

CITY COUNCIL COMMITTEE

INFRASTRUCTURE & FRANCHISE

Dan Helix, Chair

Edi Birsan, Committee Member

5:30 p.m.

Monday, June 13, 2016

**Building A, Garden Conference Room
1950 Parkside Drive, Concord**

AGENDA

ROLL CALL

PUBLIC COMMENT PERIOD

- 1. UPDATE** – Report on green infrastructure planning requirements of Municipal Regional Permit (MRP 2.0); update on program finance options; and progress update on previous compliance items. Report by Kevin Marstall, Senior Civil Engineer.
- 2. CONSIDERATION** – of a request by Concord Disposal Service for a rate increase associated with the City’s Franchise Agreement for the provision of solid waste services. Report by Joan Ryan.
- 3. ADJOURNMENT**

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Robert Ovadia, City Engineer
Laura Simpson, Planning Manager
Kevin Marstall, Senior Civil Engineer
Joan Ryan
Joelle Fockler, City Clerk

**REPORT TO INFRASTRUCTURE AND FRANCHISE COMMITTEE****TO THE HONORABLE COMMITTEE MEMBERS:**

DATE: June 13, 2016

SUBJECT: REPORT ON GREEN INFRASTRUCTURE PLANNING REQUIREMENTS OF MUNICIPAL REGIONAL PERMIT (MRP 2.0); UPDATE ON PROGRAM FINANCE OPTIONS; AND PROGRESS UPDATE ON PREVIOUS COMPLIANCE ITEMS

Report in Brief

On January 11, 2016, the Infrastructure and Franchise Committee received a presentation regarding the City's annual report of compliance with the Municipal Regional Stormwater Permit (MRP 1.0) and an outline of new requirements in the Municipal Regional Stormwater Permit adopted in November 18, 2015 that became effective January 1, 2016 (MRP 2.0). One of the new requirements of the MRP 2.0 was provision C.3.j., which includes requirements for Green Infrastructure planning and implementation.

Provision C.3.j. has two main elements to be implemented by municipalities (otherwise known as Permittees):

1. Preparation of a Green Infrastructure Plan for the inclusion of Low Impact Development (LID) drainage design into storm drain infrastructure on public and private lands, including streets, roads, storm drains, parking lots, roofs, etc.
2. Early implementation of Green Infrastructure Projects (No Missed Opportunities).

In addition, Permittees are also required to participate in processes to promote Green Infrastructure and for tracking and reporting progress, as well as educate appropriate Permittee elected officials (e.g., city council members, county supervisors, district board members) on the requirements of this provision and methods of implementation (C3.j.1(4)(c)).

To comply with Provision C.3.j.i.(4)(c), it is suggested by the Contra Costa County Cleanwater Program that Permittee staff provide a staff report on the Green Infrastructure requirements to their Council or Board before June 30, for which this outreach will be reported in their Fiscal Year 2015/16 Municipal Annual Report.

The Infrastructure and Franchise Committee was also briefed by staff on the current allocation of the annual property assessment fees collected for Storm Water Management and the need for additional funding to be directed towards specific trash diversion programs to meet MRP 2.0 requirements. Updates on funding options for the stormwater program and the progress on previous compliance items are also included in this report.

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Background

The City of Concord is one (1) of seventy-six (76) local agencies (Permittees) subject to the California Regional Water Quality Control Board, San Francisco Bay Region's Municipal Regional Stormwater NPDES Permit (MRP). The MRP was adopted in 2009 (MRP 1.0) and reissued in November 2015 (MRP 2.0).

For the permit term of MRP 2.0, each Permittee jurisdiction is required to prepare a Green Infrastructure Plan, primarily as an alternative to expanding the definition of Regulated Projects prescribed under Provision C.3.b to otherwise include **all** new and redevelopment projects that create or replace 5,000 sf or more of impervious surface areas and, of particular concern, road projects that propose solely to replace existing impervious surface area.

MRP 2.0 defines Green Infrastructure:

"Infrastructure that uses vegetation, soils, and natural processes to manage water and create healthier urban environments. At the scale of a city or county, green infrastructure refers to the patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the scale of a neighborhood or site, green infrastructure refers to stormwater management systems that mimic nature by soaking up and storing water."

In addition to the primary stipulation under Provision C.3.j, two (2) other provisions of MRP 2.0 include requirements for implementation of Green Infrastructure, which are C.11 and C.12 that mandate Permittees to reduce discharges of Mercury and PCBs, respectively. A portion of these pollutant discharge reductions must be achieved by retrofitting existing impervious surfaces, such as roadways and street frontages, with Green Infrastructure.

At the January 11, 2016 Infrastructure & Franchise Committee meeting, the Council Committee requested information regarding funding opportunities for the stormwater program to meet increasing State mandates associated with the Municipal Regional Permit. As part of the discussion, two opportunities were identified which included 1) funding the storm water program as a utility through a State initiative to amend Article X of the California Constitution, and 2) modifying the City's franchise agreement with Concord Disposal Services (CDS) to include a fee as part of its services to fund "trash reduction".

In addition, at the January 11th meeting, City staff reported to the Council Committee on two compliance items from the FY2014-2015 Annual Stormwater Report in which the City had not reported full compliance, regarding the required percentage for trash generation rate reduction and the requirement to implement an Integrated Pest Management policy.

Discussion

In MRP 2.0, Provision C.3.j. introduces new regulations for Green Infrastructure planning and implementation, Green Infrastructure regulations include low impact development drainage design into storm drain infrastructure on public and private lands, including streets, roads, storm drains, parking lots, building roofs, and other storm drain infrastructure elements. The goal of these regulations is to shift the City's impervious surfaces and storm drain infrastructure from flows directly into the storm drain to a more-resilient, sustainable system that slows runoff by dispersing it to vegetated areas, harvests and uses runoff, promotes

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infiltration and evapotranspiration, and uses bioretention and other green infrastructure practices to clean stormwater runoff.

