



CITY COUNCIL AGENDA REPORT

Meeting Date: June 16, 2020

From: Director of Public Works/City Engineer

Subject: Solid Waste Collection Rate Adjustment

Community Goal/Result: Ecological Sustainability

Purpose: To review rate adjustments submitted by one of the city's solid waste franchisees.

Recommendation: Receive Recology Brisbane's 2022 rate increase of 6.66%.

Background

The city has two Franchise Agreements dated November 20, 2014 for the provision of waste collection services, one with South San Francisco Scavenger Company in Solid Waste Collection Zones 1(A&B) and 2, and one with Recology Brisbane in Solid Waste Collection Zone 3. Both agreements have language specifying under what conditions a rate increase may occur.

Discussion

Recology Brisbane did submit a request for rate increase; their proposed rates were reviewed by staff and found to be in accordance with their franchise agreement. Pursuant to each agreement, ". . . not later than June 30th of the year of the Notice of Intention, the City Council shall act upon the new maximum rates as appropriate, with any new maximum rates to become effective on July 1st of the same year."

With the company completing their calculation per the agreement, there is no discretionary action for the Council to take.

Fiscal Impact

The effective date of the new rates is July 1, 2022.

Measure of Success

Compliance with the previously agreed upon terms and conditions for rate adjustments.

Attachments

1. Recology Brisbane's letter of 5/24/22 and redacted rate adjustment language
2. Solid Waste Collection Zone Maps

Randy Breault, Public Works Director

Clay Holstine, City Manager



May 24, 2022

BY EMAIL

Clay Holstine
City Manager
City of Brisbane
50 Park Lane
Brisbane, CA 94005

RE: Notice of Intention to Increase Rates & Related Matters

Dear Mr. Holstine:

The purpose of this letter is to notify the City of Brisbane of Recology's intention to increase rates effective July 1, 2022 pursuant to the refuse rate index methodology set forth in the Franchise Agreement between the City and Recology.

RRI Rate Adjustment

Section 6.2 of the Franchise Agreement provides that maximum rates shall be adjusted each July 1 using a refuse rate index consisting of the weighted average of certain index items as specified below. The annual percentage change in each index item and the calculation of the RRI Adjustment Percentage are also set forth below. Accordingly, maximum rates shall be increased by 6.66% effective July 1, 2022 under Section 6.2.

<u>Cost Category</u>	<u>Weighting</u>	<u>Source/Index</u>	<u>Annual % Change in Source/Index</u>	<u>Weighted % Change</u>
Fixed Labor	0.60	As per CBAs	6.00%	3.60%
Variable/Processing Costs	0.25	CPI(U)	4.24%	1.06%
CNG Fuel	0.05	Fuel Index	40.01%	2.00%
RRI Adjustment Percentage:				6.66%

Franchise Fee Payment

Under Section 4.1 of the Franchise Agreement Recology must make an annual franchise fee payment to the City on or before April 30 of each year. The franchise fee is 14% of Recology's gross revenues during the proceeding calendar year from the collection and disposal of solid waste within Zone 3. For calendar year 2021, these revenues amounted to \$93,564.17. The franchise fee is therefore \$13,098.98. We will remit payment before April 30.

Diversion Rate

Section 8.4 of the Franchise Agreement requires Recology to provide the City with an annual written report setting forth Recology's best estimate of the diversion rate for its Zone 3 customers.

We estimate based on volume and type of service, that the diversion rate for our Zone 3 customers was approximately 38% for the calendar year 2021.

Thank you for your consideration. We would be happy to meet with City staff to discuss these matters at your earliest convenience.

Sincerely,

Anthony Crescenti
General Manager
Recology Sunset Scavenger
(415) 330-2911

cc: Randy Breault, Public Works Director, City Engineer
Terry Duong, Recology SF Region Controller

Recology Rate Adjustment from Nov 2014 Franchise Agreement

services within twenty-four (24) hours of notification by City or as soon thereafter as is reasonably practical in light of the circumstances. Emergency services as described herein shall be compensated by City in accordance with Exhibit B. If Recology cannot provide the requested emergency services, City shall have the right to temporarily take possession of Recology's equipment for the purposes of providing emergency services.

