

RESOLUTION NO. 2023-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT ADOPTING THE CITY'S MIXED MUNICIPAL WASTE SERVICE FEE AT THE RECYCLABLES DIVERSION AND TRANSFER STATION COMMENCING JANUARY 1, 2024

WHEREAS, the City of Fremont ("City") entered into a contract with BLT Enterprises of Fremont Inc., ("Company"), for receipt, processing, transfer and disposal of municipal solid waste, effective April 20, 2004, at the Fremont Transfer Station; and

WHEREAS, incorporated into the aforementioned contract are Exhibits 1 and 2 establishing the negotiated rates between the City and the Company for the receipt, processing, transfer and disposal of municipal solid waste known as the "Mixed Municipal Waste Service Fee"; and

WHEREAS, the City agreed to adjust the Mixed Municipal Waste Service Fee biennially over the Base Term to reflect changes in the Consumers Price Index ("CPI"), OPIS fuel index and regulatory fee changes as provided in Article 10 of the aforementioned contract and these revised Mixed Municipal Waste Service Fees will be in effect from January 1, 2024 to December 31, 2025; and

WHEREAS, Liquidated Damages fees and Host fees are adjusted biennially over the Base Term to reflect change in the CPI of the All Urban Consumers Index as provided in Article 10 of the aforementioned contract; and

WHEREAS, a health insurance index has been incorporated into the 2022/2023 rate adjustments and is reflected in Exhibits 1 and 2; and

WHEREAS, the City agreed to an extraordinary rate adjustment to Company for health insurance costs and a wage increase for facility workers consistent with the wage schedule agreed to by Company and the International Longshore and Warehouse Union ("ILWU") in December 2014 and which was subsequently incorporated by amendment into the transfer station contract between the City and Company (Exhibit 16); and

WHEREAS, the ILWU wage schedule expired on December 31, 2019, and therefore, the Wage Component –facility (ILWU) has been adjusted by the CPI of the All Urban Consumers Index as provided in Article 10 of the aforementioned contract increase, incorporated into the 2024/2025 rate adjustments, and reflected in Exhibits 1 and 2; and

WHEREAS, there may be adjustments to the Local Enforcement Agency (LEA) Inspection Fee or the regulatory fees included in the landfill disposal component of the rates during the two-year rate setting period which are unknown at the time of adoption of this resolution, and therefore the City Council intends to authorize the City Manager or designee to incorporate those revised fees into Exhibits 1 and 2 when the exact amount of those regulatory fee increases are known; and

WHEREAS, the demolition debris self-haul base rates include a \$7.09 per ton fee and all other self-haul rates include a \$5.00 per ton fee for waste reduction and material diversion program costs that Contractor will remit to the City as part of the monthly reconciliation.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council adopts the attached revised Exhibit 1 and Exhibit 2 to the Agreement Between the City of Fremont and BLT Enterprises of Fremont, Inc. for Recyclables Diversion and Transfer Services;

SECTION 2. The City Council authorizes the City Manager to incorporate any adjusted regulatory fee increases into revised Exhibits 1 and 2 when those increased rates are known; and

SECTION 3. The City Council adopts the liquidated damages amounts shown in revised Exhibit 10 to the Agreement Between the City of Fremont and BLT Enterprises of Fremont, Inc. for Recyclables Diversion and Transfer Services.

ADOPTED December 12, 2023, by the City Council of the City of Fremont, by the following vote:

- AYES: Mayor Mei, Councilmembers Keng, Campbell, Kassan, Salwan, and Cox
- NOES: None
- ABSENT: Vice Mayor Shao
- ABSTAIN: None



Mayor

ATTEST:

APPROVED AS TO FORM:



City Clerk



City Attorney

EXHIBIT 1

MIXED MUNICIPAL WASTE SERVICE FEE
 JANUARY 1, 2024-
 DECEMBER 31, 2025

The Mixed Municipal Waste Service Fee and its components are presented in this Exhibit for four service fee scenarios related to the City of Fremont’s Mixed Municipal Waste delivered to the Facility. All Mixed Municipal Waste Service Fee information shall be adjusted periodically in accordance with Section 10.03 of the Agreement.

