



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works
Department No.: 054
For Agenda Of: March 16, 2010
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Scott D. McGolpin, Director of Public Works 568-3010
Director(s)
Contact Info: Mark Schleich, Deputy Director of Public Works 882-3605
SUBJECT: County's Exclusive Franchise Agreements for Solid Waste Collection
Supervisorial Districts 2, 3, 4 & 5

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

A. Set hearing for April 6, 2010 (time estimate of 60 minutes), as follows:

1. Approve the following Subcommittee recommendations:

- a. Approve franchise agreement term limits of 8 years with an expiration date of June 30, 2019 for franchises now under consideration in zones 2, 4 and 5;
- b. Approve requiring a minimum of 2 service providers in the County unincorporated area (will require future amendment to County Code Chapter 17);
- c. Approve reconfiguring the service areas (zones 4 & 5) in the North County per Attachment A;
- d. Approve maintaining the current Zone 2 boundaries on the South Coast and cooperating with the City of Goleta in the procurement process to the extent possible; and
- e. Approve competitive procurement paths for both the northern & southern service areas that limit competition to the 3 existing service providers (Allied Industries, MarBorg Industries, and Waste Management).

2. Direct the Solid Waste Franchise Project Team to incorporate these recommendations into the procurement process and return to your Board in Summer 2010 with Request For Proposals for solid waste collection.

Summary Text:

At the Board of Supervisors hearing of 7/14/09, the Board directed the formation of a Project Team and Subcommittee (consisting of Supervisors Carbajal and Farr) to address the procurement process for the solid waste franchise agreements that expire on June 30, 2011 for service zones 2, 4 & 5. (See Attachment B for a map of current zone boundaries). Beginning in August of 2009, the Project Team has met a total of 9 times, and has met with the Subcommittee on 3 occasions. The goals of the procurement process have been identified as attaining high quality services at competitive rates, with a resulting contractual system that maximizes accountability to the county. The culmination of efforts is the Subcommittee approval of the Project Team recommendations. The purpose of this Board Letter is to share the key elements of this process and for Board approval of the Subcommittee recommendations.

Background: At the Board of Supervisors meeting of 7/14/09, the Board directed the formation of a Project Team and Subcommittee to address the procurement process for the solid waste franchise agreements that expire on June 30, 2011 for service zones 2, 4 & 5. Participants on the Project Team include representatives from the CEO's Office, Auditor-Controllers Office, County Counsel, Public Works and an outside solid waste consultant. The Subcommittee is made up of Supervisors Carbajal and Farr, who serves as chair.

The purpose of the Project Team and Subcommittee was to identify and evaluate the different procurement options for zones 2, 4 & 5 and to ultimately recommend a preferred procurement path to the Board. The goals of the procurement process were identified as attaining high quality services at competitive rates, with a contractual system that maximizes accountability to the County.

The solid waste franchises are some of the largest contracts the County has. Services provided in zones 2, 4 & 5 generate approximately \$11,200,000 annually for the contractors, or approximately \$90,000,000 over an 8-year term. Therefore it is incumbent upon the County to procure these contracts in a transparent manner, while exercising a thorough degree of due diligence in all phases of the decision making process. Since August of 2009, the Project Team has met 9 times, and has met with the Subcommittee on 3 occasions. Pursuant to the Brown Act, these meetings were publicly noticed, and all of the documents presented at the Subcommittee meetings were provided to the public at the time. They have also been posted on the County's web site at (<http://www.countyofsb.org/pwd/pwrrwm.aspx?id=18114>), along with other communications such as comments and proposals from the franchised haulers.

The Public Resource Code (40059) gives the County a large degree of flexibility in choosing both the types of solid waste services to be provided and the method of procurement. Consequently the process began with a very large number of procurement possibilities for both Zone configuration and procurement method. The Project Team and Subcommittee task was to narrow that large number of choices to a few recommendations for enhanced analysis. Attachments C-F illustrate the evolution of this process.