The City of Brisbane shall have the option of purchasing CNG for City-owned vehicles that use CNG at the Sunset Scavenger facility located at 501 Tunnel Avenue, at the same cost per gallon that Sunset Scavenger incurs for such CNG (inclusive of fuel, transport, equipment and other associated costs). The City may exercise such option only during the fueling facility's normal operating hours, without interference with Sunset Scavenger's operations, and subject to reasonable limitations based on Sunset Scavenger's operational requirements.

5.19 Permits and Licenses. Recology shall obtain and maintain throughout the term of the franchise all permits, licenses and approvals necessary or required for Recology to perform the work and services described herein. City shall cooperate with Recology in connection with such permits, licenses and approvals, and shall renew all such permits, licenses and approvals issued by City, provided that Recology is not in material breach of this Agreement and provided Recology shall have fulfilled all then existing requirements for the renewal of such permits, licenses and approvals.

6. Rates. Recology shall bill customers for its services under this Agreement at the rates set forth in Exhibit B to this Agreement, as adjusted under Section 4.1 above, Sections 6.2 and 6.3 below and other relevant provisions of this Agreement. All customers shall be billed monthly in arrears. Recology shall be entitled to charge commercially reasonable late charges and/or interest on overdue accounts, and may stop service if an account remains overdue for more than ninety (90) days. Recology shall report to the City the name and address of any customer if it stops service because the customer's account remains overdue for more than ninety (90) days.

6.1 Establishment of Rates. The maximum service rates specified in Exhibit B to this Agreement have been agreed upon by City and Recology and shall take effect on the effective date of the franchise as set forth in Section 3 above. Such maximum service rates shall be subject to review and revision as set forth in Section 4.1 above, Sections 6.2 and 6.3 below and other relevant provisions of this Agreement. Recology shall not charge any amount in excess of the approved rates for services required by or permitted under this Agreement.

6.2 Modification Based on Refuse Rate Index.

- (a) The maximum rates specified under this Agreement shall be adjusted July 1st every year (beginning in 2016) by a percentage amount equal to the RRI Adjustment Percentage, which shall be calculated as follows:

Step 1: For each Source/Index listed in Table 1 below, calculate the annual percentage change in the Source/Index over the most recent 12-month period for which data are available at the time Recology submits the Notice of Intention described in Section 6.2(c) below.

Step 2: For each Cost Category listed in Table 1 below, multiply the Weighting for such Cost Category set forth in Table 1 below by the percentage change in the Source/Index for such Cost Category calculated in Step 1 above.

Step 3: Add the percentages calculated in Step 2 above. The result is the RRI Adjustment Percentage.

For example, if the annual percentage change is 3.0% for CPI(U), 9.0% for the Fuel Index, and 4.0% under the CBAs, then the RRI Adjustment Percentage equals 3.60% (= (.60 x 4.0%) + (.25 x 3.0%) + (.05 x 9.0%)).

Table 1. Refuse Rate Index

<u>Cost Category</u>	<u>Weighting</u>	<u>Source/Index</u>
Fixed Labor	0.60	As per CBAs
Variable/Processing Costs	0.25	CPI(U)
Biodiesel Fuel	0.05	Fuel Index
Total:	0.90	

- (b) For purposes of this Section 6.2:
- (i) “CBAs” means the collective bargaining agreement(s) in effect from time to time applicable to the employees performing collection services under this Agreement. In connection with any adjustment under this Section 6.2, the annual percentage change calculations shall be based on the changes in wage rates required by the CBAs, and Recology shall make available to the City Manager the portions of the CBAs necessary to confirm such changes.
- (ii) “CPI(U)” means the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose, Not Seasonally Adjusted, Series ID:

CUURA422SA0, published by the U.S. Department of Labor, Bureau of Labor Statistics.

