



City of Sonoma

# Agenda Item Summary

Meeting: City Council - 07 Jun 2021

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## Department

Administration

## Staff Contact

Dave Kiff, Interim City Manager

Travis Wagner, Sustainability Coordinator

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## Agenda Item Title

Discussion, Consideration and Possible Action to Approve a Resolution Approving the 9th Amendment to the Sonoma Garbage Collectors' Contract for Solid Waste Collection Within the City and Approve and 2021-22 Refuse Rates

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## Summary

The City has received solid waste collection services through an agreement with Sonoma Garbage Collectors Inc. since 1994. There have been Eight Amendments to this Agreement since 1994. The rate setting process in the agreement requires that Sonoma Garbage Collectors Inc. (SGC) submit an annual rate increase request (with documentation based on the Refuse Rate Index) to the City each year for review and approval.

The refuse rate index (RRI) 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. The 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. 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. In addition, there is an allowance for "extraordinary circumstances" that may directly impact the garbage collector's operations and costs. SGC has been basing its applications for adjustments to customers' rates on this method since it was established in 2007.

The Exhibit below presents a delineation of the formula and RRI component of the proposed 2021 rate increase request.

In preparing the proposed rates for 2021, SGC can claim that "extraordinary circumstances" exist which can allow a higher rate than inflation might otherwise allow. As defined in the contract, "extraordinary circumstances" *mean any changes in federal, state, or local laws, policies, and/or procedures specifically impacting the Contractor's industry, or other acts, events, circumstances, or conditions beyond the control of the Contractor, which would result in a significant loss of revenue or increase in costs for the Contractor during the Rate Year. The application of the extraordinary circumstances definition shall result in an adjustment to the rate being calculated in a percentage that is reasonably proportionate to the loss of revenue or increase in costs to be experienced by the Contractor during the Rate Year.*

SGC submitted a letter (see Attachment C) requesting amendment to the agreement to take into consideration the following “extraordinary circumstance” relating to SB 1383 (which is a recent law mandating organics recycling).

- First, all organics from residents and businesses in Sonoma will be collected and transported to the Napa Composting Facility. Previously, residential organics were not sent to Napa, but will be required by January 1, 2022. An increase in rates of 6.2% is expected to generate enough additional revenue to cover this expense.
- In order to provide every residential customer with an organics/green waste cart as required, an increase in rates of 0.4% is needed to generate enough additional revenue to cover this expense.
- In order to be compliant with SB 1383 requirements, SGC is purchasing labels to apply to all three residential collection carts (organics, recycling, and trash). An increase in rates of 0.6% is needed to generate enough additional revenue to cover this new expense.
- In order to detect and address contamination of organics carts as required, a new compliance program that includes photos and reporting forms will be adopted to record and inform the City of the issue. An increase in rates of 0.3% is estimated to be needed to cover this new requirement.

In summary – the requested 7.5% rate increase includes the following components:

- Organics to the Napa Composting Facility 6.2%
- New compost carts 0.4%
- Labels on all carts 0.6%
- Compliance monitoring and reporting 0.3%

Table 1 describes the major components of the requested rate change.

*Table 1*

<b>2021 CITY OF SONOMA REFUSE COLLECTION RATE REQUEST</b>	
<b>REFUSE RATE INDEX (RRI) (Summary)</b>	<b>Rate Impact</b>
Labor, Maintenance & Equipment (CPI-All Urban Consumers)	1.01%
Motor Fuel (Diesel Fuel PPI)	-0.91%
Disposal Fees* (Republic Services)	-0.07%
*net disposal fee change after cost recovery adjustments	
<b>EXTRAORDINARY CIRCUMSTANCES</b>	
SB1383 Organics Transport and Processing	6.2%
New Compost Carts	0.4%
New Labels on all carts	0.6%
SB1383 Compliance Monitoring and Reporting	0.3%
<b>TOTAL 2021 REFUSE COLLECTION RATE INCREASE REQUEST</b>	<b>7.53%</b>

Table 2 depicts the current and the proposed new collection rates for common service levels with the requested 7.53% rate change.

*Table 2*

CURRENT REFUSE COLLECTION RATES		PROPOSED RATES EFFECTIVE JULY 1, 2021	
20 Gallon	\$11.41/month*	20 Gallon	\$12.27/month
32 Gallon	\$18.31/month*	32 Gallon	\$19.69/month
64 Gallon	\$38.59/month*	64 Gallon	\$41.50/month
96 Gallon	\$58.68/month*	96 Gallon	\$63.10/month
CURRENT COMMERCIAL RATES		PROPOSED COMMERCIAL RATES	
2 yd Bin 1 X Weekly	\$234.28/ month	2 yd Bin 1 X Weekly	\$251.92/month
3 yd Bin 1 X Weekly	\$345.84/month	3 yd Bin 1 X Weekly	\$371.88/month
4 yd Bin 1 X Weekly	\$457.93/month	4 yd Bin 1 X Weekly	\$492.91/month
20 yd Debris Box	\$583.05	20 yd Debris Box	\$626.95
30 yd Debris Box	\$783.08	30 yd Debris Box	\$842.05

\* includes \$1/month yard debris cart rental

Table 3 shows other Sonoma County service providers and the monthly rates charged based on a 32- gallon can, noting that Sonoma's rates would be \$19.69/month.

