



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 20, 2012

TO: Mayor and Councilmembers

FROM: Environmental Services, Finance Department

SUBJECT: Update on Status of Solid Waste Franchise Negotiations With MarBorg

RECOMMENDATION:

That Council hear a staff report about the status of negotiations with MarBorg Industries in preparation for a subsequent Resolution of Intent to award a new ten-year solid waste franchise.

EXECUTIVE SUMMARY:

On December 13, 2011 Council directed the Finance Director to enter into sole source negotiations with MarBorg Industries ("MarBorg") for a Citywide Solid Waste Franchise Agreement. Staff from the City and MarBorg have subsequently reached a tentative agreement to terms for a new Citywide franchise. The purpose of the presentation today is to update the Council on the negotiations and present the tentative deal terms in preparation for the franchise adoption process.

Through negotiations with MarBorg we have been able to achieve an agreement that will be significantly more beneficial for the City and rate payers than MarBorg's initial proposal. The agreement includes:

- Acceptable rates for customers that provide for a reasonable profit to MarBorg, similar to what the City could likely expect to achieve through a competitive RFP process;
- Desirable new services for customers and the City;
- Maintenance of City fees and program support necessary for operations;
- A rate structure in the business and multi-unit residential sectors that provides for increased rate stability, while still providing adequate rate incentives for diversion; and
- Important new diversion programs that will both help the City meet anticipated future state mandates and divert 10% more waste to into source separated diversion programs by 2023.

At an October 2012 meeting, the Zone One Solid Waste Franchise Ad Hoc Subcommittee gave its support to the agreement terms.

The cost of the agreement is estimated to be \$16,790,736 per year, subject to variations in customer subscription levels, and will be increased annually by a CPI adjustment and any adjustment to tipping fees. The cost will be fully funded through the rates charged to solid waste customers.

DISCUSSION:

Background

Since 2003, the City has had two “zones” for solid waste collection and disposal in the business, multi-family residential, and single family residential sectors. These are the two largest contracts the City has with a private vendor. Collectively, these contracts are worth approximately \$16 million per year to the hauler(s).

On November 23, 2010, staff recommended beginning a competitive Request for Proposals process for collection services in Zone One because the City’s franchise contract with Allied Waste Services of North America, LLC (“Allied”) was set to expire on June 7, 2013. Only Zone One was to be included in this process because MarBorg, the hauler for solid waste Zone Two, still has two 5-year options in its current agreement that allow it to continue to provide service in Zone Two until June 2023.

Subsequently, Allied agreed to sell substantially all of its Santa Barbara interests to MarBorg. On July 12, 2011, Council approved the assignment of the existing Zone One agreement to MarBorg, effectively consolidating the City’s solid waste operations in both zones under one hauler. Also on July 12, 2011, Council invited MarBorg to submit a preliminary proposal for the provision of solid waste collection service in the City’s solid waste Zone One beyond the current franchise term. Council tasked staff and the Zone One Solid Waste Franchise Ad Hoc Subcommittee to evaluate the proposal, with the assistance of HF&H Consultants (HF&H), to determine whether or not the City should move forward with an open competitive procurement process for Zone One.

MarBorg submitted its proposal on September 12, 2011. The proposal consolidated the entire City into a single franchise area, and proposed significant rate and service changes in both zones. While many of the proposed changes were desirable, the proposal was not acceptable overall. Some of the major concerns that staff had with the initial proposal were:

- The need for lower rates than proposed for the proposed service levels and programs;
- The need to retain fees and service support needed for City operations that would have been eliminated in MarBorg’s proposed rates;

- The need for increasing diversion commitments and diversion guarantees to help the City keep pace with current and increasing State mandates, which were not included in the proposal;
- The proposed rate decreases in the single family residential sector paid for through a shift of revenue burden from the single family residential sector to businesses and multi-unit residential rate payers; and
- The proposed rate restructuring, which would reduce many of the financial incentives for diversion in the business and multi-unit residential sectors, significantly increasing rates for high diverters, and potentially negatively affecting diversion levels.

On December 13, 2011, staff and the Zone One Solid Waste Franchise Ad Hoc Subcommittee recommended that Council suspend the competitive procurement process and enter into sole source negotiations with MarBorg for a Citywide franchise agreement, subject to certain conditions, with the goal of achieving the best deal possible for City residents and businesses. On February 28, 2012, MarBorg having met those conditions, Council approved an Exclusive Right to Negotiate Agreement with MarBorg, as well as a list of key negotiation issues.

Negotiations

Staff met approximately weekly with MarBorg over many months in negotiation. Staff also met on nine additional occasions with the Zone One Solid Waste Franchise Ad Hoc Subcommittee to provide negotiation updates and receive policy guidance.

During negotiations, after consideration of available options, the Ad Hoc Committee concurred with the following staff recommendations:

- Negotiating a rate structure that retained approximately half of the overall reductions in the single family residential sector proposed by MarBorg, reducing the revenue shift to the business and multi-unit residential sectors.
- Negotiating a rate structure that provided for a decrease in business and multi-unit residential diversion incentives from 70% (dumpsters)-85% (carts/cans) down to 50% for all types of diversion services.
- Negotiating a single blended rate for backyard or curbside service, based on consideration of the pros and cons of a curbside discount;
- Negotiating new diversion programs targeted to increase overall franchise diversion by at least 1% of the waste stream per year over the term of the franchise, with a focus on businesses and large multi-unit residential complexes that are likely to be the subject of future State regulation.
- Negotiating an agreement that would maintain the level of City fees and program support necessary for City operations, including revenue from the October 2011 business rate increase and support for Looking Good Santa Barbara and Public Education.

The negotiations process was very collaborative. Negotiations involved a thorough review of all of the structural and service changes that the City wished to achieve with

MarBorg. The City hired David Davis from MSW Consultants, who is a cost accountant and an expert in solid waste macro- and micro-economics, to audit MarBorg's financial reports related to the City's franchise to determine its profitability. City and MarBorg staff also performed joint route surveys on MarBorg trucks and compared historical data to come up with various assumptions based on real operations. Rate scenarios were run through various models, both City's and MarBorg's, to ensure that revenue assumptions were sound.

Deal Points

Under the tentative agreement, the new franchise would become effective upon the expiration of the current Zone 1 franchise in June 2013. A full list of the agreed upon deal points is attached as ATTACHMENT 2. These deal point include:

- *New Services*

Most of the new services were included in MarBorg's September 2011 proposal: increased free recycling and greenwaste for single family residential customers; additional free bulky waste pick-ups, and new battery, cell phone, and medical sharps programs for single family residential and multi-unit residential customer, replacement of current diesel trucks with compressed natural gas (CNG) vehicles, etc.

- *Diversion Programs*

The agreement will include new minimum diversion capacity requirements in large multi-unit residential facilities and businesses that are currently subject to AB 341 goals and likely to be the subject of upcoming mandates. Additionally, MarBorg will be responsible for increasing overall diversion from franchised operations, currently 39%, by one percent in each year of the franchise, ending at 49% by the end of the franchise term.

