

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
ADJUSTING MAXIMUM RATES FOR SOLID WASTE COLLECTION
CHARGES**

WHEREAS, solid waste, recyclable materials, and organic material collection services are provided in the City of Belmont by Recology San Mateo County under a Franchise Agreement with the City; and,

WHEREAS, the Franchise Agreement requires that Maximum Rates for 2012 and 2013 be adjusted to reflect a Migration Adjustment, as provided in Section 11.02E, and a Migration Recovery Surcharge, as provided in Section 11.01D, in addition to the Adjustment Percentage and any other adjustments that may be applicable; and,

WHEREAS, for 2012, if the methodology set forth in the Franchise Agreement were applied, the Migration Adjustment would be 13.97%, the Migration Recovery Surcharge would be 13.97% (or \$729,337), and the Adjustment Percentage would be 1.30%, for a total Maximum Rate increase of 29.24% over 2011 Maximum Rates; and,

WHEREAS the City and Recology wish to amend the Franchise Agreement to implement the required migration-related adjustments over a longer period of time; and,

WHEREAS, on November 22, 2011, the City Council held a full and fair noticed public hearing at which all persons interested were given an opportunity to provide oral and written testimony with respect to a proposed revised schedule of solid waste charges; and

WHEREAS, the City Council held a further hearing on December 19, 2011 and now desires to approve a revision to the schedules of Maximum Rates for solid waste charges,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELMONT
RESOLVES AS FOLLOWS:**

SECTION 1. The City Council hereby approves the revisions to Attachments Q and R to the Franchise Agreement as set forth in Exhibit A to this Resolution, which is incorporated herein by reference.

SECTION 2. The City Manager is hereby authorized to execute Amendment No. 2 to the Franchise Agreement, attached hereto as Exhibit B and incorporated herein by reference. Should it become necessary, the City Manager is authorized, in consultation with the City Attorney, to make minor amendments to Amendment No. 2 consistent with the intent of the Amendment and that do not materially affect the maximum rates set forth on Attachments Q and R, as revised by Section 1.

SECTION 3. The City Council hereby finds and determines that:

- A. The City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution with respect to the actions taken by this Resolution.
- B. The rates established by this Resolution do not exceed the amounts permissible under Article XIID, and the solid waste charge is not a tax.
- C. A majority protest, as defined by Section 6(b) of Article XIID of the California Constitution does not exist with respect to the revision of the schedule of solid waste charges.
- D. Although the City Council, in the interest of public participation, has chosen as a matter of policy to follow the procedures set forth in Article XIID, nothing in this Resolution shall be interpreted as an admission by the City that such Article applies to the actions taken herein. The City Council would have taken the action set forth in Section 1 of this Resolution even if Article XIID does not apply to such action.

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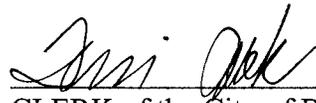
I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a special meeting thereof held on December 19, 2011 by the following vote:

AYES, COUNCILMEMBERS: Lieberman, Feierbach, Braunstein, Wozniak, Warden

NOES, COUNCILMEMBERS: None

ABSTAIN, COUNCILMEMBERS: None

ABSENT, COUNCILMEMBERS: None



 CLERK of the City of Belmont

APPROVED:


 MAYOR of the City of Belmont

Attachment R
 Amendment No. 2 11.6% Increase
 Maximum Rate Schedule
 Effective January 1, 2012 to December 31, 2012
 Monthly Rate

RESIDENTIAL CARTS

	Cart Size (in gallons)		
	20	32	64
1 pickup per week	\$ 16.93	\$ 28.03	\$ 61.77
			\$ 99.86

Residential customers are billed based on their Garbage Cart size.

