

New Solid Waste Collection Service Agreement and First Amendment to Disposal Agreement

March 18, 2024

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AGENDA

1. Background

2. Financial Considerations

3. New Agreement Summary

4. Rate Comparison

5. Recommendation

- Public agencies are responsible for providing solid waste collection and disposal services
- Albany contracts with WMAC for these services (approved by Council Oct. 17, 2011)
- SB 1383 (Short-Lived Climate Pollution Reduction Act) resulted in Albany needing new programs and services
- City and WMAC have been in discussion regarding new programs and services for SB 1383 since 2020, presented to City Council in a study session on November 6, 2023
- City has already leveraged its best options for securing needed programs and services

➤ SB 1383 Regulations

- Reduce greenhouse gas emissions by reducing methane emissions from landfills
- Statewide reduction of 75% in landfilled organic waste by 2025
- Affects all local governments in California
- Requires mandatory organics recycling for all Albany residents and businesses

➤ Requirements for Albany

- Statewide standards for colors and labels on collection containers – **Still needed**
- Contamination monitoring and inspection, with detailed follow-up and recordkeeping, reporting – **Long-term solution needed**
- Technical assistance to multi-family dwellings and businesses – **Long-term solution needed**

Financial Considerations

- Current agreement is financially unsustainable for WMAC and does not provide level of services required by the City
 - Costs for collection vehicle purchase/maintenance, fuel, employee salaries and benefits, have increased faster than escalation formulas
 - Costs of disposal of collected materials have changed dramatically, particularly for recycling and organic materials
 - Significant changes in State laws require more support and services for disposal practices, monitoring, and enforcement
- As a result, current rates do not cover cost of providing current services nor the new and enhanced services included in the new Collection Services Agreement

New Agreement Summary

➤ Overall

- New 15-year Collection Service Agreement effective May 1, 2024, expiring April 30, 2039 (City option for 5-year extension)
- Extend term of Disposal Agreement to be coterminous with Collection Service Agreement (City option for 5-year extension)
- Coverage SB 1383 program and services needs
- Other new and enhanced programs and services
- Increases in rate revenues to cover costs and fair profit

➤ SB 1383 Programs, Services and Infrastructure

1. New Containers/Lids and Labeling – early in Agreement term
2. Recycled Organic Waste Product Procurement and Delivery
3. Public Education, Outreach, and Technical Assistance
4. Food Pails for Multi-Family Tenants
5. Contamination Monitoring
6. Reporting, and Data Tracking

➤ Service and Sustainability Enhancements

7. Full-time Recycling Coordinator Staffing (WMAC)
Regular review of performance with City ability to request staffing change or to bring this function in-house in future.
7. New Outreach & Education Resources
8. Bulky Item Collection For Multi-Family Dwellings
9. Bulky Item Reuse / Hard-to-Recycle Program
10. Vehicle Upgrades and Transition to Zero-Emissions

➤ City Service Enhancements

12. Abandoned Waste Collection
13. Special Events Collection
14. Performance Reviews
15. Solid Waste Contracting Payment

➤ Changes to Residential Rates (< 5 units)

1. Includes multi-family dwellings under 5 units (previously <3)
2. Low-income discount per PG&E CARE Program (25%)
3. Discontinue 10-gallon garbage service (5/1/2025 – *existing customers only – extended by 1 year from prior proposal*)
4. Reset 20-gallon garbage service (5/1/2025)
5. Cost-of-service 28% increase to all other service rates (5/1/2024)

Residential Monthly Rates			
Garbage Cart Size	2023	2024	Change
10-gallon	\$ 22.31	\$ 28.56	\$ 6.25
20-gallon	\$ 44.59	\$ 57.08	\$ 12.49
32-gallon	\$ 49.93	\$ 63.91	\$ 13.98
64-gallon	\$ 86.30	\$ 110.46	\$ 24.16
96-gallon	\$ 122.64	\$ 156.98	\$ 34.34

