



AGENCY: City Council
MEETING DATE: June 14, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Approval of Joint County of Mendocino and City of Fort Bragg Request for Proposals for Solid Waste Refuse Collection

ISSUE:

The City of Fort Bragg's Franchise Agreement with USA Waste of California, Inc., dba Empire Waste Management (WM) was to expire on June 30, 2021. Originally, City and County staff intended to work together negotiating new agreements. Both the City and County wanted a short term (12 to 18 months) extension of the current Franchise Agreement. During the fall of 2020, WM indicated that they would not enter into a short-term extension of the Franchise Agreements and the minimum term they would consider was five years.

On December 8, 2020, the County Board of Supervisors made the decision to bid their franchise and the County's original Request for Proposals was issued on January 26, 2021. In the meantime, the City of Fort Bragg attempted to negotiate with WM for a franchise renewal with little progress. As a result, a Special City Council meeting was scheduled for January 27, 2021, for the City Council to consider transitioning the solid waste franchise to C&S Waste Solutions as of July 1, 2021. No discussion took place at that meeting but the City Council heard from members of the public on the agenda item. A representative from WM, Brad Cea, offered the City Council a one-year franchise agreement extension without any rate increases. The City Council approved the extension on February 8, 2021. Amendment No. 7 extends the City's current Franchise Agreement with WM until June 30, 2022 and waived the June 1, 2021 cost of living adjustment.

Shortly thereafter, the County was offered a one-year franchise agreement extension of their WM Franchise for Area 2. The County decided to cancel its outstanding RFP, extend their WM Franchise Agreement to June 30, 2022 and offered to work with the City to issue a joint RFP for solid waste refuse collection services. Both the City and the County have agreed that it is in the best interests of both jurisdictions to work together to receive the best proposals and potentially best pricing.

The City benefits from the work that the County and their consultant already put into the RFP and draft Franchise Agreement. The possibility of sharing a provider on the Coast offers more opportunity for the City and County to resolve the issue of the Coastal Transfer Station. City staff has provided the County staff with edits to the RFP document and a draft City Franchise Agreement included as part of the RFP packet. Staff is asking the City Council to approve the joint RFP process and the draft documents subject to final review and edits by City and County staff.

ANALYSIS:

Franchise Agreements

The current Solid Waste Franchise Agreement was executed on January 8, 2007 and originally contained a termination date of June 30, 2014. In August of 2011, the Agreement was extended to June 30, 2021 and as mentioned above, an additional 1-year extension was executed in February 2021, so that the agreement now expires on June 30, 2022.

[California Public Resources Code Section 40059](#) provides the City with the authority to determine all aspects of solid waste handling as it is of local concern, including the frequency of and means of collection, transportation, level of services, charges and fees and extent of providing such services. Section 40059 also allows cities to determine how services are procured, it allows cities to obtain services by using partially exclusive or wholly exclusive franchises, contracts, licenses or permits with or without competitive bidding. This code section also provides the City with the authority to establish its own terms for procuring solid waste services by resolution or ordinance.

[Fort Bragg Municipal Code Chapter 6.08 – Refuse and Recyclable Collections, Section 6.08.020](#) provides that no one can engage in refuse and recycling collection in the City except under contract with the City. That contract can be exclusive or nonexclusive and the City may regulate all aspects of collection. The chapter also provides regulation on how solid waste is prepared, contained, stored and collected within City limits.

Joint County/City Request for Proposals (RFP)

The County Franchise Area 2 includes the Coastal Rate Zone, which is the unincorporated area from south of Westport to just south of Albion, excluding the City of Fort Bragg and inland approximately 15 miles; and the Inland Rate Zone includes unincorporated areas in the Ukiah Valley from Potter Valley to the south Mendocino county line. The City of Fort Bragg Franchise Area is the City’s Corporate limits. Approximate customer accounts currently served by WM in Mendocino County are provided below:

Customer Type	Mendocino County Coastal Zone	Mendocino County Inland Zone	City of Fort Bragg	Total
Residential	3,760	4,444	1,845	10,049
Commercial	138	761	394	1,293

The County has broken out the Coastal Zone from the Inland Zone, so that there is the potential that the Coastal and Inland Zones could be serviced by different providers. Likewise, while the goal is for the same provider to serve Fort Bragg and the County’s Coastal Zone, the City and County are not obligated to select the same provider. