



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:** 05/24/2022  
**Placement:** Departmental  
**Estimated Tme:** 30 minutes  
**Continued Item:** Yes  
**If Yes, date from:** 5/10/2022  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Director(s) Scott D. McGolpin, P.E. Director, (805) 568-3010  
Contact Info: Leslie Wells, Deputy Director, (805) 882-3605

**SUBJECT:** Approval of Exclusive Franchise Agreements for Solid Waste Collection - All Supervisorial Districts

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the proposed Franchise Agreement Between County of Santa Barbara and MarBorg Industries, Inc. for Residential, Multi-Family and Commercial Solid Waste, Recyclables, Organics and Special Waste Collection Services for Zone 1, 2 and 3 effective July 1, 2022 and ending June 30, 2029 (Attachment A);
- b) Approve and authorize the Chair to execute the proposed Franchise Agreement Between County of Santa Barbara and Valley Garbage & Rubbish Co., Inc. DBA Health Sanitation Services/Waste Management for Residential, Multi-Family and Commercial Solid Waste, Recyclables, Organics and Special Waste Collection Services for Zones 4 and 5 effective July 1, 2022 and ending June 30, 2024 (Attachment B);
- c) Find that Resolution 21-120 is superseded by the rates established in the new franchise agreements;
- d) Authorize staff to issue a competitive Request for Proposals for Zone 4 and 5 for service beginning July 1, 2024; and
- e) Determine that approval of the proposed agreements are exempt from the California Environmental Quality Act, pursuant to 14 CCR 15301 (Existing Facilities), 15308 (Actions by Regulatory Agencies for the Protection of the Environment), 15311 (Accessory Structures) and 15273(a)(1),(2) and (4) (Rate, Tolls and Fares) and direct staff to file and post a Notice of Exemption on that basis.

### **Summary Text:**

The current franchise agreements for the exclusive right to collect solid waste from residential and commercial customers expire in County service zones 1, 2, 3, 4 and 5 on June 30, 2022. The County negotiated terms with existing haulers in Zone 1, Zone 2 and Zone 3 (MarBorg Industries) and Zone 4 and Zone 5 (Waste Management) for the continued provision of services and compliance with new State mandated diversion programs. Negotiations with both haulers began in earnest in February 2021. The MarBorg agreement was agreed to in principle in December 2021, with the Waste Management agreement following in March 2022. New rates for each zone are included as exhibits within each agreement. Hard copies of the agreements are available at the Clerk of the Board, 105 E. Anapamu Street in Santa Barbara and at the Fifth District Office at 511 E. Lakeside Parkway in Santa Maria.

### **Background:**

#### **Past Board Actions**

The following timeline provides actions taken to date:

- In April 2011, the Board approved new franchise agreements in Zone 2, Zone 4 and Zone 5 for the exclusive collection of solid waste materials, including trash, commingled recyclables, and green waste from residents and businesses in the County. These agreements had an expiration date of June 30, 2019. The agreements in Zone 1 and Zone 3 have exercised two four-year extension options and were also set to expire on June 30, 2019.
- In November 2018, the Board approved an extension to all five agreements for two years, with an option to extend a further 12 months upon mutual agreement of the County and the Contractor.
- In May 2020, the Board directed staff to form a Franchise Procurement Project Team to assist in the process of evaluating and pursuing options to provide for the collection of trash, recycling, green waste, and food waste from residents and businesses in the County unincorporated area.
- In December 2020, the Board approved the extension of agreements in all zones with an expiration date of June 30, 2022. The Board also acted on the recommendation of the Franchise Procurement Project Team and directed staff to enter into negotiations with the two existing franchised solid waste haulers, MarBorg Industries and Waste Management, to develop new agreements for waste collection services in each hauler's existing service zones upon the expiration of the current franchise agreements.

#### **Negotiation Process**

The County contracted with HF&H consultants to lead the negotiation process. The first meeting was held in February 2021 where staff shared a specific list of enhancements and State diversion mandate considerations, in particular SB 1383 which requires diversion of all organic material from disposal, to be included in the new agreements. Subsequent meetings were individually held with each hauler's representative(s) to negotiate terms appropriate for each collection zone. The meetings continued through December 2021. At that time, principle terms were agreed to with MarBorg, and the agreement was finalized in March 2022. Negotiations continued with Waste Management through March 2022, with the majority of the focus on their proposed increase in rates in January 2022. After a number of additional meetings, the Waste Management agreement was finalized in March 2022.

## **Service Provisions and Compliance Considerations**

Services that County ratepayers will receive as a result of these negotiations include:

- Weekly collection of green waste/organics for customers in Zone 4 and Zone 5 (currently bi-weekly)
- Four times per year collection of bulky items (offered twice per year now)
- Additional recycling containers at no charge for Zone 4 and Zone 5 customers
- Continued additional refuse and recycling collection for two weeks following the winter holidays
- Continued curbside collection of batteries
- Continued provision of postage-prepaid collection containers for sharps (hypodermic needles)
- Continued collection of illegally dumped material (up to a specified amount at County request)
- Customer outreach program; a dedicated outreach staff person will be hired by Waste Management for Zone 4 and Zone 5 (MarBorg already has a dedicated staff person that performs outreach).
- For customers in Zones 1 and 3, beginning in February 2023, a shift to automated collection of refuse and green waste from all homes in each zone and the provision of new automated containers for trash and green waste (recycling containers in Zones 1 and 3 already employ automated collection); customers enrolled in the automated collection system will be charged the lower automated rate (a 10% reduction from the non-automated rate).

