



Legislation Details (With Board Report)

File #:	RES 20-159	Name:	Resolution UFA Amendment No 12
Type:	BoS Resolution	Status:	Passed - Health Department
File created:	9/18/2020	In control:	Board of Supervisors
On agenda:	9/29/2020	Final action:	9/29/2020

Title: Adopt a Resolution to:

a. Approve Amendment No. 12 to the Unified Franchise Agreement (with a term of November 1, 2010 through October 31, 2020), Agreement No. A-11631 (UFA or Agreement) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.), for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to extend the Agreement through June 30, 2025, adjust rates effective January 1, 2021 based on extending the Agreement through five (5) more years of operations and capital investments, modify the Refuse Rate Index for rate adjustments for January 1, 2022 and thereafter; approve and authorize the Director of Health to execute AMENDMENT NO. 12 to the Unified Franchise Agreement (Agreement No. A-11631) 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; and

b. Approve and authorize the Director of Health to execute Amendment No. 12 to the Unified Franchise Agreement (with a term of November 1, 2010 through October 31, 2020), Agreement No. A-11631 (UFA or Agreement) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.), for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to extend the Agreement through June 30, 2025, adjust rates effective January 1, 2021 based on extending the Agreement through five (5) more years of operations and capital investments, modify the Refuse Rate Index for rate adjustments for January 1, 2022 and thereafter.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Resolution, 3. Proposed Amendment No 12, 4. Amendment No 11, 5. Amendment No 10, 6. Amendment No 9, 7. Amendment No 8, 8. Amendment No 7, 9. Amendment No 6, 10. Amendment No 5, 11. Amendment No 4, 12. Amendment No 3, 13. Amendment No 2, 14. Amendment No 1, 15. Agreement, 16. Item No. 11 Completed Board Order and Resolution, 17. Item 11- MS PowerPoint Presentation (Presented at Hearing)

Date	Ver.	Action By	Action	Result
9/29/2020	1	Board of Supervisors		

Adopt a Resolution to:

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RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution to:

- a. Approve Amendment No. 12 to the Unified Franchise Agreement (with a term of November 1, 2010 through October 31, 2020), Agreement No. A-11631 (UFA or Agreement) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.), for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to extend the Agreement through June 30, 2025, adjust rates effective January 1, 2021 based on extending the Agreement through five (5) more years of operations and capital investments, modify the Refuse Rate Index for rate adjustments for January 1, 2022 and thereafter; approve and authorize the Director of Health to execute AMENDMENT NO. 12 to the Unified Franchise Agreement (Agreement No. A-11631) 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; and
- b. Approve and authorize the Director of Health to execute Amendment No. 12 to the Unified Franchise Agreement (with a term of November 1, 2010 through October 31, 2020), Agreement No. A-11631 (UFA or Agreement) between the County of Monterey and Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.), for the Exclusive Collection of Solid Waste and Recyclables in Unincorporated Monterey County to extend the Agreement through June 30, 2025, adjust rates effective January 1, 2021 based on extending the Agreement through five (5) more years of operations and capital investments, modify the Refuse Rate Index for rate adjustments for January 1, 2022 and thereafter.

SUMMARY/DISCUSSION:

The Director of Health, through the Board of Supervisors, set a public hearing for September 29, 2020 and directed publication of notice of said hearing with [Proposed] Amendment No. 12 by the Clerk of the Board pursuant to Government Code Section 66016. Pursuant to the terms of the Unified Franchise Agreement A-11631 (hereafter, "UFA" or "Agreement"), the Director of Health will seek authorization to execute Amendment No. 12 to said UFA as previously amended pursuant to Amendment Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 (collectively, UFA) between the County of Monterey and USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.).

[Proposed] Amendment No. 12 extends the term of the Unified Franchise Agreement with USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.) to midnight on June 30, 2025, adjusts rates for a one-time rate adjustment effective January 1, 2021 based on costs, including capital investments, to provide service to unincorporated Monterey County for five (5) years of operations, and modifies the Refuse Rate Index for the January 1, 2022 rate adjustment and those thereafter.

[Proposed] Amendment No. 12 was published with the Board Report for the September 15, 2020 consent agenda (set hearing) item. Notice of Public Hearing with [Proposed] Amendment No. 12 was published in newspapers of general circulation on or before September 19, 2020 by the Clerk of the Board. In addition to the County's publication of the [Proposed] Amendment No. 12 for the September 15, 2020 consent agenda item, and publication of the Notice of Public Hearing with [Proposed] Amendment No. 12 in newspapers of general circulation, Waste Management, Inc., provided notice of the provisions in Amendment No. 12 in the mail to its residential and commercial customers within unincorporated Monterey County. Further, this Board

report, which includes the basis for the proposed provisions, has been 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 Amendment No. 12.

The Director of Health seeks authorization to execute Amendment No. 12 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.

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, Inc.) 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. 12 to amend said UFA as previously amended pursuant to Amendment Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 (collectively, UFA). Proposed Amendment No. 12 would amend: Article 2. Term and Scope of Franchise, Section 2.01 Initial Term of Agreement, to extend the Agreement commencing on November 1, 2010 and terminating at midnight on June 30, 2025 for an additional five (5) years through midnight on June 30, 2025; Article 13.13.1 and Exhibit 1 to allow for a one time rate adjustment based on five (5) year operational needs; and Exhibit 2 to modify the rate adjustment effective January 1, 2022 and thereafter; Amend Article 13 to adjust rates to allow for a one-time rate adjustment effective January 1, 2021 to be able to provide five (5) years of planned service with capital investments as needed to provide continuous operations.

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 Manager has reviewed and approved this Amendment No. 12 as to form. The Auditor-Controller's Office has reviewed and approved this Amendment No. 12 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.

Prepared by: Rob Durham, Management Analyst III, 755-8979

Approved by:

Date: _____

Elsa Jimenez, Director of Health, 755-4526

Attachments:

Resolution is on file with the Clerk of the Board

[Proposed] Amendment No 12 is on file with the Clerk of the Board

Amendment No 11 is on file with the Clerk of the Board

Amendment No 10 is on file with the Clerk of the Board

Amendment No 9 is on file with the Clerk of the Board

Amendment No 8 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

Agreement is on file with the Clerk of the Board