CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

THOMAS J. OWEN
Deputy City Attorney

Direct Dial: (415) 554-4679
Email: thomas.owen@sfgov.org

April 5, 2012

Chelsea Fordham
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Environmental Review; Modification of Garbage Rates

Dear Ms. Fordham:

I am writing on behalf of the City Administrator, in her capacity as chair of the Residential Refuse Collection Rate Board, to respectfully request that the Planning Department evaluate a proposed adjustment to the 2006 residential refuse collection and disposal rate order, for purposes of the California Environment Quality Act ("CEQA"). The application for the adjustment was filed by the Department of Public Works ("DPW"). (Attachment A to this letter is a copy of the application.) The application seeks to modify the rate order to authorize the City to continue to take the existing 1.3 percent surcharge, otherwise to be deposited in a Special Reserve fund to pay for extraordinary increases in costs associated with the City's landfill contract, and continue to use that same money to pay for DPW's recycling and waste management services. (A more detailed description of the programs, including a breakdown of costs, can be found at page 3 and Attachment 1 to the Application.) There would be no increase in the rates, just a reallocation of a small portion of the revenues.

The proposed rate adjustment is scheduled to be heard on Monday, April 23, 2012.

We believe that the proposed adjustment is exempt from review under CEQA because it meets the criteria contained in California Public Resources Code Section 21080(b)(8) and the State CEQA Guidelines, Section 15273. Those authorities provide, in relevant part, that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:

(1) Meeting operating expenses, including employee wage rates and fringe benefits,

(2) Purchasing or leasing supplies, equipment, or materials,

(3) Meeting financial reserve needs and requirements,

(4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or

(5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

In this case, the proposed rate reallocation is being sought to enable DPW to "[meet] operating expenses, including employee wage rates and fringe benefits," and "[purchase] or [lease] supplies, equipment, or materials," for the programs identified in the application.

On July 30, 2010, the Planning Department concluded that an almost-identical rate application was not a project per CEQA Guidelines Section 15273. (Attachment B to this letter is a copy of a letter to Planning [without the exhibits] bearing the Planning Department's determination on page 2.)

And in a letter dated February 24, 2006, the Planning Department concluded that another prior rate application was exempt from CEQA review on similar bases. (Attachment C to this letter is a copy of the Planning Department's letter.)

Thank you for your assistance. Please contact me at (415) 554-4679 if I can provide you with any additional information or help in connection with this request.

Statutory Exempt from Environmental Review – Section 15273 Rates, Tolls, Fares and Charges: CEQA does not apply to the establishing, modification, structuring, restructuring or approval of rates, tolls, fares or other charges by public agencies.

04/17/12

Approved Planning Dept. Monica Cristina Pereira, Environmental Planner

Very truly yours,

DENNIS J. HERRERA
City Attorney

THOMAS J. OWEN
Deputy City Attorney

cc: Douglas Legg

Case No 2012.0508E

City and County of San Francisco

Edwin M. Lee, Mayor
Mohammed Nuru, Director

Phone: (415) 554-6920
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TDD: (415) 554-6900
http://www.sfdpw.com

Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

March 29, 2012

Ms. Naomi M. Kelly
City Administrator
City and County of San Francisco
City Hall, Room 352
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Subject: Rate Year 2012 Refuse Rate Application

Dear Ms. Kelly:

The Department of Public Works (DPW) submits the following refuse rate application to continue the reallocation of the rate surcharge to the Impound Account, beginning with Rate Year (RY) 2012. This request would maintain the residential rates established in DPW Order No. 178,941, and would have no effect on refuse collection payments. I also request that you appoint a hearing officer to conduct a public hearing and issue a report and recommendation, pursuant to the 1932 Refuse Collection and Disposal Ordinance.

2010 Rate Order

In 2010, DPW submitted an application requesting that the existing 1.3% surcharge on volumetric billings be reallocated to the Impound Account to pay for collection and disposal of solid waste and recyclables on City streets and properties, as well as for programs to prevent littering and illegal dumping. On August 12, 2010, the Hearing Officer's Report concluded that the proposal was just and reasonable and issued a Recommended Order to that effect.

