

1 [City and County of San Francisco Refuse Collection and Disposal Rate Board 2013
2 Resolution and Order]

3 **Refuse Collection and Disposal Rate Board Resolution modifying and adopting the**
4 **Department of Public Works (DPW) Director's Recommended Orders dated June 7,**
5 **2013, regarding the 2013 Rate Application from Recology Sunset Scavenger,**
6 **Recology Golden Gate, and Recology San Francisco, dated March 14, 2013; directing**
7 **the DPW Director to recalculate the residential refuse collection and disposal rates**
8 **accordingly; making recommendations supporting this Resolution; and making**
9 **environmental findings.**

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11 WHEREAS, The 1932 Refuse Collection and Disposal Ordinance, as amended,
12 establishes and governs the process for approving residential refuse collection and
13 disposal rates for the City and County of San Francisco ("City"); and,

14 WHEREAS, On March 14, 2013, Recology Sunset Scavenger, Recology Golden
15 Gate, and Recology San Francisco (the "Companies") filed an Application with the City
16 Administrator requesting an increase in the Companies' residential refuse collection and
17 disposal rates ("the 2013 Rate Application"); and,

18 WHEREAS, On June 7, 2013, in response to the Companies' Application, the
19 Director of the Department of Public Works ("DPW") conducted a series of hearings and
20 issued a Report and Recommended Orders regarding the 2013 Rate Application; and,

21 WHEREAS, Five Objectors filed Objections to the DPW Director's Recommended
22 Orders with the City Administrator by June 24, 2013; and,

23 WHEREAS, The Refuse Collection and Disposal Rate Board ("Rate Board"),
24 consisting of Chair/Deputy City Administrator Linda S. Yeung, Member/Controller Ben
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1 Rosenfield, and Member/San Francisco Public Utilities Commission Deputy General
2 Manager Michael P. Carlin, convened a public hearing on the Objections on July 8, 9, 15
3 and 23, 2013; and,

4 WHEREAS, The members of the Rate Board unanimously concur with certain
5 aspects of the Objections; and,

6 WHEREAS, The Rate Board otherwise unanimously concur with the DPW Director's
7 Recommended Orders as modified by the Rate Board on July 23, 2013; and,

8 WHEREAS, Upon consideration and discussion following presentations at the July
9 2013 hearings, the Rate Board has recommendations for improvements to the rate-setting
10 process and future rate-setting hearings; and,

11 WHEREAS, The City Planning Department has reviewed the 2013 Rate Application
12 and concluded that the actions proposed in the Application are statutorily exempt from
13 environmental review under the California Environmental Quality Act and CEQA Guidelines
14 (California Public Resources Code §§21000 *et seq.*, §21080(b)(8); 14 California Code of
15 Regulations §§15000 *et seq.*, §15273) [Exhibit No. 73 before the DPW Director.]; now,
16 therefore, be it

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18 RESOLVED, That the Rate Board takes the following actions, issues the following
19 instructions to the DPW Director, makes the following recommendations, and adopts the
20 following findings:

21 1. Regarding the Abandoned Materials Collection Program ("AMC Program"):

22 A. The Rate Board approves the DPW Director's proposal to include a
23 proportionate share of the costs of the AMC Program in the residential rate base, but only
24 on a pilot (test) basis, until June 30, 2016. Inclusion of the costs shall terminate at that
25 time, except as provided in subparts 1.C through 1.E, below.

1 B. The Rate Board directs that for these purposes, the Abandoned Materials
2 Collection program shall not include collection of litter and refuse from parades, festivals,
3 and other similar special events.

4 C. The Rate Board directs the DPW Director to revise Recommended Orders
5 181,363 and 181,364 ("Rate Orders") to provide that, as of July 1, 2016, the rates shall be
6 modified to remove the AMC Program costs, consistent with the DPW report to the Rate
7 Board dated July 22, 2013 (attached and included herein by reference as Exhibit A), unless
8 the Rate Board has convened and issued a Resolution and Order by December 31, 2015
9 permitting continuation of the AMC Program beyond June 30, 2016.