- *Financial Terms*

- The rates proposed for new services at the current cost of living and tipping fees are attached as ATTACHMENT 1. These rates will become effective July 1, 2013 as increased by the regular CPI increase and tipping fee increase for the new fiscal year, which have not been determined at this time.
- The new rates will generate hauler revenue at an estimated 8% profit averaged over the 10 year term, which both HF&H and MSW Consultant advised staff was a reasonable profit margin for a ten-year solid waste franchise and comparable to what the City might achieve through a competitive process. The rates are also designed to compensate the hauler for expected revenue impacts of new diversion programs and for the increased cost of new services and the new CNG vehicles. However, as with prior agreements with solid waste haulers, no level of profit is guaranteed.
- Fees retained by the City from the proposed customer rates will be at current levels, and sufficient to support the Solid Waste Fund and Environmental Services operations.
- In consideration of the grant of the new franchise, for the rest of Fiscal Year 2012, MarBorg has agreed to permanently forgo the July 2012 CPI increase under its existing franchise agreements, and continue the \$300,000 annual

concession it made in Fiscal Year 2012 through Fiscal year 2013 to assist with the revenue decline in the business sector.

Customer Bill Impacts

In the single family residential sector, in spite of the new services offered, rates for all customers will be less than they would be under the current agreement because of the permanent waiver of the July 2012 CPI increase which would otherwise have been implemented for the current fiscal year and included in rates. Because of the additional free recycling and greenwaste, 45% of single family residential customers will see rate reductions.

The impact on bills for businesses and multi-unit residential customers will vary. Some customer bills will decrease or stay the same, but many will increase, some significantly. This is primarily due to the reduction in the diversion incentive to 50%. Rates for businesses and multi-unit residential customers will also be affected by the shift of revenue from the single family residential sector and the cost of new services and diversion programs.

In the multi-unit residential sector 35% will see decreases or no increase, 49% will see increases of 1%-15%, and 16% of customers will see increases greater than 15%. In the business sector, 31% of customers will see decreases or no increase, 53% of customers will see increases of less than 25%, 10% of customers will receive increases of 25-50% and 6% of customers will see increases of over 50%. An analysis of rate impacts on customer bills by sector is included as ATTACHMENT 3.

The reduction in the diversion incentive will increase revenue stability from these sectors, but customers who divert the most will see the greatest rate increases. On the other hand, the diversion change for businesses merely reverses the significant rate decreases for diversion services that customers received in 2009, when diversion incentives were increased from 50% to 85%.

Next Steps

Staff is working with MarBorg and the City Attorney to finalized franchise contract documents. Staff plans to return to Council on or around December 11, 2012 with these documents and a resolution of intent publicly announcing the City Council's consideration of the possible franchise between Marborg and the City that includes the full terms of the proposed agreement described in this Agenda Report. As required by Article 14 of the Charter, Council would need to hold a public hearing on this proposed franchise award no sooner than 20 days and no later than 60 days after the adoption of the resolution of intent. This hearing is tentatively scheduled for January 8, 2013. Following the public hearing, Council could approve the proposed franchise agreement and adopt the required city ordinance, which requires super-majority approval.

BUDGET/FINANCIAL INFORMATION:

As this is simply an update to Council, no action is being taken to today that will affect finances. However, should the tentative agreement with MarBorg ultimately be approved, it will cost an estimated \$16,790,736 per year, subject to variations in customer subscription levels. This is approximately \$670,000 higher than the current cost for services, however the cost for existing services under the agreement will actually be lower. The increase to the hauler compensation is due to 1) new services and more expensive CNG vehicles; and, 2) an adjustment for the expected loss in future revenue MarBorg will experience due to migration from trash to less expensive diversion containers as a direct result of new diversion requirements, which MarBorg will need to absorb under the agreement.

All costs will be paid for by rates charged to solid waste customers. The rates listed in Attachment are based on current conditions, and will be increased prior to implementation on July 1, 2013 by the CPI and tipping fees increases that have been standard under the City's hauler contracts.

SUSTAINABILITY IMPACT:

Sustainability improvements under the new agreement will include increased diversion from the landfill due to two new diversion programs in the business and multi unit residential sectors and increases in free recycling and greenwaste in the single family residential sector. The agreement also calls for the replacement of all current diesel vehicles with compressed natural gas, reducing air quality impacts.

ATTACHMENT(S): 1. New Rates
2. Tentative Agreement- Deal Points
3. Impact on Customer Bills

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SUBMITTED BY: Bob Samario, Finance Director

APPROVED BY: City Administrator's Office

CITY OF SANTA BARBARA

Attachment 1

Single Family Residential Rates

1 of 1

October 17, 2012

CITY PROPOSAL - GROSS RATES - FEES INCLUDED

	Service Category	Rate
RESIDENTIAL	32 gallon refuse	28.14
	64 gallon refuse	33.83
	96 gallon refuse	37.00
	128 gallon refuse	40.13
	Additional 32 gal refuse	7.46
	Additional 32 gal green	2.00
	Distance 100-150	3.99
	Distance 150+	24.18
	slope	3.10
	Backyard cart -per cont.	8.44
	1.5 Yd Green Dumpster	19.01
	2 Yd Green Dumpster	25.34
	3 Yd Green Dumpster	38.02
4Yd Green Dumpster	50.70	

**Tentative Agreement
Deal Points 10-17-2012**

Unless specifically proposed to be changed, below, terms under the contract will be the same as under the current MarBorg Zone 2 as modified by MarBorg's proposal to the City of September 2011, allowing for mutually agreeable modernization of language and other changes. The deal points below are for purposes of reaching conceptual agreement and are not meant to constitute contract language. Approval to these terms subject to subsequent agreement between negotiators to a comprehensive franchise agreement document, and final approval by MarBorg's Board of Directors and the City Council.

Issue	Proposal
Term	There will be two portions of the agreement, the Transition Plan and the new Franchise Agreement. The Transition Plan will become effective 30 days following adoption by ordinance of the award of the franchise to MarBorg. The new franchise terms for both zones will become effective upon expiration of the current franchise agreement for Zone 1 (midnight on June 7, 2013). As of that date, the new agreement will replace the existing agreement for Zone 2. The new agreement will expire at midnight on June 7, 2023.
Compensation to MarBorg	New rates will be effective July 1, 2013 as proposed and as adjusted for CPI and tipping fee for Fiscal Year 2014 pursuant to the contract. Until the new rates become effective, compensation to MarBorg will continue at existing rates, including the business sector revenue guarantee. MarBorg will continue its revenue concession totaling \$300,000 to the City, which was originally negotiated and enacted for Fiscal Year 2012, for Fiscal Year 2013. [Concession payment may be made by a lump sum payment, or through reductions to monthly payment to MarBorg from the City]
Agreement on Recycling Revenue Sharing	The City and MarBorg will enter into negotiations for a separate agreement regarding the sharing of any revenues derived from the sale by MarBorg of comingled recyclables or any other materials collected pursuant to the franchise agreement. Such negotiations may begin at any time, however the City agrees that the effective date of any revenue sharing arrangement will not be earlier than January 1, 2014.
July 2012 CPI	As proposed by MarBorg, there will be no CPI adjustment for