On September 30, 2010, the Refuse Collection and Disposal Rate Board (Rate Board) heard objections to the Recommended Order and concurred with the Hearing Officer's findings and Recommended Order, as modified by the Rate Board. Specifically, the Rate Board approved reallocating the 1.3% surcharge to the Impound Account for the period July 1, 2010, through September 30, 2011, and urged the DPW Director and the Department of the Environment to engage in a public process to consider: (1) the appropriate size of the Special Reserve, what should happen to any excess in that Reserve, and whether the 1.3% surcharge on billings that funds the Reserve should be reduced; and (2) the extent to which garbage rate funds should pay for litter and other street-related collection and disposal going forward.

DPW Public Workshop

In response to the Rate Board's directive, DPW conducted a public workshop on March 20, 2012, to solicit public input on the issues raised in the Rate Board's hearing. Notices of the workshop were mailed or emailed to all persons who attended the 2010 hearing and requested notification of future meetings on garbage rates, as well as all members of the public who testified at the 2010 Rate Board hearing. The workshop notice and agenda were prominently posted on DPW's website and at the Government Information Center at the Main Library. DPW and the Department of the Environment presented information on the Special Reserve Fund, as well as on the removal of refuse from City streets and properties. One member of the public attended the workshop. DPW will submit a summary of the workshop at the requested rate hearing.

2012 Proposal

In this application, DPW proposes that the 1.3% surcharge continue to be reallocated to the Impound Account to pay for a portion of DPW's street litter program and removal and recycling of refuse from City streets. The proposal would not affect the overall monthly rate charged for residential collection service as established in 2006, and as approved by the Rate Board in 2010. The 1.3% surcharge on volumetric billings currently generates approximately $2.6 million annually from both residential and commercial customers. This is in addition to the $1.3 million from the Impound Account that was approved for DPW refuse-related activities in the 2006 Order, bringing total annual funding for DPW to approximately $3.9 million.

Special Reserve Fund

In 1987, the City, Oakland Scavenger Company (now "WMAC")—the landfill operator, and Sanitary Fill Company (now "Recology San Francisco")—the City's refuse collector entered into a long-term contract to dispose of the City's solid waste at the Altamont landfill. At the same time, the City and Recology San Francisco entered into a separate "Facilitation Agreement" to implement provisions of the landfill contract. The Facilitation Agreement included a requirement that the parties create a "Special Reserve" fund. The parties may only use the Special Reserve to pay for "justifiable extraordinary increases in costs" associated with the landfill contract, and, subject to certain limitations, for the costs of control and disposal of hazardous wastes, where either set of costs is not fully covered by the refuse collection and disposal rates collected from the rate-payers.

The "Special Reserve" was funded by a 1.3% surcharge on the Companies' volumetric billings to residents and commercial customers; from July 1, 2010 to September 30, 2011, the surcharge has been deposited in the Impound Account. The Facilitation Agreement requires the parties to maintain a minimum balance of $15 million in the Special Reserve during the term of the Agreement. As of September 30, 2011, the Special Reserve account has a balance of more than $29 million. San Francisco is unique in having such a large reserve for unforeseen expenses. According to a 2005 Department of the Environment survey of ten of the largest cities and counties in the state, none maintain such a large reserve.

The

re have been only a limited number of withdrawals from the Special Reserve Fund since its creation.[1] Given historic usage, we do not expect the balance to be significantly reduced in the upcoming years. We believe that San Francisco is more than adequately protected by the current balance in the reserve.

DPW Expenditures

DPW estimates that it spends nearly $9 million annually to clean up solid waste generated in the City and reduce the amount going to landfill. Total costs (detailed in Attachment 1) include:

Hauling Refuse for Separation	$2,167,006
Inspection, Education and Enforcement	827,746
Illegal Dumping Cleanup Including Separation of Universal Waste	5,429,540
Anti Litter Campaigns and Outreach	535,455
Total Costs	$8,959,747

These activities are integral to the overall system for collection and disposal of refuse in the City, as provided for in the 1932 Refuse Collection and Disposal Ordinance. These services are also critical to the City's ability to meet and sustain its zero waste goals. Without the additional funds identified in this application, the City will have to make drastic cuts in litter abatement, illegal dumping cleanup and other services. Establishing a more secure funding source for these services will help the City meet its landfill diversion goals. DPW requires the funds requested in this application to maintain the level of cleanliness that is expected by the public, including residents, visitors, employees and businesspeople.