- (iii) "Fuel Index" means the Total G-NGV1 Charge set forth in Schedule G-NGV1, Natural Gas Service for Compression on Customers' Premises, published by Pacific Gas & Electric Company.
- (c) The procedure for rate adjustments under this Section 6.2 shall be as follows:
- (i) Not later than March 31st of each year that is subject to a rate adjustment under this Section 6.2, Recology shall file with City a written Notice of Intention to increase each of the then current rates effective as of July 1st of the same year in accordance with the above-specified formula, if Recology believes such an increase to be called for, or City shall provide to Recology a written Notice of Intention to decrease each of the then current rates effective as of July 1st of the same year in accordance with the above-specified formula, if City believes such a decrease to be called for.
 - (ii) Within thirty (30) days of the filing of the Notice of Intention, the City Manager shall review the Notice of Intention with Recology, and either confirm that the proposed rates are within the limit of Section 6.2(a) above or establish by mutual agreement with Recology any necessary changes to the proposed maximum rates to make such confirmation.
 - (iii) The City Manager shall immediately inform the City Council in writing of the new maximum rates determined in accordance with this Section 6.2 and, not later than June 30th of the year of the Notice of Intention, the City Council shall act upon the new maximum rates as appropriate, with any new maximum rates to become effective on July 1st of the same year.
 - (iv) In the event that CPI(U) or the Fuel Index shall be discontinued or materially modified during the term of the franchise, the parties shall use their best efforts to substitute a replacement index and/or otherwise change Section 6.2(a) above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of the CPI(U) or the Fuel Index as in effect on the date hereof.

6.3 Extraordinary Items. In addition to adjustments under Sections 4.1 and 6.2 above and other relevant provisions of this Agreement, the maximum rates hereunder

shall be subject to increase or decrease to reflect extraordinary increases or decreases in Recology's costs of providing services hereunder, such as landfill or disposal costs, costs mandated by governmental action or judicial decisions or otherwise required in order to comply with applicable law, franchise fees and similar items. Increases or decreases in maximum rates pursuant to this Section 6.3 shall take effect so as to eliminate, to the maximum extent possible, Recology's loss or gain of profit resulting from the extraordinary increase or decrease in costs from the date(s) such increase or decrease first occurred.