increase	July 2012. The first CPI increase would be July 1, 2013.
Adjustment for Significant Decline in Profit	If, no sooner than 60 months after the effective date of the agreement, MarBorg demonstrates to the satisfaction of the City's Finance Director that the franchise has become structurally unprofitable over the long term, MarBorg may request that the City consider a special rate increase. MarBorg will reimburse the City for the full cost of outside auditing services to evaluate such request. Approval of such rate increase will be at sole discretion of the City Council.
Single Family Service	<p>Service will be provided as current, with enhancements proposed by MarBorg in September 2011 proposal.</p> <p>[E.g., weekly service; Basic single family trash rates will include: 32 gallons trash; unlimited comingled recycling; 192 gallons of green waste; two bulky item clean ups per year; unlimited white goods collection; household battery and cellular phone collection; a sharps mail-in program; six extra greenwaste tags for use throughout the year; unlimited extra collection of trash, comingled recycling, and green waste on collection day during two weeks following Christmas.]</p> <p>Service will be backyard <u>can</u> service unless curbside <u>cart</u> service is selected by the account holder after being apprised of both alternatives. There will be no rate discount for curbside cart service. Backyard cart service will be available at a premium.</p> <p>Single family service includes the option of a greenwaste dumpster collected once per week at the single family rate.</p> <p>There will no longer be a green waste only rate. MarBorg will collect trash, greenwaste, and recycling on the same day.</p>
Definition of Multi-Unit Residential Customer	Any residence, or group of residences, with two (2) or more Dwelling Units, including any flat, apartment, duplex, triplex, condominium, town home or other premises, other than a hotel or motel, used for housing persons and serviced with one (1) or more common Containers.
Basic Multi-Unit Service	<p>Service will be provided as current, with the enhancements proposed by MarBorg in the September 2011 proposal.</p> <p>(e.g., 1x to 6x weekly service; the minimum service rate will include: 32 gallons trash; 96 gallons of comingled recycling; 96 gallons of green waste; two bulky item clean ups per year per account; unlimited white goods collection; household battery and cellular phone collection; a sharps mail-in program; six extra greenwaste tags for use throughout the year; unlimited extra</p>

	collection of trash, comingled recycling, and green waste on collection day during two weeks following Christmas. Customers will continue to have free access to ABOP and buy back centers.
Business Service	Service will be provided as current, and as proposed by MarBorg in the September 2011 proposal.
BUS and MUR (Dumpster) Foodscraps Collection	<ul style="list-style-type: none"> • MarBorg will provide foodscraps containers and will collect the containers at the frequencies as listed on the Rate Schedule. • MarBorg will maintain foodscraps separate from other materials (trash, recycling and greenwaste). As directed by City, MarBorg may commingle greenwaste and foodscraps in the same container. • MarBorg will deliver foodscraps to the South Coast Transfer Station unless otherwise directed by City • MarBorg will pay the foodscraps tipping fee (currently \$54 per ton) directly to the City's foodscraps processor. • At the request of City or customers, MarBorg will steam clean foodscraps containers up to two times per year at no additional cost to the customer. Customers that request additional steam cleaning of containers will be charged the Steam Clean rate listed on the Rate Schedule. • MarBorg will begin providing MUR foodscraps service with 90 days written notice from the City to commence such service.
Definition of Foodscraps (or Food Material):	Foodscraps and trimmings from food preparation generated by food processing establishments, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), restaurants, and/or residential food scrap collection. These materials include, but not limited to: meat, fish and dairy waste, agricultural products, fruit and vegetable waste, grain waste and acceptable food packaging such items as pizza boxes, paper towels, waxed cardboard, contaminated paper products and other items deemed "compostable" by the manufacturer such as tableware, utensils and other implements used to serve or store food products.
ABOP/Buy-Back Center Facilities	MarBorg will continue to operate its ABOP/Buy back Center facilities, and City single family and multi-unit residential will have free access to downtown ABOP and buy back centers. MarBorg will also report usage and origin data in a form and frequency acceptable to City.
Notification of Bulky-Item and White Goods Collection	Upon receiving notification of SFR and MUR customers to close an active account, MarBorg will notify the customer of Bulky Item and White Goods Collection service to which the customer is entitled.
Protocol for	<ul style="list-style-type: none"> • Upon request by customer for Bulky Item Collection or

Scheduling Annual Pick-Up/Bulky Item Collection	<p>service, MarBorg will enter a note into the CIS Utility Billing System.</p> <ul style="list-style-type: none"> • MarBorg will collect Bulky Items and/or White Goods at least two days per week or in sufficient frequency to prevent lengthy accumulation of goods at the curb.
Access to MarBorg Customer Service Information System	<ul style="list-style-type: none"> • MarBorg will provide to the City access to its customer service information system, currently IPAC, in order for City to have timely access to City customer information.
Collection Method	<p>The collection method in all sectors will be semi-automated, as defined. Any change to fully automated service in any neighborhood or other area must be approved by the City, following negotiations over rate relief to customers associated with the reduced costs of providing fully automated service. All materials collected through franchised service will remain the property of the City of Santa Barbara.</p>
Days of Collection	<p>MarBorg may adjust routes so that trash, green waste and recycling are collected on the same day.</p>
Hours of Collection	<p>MarBorg will confine collection of carts, cans and dumpsters to the following hours:</p> <p>Residential: 7:00 am – 6:00 pm Commercial: 5:00 am – 6:00 pm*</p> <p>*if nearby residents complain to City or MarBorg regarding noise, then collection will begin no earlier than 6:00 am in those areas.</p>
BUS and MUR Cart Set-Out Site	<ul style="list-style-type: none"> • MUR: the default service location for MUR carts will be at the curb. • BUS: the default service location for BUS carts will be at the curb. However, MarBorg will continue to service BUS carts from any BUS customer service location (regardless of owner/operator of the business) at the location where the carts are currently set out for collection. • Any new BUS customer requesting cart service will be serviced at the curb unless “service-in-place” service is requested by City. • There will be no backyard service charge on BUS carts.
Collection Frequencies	<p>MarBorg will provide collection at any frequency listed on the rate schedule. Default foodscraps collection will be Monday, Wednesday and Friday. However, at the customer’s request, MarBorg will provide more frequent foodscraps collection service at the rate listed on the Rate Schedule.</p>
Minimum Collection Frequency	<p>Minimum collection frequency for SFR, MUR and BUS customers will be one time per week.</p>
Maximum Collection Frequency	<p>Maximum collection frequency for SFR will be one time per week. SFR customers requesting collection service at</p>

	<p>frequencies greater than one time per week will be charged MUR service and will be identified as MUR customers in the CIS database.</p>
<p>Repeated Overflow Charge</p>	<p>Any customer whose solid waste container or containers have significant and repeated overflowing solid waste prior to being emptied on collection day, will be subject to an overflow charge. The rate for the overflow charge will be the same as the extra pick up rate for the applicable container.</p> <p>No overflow charges may be assessed unless (A) Written notice of an overflow has been provided to the account holder of the premises (e.g. notice affixed to container and photo proof of service), and a subsequent overflow occurs at the premises within ninety days: (i) after such notice has been given; or (ii) after the last overflow charge has been assessed at the premises; and (B) There is significant overflow from the container and the container cannot be closed, and (C) overflow is evidenced by a photograph; and (D) The overflow actually has been collected by MarBorg.</p> <p>No overflow charge will may be assessed for overflow that is caused by a late, missed, or improperly performed collection by MarBorg.</p> <p>Overflow charges assessed pursuant to this chapter may be waived by the Finance Director, or his/her designee, or by MarBorg if it is determined that the owner or manager of the premises has taken reasonable steps to avoid future overflows, including but not limited to increasing the container capacity and/or collection frequency on the premises, installing locks on the lids of containers and/or on access gates to curtail illegal dumping by third parties, or other property management measures designed to avoid overflows.</p>
<p>Repeated Contamination Charge</p>	<p>Any customer whose green waste, recycling, or foodscraps container shows significant and repeated contamination will be subject to a contamination charge. Contamination will only be counted where such contamination requires MarBorg to treat the entire contaminated container as trash, rather than subjecting it to alternative processing as green waste, foodscraps, and/or recycling. The rate for the contamination charge will be the same as the extra pick up rate for the applicable container.</p> <p>No contamination charges may be assessed unless (A) Written notice of an contamination (e.g. Notice of Non-Collection affixed to contaminated container and photo proof of service), has been</p>