Zone Characteristics

The process began with a comprehensive description of the financial, historical and geographic characteristics of each zone. One conclusion that was drawn from this exercise was that Zone 2 on the South Coast and Zone 4 in the North County generated far less revenue than the other zones, a consideration with implications that we addressed in detail later in our deliberations. We also noted that the zones have evolved based on historical service providers that were formalized when the County initially established its franchised solid waste service system in 1997. Since that time, Zone 4 and Zone 5 service agreements were purchased by the same service provider, and Zone 2 has been diminished with the incorporation of Goleta.

Hauler Performance

We took a close look at the type and quality of the services provided by our franchised haulers. From September 2007 through February 2009, each hauler underwent a comprehensive audit that covered key reporting and performance requirements. The audit results were filed with your Board on July 14, 2009. Issues were identified for each of the companies and staff worked well with company representatives to resolve the issues very quickly. Another consideration was that all of the haulers exceed their diversion requirements, which is critical to the County's great success in meeting the stringent mandates of AB 939.

We also reviewed the 3 customer satisfaction surveys that were conducted in 1999, 2004 and 2009. Aggregating the results of these surveys yields a very impressive overall satisfaction level with both the office and field collection services in all zones. On a scale of 1-10, the overall satisfaction ratings by zone and averaging results from all three surveys are listed in the table below.

Zone 1: Marborg Industries	9.47
Zone 2: Allied Industries	8.93
Zone 3: MarBorg Industries	9.38
Zone 4: Waste Management	8.77
Zone 5: Waste Management	9.04

Lastly, a chart was compiled listing the basic and extra services that the haulers provide in each of their zones.(Attachment G) Hauler comments on this chart can be found at <http://www.countyofsb.org/pwd/pwrrwm.aspx?id=18114>. Based on the table, MarBorg provides the most extra services, followed by Waste Management and then Allied.

Options Available

A comprehensive listing of all possible zone configurations and procurement options available to the County was prepared by the Project Team (Attachment C). This information was presented to the Subcommittee on November 5, 2009, where the Subcommittee provided the following direction on four key issues:

Public vs. private service providers. The Subcommittee directed staff to design a collection system that provided for contracting collection services from the private sector, eliminating public operation of the collection system.

Franchise agreement options. (unregulated open market v. contractual agreements). The Subcommittee directed staff to continue with the County's present practice of pursuing exclusive franchise agreements with the private sector that are regulated by the County.

Zone configuration. The Subcommittee directed staff to analyze possible reconfiguration of the existing Zones.

Work cooperatively with other jurisdictions. The Subcommittee directed staff to meet with the City of Goleta and discuss the possibility of working together cooperatively to procure collection services.

Zone Configuration

Based on the feedback received from the Subcommittee at the November 5, 2009 meeting, the Project Team evaluated the zone configuration options in order to identify and eliminate the least desirable choices. In order to evaluate the configurations, the Project Team developed the following criteria and scoring/weighting scales.

Criteria

- *Quality service:* Zones should tap into marketplace forces that foster great service, innovation, and a proactive approach to meeting and exceeding all contract goals.
- *Competitive rates:* A sufficient customer and revenue base that would attract multiple proposers willing to make initial and ongoing investments in infrastructure, personnel and the community, and would lead to competitive rates.
- *Efficiency & economies of scale:* Service areas should be proximate to service yards and solid waste facilities to the extent possible, and the zones should be designed to maximize routing efficiency.
- *Ease of Implementation:* Consideration of potential administrative, legal and/or logistical realities that could impact the procurement process or subsequent program implementation.