➤ Changes to Multi-family and Commercial Rates

- 6. Cost-of-service 28% increase to garbage rates (5/1/2024)
- 7. New recycling charges @ 50% of garbage rate (12/1/2024)
- 8. Stepped-in changes to recycling and organic charges at 70% of garbage rate (5/1/2025) and 90% of garbage rate (5/1/2026)

Multi-Family and Commercial Monthly Rates			
Garbage Cart Size	2023	2024 (12/1)	Change
32-gallon	\$ 63.33	\$ 108.08	\$ 44.75
64-gallon	\$ 105.55	\$ 162.12	\$ 56.57
96-gallon	\$ 147.77	\$ 216.16	\$ 68.39
1-cubic yard	\$ 220.03	\$ 308.66	\$ 88.63
2-cubic yards	\$ 418.95	\$ 563.28	\$ 144.33

➤ Changes to Roll-off Rates

- 9. Cost-of-service 28% increase to garbage rates (5/1/2024) and with recycling and organics charged at garbage rates

➤ Other Changes to Collection Rates and Compensation

10. Annual increases starting in 2025, 7.5% cap and 2% floor
11. New contamination and overage surcharges (Smart Truck)
12. Right-sizing for habitual overages
13. Special assessments for multi-family dwellings

➤ First Amendment to Disposal Agreement

- Reset per ton tipping fees to market costs
- Extend term to be coterminous with Collection Agreement
- Align definitions with Collection Agreement
- Align other terms and conditions with Collection Agreement

➤ Updated Collection Agreement Language

- Add the following to Section 6.4.1 (City-Requested Changes to Scope of Services/Types of Changes, pg. 22) as new Section 6.4.1.8:

Cessation of Contractor's provision of a Recycling Coordinator (Exhibit A Section 9) and addition of a Recycling Coordinator Fee Payment by Contractor to the City in the amount of \$90,000 in 2024 dollars, escalated annually by the annual percentage change in the RRI.

- Add the following to Section 15.15.1 (Quarterly Reports/Contents of Quarterly Reports pgs. 63-64) as new Section 15.15.1.14:

Changes in Service Level. Through 2028, Contractor will provide a workbook listing all accounts that have changed service level since the last reporting period, including both the new and prior service levels.

➤ Updated Disposal Amendment Language

– Edits to “Force Majeure”

- Potentially applicable in situations where is in an unavailable delay in performance
- Clarifies that Waste Management is not excused from performance for labor actions lasting longer than 7 days

– Section 1.19 (Force Majeure) add the underlined sentence to the existing definition:

Force Majeure. Any riots, wars, civil disturbances, power failures, terrorism, insurrections, epidemics, pandemics, hurricanes, earthquakes, floods, acts of God, government orders and regulations, the first seven (7) days of a labor disruption, or other similar catastrophic events which are beyond the reasonable control of Contractor.

