

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING SECTION 10.41.090 OF THE MONTEREY COUNTY CODE TO CHANGE
PROCUREMENT REQUIREMENTS FOR SOLID WASTE FRANCHISE
AGREEMENTS**

County Counsel Summary

This ordinance amends Section 10.41.090 of the Monterey County Code, which outlines the County's solid waste franchise agreement standards. Specifically, this ordinance would remove the requirement that the Board of Supervisors may only approve a franchise agreement, or renew a franchise agreement, after an open and competitive process for the award of a franchise agreement. Public Resources Code section 40059 allows local governmental agencies to determine whether competitive bidding must be required for solid waste handling. As such, this ordinance removes the competitive bidding requirement as permitted under Public Resources Code section 40059(a)(2).

The Board of Supervisors of the County of Monterey hereby ordains as follows:

SECTION 1. FINDINGS.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. The California Integrated Waste Management Act of 1989 ("Act") and subsequent additions and amendments (codified at California Public Resources Code section 40000 *et seq.*) has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste collection within their jurisdiction.

C. Public Resources Code section 40059 provides that in administering the requirements of the Act, aspects of solid waste handling of local concern includes, without limitation, frequency of collection, means of collection and transportation, level of services, and whether the services are to be provided by means of nonexclusively, partially exclusive or wholly exclusive franchise, contract, license or otherwise which may be granted by local government under terms and conditions prescribed by the governing body of the local agency.

D. Pursuant to California Public Resources Code section 40059(a), the County has determined that the public health, safety, and well-being require an exclusive agreement to provide solid waste collection services and other requirements of the Act, without competitive bidding except for collection of materials excluded in the Monterey County Code.

E. The adoption of this ordinance is not a project under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) because it is an

administrative activity that will not result in direct or indirect physical changes in the environment. Specifically, this ordinance removes the requirement that franchise agreements for solid waste collection be competitively bid. This change will not impact the continued collection of solid waste in the service area in the same basic manner as there currently exists in the service area. It is simply an administrative change to the process of the Board of Supervisor's approval of a franchise agreement.

SECTION 2. Section 10.41.090 of the Monterey County Code is hereby amended to read as follows:

A. The Board may grant to persons the exclusive rights to collect solid waste within specific areas and to deliver all collected solid waste to a designated facility for disposal by means of a franchise agreement. The franchise agreement shall provide specific terms for the operation of the franchise, including the duration of the franchise, which shall not exceed fifteen (15) years, and the payment of a franchise fee. Unless otherwise expressly provided in the terms of the franchise agreement, the provisions of this Chapter, including obtaining a permit, apply to any franchise agreement approved pursuant to this Section.

~~B. The Board may only approve a franchise agreement, or renew a franchise agreement, after an open and competitive process for the award of a franchise agreement is completed as follows:~~

~~1. On approval by the Board, the County will solicit proposals from persons engaged in the collection of solid waste. Prior to the issuance of requests for proposals, the Director of Health shall establish objective criteria to be used in evaluating and selecting the preferred person. The request for proposals shall include the criteria. The Director of Health or his or her designee shall review all proposals and make such investigations, as the Director of Health deems necessary and appropriate to ensure that cost effective, quality service will be provided.~~

~~2. The Director of Health shall review and evaluate the proposals and recommend to the Board which, if any, proposer should be granted the franchise agreement. Upon the basis of the level of service proposed, proposed service fee, any historical evidence as to the quality of service, other evidence submitted and the results of any investigation, the Director of Health shall make a finding on the qualifications of each proposer. The Director of Health or his or her designee shall recommend to the Board who should be granted the franchise agreement on the basis of his or her findings.~~

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Glenn Church, Chair
Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM BY:

Kelly L. Donlon
Assistant County Counsel