Scoring and weighting scales

The zone configurations were ranked from 1 – 5 and the following weighting criteria were used:

- quality of services 35%
- competitive rates 30%
- efficiency 20%
- implementation 15%
- 100%

The zone configuration rankings (Attachment H) were presented at the January 21, 2010 Subcommittee meeting, where the Project Team received the following direction:

1. Move forward in the North County with two possible zone configurations: N1 (combine Zones 4 & 5 into one North County service area) & N2 (reconfigure Zones 4 & 5 into two more balanced zones considering revenue and where waste is disposed) (see Attachment A for specific boundaries), eliminating the rest.
2. Move forward on the South Coast with four possible zone configurations: S2 (keep the Zone 2 boundaries as currently drawn until 6/30/19), S3 (maintain the current Zone 2 and work with the City of Goleta to include their service area), S4 (merge the current Zone 2 with the current Zone 3 (now under an existing contract with MarBorg Industries) on 6/30/11) & S6 (combine Zone 2 with Zone 3 on 6/30/19 (when MarBorg's existing contract terminates), and eliminating the other options.

As a result of the Project Team's discussions about the procurement process and the importance of meeting the County's goals of quality service, competitive rates and program accountability, two requirements were identified and recommended to the Subcommittee. Both of these recommendations were approved by the Subcommittee at the January 21, 2010 meeting:

1. Limit terms for future agreements to 8 years for Zones 2, 4 & 5, and
2. Require a minimum of 2 service providers in the County unincorporated area.

As mentioned earlier, the County currently has two contracts with MarBorg Industries that may terminate as late as June 30, 2019. The ranking process illustrated the benefits of synchronizing the terms of each of the future agreements to June 30, 2019, therefore limiting the term of new agreements in zones 2, 4 & 5 to eight years. It is believed that synchronizing the termination dates would create a more competitive environment potentially enhancing quality of service and rates charged to customers. Requiring a minimum of 2 service providers maintains the competitive atmosphere that has served the County well in the past as each company has striven to provide new and expanded services in order to compete with neighboring companies in other zones. If this recommendation is approved by the Board, it will require a future amendment to Chapter 17 of the County Code.

Procurement Options

The California Public Resource Code gives a jurisdiction maximum flexibility in choosing the type of solid waste management services and the method used to procure services. Specific to the County, it should also be noted that the County's contracting policy encourages a competitive process for procurement of large contracts (Policy and Procedures Manual). Additionally, your Board has approved a policy for a 6% preference for local businesses for the purchase of goods. While this is a procurement for services, each of the existing three haulers would be considered to be local.

The three options presented by the Project Team to the Subcommittee were:

- Sole-source negotiation
- Open market competition (unlimited number of bidders)
- Competition limited to existing service providers

The following describes how the Project Team has defined these options and the associated pros and cons for each. The options include a recommended backup plan, where relevant, to enhance the County's goals of achieving quality service, competitive rates, and program accountability.

Sole-Source Negotiation

Description: Typically, sole-source negotiation is used when a jurisdiction chooses to extend an existing contract and negotiate with their existing service provider. It involves having good-faith negotiations regarding contract service changes and rates. However, the Public Resource Code would allow sole-source negotiation with any service provider of your choice.

For purposes of this procurement, we are suggesting a 90-day negotiation period after which it is at the County's sole discretion to continue negotiations or cease negotiations and distribute an RFP for open market competition.

Pros and Cons: If we negotiate with an existing hauler, a high quality of service could be achieved based on past performance; anticipated smooth transition into the future because companies already have yards and equipment in our community; and decreased leverage in service and rate negotiations.

Open Market Competition (unlimited number of bidders)

Description: Open market competition would involve the development of service and contract specifications included in an RFP that would be widely distributed to all interested parties. Interested parties would respond to the RFP including proposed services and rates. The intention would be to attract as many qualified service providers as possible. There would be multiple criteria used to evaluate the proposals, not based solely on price.

Pros and Cons: potentially get the best market price due to competition; less known quality of service if the provider has not served the County in the past, and less predictable transition to a new service provider.

