



## Legislation Details (With Text)

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**Title:** Resolution to Approve and Authorize the City Manager to Execute a Fourteenth Letter Amendment of the Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services between the City of San Leandro and Alameda County Industries, Inc

**Indexes:**

**Code sections:**

**Attachments:** 1. Att A Reso 2022-ACI Amendment 14 to Francise Agreement, 2. Att B - Amendment 10 to the Franchise Agreement, 3. Att C - Amendment 11 to the Franchise Agreement, 4. Att D - Amendment 12 to the Franchise Agreement, 5. Att E - Amendment 13 to the Franchise Agreement, 6. Att F - Amendment 14 to the Franchise Agreement (Draft), 7. Att G - Presentation ACI Amendment 14 2022

| Date      | Ver. | Action By    | Action   | Result |
|-----------|------|--------------|----------|--------|
| 5/16/2022 | 1    | City Council | Approved | Pass   |

Resolution to Approve and Authorize the City Manager to Execute a Fourteenth Letter Amendment of the Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services between the City of San Leandro and Alameda County Industries, Inc

### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve and authorize the City Manager to execute a letter amendment to the Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services (“Franchise Agreement”) between the City of San Leandro and Alameda County Industries, Inc. (“ACI”).

The letter amendment would authorize ACI to increase rates by .8% to implement education, outreach and reporting requirements as required by SB1383, California’s Short-Lived Climate Pollutant Reduction Strategy. The .8% increase is considered a special rate request and would be added to the contractually allowed annual rate increase of 4.89%. If the Fourteenth Letter Amendment is approved the total rate increase effective July 1, 2022 would be 5.69%.

In addition to the rate request, the amendment includes language modifying the definition of “multi-family” in compliance with state regulations, clarifies point of pickup locations, and reduces the rate change notification requirement to 30-days.

### BACKGROUND

The City of San Leandro entered into a Franchise Agreement with ACI for Solid Waste, Recyclables, and Green Waste Services on February 1, 2000. It will expire in January 2025. The Franchise Agreement allows for a rate adjustment July 1 of each year, based on the Consumer Price Index for

the San Francisco Bay area, as well as a rate analysis every five years. Amendment 10 to the Franchise Agreement (as attached), approved on July 20, 2009, changed the annual rate adjustment process to a Refuse Rate Index (RRI). That revised methodology was created to reflect changes in cost by focusing on six cost categories within the Consumer Price Index specific to the solid waste industry: Labor; Diesel Fuel; Vehicle Replacement; Vehicle Maintenance; Disposal and All Other. Apart from special rate adjustments in 2015 related to the Material Recovery Facility labor issue, and the special rate adjustment in 2019, the RRI has been used to modify rates since 2010.

**Rate Increases 2010-2021**

| <u>Year</u> | <u>Rate</u> | <u>Reason</u>                                     |
|-------------|-------------|---|
| 2010:       | 2.88%       | Annual rate adjustment per Amendment 10           |
| 2011:       | 1.12%       | Annual rate adjustment per Amendment 10           |
| 2012:       | 5.50%       | Annual rate adjustment per Amendment 10           |
| 2013:       | 1.82%       | Annual rate adjustment per Amendment 10           |
| 2015:       | 4.01%       | Special rate adjustment per Amendment 11          |
| 2015:       | 8.49%       | Special rate adjustment per Amendment 12          |
| 2017:       | 1.65%       | Annual rate adjustment per Amendments 10, 11 & 12 |
| 2018:       | 3.41%       | Annual rate adjustment per Amendments 10, 11 & 12 |
| 2019        | 7.89%       | Special rate adjustment per Amendment 13          |
| 2020        | 4.42%       | Annual rate adjustment per Amendments 10, 11 & 12 |
| 2021        | .89%        | Annual rate adjustment per Amendments 10, 11 & 12 |

On June 17, 2019, the City Council approved ACI’s request for a special rate adjustment of 7.89% effective October 1, 2019, as Amendment 13 to the Franchise Agreement. The rate request included 3.78% annual rate adjustment, .39% to manage the financial impact of the Chinese government’s *National Sword* policy (affecting recycling markets), and 3.72% to implement a new commercial organics collection route as mandated by state and local law.