Provision C.3.j. outlines four (4) requirements for compliance, which are as follows:

1. Green Infrastructure Program Plan Development
2. Early Implementation of Green Infrastructure Projects
3. Participate in Processes to Promote Green Infrastructure
4. Tracking and Reporting Progress

The first two requirements are the main elements to be implemented by municipalities. This year's Annual Report is required to demonstrate outreach on this topic to the City Council.

Green Infrastructure Plan Development

The City is required to prepare a Green Infrastructure Plan that describes how it will, in the coming decades, shift the impervious surfaces and storm drain infrastructure from gray, or conventional, storm drain infrastructure where runoff flows directly in to the storm drain and then to creeks and the Bay, to a more resilient, sustainable system that incorporates "Green Infrastructure." The Green Infrastructure Plan will modify existing street, street right-of-way and other City infrastructure in such a way that it slows runoff by dispersing it to vegetated areas, harvests and uses runoff, promotes infiltration and evapotranspiration, and uses bioretention to detain, retain, and treat stormwater.

To document progress in the development of a Green Infrastructure Plan, the MRP 2.0 includes the following reporting requirements:

- Prepare a framework or workplan that will lead to development of a Green Infrastructure Plan to be approved by the City Council by June 30, 2017.
- Submit a Green Infrastructure Plan with the 2019 Annual Report.
- Submit documentation of the legal mechanism to ensure implementation of a Green Infrastructure Plan with the 2019 Annual Report.
- Submit a summary of the outreach and education efforts in each Annual Report.

To comply with the first requirement, the City must prepare a framework or workplan that describes specific tasks and timeframes for development of its Green Infrastructure Plan. At a minimum, the framework or workplan shall include a statement of purpose, tasks, and timeframes to complete the elements listed in Provision C.3.j.i.(2). The framework or workplan shall be approved by the City Council by June 30, 2017. Staff is coordinating with other Contra Costa municipalities, through the Contra Costa Clean Water Program (CCCWP), to develop a model framework or workplan. This model framework will be adapted to meet the City of Concord's specific needs and will be considered for approval by the City Council during FY 2016-2017.

The second requirement, to prepare a Green Infrastructure Plan, represents the primary intent of Provision C.3.j and must contain the following elements as summarized:

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- a) A mechanism to prioritize and map areas for potential and planned projects, both public and private, on a drainage-area-specific basis, with load reduction assessments required by Provisions C.11 and C.12 specified for reporting timeframes by 2020, 2030, and 2040.
- b) Output generated from above mechanism, including prioritization criteria, maps, lists, and other information.
- c) Target amounts of impervious surface, from public and private projects, to be retrofitted according to the load reduction timeframes in 2020, 2030, and 2040.
- d) A process for tracking and mapping completed projects, public and private, and making the information publically available.
- e) General guidelines for overall streetscape and project design and construction to ensure projects have unified, complete design that implements the range of functions associated with the projects.
- f) Standard specifications, typical design details, and related information necessary for City to incorporate green infrastructure into projects, public and private.
- g) Requirement(s) that projects be designed to meet the treatment and hydromodification sizing requirements in Provision C.3. For street projects not subject to Provision C.3.b.ii, propose a single approach with Green Infrastructure Plans how to proceed should project constraints preclude fully meeting C.3 sizing requirements.
- h) A summary of the planning documents updated or modified to incorporate green infrastructure requirements, including: General Plans, Specific Plans, Complete Streets Plans, Active Transportation Plans, Storm Drain Master Plans, Pavement Work Plans, Urban Forestry Plans, or other plans that may affect the future alignment, configuration or design of impervious surfaces such as streets, parking lots, sidewalks, plazas, roofs, and drainage infrastructure; to be completed not later than the end of the permit term.
- i) A workplan identifying how City will ensure that green infrastructure and low impact development measures are appropriately included in future plans.
- j) A workplan to complete prioritized projects identified as part of a Provision C.3.e Alternative Compliance program or part of Provision C.3.j Early Implementation.
- k) An evaluation of prioritized project funding options, including, but not limited to: Alternative Compliance funds; grant monies; including transportation project grants from federal, State, and local agencies; existing City resources; new tax or other levies; and other sources of funds.

The third requirement obligates the City to adopt policies, ordinances, and/or other appropriate legal mechanisms to ensure implementation of the Green Infrastructure Plan.

Finally, the City is required to conduct outreach and education, as it pertains to both general and targeted public outreach, training of appropriate staff, and educating appropriate elected officials, on the requirements of the Green Infrastructure Plan.

Early Implementation (No Missed Opportunities)

In addition to requiring development of a comprehensive Green Infrastructure Plan, the MRP also wants to ensure that any upcoming capital projects, even those where the design development has already been completed, will be reviewed and redesigned to include green infrastructure components “to the maximum extent practical”. In this way, the Permittees will not “miss an opportunity” to incorporate green infrastructure in all new projects, even those constructed before the comprehensive Green Infrastructure Plan is adopted.

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Provision C.3.j.ii. requires each Permittee to review current infrastructure (capital improvement) projects, prepare a list of infrastructure projects planned for implementation during the permit term that have potential for green infrastructure measures, and submit the list with each Annual Report, including:

... a summary of how each public infrastructure project with green infrastructure potential will include green infrastructure measures to the maximum extent practicable during the permit term. For any public infrastructure project where implementation of green infrastructure measures is not practicable, submit a brief description for the project and the reasons that green infrastructure measures were impracticable to implement.

Staff is coordinating with other Contra Costa municipalities, through the Contra Costa Clean Water Program (CCCWP), to develop model guidance for reviewing capital improvement programs and projects, identifying green infrastructure potential, advancing planning and design of potential green infrastructure features, and documenting decisions regarding implementation of green infrastructure. The model guidance will be adapted to meet the City of Concord's needs and will be implemented by the Engineering Division during the current fiscal year.

