

RESOLUTION NO. 6019

A RESOLUTION APPROVING A RATE MODIFICATION FOR ALBANY-LEBANON SANITATION COMPANY AND PROVIDING THAT FUTURE RATES ARE TRANSITIONED TO A METHODOLOGY GENERALLY REFLECTIVE OF CHANGES IN THE CONSUMER PRICE INDEX AND REPEALING RESOLUTION NO. 5802

WHEREAS, Albany-Lebanon Sanitation Company (hereinafter "Franchisee") provides solid waste management and recycling services pursuant to the terms of a franchise with the City codified as AMC 3.28.010 – 3.28.170; and

WHEREAS, AMC 3.28.130 provides that rates for service shall be approved by the City Council by resolution giving consideration to a number of economic factors; and

WHEREAS, establishing a future rate structure generally based upon changes in the consumer price index will provide a measure of certainty both for rate payers and for the Franchisee; and

WHEREAS, such rate certainty is desirable to enable the Franchisee to make reasonable capital improvement and acquisition decisions and to provide rate payers with predictability concerning the cost of waste collection, disposal, and recycling services.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Rate Adjustment from August 1, 2011, through June 30, 2012. Effective August 1, 2011, and continuing thereafter until June 30, 2012, the City approves an across-the-board six percent (6%) increase in Franchisee's rates for services provided pursuant to the above-referenced franchise.

Section 2. Rate Adjustment from July 1, 2012 through December 31, 2012. Effective July 1, 2012, and continuing thereafter until December 31, 2012, the City approves an across-the-board four percent (4%) rate increase in Franchisee's rates for services provided pursuant to the above-referenced franchise.

Notwithstanding the foregoing, if Franchisee net income exceeds seven percent (7%) as reported on May 1, 2012, the rate increase for this period shall not be allowed by this resolution but shall, instead, be adjusted and presented to the Council for review and consideration. In order to be eligible for a rate increase during the period in question, Franchisee must provide City with all of the information necessary to do the calculations referred to in Exhibit "A," attached hereto, by May 1, 2012.

Section 3. Rate Adjustment from January 1, 2013 through January 1, 2014. Effective January 1, 2013, Franchisee is permitted a rate increase for all services covered by above-referenced franchise of two percent (2%) plus the Refuse Rate Index described in Exhibit "A" applicable to the period in question.

Section 4. Future Franchise Rates. After January 1, 2014, and continuing until such time as the rates or rate methodology may be modified by the City, Franchisee will be permitted rate increases pursuant to the Refuse Rate Index described in Exhibit "A."

Section 5. Mutual Right to Adjust Rate Modifications and Rate Increase Methodology. The City maintains authority to approve or decline any rate increase requested by the Franchisee. City may, at any time, upon ninety (90) days' written notice to the Franchisee, modify or eliminate any of the rate approvals set forth above. Such modification shall be effective only prospectively for the next rate adjustment period. Unless otherwise noted, rate adjustments shall only be authorized annually, effective

January 1 of each year. Similarly, Franchisee may, upon ninety (90) days' written notice to City, request a modification of the rate adjustment methodology set forth herein or may request additional adjustment as a result of significant changes in the value of recyclables, shift in garbage collection service levels, changes in required environmental or regulatory compliance measures, or other factors affecting collection system costs. It is intended that this flexibility will allow either party to request a departure from the rate adjustments and rate adjustment methodology set forth in this resolution should such methodology be deemed inappropriate in light of future circumstances. Nothing herein shall limit the City's authority to establish or modify franchise service rates as provided by AMC 3.28.130 in the event that the City Council determines that it is in the public interest to do so.

Section 6. City Access to Franchisee Information. At any time, upon ten (10) days' written request, Franchisee shall provide to City access to raw data and documentation upon which all calculations used in establishing the Refuse Rate Index and Franchisee net income shall have been determined. If Franchisee fails to provide this information in satisfactory form to the City upon request, it shall forfeit entitlement to the requested rate increase.

