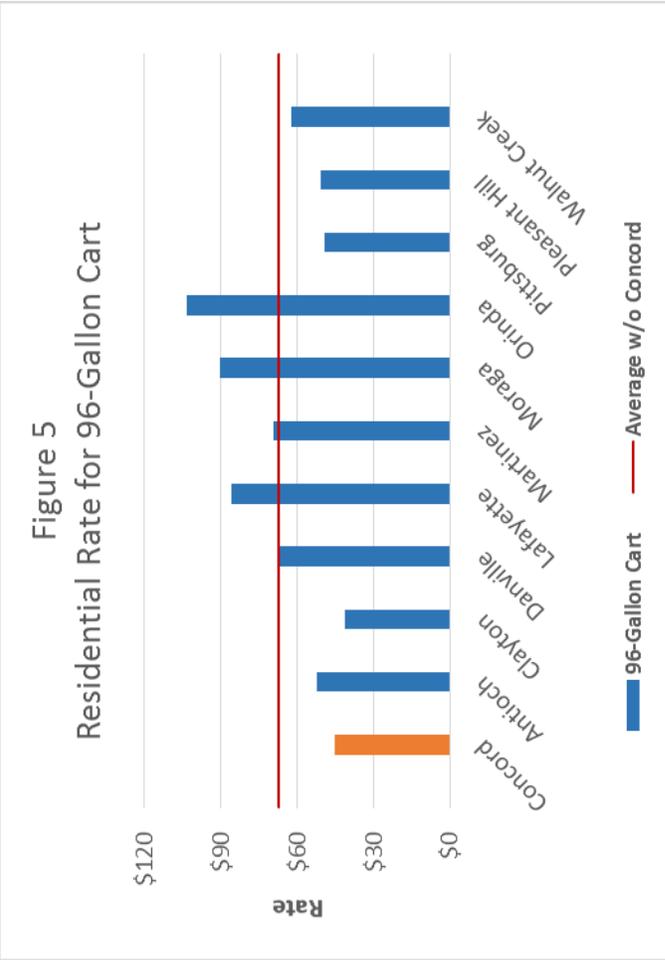
The rates reflected in the following table, Table 4, vary because of the differing levels of service. The average rate, without Concord, for a 2-CY bin picked up once a week is \$295.11, and for a 3-CY bin picked up once a week is \$432.90. In comparison, Concord's rates are approximately \$69 and \$53 higher than average. See Attachment A-1 for figures detailing a comparison of commercial rates in the market area.

TABLE 4 – Rates for 2 and 3 Cubic Yard Bins (1/week Collection)				
Hauler	Jurisdiction	Effective Date	2 Cubic Yard Bin	3 Cubic Yard Bin
			1/week	1/week
Garaventa	Concord	7/1/15	\$363.80	\$486.15
	Pittsburg	11/1/15	\$270.40	\$361.65
Republic Services	Antioch	7/1/15	\$253.21	\$380.98
	Clayton	Not Available		
	Danville	3/1/16	\$301.94	\$452.93
	Lafayette	3/1/16	\$368.84	\$544.99
	Martinez	4/1/16	\$264.62	\$330.70
	Moraga	3/1/16	\$347.70	\$521.58
	Orinda	3/1/16	\$425.55	\$638.32
	Pleasant Hill	1/1/16	\$207.47	\$310.81
	Walnut Creek	3/1/16	\$216.23	\$354.10
	Average w/o Concord			\$295.11
Concord Rate			\$363.80	\$486.15
Concord vs Average w/o Concord (\$)			\$68.69	\$53.25
Concord vs Average w/o Concord (%)			18.88%	10.95%

The percent difference of the average (without Concord) of the cities surveyed from current City commercial rates was also calculated, and is presented below:

- the average of \$295.11 for 2 cubic yards collected once a week is 18.88% lower than the City's current rate of \$363.80; and
- the average of \$432.90 for 3 cubic yards collected once a week is 10.95% lower than the City's current rate of \$486.15.





Appendix B

Franchise Fee Analysis

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Franchise Fee Survey Results and FY 16/17 Projections

Background

Many jurisdictions throughout California require franchised solid waste haulers to pay franchise fees and other solid waste fees as condition of their franchises. Concord Disposal Service (CDS) pays the City of Concord (City) Franchise Fees based on a percentage of gross CDS revenues. The City also collects a \$50,000 annual community payment from CDS. Franchise Fees paid by CDS to the City are allowed to be recovered by CDS as a pass through cost on the rates with no allowable operating profit. The percentage amount for CDS Franchise Fees was historically set by the Rate Manual, and then via the Twelfth Amendment to the Franchise Agreement (Agreement). Historical Franchise Fees paid to the City are detailed in Table 1, below.