Calculating the Residential Rate-Payers' Share

DPW calculated the residential rate-payers' share of these costs as follows: (1) determining what share of total City refuse is collected from residential sources and what share is collected from commercial sources; (2) applying that same ratio to the City's street litter program costs; and (3) dividing the total residential share of the program costs equally among all residential rate-payers. Based on information provided by Recology, the Department of the Environment determined that 46.7% of City refuse is generated by residential sources, the same percentage as total revenues collected from residential customers by the Companies. Applying this percentage to the DPW costs enumerated above, the annual solid waste management costs attributable to residential rate-payers would be $4.2 million. Applying the same percentage to the amount of funding allocated to DPW from the Impound Account, DPW would recover $1.8 million, or less than half, of these annual costs from residential rate-payers.

The reallocation proposed in this application would carry forward until modified or superseded by a subsequent rate order. We look forward to further review and discussion of these matters and are available to respond to any questions you or your staff may have.

Very truly yours,

Mohammed Nuru
Director of Public Works

cc: Michael J. Sangiacomo, Recology
John Legnitto, Recology
David Assmann, Department of the Environment
Robert Haley, Department of the Environment
Thomas Owen, Deputy City Attorney
Douglas Legg, Department of Public Works

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[i] Special Reserve Fund Withdrawals: $4,249,188 for pre-1995 Cost Recovery as provided in the Implementation Protocol for Cost Recovery Pursuant to Waste Disposal Agreement, June 1995; $383,948 in 2003 and $226,112 in 2005 for e-waste disposal costs mandated by state legislation passed after the 2001 refuse rate process; $658,142 in 2007 for "Subtitle D" construction costs required by environmental regulations. A $196,687 withdrawal for landfill tipper engine retrofit is pending.

Attachment 1

Calculation of Claimed Expenses

1. Hauling DPW Refuse for Separation

600 Weekly Trips (200 by truck drivers and 400 by General Laborers)
40 minutes per trip

Total Annual Hours	Hours/Year	FTE
TRUCK DRIVER	6,933	3.33
GENERAL LABORER	13,867	6.67
GENERAL LABORER SPRVSR. I	2,745	1.32
STREET CLEANING SPRVSR II	600	0.29

	Hourly	MFB/PTO	Overhead	Total
TRUCK DRIVER	36.89	24.49	35.37	96.74
GENERAL LABORER	28.51	19.75	27.34	75.60
GENERAL LABORER SPRVSR. I	31.59	21.26	30.29	83.14
STREET CLEANING SPRVSR II	43.38	27.06	41.59	112.02

Non-Labor Expenses	
Professional Services	22,978
Equiment Maintenance	694
Materials & Supplies	40,909
Lease Payments	83,393
DTIS Infrastructure	4,462
Total 11-12 Cost	**2,167,006**

2. Inspection, Enforcement, & Education

3 Supervisors Annually performing inspection & enforcement duties

Total Annual Hours		FTE
PUBLIC INFORMATION OFFICER	6,240	3.00
STREET CLEANING SPRVSR II	2,080	1.00

	Hourly	MFB/PTO	Overhead	Total
PUBLIC INFORMATION OFFICER	34.55	24.20	33.13	91.88
STREET CLEANING SPRVSR II	43.38	27.06	41.59	112.02

Non-Labor Expenses	
Equiment Maintenance	220
Materials & Supplies	10,127
Lease Payments	9,721
DTIS Infrastructure	1,372
Total 11-12 Cost	**827,746**

3. Illegal Dumping Cleanup Including Costs for Separating Universal Waste

Separating Universal Waste adds approximately 15% to total trip time

Total Annual Hours

		FTE
COMMUNICATIONS DISPATCHER I	1,747	0.84
GENERAL LABORER SPRVSR. I	2,908	1.40
STREET CLEANING SPRVSR II	10,066	4.84
TRUCK DRIVER	11,440	5.50
GENERAL LABORER	31,200	15.00

Additional time for Supervisor I to prepare and maintain required documentation.