*Table 3*

**2021 SONOMA COUNTY RESIDENTIAL REFUSE COLLECTION RATE COMPARISON**

SERVICE AREA (Service Provider)	32 GAL. WEEKLY RESIDENTIAL SERVICE
CLOVERDALE (RECOLOGY) (last rate increase on 9/1/20)	\$27.90
COTATI (RECOLOGY) (last rate increase on 1/1/21)	\$23.56
HEALDSBURG (RECOLOGY) (last rate increase on 1/1/21)	\$26.12
PETALUMA (RECOLOGY) (last rate increase on 2/1/21)	\$20.87
ROHNERT PARK (RECOLOGY) (last rate increase on 7/1/20)	\$24.57
SANTA ROSA (RECOLOGY) (last rate increase on 1/1/21)	\$35.02
SEBASTOPOL (RECOLOGY) (last rate increase on 7/1/20)	\$22.76
Sonoma Co. (E. SONOMA CO./PETALUMA) Zone 500 (RECOLOGY) (last rate increase on 4/1/21)	\$41.98
Sonoma Co. (SEBASTOPOL/S. SONOMA CO.) Zone 002 (RECOLOGY) (last rate increase on 4/1/21)	\$40.49
WINDSOR (SONOMA COUNTY RESOURCE RECOVERY) (last rate increase on 4/1/20)	\$29.26

Table 4 shows a 10-year rate history for Sonoma (cost per month).

*Table 4*

**10 YEAR RATE HISTORY FOR CITY OF SONOMA**

YEAR	% RATE INCREASE	32 GAL. WEEKLY RESIDENTIAL SERVICE
2010 (effective Dec. 1st 2010)	5.03%	\$11.43
2012	4.59%	\$11.95
2013 (effective Jan. 1st 2013)	4.59%	\$12.50
2013 (effective Oct. 1st 2013)	2.38%	\$12.80
2015	4.68%	\$13.39
2016	1.51%	\$13.59
2017	4.56%	\$14.21
2018	4.37%	\$14.83
2019 (effective Oct. 1st 2019)	9.51%	\$16.24
2020 (effective July 1st 2020)	6.56%	\$17.31
<b>PROPOSED 2021</b> <b>(effective July 1st 2021)</b>	<b>7.53%</b>	<b>\$19.69</b>

Approval Authority

Under the current agreement, there are 3 tiers of approval with differentiated processes based on the amount of the rate percent increase. The proposed Refuse Rate Index for 2021 is 7.53% and therefore is a Tier 2 request necessitating approval by the City Council.

Tier 1 – [Refuse Rate Index less than 6%]

A rate adjustment that would establish a rate increase of less than 6% above the immediately preceding Rate Year shall be subject to the administrative review of the City in accordance with the Administrative Review section and need not be acted upon by the City Council. No public hearing shall be required.

Tier 2 – [Refuse Rate Index between 6% and less than 10%]

In this situation, City staff bring forward the proposed increase to the City Council for review and direction at a City Council meeting. No formal public hearing process would be required. The Contractor is required to send a notice of the approved rate adjustment with the first billing statement and provide general information as to the rationale to customers.

Tier 3 – [Refuse Rate Index greater than 10%]

An increase of 10% or greater would necessitate a public hearing in front of the City Council after a formal mailed notice following the Proposition 218 parameters.

**Proposed Contract Amendment.** We are also asking that the Sonoma Garbage Collectors contract be amended only slightly from the latest iteration approved a year ago. Our proposed 9th amendment (See Attachment B) would remove the requirement that transferred SB 1383 funds be placed in a special fund. The term “fund” is important and can be misused. A better place for the separate SB 1383 dollars would be in an account with coding specifying the similar protections that a fund would have, but without the accounting requirements that come with the term “fund.” A

“redline” of the change to the Agreement’s second paragraph in Section 22 is as follows (the language in strikeout is removed, the language underlined is added):

“Contractor shall also assist the City with compliance with the public education, outreach, reporting, recordkeeping, monitoring, and other requirements of organic waste methane emissions mandates under S.B. 1383 (Short-Lived Climate Pollutants bill) on an ongoing basis through funds received under this Contract by transferring on or before May 1 of each year 1% of total rate revenues for the immediately preceding Rate Year (but not less than the amount of \$20,000 in any given year) to the City ~~to be placed in a separate fund (“S.B. 1383 Support Fund”) created by the City for this purpose.~~ to be separately accounted for by the City. The annual transfer of funds shall be utilized by the City to finance those continuing efforts necessary to maintain compliance with S.B. 1383 requirements in coordination with the activities required to be performed by the Contractor under the terms of this Contract, which are being funded through the rate revenues being received through this franchise. The funds transferred to the City under this paragraph shall constitute an “extraordinary circumstance” under Section 9 for each year that the S.B. 1383 Support Fund remains in effect. In the event that the S.B. 1383 Support Fund terminates, the Contractor shall demonstrate that the deduction of 1% shall be made to the rates charged for the next Rate Year period through its annual rate adjustment application.”