The monthly rate above includes the following:

- 1 Garbage Cart provided to customer
- Curbside Household Hazardous Waste Collection
- (1) 64 Gallon Recycling Cart and (1) 96 Gallon Yard Waste Cart

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 Amendment No. 2 11.6% Increase
 Maximum Rate Schedule
 Effective January 1, 2012 to December 31, 2012
 Monthly Rate

COMMERCIAL CARTS

	Cart Size (in gallons)			
	20	32	64	96
1	\$ 30.59	\$ 33.98	\$ 65.69	\$ 94.94
2	\$ 62.92	\$ 69.92	\$ 132.53	\$ 194.45
3	\$ 93.66	\$ 104.07	\$ 201.07	\$ 295.09
4	\$ 128.62	\$ 142.91	\$ 270.37	\$ 399.16
5	\$ 162.73	\$ 180.81	\$ 343.68	\$ 504.66
6	\$ 203.62	\$ 226.25	\$ 418.79	\$ 635.26
7	\$ 248.04	\$ 275.60	\$ 490.28	\$ 741.13

of Pickups per week

The monthly rate above includes the following:

- 1 Garbage Cart
- 1 Recycling Cart

Multi-Family Customers are charged \$0.28 * # Residential Units for Household Hazardous Waste Collection in addition to the above.

COMMERCIAL CARTS ORGANICS

	Cart Size (in gallons)		
	32	64	96
1	\$ 23.79	\$ 45.99	\$ 66.46
2	\$ 48.94	\$ 92.77	\$ 136.11
3	\$ 72.85	\$ 140.75	\$ 206.56
4	\$ 100.04	\$ 189.26	\$ 279.41
5	\$ 126.57	\$ 240.58	\$ 353.26
6	\$ 158.37	\$ 293.15	\$ 444.68
7	\$ 192.92	\$ 343.19	\$ 518.79

of Pickups per week

NOTE: Organics containers are charged at seventy percent (70%) of the similar Garbage commercial cart rate above container size and service level for Garbage, representing a thirty percent (30%) discount.

Attachment R
 Amendment No. 2 11.6% Increase
 Maximum Rate Schedule
 Effective January 1, 2012 to December 31, 2012
 Monthly Rate

COMMERCIAL BINS

# of Pickups per week	Bin Size (in cubic yards)					
	1	2	3	4	6	6
1	\$ 159.30	\$ 320.42	\$ 483.26	\$ 659.68	\$ 1,014.56	\$ 1,014.56
2	\$ 324.30	\$ 646.10	\$ 972.34	\$ 1,330.76	\$ 2,057.65	\$ 2,057.65
3	\$ 492.16	\$ 974.85	\$ 1,464.27	\$ 2,001.85	\$ 3,092.98	\$ 3,092.98
4	\$ 661.96	\$ 1,306.00	\$ 1,957.69	\$ 2,680.58	\$ 4,119.52	\$ 4,119.52
5	\$ 833.12	\$ 1,641.83	\$ 2,452.82	\$ 3,362.17	\$ 5,160.67	\$ 5,160.67
6	\$ 1,039.78	\$ 1,938.29	\$ 2,977.61	\$ 4,072.05	\$ 6,238.79	\$ 6,238.79
7	\$ 1,226.81	\$ 2,295.57	\$ 3,506.06	\$ 4,796.77	\$ 7,307.10	\$ 7,307.10

The monthly rate above includes the following:

1 Garbage Bin

Recycling container at customer's requested size



# of Pickups per week	Bin Size (in cubic yards)					
	1	2	3	4	6	6
1	\$ 111.51	\$ 224.30	\$ 338.28	\$ 461.77	\$ 710.19	\$ 710.19
2	\$ 227.01	\$ 452.27	\$ 680.64	\$ 931.53	\$ 1,440.35	\$ 1,440.35
3	\$ 344.51	\$ 682.40	\$ 1,024.99	\$ 1,401.29	\$ 2,165.09	\$ 2,165.09
4	\$ 463.37	\$ 914.20	\$ 1,370.38	\$ 1,876.41	\$ 2,883.66	\$ 2,883.66
5	\$ 583.19	\$ 1,149.28	\$ 1,716.97	\$ 2,353.52	\$ 3,612.47	\$ 3,612.47
6	\$ 727.85	\$ 1,356.80	\$ 2,084.33	\$ 2,850.44	\$ 4,367.15	\$ 4,367.15
7	\$ 858.77	\$ 1,606.90	\$ 2,454.24	\$ 3,357.74	\$ 5,114.97	\$ 5,114.97

