

RESOLUTION NO. 2022-127

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING
A CREDIT OF SURPLUS SOLID WASTE COLLECTION FEES BACK TO RATE
PAYERS.

WHEREAS, the City of Marina entered into a franchise agreement with GreenWaste Recovery, Inc. (GWR) on August 19, 2014 for solid waste, recycling, and organics collection services for the period of August 1, 2015 through July 31, 2030, and;

WHEREAS, Section 8.2 of the Franchise Agreement provides for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology, and;

WHEREAS, a cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GWR compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7, and;

WHEREAS, at the September 15th, 2020 meeting, City Council asked staff to analyze an equitable method of returning the surplus from rate periods 5 and 6 to the rate-payers that paid into the surplus, and;

WHEREAS, at the meeting on June 7, 2022, the City Council adopted Resolution No. 2022-75, approving an agreement between the City of Marina and HF&H Consultants, LLC (HF&H) to perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers, and;

WHEREAS, HF&H reviewed the July 2019 (RP5 Billing File) and July 2020 (RP6 Billing File) billing file provided by GWR for residential and commercial customers in the City of Marina (**EXHIBIT A**). HF&H annualized residential and commercial revenue and then applied a uniform credit percentage across each customer's annualized billing amount needed to calculate each customer's contribution to the surplus within each rate period. The list of credits was provided to GWR and the City to assist in the application of the credit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina hereby approves a credit of surplus solid waste collection fees back to rate payers that paid for service in rate period 5 and rate period 6.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 18th day of October 2022, by the following vote:

AYES: COUNCIL MEMBERS: Medina Dirksen, Burnett, Berkley, Biala

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Delgado

ABSTAIN: COUNCIL MEMBERS: None

Kathy Y. Biala, Mayor Pro Tem

ATTEST:

Anita Sharp, Deputy City Clerk



590 Ygnacio Valley Road, Suite 105
Walnut Creek, California 94596
Telephone: 925/977-6950
Fax: 925/977-6955
www.hfh-consultants.com

Robert D. Hilton, Emeritus
John W. Farnkopf, PE
Laith B. Ezzet, CMC
Richard J. Simonson, CMC
Marva M. Sheehan, CPA
Robert C. Hilton

September 22, 2022

Mr. Brian McMinn
Public Works Director
City of Marina

Sent via E-mail

Subject: Analysis of GreenWaste Recovery's Surplus Disbursement Report

Reference Number: S6040

Dear Mr. McMinn:

HF&H Consultants, LLC (HF&H) was retained by the City of Marina (City) to assist with an analysis and evaluation of the GreenWaste Recovery (GWR) Rate Period 5 (RP5) and Rate Period 6 (RP6) surplus in revenues. This report presents our analysis and findings.

EXECUTIVE SUMMARY

HF&H performed a Cost Based Rate Adjustment (CBRA) in RP5 and found that rate revenues exceeded costs of providing service to solid waste, recycling, and organics customers in the City as a result of efficiencies from GWRs service. Marina elected to hold rates at their then current levels rather than adjusting rates lower. This decision was made in anticipation of significant increased costs to provide service as a result of legislation, namely SB 1383. In 2021 HF&H and the City finished negotiations with GWR to implement programs required by SB 1383, and have reached terms with its associated costs. Upon completion of these negotiation the City identified a remaining surplus which it wished to pass on to customers in the form of a billing statement credit. HF&H's analysis of GWR's RP5 and RP6 surplus calculated up to a 15.24% credit on annualized RP5 billings and up to 7.40% on annualized RP6 billings. When these credits are applied on a customer's current quarterly or monthly bill, some customers may receive one or more billing cycles of free service.

BACKGROUND

In 2012, the City, participating with other members of the Monterey Regional Waste Management District (MRWMD), issued a competitive request for proposals for collection services and entered into the new Agreement with GWR effective July 1, 2015. The Agreement resulted in the following, related to the adjustment of rates:

- Rates are annually adjusted throughout the term of the Agreement, using various inflationary indices, actual tonnage, and changes in the tipping fees at the District, unless either the City or GWR request a Cost Based Rate Adjustment.

