


DEPARTMENT OF PUBLIC WORKS

Quality, Excellence, Innovation

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DIRECTOR

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Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Public Hearing for a Bay Cities Refuse Service Rate Increase and Extension to Franchise Agreement

Dear Board Members:

- Accounting
- Airport
- Building Maintenance
- Capital Projects
- Certified Unified Program Agency (CUPA)
- Communications Maintenance
- County Garage
- Disability Access
- Engineering & Survey
- Flood Control & Water Resources
- Land Development
- Purchasing
- Real Estate
- Reprographic Services
- Road Maintenance
- Stormwater Program
- Transportation & Traffic Operations
- Waste Management

RECOMMENDATIONS: Hold a Public Hearing at 10:30 a.m. to consider approval of a Bay Cities Refuse Service rate increase of 6.93% (comprised of an 3.82% CPI request by Bay Cities Refuse Service and a 3.11% increase related to a new Regulatory Compliance Fee) for the Southern Marin Franchise Area No. 1; and 2) authorize the Board President to execute the second amendment to the Consolidated County Franchise Agreement for Solid Waste Collection and Removal Between the County of Marin and Bay Cities Refuse Service, Inc.

SUMMARY: Bay Cities Refuse Service has the exclusive franchise with the County of Marin for refuse and recycling in the Southern Marin Franchise Area No. 1, which encompasses two unincorporated areas in southern Marin. One area includes the houseboat communities of Waldo Point Harbor, Kappas Harbor, and Yellow Ferry Harbor. The second area is located just south of Sausalito to the Golden Gate Bridge and west to Fort Cronkite.

There are two components to the rate adjustment that would be seen by ratepayers:

1. A 3.82% Consumer Price Index-based increase.
2. In addition, the proposed rates would include a 3.11% increase to fund a Regulatory Compliance Fee (assessed at 3% of gross revenues) to cover the cost of the County's compliance with newer State laws and mandates including AB 341 (mandatory commercial recycling), AB 1826 (mandatory organics collection), and SB 1383 (methane mitigation, food waste reduction, etc.). The fee is proposed to be instituted in each of the four solid waste collection franchises the County holds with four different companies.

The proposed Regulatory Compliance Fee of 3% would be in addition to and separate from the existing base 15% Franchise Fee. The base Franchise Fee is used for ongoing activities including franchise oversight; customer service monitoring; supporting recycling, composting, and zero waste services at County facilities; recycling at the County Fair; and other activities. However, recent State solid waste legislation – predominantly focusing on reducing greenhouse gas emissions - necessitates additional resources.

The most significant piece of legislation requiring new activities by the County is Senate Bill 1383. The State of California passed SB 1383 - Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions - in September 2016 and is currently finalizing regulatory language. If the regulations remain significantly unchanged from the current draft, SB 1383 will require passing ordinances to align municipal code with the requirements of the regulations by January 1, 2022, specifically¹:

- Require that franchised hauler(s) provide organic waste collection services to all generators and that businesses must place organics containers next to garbage containers for customer use;
- Allow the assessment of penalties on waste generators according to the schedule given in the regulations;
- Enforce relevant CAL Green requirements for enclosure space and diversion; and
- Require self-haul and back-haul, including all haulers (except for residential and C&D) to source-separate organics, deliver organics for processing, and report annually cubic yards or tons diverted.

The regulations will also require amending contracts with haulers, potentially covering other requirements including:

- Food scraps are to be collected in the organics container or source-separated; if they are collected commingled with garbage, the garbage has to be processed to remove organics;
- Quarterly route audits on all collection routes to assess contamination and issue notices to generators if prohibited materials are found in garbage, recycling, and/or organics; and
- Standardize containers to black, blue, green, and yellow (garbage, recycling, organics, and food scraps (if applicable) respectively) and comply with labeling requirements by 2032, or when replacing containers, whichever is sooner.

The County will also need to implement an edible food program, including:

- Identification of generators and food recovery organizations;
- Education of generators and providing them lists of food recovery organizations; and
- Enforcing the requirement on edible food generators to deliver to either food-to-food recovery organizations or contract with a recovery organization to collect food. Food distributors and grocery stores must comply by 2022, and restaurants, hotels, and venues by 2024.

The County will need to comply with procurement requirements for Renewable Natural Gas and/or compost, as well as paper products.

¹ SB 1383 regulatory analysis summarized from R3 Consulting Group, Inc. 5/14/18 SB 1383 impacts public clients' memorandum.

Finally, there are significant penalties for non-compliance:

- For jurisdictions, \$500-\$5,000 per day, depending upon the violation; and
- For generators, jurisdictions will be required to assess penalties of \$50-\$500 for first violation, starting in 2024.

CalRecycle is not allowed to consider good faith effort in determining compliance. If sufficient funding is not obtained to implement required programs, this will be considered a violation; after 90 days, CalRecycle will begin assessing penalties according to the schedules set by the regulations.

Extension to Franchise Agreement

The attached, proposed extension reflects amending the existing Franchise Agreement for an additional three-year term with seven, County-held, one-year extension options. A term of three years was not picked arbitrarily. The three-year term was picked to be coterminous with potentially two other solid waste franchises held by the County. Please recall that in the West Marin Franchise (only under certain conditions), there is a possibility that that the County will pursue "putting out to bid" the West Marin Franchise for 2021.

Having this agreement be coterminous, potentially, with the term of the Franchise Agreement in West Marin and also with a third, separate agreement with Mill Valley Refuse Service could provide a larger, more attractive service area to attract more cost-competitive bidders should a scenario in which "bidding" out" multiple franchises is pursued.

Rates

The attached agreement provides for rates to be adjusted annually by the Bay Area All Urban Consumers CPI.

FISCAL IMPACT: There is an estimated revenue increase of approximately \$22,000 in General Fund franchise fees associated with the proposed rate increase and \$17,500 for the Regulatory Compliance Fee. As these budget adjustments are for FY 18/19, staff will work with the County Administrator to make the necessary budget adjustments for FY 18/19 as part of the monthly Budget Adjustment process. There are no other impacts by these actions to the General Fund.

REVIEWED BY:	<input type="checkbox"/> County Administrator	<input checked="" type="checkbox"/> N/A
	<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
	<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
	<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

Board of Supervisors
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Page 4 of 4

Respectfully submitted,


Steve Devine
Program Manager

Attachment:

1. Second Amendment to the Consolidated County Franchise Agreement for Solid Waste Collection and Removal Between the County of Marin and Bay Cities Refuse Service, Inc.

cc: Bay Cities Refuse Service
Qiana Davis, Accounting