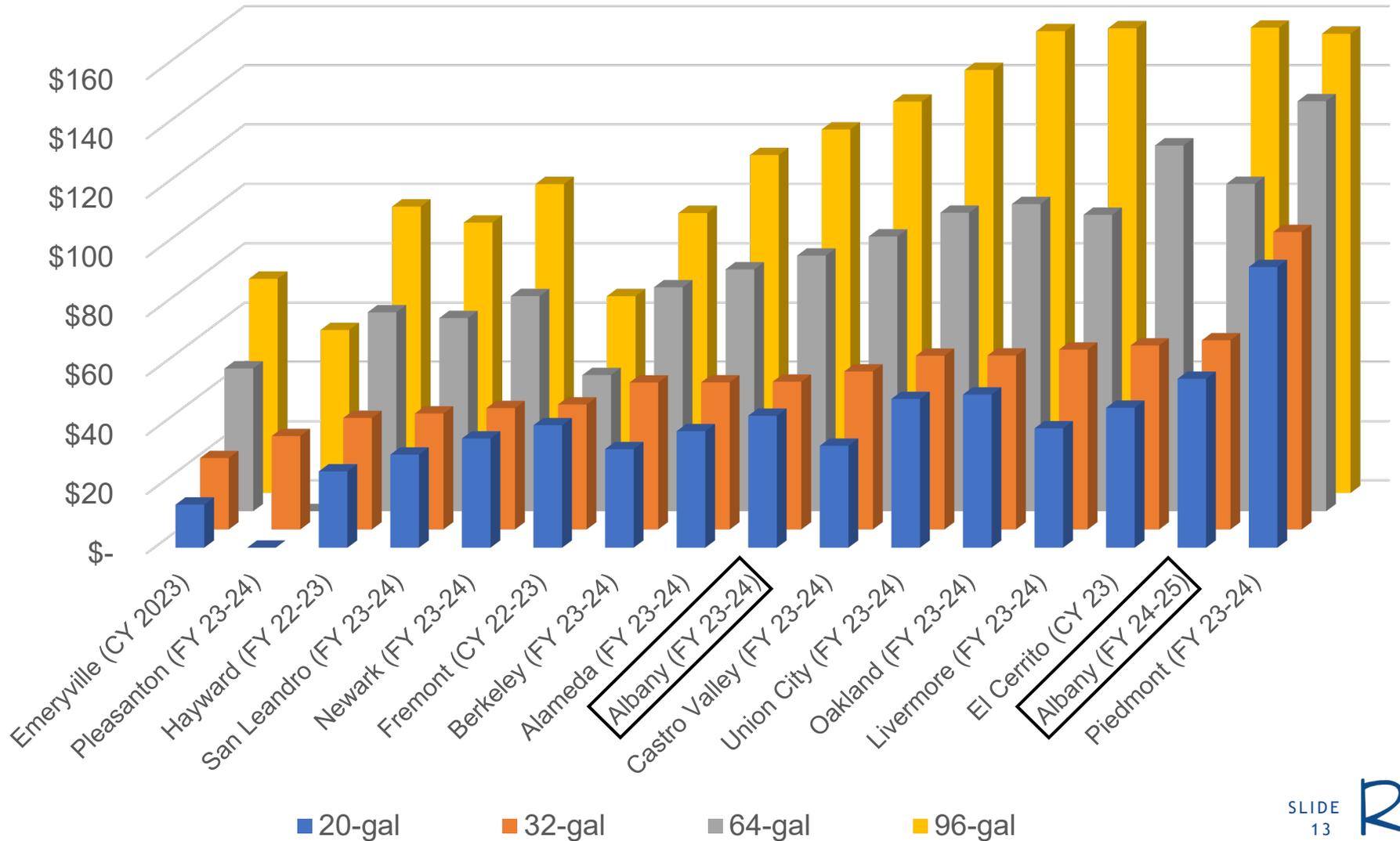
Force Majeure shall not include power outages, fuel shortages, and Labor Actions conducted by the CONTRACTOR, CONTRACTOR’S employees or directed at the CONTRACTOR or subcontractor exceeding seven (7) consecutive days. For clarification, seven (7) or fewer consecutive days of Labor Actions qualify as a Force Majeure.

