

MANDATE STATEMENT AND BACKGROUND**Mandate Statement**

According to California Public Resources Code Section 41260, all California cities must maintain a "plan" for 15 years of landfill disposal capacity. According to Mr. David Assmann, Deputy Director of the Department of the Environment, a "plan" can include landfill disposal capacity from both (a) executed agreements, and (b) anticipated agreements.

According to the City's Refuse Collection and Disposal Ordinance of 1932, codified in San Francisco Administrative Code Appendix 1, (a) only permitted collectors may transport refuse "through the streets of the City and County of San Francisco", with one permit issued for each of the 97 refuse collection routes in the City, and (b) the residential refuse collection rates¹ charged to residents must be approved by the Director of Public Works, or if such approved rates are appealed by a member of the public, approval must be granted by the City's Rate Board composed of the Director of the Department of Public Works, the Controller, and the Director of the Public Utilities Commission. Prior to the authorization of any residential rate increase, the Director of DPW and (if such a rate increase is appealed by a member of the public) the City's Rate Board must first find that all residential rate increases requested by the authorized permitted collector (Recology) are "just and reasonable." Residential Refuse and Collection rates are not subject to approval by the Board of Supervisors. Further, the City's Refuse Collection and Disposal Ordinance of 1932 is not subject to amendment or repeal by the Board of Supervisors. Only a voter proposition can amend or repeal the City's Refuse Collection and Disposal Ordinance of 1932.

Notably, commercial refuse collection rates, paid by San Francisco businesses, are not subject to approval by either the Director of Public Works, the City's Rate Board or by the Board of Supervisors. Such commercial rates are established directly by the presently authorized collector (Recology) without any approval processes by the City. Mr. Assmann noted that under Section 11 of the City's Refuse Collection and Disposal Ordinance of 1932, any disputes regarding commercial refuse collection services, such as the frequency of collection service or the volume collected, are decided by the Director of Public Health. However, the Budget and Legislative Analyst notes that such dispute resolution by the Director of Public Health does not include any authority to approve commercial refuse collection rates.

Section 9.118 of the San Francisco Charter requires any agreement with a term of more than ten years be approved by the Board of Supervisors. The proposed resolution would approve two Agreements, a Landfill Disposal Agreement and an Amended Facilitation Agreement, each with terms beginning in 2015 and extending up to ten years.

¹ For the purposes of this report, the term "rates" refers to the charges payable to Recology for refuse collection services by residents and businesses which are not established in the subject agreements. The term "fees" refers to charges payable to Recology which are established in the subject agreements, including (a) a "Rail Transportation Fee" which would be incorporated as a just and reasonable cost into the refuse collection rate setting process and ultimately paid by refuse collection customers in San Francisco, and (b) "tipping fees" which are payable by permitted haulers or self-haulers (persons disposing of their own waste, which is permitted under the City's Refuse Collection and Disposal Ordinance of 1932) depositing waste into Recology's Ostrom Road Landfill.

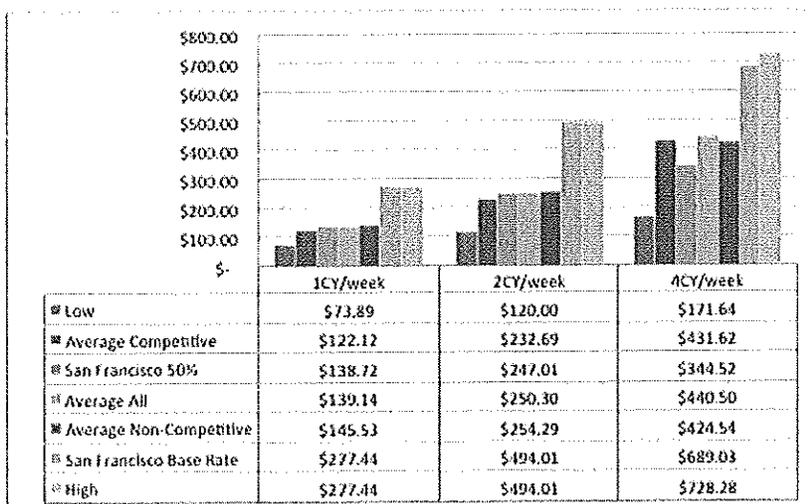
Study to Examine Practices for Selecting Refuse Collection, Hauling and Disposal Providers

Area that we are aware of who has mandatory commercial recycling and composting ordinance; Los Altos requires an equal capacity disposal of trash and compostable and/or recyclables and strict diversion requirements of the hauler but there is no mandatory ordinance in place.

When base refuse rates were compared, San Francisco's base refuse rates for commercial collection were the highest in the study. However because San Francisco's commercial rate structure provides discounts based on the level of recycling and composting service subscribed to, and San Francisco has a mandatory composting and recycling ordinance in place that requires each business to source separate recyclables and compostables, virtually all businesses pay less than the base refuse service rate. According to DOE staff the most common discount received by commercial customers is 50%. Accordingly, for purposes of comparing commercial rates in this study, a discount of 50% was applied to the base rates. Using the 50% discount, San Francisco's commercial rates were near average and sometimes below average for the jurisdictions that were studied. Average rates for jurisdictions in which service providers were selected through competitive and non-competitive processes as well as the overall averages for sample container size are shown in Chart 14.

As previously discussed there are many factors that affect customer rates; accordingly, you cannot conclude from this data that competitively procured services will provide the lowest customer rate. The specific jurisdictions included in Chart 14 below are listed in Appendix C.

**CHART 14
Commercial Rates**



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