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- A -13.99% adjustment (the result of a \$540,298 surplus in revenues) to rates was calculated in the CBRA for RP5. City staff indicated a preliminary preference to freeze rates and use the rate reduction as an offset against future rate adjustments, until such time as that credit has been exhausted.
- A -6.69% adjustment (the result of a \$258,203 surplus in revenues) to rates was calculated in the index adjustment in RP6. City staff also indicated a preference to continue freezing the rates and use the current and RP5 reduction as an offset against future rate adjustments, until such time as all credit has been exhausted.
- A -4.62 % adjustment (the result of a \$178,454 surplus in revenues) to revenues was calculated in the index adjustment in RP7. City staff continued to freeze rates and use the RP5, RP6, and RP7 reduction as an offset against future rate adjustments, until such time as all credit has been exhausted.
- In 2021, the City concluded negotiations regarding additional costs for GWR to provide services to meet compliance with SB 1383. The additional costs for these services are covered under the current annual rate revenue, and as such, no additional rate increase was necessary.
- A 5.82% adjustment (the result of a \$224,827 deficit in revenues) to revenues was calculated in the index adjustment in RP8. City staff elected to use half of the RP7 surplus (\$89,277) in addition to a 3.10% adjustment to meet the RP8 revenue requirement. The remaining surplus balance at this time is \$857,101, of which \$540,298 is from RP5, \$258,203 is from RP6 and \$58,600 remains from RP7.
- At this time, the City has requested HF&H perform an analysis to understand how to equitably distribute the surplus balance from RP5 and RP6 (\$798,501) and to ensure that all customers that would be eligible for a potential credit against future bills are accounted for.

SURPLUS ANALYSIS AND REFUND CALCULATION

HF&H Scope of Work

HF&H performed the following steps for the surplus analysis and refund calculation:

1. Reviewed GWR's July Billing information for RP5 and RP6 to determine the customers and subscriptions by customer class during each rate period.
2. Applied a uniform rate decrease to the residential and commercial customers in RP5 and a separate uniform rate decrease in RP6 to reach each year's surplus amount that would result in each year's surplus being offset by the total credited amounts.
3. Totaled the RP5 and RP6 credit by customer to calculate each customer's credit to be applied to future billings.
4. Calculated the quarterly residential billing credit and monthly commercial billing credit to be applied to the RP8 billings for each individual customer.

Review of Billing Data

HF&H reviewed the July 2019 (RP5 Billing File) and July 2020 (RP6 Billing File) billing file provided by GWR for residential and commercial customers in the City of Marina. Because this file represents a point in time, HF&H adjusted the billing file for customers that were pro-rated during the billing cycle to more

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accurately estimate the monthly or quarterly bill each customer received for their subscribed level of service for a full month or quarter. This analysis did not review changes in subscription levels for each month of the rate period, but instead used a year over year subscription approach; a customer's subscription level in July was assumed to apply for the entire rate period. Tracking each customer's total subscription service and billings over the 24-month period would have required a far more substantial amount of time and cost to gain a minor change to the results of the approach.

Calculation of Credit Percentage

The total surplus to return to customers for RP5 is \$540,298 and for RP6 is \$258,203. To equitably return the surplus to residential and commercial customers, HF&H needed to calculate each customer's contribution to the surplus within each rate period. This calculation is performed by annualizing residential and commercial revenue and then applying a uniform credit percentage across each customer's annualized billing amount. This methodology proportionately refunds customers based on their subscribed service, and is more equitable than a flat per customer credit. This calculation was to be performed separately for each rate period.

To calculate the uniform RP5 percentage, HF&H multiplied the residential quarterly billings by four (4) to estimate the annual billings. Then, HF&H multiplied the commercial monthly billings by twelve (12) to estimate the annual commercial billings. Finally, HF&H applied a uniform credit percentage to the annual billings until the billing differential between the projected RP5 Billings and the Discounted RP5 billings equaled the full surplus of \$540,298. The same methodology was applied to the RP6 billings. A summary calculation for RP5 and RP6 is shown below in Figure 1 and figure 2.

The result of HF&H's calculation is a 15.4% credit to RP5 billings and a 7.40% credit to RP6 billings.

Figure 1: Calculation of RP5 Surplus Credit

		A		B		C = A x (1-B)		D = A - C	
Rate Period 5 Surplus Calculation									
	Monthly Billing	Quarterly Billing	Annualized Billing	Credit %	Discounted Revenue	Surplus	Credit		
Residential 2019	N/A	\$ 258,748	\$ 1,034,991	15.24%	\$ 877,236	\$ 157,755			
Commercial 2019	\$ 209,147	N/A	\$ 2,509,761	15.24%	\$ 2,127,218	\$ 382,543			
Total			\$ 3,544,752		\$ 3,004,454	\$ 540,298			