NOTE: Organics containers are charged at seventy percent (70%) of the similar garbage container size above and service level for garbage, representing a thirty percent (30%) discount.

Attachment R
Amendment No. 2 11.6% Increase
Maximum Rate Schedule
Effective January 1, 2012 to December 31, 2012
Monthly Rate

GARBAGE COMPACTORS

Per yard pulled monthly \$ 89.27

The monthly rate above includes the following:
Recycling container at customer's requested size

ATTACHMENT Q UNSCHEDULED SERVICES

The following table specifies Maximum Allowable Rates for Unscheduled Services. These Maximum Rates shall be adjusted annually in accordance with Article 11.

Unscheduled Service Category	Reference	Cost	Description of Cost
Single-Family Dwelling Backyard Collection Service	Section 5.02.A	See table below	See table below
Distance Charge for MFD and Commercial Accounts More than 50 Feet From the Curb	Sections 5.02.B and 5.02.C	A – 10% of base monthly Rate B – 25% of base monthly Rate	A – 51 to 100 feet from Curbside B – 101 feet or more from Curbside
Extra Pick-up Cost for MFD and Commercial Customers	Section 5.02.B and 5.02.C	30% of the base monthly Rate for the size of Container Collected once per week	Per Collection event
Single-Family Return Trip Cost (i.e., request to provide Collection service on other than the regularly scheduled Collection day)	Section 5.02.A	\$17.19	Per Collection event
Additional Targeted Recyclable Materials or Organic Materials Cart Rental	Sections 5.03.A and 5.04.A	A-\$1.15 B-\$3.44	A-Monthly rental fee for Targeted Recycling Cart (any size) B- Monthly rental fee for Organics/Yard Waste Cart (any size)
Additional E-Scrap Pickup Trip	Section 5.05.B4	Varies by number of items	\$28.65 for each trip (up to five items) \$11.46 per item for each additional item on the same trip \$97.41 per item for large console TV's

**ATTACHMENT Q
UNSCHEDULED SERVICES**

Unscheduled Service Category	Reference	Cost	Description of Cost
Additional Confidential Document Destruction Service Event	Section 5.07	\$1,375.20	Per event
Litter Abatement and Collection Service	Section 5.09B	\$77.93 per hour with an eight (8) hour minimum per service person (includes truck)	Per event
Additional Compost Material Delivery	Section 5.11	A-\$143.25 B-\$286.50	A-one way delivery (compost left on site) B-two way delivery (Drop box left on site)
Fee for Service On-Call Bulky Item Collection Service	Section 5.12	\$93.46	Per Event
Additional Community Drop-Off Events	Section 5.13	\$23,378.40 Additional \$1.15 per household for post card announcement if requested by Agency	Per event targeting approximately 6,000 households. Does not include disposal.
Collection for Additional Agency-Sponsored and Non-Agency sponsored Large Events (other than the number of events specified in Attachment C)	Section 5.08	A – \$3,438.00 B – \$5,730.00 C – \$8,595.00	A – one-day events with a projected 2,500 or fewer attendees B – one (1) or two (2) day events less than 7,500 attendees per day, that does not qualify for Category A above C – one (1) or two (2) day events with a projected 7,501 to 10,000 attendees per day
Emergency Services	Section 7.08	\$143.25 per hour	Cost includes refuse collection vehicle and driver

