



County of San Mateo

Inter-Departmental Correspondence

Department: OFFICE OF SUSTAINABILITY

File #: 23-941

Board Meeting Date: 11/14/2023

Special Notice / Hearing: None

Vote Required: 4/5ths

To: Honorable Board of Supervisors

From: Carolyn Bloede, Director, Office of Sustainability

Subject: Exercising the Carry Forward Provision in Attachment K of the Adopted Amended and Restated Recology Franchise Agreement and Approving an Appropriations Transfer Request for the Unincorporated Franchised Area for Calendar Year 2024

RECOMMENDATION:

Recommendation to:

- A) Adopt a resolution authorizing the County Executive or designee to exercise the Carry Forward contract provision in the adopted Amended and Restated Recology Franchise Agreement, Attachment K (Adopted June 4, 2019, Resolution No. 076641) deferring the excess compensation adjustments above 5 percent for calendar year 2024; and
- B) Approve an Appropriation Transfer Request (ATR) in the amount of \$96,240 appropriating from account 40612- Non-General Fund General Reserves to Services and Supplies, to offset any increases for Recology in garbage and recycling rates in Unincorporated Franchised Area for calendar year 2024.

BACKGROUND:

The South Bay Waste Management Authority (SBWMA) is a joint powers authority formed by eleven local government jurisdictions. This authority owns and manages the Shoreway Environmental Center, and provides oversight, and support of service providers that collect, process and dispose of materials. Recology San Mateo County (Recology) is the current franchise holder and provides solid waste collection services to County Service Area No. 8 (CSA-8) and the Unincorporated Franchised Area (CFA) within the SBWMA service area (Burlingame to Menlo Park).

On October 20, 2009, the Board adopted Resolution No. 070423 which approved a franchise agreement with Recology to provide services for the collection of recyclable materials, organic materials, and garbage from January 1, 2011, through December 31, 2020. On June 4, 2019, the Board adopted Resolution No. 076641 approving the Amended and Restated Recology Franchise Agreement for an additional 15-year term expiring on December 31, 2035. For a link to the Board

On February 23, 2021, the Board adopted an Appropriations Transfer Request (ATR) No. ATR21-040 appropriating \$31,847 from Non-General Fund General Reserves to Services and Supplies to offset any increases for Recology in garbage and recycling rates in Unincorporated Franchised Area (CFA) for calendar year (CY) 2021. The effective CY 2020 rates were reaffirmed for CY 2021, and these same rates were also used in CY 2022.

The Amended Restated Recology Franchise Agreement, Attachment K, Section 5 (adopted June 4, 2019, Resolution No. 076641), allows for a possible Carry Forward of Recology's annual compensation adjustments above 5 percent. The purpose of this Carry Forward mechanism is to stabilize rate adjustments; it does not serve to reduce the amount of compensation due to Recology. The Board can elect in any rate year to exercise this deferral provision. The SBWMA's interpretation (memo to County from SBWMA, October 17, 2023) of the Carry Forward provision in the franchise agreement, it should be exercised individually by the governing body of the Member Agency at the time the governing body takes action to set proposed collection rates and issue Proposition 218 notices to the property owners.

DISCUSSION:

The County sets the proposed rates for solid waste, and recycling collection services in the County service areas. The Office of Sustainability (OOS) recommends the Board elect to exercise the Carry Forward provision in the adopted Amended and Restated Recology Franchise Agreement, Attachment K, to cap at 5 percent a portion of the increase for ratepayers for CY 2024 costs. The estimated amount deferred (carry forward) to the CY 2025 compensation is \$9,545.

According to Attachment K, if the County elects to defer some or all of the potential Carry Forward, then:

1. Recology's Compensation for the coming Rate Year (CY 2024) shall be deemed reduced to only allowing a 5 percent increase to certain indices, for purposes of County's obligation to adjust rates; and,
2. Recology's Compensation for the subsequent Rate Year (CY 2025) shall be increased by an estimated \$9,545 (which shall be the "Carry Forward") in the Contractor's Compensation and rate setting process for the subsequent rate year.

The SBWMA produced a final report reviewing "The 2024 Recology San Mateo County Compensation Application" dated September 21, 2023, this report identified an estimated shortfall of \$96,240 in the final CFA revenue reconciliation for rate year 2022. OOS recommends a transfer of funds from 40612- Non-General Fund General Reserves, to be used as payment of this shortfall, thereby preventing additional costs being added in the calculation of the CFA CY 2024 proposed rates.

County Attorney has reviewed and approved the Resolution as to form.

FISCAL IMPACT:

There is no direct impact to Net County Costs.

ATTACHMENTS:

1. Resolution Exercising the Carry Forward provision in Attachment K of the adopted Amended and Restated Recology Franchise Agreement (Adopted June 4, 2019, Resolution No. 076641) for Calendar Year 2024 for County Service Area No. 8 (North Fair Oaks Area).
2. Exhibit A, Appropriation Transfer Request