To comply with the Short-Lived Climate Pollutant law (SB 1383), which went into effect on January 1, 2022, several items were incorporated into the agreements, including:

- Non-compliance complaint receipt, reporting, and investigation
- Universal enrollment assistance
- Contamination monitoring of trash, recycling, and organic containers
- Customer compliance reviews
- Compliant collection container colors
- Annual commercial edible food generator education

Approval of the agreements has been determined to be exempt from the California Environmental Quality act (CEQA) pursuant to CEQA Guidelines sections 15301, 15308, 15311 and 15273(a)(1), (2), and (4). The Franchise Agreements would continue existing collection agreements for municipal solid waste and recyclables and include the use of existing permitted facilities for waste disposal and waste management. The provision of additional collection containers, adjusted routes and compliance activities to address SB 1383 requirements for the collection of organics and the delivery of recyclables from Zones 4 and 5 to the County's ReSource Center would represent a negligible expansion of service. In addition, these services are in response to regulatory requirements for protection of the environment associated with solid waste management and reduction of short-lived climate pollutants from disposal of organics. The revised rates in association with the new agreements are also exempt from CEQA as they are for the purpose of meeting ongoing services, operational expenses, and the previously approved and permitted ReSource Center.

## **Rate Impacts**

MarBorg Industries agreed to keep rate increases in Zones 1, 2 and 3 to a minimum despite the new regulatory requirements of SB 1383 and the additional services outlined above. The County and MarBorg had previously phased in rate increases in these zones to cover the construction and operation

of the County's ReSource Center, which qualifies as a high-diversion organic waste processing facility. With the new agreement, residential rate increases in the MarBorg zones range between 4% and 7.5% depending on the zone and the size of collection container. MarBorg also agreed to discount rates by 10% for customers who subscribe to automated service in areas of Zone 1 and Zone 3 that are not currently automated. Commercial rates follow a similar distribution except for commercial recycling rates. These rates will increase between 22% and 27%, as they now reflect the full ReSource Center processing fee, which had not yet been fully phased in.

During negotiations, Waste Management contended that the margins under the current rate structure were not satisfactory. That fact, coupled with the increased SB 1383 requirements and moving from biweekly to weekly collection of residential organics, led Waste Management to propose a substantial increase to rates in Zones 4 and 5. The initial proposal from Waste Management resulted in an overall 50% increase in rates. Upon further negotiation, the County team was able to reduce the proposed increase by 24% overall. The *average* customer rate increase is as follows:

- Zone 4 – Lompoc Valley
  - Residential: 14%
  - Commercial: 37% (trash); 70% (recycling); 38% (organics)
- Zone 4 – Santa Ynez Valley
  - Residential: 10%
  - Commercial: 27% (trash); 72% (recycling); 17% (green waste)
- Zone 5 – Santa Maria Valley
  - Residential: 30%
  - Commercial: 67% (trash); 69% (recycling); 64% (organics)

#### **Zone 4 and Zone 5 Request for Proposal Authorization**

As described above, Waste Management requested a significant rate increase to perform services under the new agreement. The rate increase was proposed quite late in the negotiation process which left little time to pursue alternatives. This led to the term of the agreements for Zone 4 and Zone 5 to be reduced from seven years to two years (July, 1 2022 to June 30, 2024). Staff recommends that a Request for Proposal be authorized to determine market rates for service delivery in Zone 4 and Zone 5 in preparation for the expiration of Waste Management's agreement in June 2024.

#### **Performance Measure:**

The attached Franchise Agreements include specifications for a comprehensive package of solid waste collection services with specific provisions for conducting customer satisfaction surveys and audits, and the County's ability to assess liquidated damages for failure to provide services.

#### **Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

Narrative: Work associated with these negotiations has been led by a consultant (HF&H Consultants) in concert with County staff. Rates to be charged to residential and commercial customers under these agreements will be annually presented to the Board of Supervisors.

**Special Instructions:**

Please send a copy of the signed agreements to Leslie Robinson in the Resource Recovery & Waste Management Division at 130 E. Victoria Street, Suite 100 in Santa Barbara.

**Attachments:**

**Attachment A:** Franchise Agreement Between County of Santa Barbara and MarBorg Industries for Zone 1, Zone 2, and Zone 3.

**Attachment B:** Franchise Agreement Between County of Santa Barbara and Waste Management, Inc. for Zone 4 and Zone 5.

**Attachment C:** Notice of Exemption

**Authored by:**

Leslie Robinson, Program Manager, Resource Recovery & Waste Management Division, 805-882-3615