➤ Updated Disposal Amendment Language

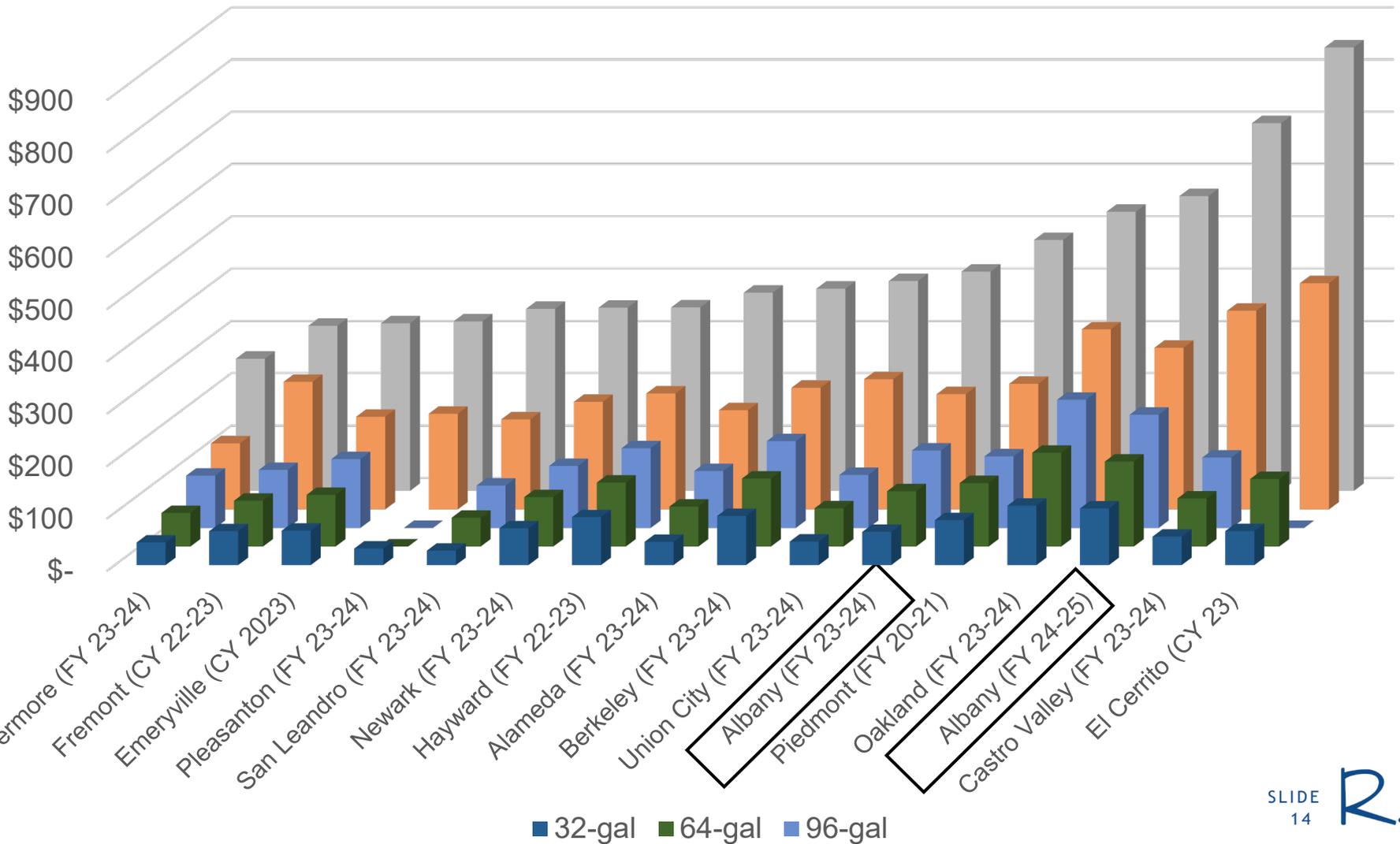
– Section 9.1 (Excuse From Performance) revised to read as:

The Parties shall be excused from performing their respective obligations hereunder if they are prevented from so performing by reason of Force Majeure events, such as floods, earthquakes, other acts of nature, war, terrorism, civil insurrection, riots, ~~acts of any government (including judicial action)~~, and other similar catastrophic events which are beyond the control of and not the fault of the Party claiming excuse from performance hereunder. Labor unrest ~~(to the extent not a Force Majeure)~~, which may include strike, work stoppage or slowdown, sick-out, lock-out, picketing, or other concerted job action conducted by CONTRACTOR, CONTRACTOR'S employees or directed at CONTRACTOR or subcontractor, to the extent such activity exceeds seven (7) consecutive days, is not an excuse from performance and CONTRACTOR shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

Rate Comparison - Residential



➤ Multi-Family and Commercial Rate Comparison



➤ **Strategies to Control Cost Increases**

- “Right sizing” garbage, recycling and organics service levels
- Reducing overall waste streams
- Making legal arrangements for alternative handling of recyclables and organics (i.e., donating, selling to WMAC or others)

- Authorize the City Manager to execute the new solid waste Collection Service Agreement and the First Amendment to the Disposal Agreement with WMAC