At the meeting in 2019, staff indicated that ACI would come back to the City Council with a request for a modification to the annual rate adjustment methodology, to be applied to rates effective July 1, 2020, and thereafter. On March 2, 2020, staff and ACI presented a proposed rate adjustment methodology intended to capture the true cost of operations and reflect costs associated with changes in law, such as SB 1383. That proposed Amendment 14 (March 2, 2020) was not approved by the City Council.

The existing annual rate adjustment process (RRI) has not accurately reflected ACI’s true costs and was established prior to any state or local recycling/composting mandates.

**Analysis**

Proposed Amendment 14 provides for a 5.69% increase on all rates. The elements of the increase are:

- .80% increase to conduct education, outreach, and reporting requirements as mandated by state law SB 1383 (see Attachment A)
- .16% increase for incremental labor increases at the Material Recovery Facility as specified in Amendment Eleven and Twelve of the Agreement
- 1.11% net decrease for recycling revenue share as specified in Amendment Ten of the

Agreement

- 5.84% increase for annual rate adjustment process as specified in Amendment Ten of the Agreement

All except the .80% for SB 1383 implementation are allowable under the current Franchise Agreement and subsequent Amendments, and part of the annual rate adjustment process. Annual rate adjustments do not require Council approval unless they exceed 10% as specified in Amendment 10. The .80% increase for SB 1383 implementation is considered a special rate request because it is an incremental cost not covered by the annual rate adjustment process.

ACI has provided a detailed scope of work and budget for education, outreach and reporting requirements for Fiscal Year 2022-2023 as required for SB 1383 compliance. The scope of work and budget is included as Attachment A to the proposed Fourteenth Amendment. The estimated annual cost of SB 1383 compliance is \$113,600 which includes \$52,000 to convert ACI's Sustainability Specialist position from half-time to full-time, and \$44,000 for staff time for SB 1383 compliance reporting. The remaining costs (\$17,000) are for preparing required outreach for distribution.

In addition to the special rate increase, Amendment 14 provides clarifying language in the Franchise Agreement related to collection services for multi-family residences so that the definition is consistent with state law. It defines a multi-family residence as having five or more distinct living units. In addition, point of pickup language is clarified to ensure that all solid waste, recycling, and green waste carts are centrally located to ensure proper source separation of materials as required by law.

Lastly, Amendment 14 modifies the rate change notification period from 60-days to 30-days. This is essential to ensuring that ACI can provide proper notification of annual rate adjustments without having to perform separate costly mailings to residential customers who only receive bills on a quarterly basis.

### **Previous Actions**

- Resolution No. 2000-8 approving a Franchise Agreement for Solid Waste Recyclables, and Green Waste Services between the City of San Leandro and Alameda County Industries, Inc.
- Resolution No. 2009-117 authorizing the City Manager to execute Amendment 10 to the Franchise Agreement.
- Resolution No. 2015-010 approving Amendment 11 to the Franchise Agreement.
- Resolution No. 2015-095 authorizing the City Manager to execute Amendment 12 to the Franchise Agreement.
- Resolution No. 2019-110 authorizing the City Manager to execute Amendment 13 to the Franchise Agreement.

### **Applicable General Plan Policies**

- Action 27.01-A: Source Reduction and Recycling Programs
- Action 27.01-C: Commercial and Multi-Family Residential Programs
- Action 27.01-D: Food Waste Recycling

### **Fiscal Impacts**

The City receives 10% franchise fees on gross revenues, plus additional per ton fees for recycling processing. The fees are recorded as general fund revenues. It is estimated that the City will receive approximately \$1.76 million in franchise fees for Fiscal Year 2022-2023, in part, due to the proposed rate increase. This is an increase of approximately \$100,000 over the current fiscal year.

### **ATTACHMENT(S)**

- Attachment A - Resolution of the City of San Leandro City Council to Authorize the City Manager to of the City of San Leandro City Council Authorizing the City Manager to Execute a Fourteenth Letter Amendment of the Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services between the City of San Leandro and Alameda County Industries, Inc.
- Attachment B - Amendment 10 to the Franchise Agreement
- Attachment C - Amendment 11 to the Franchise Agreement
- Attachment D - Amendment 12 to the Franchise Agreement
- Attachment E - Amendment 13 to the Franchise Agreement
- Attachment F - Amendment 14 to the Franchise Agreement (Draft)
- Attachment G - Presentation on Amendment 14

**PREPARED BY:** Jennifer Auletta, Deputy Public Works Director, Public Works Department