	<p>provided to the account holder of the premises, and a subsequent overflow occurs at the premises within ninety days: (i) after such notice has been given; or (ii) after the last overflow charge has been assessed at the premises; and (B) the contaminated container is evidenced by a photograph; and (D) The contaminated container actually has been collected by MarBorg.</p> <p>No contamination charge will may be assessed for contamination that is caused by a late, missed, or improperly performed collection by MarBorg.</p> <p>Contamination charges assessed pursuant to this chapter may be waived by the Finance Director, or his/her designee, or by MarBorg if it is determined that the owner or manager of the premises has taken reasonable steps to avoid future contamination, including but not limited to increasing or reallocating the container capacity and/or collection frequency on the premises, installing locks on the lids of containers and/or on access gates to curtail illegal dumping by third parties, or other property management measures designed to avoid contamination.</p>
Collection Vehicles	<p>Collection vehicles will be as provided currently, with enhancements proposed by MarBorg in its September 2001 proposal. MarBorg will use current diesel vehicles through the end of their depreciation period (10 years) after which vehicles will be replaced with new CNG vehicles. MarBorg will have 1 year from the franchise effective date to replace vehicles that are already fully depreciated with CNG vehicles.</p>
Containers	<p>Service will be provided as current, with enhancements proposed by MarBorg in its September 2011 proposal. The following specific terms will apply:</p> <ul style="list-style-type: none"> • Single Family residential customers will continue to provide their own trash cans. MarBorg will provide trash cans to multi-unit residential and business customers. MarBorg will provide trash carts and dumpsters to all customers. • MarBorg will provide all recycling and green waste carts, cans, and dumpsters to all customers. • MarBorg will provide all foodscraps carts, cans, and dumpsters to Business customers and foodscraps dumpsters to Multi-Unit Residential customers. • There will no longer be a multi-unit residential fee assessed for dumpster rental. Dumpster rental will be included in the proposed rates. • There will no longer be a credit for business owned

	<p>dumpsters. Dumpster rental will continue to be included in the proposed rates.</p> <p>MarBorg will maintain, repair and replace all containers that it provides.</p>
Container Marking	<p>MarBorg will provide carts, cans and dumpsters that include the following information:</p> <ul style="list-style-type: none"> • Material Type: “Trash,” “Recycling,” “Greenwaste” or “Foodscraps” • Container Size: e.g. 32 gallons, 2 yard, etc. • Contractor’s Name (MarBorg) and customer service phone number • Common items associated with each material type • Prohibited Items: items that are prohibited from being placed into the container for collection (e.g. household hazardous waste, commingling of trash or greenwaste in recyclables container, etc.)
Free Services Provided by MarBorg	<p>MarBorg will continue to be able to provide free service to customers and employees, at its option, with written notice to the City. MarBorg will be the billable party for such service and will remit full payment to the City Utility Billing Office (including City fees and taxes). MarBorg will recoup its own service fees on free services, less City fees and taxes, through normal monthly payments from the City.</p>
Additional Containers for SB Schools	<p>MarBorg will continue to provide carts not set out for collection (not serviced) for classrooms and campuses as requested by SB School District personnel.</p>
Annex Yard Service	<p>There will be an annual cap on annex yard collection service of 3000 tons or 750 trips, as proposed by MarBorg</p>
MarBorg C&D Facility	<p>The amount of spoils and City-collected illegally dumped material that the City may disposed of for free at the MarBorg C&D Facility will be increased to 2000 tons, as proposed by MarBorg in its September 2011 proposal. MarBorg will offer an additional 1000 tons of disposal at cost (10% discount).</p>
Public Places and Municipal Buildings	<p>MarBorg will service all MTD bus stops, public containers, parks, municipal buildings, either existing or placed into service during the contract term, free of charge.</p>
Looking Good Santa Barbara	<p>MarBorg will provide status quo funding of \$80,000 per year for Looking Good Santa Barbara program. The City will agree that such funding will be used for salaries and supplies only. The amount will be automatically adjusted, beginning in July 2013, by the CPI.</p>
Public Communication Fund	<p>The City will agree to a fixed hauler’s liability for support to Public Education at \$141,600 per year. This amount will be automatically adjusted, beginning in July 2013, by the CPI. City will agree to provide MarBorg with an opportunity to review and</p>

	comment prior to release of materials.
Zero Waste Events	As proposed in MarBorg's September 2011 proposal. In addition, MarBorg will provide the number of carts requested by City for each event. MarBorg will steam clean containers before delivering them to the City facility.
Abandoned Waste Collection	MarBorg will provide Abandoned Waste Collection as described in its September 2011 proposal. In addition, MarBorg will collect any abandoned waste within 72 hours following notification to MarBorg by City Environmental Services Division or Streets Division.
City Fees Assessed on Customers	MarBorg will remit City fees as reflected on the rate proposal sheets. Such fees currently include City fees assessed on customers of 8.08% (4% recycling, 3.24% regional, 0.84% closed landfill fees) on hauler revenues from all sectors, plus 5.54% on hauler revenues from the business sector only. [Hauler revenues are calculated as gross revenues less these City fees assessed on customers]. The City may change the structure or amount of such fees after appropriate notice and consultation with MarBorg.
Roll-off and Compactor Billing	Scheduled Roll-offs and compactors will be billed by MarBorg until such time as the City is able to bill them. MarBorg will list each charge as a separate line item including container rental and each pickup service charge. Each pickup will list the date of collection, the material type, the weight, and the total charge. MarBorg will remit City Taxes and Fees to City for services that it bills.
Billing Fee	MarBorg will remit a billing fee of 5% on hauler revenues, as reflected on the rate proposal. [Hauler revenues are calculated as gross revenues less the City fees assessed on customers- currently 8.08% in residential sectors and 13.62% in the business sector]. MarBorg will not remit a billing fee on scheduled roll-off and compactor services that are billed by MarBorg directly to customers.
Franchise Fee	The franchise fee will continue to be 2% of gross revenues.
Existing Diversion Programs	MarBorg will continue to participate in existing diversion programs, as those programs are reflected in current practice and including enhancements reflected in its September 2011 proposal.
New Diversion Requirements	MarBorg will implement the new diversion program contained in Attachment <u>24-1</u> , including indemnification of the City under AB939.
Environmental Considerations	MarBorg will provide service consistent with the environmental considerations. CNG vehicle replacements will be as reflected in "collection vehicles" above.
MUR "Backyard Cart Service" Charge	MarBorg will charge MUR customers the "Backyard Cart Charge" as listed on the Rate Schedule. However, the property currently