Participate in Processes to Promote Green Infrastructure

Provision C.3.j.iii. requires that the City shall track processes, assemble and submit information, and provide informational materials and presentations as needed to assist relevant regional, State, and federal agencies to plan, design, and fund incorporation of green infrastructure measures into local infrastructure projects, including transportation projects. Issues to be addressed include coordinating the timing of funding from different sources, changes to standard designs and design criteria, ranking and prioritizing projects for funding, and implementation of in-lieu programs. In each Annual Permit, the City shall report on the goals and outcomes during the reporting year of work undertaken to participate in processes to promote green infrastructure. In the 2019 Annual Report, the City shall submit a plan and schedule for new and ongoing efforts to participate in processes to promote green infrastructure.

Tracking and Reporting Progress

Provision C.3.j.iv. requires that the City shall develop and implement regionally-consistent methods to track and report implementation of green infrastructure measures including treated area and connected and disconnected impervious area on both public and private parcels. The methods shall also address tracking needed to provide reasonable assurance that wasteload allocations for Total Maximum Daily Loads (TMDLs), including the San Francisco Bay PCBs and mercury TMDLs, and reductions for trash, are being met. In each Annual Permit, the City shall report progress on development and implementation of the tracking methods. In the 2019 Annual Report, the City shall submit the tracking methods and report implementation of green infrastructure measures including treated area, and connected and disconnected impervious area on both public and private parcels.

Stormwater Funding Opportunities

Update on Stormwater Initiative: Subsequent to the January 11, 2016 Infrastructure and Franchise Committee meeting, staff provided an update on the proposed State Initiative (Initiative) via Council Weekly Newsletter in which it was explained that the Initiative did not poll well and would be reconsidered at a later

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date. The primary reason for the failure to garner adequate support from legislators was the inclusion by the State Attorney General's Office of language stating "without voter approval" in the proposed Initiative's Title and Summary.

Possible Modifications to Concord Disposal Service Franchise Agreement: To date, an opportunity is still available to shift the operational costs of the City's street sweeping program from the Storm Water Management budget to the General Fund and correspondingly increase the City's franchise fee with Concord Disposal Services (CDS) to cover the costs of the program. Community and Economic Development staff is currently discussing franchise operations and rates with CDS and will be bringing recommendations on this topic to the Infrastructure & Franchise Committee within the next two months.

Update on Compliance Items

Required Trash Generation Rate Reduction: A request for quotes was sent out to three (3) recognized manufacturers of full trash capture devices, soliciting cost estimates to procure and install approximately one hundred fifty units, targeting the high trash generation corridors along primarily Monument Boulevard and Clayton Road, with the goal of achieving the 2016 reporting benchmark of 60% trash generation rate reduction.

Integrated Pest Management (IPM) Policy: City staff from both the Public Works and Community & Economic Development Departments met on several occasions to review the Model IPM Policy produced by the Contra Costa Clean Water Program for implementation by its respective permittees. The Model Policy was modified to incorporate and reflect the City of Concord's standard IPM practices and procedures, and the draft IPM Policy was presented to the Public Works Director for implementation and inclusion in the FY2015-2016 Annual Storm Water Report to achieve full compliance for this item.

Fiscal Impact

There is no fiscal impact associated with the outreach to the Infrastructure and Franchise Committee.

The proposed Fiscal Year 2016-2017 Capital Budget includes a project to develop the required Green Infrastructure framework, funded by the Storm Water Management program. Likewise, initial funding for development of the required Green Infrastructure Plan is included in the proposed Fiscal Year 2016-2017 Capital Budget.

The costs/funding for implementation of those measures ultimately proposed as part of the Green Infrastructure Plan will be an item for future discussion, as the fiscal impact to meet the requirements of MRP 2.0 remains a concern for which the above described alternatives, such as the State Initiative or Modified Franchise Agreement, may not fully address.

With respect to funding ongoing efforts to reduce the City's trash generation rate, the proposed Fiscal Year 2016-2017 Capital Budget includes a project to install additional full trash capture devices, funded by the Storm Water Management program.

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Public Contact

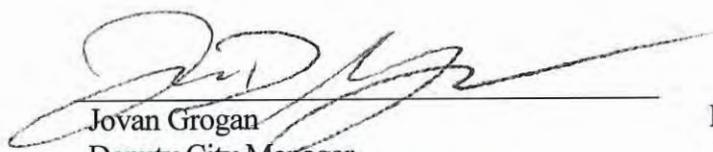
The Infrastructure and Franchise Committee Agenda was posted.

Recommendation for Action

Staff is bringing this item forward for informational purposes. There is no action requested from the Committee at this time.

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TO HONORABLE COMMITTEE MEMBERS:

DATE: June 13, 2016

SUBJECT: CONSIDERATION OF A REQUEST BY CONCORD DISPOSAL SERVICE FOR A RATE INCREASE ASSOCIATED WITH THE CITY'S FRANCHISE AGREEMENT FOR THE PROVISION OF SOLID WASTE SERVICES

Report in Brief

Garbage and recycling services are provided to Concord residences and businesses through a franchise agreement with Concord Disposal Service (CDS), a local family-owned business. The City's Solid Waste Franchise Agreement allows CDS to request an adjustment to residential rates through a rate setting process, during "Base Years". The last Base Year request was in 2012. On April 22, 2016, Mr. Clark Colvis, the Chief Operating Officer for CDS, submitted a draft Base Year Rate Change Application (Application) requesting an increase of 8.29%. In subsequent discussions with the City's consultants, CDS supports the consultant's recommendations of a 6.22% rate increase.