10 D. The Rate Board requests the DPW Director, prior to November 1, 2015, to
11 submit an AMC Program Report to the City Administrator and Rate Board regarding the
12 effectiveness of the pilot program (where the Companies will collect designated abandoned
13 materials), and concurrently post the AMC Program Report on the DPW website and
14 distribute the Report to interested parties. The AMC Program Report shall include, but not
15 be limited to, data analysis as to whether there has been an increase in diversion from
16 landfill of such materials, consistent with achieving the City's goal of zero waste, in a cost-
17 effective manner.

18 E. The Rate Board intends to reconvene and conduct a public hearing on or
19 before December 31, 2015 to consider the AMC Program Report and make findings as to
20 whether there is an increase in diversion from landfill of such materials, consistent with
21 achieving the City's goal of zero waste, in a cost-effective manner. If, by December 31,
22 2015, the Rate Board adopts such findings, the AMC Program shall be continued beyond
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1 June 30, 2016, at the same rates as in the pilot program, subject to any adjustments
2 authorized in the Rate Orders. If, by December 31, 2015, the Rate Board does not adopt
3 such findings, inclusion of costs for the AMC program in the residential rates shall
4 terminate, as provided in subparts 1.A and 1.C; and,

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6 2. The Rate Board directs the DPW Director to revise the Rate Orders regarding
7 the annual cost-of-living adjustment ("COLA") to base rates, so that application of the
8 COLA is limited to four years after the base year (Rate Year 2014, which begins July 1,
9 2013), and will expire as of June 30, 2018; and,

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11 3. The Rate Board requests the DPW Director and the San Francisco Department
12 of the Environment Director to prepare a Special Reserve Fund Report to the City
13 Administrator and the Refuse Collection and Disposal Rate Board no later than
14 November 1, 2015, concurrently post the Report on the DPW website, and distribute the
15 Report to interested parties. The Special Reserve Fund Report shall include but not be
16 limited to: identification of all contributions to and expenditures from the Fund since its
17 inception, including investment proceeds; and a preliminary assessment of future
18 conditions that may require use of the Fund, particularly in connection with the expiration of
19 the City's current Waste Disposal Agreement, and future waste disposal agreements. If the
20 Rate Board reconvenes on or before December 31, 2015 to consider the AMC Program
21 Report, it may also consider the Special Reserve Fund Report at that time; and,

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23 4. The Rate Board directs the DPW Director to publish the revised Rate Orders in
24 an appropriate manner no later than July 31, 2013; and,

1 5. The Rate Board urges the DPW Director to improve access for ratepayers with
2 limited English proficiency in future rate proceedings, including additional outreach efforts,
3 such as preparation and dissemination of Chinese and Spanish language translations of
4 materials by the Companies, on the DPW website, and by the Ratepayer Advocate, beyond
5 those currently provided; and,
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7 6. The Rate Board urges the DPW Director to work with the Companies, the San
8 Francisco City Attorney's Office, and other interested parties, as the DPW Director finds
9 appropriate, to ensure that the public is clearly informed during future rate-setting
10 proceedings about legal and procedural requirements of both the City's 1932 Ordinance
11 process before the DPW Director and the Refuse Rate Board, and the California
12 Constitution Articles XIIIC and D (November 1996 Proposition 218) processes; and,
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14 7. The Rate Board urges the San Francisco Board of Supervisors to conduct a
15 public hearing on potential expansion of the Companies' waste processing facilities,
16 including the possible acquisition by the City of real property for a new zero waste facility
17 and the possible use of the Special Reserve Fund created under the Facilitation Agreement
18 to finance that acquisition ("Agreement in Facilitation of Waste Disposal Agreement," dated
19 January 2, 1987, between Sanitary Fill Company (now "Recology San Francisco") and the
20 City and County of San Francisco). The Rate Board urges the Board of Supervisors to
21 conduct such a hearing by December 31, 2015. The Rate Board asks the DPW Director to
22 transmit this request to the Clerk of the Board of Supervisors on the Rate Board's behalf;
23 and,
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1 8. The Rate Board finds, that while the new Brisbane business license fee for
2 recycling establishments is an expense that should be included in the rate base, the fee
3 should be treated as a pass-through expense on which the Companies do not earn a profit,
4 or Operating Ratio, and therefore adopts the recommendation of the DPW Director. The
5 Board further urges the DPW Director to analyze all similar expenses in future rate
6 proceedings in order to determine consistent standards for future pass-through
7 determinations; and,

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9 9. The Rate Board denies the Objections, except to the extent addressed above;
10 and

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12 10. The Rate Board adopts the DPW Director's Recommended Orders as modified
13 by this Resolution; and,

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15 11. The Rate Board finds that its decision is statutorily exempt from the California
16 Environmental Quality Act (CEQA) under California Public Resources Code §21080(b)(8)
17 and State CEQA Guidelines §15273.