GENERAL LABORER SPRVSR. I	1,768	0.85	3.0%

	Hourly	MFB/PTO	Overhead	Total
COMMUNICATIONS DISPATCHER I	25.48	17.84	24.43	67.74
GENERAL LABORER SPRVSR. I	31.59	21.26	30.29	83.14
STREET CLEANING SPRVSR II	43.38	27.06	41.59	112.02
TRUCK DRIVER	36.89	24.49	35.37	96.74
GENERAL LABORER	28.51	19.75	27.34	75.60

Non-Labor Expenses

Professional Services	3,447
Equiment Maintenance	104
Materials & Supplies	109,151
Lease Payments	205,389
Information Technology	11,213
Total 11-12 Cost	**5,429,540**

4. Anti-Litter Campaigns & Outreach

Full time Public Information Officer, Program Support Analyst, and Public Service Aid

Total Annual Hours

		FTE
PUBLIC INFORMATION OFFICER	2,080	1.00
PROGRAM SUPPORT ANALYST	2,080	1.00
PUBLIC SERVICE AID	2,080	1.00

	Hourly	MFB/PTO	Overhead	Total
PUBLIC INFORMATION OFFICER	34.55	24.20	33.13	91.88
PROGRAM SUPPORT ANALYST	44.67	31.29	42.83	118.79
PUBLIC SERVICE AID	17.59	12.32	16.86	46.77

Total 11-12 Cost	**535,455**

Grand total 11-12 Cost	**8,959,747**

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

THOMAS J. OWEN
Deputy City Attorney

Direct Dial: (415) 554-4679
Email: thomas.owen@sfgov.org

July 20, 2010

Chelsea Fordham
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Environmental Review; Modification of Garbage Rates

Dear Ms. Fordham:

I am writing on behalf of the City Administrator, in his capacity as chair of the Residential Refuse Collection Rate Board, to respectfully request that the Planning Department evaluate a proposed adjustment to the 2006 residential refuse collection and disposal rate order, for purposes of the California Environment Quality Act ("CEQA"). The application for the adjustment was filed by the Department of Public Works ("DPW"). (Attachment A to this letter is a copy of the application.) The application seeks to modify the rate order to take the current 1.3 percent surcharge, now deposited in a Special Reserve fund to pay for extraordinary increases in costs associated with the City's landfill contract, and use that same money to pay for DPW's recycling and waste management services. (A more detailed description of the programs, including a breakdown of costs, can be found at page 2 and Attachment 1 to the Application.) There would be no increase in the rates, just a reallocation of a small portion of the rates.

We believe that the proposed adjustment is exempt from review under CEQA because it meets the criteria contained in California Public Resources Code Section 21080(b)(8) and the State CEQA Guidelines, Section 15273. Those authorities provide, in relevant part, that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:

(1) Meeting operating expenses, including employee wage rates and fringe benefits,

(2) Purchasing or leasing supplies, equipment, or materials,

(3) Meeting financial reserve needs and requirements,

(4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or

Attachment B

(5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

In this case, the proposed rate increase is being sought to enable DPW to "[meet] operating expenses, including employee wage rates and fringe benefits," and "[purchase] or [lease] supplies, equipment, or materials," for the programs identified in the application.

In a letter dated February 24, 2006, the Planning Department concluded that a prior rate increase application was exempt from CEQA review on similar bases. (Attachment B to this letter is a copy of the Planning Department's letter.)

Thank you for your assistance. Please contact me at (415) 554-4679 if I can provide you with any additional information or help in connection with this request.

Not a project per
CEQA Guidelines
Section 15273.
Brett Bollinger 7/30/10
Approved Planning Dept. Brett Bollinger
2010.0632E

Very truly yours,

DENNIS J. HERRERA
City Attorney

THOMAS J. OWEN
Deputy City Attorney

cc: Ed Lee

PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER	DIRECTOR'S OFFICE	ZONING ADMINISTRATOR	PLANNING INFORMATION	COMMISSION CALENDAR
(415) 558-6378	PHONE: 558-6411	PHONE: 558-6350	PHONE: 558-6377	INFO: 558-6422
	4TH FLOOR	5TH FLOOR	MAJOR ENVIRONMENTAL	INTERNET WEB SITE
	FAX: 558-6426	FAX: 558-6409	FAX: 558-5991	WWW.SFGOV.ORG/PLANNING

February 24, 2006

Douglas Legg
Office of Financial Management & Administration
San Francisco Department of Public Works
City Hall Room 340
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: CEQA Status of 2006 Rate Increase Application

Dear Mr. Legg

This letter is provided in response to your request that the Planning Department evaluate the application for a rate increase submitted by Sunset Scavenger, Golden Gate Disposal & Recycling, and SF Recycling & Disposal, as it relates to requirements of the California Environmental Quality Act (CEQA).

