



Monterey County

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Board Report

Legistar File Number: A 14-277

December 09, 2014

Introduced: 11/25/2014

Version: 1

Current Status: Agenda Ready

Matter Type: BoS Agreement

Conduct a hearing to:

- a. Approve Amendment No. 4 to the Unified Franchise Agreement A-11631 between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County, effective January 1, 2015, in order to amend Exhibit 1 of the Unified Franchise Agreement to adjust collection rates, and to amend Section 6.06.7, Section 7.06.7, Section 12.03 and Section 13.15 of the Unified Franchise Agreement; and
- b. Approve and authorize the Director of Health to execute Amendment No. 4 to the Unified Franchise Agreement A-11631 between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County.

RECOMMENDATION:

It is recommended that the Board of Supervisors conduct a hearing to:

- a. Approve Amendment No. 4 to the Unified Franchise Agreement A-11631 between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County, effective January 1, 2014, in order to amend Exhibit 1 of the Unified Franchise Agreement to adjust collection rates, and to amend Section 6.06.7, Section 7.06.7, Section 12.03 and Section 13.15 of the Unified Franchise Agreement; and
- b. Approve and authorize the Director of Health to execute Amendment No. 4 to the Unified Franchise Agreement A-11631 between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County.

SUMMARY:

The Director of Health seeks authorization to execute Amendment No. 4 to the Unified Franchise Agreement A-11631 between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management) (Attachment A). The proposed Amendment No. 4 encompasses collection rate adjustments and amendments to Section 6.06.7, Section 7.06.7, Section 12.03 and Section 13.15 of the Unified Franchise Agreement as described below.

DISCUSSION:

On February 2, 2010, the Board of Supervisors awarded Unified Franchise Agreement A-11631 (UFA) to USA Waste of California, Inc., dba Carmel Marina Corporation (Contractor). Article 13.13ff, *Adjustments to Service Rates, Surcharges and Fees* (as amended December 13, 2011), states that "beginning on January 1, 2012 and annually thereafter, subject to CONTRACTOR'S compliance with all provisions of this Article, each Collection Service rate, fee or surcharge as set forth in Exhibit 1 to this Agreement shall be adjusted by the Refuse Rate Index (RRI) as set

forth in Section 13.13.1.” The basic components of the rate adjustment include changes in the Contractor’s operational cost, changes in the tipping fees charged by the Monterey Regional Waste Management District (MRWMD) and the Salinas Valley Solid Waste Authority (SVSWA), as well as changes in other fees charged by these agencies (e.g., SVSWA’s AB939 Fee). Tipping fees and any other fees charged by the landfills (e.g., SVSWA’s AB939 Fee) are both direct “pass-throughs” to the rate payers. Pursuant to Article 13.13ff, Contractor has submitted a request for rate adjustment.

The RRI methodology included as Exhibit 2 of the UFA, as amended December 10, 2013, was used to calculate the proposed rate adjustment as listed below (Attachment B) and has been used to amend Exhibit 1 “Approved Rates and Charges” of the UFA to adjust collection rates, fees and other charges (Attachment C) based on where the customer is located (Attachment D):

Rate Payers within MRWMD Boundaries	Rate Payers within SVSWA Boundaries
Residential, multi-family, and commercial cart	1.40% -0.76%
Multi-family bin, commercial bin, roll-off, and large venue events	1.40% -0.76%

For rate payers within the MRWMD boundaries, the 1.46% proposed rate increase reflects the change in the Contractor’s operational costs only as the MRWMD did not change its current tipping fee of \$51.75 per ton for CY 2015. Also the MRWMD does not charge any other fees to its member agencies.

For rate payers within the SVSWA boundaries, the proposed 0.76% rate ***decrease*** reflects the change in Contractor’s operational cost and changes in the County’s share of the SVSWA’s AB939 Fee. The AB939 fee is charged to the waste haulers as a flat fee based on the percentage of waste delivered to the SVSWA facility (Attachment E). The proposed rate adjustment reflects a \$21,143 decrease in the County’s share of the SVSWA’s AB939 Fee from \$369,550 in FY13-14 to \$348,407 in FY 14-15, which became effective July 1, 2014.

In addition, the 2014 UFA rate adjustment for customers within the SVSWA boundaries also included a one-time, retroactive adjustment to account for the initial six months of AB939 fee payments the Contractor made on behalf of the County during July through December of 2013, for a total of \$184,775, the equivalent of a tipping fee adjustment of \$5.58 per ton. The Contractor recouped this amount over the twelve months of the 2014 calendar year, and therefore the \$5.58 per ton retroactive element must be removed from the customer rate. Like the MRWMD, the SVSWA did not change its current tipping fee of \$67.00 per ton for FY14-15.

Amendment No. 4 would also amend UFA Section 6.06.7 and Section 7.06.7 to change the required frequency for the Contractor to conduct a site waste assessment with multi-family dwelling (MFD) cart and bin customers from at least every two (2) years to at least every three (3) years. This change is proposed to create consistency in the UFA with the required frequency for the Contractor to conduct a site visit with Commercial cart and bin customers.

Furthermore, Amendment No. 4 would amend Section 12.03 Funding of the Performance and Billing Review. The current language limits the use of up to \$70,000.00 to cover the cost of one (1) review during the initial term of the UFA and provides for an additional amount of up to \$70,000.00 for a second review if the UFA is extended. The new language would remove the

limitation of one (1) review during the initial term of the UFA and would allow for use of the \$70,000 amounts (\$70,000.00 during the initial term of the UFA and \$70,000.00 if the UFA is extended) for multiple reviews.

Lastly, Amendment No. 4 would amend UFA Section 13.15 Retroactive Adjustments. On December 13, 2011 (UFA Amendment No. 1), Article 13, Sections 13.13 through 13.14.2 of the UFA were amended to change the collection rate adjustment request timeline. The original UFA set the rate adjustments to go into effect each July 1st, beginning July 1, 2011. Amendment No. 1 changed the date when adjustments are to go into effect to January 1st, beginning January 1, 2012. Section 13.15 should have been amended to be consistent with Sections 13.13 through 13.14.2. The proposed amendment to Section 13.15 ensures consistency with Sections 13.13 through 13.14.2.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the Board Report and associated documents.

FINANCING:

There is no General Fund Contribution resulting from this Board action. Waste Management will continue to remit franchise fees, calculated at 10% of collected revenue, to the General Fund.

Prepared by: Teresa Rios, Management Analyst III, 8979

Approved by: Ray Bullick, Director of Health, 4526

Attachments:

- Attachment A - Proposed Amendment No. 4; on file with the Clerk of the Board
- Attachment B - Refuse Rate Index Calculations; on file with the Clerk of the Board
- Attachment C - Exhibit 1 Approved Rates and Charges Effective January 1, 2015; on file with the Clerk of the Board
- Attachment D - SVSWA and MRWMD Boundaries Map; on file with the Clerk of the Board
- Attachment E - SVSWA AB939 Fee Distribution Effective July 1, 2014; on file with the Clerk of the Board
- Attachment F - Unified Franchise Agreement; on file with the Clerk of the Board
- Attachment G - Amendment No. 1; on file with the Clerk of the Board
- Attachment H - Amendment No. 2; on file with the Clerk of the Board
- Attachment I - Amendment No. 3; on file with the Clerk of the Board

cc: Lew Bauman, County Administrative Officer
Charles J. McKee, County Counsel
Michael Miller, Auditor Controller
Mary Grace Perry, Deputy County Counsel