



# County of San Mateo

## Inter-Departmental Correspondence

**Department:** COUNTY MANAGER: OFFICE OF SUSTAINABILITY

**File #:** 16-113

Board Meeting Date: 5/16/2017

**Special Notice / Hearing:** None

**Vote Required:** None

**To:** Honorable Board of Supervisors

**From:** Jim Eggemeyer, Director, Office of Sustainability

**Subject:** Recology Solid Waste Franchise Agreement Negotiation Update

### **RECOMMENDATION:**

Study session to receive an update by the South Bayside Waste Management Authority (SBWMA) regarding the potential Franchise Agreement extension with Recology San Mateo County for solid waste collection services for the Unincorporated Franchised Area and County Service Area No. 8 (North Fair Oaks) within the SBWMA service area, exclusive of West Bay Sanitary District.

### **BACKGROUND:**

The SBWMA provides garbage collection and recycling services for ten (10) cities, some of the County unincorporated areas and the West Bay Sanitary District. The Unincorporated Franchised Area (County Franchised Area) and County Service Area No. 8 (North Fair Oaks) is located within the SBWMA service area. The County Franchised Area is comprised of the following communities: Burlingame Hills, San Mateo Highlands and Baywood Park (Crystal Springs area of Baywood Park), Harbor Industrial, Devonshire Canyon, Palomar Park, Oak Knoll, Kensington Square, Emerald Lake Hills, Sequoia Tract, Peninsula Golf Club, and Trailer Rancho.

The SBWMA has contracted with Recology San Mateo County (Recology) to collect solid waste (recyclable materials, organic materials, and garbage) for their member jurisdictions, and South Bay Recycling (SBR) processes the materials collected at the Shoreway Environmental Center. The Board of Supervisors approved two agreements for these services on October 20, 2009, Resolution No. 070423, and the terms of these agreements are from January 1, 2011 through December 30, 2020.

Section 3.03, Extension of Term (Page 6 of 116, Franchise Agreement for Collection Services with Recology San Mateo County) allows for extension of the term of the agreement and the agreement states, "During calendar year 2017, the Parties shall meet and confer on the possible extension of the Term." The SBWMA is in discussions with Recology, well in advance of the expiration of the franchise agreement, which allows the SBWMA sufficient time for an open RFP process if an extension is not successfully negotiated by the end of this calendar year. The SBWMA staff has led

the negotiations with Recology for the extension of the Franchise Agreement. If an agreement is reached on the extension, each agency will adopt an amended Franchise Agreement. Without an extension, it will be necessary to issue a Request for Proposals for the solid waste collection services.

#### **DISCUSSION:**

SBWMA staff provided a presentation, staff report and recommendation to the SBWMA Board on April 27, 2017 to solicit feedback. The SBWMA Board had no additional requests of staff. A copy of the staff report and supporting documents are included as Attachments A-C.

As part of the negotiation process, the SBWMA Board created the Franchise Agreement Extension committee (FAX) with the primary tasks to:

- Develop an amended Model Franchise Agreement for presentation to the SBWMA Board of Directors meeting on April 27, 2017;
- Obtain and include feedback from the SBWMA Technical Advisory Committee (TAC) meeting on April 13, 2017; and
- Obtain Recology's total revenue requirement (cost) to perform collection services starting in rate year 2021 and establish a compensation adjustment methodology to govern the rate changes in future contract years.

Since November 2016, the SBWMA negotiation team held a special TAC meeting in January 2017, seven (7) Franchise Agreement Extension Committee (FAX) meetings, and seven (7) negotiation sessions with Recology. In addition, two (2) all-day negotiations sessions were held to finalize the negotiations. The FAX committee has recommended an extension to the existing franchise agreement (Attachment B).

Key components of the negotiations are summarized below:

#### **1. Term**

Recology has proposed the option of a ten (10) or 15-year term for the new Agreement and after considering the financial benefits of spreading the depreciation cost of a new collection fleet, the FAX committee recommended a 15-year term. At the end of the current contract, Recology's \$36.3 million collection fleet will be fully depreciated, however the company has indicated that it can continue to use the vehicles for two (2) to three (3) additional years. By agreeing to a 15-year term, and combining the use of the current and new vehicles for a longer term, the member agencies will benefit from reduced depreciation and interest expense (approximately \$1.7 million per year).