	named "Los Amigos Mobile Home Estates" will receive Backyard Cart Service at no additional charge throughout the contract term.
Extra Pickups	MUR and/or BUS customers requesting extra pick-up service will be serviced on the next service day. MarBorg will charge the "Extra Pickup" rate listed on the Rate Schedule.
Missed Pickups	In the event of a missed pick up, MarBorg will go back within 24 hours to service the missed containers.
Container Replacement	MarBorg will replace missing containers on the next regularly scheduled collection day.
Container Repair	MarBorg will exchange damaged containers with fully functional containers on the next regularly scheduled collection day.
Container Exchange	Upon request by a customer to exchange containers of one size or material type with containers of a different size or type, MarBorg will make the exchange within five Within five (5) business days.
Liquidated Damages	Updated amounts and categories included at Attachment 2-2.
Spill Cleanup	<p>MarBorg will not be responsible for cleaning up un-sanitary conditions caused by the carelessness of the Customer; however, MarBorg will clean up any material, fluids or residue that is spilled or scattered by its employees within four hours of spilling or dropping the material or receiving notice of such spill from a customer or the City.</p> <p>Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from MarBorg's operations or equipment repair will be covered immediately with an absorbent material and removed from the street surface. MarBorg will equip its collection vehicles with sufficient quantities of petroleum absorbent materials along with a broom and shovel.</p> <p>MarBorg will maintain a log of spills that indicates the material spilled, quantity and remedial actions taken and will immediately report any spills entering or endangering any waterway or storm drain or any spill of forty-two (42) gallons or more to the State Office of Emergency Service (OES) as required by law.</p>
Hazardous Waste	<p>MarBorg will not knowingly collect hazardous waste, or remove unsafe or poorly containerized hazardous waste from a collection container. MarBorg will refuse to collect hazardous waste and will instead contact the generator and request that the generator arrange for proper disposal. If the generator cannot be reached immediately, MarBorg will, before leaving the premises, leave a Non-Collection Notice indicating the reason for refusing to Collect the material.</p> <p>If MarBorg encounters hazardous waste in a collection container that poses an imminent danger to people or property, MarBorg will immediately call 9-1-1 and the Contract Administrator.</p> <p>If hazardous waste is identified at the time of delivery to the</p>

	disposal or processing facility, and the Generator cannot be identified, MarBorg will be responsible for handling and arranging lawful transport and disposition of the hazardous waste.
Customer Information	<p>MarBorg will collect and maintain the following information on customer accounts during each customer service contact event with the account holder:</p> <ul style="list-style-type: none"> • full first name, middle initial and last name of account holder • address of the property where containers are serviced • customer mailing address • customer electronic mail address • customer landline and mobile phone numbers • Information regarding customer complaints • Last four digits of account holder's Social Security Number or full Tax Identification Number if Business or Home Owner's Association <p>On a monthly basis, MarBorg will update all changes to customer information listed above in the City's Utility Billing System.</p>
CIS Information	<p>MarBorg will record and will ensure that the following information is maintained accurately in the CIS Billing System:</p> <ul style="list-style-type: none"> • MarBorg will identify "high content, "medium content" and "low content" trash containers that are sorted after collection • MarBorg will identify all City facilities and City public containers that receive service from MarBorg
New Customer Packets	<p>MarBorg will mail and/or email (if customer has provided email address) "New Customer Packets" to all new Single Family Residential, Multi-Unit Residential and Business customers within five (5) business days of starting service or from when requested by the customer. City will develop and provide hard copy versions of the New Customer Packet for each sector to MarBorg throughout the contract term.</p>
Credits	<p>MarBorg will provide credits to customers upon return of dumpster locks.</p>
Spanish-Speaking Capacity	<p>MarBorg will ensure that a sufficient number of customer service representatives are fluent in Spanish language.</p>
Transition Plan	<p>Prior to commencement of service under the proposed franchise agreement, MarBorg will complete the following transition tasks:</p> <ul style="list-style-type: none"> • Provide emergency backup plan to City • Provide collection route maps along with customer names, service addresses and days of collection • Provide equipment inventory • Provide emergency contact number to City Contract Administrator

	<ul style="list-style-type: none"> • Provide insurance coverages (including endorsements) and performance bond • Provide procurement schedule for new containers and CNG vehicles • Finalize collection methods for all services described in the franchise agreement (e.g. MUR battery and cell phone collection). • Customer outreach regarding franchise changes: meetings, notices, etc.
Refund Policy	Retroactive to one year from when over-charge is discovered
Defense of Exclusive Franchise	The City may, but will not be required, to take action to defend the grant of the exclusive franchise to MarBorg. MarBorg will defend the validity and enforceability of the exclusive franchise and will pay all costs related to such defense.
Stopping Service on Delinquent Accounts	<ul style="list-style-type: none"> • For all customer accounts that have trash and water service on the same account, the City Utility Billing Office will continue to take the lead on delinquent payments. However, for accounts that have trash service only: • SFR and BUS Accounts: MarBorg will be permitted to discontinue service and collect trash and recycling containers from customers whose accounts are more than 40 days delinquent. • MUR: MarBorg will be permitted to discontinue service and collect trash and recycling containers from customers whose accounts are more than 40 days delinquent. However, if a landlord pays for all units, then MarBorg will also provide notice of discontinued service to each individual customer no later than 48 hours prior to service disruption. • Before stopping service to any account, MarBorg will provide 10 days prior written notice to the City.
Updates to Amounts	Updates to other monetary amounts in the franchise agreement (performance bond and insurance requirements, liquidated damages, assignment fees, etc.) will be made in consultation with appropriate City and MarBorg staff.
Existing Covenants to Remain	The assurances and covenants from MarBorg provided in consideration of the grant of the two five-year options to extend the term of the agreement between the City and MarBorg for Zone Two of the City shall be included in the new franchise agreement, with appropriate updates of monetary amounts: 1. Section 3.17 Construction and Operation of the MarBorg Recycling Facility; 2. Section 12.12 "Rates not to Exceed Comparable Localities;" 3. Section 14.01 "Restrictions on Assignment;" and 4. Section 14.02 "Binding on Successors."
Billing Change	City will initially continue to do billing. If the City chooses to

	designate MarBorg to assume customer billing responsibility during the term of the agreement, MarBorg will cease paying the City the 5% billing fee, and there will be a resulting 5% reduction in the City's MSW rates
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Diversion Program

<p>AB 939 Indemnification</p>	<p>MarBorg will be responsible for ensuring the City meets its 50% diversion requirement under AB 939. MarBorg agrees to indemnify City in the event the diversion, source reduction and recycling goals of the Integrated Waste Management Act (Act) are not met by City. City and MarBorg agree to negotiate with respect to any additional Act-related services, which MarBorg and City agree to implement</p>
<p>Citywide Diversion Requirement</p>	<p>The current commercial diversion requirement 3.18 will be supplanted by a citywide franchised service diversion requirement.</p> <p><u>Minimum Diversion Requirement:</u> MarBorg will increase the annual percentage of source-separated recyclables, greenwaste and foodscraps collected in carts, cans, dumpsters, scheduled roll-off boxes and compactors for all customer classes by at least one percentage point per Contract Year throughout the term of the Agreement.</p> <p><u>Measurement of Minimum Diversion Requirement</u> The annual diversion rate citywide will be measured by calculating the annual percentage by weight that source-separated recyclables, greenwaste and foodscraps collected by MarBorg from scheduled carts, cans, dumpsters, roll-off boxes and compactors comprises of the total solid waste collected by MarBorg for each Contract Year. Contract Year is defined as “a period of twelve (12) months beginning July 1st and ending June 30th.”</p> <p>The annual diversion rate citywide will be calculated as follows: (Recyclables+ Greenwaste +Foodscraps collected during the Contract Year) / (Total Waste collected during the Contract Year)</p> <p>Recyclables include:</p> <ul style="list-style-type: none"> • Gross weight of franchise material collected in blue designated recycling cans, carts, and dumpsters and charged a recyclables rate. • Gross weight of franchise material collected in scheduled roll-off containers or compactors that is listed on the customer bill as Comingled Recycling, Metal, or Cardboard and charged the tipping fee for that specific commodity.