**ATTACHMENT Q
UNSCHEDULED SERVICES**

Unscheduled Service Category	Reference	Cost	Description of Cost
Fee to Collect Contaminated Targeted Recyclable Materials or Organic Materials Container	Section 6.03.A and 8.02.F	25% of the base monthly Rate for the size of Container Collected once per week <u>plus</u> \$17.19	Per Collection event
Key Service	Section 8.02.B	A – \$9.74 B – \$10.89	Monthly cost: A – Residential Customers B – Commercial Customers
Lock purchase fee (replacement at no additional cost)	Section 8.02.B	\$19.48	One-time per Account cost.
Overage Fee (unless Overage Bags purchased)	Section 8.02.G	100% of the base monthly Rate	Per Collection event
Overage Bags Cost (includes Collection)	Section 8.02.G	\$9.17	Per bag
Container Cleaning Fee	Section 8.05.D	A – \$57.30 B – \$97.41	A – per Cart B – per Bin or Drop-Box
Dirty Cart Replacement Cost	Section 8.05.D	A – \$74.49 B – \$85.95 C – \$97.41	A – per 32 gallon Cart B – per 64 gallon Cart C – per 96 gallon Cart

**ATTACHMENT Q
UNSCHEDULED SERVICES**

Backyard Collection Service Distance Costs for Single-Family Dwellings (Section 5.02.A)				
	One (1) Solid Waste Cart	Two (2) Solid Waste Carts	Three (3) Solid Waste Carts	Four (4) Solid Waste Carts
Distance from Curbside	Base monthly Solid Waste Rate plus			
0 – 50 feet	\$20.63	\$32.91	\$65.83	\$98.74
51-100 feet	\$24.07	\$36.35	\$69.26	\$102.18
101-150 feet	\$27.50	\$39.79	\$72.70	\$105.62
151 – 200 feet	\$30.94	\$43.23	\$76.14	\$109.05
201 – 250 feet	\$34.38	\$46.67	\$79.58	\$112.49
251 – 300 feet	\$37.82	\$50.10	\$83.02	\$115.93
301 feet or more	\$41.26	\$53.54	\$86.45	\$119.37

**AMENDMENT NO. 2
TO
FRANCHISE AGREEMENT
FOR
SOLID WASTE, RECYCLABLE MATERIALS, AND
ORGANIC MATERIALS COLLECTION SERVICES**

This document constitutes Amendment No. 2 entered into as of the 19th day of December, 2011, to the Franchise Agreement for Recyclable Materials, Organic Materials and Solid Waste Collection Services entered into as of the 15th day of June, 2010 by and between the City of Belmont hereinafter called "AGENCY" and Recology San Mateo County, hereinafter called "CONTRACTOR".

RECITALS

This Amendment is entered into with reference to the following facts and circumstances:

AGENCY and CONTRACTOR are parties to that certain Franchise Agreement for Solid Waste, Recyclable Materials and Organic Materials Collection Services dated as of June 15, 2010, as amended on December 7, 2011 (the "Franchise Agreement").

The Franchise Agreement requires that Maximum Rates for 2012 and 2013 be adjusted to reflect a Migration Adjustment, as provided in Section 11.02E, and a Migration Recovery Surcharge, as provided in Section 11.01D, in addition to the Adjustment Percentage and any other adjustments that may be applicable.

For 2012, if the methodology set forth in the Franchise Agreement were applied, the Migration Adjustment would be 13.97%, the Migration Recovery Surcharge would be 13.97% (or \$729,337), and the Adjustment Percentage would be 1.30%, for a total Maximum Rate increase of 29.24% over 2011 Maximum Rates;

AGENCY and CONTRACTOR wish to amend the Franchise Agreement to implement the migration-related adjustments required thereunder over a longer period of time, and specifically to reflect the parties' intent that:

- The Migration Recovery Surcharge originally due to take effect in 2012 will be spread over 2013-2016, with interest at prime plus one percent;
- A one-time credit of \$182,334 in 2012 rates will occur and that amount will be added to the Migration Recovery Surcharge to be spread over 2013-2016; and
- The second Migration Recovery Surcharge and Migration Adjustment to take effect in 2013 will be delayed to 2014.