Table 1
ANNUAL CDS FRANCHISE FEES

Rate Year (July 1 – June 30)	Franchise Fees	% of Gross Revenues
2010/2011	\$1,525,351	5.90%
2011/2012	\$1,810,330	7.07%
2012/2013	\$2,265,896	8.24%
2013/2014	\$2,850,186	9.41%
2014/2015	\$3,556,037	12.00%
2015/2016 (Estimated)	\$3,819,025	12.29%

Per the Twelfth Amendment, CDS's Franchise Fees are to be re-examined during a Base-Year Rate Review (Review), to confirm that they are "competitive yet reasonable in terms of the residential rate structure".

Analysis

Survey of Bay Area Solid Waste Fees

Based on a survey of solid waste hauler fees that R3 conducted across 58 Bay Area jurisdictions, fees on solid waste rates average approximately 13.17%. This number includes franchise fees, AB 939 administration fees, vehicle impact fees, and other fees that are assessed as a percentage of a solid waste haulers' revenue. Notably, the 13.17% average does not include any specific annual (e.g. "flat") payments made to jurisdictions because those cannot be expressed as a percentage without also having the total waste hauler revenue, which is difficult to obtain via this type of survey.

Appendix B

Franchise Fee Analysis

Additionally, 15 of the 58 jurisdictions surveyed (including Concord) assess annual flat fees in addition to fees assessed by percentage, many ranging upwards of \$250,000 per year. This is important because including annual flat fee payments would result in a percentage of solid waste fees that would be larger than the 13.17% stated here. However, we cannot calculate these flat fees as a percentage of revenues, because we do not have access to the total revenues for the solid waste operations that those flat fees. As such, flat fees such as the ones discussed above are not included in this analysis.

Table 2 below demonstrates how Concord’s percentage based fees compare to the average of all Contra Costa County jurisdictions and the Bay Area overall average.

**Table 2
COMPARISON OF FRANCHISE FEES**

	Franchise Fees Only	All Solid Waste Fees
	<i>Including %-based Fees Only</i>	
Bay Area High	21.00%	31.70%
Bay Area Average	11.43%	13.17%
Contra Costa County Average	11.14%	14.02%
City of Concord	12.29%	12.29%

As shown above, when only franchise fees are considered, Concord is slightly above the average for both the Bay Area and Contra Costa County. However, when other solid waste fees are considered, Concord’s fees are below both the Bay Area and Contra Costa County averages. Overall, one third (19) of the jurisdictions surveyed have franchise fees ranging between 12% and 15% of solid waste revenues, while 32 jurisdictions have franchise fees below 12% and only 7 have franchise fees that are greater than 15%. Please see Attachment B-1 for complete survey details.

Estimates for Increases to Concord’s Franchise Fee

The City has requested estimates for how increasing the Franchise Fee would affect overall customer rates. Table 3 below details projections of Franchise Fee revenues in Fiscal Year (FY) 16/17 for Franchise Fees collected on all residential, commercial and industrial rate revenues. Please note that the dates of CDS’s Rate Year and the City’s Fiscal Year both run July 1 through June 30.



Franchise Fee Analysis

**Table 3
FY 16/17 FRANCHISE FEE REVENUE ESTIMATES**

Franchise Fee Percentage	Projected FY 16/17 Franchise Fee Revenues	Projected Increase over FY 15/16 Franchise Fee Revenues	Projected Rate Impact
12.29%	\$ 3,987,021	\$ -	0.00%
12.50%	\$ 4,064,880	\$ 77,859	0.24%
13.00%	\$ 4,251,771	\$ 264,750	0.83%
13.50%	\$ 4,440,822	\$ 453,801	1.43%
14.00%	\$ 4,632,072	\$ 645,051	2.03%

No Change in Franchise Fee

As shown in Table 3 above, if the City keeps the Franchise Fee at the current 12.29% in FY 16/17, then, assuming the calculated 6.22% rate increase, the City could expect to see Franchise Fee revenues of approximately \$3.99 million.

Increase in Franchise Fee

Table 3 also demonstrates the range of Franchise Fee Revenues that could be expected for Franchise Fees of 12.5%, 13.0%, 13.5% and 14.0%, assuming a 6.22% rate adjustment for CDS. As shown, increasing the Franchise Fee to 13% would yield approximately \$265,000 in additional revenue. Increasing the Franchise Fee to 13.5% would yield approximately \$454,000 in additional revenue, while increasing the Franchise Fee to 14.0% would yield approximately \$645,000 in additional revenue even in the event that there was no adjustment to CDS’s rates.

Bay Area Survey Results

The overall results of our fee survey are included in Attachment B-1. Franchise Fees and other solid waste fees collected via rates for cities in the Concord market area survey are detailed in Table 4, on the following page.