18 The Rate Board adopts the following findings pursuant to Public Resources Code
19 Section 21080(b)(8) and State CEQA Guidelines §15273 setting forth the specific basis for
20 the exemption determination:

21 A. City Planning has determined that the application is statutorily exempt
22 from environmental review under California Public Resources Code §21080(b)(8), which
23 provides that CEQA does not apply to the establishment, modification, structuring,
24 restructuring, or approval of certain rates, tolls, fares, and charges by public agencies.

1 B. The purpose of the Application is to (a) meet operating expenses,
2 including employee wage rates and fringe benefits, (b) purchase or lease supplies,
3 equipment, or materials, (c) meet financial reserve needs and requirements, and, (d) obtain
4 funds for capital projects necessary to maintain service within existing service areas.

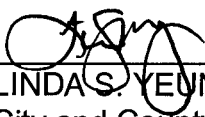
5 C. The Companies have proposed, and the City has approved, rates needed
6 for the Companies to "[meet] operating expenses, including employee wage rates and
7 fringe benefits," as provided in the Application and the supporting schedules.

8 D. The Companies have proposed, and the City has approved, rates needed
9 for the Companies to "[purchase] or [lease] supplies, equipment, or materials," to support
10 their refuse collection and disposal activities in the City, as provided in the Application and
11 the supporting schedules.

12 E. The Companies have proposed, and the City has approved, rates needed
13 for the Companies to "meet financial reserve needs and requirements," as provided in the
14 Application and the supporting schedules.

15 F. The Companies have proposed, and the City has approved, rates needed
16 for the Companies to "obtain funds for capital projects necessary to maintain service within
17 existing service areas," as provided in the Application and the supporting schedules.

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20 Approved by unanimous vote of the Refuse Collection and Disposal Rate Board
21 (3-0, Yeung, Rosenfield, Carlin), on July 23, 2013.

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LINDA S. YEUNG, Chair
City and County of San Francisco Refuse Collection and Disposal Rate Board

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Edwin M. Lee, Mayor
Mohammed Nuru, Director

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Douglas Legg, Manager

July 22, 2013

To: Refuse Collection and Disposal Rate Board

From: Douglas Legg

Re: Abandoned materials collection program

Based on discussions at the Rate Board meetings of July 8, 9 and 15, 2013, DPW will provide a report to the Rate Board by November 1, 2015, on the abandoned materials collection program that was recommended for inclusion in the rates in the Director's Report dated June 7, 2013. The report will compare performance by Recology in Rate Years 2014 and 2015 to performance by DPW in FY 2012-13 and will include information on any offsets levied for failure to meet response time goals. Performance measures will include:

1. Call volumes by day and average time to close requests. Baseline statistics on these measures were presented to the Rate Board on July 15, and are attached to this memo.
2. Tons collected and diverted. Baseline information is provided in Exhibit 1, p. 106.
3. Cost of the program. Baseline information is provided in Exhibits 13 and 41, and was qualified in my testimony at your meeting of July 15.

If the Rate Board does not authorize continued inclusion of the costs of the abandoned materials collection program in the rates after receipt of the report described above, the rates would be decreased by 1.73%, effective July 1, 2016. This percentage was calculated by DPW staff, and confirmed by Recology, using the rate model and data provided in Exhibit 41 (revised to exclude costs associated with parades and events). This adjustment would be made as part of routine annual adjustments based on the cost of living adjustment mechanism, and incentive program adjustments. The Director will issue a revised rate schedule to reflect all adjustments.

DPW has revised the Director's orders to reflect the issues under discussion by the Rate Board, including removal of parades and special events, sunsetting the cost-of-living adjustment after four years, and the above-described adjustment for abandoned materials collection. A draft of the final Director's orders is attached to this memo.

Attachments:

DPW Abandoned Material Collection Performance Data
Revised Director's Orders

EXHIBIT A to Resolution of the
Refuse Collection and Disposal
Rate Board, July 23, 2013