NOW THEREFORE, based upon the foregoing recitals AGENCY and CONTRACTOR agree as follows:

1. Subsection E of Section 11.02 “ANNUAL ADJUSTMENT OF MAXIMUM RATES FOR SCHEDULED SERVICES, Migration Adjustment” is amended to read:

“Migration Adjustment – The Migration Adjustment for Calendar Year 2012 shall be calculated by first calculating total estimated annual billings for 2011 (based on the actual Customer Census of June 2011 and the rates on the initial Attachment R), and then determining the percentage difference between that total and \$5,950,514, and subtracting 3.49% from the result. Because estimated billings based on the June 2011 census are \$5,221,177, the Migration Adjustment for 2012 rates is 10.48% ($((\$5,950,514 - \$5,221,177) / \$5,221,177) - 3.49\% = 10.48\%$). The Migration Adjustment for Calendar Year 2013 shall be +3.49%. The Migration Adjustment for Calendar Year 2014 shall be calculated by first calculating total estimated annual billings for 2013 (based on the actual Customer Census of June 2013 and the rates on the initial Attachment R), and then determining the percentage difference between that total and the total estimated annual billings for 2011 (calculated as set forth in the first sentence of this paragraph). For example, if estimated billings based on the June 2013 census are \$5,014,418, then the Migration Adjustment for 2014 rates would be 4.12% ($((\$5,221,177 - \$5,014,418) / \$5,014,418) = 4.12\%$).”

2. Subsection D of Section 11.01 “OVERVIEW” is amended to read:

“(1) During calendar years 2012 and 2014 only, the Contractor shall be entitled to charge a Migration Recovery Surcharge on each of its rates that are limited by Attachment R. The rate of the surcharge shall be the Migration Adjustment percentage calculated pursuant to Section 11.02(E) for that year. For example, if the Migration Adjustment for 2012 is 13.97%, the Migration Recovery Surcharge on a Maximum Rate that is \$50 per month for 2012 would be \$6.99 per month. In the event the Migration Adjustment is negative, then the Migration Recovery Surcharge shall serve as a credit against the Maximum Rate. For example, if the Migration Adjustment for 2014 is -10.53%, then the Migration Recovery Surcharge on a Maximum Rate that is \$50 per month for 2014 would be a credit of \$5.27 per month, meaning that the net amount billed to the customer could not exceed \$44.73. For the avoidance of doubt, the Migration Recovery Surcharge contemplated by this Section 11.01.D is in addition to the Migration Adjustment calculated pursuant to Section 11.02.E, and the Migration Recovery Surcharge contemplated by this Section 11.01.D(1) is in addition to the Migration Recovery Surcharge calculated pursuant to Section 11.01(D)(2).

(2) Contractor will defer collection of the 2012 Migration Recovery Surcharge to 2013, 2014, 2015 and 2016 as follows. In each of 2013, 2014, 2015 and 2016, the Contractor shall be entitled to charge a Migration Recovery Surcharge, the basis of which shall be obtained by adding \$227,918 to interest on the uncollected balance of the 2012 Migration Recovery Surcharge at the rate of prime (as of June 30 of the prior year) plus 1%. Such uncollected balance shall equal \$729,337 for 2013 (i.e. used to calculate the 2013 surcharge), \$547,002 for 2014, \$364,668 for 2015 and \$182,334 for 2016. For 2013 only, the basis shall be increased by 50% of the interest calculated per the preceding sentence. The rate of the Migration Recovery Surcharge for 2013, 2014, 2015 and 2016 shall be calculated by dividing the basis

for that year by the estimated billings for the prior year based on the actual Customer Census as of June of the prior year and the Maximum Rates in effect in that prior year. For example, in calculating the Migration Recovery Surcharge to be added into 2013 Maximum Rates, and assuming the Customer Census and Maximum Rates in effect yield estimated 2012 billings of \$5,762,188 with a prime rate in effect of 3%, the Migration Recovery Surcharge for 2013 would be 4.71% ($(\$227,918 + (729,337 * .04) * 1.5) / \$5,762,188 = 4.71\%$).