Section 7. Repealing Resolution No. 5802. The Albany City Council hereby repeals Resolution No. 5802 dated July 22, 2009.

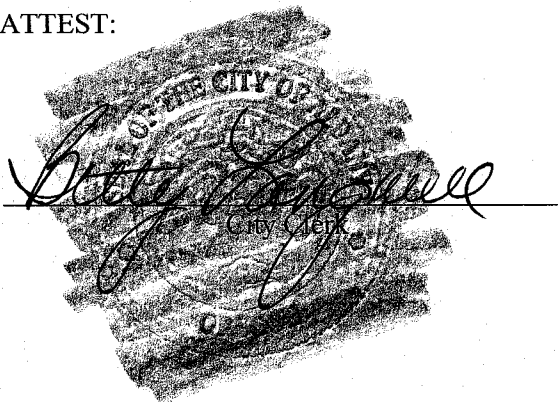
Section 8. Effective Date. This resolution is effective August 1, 2011.

DATED AND EFFECTIVE THIS 22ND DAY OF JUNE 2011.



Mayor

ATTEST:



City Clerk

Exhibit "A"
Refuse Rate Index Methodology

Rate Modification

Annual modification of the Franchisee's collection service charges will be based in whole or in part on the "Refuse Rate Index" (RRI) as described below. The Refuse Rate Index will be a weighted index based on the following three indices:

- The annual Consumer Price Index for Urban Wage Earners and Clerical Workers for the Portland-Salem Area, all items, not seasonally adjusted, or successor indices, which will have a weight of 65%.
- The annual adjustment for disposal fees and yard waste processing fees will have a weight of 25%. This fee increase shall not exceed 4% annually.
- The Energy Information Agency annual West Coast Retail Prices Series for Number 2 Ultra Low Sulfur Diesel Fuel, which will have a weight of 10%.

Note: The preceding year, June 30 (2nd Quarter), CPI publications will be utilized to calculate the January adjustment factor (example: June 30, 2012 publication for January 2013 rate adjustment).

The Refuse Rate Index, for the contract year beginning in January 1, 2013, and for each subsequent contract year, will be calculated by taking the weighted average, based on the weights above, of the percentage difference between the three indices most recent year end values and the corresponding values for the prior year, and adding the result to 1.0. The resulting amount shall be termed the "adjustment factor". At no time shall the total adjustment factor be less than 1.0. All rates in the rate schedule shall then be multiplied by the approved adjustment factor.

Example:

	Index: June 30, 2011	Index: June 30, 2012	% Change	Weight	RRI
Consumer Price Index - Portland/Salem	220	222	0.9%	65%	0.6%
Average Disposal Rate	\$ 35.00	\$ 36.00	2.9%	25%	0.7%
Consumer Price Index - West Coast Ultra Low Sulfur Diesel	155	170	9.7%	10%	1.0%
			Rate Adjustment %		2.3%
					100.0%
			Adjustment Factor		102.3%

When the RRI is used to calculate a Franchisee rate increase, whether the RRI is used as the sole basis for modification or as only a partial factor in the rate modification, the total rate increase may not exceed 6% in any calendar year.

If in a given year, the Franchisee's rate of return (Net Income as a % of total revenue) exceeds 10%, the RRI adjustment factor will be deferred to the following year. Adjustments to the Franchisee's collection service charge shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when making adjustments.

The Franchisee shall submit to the City for review and approval a rate adjustment statement, calculating the new rates for the next year, on or by September 1 of each year, starting September 1, 2012. The City shall have thirty (30) days to approve or disapprove the new rates provided, however, that the City may not disapprove an RRI increase unless the Rate Adjustment Statement contains errors of calculations. On City approval, the new rates shall take effect annually on January 1, beginning 2013. Customers shall be notified by December 1, thirty (30) days prior to the new rate. Should ratepayers not receive notification by December 1, due to missed deadlines by the Franchisee or rate disapproval by the City, implementation of the new rates shall be delayed by one month without opportunity for recovery of lost revenue.