Competition Limited to Companies Currently Providing Services in the Unincorporated County

Description: A competitive procurement limited to existing service companies would consist of the preparation of service and contract specifications included in an RFP that would be distributed to Allied Industries, MarBorg Industries, and Waste Management. The intention would be to attract proposals from all three existing franchisees, as they all have proven abilities to provide excellent service. There would be multiple criteria used to evaluate the proposals, not based solely on price.

If the County was not satisfied with the proposals received, it would be at the sole discretion of the County to cancel that procurement process and redistribute the RFP for open market competition.

Pros and Cons: possible smoother transition than an open bid, quality service with a known quality service provider; and competition should lead to better rates than sole-source negotiation.

The Subcommittee considered the three procurement paths described above in conjunction with the remaining Zone configuration options at their last meeting on February 5, 2010. A table containing the options that were considered is below. The options recommended by the Project Team and subsequently approved by the Subcommittee have a check within the relevant box.

Franchise Procurement & Zone Options

Subcommittee Recommendations

Procurement Options			
Zone Options	Regulated Franchise Agreements		
	Sole-Source Negotiation	Competitive Procurement (Open Bid)	Competitive Procurement (limited to existing providers)
	NORTH COUNTY		
	N2 - Combine 4 & 5	Waste Management	Open to all companies
			Allied Marborg Waste Management
	N3 - Reconfigure 4 & 5	Waste Management	Open to all companies
			Allied Marborg Waste Management ✓
	SOUTH COAST		
	S2 - Zone 2	Allied	Open to all companies
			Allied Marborg Waste Management
	S3 - Zone 2 with Goleta	Allied	Open to all companies
			Allied Marborg Waste Management ✓
	S4 - Merge Zone 2 w/Zone3	MarBorg	N/A*
			N/A*
	S6 - Merge All Zones	MarBorg	N/A*
			N/A*

* Would require early termination of contracts with MarBorg

Procurement Recommendations:

The following are the recommendations developed by the County's Project Team, with guidance provided by the Subcommittee, and ultimately approved by the Subcommittee. All materials related to these meetings can be found at <http://www.countyofsb.org/pwd/pwrrwm.aspx?id=2934>

1. Approve contract term limits of 8 years so that all contracts expire on June 30, 2019.

The County's Zone configuration and procurement choices are limited now by the fact that Zones 2, 4 & 5 are due to expire on June 30, 2011, while the contracts for Zones 1 & 3 on the South Coast have expiration dates as late as June 30, 2019. By syncing up all contracts with the same expiration date in 2019, the County would have maximum flexibility and leverage at that time to configure and procure solid waste services. By waiting to reconfigure the zones on the South Coast until 2019, the County can create a more competitive environment potentially enhancing quality of service and rates charged to customers.

2. Approve maintaining a minimum of 2 service providers in the County unincorporated area.

The County has been served well by the competition that exists between the current 3 solid waste service providers. Requiring a minimum of 2 providers in the system ensures that there will continue to be a competitive environment as no one hauler can acquire a monopoly of all of the franchised Zones.

3. Approve reconfiguring the service areas (zones 4 & 5) in the North County per Attachment A to create more balanced service areas

In the North County, we have the opportunity to reconfigure the zones any way we see fit as they both have contracts that expire June 30, 2011. One consideration is that Zone 4 is disproportionately small in terms of annual revenue (\$1.8 million), compared to Zone 5 (\$7.5 million). There was concern that Zone 4 by itself might not be economically viable to attract the kind of commitment and investment that would lead to the best service and prices in the procurement process.

On the other end of the spectrum, Zone 5 is disproportionately large in revenue. Hence the recommendation to reconfigure the North County so that we have 2 new Zones that were more balanced, with the new Zone 4 yielding approximately \$4.2 million in annual revenue and the new Zone 5 generating \$5.1 million. It was felt that this balance would inherently improve the competitive environment and thus improve our chances of a successful procurement outcome.