(3) Notwithstanding Section 11A.01 or any other provision of this Agreement, Contractor shall be entitled to the Migration Adjustment and Migration Recovery Surcharges contemplated by this Section 11.01(D) and Sections 11.02(A) and 11.02(E) even if Agency elects to have Contractor's rates and compensation governed by Article 11A, and equitable adjustments shall be made to the methodology contemplated by Article 11A to give effect to the intent of such sections."

3. Subsection (B) of Section 11.02 "ANNUAL ADJUSTMENT OF MAXIMUM RATES FOR SCHEDULED SERVICES" is amended to conform with the changes above to read:

"The base Adjustment Percentage used to calculate the Maximum Rates that will be effective in a year shall be calculated by dividing the Cost Index (calculated pursuant to subdivision C of this section) for the year prior to that year by the Cost Index for the year two years prior to that year. For example, the base Adjustment Percentage used to calculate the Maximum Rates that will be effective in Calendar Year 2013 shall be calculated during 2012 by dividing the Cost Index for 2012 (calculated during 2012) by the Cost Index for 2011 (calculated during 2011). The Migration Adjustment Percentage calculated pursuant to Section 11.02(E) and the Migration Recovery Surcharge(s) calculated pursuant to Section 11.01(D) shall be added to the base Adjustment Percentage calculated pursuant to this paragraph, and the prior year's Migration Recovery Surcharge(s) shall be subtracted therefrom, and the resulting Adjustment Percentage shall be used to calculate the Maximum Rates that will be effective in the following year. Continuing the examples in Sections 11.01(D) and 11.02(E), if the Cost Index for 2011 is \$6,028,139 and the Cost Index for 2012 is \$6,088,420, then the base Adjustment Percentage for 2013 would be 1.00% ($\$6,088,420 / \$6,028,139 = 1.010$), the Adjustment Percentage used to calculate 2013 Maximum Rates would be 9.21% ($1.00\% + 3.49\% + 4.71\% = 9.21\%$ (with rounding)), and each 2013 Maximum Rate would be obtained by multiplying the equivalent 2012 Maximum Rate by 1.0921."

4. All other terms and conditions of the Agreement shall remain in force and effect.

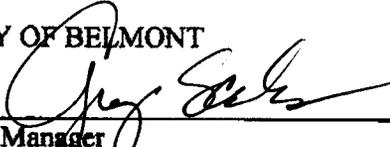
IN WITNESS WHEREOF, the parties do hereby agree to the full performance of the terms set forth herein.

DATED: 12/22/11

DATED: 12-22-11

CITY OF BELMONT

CONTRACTOR

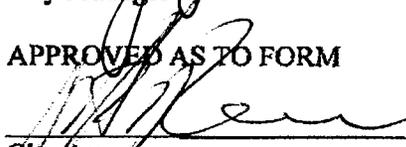


City Manager



Contractor

APPROVED AS TO FORM



City Attorney

**AMENDMENT NO. 2
TO
FRANCHISE AGREEMENT
FOR
SOLID WASTE, RECYCLABLE MATERIALS, AND
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For 2012, if the methodology set forth in the Franchise Agreement were applied, the Migration Adjustment would be 13.97%, the Migration Recovery Surcharge would be 13.97% (or \$729,337), and the Adjustment Percentage would be 1.30%, for a total Maximum Rate increase of 29.24% over 2011 Maximum Rates;

AGENCY and CONTRACTOR wish to amend the Franchise Agreement to implement the migration-related adjustments required thereunder over a longer period of time, and specifically to reflect the parties' intent that:

- The Migration Recovery Surcharge originally due to take effect in 2012 will be spread over 2013-2016, with interest at prime plus one percent;
- A one-time credit of \$182,334 in 2012 rates will occur and that amount will be added to the Migration Recovery Surcharge to be spread over 2013-2016; and
- The second Migration Recovery Surcharge and Migration Adjustment to take effect in 2013 will be delayed to 2014.

NOW THEREFORE, based upon the foregoing recitals AGENCY and CONTRACTOR agree as follows:

1. Subsection E of Section 11.02 “ANNUAL ADJUSTMENT OF MAXIMUM RATES FOR SCHEDULED SERVICES, Migration Adjustment” is amended to read:

“Migration Adjustment – The Migration Adjustment for Calendar Year 2012 shall be calculated by first calculating total estimated annual billings for 2011 (based on the actual Customer Census of June 2011 and the rates on the initial Attachment R), and then determining the percentage difference between that total and \$5,950,514, and subtracting 3.49% from the result. Because estimated billings based on the June 2011 census are \$5,221,177, the Migration Adjustment for 2012 rates is 10.48% ($((\$5,950,514 - \$5,221,177) / \$5,221,177) - 3.49\% = 10.48\%$). The Migration Adjustment for Calendar Year 2013 shall be +3.49%. The Migration Adjustment for Calendar Year 2014 shall be calculated by first calculating total estimated annual billings for 2013 (based on the actual Customer Census of June 2013 and the rates on the initial Attachment R), and then determining the percentage difference between that total and the total estimated annual billings for 2011 (calculated as set forth in the first sentence of this paragraph). For example, if estimated billings based on the June 2013 census are \$5,014,418, then the Migration Adjustment for 2014 rates would be 4.12% ($((\$5,221,177 - \$5,014,418) / \$5,014,418) = 4.12\%$).”

2. Subsection D of Section 11.01 “OVERVIEW” is amended to read:

“(1) During calendar years 2012 and 2014 only, the Contractor shall be entitled to charge a Migration Recovery Surcharge on each of its rates that are limited by Attachment R. The rate of the surcharge shall be the Migration Adjustment percentage calculated pursuant to Section 11.02(E) for that year. For example, if the Migration Adjustment for 2012 is 13.97%, the Migration Recovery Surcharge on a Maximum Rate that is \$50 per month for 2012 would be \$6.99 per month. In the event the Migration Adjustment is negative, then the Migration Recovery Surcharge shall serve as a credit against the Maximum Rate. For example, if the Migration Adjustment for 2014 is -10.53%, then the Migration Recovery Surcharge on a Maximum Rate that is \$50 per month for 2014 would be a credit of \$5.27 per month, meaning that the net amount billed to the customer could not exceed \$44.73. For the avoidance of doubt, the Migration Recovery Surcharge contemplated by this Section 11.01.D is in addition to the Migration Adjustment calculated pursuant to Section 11.02.E, and the Migration Recovery Surcharge contemplated by this Section 11.01.D(1) is in addition to the Migration Recovery Surcharge calculated pursuant to Section 11.01(D)(2).

(2) Contractor will defer collection of the 2012 Migration Recovery Surcharge to 2013, 2014, 2015 and 2016 as follows. In each of 2013, 2014, 2015 and 2016, the Contractor shall be entitled to charge a Migration Recovery Surcharge, the basis of which shall be obtained by adding \$227,918 to interest on the uncollected balance of the 2012 Migration Recovery Surcharge at the rate of prime (as of June 30 of the prior year) plus 1%. Such uncollected balance shall equal \$729,337 for 2013 (i.e. used to calculate the 2013 surcharge), \$547,002 for 2014, \$364,668 for 2015 and \$182,334 for 2016. For 2013 only, the basis shall be increased by 50% of the interest calculated per the preceding sentence. The rate of the Migration Recovery Surcharge for 2013, 2014, 2015 and 2016 shall be calculated by dividing the basis

for that year by the estimated billings for the prior year based on the actual Customer Census as of June of the prior year and the Maximum Rates in effect in that prior year. For example, in calculating the Migration Recovery Surcharge to be added into 2013 Maximum Rates, and assuming the Customer Census and Maximum Rates in effect yield estimated 2012 billings of \$5,762,188 with a prime rate in effect of 3%, the Migration Recovery Surcharge for 2013 would be 4.71% ($((\$227,918 + (729,337 * .04) * 1.5) / \$5,762,188 = 4.71\%)$).