#### **2. Contractor Compensation**

The FAX committee recommended an agreement with a 2021 Base Contractor's Compensation of \$65,330,616 which assumes a 15-year term and includes depreciation expense for the replacement collection vehicles in rate year 2020 of the current Agreement. Based on these assumptions and subject to the adjustments described above, the Base Contractor's Compensation would:

- Increase 2.4% from 2019 to 2020 (instead of a -7% reduction built into current agreement);
- Increase 10.2% from 2020 to 2021; and
- Thereafter, adjustments would correspond to the changes in the selected indices plus service level changes (capped at 5% per calendar year).

#### **3. Amended Service Changes**

Residential and commercial customers will not experience any changes to their current collection services. However, there are four minor modifications to the Franchise Agreement for residential and

commercial services, which include:

A. Mixed Use Buildings: The amended agreement defines a new class of service Mixed Use buildings which contain commercial on the ground floor and residential above. The residential element of Mixed Use buildings will receive the services currently provided to multi-family customers and the commercial element of these buildings shall receive the services currently provided to commercial customers. In addition, Mixed Use and other multifamily and commercial customers with bins located below grade, or in locations that require Recology to pull the bin out to service, will incur an additional bin relocation services fee.

B. Bulky Item Collection: Residential customers will continue to receive up to two bulky item collection services annually without a charge, within one week of request on their next garbage and recycling day, however this service will be capped at 150 per day for all of the SBWMA (Recology currently makes approximately 120 bulky item collections per day), and if the number of requests exceeds 150 per day, Recology will roll the collection service date to the following collection day week (two weeks from request).

C. Abandoned Waste Collection: Member agencies will continue to receive abandoned bulky waste collection services but a cap of 30 pick-ups per day for the SBWMA service areas has been established. In the future, when the average number reaches 25 daily events, the SBWMA and Recology will meet to add collection resources and provide additional compensation to Recology or take some other action to respond to the increased demand.

D. Reporting: Recology's reporting requirements have been adjusted to streamline data collection and reporting.

#### 4. Decision-Making Process

The SBWMA Board accepted the FAX Committee Report on April 27, 2017, (Attachment B). The findings and recommendations are now being presented to the member agencies. The SBWMA Board will consider input from these member agencies on the amended model Franchise Agreement and extension at their May 26, 2017 meeting. If the SBWMA Board approves the extension and model agreement, a super majority, eight (8) of the member agencies must vote in favor of the motion for it to be approved. If the current contract is not extended by December 31, 2017, it will be necessary to start a Request for Proposals process to select the next collections service provider.

If the model Franchise Agreement is approved by the SBWMA Board, tentatively scheduled for May 26, 2017, the Office of Sustainability will initiate negotiations with Recology to resolve any service area specific franchise agreement terms unique to the County's franchised areas (Unincorporated Franchised Area and County Service Area No. 8 (North Fair Oaks)) in the SBWMA.

County Counsel has reviewed and approved the documents as to form.

#### **FISCAL IMPACT:**

There is no Net County Cost.

Garbage collection and disposal compensation costs for each member jurisdiction are calculated annually by SBWMA staff. SBWMA recommends an annual percent increase or decrease that is reviewed and then approved or modified by the governing body of each member jurisdiction after

holding a public hearing. The proposed Recology extension and the amended model Franchise Agreement from the SBWMA, proposes a 2.4% compensation cost increase from 2019 to 2020, and a proposed 10.2% compensation cost increase from 2020 to 2021 for solid waste collection services. This increase represents approximately 63% of the total overall costs to the rate payers. The remaining 37% of the costs are for South Bay Recycling (SBR) operations, and processing materials collected at the Shoreway Environmental Center.

The proposed compensation costs increases in the model agreement do not include any additional costs for modifying specific Franchise Agreement terms in the County's own negotiations with Recology or aligning the collections rates to actual costs of services for the two service areas (Unincorporated Franchised Area and County Service Area No. 8 (North Fair Oaks)).

#### ATTACHMENTS

Attachment A: SBWMA Staff Report to the SBWMA Board of Directors

Attachment B: Franchise Agreement Extension (FAX) Committee Final Findings and Recommendations Report

Attachment C: SBWMA/Recology Model Franchise Agreement, Summary of Modifications as of April 6, 2017