



City of Sonoma

# Agenda Item Summary

**Meeting:** City Council - Jun 21 2018

**Department**

Administration

**Staff Contact**

Cathy Capriola, City Manager

**Agenda Item Title**

Discussion, Direction and Possible Action on Adoption of a Resolution Approving the Sixth Contract Amendment to the Sonoma Garbage Collectors Franchise Agreement Clarifying Solid Waste Collection Rate Methodology and Establishing Rate Review Procedures

**Summary**

Since 1994, the City has received solid waste collection services through an agreement with Sonoma Garbage Collectors Inc. There have been five Amendments to this Agreement since that time. The rate setting process in the agreement requires that Sonoma Garbage Collectors Inc. (SGC) present an application to the City for an adjustment in the rates charged to residents and businesses for collection services which is subject to the approval of the City Council on an annual basis. The agreement as amended in 2007 does not set forth a formula within the contract for determining whether the rates will be adjusted each year. Rather, it states that the City will use the Refuse Rate Index methodology established by Sonoma County in considering future rate increases and will establish general reporting standards consistent with the County Refuse Rate Index methodology and reporting standards. Since the prior refuse rate index from the County does not exist in the same content, the City needs to amend its contract with Sonoma Garbage Company to incorporate its own refuse rate index methodology.

A refuse rate index is a method of comparing the collector's costs on a year-to-year basis to determine whether rates should be increased to account for increased costs. A refuse rate index (RRI) applies published inflationary indices to categories of costs attributable to the garbage collector's operations and also includes percentage increases in fees charged to collectors when they deposit refuse at disposal sites ("tipping fees"). The RRI is calculated by multiplying the percentage the specific cost category makes up of the business' total costs by the inflationary factor for the last 12-month period designated under the agreement. (See Exhibit 1 attached to the proposed amendment for a delineation of the formula.) Under this method, when inflationary factors increase, collectors are generally allowed to increase their rates. When inflationary factors are stagnant, there is generally little change in the collectors' rates from year to year. SGC has been basing its applications for adjustments to customers' rates on this RRI method since it was established in 2007.

Recently, SGC notified City staff that the County no longer operates under the index that was in place at the time the City's agreement was amended to adopt the County index. Therefore, the City is in need of updating its contract to incorporate its own refuse rate index to make a determination on future rate adjustments. Staff has worked with SGC to incorporate the same refuse rate index that has been traditionally applied into the attached 6th amendment to the contract.

The amendment includes a refuse rate index which would continue application of the same indices to the same six cost categories that currently apply, namely: 1) operating, general, and administrative costs—CPI for all urban consumers in the SF-Oakland--Hayward Bay Area

region published by the Bureau of Labor Statistics; 2) vehicle maintenance costs—same cost index as #1; 3) vehicle replacement costs—same cost index as # 1; 4) labor costs—same cost index as # 1; 5) fuel costs—diesel fuel #2 published by the Bureau of Labor Statistics; and 6) any associated percentage increase in tipping fees. The combination of these factors would be used to determine whether rates should be increased by the total percentage of each of the five factors added together. Staff is recommending that the City perform an administrative review of the numbers provided by SGC and the published indices in order to verify the accuracy of SGC's proposed adjustment or correct SGC's proposed adjustment. Unlike the current practice, the Council would not need to make a determination on the proposed rates under this method, subject to an exception described by the following paragraph.

Under the current agreement SGC is entitled to a rate increase of a percentage that matches the refuse rate index, no matter what that percentage may be. The percentage adjustment from one year to the next is potentially unlimited in this regard. Attached is a chart showing the historical rate adjustments going back 10 years. In all but one year, the increase was below 6%. Staff is recommending that the franchise agreement amendment include the term that if the refuse rate index will be more than 6% there will be a public hearing before the City Council on the proposed rate adjustment. Notice will be mailed to the owners of record of properties within the City of the proposed rate increase and the upcoming hearing. The owners will be notified that a written protest may be submitted prior to or during the hearing. If a majority of the property owners do not submit written protests, then the City Council may proceed to consider the rate adjustment being proposed by SGC. Staff is recommending this process to ensure public transparency and accountability in a manner that is consistent with Proposition 218, even though staff is of the belief that Proposition 218 does not apply to garbage collection rates imposed by a private company providing garbage collection services under a franchise agreement with a city.