Figure 2: Calculation of RP6 Surplus Credit

		A		B		C = A x (1-B)		D = A - C		
Rate Period 6 Surplus Calculation										
		Monthly Billing	Quarterly Billing	Annualized Billing	Credit %	Discounted Revenue	Surplus	Credit		
Residential 2020	N/A	\$	265,412	\$	1,061,646	7.40%	\$	983,041	\$	78,605
Commercial 2020	\$	202,140	N/A	\$	2,425,682	7.40%	\$	2,246,083	\$	179,598
Total				\$	3,487,328		\$	3,229,125	\$	258,203

Credit per Customer

HF&H summarized the RP5 and RP6 credit by customer. This credit shall be applied to the customer's current RP8 monthly or quarterly bill(s) until the total credit balance for each respective customer is

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exhausted. This list of credits was provided to GWR and the City to assist in the application of the credit. The list has not been included as an attachment to this report to protect sensitive customer information. Customers of good standing with GWR that received service in either RP5 or RP6 are eligible for this credit.

To apply this credit to current rate payers, HF&H calculated the RP8 quarterly and monthly bill for each customer. There was no rate increase from RP6 to RP7, and a 3.10% rate increase from RP7 to RP8. HF&H applied the combined RP5 and RP6 credit to each customer's quarterly or monthly bill. While the current service level and therefore the percentage credit being applied to current bills may differ, the dollar amount will remain exact. An example customer is included below in Figure 3. Some residential and commercial customers will receive one or more months of free service using the RP5 and RP6 combined credit.

Figure 3: Example Application of Customer Credit

	A	B = A x 3.10%	C	D	E = C + D	F = E / B
Credit Application to Customer's RP8 Bill						
Customer Name	RP6 Bill	Est. RP8 Bill	RP5 Credit	RP6 Credit	Combined Credit	Quarterly Bill Credit
John & Jane Doe	\$ 70.66	\$ 72.86	\$ 43.08	\$ 20.93	\$ 64.01	88%

* * * * *

We would like to express our appreciation to GWR staff for their assistance and cooperation in this process. Should you have any questions, please call me at 925/977-6959 or rchilton@hfh-consultants.com.

Very truly yours,
 HF&H CONSULTANTS, LLC

Rob Hilton
 President

October 14, 2022

Item No. **8g(4)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of October 18, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING A CREDIT OF SURPLUS SOLID WASTE COLLECTION
FEES BACK TO RATE PAYERS**

REQUEST: It is requested that the City Council consider:

- (1) Adopting Resolution No. 2022- approving a credit of surplus solid waste collection fees back to rate payers that paid for service in rate period 5 and rate period 6.

BACKGROUND:

On August 19, 2014, the City Council adopted Resolution No. 2014-98, and entered into a new exclusive 15-year Franchise Agreement with Green Waste Recovery (GRW) to provide solid waste, recycling, and organics collection services for the City of Marina. The Agreement provides for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology.

The cost-based adjustment involves an extensive and detailed review of GWR's actual cost of operations, changes in inflation, the number of customers, and the service level provided and comparing this to actual gross receipts collected to determine GWR's compensation for the current rate period and to forecast the future rates. A cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GWR compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7. As a result of the surpluses, rates for marina customers set in 2018 remained fixed until the approval of rates in period 8 which started on July 1, 2022.

At the September 15th, 2020 meeting, City Council asked staff to analyze an equitable method of returning the surplus from rate periods 5 and 6 to the rate-payers that paid into the surplus.

At the meeting on June 7, 2022, the City Council adopted Resolution No. 2022-75, approving an agreement between the City of Marina and HF&H Consultants, LLC (HF&H) to perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers.

At the meeting on June 7, 2022, the City Council adopted Resolution No. 2022-74, approving rate increases that were offset by applying \$89,227 of the surplus generated in rate period 8 which reduced the increase from 5.82% to 3.10%. The remaining half of the surplus generated in rate period 7 is available to offset rate increases in rate period 9 which will be submitted for City Council approval prior to July 2023.

ANALYSIS:

HF&H reviewed the July 2019 (RP5 Billing File) and July 2020 (RP6 Billing File) billing file provided by GWR for residential and commercial customers in the City of Marina (**EXHIBIT A**). HF&H annualized residential and commercial revenue and then applied a uniform credit percentage across each customer's annualized billing amount needed to calculate each customer's contribution to the surplus within each rate period. HF&H summarized the rate period 5 and rate period 6 credit by customer. This credit shall be applied to the customer's current rate period 8 monthly or quarterly bill(s) until the total credit balance for each respective customer is exhausted. Some residential and commercial customers will receive one or more months of free service using the combined credit for rate periods 5 and 6. This list of credits was provided to GWR and the City to assist in the application of the credit.

FISCAL IMPACT:

There is no cost to the City for the refund of surplus rates collected from rate payers in Marina.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina