



# CITY OF SANTA BARBARA

## CITY COUNCIL AGENDA REPORT

**AGENDA DATE:** November 19, 2013

**TO:** Mayor and Councilmembers

**FROM:** Environmental Services Division, Finance Department

**SUBJECT:** Public Hearing And Amendment Of Citywide Franchise With MarBorg Industries, Inc.

**RECOMMENDATION:** That Council:

- A. Hold a public hearing, as required by the City Charter Section 1401, regarding an amendment to the exclusive franchise for Citywide solid waste collection services with MarBorg Industries, Inc., a California Corporation; and,
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Exclusive Ten-Year Franchise for Citywide Solid Waste Collection and Disposal Services Granted by the City to MarBorg Industries, Inc., a California Corporation, on February 12, 2013 by City Ordinance No. 5608.

**DISCUSSION:**

On February 12, 2013, the City Council adopted Ordinance No. 5608 granting an exclusive ten-year franchise for Citywide solid waste collection and disposal services to MarBorg Industries, Inc. (MarBorg). Exhibit 4 to the Agreement requires MarBorg to achieve the following diversion thresholds on behalf of the City:

1. Weight-Based Diversion: increase the City's weight-based diversion rate by 1 percentage point per year throughout the ten-year term of the Agreement; and,
2. Volume-Based Diversion: work with certain large business and multi-unit residential customers to ensure that within 5 years, at least 30% of the customer's curbside container volume is comprised of "diversion services" including commingled recycling, greenwaste and foodscraps service.

During contract negotiations, City staff and MarBorg staff calculated that working with these customers to migrate thousands of yards of trash to diversion services would concurrently divert a substantial number of tons of waste from the landfill, thus satisfying the weight-based diversion requirement described above. Recently however, City staff

and MarBorg staff realized the following errors exist in the language of Exhibit 4 to the Franchise:

1. An incorrect weight value for commingled recyclables (125 pounds per yard instead of 46 pounds per yard) was used to derive the weight-based diversion requirement; and,
2. The timelines to achieve the volume and weight-based Diversion Requirements are inconsistent (5 years versus 10 years).

To correct these errors, staff recommends that Exhibit 4 of the February 2013 Franchise be amended to correct these errors as shown on the proposed amendment (Exhibit A) attached to the proposed ordinance.

### **Effect of the Proposed Amendment**

The proposed amendment to Exhibit 4 results in the following outcomes:

- The volume-based diversion requirement does not change;
- The weight-based diversion requirement is re-calculated from 1.0% per year to 0.3% per year to accurately reflect the weight of commingled recyclables to be diverted from landfill disposal;
- The timeline to achieve both the weight and volume-based diversion requirements is set at five years; and,
- The diversion requirements set forth in Exhibit 4 align with the financial model used during negotiations to set customer rates. The proposed amendment does not result in any change to customer rates or in compensation paid to MarBorg.

### **Public Hearing**

On October 23, 2013, staff presented the proposed amendment to Exhibit 4 to the Solid Waste Ad Hoc Committee. The Committee directed staff bring the Resolution of Intent to Amend the Franchise Agreement to the City Council at the earliest opportunity.

On October 29, 2013, pursuant to Section 1401 of the City Charter, Council adopted a resolution declaring its intent to amend the ten-year exclusive franchise for Citywide solid waste collection and disposal services granted by the City to MarBorg on February 12, 2013 by City Ordinance No. 5608.

The Charter also requires the City Council to hold a noticed public hearing before amending a franchise. The purpose of the hearing is to allow any person who wishes to protest the amendment an opportunity to do so. The hearing was properly noticed in a newspaper of general circulation in accordance with Section 1401 of the City Charter.

**Adoption of Ordinance**

Following the public hearing, staff recommends that the City Council adopt an ordinance to formally amend the exclusive franchise with MarBorg in accordance with Section 1401 of the City Charter. As mandated by Charter § 1407, the adoption of the ordinance requires the affirmative votes of five members of Council.

**BUDGET/FINANCIAL INFORMATION:**

The recommended action would have no financial impact to the City, to MarBorg or to City ratepayers.

**SUSTAINABILITY IMPACT:**

Consistent with the original language of the Franchise Agreement, the proposed amendment would migrate thousands of yards of trash to diversion services, fulfilling the explicit requirements set forth in State Law, including Assembly Bill 939 and more recently, Assembly Bill 341.

**PREPARED BY:** Matt Fore, Environmental Services Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office



# Public Hearing to Amend Franchise Agreement

**City Council  
November 19, 2013**



# Purpose of the Amendment

- ◆ Revise two elements of the existing Franchise Agreement:
  1. Re-calculate the weight-based diversion requirement; and,
  2. Adjust the timeline to achieve diversion targets

# ISSUE #1

## Volume Versus Weight

- ◆ What is “Diversions?”
  - Physical movement of recyclables from trash container to recycling container
- ◆ Weight = density
  - Trash: Average of 125 lbs per yard
  - Recyclables: Average of 46 lbs per yard
- ◆ Volume = physical space occupied
  - E.g. 65 gallons of greenwaste



# Existing Contract Language

- ◆ Curbside Volume: work with Business and Multi-Unit Residential customers to ensure that 30% of all curbside containers are dedicated to diversion services
  - Blue Recycling container
  - Green Greenwaste container
  - Yellow Foodscraps container



# Existing Contract Language

## ◆ Weight:

- Increase Citywide diversion rate by one percentage point (1%) per year
- MarBorg and City staff calculated that 30% curbside diversion would largely satisfy the 1% weight requirement



# Reason for Amendment

- ◆ Incorrectly assumed that a yard of trash weighs the same as a yard of recyclables
  - Trash: 125 lbs per yard
  - Recyclables: 46 lbs per yard
- ◆ Achieving 1% per year diversion by weight was not intended nor is it realistic

# ISSUE #2

## Timeline to Achieve Diversion

- ◆ Intent was for diversion to occur during the first five contract years
- ◆ Existing contract requires weight-based diversion increase of 1% per year (for ten year contract term)

# Proposed Amendment

Corrects the Following Errors:

1. Weight: uses correct weight of recyclables (46 lbs vs. 125 lbs)
2. Timing:
  - Sets weight-based diversion and volume-based diversion on the same time interval (5 years)
  - Evaluate compliance after one full year has elapsed

# Proposed Amendment Summary

	Annual Diversion by Weight	Total Diversion by Volume	Time Horizon	Total Diversion by Weight
Existing Language	1.0% per year	30% diversion for Bus and MUR Customers	10 years	10%
<b>Proposed Amendment</b>	<b>0.30% per year</b>	30% diversion for Bus and MUR Customers	<b>5 years</b>	<b>1.50%</b>



# Effect of Proposed Amendment

- ◆ 30% curbside volume recycling requirement does not change
- ◆ Weight-based diversion is re-calculated and corrected
- ◆ Diversion requirements aligned with agreed upon rate model
- ◆ City still positioned to meet current and future diversion mandates



# Recommendation

1. Hold Public Hearing; and,
2. Adopt Ordinance to Amend Franchise Agreement