



Council Agenda Report

Item 6b

Department: Utilities
Cost Center: 6107
For Agenda of: 4/19/2022
Placement: Business
Estimated Time: 15 Minutes

FROM: Aaron Floyd, Utilities Director
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Administrative Manager

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SUBJECT: INTRODUCTION OF AN ORDINANCE TO AMEND THE CITY'S EXISTING
FRANCHISE AGREEMENTS WITH SAN LUIS GARBAGE COMPANY TO
IMPLEMENT STATE ORGANICS RECYCLING LAW (SENATE BILL 1383)
REQUIREMENTS

RECOMMENDATION

Introduce an Ordinance entitled, "An Ordinance of the City Council of the City of San Luis Obispo, California, amending and restating its existing franchise with San Luis Garbage Company to implement Senate Bill 1383 requirements."

DISCUSSION

Background

The purpose of this item is to introduce an ordinance amending the agreements with San Luis Garbage Company (San Luis Garbage) to provide for organics recycling as required under Senate Bill 1383 (Attachment A). The City of San Luis Obispo (City) has three existing franchise agreements with San Luis Garbage that include the collection of solid waste, recyclables, and organic waste. These agreements must be amended to comply with the requirements of Senate Bill 1383 (SB 1383), the state's new and extensive organics recycling law, and to provide consistency with the City's recently adopted Ordinance No. 1706 (2021 Series) addressing waste and recycling matters also required by SB 1383. (Attachment B, Attachment C, and Attachment D).

On March 15, 2022, the City Council adopted a Resolution of Intention (Attachment E), declaring its intention to amend its agreements with San Luis Garbage and to set a public hearing on these items for April 19, 2022. This action was taken in accordance with Article 10 of the City Charter which prescribes the procedures for adoption and amendment of a franchise agreement. As required by Charter Section 1002, the City Clerk published Resolution No. 11312 within 15 days of its adoption in a local newspaper, and the public hearing is being held prior to the approval of the franchise and within 60 days at the passage of the resolution of intention.

Staff has worked closely with neighboring jurisdictions, the San Luis Obispo County Integrated Waste Management Authority (IWMA), and the IWMA's consultant, HF&H Consultants (HF&H), to allow for a uniform, regional approach to SB 1383 implementation, including the provisions contained in the proposed franchise amendments.

SB 1383 Requirements

SB 1383 requires all jurisdictions in California to implement mandatory organic waste diversion programs to reduce emissions of methane gas and help curb climate change. The City of San Luis Obispo has been offering full organic materials recycling services to its residences and businesses for the past several years, which has not necessarily been the case with other jurisdictions throughout the State. However, SB 1383 now obliges the City to require active participation by all residents and businesses. New City responsibilities fall into six main program areas:

1. Program Expansion - program to cover all residential and commercial accounts;
2. Deposition – deposition of source separated collection materials at permitted diversion facilities;
3. Public Education - enhanced residential and commercial public education;
4. Reporting – new State reporting and documentation requirements;
5. Procurement - meeting specific organic materials procurement targets; and
6. Enforcement – specific program enforcement activities.

As cities across California implement these requirements, the State is expecting to see a 75 percent reduction in landfilled organic materials resulting in a significant reduction in methane emissions thereby improving public health and the environment. The City has been working in close coordination with the IWMA and San Luis Garbage on defining and assigning each entities' specific roles and responsibilities under the new legislation and supporting regulations.

Proposed Franchise Agreement Amendments

Per SB 1383, "a jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation [may] be made through . . . contracts with haulers." (Cal. Code of Regulations, Title 14, § 18981.2.) Accordingly, the City must amend its existing hauler collection franchise agreements to clarify the services required by SB 1383 that will be provided by San Luis Garbage. In line with the six program areas defined above, the proposed franchise agreement amendments will require San Luis Garbage to:

1. Program Expansion - expand source separated organics collection services to cover all residential and commercial properties without a City issued waiver (the program will no longer be voluntary for commercial multi-family residences and businesses);

2. Disposal - require all source separated collection materials be deposited at approved organics and recycling materials processing facilities only;
3. Public Education - implement state specified container color and labeling requirements and augment public education through an annual mailer and periodic City requested utility bill inserts;
4. Reporting - increase recordkeeping and reporting to ensure City compliance with State mandated program documentation stipulations;
5. Procurement - assist the City in the procurement of organic materials such as compost and renewable natural gas (RNG) generated by permitted organics facilities; and
6. Enforcement - establish enhanced container contamination tagging notices and customer outreach efforts and documentation procedures.

