



CITY OF SANTA BARBARA

CITY COUNCIL AGENDA REPORT

AGENDA DATE: October 29, 2013

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Resolution Of Intent To Amend Solid Waste Franchise Agreement With MarBorg Industries, Inc.

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution Of The Council Of The City Of Santa Barbara Declaring Its Intention To Amend The Ten-Year Exclusive Franchise For Citywide Solid Waste Collection And Disposal Services In The City 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 occurred 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.
2. The timeline to achieve the volume and weight-based Diversion Requirements are inconsistent (5 years versus 10 years).

For this reason, staff recommends that Exhibit 4 be amended to correct these errors. A summary of the Franchise Agreement terms to be amended is included as Attachment 1 to this Council Agenda Report.

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 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.

Resolution of Intent to Amend a Franchise

Article XIV of the City Charter requires Council to announce its intention to amend a franchise by passing a resolution that 1) describes the nature and content of the proposed amendment; and, 2) sets the date and time of a public hearing where any person wishing to object or otherwise comment on the proposed amendment may be heard by Council. The public hearing has been scheduled for the Council meeting to be held on Tuesday November 19, 2013. Should Council adopt the resolution of intention, a notice of the City's intent to amend a franchise would be published in a local newspaper of general circulation.

Passage of the Resolution of Intention is the first step in a public noticing process required by Article XIV of the Charter to eventually allow the Council to consider amending a franchise through the enactment of a City Ordinance approving an amendment to the specific terms of the Franchise. The ordinance to amend Franchise Agreement No. 24,634 will be introduced at the November 19, 2013 Council meeting and will be scheduled for adoption at the November 26, 2013 Council meeting. City Charter Section 1407 provides that the adoption of the ordinance requires the affirmative votes of five members of Council.

Solid Waste Ad Hoc Committee

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

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