



Board Agenda Item 10

DATE: October 31, 2017

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Exclusive Service Area Program Amended Agreements

RECOMMENDED ACTION(S):

- 1. Adopt Resolution, finding that the continuance of the Exclusive Service Area Program is necessary to protect the public health, safety, and welfare of the residents of Fresno County.**
- 2. Approve and authorize the Chairman to execute amended and successor agreements with nine Exclusive Service Area Program haulers for the provision of solid waste, recyclable, green waste, and organic materials collection services through February 27, 2028.**
- 3. Provide direction to staff regarding the rate increases proposed by the Exclusive Service Area haulers in response to Senate Bill 1, the Road Repair and Accountability Act of 2017.**

Recommended action 1 reaffirms the Board's findings to support the continuation of exclusive service areas. Recommended action 2 authorizes the execution of nine Exclusive Service Area Program (ESAP) Agreements (Agreements), which will provide for the provision of waste and recycling related services through February 27, 2028. Recommended action 3 requests the Board provide direction to staff in regard to Senate Bill 1 (SB 1) and a proposal by the ESAP haulers to increase rates based on anticipated cost increases that may be borne by the haulers when SB 1 goes into effect on November 1, 2017.

ALTERNATIVE ACTION(S):

The Board may choose not to execute the amended and successor Agreements. Doing so may delay or suspend solid waste, recyclable, green waste, and organic materials collection services to County residents, and may cause the County to fall out of compliance with State regulations, subjecting the County to fines and an order of compliance.

The Board may also direct staff to extend one or more of the current Agreements for a period of less than ten years and continue contract negotiations on specific points, or issue a Request for Quotation for one or more of the 14 ESAP territories.

FISCAL IMPACT:

There are no Net County Costs associated with the recommended actions. Costs to administer the ESAP are funded by Assembly Bill 939 (AB 939) service fees remitted to County by the nine ESAP haulers. The work associated with this agenda item is budgeted in the Public Works and Planning - Resources Org 9015 FY 2017-18 Adopted Budget and funded by the AB 939 service fees.

DISCUSSION:

The County currently has 14 Agreements assigned to nine solid waste haulers for residential and commercial solid waste, recyclable materials, and green waste collection in the unincorporated areas of Fresno County. The Agreements will expire at midnight on February 26, 2018 unless extended.

In February, March, April, and October of 2015, January and November of 2016, and January of 2017, staff presented a series of workshops to the Board that addressed solid waste programs countywide, provided a history of actions taken by the Board, addressed regulatory issues and compliance, and discussed options available to the Board regarding the County's Agreements. At these meetings, the Board provided direction to staff to address boundary changes, competitive rates, efficiencies, contractual flow control, reporting, education, and countywide cleanup services during negotiations with the ESAP Haulers.

Consistent with the Board's direction, the recommended Agreements include provisions for maximum customer rates and rate adjustments, recordkeeping, reporting and contractual flow control, performance review, Agreement term, breach, default, and termination provisions. The amended and successor Agreements also incorporate Exhibits A through K which include scope of services, performance standards, liquidated damages, maximum rates, maps, and territorial description narratives.

Key provisions in the recommended Agreements include:

- A term of 10 years, with an end date of February 27, 2028
- The requirement that haulers provide a package of services that staff anticipates to be sufficient for the County to ensure compliance with State-mandated programs such as: Recycling diversion goals, AB 939; Mandatory commercial organics, Assembly Bill 1826 (AB 1826) and Residential organics, Senate Bill 1383 (SB 1383); as well as Mandatory Commercial Recycling, Assembly Bill 341 (AB 341)
- The requirement that haulers submit quarterly reports to the County on all unincorporated County controllable waste collected, diverted, disposed of, and landfilled
- The requirement that haulers submit quarterly reports to the County, which will include information regarding the number of customers subscribing to service, education and public outreach activities, and customer complaint logs
- The requirement that haulers remit to the County, on a quarterly basis, AB 939 service fees that fund the administration of the ESAP program
- The requirement that haulers pay all County-required surcharge fees, including the Solid Waste Management surcharge and the Southeast Regional surcharge (when applicable)
- Provisions for contractual flow control to American Avenue Disposal Site
- Two categories of rate adjustments: (1) unforeseen circumstances, including an increase in pass-through expenses (County surcharges, the AB 939 service fee, and County tipping fees), changes in scope of services and changes in law, and (2) changes in the Consumer Price Index (CPI)

The County will have the ability to coordinate rate adjustments, schedule audits, address back billing, address regulatory changes, and have access to proprietary customer/route data, which will be provided upon request by the County in case of default or at the end of the term of the Agreement. On October 19, 2017, staff submitted a Board Briefing Report that provides a summary of the negotiated points and related rate tables and maps.

Recommended Action No. 3

SB1, approved by the Governor on April 28, 2017, increases the excise tax on diesel fuel by \$0.20 per gallon and the sales tax on diesel fuel by 4% starting November 1, 2017. All nine ESAP haulers have submitted rate proposals to increase the solid waste collection rates based on the estimated fuel increase impacts of

SB 1. The lowest rate proposals ranged from 0.1% to 0.7% or \$0.08 to \$0.28 per household per month for cart customers, depending on service levels. The lowest rate proposals for bin customers ranged from 0.2% to 1.28% or \$0.34 to \$3.44, depending on service levels. (Attachment 1).

Staff directed its consultant, Abbe and Associates, LLC to assist in the review of the proposal by proceeding to: 1) review and analyze rate proposals submitted by ESAP haulers, 2) review and prepare a comparison of fuel prices from 2007 to current year, 3) review and assess ESAP rate increases on a percentage basis of the Consumer Price Index from 2007 to current year, and 4) submit findings addressing the foregoing to be included within this agenda item. The findings of the consultant are ".....the percentage increase in fuel costs attributable to SB1 is significantly lower than the CPI based increases, which include a fuel component of the energy index in the calculation of the CPI. The relatively minor impact of SB1 of between 0.1% and 1.28% may not warrant a rate increase and will likely be reflected in future CPI adjustments." (Attachment 2).

REFERENCE MATERIAL:

BAI # 7, January 31, 2017
BAI #6, November 15, 2016
BAI #14, January 26, 2016
BAI #23, February 24, 2015
BAI #15, March 10, 2015
BAI # 18, March 24, 2015
BAI # 19, April 21, 2015
BAI# 8, October 27, 2015

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment 1
Attachment 2
On file with Clerk - Resolution
On file with Clerk - Agreement with Allied Waste Services
On file with Clerk - Agreement with Granite Solid Waste
On file with Clerk - Agreement with Mid Valley Disposal
On file with Clerk - Agreement with Miramonte Sanitation
On file with Clerk - Agreement with Orange Avenue Disposal
On file with Clerk - Agreement with Peña's Disposal
On file with Clerk - Agreement with Tule Trash Company
On file with Clerk - Agreement with USA Waste of California
On file with Clerk - Agreement with Western Solid Waste

CAO ANALYST:

John Hays