Under the proposed amendment, if the refuse rate index will be 6% or less, then the rate adjustment will be subject to administrative review with an informational report being made by staff to the City Council of the rate adjustment, without action needing to be taken by the Council on the rate adjustment.

SGC has agreed upon the proposed amendment subject to the approval of the City Council.

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**Recommended Council Action**

Adopt the Resolution approving the Sixth Amendment to Contract and authorize the City Manager to execute the amendment.

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**Alternative Actions**

Reject the proposed Sixth Amendment to Contract and provide direction to City staff.

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**Financial Impact**

No impact to the City.

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**Environmental Review**

Environmental Impact Report

**Status**

Approved/Certified

- Negative Declaration
- Exempt
- Not Applicable

- No Action Required
- Action Requested

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**Attachments**

- [Resolution](#)
- [Garbage Franchise Agreement 6th Amendment \(rate review\) FINAL 6-14-18](#)
- [Exhibit 1 - Garbage Franchise Agreement Rate of Return Index Methodology](#)
- [2018 Rate of Return Index Analysis 6-14-18 \(002\)](#)
- [2018 Proposed Rates FINAL](#)
- [RATE INCREASE PERCENTAGE 2007 2017](#)

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**Alignment with Council Goals:**

**Not Applicable**

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**Compliance with Climate Action 2020 Target Goals:**

n/a

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**CC:**

Ken Wells, Consultant, Sonoma Garbage Company

**City of Sonoma**

**RESOLUTION # \_\_\_ - 2018**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA APPROVING THE SIXTH CONTRACT AMENDMENT TO THE SONOMA GARBAGE COLLECTORS FRANCHISE AGREEMENT ESTABLISHING SOLID WASTE COLLECTION RATE REVIEW PROCEDURES**

**WHEREAS**, since 1994 the city has received solid waste collection services through an agreement with Sonoma Garbage Collectors and there have been five Amendments to this Agreement since that time; and

**WHEREAS**, the rate setting process in the agreement requires that Sonoma Garbage Collectors Inc. (SGC) present an application to the City for an adjustment in the rates charged to residents and businesses for collection services which is subject to the approval of the City Council on an annual basis; and

**WHEREAS**, the agreement as amended in 2007 did not set forth a formula within the contract for determining whether the rates would be adjusted each year. Rather, it stated that the City would use the Refuse Rate Index methodology established by Sonoma County in considering future rate increases and would establish general reporting standards consistent with the County Refuse Rate Index methodology and reporting standard; and

**WHEREAS**, the prior refuse rate index from the County does not exist in the same content so the City needs to amend its contract with Sonoma Garbage Company to incorporate its own refuse rate index methodology; and

**WHEREAS**, the sixth contract amendment would include a refuse rate index to address these needs.

**WHEREAS**, the sixth contract amendment also outlines updated rate review procedures.

**NOW, THEREFORE, BE IT RESOLVED** that the sixth amendment to the Sonoma Garbage Collectors Franchise agreement is approved.

**PASSED AND ADOPTED** by the City Council of the City of Sonoma on the 21<sup>nd</sup> day of June, 2018 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Madolyn Agrimonti, Mayor

ATTEST:

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Rebekah Barr, MMC, City Clerk

## SIXTH AMENDMENT TO CONTRACT

This Sixth amendment is executed at Sonoma, California on June \_\_ 2018, by and between the City of Sonoma, a municipal corporation, ("City") and Sonoma Garbage Collectors, a California corporation, ("Contractor").

### RECITALS

WHEREAS, City entered into a contract on October 19, 1994 with John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) for the exclusive right to collect and remove garbage and rubbish within the City. Said contract has been amended five times (collectively, the October 19, 1994, agreement and its five amendments shall be referred to as the "Contract"); and

WHEREAS, on November 18, 2002, the City consented to an assignment of the Contract from John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) to Sonoma Garbage Collectors, a California corporation; and

WHEREAS, on January 16, 2002, the City executed the First Amendment to Contract extending the original term expiration (May 31, 2007), for a term of five (5) additional years through May 31, 2012; and

WHEREAS, on January 16, 2007, the City executed the Second Amendment to Contract adding Section 26 to provide for additional services; and