(3) Notwithstanding Section 11A.01 or any other provision of this Agreement, Contractor shall be entitled to the Migration Adjustment and Migration Recovery Surcharges contemplated by this Section 11.01(D) and Sections 11.02(A) and 11.02(E) even if Agency elects to have Contractor's rates and compensation governed by Article 11A, and equitable adjustments shall be made to the methodology contemplated by Article 11A to give effect to the intent of such sections."

3. Subsection (B) of Section 11.02 "ANNUAL ADJUSTMENT OF MAXIMUM RATES FOR SCHEDULED SERVICES" is amended to conform with the changes above to read:

"The base Adjustment Percentage used to calculate the Maximum Rates that will be effective in a year shall be calculated by dividing the Cost Index (calculated pursuant to subdivision C of this section) for the year prior to that year by the Cost Index for the year two years prior to that year. For example, the base Adjustment Percentage used to calculate the Maximum Rates that will be effective in Calendar Year 2013 shall be calculated during 2012 by dividing the Cost Index for 2012 (calculated during 2012) by the Cost Index for 2011 (calculated during 2011). The Migration Adjustment Percentage calculated pursuant to Section 11.02(E) and the Migration Recovery Surcharge(s) calculated pursuant to Section 11.01(D) shall be added to the base Adjustment Percentage calculated pursuant to this paragraph, and the prior year's Migration Recovery Surcharge(s) shall be subtracted therefrom, and the resulting Adjustment Percentage shall be used to calculate the Maximum Rates that will be effective in the following year. Continuing the examples in Sections 11.01(D) and 11.02(E), if the Cost Index for 2011 is \$6,028,139 and the Cost Index for 2012 is \$6,088,420, then the base Adjustment Percentage for 2013 would be 1.00% ($\$6,088,420 / \$6,028,139 = 1.010$), the Adjustment Percentage used to calculate 2013 Maximum Rates would be 9.21% ($1.00\% + 3.49\% + 4.71\% = 9.21\%$ (with rounding)), and each 2013 Maximum Rate would be obtained by multiplying the equivalent 2012 Maximum Rate by 1.0921."

4. All other terms and conditions of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties do hereby agree to the full performance of the terms set forth herein.

DATED: 12/22/11

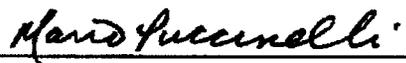
DATED: 12-22-11

CITY OF BELMONT

CONTRACTOR

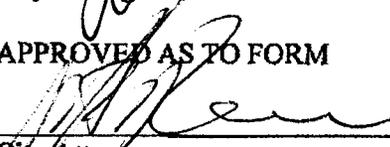


City Manager



Contractor

APPROVED AS TO FORM



City Attorney



December 22, 2011

Mario Puccinelli
Recology San Mateo County
225 Shoreway
San Carlos, CA 94070

Dear Mr. Puccinelli:

Enclosed please find a copy of Belmont City Council Resolution 10455 with the accompanying solid waste rate schedule for 2012 (Exhibit A), as well as Franchise Agreement Amendment No. 2 (Exhibit B). This resolution was approved by the Belmont City Council at a special meeting of December 19, 2011.

Please let me know if you need any additional information. Best wishes for the holidays.

Sincerely,

A handwritten signature in cursive script that reads "Terri Cook".

Terri Cook
City Clerk
City of Belmont