Franchise Agreements Terms and Amendment Process

The Solid Waste Collection Franchise Agreement with San Luis Garbage expires in 2025. The Recycling Collection Franchise Agreement was entered in 2010, and its 15-year term also expires in 2025. The Green (Organics) Waste Collection Agreement entered in 2015 has a 20-year term that expires in 2038. The longer term of the Organics agreement was necessary to allow for the construction and operation of an anaerobic digester facility by guaranteeing an ongoing feedstock of organic material.

In alignment with the City Charter requirements relating to the adoption of the amended franchise agreements, the City Council passed Resolution No. 11312, declaring its intention to do so. The Resolution stated the character of the franchise agreement amendments, the terms and conditions upon which they are proposed to be granted and set the date to hold a noticed public hearing at which the ordinance amending the franchise agreements will be introduced. The public hearing must be held 20 to 60 days after the passage of the resolution and notice for it must be published in a local paper. A second reading of the ordinance must also be conducted. Below is a summary of the proposed schedule:

1. March 15, 2022 – City Council adopted a Resolution of Intention
2. March 24, 2022 – City Clerk published the Public Hearing notice in a local newspaper (15 to 60 days prior to scheduled hearing date)
3. April 19, 2022 - Public Hearing and Ordinance Introduction (20 to 60 days after the passage of the resolution)
4. May 3, 2022 - Ordinance Adoption

Previous Council or Advisory Body Action

The City Council adopted the related SB 1383 ordinance, Ordinance No.1706, on December 7, 2021. The Solid Waste and Recycling Collection Franchise Agreements were last adopted in 2010 and the Green Waste Collection Agreement in 2015. The City Council adopted Resolution No. 11312 (2022 Series) on March 15, 2022, declaring its intention to amend the existing hauler franchise agreements and set a noticed public hearing to introduce the ordinance amending the franchise agreements and to accept public comment.

Policy Context

The City's Climate Action Plan Pillar 5: Circular Economy lists waste diversion as a means of achieving Greenhouse Gas Emissions Goals. Amending the City's existing hauler franchise agreements to allow for compliance with SB 1383 implementation will help the City make progress towards the Climate Action Plan goals with regional impact.

Public Engagement

Resolution No. 11312 (2022 Series), adopted by City Council on March 15, 2022 set a public hearing before the City Council on April 19, 2022, to allow for comment on the agreements. Notice of the public hearing was published in a local newspaper in accordance with Section 1002, Article X of the City's Charter.

CONCURRENCE

The City's Finance and City Attorney's Offices concur with the recommendations set forth in this report. The main principles contained in the franchise agreement amendments were negotiated with input from the IWMA's consultant, HF&H, and neighboring jurisdictions serviced by the franchised hauler to allow for a uniform, regional approach to SB 1383 implementation and compliance.

ENVIRONMENTAL REVIEW

The amendment of the franchise agreements is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308 and 5061(b)(3).

FISCAL IMPACT

Budgeted: N/A

Budget Year: N/A

Funding Identified: N/A

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$	\$	\$	\$
State				
Federal				
Fees				
Other:				
Total	\$	\$	\$	\$

There are no direct fiscal impacts associated with this action. Costs associated with the implementation of the SB 1383 program requirements will be included in the upcoming rate adjustment proposed for Council's consideration at the April 19, 2022 City Council Meeting. Per Proposition 218 guidelines, the holder of each trash service account will receive a mailed notice of the proposed rate adjustment, an explanation of costs, and public hearing information that will allow them to oppose the increase. Notices will be mailed at least 45 days before the public hearing in accordance with Proposition 218 requirements.

For granting the exclusive franchise, the City assesses a franchise fee that remains the same in the amended agreements and is defined as 10% of gross revenue. Franchise Fees are a General Fund revenue.

ALTERNATIVES

Council could decide to not adopt the Resolution of Intent to amend the City's existing franchise collection agreements to add provisions allowing for SB 1383 compliance. This action is not recommended by staff, as the City will be issued a Notice of Violation by CalRecycle and risks possible fines and penalties. There are no reasonable and feasible alternatives to collection and processing of organics under SB 1383 other than expanding the existing contract with San Luis Garbage.

ATTACHMENTS

- A - Draft Ordinance amending Franchise Agreements with San Luis Garbage
- B - Ordinance Exhibit A - Solid Waste Agreement (Redline)
- C - Ordinance Exhibit B - Recycling Agreement (Redline)
- D - Ordinance Exhibit C - Organics Agreement (Redline)
- E - Resolution No. 11312 (2022 Series)