In General, rate increases are exempt from review under CEQA if they meet the criteria contained in California Public Resources Code Section 21080(b)(8) and State CEQA Guidelines Section 15273. Rate, Tolls, Fares, and Charges. The 2006 Rate Increase Application meets these criteria, and is thus exempt from review under CEQA. Additional, specific information is provided below.

A. Labor Costs. Portions of the rate increase intended to provide cost of living adjustments (COLA), improve pension benefits, hire additional staff and increase shifts are exempt from review under California Public Resources Code Section 21080(b)(A) and CEQA Guidelines Section 15273(a)(1). These elements are intended to allow the applicants to perpetuate and enhance services to existing customers.

B. Purchase of Equipment. Portions of the rate increase that would allow the purchase of additional equipment and supplies, including additional trucks, sorting equipment, and containers for use by customers for programs to address and collect hazardous and electronic waste, bulky items and neighborhood clean up, are exempt from review under California Public Resources Code Section 21080(b)(8)(B) and CEQA Guidelines Section 15273(a)(2). Portions of the rate increase that would allow conversion of vehicles to alternative fuel, are also exempt under this section. These elements are intended to allow the applicants to perpetuate and enhance services to existing customers
and increase the percentage of material that is recycled and composted.

C. Rate Making Mechanisms. Portions of the rate increase that would change the methodology for calculating rates or that would establish a mechanism for collecting rates and expending resulting revenues are exempt from review under California Public Resources Code Section 21080(b)(8)(C) and CEQA Guidelines Section 15273(a)(3). These proposals include changes to the "Operating Ratio", the recycling allocation;
the inclusion of Golden Gate Disposal & Recycling in the rate base; the creation of a uniform residential rate; variable and fixed rates; diversion incentives, COLAS and disabled rates. These changes are entirely non-physical, and are intended to allow the applicants(s) to meet their financial reserve needs and requirements.

Attachment C

EXHIBIT 68

D. Capital Improvements. Those portions of the Rate Increase Application which would provide revenues to perform capital improvements are exempt from review under California Public Resources Code Section 21080(b)(8)(D) and CEQA Guidelines Section 15273(a)(4), as long as the improvements do not result in an "expansion of a system" pursuant to CEQA Guidelines Section 15273(b). The Planning Department considers an "expansion" to encompass collection of a greater total amount of materials (i.e. recyclables plus waste), or offering service to more customers. Capital improvements proposed as part of the Rate Increase Application would not result in a collection of more total materials, or in service to more customers. Therefore, obtaining funds for these capital improvements would be exempt from environmental review under section 15273(b). These improvements include retrofitting an area to handle only organics, including replacement of scales.

Findings A, B, C, and D above, constitute the Planning Department's determination of exemption, and should be incorporated into the record of any proceedings by decision makers who must decide whether to approve or deny the applicants' request for a rate increase (e.g. by the Director of Public Works and the Rate Board).

Please don't hesitate to call me if you have any questions regarding these findings, or if you would like me to prepare a Notice of Exemption for filing with the County Clerk if/after a rate increase is approved. Also please note that these determinations/findings do not constitute an approval by the Planning Department of any kind, and the applicant should be advised to seek all required permits and authorizations.

Sincerely

Joy Navarrete
Major Environmental Analysis

cc: Elaine Warren, City Attorney's Office
Rona Sandler, City Attorney's Office
Paul Maltzer, SF Planning Dept.

PLANNING DEPARTMENT

City and County of San Francisco 1650 Mission Street San Francisco, CA 94103-2414

(415)558-6378 Fax: 558-6409

RECEIPT

Printed 4/18/2012

Transaction ID: T20120753 **Date:** 04/18/2012

Case Number: 2012.0508E 4/18/2012--CA- Modification of Garbage Rates

Account No. 20121279

Transaction Type: Case Intake

Description:

Payer: Thomas J. Owen

Check Number:

Total Charge:	$291.00
Amount Paid:	
Balance:	$291.00

DOCKET COPY

For all cases other than Discretionary Review Requests filed by individuals, a Time & Materials fee will be charged if the cost of processing your case exceeds the initial fee.

Deposit Date: