



**To:** Mark Gagliardi, City of Oakland  
**From:** Richard Tagore-Erwin, R3 Consulting Group  
**Date:** December 15, 2011  
**Subject:** Methods used by Jurisdictions in Franchise Agreements to Adjust Rates and Incentivize Haulers

R3 has reviewed the Franchise Agreements for twenty jurisdictions within California, in order to compile a list of the methods used by various jurisdictions to adjust rates and incentivize contractors to meet diversion requirements.

Based on our review, the majority of jurisdictions are using the Refuse Rate Index (RRI) or Consumer Price Index (CPI) to adjust rates, and a combination of liquidated damages, termination and denial of extensions as an incentive for contractors to meet diversion requirements. Only three of the reviewed jurisdictions used an increase in contractor compensation as an incentive; of those jurisdictions, R3 knows of only one instance where the contractor exceeded the minimum diversion requirement. In our experience, we have found that the incentive amount the contractor is compensated for is usually such a minimal amount that it is not a motivating factor in increasing diversion. What appears to be more effective, on the other hand, is the implementation of specific numerical requirements tied to liquidated damages and/or termination of contract.

The following table displays the results of our review.

<b>Jurisdiction</b>	<b>Hauler</b>	<b>Rate Adjustment Methodology</b>	<b>Diversion Requirement</b>	<b>Incentive</b>	<b>Results of Incentive</b>
Albany	Waste Management	RRI	<i>None</i>	<i>None</i>	<i>N/A</i>
Benicia	Allied	CPI	55% by 2012 60% by 2013 65% by 2014 70% by 2015 75% by 2016	Denial of term extension	<i>Insufficient time has passed</i>

Jurisdiction	Hauler	Rate Adjustment Methodology	Diversion Requirement	Incentive	Results of Incentive
Castro Valley SD	Waste Management	RRI	40% combination of SFD, MFD, Commercial and City; 90% C&D	Termination, Liquidated Damages (Shortfall of 0.001% - 2%: \$10,000 per calendar year; Shortfall of 2.001% or greater: \$25,000 per calendar year)	Met minimum requirements only
Cloverdale	Redwood Empire Disposal	RRI	50% each contract year	Default, Liquidated Damages (\$100,000)	Met minimum requirements only
Cotati	Ratto Group	70% of CPI	None	None	N/A
Dublin	Amador Valley Industries	RRI	50% each contract year	Termination, Liquidated Damages (Shortfall of 0.001% - 2%: \$10,000; Shortfall of 2.001% or greater: \$25,000)	Met minimum requirements only
Fairfield	Solano Garbage Co.	CPI	50% each contract year	Denial of term extension	<i>Insufficient time has passed</i>

Jurisdiction	Hauler	Rate Adjustment Methodology	Diversion Requirement	Incentive	Results of Incentive
Emeryville	Waste Management	RRI	Maintain total annual Disposal tonnage at or below the maximum disposal limits proposed by contractor in the diversion plan (as adjusted yearly)	Termination, Liquidated Damages (Shortfall of 5.001% - 10%: \$7,500.00 per calendar year. Shortfall of 10.001% or greater: \$15,000.00 per calendar year.)	<i>Insufficient time has passed</i>
Lomita	CALMET Services, Inc.	RRI	35% Residential	Termination, Liquidated Damages (\$15,000 annually)	Met minimum requirements only
Los Altos	Mission Trails Waste Systems	CPI	62% by 2012 69% by 2013 78% by 2014	Liquidated Damages, Default, Denial of term extension	<i>Insufficient time has passed</i>
Mountain View	Recology	Cost Plus with profit Band	<i>None</i>	<i>None</i>	<i>N/A</i>
Novato	Novato Disposal	RRI	60% by 2016 70% by 2021 80% by 2026	Denial of term extension	<i>Insufficient time has passed</i>
Piedmont	Richmond Sanitary Services	RRI	65% each contract year	Termination, Liquidated Damages	Met minimum requirements only
Rolling Hills Estates	BFI	RRI	50% each contract year	Termination, Administrative Charges	Met minimum requirements only

Jurisdiction	Hauler	Rate Adjustment Methodology	Diversion Requirement	Incentive	Results of Incentive
San Jose	California Waste Solutions	RRI	30-35% for residential recyclable materials and 50% for large items	For each 1% above the diversion standard, Contractor receives an amount equal to 0.5% of the prior calendar year payments made by the city to the contractor.	Met minimum requirements only
San Leandro	Alameda County Industries	CPI	None	None	N/A
San Ramon	Waste Management	RRI	50% SFD; 30% for the combination of MFD, Commercial and City Collection Services	Termination, Liquidated Damages	Met minimum requirements only
Santa Rosa	North Bay Corporation	RRI	Diversion Rate Between 0 - 25% 25.01 – 35% 35.01 – 45% 45.01 – 50% 50.01 – 55% 55.01 – 60% Over 60%	Diversion Adjustment 50% 75% 90% 100% 110% 120% 125%	Met minimum requirements only

Jurisdiction	Hauler	Rate Adjustment Methodology	Diversion Requirement	Incentive	Results of Incentive
Windsor	Windsor Refuse and Recycling	RRI	Diversion Rate Between 0 – 24.99% 25 – 32.99% 33 – 39.99% 40 – 44.99% 45 – 49.99% 50 – 59.99% 60 – 69.99% Over 70%	Diversion Adjustment 50% 70% 85% 95% 100% 103% 110% 115%	Exceeded minimum in 2010 with 50.1% diversion, receiving 103% of 2.9% increase

