



Monterey County

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Board Report

Legistar File Number: 19-0079

February 26, 2019

Introduced: 2/14/2019

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Set a public hearing to consider and adopt Resolution to approve Amendment No. 8, effective retroactively on January 1, 2019, to the Unified Franchise Agreement (with a term of November 1, 2010 through June 30, 2020) A-11631 (UFA) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to amend Exhibit 1 - "Approved Rates and Charges" of said UFA to adjust rates in accordance with the UFA price index provisions; and
- b. Direct the Clerk of the Board to publish the Notice of Public Hearing in newspapers of general circulation to provide for County-wide Notice of Public Hearing on or before March 2, 2019.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Set a public hearing to consider and adopt Resolution to approve Amendment No. 8, effective retroactively on January 1, 2019, to the Unified Franchise Agreement (with a term of November 1, 2010 through June 30, 2020) A-11631 (UFA) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation, for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to amend Exhibit 1 - "Approved Rates and Charges" of said UFA to adjust rates in accordance with the UFA price index provisions; and
- b. Direct the Clerk of the Board to publish the Notice of Public Hearing in newspapers of general circulation to provide for County-wide Notice of Public Hearing on or before March 2, 2019.

SUMMARY/DISCUSSION:

The Director of Health requests the setting of a public hearing on March 12, 2019 at 1:30 p.m., and publication of notice of said hearing with [Proposed] Exhibit 1 - "Approved Rates and Charges" by the Clerk of the Board pursuant to Government Code Section 66016. Pursuant to the terms of the Unified Franchise Agreement A-11631 (UFA), the Director of Health will seek authorization to execute Amendment No. 8 to said UFA as previously amended pursuant to Amendment Nos. 1, 2, 3, 4, 5, 6 and 7 (collectively, UFA) between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.).

[Proposed] Exhibit 1 "Approved Rates and Charges" consists of Waste Management proposed rates for services and adjustments to current rates based on the Refuse Rate Index (RRI) (price index provisions) of the UFA. [Proposed] Exhibit 1 "Approved Rates and Charges" is published with the Board Report for the March 2, 2019 consent agenda (set hearing) item. Notice of Public Hearing with [Proposed] Exhibit 1 "Approved Rates and Charges" will be published in newspapers of general circulation on or before March 2, 2019 by the Clerk of the Board. In addition to the County's

publication of the [Proposed] Exhibit 1 “Approved Rates and Charges” for the February 26, 2019 consent agenda item, and publication of the Notice of Public Hearing with [Proposed] Exhibit 1 “Approved Rates and Charges” in newspapers of general circulation, Waste Management will be providing notice of the proposed rates by mail to its residential and commercial customers within unincorporated Monterey County. Further, this Board report, which includes the basis for the proposed rates, will be published on the County Health Department website which meets the minimum ten (10) day publication requirement in advance of the Public Hearing on the proposed rates.

The Director of Health seeks authorization to execute Amendment No. 8 to the Unified Franchise Agreement A-11631 (UFA) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation. Proposed Amendment No. 8 encompasses rate adjustments of 4.74% (3.6% plus a 1.14% retroactive element) for customers within the Monterey Regional Waste Management District (MRWMD) boundaries and 1.76% for customers within the Salinas Valley Solid Waste Authority (SVSWA) boundaries for existing collection services to be provided by Waste Management. This retroactive element adjusts an error by the vendor and allows for the capture of the increase in fees from January 1, 2019.

The original contract for these services was approved on February 2, 2010 when the Board of Supervisors awarded the exclusive franchise agreement (UFA Agreement A-11631) to Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management) per Title 10, Chapter 10.41 Solid Waste Collection and Disposal of the Monterey County Code. In accordance with article 13.13, Adjustments to Service Rates, Surcharges and Fees of said UFA, the Director of Health requests adoption of a resolution to approve Amendment No. 8 as previously amended pursuant to Amendment Nos. 1, 2, 3, 4, 5, 6, and 7 (collectively, UFA). Proposed Amendment No. 8 would amend Article 13, at Section 13.13 Adjustments to Service Rates, Surcharges and Fees to replace the existing Exhibit 1 “Approved Rates and Charges,” approved and adopted pursuant to the UFA dated February 9, 2010 as amended pursuant to Amendment Nos. 1, 2, 3, 4, 5, 6 and 7 with the new [Proposed] Exhibit 1 “Approved Rates and Charges,” which is attached and incorporated into proposed Amendment No. 8.

Amendment No. 8 affecting rates is being presented at this Public Hearing as required by Government Code Section 66016 which provides as follows:

- (a) Prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting.
- (b) Any action by a local agency to levy a new fee or service or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.
- (c) This section shall apply only to fees and charges as described in Sections 51287, 56383, 65104, 65456, 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

Consistent with essential public health service item 6) and pursuant to Title 10 - Health and Safety,

Chapter 10.41 - Solid Waste Collection and Disposal, MCC Section 10.41.030 - Mandatory collection. Subsection A. provides that, "...All solid waste shall be collected from every occupied residence, apartment, or business...at least once a week."

Further, MCC Section 10.41.030. Subsection B. Payment. provides that collection rates shall be established by the Board, as follows:

Residents... and owners of commercial and industrial businesses or the property owners of the property within the designated residential areas or the property on which such businesses are located shall pay the rates established by the Board.

While this work is not directly in support of a Monterey County Health Department 2018-2022 strategic initiative, it is in support of one (1) of the ten (10) essential public health services, specifically: 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Management has reviewed and approved this Amendment No. 8 as to form and legality. The Auditor-Controller's Office has reviewed and approved this Amendment No. 8 as to Fiscal Provisions.

FINANCING:

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

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Rob Durham, MA III, 8979

Approved by: Elsa Jimenez, Director of Health, 4526

Attachments:

Notice of Public Hearing is on file with the Clerk of the Board

[Proposed] Amendment No. 8 with [Proposed] Exhibit 1 "Approved Rates and Charges is on file with the Clerk of the Board

Amendment No. 7 is on file with the Clerk of the Board

Amendment No. 6 is on file with the Clerk of the Board

Amendment No. 5 is on file with the Clerk of the Board

Amendment No. 4 is on file with the Clerk of the Board

Amendment No. 3 is on file with the Clerk of the Board

Amendment No. 2 is on file with the Clerk of the Board

Amendment No. 1 is on file with the Clerk of the Board

Waste Management, Inc. Uniform Franchise Agreement is on file with the Clerk of the Board