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### Recommended Council Action

Adopt a Resolution approving a 9th Contract Amendment with Sonoma Garbage Collectors and approving the 7.53% rate increase for 2021.

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### Alternative Actions

Modify portions of the amendment.

Reject the amendment and maintain the current contract provisions.

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### Financial Impact

SCG contributes about \$25,000 annually to the City for SB 1383 support. The funds are used to fund part-time staff, mailings, and other marketing information to support SB 1383 compliance and state-mandated education requirements.

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### Environmental Review

### Status

- ☐ Environmental Impact Report
- ☐ Negative Declaration
- ☐ Exempt
- ☒ Not Applicable

- ☐ Approved/Certified
- ☐ No Action Required
- ☐ Action Requested

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### Attachments

[Resolution Adopting 9th Amendment and Rate Increase](#)  
[9th Amendment - SGC Contract](#)

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### Alignment with Council Goals:

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

# City of Sonoma

RESOLUTION # \_\_\_\_ - 2021

## **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA APPROVING THE NINTH CONTRACT AMENDMENT TO THE SONOMA GARBAGE COLLECTORS FRANCHISE AGREEMENT REVISING SOLID WASTE COLLECTION RATE REVIEW PROCEDURES AND APPROVING 2021 REFUSE RATES**

**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**, in preparing the rate adjustment for 2021, one “extraordinary circumstance” involving revenue/cost impacts was brought forward by Sonoma Garbage. This part of the rate adjustment involves additional costs relating to complying with SB 1383 and the disposal of organic waste in Napa County, California; and

**WHEREAS**, based on the overall cost increases and the changing requirements for recycling and methane emissions, staff recommends that a 9<sup>th</sup> amendment to the Contract be approved which updates 2020’s language by removing the specific instruction that the City create a separate “fund” versus other ways (such as a separate “account”) to effectively and transparently account for the separated funds, as is required by law and the Contract.

### **NOW, THEREFORE, BE IT RESOLVED:**

1. That the ninth amendment to the Sonoma Garbage Collectors Franchise agreement is approved as outlined in Attachment A and the City Council authorizes the City Manager to execute the contract amendment; and
2. That the City Council approves the 2021 rate increases of 7.53%.

**PASSED AND ADOPTED** by the City Council of the City of Sonoma on the 7<sup>th</sup> day of June, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Madolyn Agrimonti, Vice-Mayor

ATTEST:

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Rebekah Barr, MMC, City Clerk

**NINTH AMENDMENT TO CONTRACT**  
**City of Sonoma & Sonoma Garbage Company**

This Ninth amendment is executed at Sonoma, California on June 7, 2021, 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 seven times (collectively, the October 19, 1994, agreement and its seven amendments shall be referred to as the "Contract"); 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 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, 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, on June 18, 2018, the City Council approved the Sixth Amendment to Contract modifying the rate adjustment procedures applicable to garbage rates charged by the Contractor; and

WHEREAS, on July 29, 2019, the City Council approved the Seventh Amendment to Contract making additional modifications to the rate adjustment procedures applicable to garbage rates charged by the Contractor; and

WHEREAS, on June 1, 2020, the City Council approved the Eighth Amendment to Contract making additional modifications, including to the rate adjustment procedures applicable to garbage rates charged by the Contractor, and



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

Section 1. Section 22 of the Contract shall be removed and replaced to read as follows:

“Contractor shall assist the City with source reduction and recycling mandates of AB 939 as applied to the City of Sonoma. City agrees to cooperate with Contractor in achieving said compliance.

“Contractor shall also assist the City with compliance with the public education, outreach, reporting, recordkeeping, monitoring, and other requirements of organic waste methane emissions mandates under S.B. 1383 (Short-Lived Climate Pollutants bill) on an ongoing basis through funds received under this Contract by transferring on or before May 1 of each year 1% of total rate revenues for the immediately preceding Rate Year (but not less than the amount of \$20,000 in any given year) to the City to be separately accounted for by the City. The annual transfer of funds shall be utilized by the City to finance those continuing efforts necessary to maintain compliance with S.B. 1383 requirements in coordination with the activities required to be performed by the Contractor under the terms of this Contract, which are being funded through the rate revenues being received through this franchise. The funds transferred to the City under this paragraph shall constitute an “extraordinary circumstance” under Section 9 for each year that the S.B. 1383 Support Fund remains in effect. In the event that the S.B. 1383 Support Fund terminates, the Contractor shall demonstrate that the deduction of 1% shall be made to the rates charged for the next Rate Year period through its annual rate adjustment application.”

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

\_\_\_\_\_  
Dave Kiff, Interim City Manager

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John D. Curotto, Jr., President

ATTEST:

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Rebekah Barr, MMC, City Clerk

APPROVED AS FORM:

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City Attorney