WHEREAS, on August 22, 2007, the City executed the Third Amendment to Contract extending the term expiration (May 31, 2012), for a term of five (5) additional years through May 31, 2017; and

WHEREAS, on January 18, 2012, the City executed the Fourth Amendment to Contract amending Sections 13 and 26.E. and adding Sections 27, 28, 29, and 30, under which the Contractor reserved the right to dispose of garbage and rubbish at locations outside the County of Sonoma, among other things; and

WHEREAS, on November 7, 2016, the City executed the Fifth Amendment to Contract, extending the term expiration (May 31, 2017) for a term of ten (10) additional years through May 31, 2027; and

WHEREAS, the parties have reviewed the rate adjustment procedures contained within the existing agreement and desire to make changes that are intended to streamline the process of rate adjustments being reviewed by applying a publicly verifiable index for each cost category to determine any changes to the costs of the Contractor in providing the services on a year-to-year basis without the need for a review to be made independently by the City Council; and

WHEREAS, the parties agree that the application of the Refuse Rate Index and other provisions of the amendment will help ensure that the Contractor receive a fair rate of return while keeping rates proportionate with the costs being incurred by the Contractor, and still avoid unnecessary consumption of time and resources with respect to rate adjustments that may be subject to a readily verifiable formula; and

WHEREAS, the City Council finds that the establishment of rates imposed by a private refuse collection provider such as the Contractor is the responsibility of the Contractor subject only to rate regulation by the City Council; and

WHEREAS, although not required by law, the City Council wishes to ensure public transparency and accountability through the subjecting of rate adjustments constituting an increase in excess of 6% above the prior rate year to a public hearing and majority protest procedure in accordance with Article XIID, Section 6 and related statutory procedures.

NOW THEREFORE BE IT RESOLVED that the City and the Contractor agree as follows:

Section 1. Section 9 shall be removed and replaced to read as follows:

Maximum rates shall be established by the Contractor subject to the regulatory authority and review of the City to ensure that rates both provide a fair rate of return to the Contractor and are reasonably proportionate to the costs of the services being provided by the Contractor under this Agreement, while not resulting in the City's incursion of substantial costs and consumption of time associated with application being made and formal approval being sought of the Contractor's rates on an annual basis.

Rates shall be adjusted in the following manner:

Any and all adjustments desired by the Contractor shall be submitted to the City by no later than May 1 of the Rate Year (as defined below) preceding the beginning of the Rate Year that the rate adjustment would take effect, together with documentation supporting the need for a rate adjustment. Rates established by the Refuse Rate Index calculation set forth by Exhibit "1" which is attached hereto and incorporated by reference herein are agreed upon by the parties to grant the Contractor a fair rate of return and to be reasonably proportionate to the costs experienced by the Contractor in providing services under this Agreement, unless such calculation would result in maximum rates increasing in excess of 6% over the rates in effect during the immediately preceding Rate Year. For any year that the Refuse Rate Index calculation would result in rates being increased in excess of 6% above the rates for the immediately preceding Rate Year the Contractor may choose to submit a rate adjustment with maximum rates of no more than 6% and the rate adjustment shall be subject to administrative review.

Administrative Review

A rate adjustment that would establish a rate increase of no more than 6% above the immediately preceding Rate Year shall be subject to the administrative review of the City and need not be acted upon by the City Council. The administrative review shall consist of City staff reviewing the Contractor's proposed rates and supporting documentation to verify that the Refuse Rate Index calculation methodology set forth by Exhibit "1" does establish that the rates should be increased up to the percentage sought by the Contractor. In the event that the supporting documentation does not provide adequate information for the City to verify the accuracy of the Contractor's submittal, the Contractor shall timely provide any additional documentation requested by the City to perform the review. The City shall notify the Contractor whether the Contractor's submitted rate adjustment is correct based upon the Refuse Rate Index calculation methodology within a reasonable timeframe. If City finds that Contractor's submitted rate adjustment is incorrect, then City shall notify Contractor of the correct rate adjustment. Contractor may then proceed to establish rates consistent with the results of this administrative review which new rates may take effect no earlier than the beginning of the next Rate Year (i.e., July 1).