4. Approve maintaining the current Zone 2 boundaries on the South Coast and cooperating with the City of Goleta to the extent possible.

On the South Coast, efforts to reconfigure service zones are hampered by the fact that the Zone 2 contract is due to expire on June 30, 2011, while the contracts for Zones 1 & 3 have expiration dates as late as June 30, 2019. It was felt that something should be done to address the economic viability of Zone 2 (\$2.1 million in annual revenue compared to \$4.6 million for Zone 1 and \$5.7 million for Zone 3), and that the best time to do so would be in 2019, when all of the contracts were set to expire. At that point in time, the County would have maximum flexibility and leverage to configure and procure solid waste services.

In the interim, the Project Team recommended, and the Subcommittee approved, that the County work cooperatively with the City of Goleta to the extent possible, so as to maximize the economic attractiveness of the package, which would produce \$6.1 million in annual revenue as opposed to the \$2.1 million Zone 2 generates on its own. There are also potential cost savings to working with Goleta as we could share some of the project expenses. In the event that we were unable to work cooperatively with Goleta, two of the existing haulers have expressed a strong interest in Zone 2, so all indications are that we can still have a competitive process even without Goleta involved.

5. Approve competitive procurement paths for both the northern & southern service areas that limit competition to the 3 existing service providers (Allied Industries, MarBorg Industries, and Waste Management).

The Project Team and the Subcommittee felt that this option represents the best of both worlds in some respects. The County can benefit from the competitive aspects of an open bid, while minimizing the risks associated with unknown haulers by limiting the process to our local service

providers. This approach is consistent with the County's preference for a competitive process for contracts worth over \$100,000, and also is consistent with the local business preference as well. This path could lead to a smoother transition than an open bid, could provide quality service with a known quality service provider, and the competition should lead to better rates than sole-source negotiation.

The Project Team and Subcommittee have gone through a comprehensive process to develop the recommendations being made to your Board and recommend your approval of the recommendations for procuring solid waste collection services in Zones 2, 4 & 5 of the County unincorporated area.

Next Steps

After approval of a preferred procurement path by your Board, staff will

- evaluate any potential service changes,
- evaluate new or modified contract provisions,
- prepare Request for Proposals
- determine criteria for evaluating proposals
- return to your Board with recommendations for the above items

Since the initiation of the existing contracts in 1997, there have been changes in the solid waste management industry and there may be services that we will want to add to what is currently provided to our customers. Methods for evaluation will include researching programs in other jurisdictions and conducting surveys specific to our customer base, where relevant. Additionally, contract provisions have changed over the years specific to indemnification, insurance, assignment of contracts, employee training, etc. which will be reviewed by our Project Team.

At the February 5, 2010 Subcommittee meeting, members expressed an interest in the criteria used to evaluate the proposals. Potential criteria that were listed included:

- competitive rates,
- quality service,
- innovative diversion programs,
- environmental considerations,
- stable company, and
- good work environment.

The Project Team will research criteria used in other jurisdictions and make a recommendation to your Board when we return with any proposed service and contract changes.

Performance Measure:

It is anticipated that any new solid waste collection agreements would include performance specifications, customer satisfaction surveys and audits.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Work efforts associated with this project are provided primarily by existing staff. A consultant has been hired to assist in an advisory capacity at a total of \$25,000 for this fiscal year.

Staffing Impacts: None

Special Instructions: None

Attachments:

Attachment A: New Zones 4 & 5

Attachment B: Current Zones & Revenue Map

Attachment C: Unfiltered Table of Procurement & Zone Options

Attachment D: Procurement & Zone Options Post 11/5/09 Subcommittee Meeting

Attachment E: Procurement & Zone Options Post 1/21/10 Subcommittee Meeting

Attachment F: Procurement & Zone Options Highlighting Preferred Options

Attachment G: Hauler Basic & Extra Services

Attachment H: Zone Configuration Rankings

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