

[City and County of San Francisco Refuse Collection and Disposal Rate Board August 2016 Resolution]

[PROPOSED – REVISED] Refuse Collection and Disposal Rate Board Resolution adopting findings on uses of the Special Reserve Fund.

WHEREAS, The 1932 Refuse Collection and Disposal Ordinance, as amended, establishes and governs the process for approving residential refuse collection and disposal rates for the City and County of San Francisco (“City”); and,

WHEREAS, On March 14, 2013, Recology Sunset Scavenger, Recology Golden Gate, and Recology San Francisco (“Recology”) filed an Application with the City Administrator requesting an increase in the Companies’ residential refuse collection and disposal rates (“the 2013 Rate Application”); and,

WHEREAS, On July 23, 2013, the Rate Board issued a Resolution and Order on the Director of Public Works’ Recommended Orders on the 2013 Rate Application; and

WHEREAS, The Rate Board requested in its July 23, 2013 Resolution and Order a report on the Special Reserve Fund (“Fund”) identifying all contributions to and expenditures from the Fund since its inception, and an assessment of future conditions that may require use of the Fund; and

WHEREAS, On October 30, 2015, the Director of Public Works submitted a report from the Department of the Environment, addressing the request of the Rate Board in its July 23, 2013 Resolution and Order and proposing certain distributions from the Fund; and

WHEREAS, The Rate Board, consisting of Chair/Deputy City Administrator Jennifer Johnston, Member/Deputy Controller Todd Rydstrom, and Member/San Francisco Public Utilities Commission Deputy General Manager Michael P. Carlin, convened a public hearing on the report on December 16, 2015; and

WHEREAS, Upon consideration and discussion following a presentation of the report and public comment at the December 16, 2015 hearing, the Rate Board issued a Resolution by which it concurred in part with the Department on the Environment’s recommended distributions from the Fund and determined that there was a continuing need to retain \$16.35 million in the Special Reserve Fund until such time as the Rate Board determines that there is no need for the Fund, at which time the remaining monies must be used to the benefit of ratepayers; and

WHEREAS, The Rate Board requested in its December 16, 2015 Resolution that the Department of Environment submit to the Rate Board a report regarding any claims made against the existing Special Reserve Fund so that the Rate Board may reconvene in the summer of 2016 to review such report and consider whether to make any further allocations from the existing Special Reserve Fund; and

WHEREAS, On June 24, 2016, the Department on the Environment submitted a report addressing the request of the Rate Board in its December 16, 2015 Resolution regarding the status of claims against the existing Special Reserve Fund, concluding “that there are no more needs for the Fund under the terminated 1987 Disposal Agreement,” and proposing an additional \$12 million distribution from the Fund to Recology for incremental costs for using the new landfill; and

WHEREAS, There is ample money in the existing reserve Fund to reimburse Recology for increased costs as well as to fully finance the new Reserve Fund without the need for instituting a one per cent surcharge on ratepayers to accomplish this, the result of which directly and immediately benefits the current and future ratepayers and commercial accounts; and

WHEREAS, The proposed allocations would leave a substantial balance of approximately \$7.6 million in the existing Fund to pay future liabilities, which is an amount almost equal to the total payout of \$8.6 million made over the past 20 years; and

WHEREAS, The Rate Board must determine within five years after the expiration of the Waste Disposal agreement whether there is a need for the existing Fund, what the proposed uses of the Fund should be, and recognizing there is currently no new claim on this Fund; and

WHEREAS, The Rate Board, consisting of Chair/Deputy City Administrator, Member/Deputy Controller Todd Rydstrom, and Member/San Francisco Public Utilities Commission Deputy General Manager Michael P. Carlin, convened a public hearing on August 17, 2016 to consider the report; and

WHEREAS, Upon consideration and discussion following presentations of the October 30, 2015 and June 24, 2016 reports submitted by the Department on the Environment and public comment that includes this amended Resolution at the August 17, 2016 hearing; now, be it therefore

RESOLVED, That the Rate Board takes the following actions and adopts the following findings regarding the Special Reserve Fund:

1. The Rate Board finds, for purposes of Section 5 of the 1987 Agreement in Facilitation of Waste Disposal between the City and Sanitary Fill Company (now Recology San Francisco), that there is a continuing need for a reserve of \$13.85 million in the Special Reserve Fund and the remaining monies in the Fund may be and are allocated for the benefit of current and future ratepayers and commercial accounts of the City's refuse collection companies. to pay any future claims within five years of the expiration of the Waste Disposal agreement.

2. The Rate Board finds that the Department of the Environment's proposed additional distribution of \$12 million from the existing Fund (as detailed in its June 24, 2016 report) to the New Reserve Fund to cover the incremental cost of transportation and disposal under the new Landfill Disposal Agreement is consistent with the intended uses of the Fund and benefits the ratepayers.

3. The Rate Board concurs with the Department of the Environment's proposed distribution from the Fund, which is the transfer of an additional \$2.5 million from the Fund into the new Reserve Fund finds that it is appropriate and necessary to fully finance New Reserve Fund (created pursuant to the Landfill Disposal Agreement between the City and County of San Francisco and Recology San Francisco ("Landfill Disposal Agreement"), dated July 22, 2015) with an additional transfer of \$8.75 million from the existing Fund to provide additional initial the full \$10 million funding for the New Reserve Fund;

4. The Rate Board orders that the remaining balance of \$13.85 million be retained in the existing Special Reserve Fund until such time within five years the expiration of the Waste Disposal agreement as the Rate Board determines that there is no need for the Fund, and determines the primary and sole purpose of the surcharge was to create a Reserve, at which time the remaining monies must be used to the benefit of ratepayers the entire unexpended balance of the Fund shall be closed out and transferred to the New Reserve Fund so that there will be no future need to create a one per cent surcharge unless so ordered by the Rate Board.

Submitted by Nancy Wuerfel, August 9, 2016 for consideration by the Refuse Collection & Disposal Rate Board