#### Public Hearing

A rate adjustment desired by the Contractor of an increase in excess of 6% above the rates for the immediately preceding Rate Year shall be subject to a public hearing at which time objections may be made and testimony be given regarding the proposed rate adjustment. Although not required under state law, the public hearing, noticing, and protest provisions of Article XIII D, Section 6 of the California Constitution as it relates to refuse rates and other state laws applicable thereto, including Government Section 53755, as they may be amended from time to time, shall be applied. Provided that there is no protest submitted by a majority of the property owners, the City Council may exercise its regulatory authority by objecting or not objecting to the maximum rates being established by the Contractor. If the City Council objects to the maximum rates being established, then the rates shall not be increased and the Contractor shall be directed to propose rates that will not be objected to by the Council. Until such time as a rate adjustment is not objected to by the City Council, the existing rates shall remain in effect. If a rate adjustment subject to the public hearing process described by this paragraph does not get placed into effect until after the first quarter of the Rate Year to which it applies, then the Contractor may recover the rate adjustment retroactively through adding the retroactive adjustments to the charges placed on the second, third, and fourth quarter bills in equal portions, to the extent possible.

As used in this section, "Rate Year" shall refer to the period beginning July 1 and continuing through June 30 of the following year.

Section 2. All other terms and conditions of said October 19, 1994 Contract as amended, shall continue in full force and effect.

Section 3. The Recitals are incorporated into this Agreement.



CITY OF SONOMA

CONTRACTOR

\_\_\_\_\_  
Cathy Capriola, City Manager

\_\_\_\_\_  
John D. Curotto, Jr., President

ATTEST:

\_\_\_\_\_  
Rebekah Barr, City Clerk

APPROVED AS TO FORM

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

Exhibit "1"

**Refuse Rate Index Calculation Methodology**

The Refuse Rate Index (RRI) shall be calculated in the following manner:

1. Each year, with operating expense data contained in Sonoma Garbage Collectors' prior year Financial Statement, expenses shall be divided into these cost categories:

- (1) Labor
- (2) Motor Fuel
- (3) Vehicle Replacement
- (4) Vehicle Maintenance
- (5) CPI All Items
- (6) Disposal

Each cost category is assigned a weighted percentage factor for that cost category's proportionate share of the total cost of the cost categories (see Example A).

Example A  
Financial Statement Cost Categories and Percentages

Cost Category	Annual Cost	% of Total
Labor	\$200,000	20%
Motor Fuel	\$50,000	5%
Vehicle Replacement	\$50,000	5%
Vehicle Maintenance	\$50,000	5%
CPI All Items	\$50,000	5%
Disposal	\$600,000	60%
Total	\$1,000,000	100%

2. The following sources are then used to calculate an adjustment for each cost category. The percentage change for all categories except Disposal Cost are calculated based on the percentage change of the associated indices for the twelve-month annual average (January 1 through December 31) for the preceding year. The Disposal Cost factor is based on the annual percentage increase of the tipping fee at Sonoma County solid waste disposal sites. If the tipping fee percentage paid by the collector is increased such that the effective date of the increase precedes the beginning of the rate year for which the RRI is being calculated, then the additional tipping fee percentage that has not been included in the applicable year's calculation (i.e., Retroactive Disposal Cost Recovery) shall be added to the Disposal Cost factor to calculate the RRI for the rates during the rate year that is being calculated.

Labor Costs

CPI-All Urban Consumers, All Items San Francisco-Oakland-Hayward, CA  
<https://data.bls.gov/timeseries/CUURS49BSA0>  
 Series ID: CUURS49BSA0

Diesel Fuel

PPI-No. 2 diesel fuel  
<https://data.bls.gov/timeseries/WPU057303>  
 Series ID: WPU057303

Vehicle Replacement

CPI-All Urban Consumers, All Items San Francisco-Oakland-Hayward, CA  
<https://data.bls.gov/timeseries/CUURS49BSA0>  
 Series ID: CUURS49BSA0

Vehicle Maintenance

CPI-All Urban Consumers, All Items San Francisco-Oakland-Hayward, CA  
<https://data.bls.gov/timeseries/CUURS49BSA0>  
 Series ID: CUURS49BSA0

CPI All Items

CPI-All Urban Consumers, All Items San Francisco-Oakland-Hayward, CA  
<https://data.bls.gov/timeseries/CUURS49BSA0>  
 Series ID: CUURS49BSA0

Disposal Costs

source: County of Sonoma, Department of Transportation and Public Works

- The percentage weight for each cost category is multiplied by the annual change in each associated rate factor to calculate a weighted percentage for each cost category. The sum of these weighted cost category percentages shall be the maximum rate increase (see Example B).