Service Fee Component	City of Fremont’s Mixed Municipal Waste Facility Fee			
	Fremont Only	Fremont and Newark	Fremont and Union City	Tri-Cities
Equipment component – transfer	2.82	2.82	2.82	2.82
Fixed component –other	13.26	13.11	12.29	12.20
Variable component – transfer	2.92	2.90	2.91	2.91
Variable component –other	2.89	2.48	2.56	2.46
Wage component - transfer	8.97	8.98	8.93	8.91
Wage component - facility	20.49	17.93	18.42	17.91
Health Insurance component	8.78	8.22	8.33	8.23
Fuel Component	2.33	2.33	2.33	2.33
Disposal Component (1)	32.89	32.86	32.86	32.82
Alameda County LEA inspection Fee	0.33	0.33	0.33	0.33
Fuel Tax – transfer	0.91	0.91	0.91	0.91
Total Service Fee/ Ton	\$96.59	\$92.87	\$92.69	\$91.83

Miscellaneous Fees

Host Fee – franchise tonnage from Newark & Union City	\$10.80/ton
Host Fee – self haul tonnage charged per ton	\$12.70/ton
Host Fee – self haul tonnage charged per load	\$5.59/load
Host Fee – divertible recycling per ton	\$6.92/ton
Host Fee – recyclable rich materials	\$3.64/ton
Contractor compensation for extended Facility Receiving Hours	\$507.13/hour
Amount regarded as Significant	\$34,647.69
Report preparation costs considered in Section 8.11.b.3.	\$10,148.17
Waste Characterization – Standard	\$4,672.79
Waste Characterization – Single Load	\$1,246.07
(1) 88% of City Council approved landfill disposal rate	

Dry Mixed Materials Processing Fee

0-30% residual level = no fee

30.01-35% residual level = \$32.59/ton
 35.01-40% residual level = \$46.93/ton
 40.01-45% residual level = \$63.73/ton
 45.01-50% residual level = \$79.66/ton

Commercial Food Waste

Commercial Food Waste Bypass Fee = \$33.70/ton
 Commercial Food Waste Transfer Fee = \$33.70/ton

High Value Commercial Recyclables Compensation

Material Composition	Payment/Ton to City	Processing fee
85% or more high value commercial recyclables*	suspended	\$0/ton
80-84.99% high value commercial recyclables*	\$0/ton	\$0/ton
75-79.99% high value commercial recyclables*	\$0/ton	\$50.18/ton
74.99% or less high value material - dry mixed material processing fees apply		
High Value Commercial Recycling Extraordinary Adjustment (2)		\$14.53/ton

(2) Extraordinary adjustment applies to material delivered in the categories marked with *

EXHIBIT 1 a
BIENNIAL ADJUSTMENT TO HIGH VALUE COMMERCIAL RECYCLABLES COMPENSATION

High Value Commercial Recycling Extraordinary Adjustment

Current High Value Commercial Recycling Extraordinary Adjustment	\$12.18
MMW Service Fee ILWU Wage Component Adjustment	\$ 1.61
MMW Service Fee Health Insurance Component Adjustment	<u>\$.74</u>
Revised High Value Commercial Recycling Extraordinary Adjustment	\$14.53

This fee is applicable unless the High Value Commercial material is charged at the MSW rate.

The biennial per ton increase calculated for the ILWU wage and health components of the Mixed Municipal Waste Service Fee shall also be applied to the High Value Commercial Recycling Extraordinary Adjustment

EXHIBIT 1 b
 EXAMPLE BIENNIAL ADJUSTMENT CALCULATIONS
Mixed Municipal Waste Service Fee

Component	Adjustment Index Used	Current Fee	Most Recent Index	Prior Index	Adjusted Fee(4)
Equipment Component - transfer	CPI	\$ 2.57	340.056	309.487	\$ 2.82
Fixed Component - other	no adjustment	\$ 12.20	n/a	n/a	\$ 12.20
Variable Component - transfer	CPI	\$ 2.65	340.056	309.487	\$ 2.91
Variable Component - other	CPI	\$ 2.24	340.056	309.487	\$ 2.46
Transportation Wage Component	CPI	\$ 8.11	340.056	309.487	\$ 8.91
Facility Wage Component	CPI	\$ 16.30	340.056	309.487	\$ 17.91
Health Insurance Component	Health Insurance Index/CPI floor	\$ 7.49	340.056	309.487	\$ 8.23
Fuel Component	OPIS Index	\$ 1.35	3.7185	2.1509	\$ 2.33
Disposal Component	Pass-through	\$ 31.77	Pass-through		\$ 32.82
Alameda County LEA inspection fee	Pass-through	\$ 0.33	Pass-through		\$ 0.33
Fuel Tax - transfer	Pass-through	\$ 0.67	1.4767	1.09505	\$ 0.91
Total Service Fee/Ton		\$ 85.68			\$ 91.83

(4) All components, with the exception of the fixed component, shall be adjusted as follows:
 current fee X (most recent index/prior index) = adjusted fee

EXHIBIT 2

MAXIMUM SELF-HAUL SERVICE FEES
 JANUARY 1, 2020- DECEMBER 31, 2021

The maximum Self Haul Service Fees are presented in this Exhibit and shall be adjusted periodically in accordance with Section 10.04 of the Agreement.