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Appendix B

**Table 4
FRANCHISE FEES FOR CONCORD MARKET AREA SURVEY GROUP**

Franchise
Fee Analysis

Solid Waste and Franchise Fees Market Area Franchised Haulers					
Jurisdiction	Franchise Fee ¹	Other Solid Waste Fees			
		AB 939 Fee	Vehicle Impact Fee	City Admin Fee	Other
Concord	12.29%				\$50,000 annual community benefit payment.
Pittsburg	12.00%				Community Benefit Fee: \$500,000 in 2011 to increase yearly with CPI
Antioch	12.00%				
Clayton		Not Available			
Danville	10.00%			3.00%	
Lafayette	10.00%		16.80%	3.00%	
Martinez	10.00%				
Moraga	12.00%		6.43%	3.00%	
Orinda	12.20%			3.00%	
Pleasant Hill	12.00%	1.40%			1.4% Household Hazardous Waste (HHW)
Walnut Creek	10.00%		9.25%	3.00%	

¹ Franchise Fees are fees paid by franchised haulers and are established via franchise agreements. These are unrestricted funds for general use.

Attachment B-1

BAY AREA SOLID WASTE FEES						
Jurisdiction	Franchise Fees	AB 939 Fees	Vehicle Impact	City Admin	Street Sweeping	Other
ALAMEDA COUNTY WMA						
Alameda	10.00%	\$350,000				Closed landfill: \$175,000/JMM \$670,000/Park: \$53000
Albany	10.00%			1%	2.58%	
Castro Valley SD	10.00%					
Dublin	16.35%			2%		
Emeryville	21.00%					
Fremont	10.00%					
Hayward	12.50%				2.5%	
Livermore	10.00%		\$ 383,000	11%	\$ 441,000	
Newark	10.00%					
Oakland						
Oro Loma SD L1&L2 (2)	10.00%					
Oro Loma SD L3 (2)	12.00%					
Piedmont	5.50%					
San Leandro	10.00%					
Union City	20.00%	\$8,333	\$13,006	\$8,333		Storm water: 11.7%
Pleasanton						
SAN MATEO COUNTY						
Daly City						Closed landfill maintenance fee
Granada Sanitary District	2.00%					
Montara Sanitary District	2.00%					
Pacifica	11.00%	\$30,000				Reclamation of Fairmont Park fee \$75,000
San Bruno	10.00%	1%				Quarterly Billing: \$40,800
Woodside	7.70%					
MARIN COUNTY						
Belvedere	10.00%					
Fairfax - flat	10.00%		5%			
Larkspur - Flat	10.00%					
Mill Valley - Flat	20.00%		\$135,000/yr.			
Novato - SFD						
Ross	10.00%					
San Anselmo	12.00%		43,600/yr			
San Rafael - flat	10.00%		Yes.			
Sausalito - East of HWY 101	12.00%					
Sausalito - West of HWY 101						
Marin County FA 2,3,4,5,6&7	15.00%					
Almonte Sanitary District	2.00%					
Las Gallinas Valley SD						

Attachment B-1

BAY AREA SOLID WASTE FEES						
Jurisdiction	Franchise Fees	AB 939 Fees	Vehicle Impact	City Admin	Street Sweeping	Other
SANTA CLARA COUNTY						
Cupertino	12.00%					Environmental Waste Management Programs Fee (17%), \$0.50 HHW collection fee for residents
Gilroy	5.00%			4%		City Fee \$110,000
Los Altos	15.00%					\$800,000/yr SW Admin Fee
Milpitas	12.00%			\$206,055/year		
Morgan Hill	15.50%					
Mountain View	20.00%					
Monte Sereno	15.00%					
Saratoga	10.00%					
County of Santa Clara	15.00%			3%		
SONOMA COUNTY						
Petaluma	13.22%	Yes				Procurement Expenses \$400,000. Monthly AB939 fee determined each rate period (\$12,500/month for first rate period)
Santa Rosa	15.50%			\$100,000/year		\$500,000 Annual Service Contribution
CONTRA COSTA COUNTY						
Antioch	12.00%					
Brentwood	NA					
Clayton						
Concord	12.29%					
Martinez	10.00%					
Oakley	11.00%					
Pittsburg	12.00%					
Pleasant Hill	12.00%	1.4%				Community Benefit Fee: \$500,000 in 2011 to increase yearly with CPI
San Ramon	15.00%					1.4% HHW
CCCSWA						
Danville	10.00%			3.00%		
Lafayette	10.00%		16.80%	3.00%		
Moraga	12.00%		6.43%	3.00%		
Orinda	12.20%			3.00%		
Walnut Creek	10.00%		9.25%	3.00%		
County of Contra Costa	7.00%			3.00%		
WCCIWMA						
Hercules	10.00%					IRRF
El Cerrito	15.00%					
Pinole	10.00%					IRRF
Richmond	10.00%					IRRF
San Pablo	10.00%					IRRF, HHW \$.32/35gallon can
Unincorporated WCC County						IRRF