Staff requests the Council Committee review the report and provide direction on the following: 1) the proposed 6.22% Base Year rate increase; and 2) a staff recommended franchise fee increase from 12.29% to 13.5% spread over 2 years. 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. These modifications would comprise the 13th Amendment to the City's Franchise Agreement. The Committee's recommendation would then be forwarded to the City Council for review and approval, tentatively scheduled for the July 26, 2016 Council meeting.

Background

The City entered into its Agreement to extend the existing 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 City's Franchise Agreement allows the City to set a new residential fee rate to address revenue shortfalls by the service provider. The City regulates residential rates by using the City's *Rate Setting Process and Methodology Manual for Residential Solid Waste Fees* (Manual), dated January 12, 2010. The Manual, adopted by the City Council in 1993, and updated in 1997, 2006, 2007 and 2010, provides the structural framework to review an Application and to determine CDS's revenue requirements. As prescribed in the Manual, detailed Base Year reviews occur every six years. During each of the "Interim Years" (between Base Years), rate adjustments are based on a refuse rate index (RRI), which is tailored toward costs in the waste collection industry. Use of the RRI during interim years was intended to reduce the need for large increases during Base Years.

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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 specified revenue requirements for CDS within the Rate Setting Manual. Rates are set to cover allowable costs and allow a reasonable profit to the provider. The City does not explicitly regulate commercial and industrial rates. However, the City reviews all CDS revenues and costs when it sets residential rates. This can indirectly influence commercial and industrial rates. Residential rate increases over the last 10 years are shown below.

**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>Current request</i> 6.22%

Discussion

Staff retained R3 Consulting Group, Inc. (R3) to commence the Application review steps required in the City's *Rate Setting Process and Methodology Manual for Residential Solid Waste Fees*. R3 completed a draft report reviewing the CDS Application and including a comparison of Residential Rates in Contra Costa County, as of February 2016 (Attachment 1).

The City's consultant, R3, utilized the guidelines in the Manual to review the 2016 Base-Year Rate Review Application and prepared a draft report 2016 Detailed Rate Review (Rate Review) (Attachment 2). The draft report provides background information, discussion of the Manual, rate review results, and recommendations. Based upon R3's review of the Application submitted by CDS, R3 recommended a number of adjustments to the Application, as summarized in the draft report, which would reduce the rate increase to 6.22%. CDS supports these adjustments.

Current and Proposed Rates

Current rates, effective August 15, 2015, are indicated in the following table for each level of service, and include the weekly pick-up of a 64-gallon cart for single-stream recycling and a 96-gallon cart for yard waste, in addition to other service enhancements such as curbside oil pick-up and three

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free on-call pick up days annually. The residential rate increase of 6.22% is reflected in column three of Table 2.

As shown in the rate survey attached as Attachment 1, and found as Appendix A to the Rate Review (Attachment 2), Concord's proposed 6.22% rate increase would still retain Concord at the low end of the rate scale for the 64- and 96-gallon refuse cart sizes, in comparison to other rates within Contra Costa County. Concord's existing rate would increase from \$47.05 to \$49.95 (96 gal.) as compared to \$67.07 for the County Average and from \$38.40 to \$40.80 (64 gal.) as compared to \$46.57 for the County Average. Concord's 32 gallon cart (39.6% of customer base) would be \$1.24 above the average for cities surveyed (\$28.96), increasing from \$28.45 to \$30.20.

**Table 2
2016 Base Year Proposed Rate Increase**

Service Level	Last adjustment –	13th Amendment	# of Accounts
Single Family	adopted 7/15/2015	6.22% increase	As of 12/30/2015
96-gallon refuse cart	\$47.05	\$49.95	7,167
64-gallon refuse cart	\$38.40	\$40.80	8,139
32-gallon refuse cart	\$28.45	\$30.20	10,494
20 gallon refuse cart	\$23.30	\$24.75	Phasing out- 420
32 gallon (senior) cart	\$23.95	\$25.45	1,081
Condo			
96-gallon refuse cart	\$46.00	\$48.85	108
64-gallon refuse cart	\$37.40	\$39.70	356
32-gallon refuse cart	\$27.45	\$29.15	870
HOA exempt refuse cart	\$30.90	\$32.80	
Total units			28,635

Rounded to the nearest \$.05 per the Manual.

Recommendation – Staff supports a rate increase of 6.22%.

Effective Date of Rate Change

Council action on the rate change is anticipated to occur in July. If that occurs, the proposed rate increase would become effective in late August, 2016. CDS would send out notification of the rate increase within their August billing statements and therefore the rate increases would first be reflected on September billing statements.

City's 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. Fees on solid waste rates can include franchise fees and other related fees assessed as a percentage of a solid waste hauler's revenue. In addition, some haulers receive flat payments. Jurisdictions in the Bay Area average approximately 13.17% for all solid waste fees, including franchise fees. The Contra Costa County average is at

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14.02%. The City is interested in increasing its franchise fee in a manner that keeps us competitive with our surrounding cities and 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 County average, and this could be phased in over 2 years.

Appendix B of Attachment 2 projects that the FY 2016/17 franchise fee would be approximately \$3,987,021, based on the current 12.29% franchise fee, and increase to \$4,158,326, based on an increase to 12.75% or to \$4,440,822 based on an increase to a 13.5% franchise fee.