	Unit	Base	Host Fee	Total Fee
Garbage (minimum charge) (1)	Load	\$ 55.34	\$ 5.59	\$ 60.93
Garbage	Ton	\$ 118.01	\$ 12.70	\$130.71
Green Waste/Wood Waste	Ton	\$ 115.91	\$ 3.64	\$ 119.55
Soil	Ton	\$ 115.91	\$ 3.64	\$ 119.55
ADC	Ton	\$ 115.91	\$ 12.71	\$128.62
Asphalt	Ton	\$ 115.91	\$ 3.64	\$ 119.55
Concrete	Ton	\$ 115.91	\$ 3.64	\$ 119.55
Concrete with Rebar	Ton	\$ 115.91	\$ 3.64	\$ 119.55
Demolition Debris	Ton	\$ 118.00	\$ 12.71	\$130.71
Compacted loads-Mixed Municipal Waste	Ton	\$ 118.01	\$ 12.70	\$130.71
Divertible Materials	Ton	\$ 84.07	\$ 6.91	\$ 90.98
Tree Stumps and Poles	Ton	\$ 115.91	\$ 3.64	\$ 119.55
Certificate of Destruction (documents)	Ton	\$ 116.45	\$ 12.70	\$129.15
Certificate of Destruction (condemned)	Ton	\$ 116.45	\$ 12.70	\$129.15
Mattress/Box Spring (per set) (2)	Set	\$ 36.75	N/A	\$ 36.75
Tires (16 "or less)	Item*	\$9.69	N/A	\$9.69
Tires (>16" & < 21")	Item*	\$19.36	N/A	\$19.36
Tires (Tractor/off road)	Item*	\$32.23	N/A	\$32.23
Tires (Bulk load)	Item*	\$19.36	N/A	\$19.36

White Goods – Base	Item*	\$11.89	N/A	\$11.89
White Goods – Freon Removal	Item*	\$35.69	N/A	\$35.69
White Good – Per Mercury Switch	Item*	\$8.44	N/A	\$8.44

- (1) Contractor may round maximum self-haul service fee for permitted materials charged by type to the nearest whole dollar (upward or downward)
- (2) Fee collected to facilitate mattress and box spring recycling. Fee applied at \$16.60 per piece.

EXHIBIT 10
LIQUIDATED DAMAGES
JANUARY 1, 2022 – DECEMBER 31, 2023

The following liquidated damages shall be levied for Contractor's failure to meet specific Contractor's Obligations due to Contractor's fault during Facility Operations. The amounts for liquidated damages will be adjusted biennially to reflect changes in CPI in the manner described in Article 10.

The Parties acknowledge that consistent, efficient Facility Operation is of utmost importance to the Collection Contractor(s) and the City; that failure to Operate the Facility in accordance with Obligations in the Agreement and failure to allow for Vehicles to efficiently unload at the Facility increase the City's and/or its Collection Contractor(s)' costs; and the City has considered and relied on Contractor's representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The Parties further recognize that if the Contractor fails to fulfill Contractor's Obligations, the City and its residents and businesses will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the Parties agree that the following liquidated damages represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the sums to the range of harm to the City, Collection Contractor(s), or Disposal Facility Contractor, that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. The Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts listed in the table below for failure to perform the specified events of failure listed in the table due to the Contractor's fault.

In signing this Agreement, the Contractor specifically confirms the accuracy of the statements made in this Exhibit with respect to liquidated damages for all events of failure listed below and the fact that it had ample opportunity to consult with legal counsel and obtain an explanation of such liquidated damage provisions at the time that this Agreement was made.

Event	Liquidated Damage
Failure to request approval from City for use of Subcontractor in accordance with Section 3.11 of Contractor's Obligations as defined in Section 3.11 without consent of City	\$1,690.20 per incident
Failure to make records available upon request	\$845.10 per request
Failure to submit reports	\$84.52 per report per day
Failure to Operate during Facility Receiving Hours	\$422.53 per hour
Failure to meet Vehicle Turnaround Guaranty <ul style="list-style-type: none"> a. If delay less than 0.5 hours b. If delay more equal to or more than .5 hour 	\$54.92 per event \$109.87 per event
After initial waste characterization, acceptance of Source Separated Recyclable Materials, Source Separated Yard Waste, or Recyclable Rich Materials that contain higher quantities of Residue by weight than allowed by the definition in Article 1 for such material	\$84.52 per ton of excess residue
Charging greater than Maximum Self Haul Service Fees for Small Self Haul Customers	\$84.52 per incident per customer
Failure to remedy litter problem following a complaint within time frame included in Article 8	\$422.53 per incident
Receipt of complaint(s) in a given month in excess of 50 total complaints from unrelated complaints for the given month	\$84.52 for every complaint received above 50 complaints
Failure to maintain complaint log	\$253.54 per event