Example B  
 Calculation of the Refuse Rate Index

Cost Category	Cost %	Rate Factor	Annual % Change	Weighted % Change
Labor	20%	CPI-All Urban Consumers	3%	0.6%
Motor Fuel	5%	PPI-No. 2 diesel fuel	2%	0.1%
Vehicle Replacement	5%	CPI-All Urban Consumers	3%	.15%
Vehicle Maintenance	5%	CPI-All Urban Consumers	3%	.15%
CPI All Items	5%	CPI-All Urban Consumers	3%	.15%
Disposal	60%	Sonoma County	3%	1.8%
Retroactive Disposal Cost Recovery*	n/a	Recovery of disposal cost increase over 12 months	n/a	0.45%
Total	100%			3.4%

\* Applicable only when the effective date of the tipping fee increase precedes the beginning of the rate year. This example assumes 3 months of disposal cost increases before collection rates are effective.

The maximum refuse collection rate increase for that year as shown in Example B would be 3.4%.

**TABLE 1  
REFUSE RATE INDEX CALCULATION**

Item #	Category	Data Source	%	Item Weight	Weighted Percentage Change
1	Labor	Series ID: CUURA422SA0 CPI-All Urban Consumers	3.22%	33%	1%
2	Motor Fuel	Series ID: WPU057303 Diesel Fuel	30.00%	4%	1.20%
3	Vehicle Replacement	Series ID: CUURA422SA0 CPI-All Urban Consumers	3.22%	12%	0.38%
4	Vehicle Maintenance	Series ID: CUURA422SA0 CPI-All Urban Consumers	3.22%	4%	0.11%
5	CPI All Items	Series ID: CUURA422SA0 CPI-All Urban Consumers	3.22%	13%	0.41%
6	Disposal	Annual Tipping Fee Increase at the Sonoma County Central Landfill (effective April 1, 2018)	2.77%	35%	0.97%
6.1	Disposal +	Retroactive Disposal Cost Recovery	0.69%	35%	0.24%
<b>TOTAL RRI ADJUSTMENT effective July 1, 2018</b>				<b>100%</b>	<b>4.37%</b>

Sonoma Garbage Collectors, Inc.  
 P.O Box 400  
 EL Verano Ca 95433  
 707 996-7555

Rate adjustment for 2018

Current Rates

20 Gallon \$8.55  
 32 Gallon \$14.21  
 64 Gallon \$30.87  
 96 Gallon \$47.36

Proposed Rates 4.37% increase

20 Gallon \$8.92  
 32 Gallon \$14.83  
 64 Gallon \$32.22  
 96 Gallon \$49.43

Commercial Current Rates

2YD Bin 1 X Weekly \$183.62  
 3YD Bin 1 X Weekly \$275.20  
 4YD Bin 1 X Weekly \$367.24

Proposed Rates 4.37% increase

2YD Bin 1 X Weekly \$191.64  
 3YD Bin 1 X Weekly \$287.23  
 4YD Bin 1 X Weekly \$383.29

Debris Box Rates Garbage Current

20yd Debris box \$478.72  
 30yd Debris box \$642.95

Proposed Rates 4.37% increase

20yd Debris box \$499.64  
 30yd Debris box \$671.05

Sonoma Garbage Collectors, Inc.  
P.O Box 400  
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RATE INCREASES CITY OF SONOMA

2007 RATE INCREASE 12.3%  
2008 RATE INCREASE 5.52%  
2009 RATE INCREASE 4.11%  
2010 RATE INCREASE 5.03% (effective Dec 1<sup>st</sup> 2010)  
2012 RATE INCREASE 4.59 %  
2013 RATE INCREASE 2.38% (effective Oct 1<sup>st</sup> 2013)  
2015 RATE INCREASE 4.68%  
2016 RATE INCREASE 1.51%  
2017 RATE INCREASE 4.56%