**Table 3 - Franchise Fees
(Existing and Projected)**

Fiscal Year	Franchise Fee	Fee Percentage	Projected Rate Increase from prior year
2015/16	\$3,819,025 ¹	12.29%	--
2016/17	\$3,987,021 ²	12.29%	0.00%
2016/17	\$4,158,326 ³	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 3 of Appendix B (Att. 2)
3. Estimated based on 2016/17 and applying increased franchise fee percentages (Appendix B of Att.2)

Recommendation – Staff supports a franchise fee of 13.50% through to the next Base Year 2022, in order to keep the City's fee competitive with our surrounding cities and compensates the City for the various impacts associated with the franchise. Staff recommends the franchise fee increase be phased in over two years. Based on the residential rate increase recommendation of 6.22%, should the Committee recommend allowance of the increased franchise fee to 13.5% over two years, the impact on residential rates in Fiscal Year 2016/17 (0.54%) would result in a rate increase for the upcoming fiscal year of 6.76%. This would result in corresponding monthly charges of approximately 12 to 30 cents on residential rates (dependent on cart size), in addition to the rates shown in Table 2 above. In year 2 there would be an additional minor increase (23 to 40 cents) to the rates which would be added to any potential RRI adjustment.

Discussion of Trucking Charges - 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% operation ratio) for CDS. CDS indicates that SEG Trucking historically has used an 85% operation ratio (equaling a 15% profit level) and that the current rate application is based on this rate. This was also the basis for CDS' recent purchase and investment of CNG (compressed natural gas) trucks when determining whether to make that large investment. CDS has noted that in exchange for the additional profit to SEG in order to cover the greater risks to capital and the efficiencies in pooling truck expenditures, CDS does not receive a profit on its trucking leasing charges. The proposed 6.22% rate increase assumes the 15% profit level for SEG.

The City's consultant highlighted this issue for further examination by the City. R3 notes that if such an expense were treated as an allowable expense subject to profit like CDS's other allowable expenses, which is a common way of handling such expenses when setting rates, then the profit on

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those expenses would be 10%, the same as the profit on all of CDS's other allowable expenses. The consultant acknowledges that this past practice has occurred, but wanted to bring this to the City's attention.

Fiscal 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, if the 2-year phase-in is used, based on the Rate Review recommendation and an increase in the City's franchise fee. Additionally, the final second year phase-in of the franchise fee in FY 2017/18 would incorporate an additional 0.89% increase, at which point the City's franchise fee would be set at 13.5% and would not change. Council would re-evaluate the City's franchise fee at the next Base Year review in 6 years.

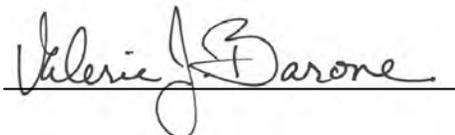
Public Contact

Posting of the agenda has occurred and a copy of this report has been mailed to CDS and the R3 Consulting Group, Inc.

Recommendation for Action

Staff recommends that the Committee recommend to the full City Council a Fiscal Year 2016/17 Base Year Rate increase of 6.76%, representing a phased-in City franchise fee of 13.5%, beginning with a 12.75% City franchise fee (for FY 2016/17) and moving to a 13.5% franchise fee in FY 2017/18. This would result in an additional 0.89% increase in FY 2017/18. The FY 2017/18 adjustment would be incorporated into next year's RRI rate change, as necessary. City Council is expected to consider this item on July 26, 2016.

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Attachment 1- Residential Rates and Comparison of local cities, excerpted from Appendix A of 2016 Detailed Rate Review, dated June 8, 2016.

Attachment 2- Draft Report – 2016 Detailed Rate Review, dated June 8, 2016.

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. 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.

Rate Survey

Hauler	Jurisdiction	Effective Date	20-Gallon Cart	32-Gallon Cart	64-Gallon Cart	96-Gallon Cart
Garaventa	Concord	7/1/15	NA	\$28.45	\$38.40	\$47.05
	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 Rate			NA	\$28.45	\$38.40	\$47.05
Concord vs Average w/o Concord (\$)			NA	(\$0.51)	(\$8.17)	(\$20.02)
Concord vs Average w/o Concord (%)			NA	-1.8%	-21.3%	-42.6%

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

- the average of \$28.96 for a 32-gallon cart is 1.8% above the City's current rate of \$28.45;
- the average of \$46.57 for a 64-gallon cart is 21.3% above the City's current rate of \$38.40; and
- the average of \$67.07 for a 96-gallon cart is 42.6% above the City's current rate of \$47.05.

R3



DRAFT REPORT

2016 DETAILED RATE REVIEW



SUBMITTED TO:

City of Concord

June 8, 2016

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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 August 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 bases 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.

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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).

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.
- **SEC 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		\$ 9,096,972
21. Regulatory Fees (Community Benefit fee)	50,000	50,000	50,000	50,000	5	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	Rate/Month	Months	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	10,484	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				\$ 12,284,275	7	\$ 12,329,758
Total Residential Revenue (without Rate Change in Base Year)	\$ 11,544,155	\$ 11,843,004	\$ 12,235,138	\$ 49,137	182	\$ 49,319
Commercial Revenue - Bins and Containers						
Commercial Revenue - Debris Box	\$ 14,095,247	7.2%	\$ 15,102,474	\$ 16,162,807		\$ 16,041,244
Less: Commercial Migration Revenue Loss	3,232,282	10.0%	3,523,036	3,577,732	8	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		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	9	\$ 31,727,874
Net Shortfall (Surplus)				\$ (250,599)		\$ 763,303
Total Residential Revenue Prior to Rate Change (Line 38)	\$ 12,235,138					\$ 12,280,439
Percent Change in Existing Residential Rates and escalation rates (Line 44 div 45)	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.

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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.



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

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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. 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	NA	\$28.45	\$38.40	\$47.05
	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 Rate			NA	\$28.45	\$38.40	\$47.05
Concord vs Average w/o Concord (\$)			NA	(\$0.51)	(\$8.17)	(\$20.02)
Concord vs Average w/o Concord (%)			NA	-1.8%	-21.3%	-42.6%

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

- the average of \$28.96 for a 32-gallon cart is 1.8% above the City’s current rate of \$28.45;
- the average of \$46.57 for a 64-gallon cart is 21.3% above the City’s current rate of \$38.40; and
- the average of \$67.07 for a 96-gallon cart is 42.6% above the City’s current rate of \$47.05.