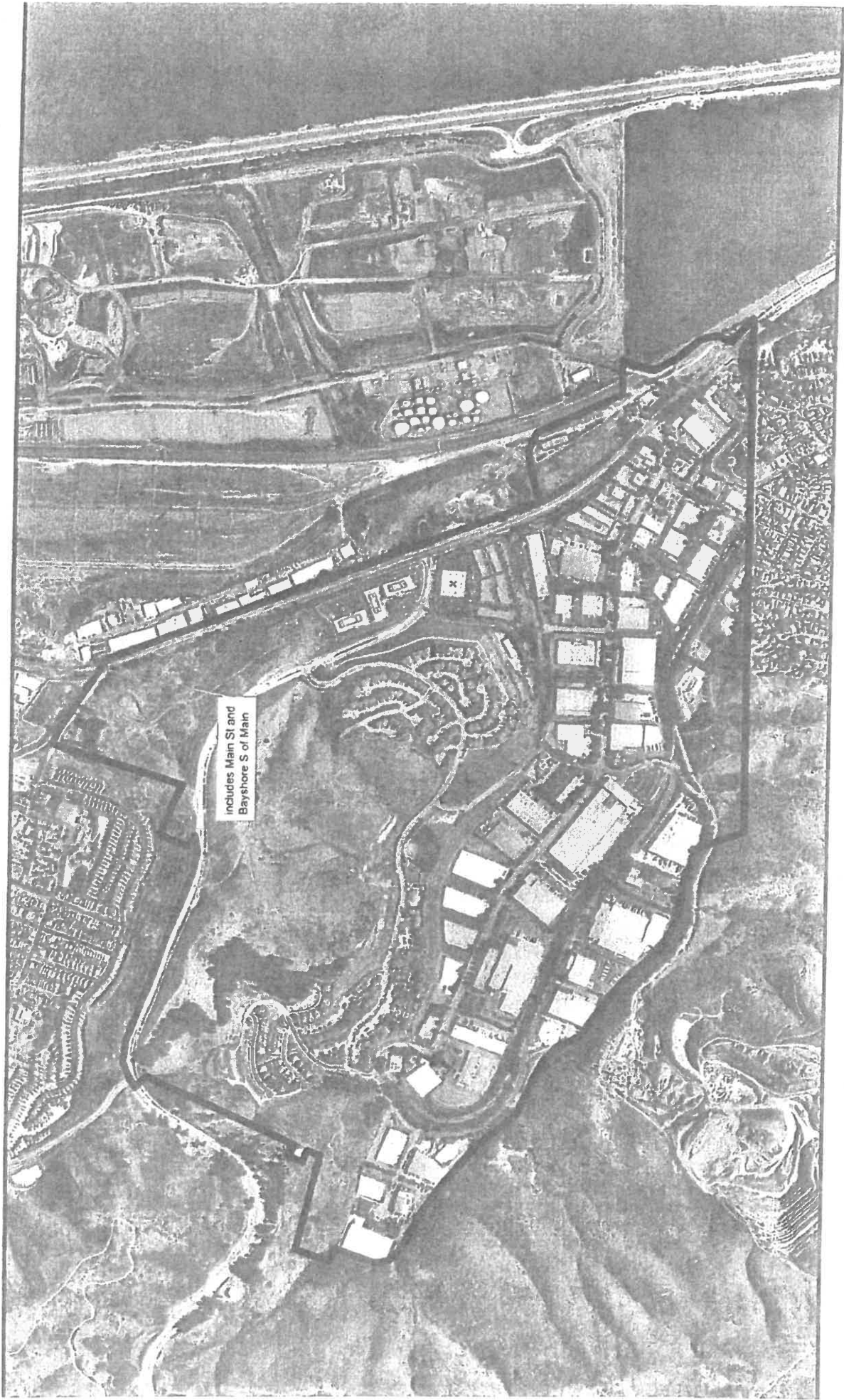
- 6.4 Potential Rate Constraints. The parties recognize that, as of the date this Agreement is entered into, there is no authoritative judicial determination of whether Articles XIII C or XIII D of the California Constitution apply to charges imposed by private enterprises for solid waste handling and recycling services when those charges are regulated by a local government.

The City will not be in default of this Agreement if (i) a majority protest or referendum prevents the initial maximum rates or a proposed maximum rate increase from being adopted, (ii) a court rules that maximum rates adopted by City are not consistent with Article XIII C or D, or (iii) a voter initiative not endorsed by City reduces maximum rates from those in effect. After the occurrence of any event referred to in clauses (i)-(iii) above, the parties shall promptly meet and negotiate in good faith to adjust the Franchise Fee and/or service levels commensurate with the rates that Recology may legally charge, in a manner reasonably calculated (given such rates) to minimize any adverse effect on public health and safety and to allow Recology to cover its necessary costs plus a commercially reasonable profit.

Nothing in this Agreement shall be deemed or construed to be an admission by City or Recology that Articles XIII C or XIII D of the California Constitution apply to the rates charged by Recology under this Agreement.

7. Provisions Applicable to Customer Service, Equipment and Personnel

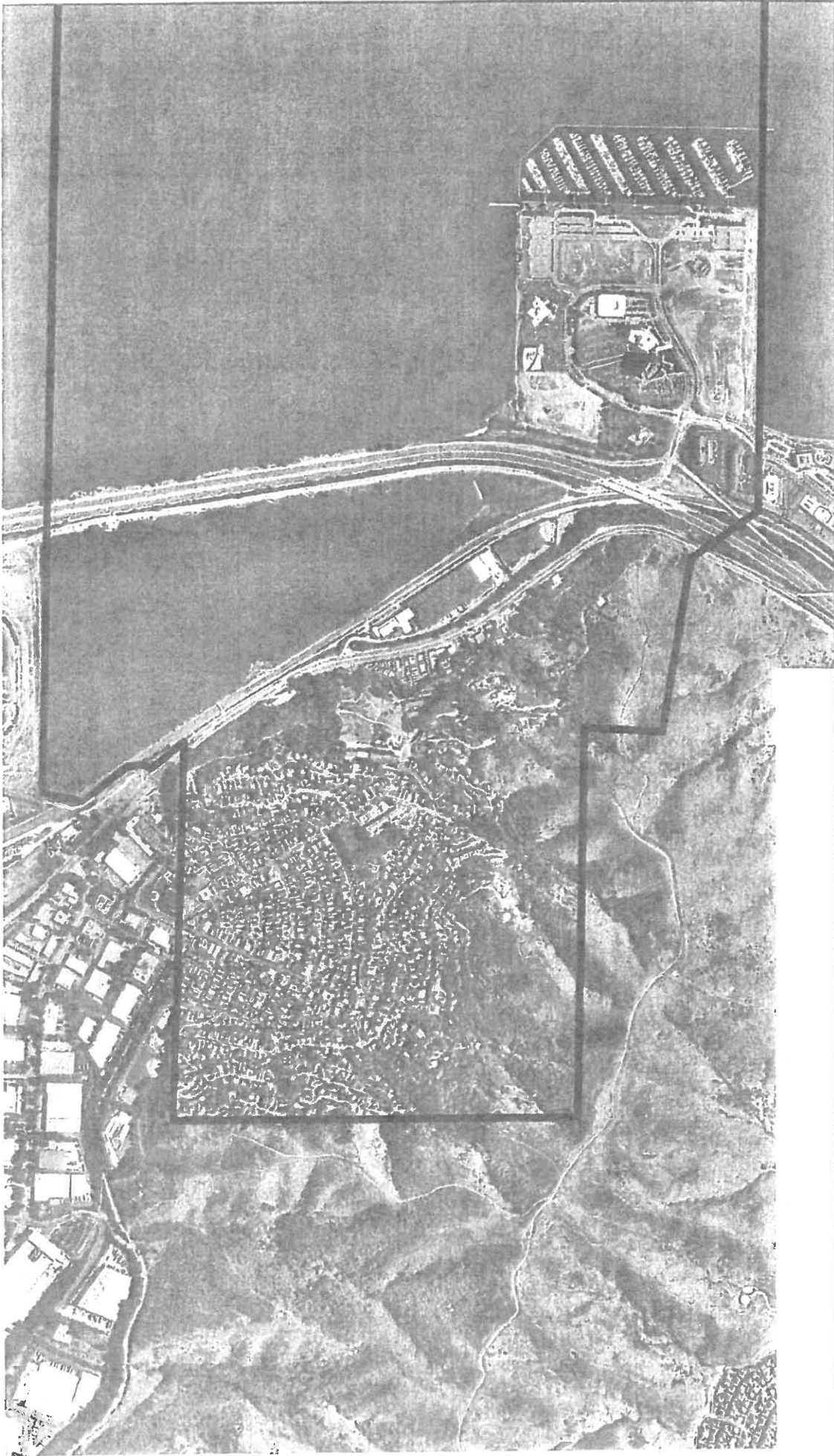
- 7.1 Recology shall use in connection with transportation of solid waste modern motor dump trucks with water tight bodies, sufficient in number and capacity to efficiently perform the work required by the Agreement. Recology shall keep the outside of the truck bodies reasonably free from dirt and debris, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Recology shall keep all trucks freshly painted in a uniform manner, and the firm name, telephone number, and truck number of each truck shall appear on each side thereof in a conspicuous manner. Recology shall keep all trucks in good



Includes Main St and Bayshore S of Main

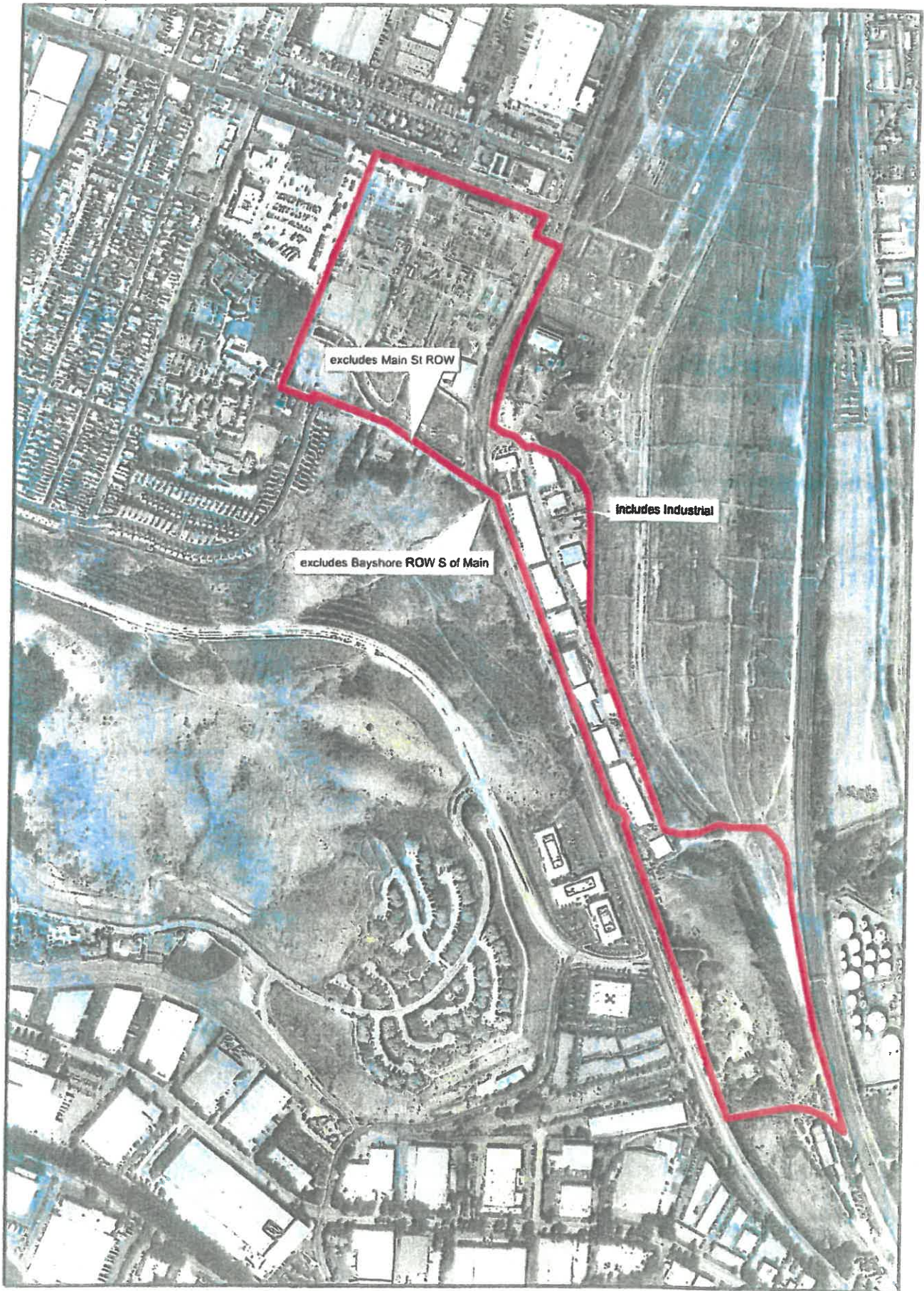


**City of Brisbane
Solid Waste Collection Zone
1 - A**

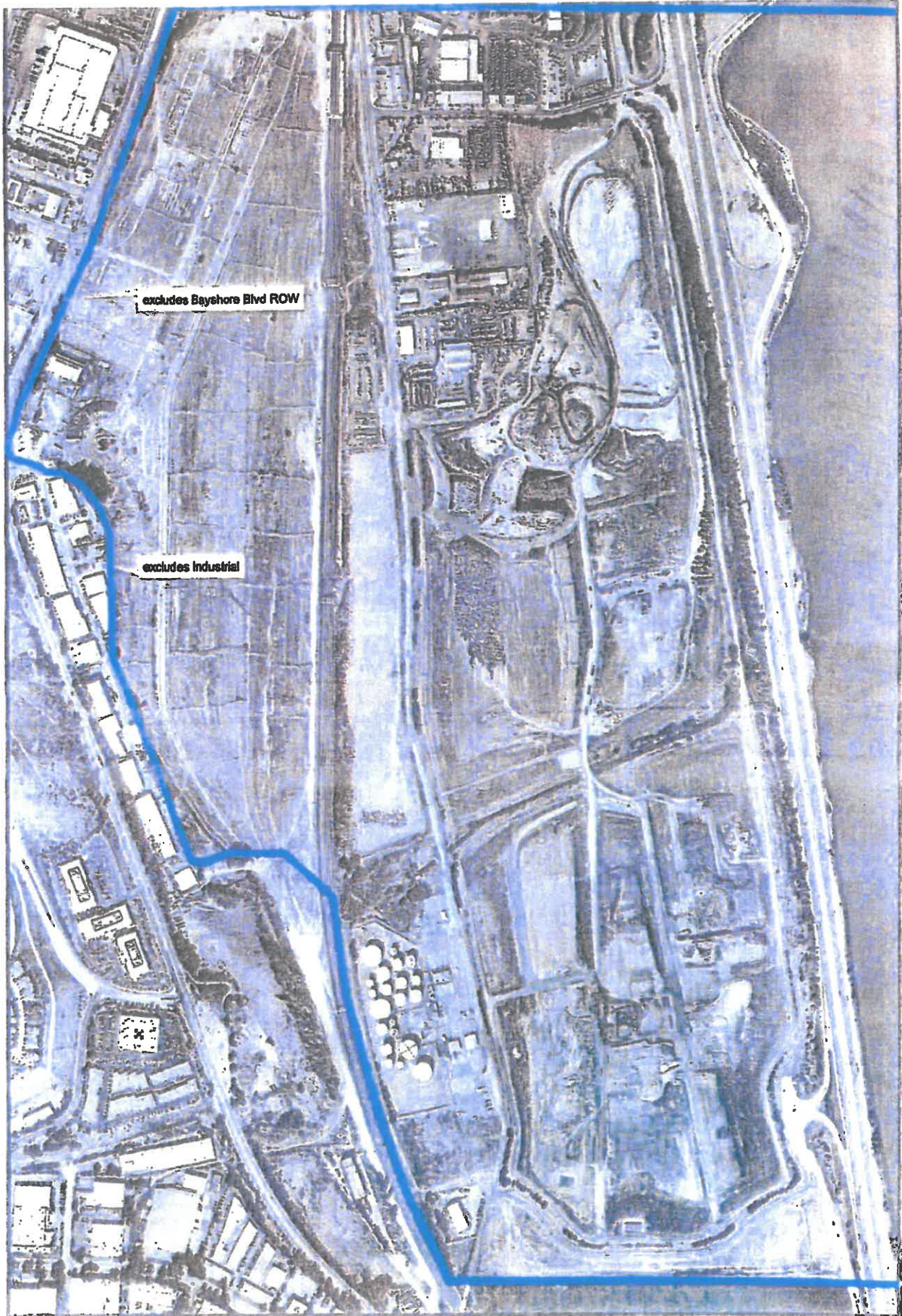


**City of Brisbane
Solid Waste Collection Zone
1 - B**





**City of Brisbane
Solid Waste Collection Zone
2**



0 250 500 1,000 Feet



**City of Brisbane
Solid Waste Collection Zone**