Greenwaste Includes:

- Gross weight of franchise material collected in green designated greenwaste cans, carts, and dumpsters and charged greenwaste rates.
- Gross weight of franchise material collected in scheduled roll-off containers or compactors that is listed on the customer bill as Greenwaste, Sawdust, or Wood Waste, and charged the tipping fee for that specific commodity.

Foodscraps Includes:

- Gross weight of franchise material collected in yellow designated foodscraps carts and dumpsters and charged foodscraps rates.

Total Waste Includes:

- All material collected in franchise cans, carts, dumpsters, scheduled roll-off containers and compactors excluding roll-off containers that contain 100% inert materials generated from construction and demolition.

Data used in calculating the annual diversion rate citywide will be taken from the Monthly Reports submitted by MarBorg. As shown in Attachment ~~2-33~~, diversion shall equal the sum of the tonnages in blue cells and total waste shall be considered as the sum of the tonnages in both the blue and yellow cells. Data in grey cells will not be used in calculating the annual diversion rate citywide. The annual diversion rate citywide will be calculated from data from both zones.

The scheduled collection of construction and demolition debris in roll-off containers is not included in the calculations.

Compliance with the Minimum Diversion Requirement Citywide:

MarBorg will be deemed to be in compliance with the Minimum Diversion Requirement provided that the following equation yields a value of greater than or equal to 1% for any given Contract Year throughout the term of the Agreement:

(Annual Diversion Rate Citywide at the end of the Current Contract Year minus the Baseline Diversion rate) / (Total Number of Contract

	<p>Years since July 1, 2013)</p> <p>Greater than required diversion in any year will not increase the total minimum percent diversion for any subsequent year.</p> <p><u>Baseline Diversion Rate Citywide:</u> The baseline diversion rate citywide will be established in July of 2013 pursuant to the following formula:</p> <p>(Recycling+ Greenwaste +Foodscraps collected between July 1, 2012 and June 30, 2013) / (Total Waste Generated between July 1, 2012 and June 30, 2013)</p>
Corroboration of Diversion	<p><u>Corroboration of Diversion</u> MarBorg will provide the City with any documentation that the City requests in order to verify compliance with the minimum diversion requirement, including but not limited to information currently contained in MarBorg’s monthly reports to the City. In particular, MarBorg will retain information such as weigh tickets, invoices, bills of lading, or receipts which the City may request. MarBorg will provide City with copies of documentation within 7 days of City request.</p> <p><u>Weighing and Record Requirements</u> MarBorg will cause a weigh master who is certified under law to weigh all recyclables, green waste and foodscraps upon delivery to the City-designated facility and record all of the following information:</p> <ol style="list-style-type: none"> a. weight and material type, b. delivery date and time, c. route and truck number, and d. driver name and any identification number
No Commingling	<p>MarBorg will not mix refuse, recyclables, green waste and foodwaste. Parties acknowledge that customers might not cooperate with collection programs and might discard refuse, recyclables or green waste together in the same container.</p>
Sorting of Commercial Loads at MarBorg C&D Facility	<p>City, at any point during the term of the Agreement may direct the flow of any franchised material to other diversion facilities and may explicitly prohibit sorting of trash loads at the MarBorg C&D Facility.</p>
AB 341 Diversion Subscription Requirements	<p>For the purposes of this Section, Business customers that generate a minimum of four (4) cubic yards of trash per week and Multi-Unit Residential customers comprised of five (5) or more dwelling units are referred to as “AB 341 Customers.”</p>

	<p>Within 5 years following execution of the Agreement, and throughout the remainder of the Agreement, MarBorg will ensure that at least 30% of subscription collection service (including free and paid containers) is comprised of diversion services (commingled recycling, greenwaste and foodscraps) for 90% of all AB 341 Customers.</p> <p>Implementation: For each of the first five consecutive contract years, MarBorg will ensure that an increasing increment of at least 18% of all AB 341 Customers are brought into compliance with the 30% diversion requirement.</p> <table border="0"> <thead> <tr> <th><u>End of contract year</u></th> <th><u>Percent with 30% diversion</u></th> </tr> </thead> <tbody> <tr> <td>Year 1</td> <td>18%</td> </tr> <tr> <td>Year 2</td> <td>36%</td> </tr> <tr> <td>Year 3</td> <td>54%</td> </tr> <tr> <td>Year 4</td> <td>72%</td> </tr> <tr> <td>Year 5 (& thereafter)</td> <td>90%</td> </tr> </tbody> </table> <p>Trash containers designated in CIS as “High Content,” “Medium Content” and/or “Low Content” will be viewed as trash containers when evaluating compliance with the 30% subscription requirement. Moreover, diversion collection service that MarBorg provides free of charge to customers or for which MarBorg pays customers for commodities (e.g. source-separated glass) will be counted toward the 30% diversion requirement provided that the non-billed diversion containers are identified in the CIS Billing System.</p> <p>The subscription based diversion requirements will be achieved by MarBorg without the adoption of a mandatory commercial recycling ordinance.</p>	<u>End of contract year</u>	<u>Percent with 30% diversion</u>	Year 1	18%	Year 2	36%	Year 3	54%	Year 4	72%	Year 5 (& thereafter)	90%
<u>End of contract year</u>	<u>Percent with 30% diversion</u>												
Year 1	18%												
Year 2	36%												
Year 3	54%												
Year 4	72%												
Year 5 (& thereafter)	90%												
Corroboration of Subscription requirements	<ul style="list-style-type: none"> • AB 341 Customer List: within two months following the execution of the Agreement, and at the beginning of each Contract Year thereafter, MarBorg will provide to City a tentative list of AB 341 Customers along the following information for each customer: <ul style="list-style-type: none"> • CIS Account Number; • Sharing Agreements and the names and account numbers of the sharing parties; • Current service level; and, • Current diversion rate. 												

	<ul style="list-style-type: none"> • At the beginning of each Contract Year, MarBorg will provide City with an updated AB 341 Customer List that identifies the AB 341 Customers with whom MarBorg will work to bring them into compliance with the 30% diversion requirement during the Contract Year. • MarBorg will provide to City information regarding its progress toward achieving this provision in its monthly reports to City. If a customer refuses to subscribe to minimum diversion services as described, the MarBorg will provide documentation of the customer's refusal with its monthly reports to City and record the information in the CIS Billing System.
Diversion Element to Transition Plan	As part of its Transition Plan, MarBorg will develop a Diversion Plan describing how and when it will accomplish the diversion performance standards outlined in the Agreement. MarBorg will revise its Diversion Plan in conjunction with any change in scope of franchise services (for example, addition of a new program in response to increased State diversion requirements).
Assistance to City staff	<p>The following cooperation will continue, consistent with current practice:</p> <ul style="list-style-type: none"> • City may choose to work with customers to improve their diversion performance. If requested by City, MarBorg will make its personnel available to meet with City and customers on service-related issues. • Upon request from City, MarBorg will review building permit applicants' plans and advise applicants regarding adequacy of container storage space and access, particularly to accommodate access to, and collection of recyclable materials. MarBorg will provide this service at no charge to City.
Enforcement of Anti-Scavenging Laws	MarBorg will cooperate with City , including City-instituted civil actions, in enforcing anti-scavenging laws against a person alleged to have violated Public Resources Code Section 41950.

<p>Communication with Customers</p>	<ul style="list-style-type: none">• MarBorg (and its employees) will be a full participant in representing and supporting the solid waste policies and diversion goals adopted by the City Council in its written and verbal communication with customers. • Web Site: MarBorg will maintain a web site with content acceptable to City. MarBorg will post all of the following information on its web-site:<ul style="list-style-type: none">a. information about franchise services, including options for cart sizes,b. a link to the City's current Rate Schedule,c. link(s) to City's websitesd. link(s) to programs or facilities where customer can legally discard special waste (including Universal Waste and e-waste) and hazardous waste,e. MarBorg contact information, andf. other information related to waste management upon City request
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Liquidated Damages

Collection Reliability	Current	PROPOSED
(a) For each failure to commence service to a new customer account within seven (7) days after order, in excess of five (5) such failures annually:	\$150.00	\$210
(b) For each failure to collect MSW or Recyclable Materials which has been properly set out for collection, from an established Customer account, on the scheduled collection day, in excess of five (5) such failures annually:	\$150.00	\$210
(c) For each failure to collect MSW or Recyclable Materials, which has been properly set out for collection, from the same Customer on two (2) consecutive scheduled pick up days:	\$150.00	\$210
(d) For each failure to prepare for or properly conduct an on-call City- clean up, including failure to timely deliver in good condition and, if a bin or roll-off box, empty of MSW or Recyclable Materials or any other necessary equipment, materials or supplies; failure to provide adequate personnel to dispatch, collect, transport or respond to City's requests for services specific to the clean up event; failure to cooperate with City's traffic control plan(s); failure to clean up any litter generated by MarBorg's personnel at any site utilized by City for event:	\$250.00	\$350
Collection Quality	Current	PROPOSED
(a) (i) For each occurrence of damage to private property which exceeds five (5) such occurrences annually:	\$250.00	\$350
(ii) Failure to repair damage to Customer property caused by MarBorg or its personnel.	N/A	\$700
(b) For each failure to	\$150.00	\$210

properly return any empty container to avoid pedestrian or vehicular traffic impediments or to place any can in an upright position with lid securely fastened, in excess of five (5) such occurrences annually:		
(c) For each occurrence of discourteous behavior to a Customer:	\$250.00	\$350
(d) For each occurrence of excessive noise:	\$250.00	\$350
(e) For each failure to clean up MSW or Recyclable Materials spilled from containers, in excess of five (5) such failures annually:	\$150.00	\$210
(f) For each occurrence of collecting MSW or Recyclable Materials during unauthorized hours, in excess of five (5) such occurrences annually:	\$500.00	\$700
(g) For each occurrence of mixing or adding uncontaminated Greenwaste to MSW and avoiding diversion and/or subsequent separate collection of Greenwaste:	\$200.00	\$280
(h) For each failure to conform to the requirements of Sections 5.02.E.2, Cleaning; 5.02.E.3, Painting; 5.02.E.4, Maintenance; 5.02.F, Operation; 5.03.C, Cleaning, Painting and Maintenance of MarBorg-Furnished Containers; 5.03.D, Compactors; 5.04.B, Driver Qualifications; and 5.04.C, Uniforms, which exceed in any one or a combination of categories above five (5) such occurrences annually:	\$150.00	\$210
(i) For each incident of commingling trash with Source Separated Greenwaste or other Source Separated recyclable materials:	\$250.00	\$350
Responsiveness to Customer	Current	PROPOSED
(a) For each failure to initially respond to a Customer complaint within twenty four (24) hours:	\$100.00	\$150
(b) For each failure to carry out responsibilities for establishing service:	\$500.00	\$700

(c) For each failure to conform to the requirements of Article 6:	\$250.00	\$350
(d) For each failure to weekly comply with Section 6.04.D, that is, for each percentage or a portion thereof in excess of the ninety percent (90%) minimum standard for answering incoming calls before the fourth (4th) ring, or for each percentage or a portion thereof in excess of ten percent (10%) of callers required to wait on hold for more than thirty (30) seconds before being connected to a customer service representative, or for each percentage point or a portion thereof in excess of three percent (3%) that callers, on average as calculated weekly, receive a telephone busy signal:	\$250.00	\$350
(e) Failure to deliver or exchange Cans, Carts, Bins, or other Containers within the time required. (new)	N/A	\$150
(f) Failure to repair or replace damaged Cans, Carts, Bins, or other Containers within the time required. (new)	N/A	\$150
(g) Failure to timely install locks on Bins. (new)	N/A	\$150
(h) Failure to properly cover materials in Collection vehicles.	N/A	\$350
(i) Failure to provide a Spanish speaking Customer Service Representative.		\$150

Submissions to City	Current	PROPOSED
(a) Timeliness; Any report shall be considered late until such time as a correct and complete report is received by City. For each calendar day a report is late, the daily liquidated damage amount shall be:	\$250.00	\$350
(b) Failure to provide information requested by the City pursuant to the agreement, including but not limited to information necessary to ensure the smooth transfer of operations to a new hauler upon termination or transfer of the franchise agreement, within XX days. For each calendar day a report is late, the daily liquidated damage amount shall be:	N/A	\$350

Other Failure to perform	Current	PROPOSED
(a) Failure to deliver any Collected materials to City-approved Disposal Facility, Recyclables Processing Facility, C&D Facility, Composting Facility, or Green Waste Processing Facility, as appropriate, not including direct transfer of materials at an intermediate transfer point pending transport to the City-approved facility, or as otherwise expressly provided in this Agreement.	N/A	\$5,000.00 first failure. \$25,000.00 each subsequent failure.
(b) Failure to meet the minimum diversion requirements (1% per year increase citywide) for any compliance year.	N/A	Shortfall in cumulative diversion requirement for the year: \$50,000 per 0.5% shortfall or part thereof.
(c) Failure to meet the incremental diversion subscription requirement for AB 341 Customers in any compliance year.	N/A	Shortfall in cumulative subscription requirement: \$20,000 per 5% shortfall or part thereof.
(d) Failure to obtain any written approval, consent or approval of City or to notify City when required under the Agreement.		\$210
(e) Failure to cure non-compliance with the provisions of this Agreement in the manner and time set forth in this Agreement.		\$210
(i) For each incident of commingling trash with Source Separated Greenwaste or other Source Separated recyclable materials:	\$250.00	\$350

Collection Information Zone 1						
Franchise Services						
Cart/Can Tonnages:	Single Family Residential	Multi-Unit Residential	Business	Schools	City	Public
Trash	434	300	56	0		25
Recycling	263	107	31	1	0	2
Greenwaste	351	71	9	0	1	
Food			20	11		
Use gross tonnage only. Do not make deductions for sorted loads.						
Dumpster Tonnages	Diversion %	Multi-Unit Residential	Business	Schools	City	Public
Trash	0%	375	629	29	42	27
High Content Trash	50%		0			
Medium Content Trash	25%					
Low Content Trash	10%		0			
Recycling	90%	16	153	10	7	0
Greenwaste	95%	6	6	4	2	
Food	100%		89	9		
Franchise Rolloff and Compactor Tonnages						
Solid Waste	0%		211			
Low Content	10%					
Recycling	100%		14			
C&D (bulky items)	77%		70			
Greenwaste/Wood	100%		3			
C&D Inerts	100%					
Other Residential Services		Bulky Disposed	Bulky Recycled	Batteries (lbs)	Cell Phones (lbs)	# of Sharps Containers Distributed
Single Family		6	7			
Multi-Unit						
2013 Franchise Contract Diversion Both Zones						39%

Sector: Multi-Family Residences

Impact on Customer Bills

City Proposal			
Change in Bill		# of Accounts	
from	to		
-1000%	-100%	1	
-100%	-75%	0	
-75%	-50%	0	
-50%	-25%	1	
-25%	0%	933	
		935	35%
0%	5%	463	
5%	10%	525	
10%	15%	316	
		1,304	49%
15%	20%	227	
20%	25%	121	
25%	30%	33	
30%	35%	7	
35%	40%	3	
		391	15%
50%	75%	0	
75%	100%	0	
100%	300%	7	
300%	1000%	0	
		7	0.3%
		2,637	



Zone One Solid Waste Update on Negotiations

November 20 , 2012



Solid Waste Structure

- ◆ Process began in 2010
- ◆ Two “Zones” since 2003
 - Zone 1: Was serviced by BFI/Allied
 - Expires June 2013
 - Zone 2: MarBorg Industries
 - Expires June 2013
 - Two 5-year options



Franchise Financial Features

- Funded by solid waste rates
 - Charged to City residents and businesses
- \$16 Million combined to Haulers
- City's largest private contracts with a single vendor



History

- ◆ October 2010- Staff recommended open RFP process
- ◆ July 2012- Allied sold to MarBorg
 - Council approved Assignment of Zone 1 to MarBorg and,
 - Council invited MarBorg to submit proposal for Zone 1
- ◆ September 2011- MarBorg submitted proposal to combine Zones 1 & 2



MarBorg's Sept Proposal

- ◆ September 2011- Proposal received
- ◆ Staff Recommended not accepting proposal “as is”
- ◆ December 2011- Council approved staff & Ad Hoc Committee recommendation to enter into exclusive negotiations with MarBorg
 - Open RFP process suspended during negotiations



Major Negotiation Points

- ◆ Achieve better overall deal
- ◆ Maintain City fees and support
- ◆ Rate structure
 - Revenue shift
 - Incentives for diversion
- ◆ Secure diversion guarantees

Guidance from Ad Hoc

Guidance Area	
Rate relief in SFR sector from additional free diversion	✓
Limit revenue shift from SFR to other sectors	✓
Reduce diversion rate incentive in MUR & Business to 50%	✓
Approved new diversion programs and commitments	✓
Convert all vehicles to CNG when fully depreciated	✓
Seek to limit estimated profit to 8% over term	✓
Allow MarBorg to continue to provide free service without waiving taxes & fees	✓



Financial Terms

- ◆ MarBorg agreed to City-proposed rates
- ◆ Rate changes effective July 2013
 - Avoids two rate notices in 4 months
- ◆ Short Term (Fiscal Year 2012-2013)
 - Continues MarBorg's \$300K concession from FY 2012
 - City agreed not to pursue recyclables revenue sharing until January 2014
 - Waives the July 2012 CPI increase indefinitely (\$260,528)



Financial Terms

◆ Long Term

- Sets estimated profit at 8%
- Approximately \$500K in new services
 - Places cost on business and MUR
- Generates same support for City operations
 - Preserves October 2011 rate increase revenue
 - Public education & Looking Good SB
- Compensates hauler for expected revenue impacts of new diversion programs
- Compensates hauler for increased cost of CNG vehicles



New Services

Single Family & Multi-Unit Residential

Two annual bulky item collection

Battery and cell phone collection

Sharps mail in program

Extra green waste collection (6 bags)

Extra holiday collection

Unlimited white goods collection

Municipal (City) Services

Increased Abandoned waste collection (2,000 events)

Additional 1,000 tons of C&D spoils [Limit on Annex Yard]

+70 Zero Waste events at City facilities



New Diversion Programs

- ◆ Minimum diversion capacity requirements in large MUR and business
 - 90% of AB341 businesses and large MUR will have 30% of services in diversion containers within 5 years
- ◆ Will position the City to meet current and future diversion mandates
- ◆ Annual increase in overall franchise diversion of 1% per year
 - From approx. 39% to approx. 49%



Achievement of Goals

- ◆ Goal 1: Better Overall Deal
 - Based on audited hauler costs and profit
- ◆ Goal 2: Maintain City fees and support
 - Retains City fee revenue
 - Public Education & Looking Good SB



Achievement of Goals

- ◆ Goal 3: Diversion
 - New programs and commitments
- ◆ Goal 4: Rate Structure
 - Reduces revenue shift between sectors
 - Achieves rate stability while maintaining diversion rate incentives



RATE IMPACTS



Single Family Residential

- ◆ Compared to rates in effect today under current contract with MarBorg:
 - 45% of customers see lower bills
 - 55% of customers' bills remain constant
- ◆ Customers with highest greenwaste experience greatest rate reduction
- ◆ No additional charge for recycling



Multi-Unit Residential

- ◆ Lower rate for smallest customers
- ◆ Dumpster rental fees eliminated
- ◆ Trash in dumpsters more costly than trash in carts/cans
 - large complexes similar to business customers
 - MarBorg to bring large MUR to 30% diversion
- ◆ High recyclers pay more
 - Price of recycling in carts/cans increasing substantially with 50% diversion rate incentive

Multi-Unit Residential

Change in Bill (%)	MarBorg (May 2012)	City
> -50%	2	2
-25% to 0%	1,814	933
0% to 10%	367	988
10% to 15%	106	316
15% to 20%	95	227
20% to 25%	52	121
25% to 30%	90	33
30% to 40%	100	10
50% to 100%	7	0
> 100%	4	7

MUR Sample Customers

Multi Family Residential	Current	Proposed
Minimum Service (duplex/triplex)	\$35.99	\$30.72
Small Apt/Condo	\$177.68	\$214.04
Medium Apt/Condo (dumpster 1x/week)	\$248.98	\$215.49
Large Apt/Condo (dumpsters)	\$595.23	\$689.56



Business

- ◆ Some customers will see decreases
- ◆ High recyclers will pay more
 - High recyclers realized greatest benefit from 2009 rate incentives
- ◆ Agreement results in fewer rate increases than MarBorg proposal
 - City Proposal-245 businesses pay \$100 or more per month
 - MarBorg Proposal-519 businesses pay \$100 or more per month

Business

Change in Bill (%)	MarBorg (May 2012)	City
> -50% to -25%	0	439
-25% to 0%	4	117
0% to 10%	496	578
10% to 15%	368	195
15% to 20%	164	144
20% to 25%	169	51
25% to 30%	166	42
30% to 50%	246	135
50% to 100%	135	105
> 100%	61	3

Timeline to Implement Agreement

	Example Only
Finalize Franchise documents	
Council Resolution of Intention to Award/ Notice of Hearing	12/11/2012
Council Hearing & Introduction of Ordinance	1/8/2013
Adoption of Ordinance	1/15/2013
Effective Date of Ordinance	2/15/2013
Implement Transition Plan	2/15 -6/7/2013
Send out Prop 218 rate notices	3/15/2013
Prop 218 Hearing	6/15/2013
New Franchise Effective Date	6/8/2013
Rates & Services Effective	7/1/2013