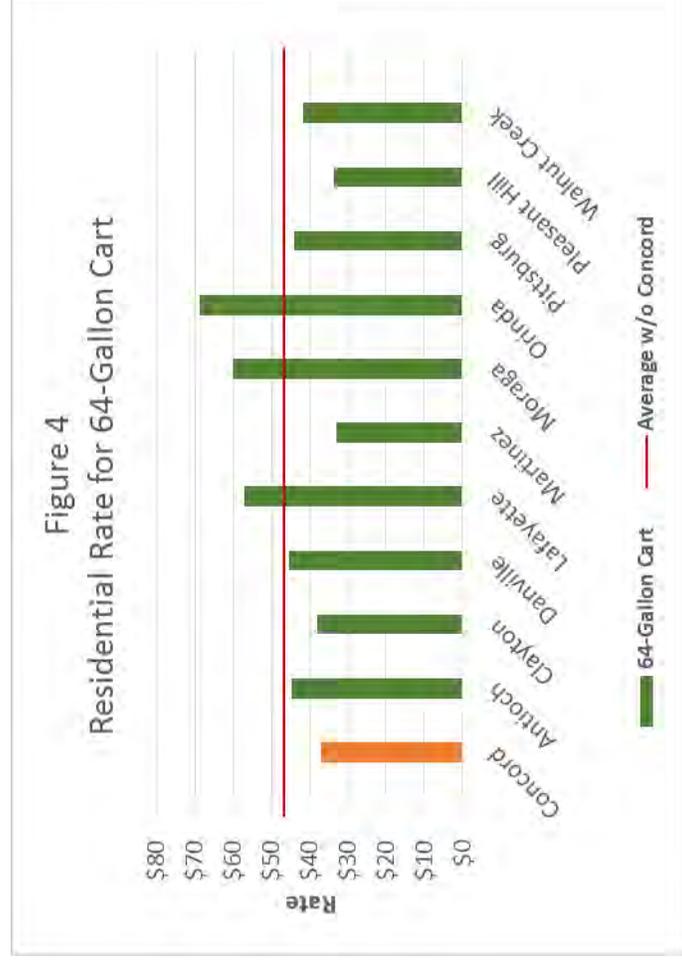
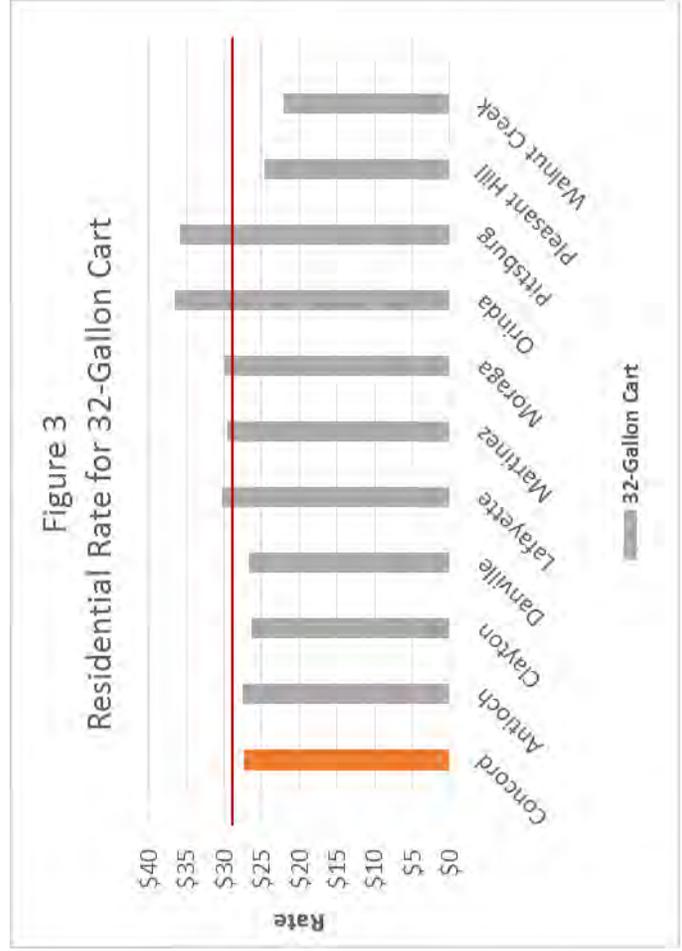
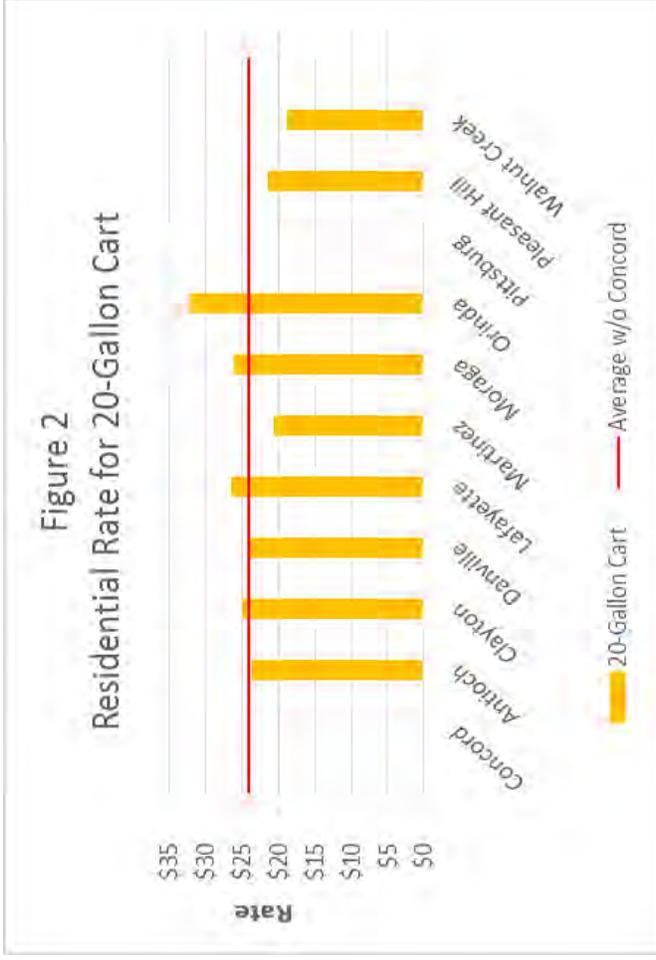
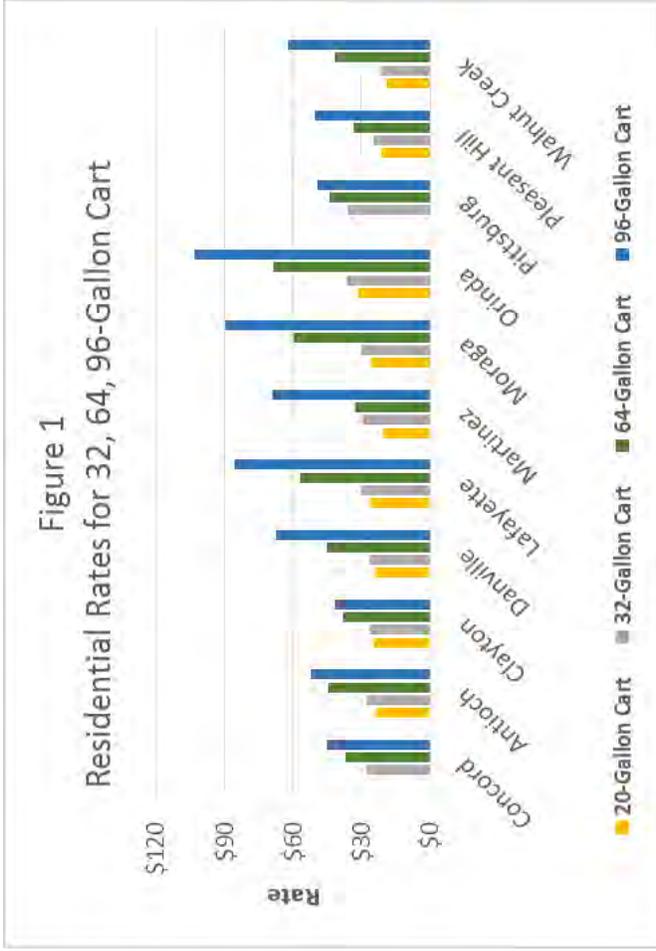
Commercial Rates

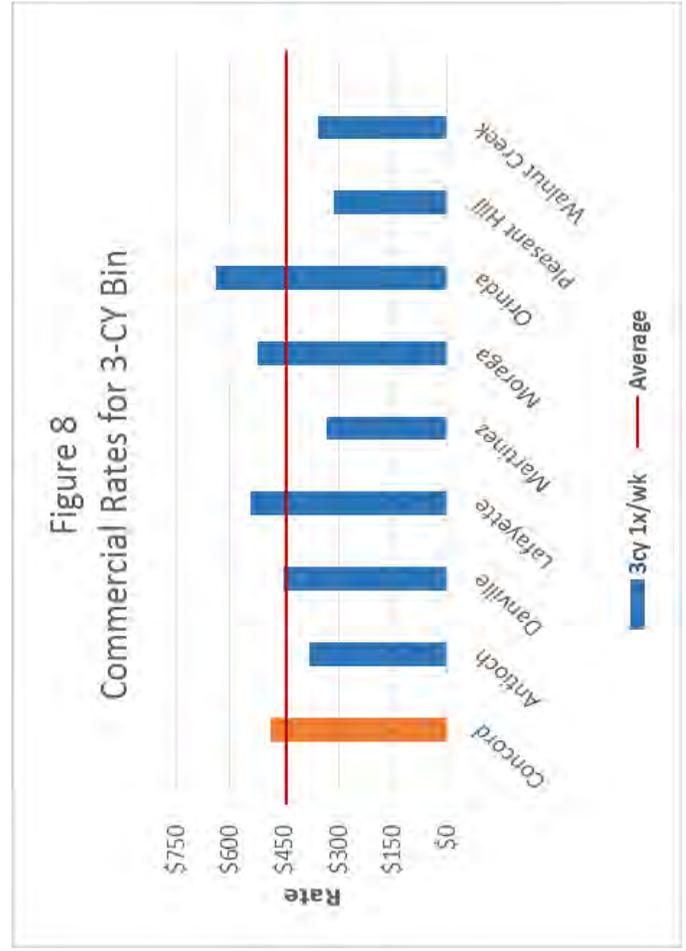
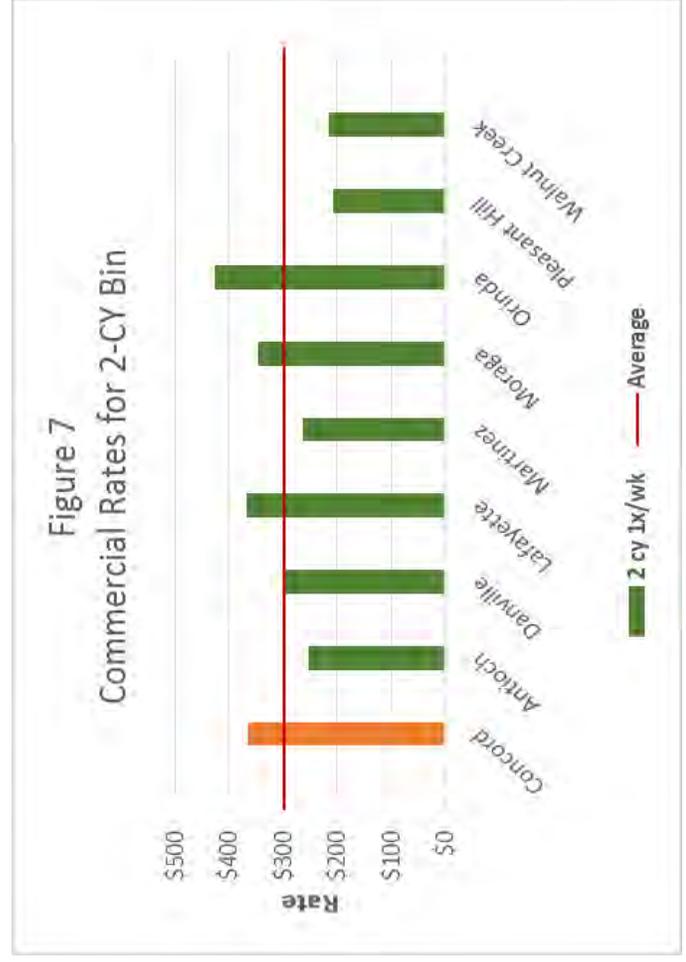
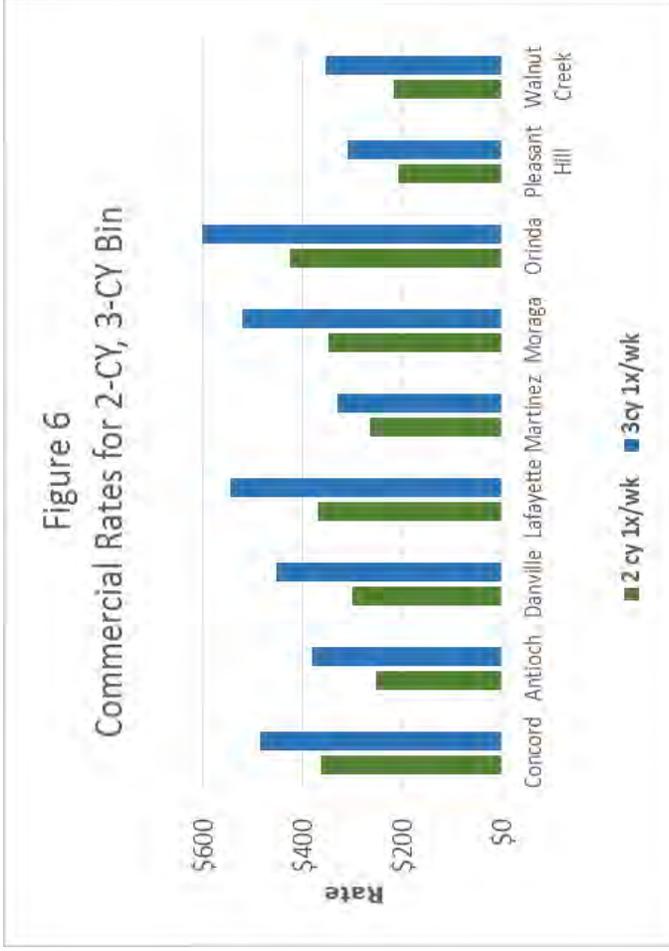
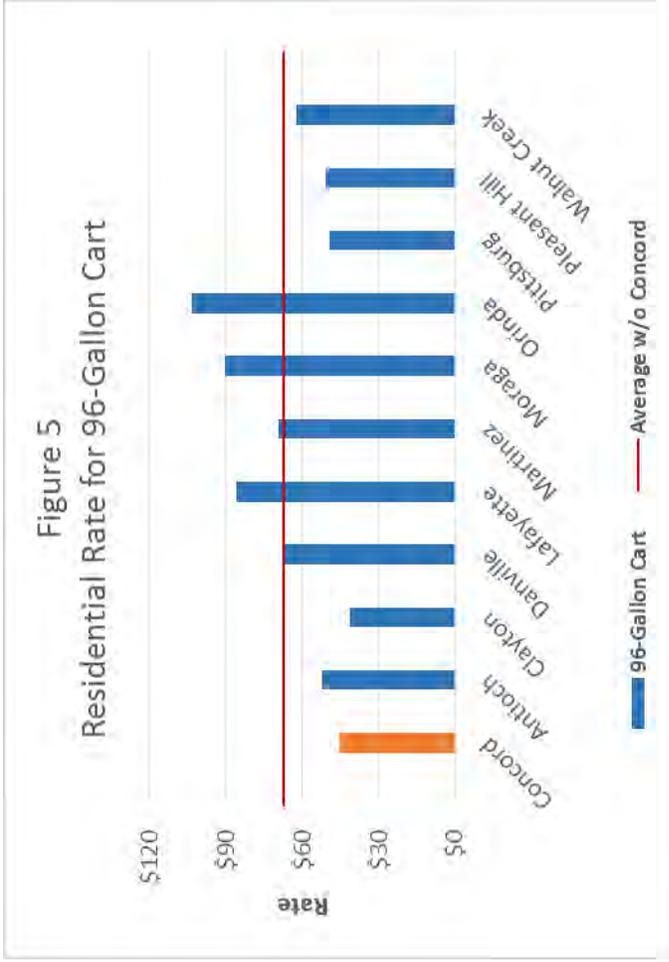
The rates reflected in the following table, Table 4, vary because of the differing levels of service. The average rate, without Concord, for a 2-CY bin picked up once a week is \$295.11, and for a 3-CY bin picked up once a week is \$432.90. In comparison, Concord's rates are approximately \$69 and \$53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



**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%

Franchise Fee Analysis

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.

R3

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 Gaitinas 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%		
WCCIMMA						
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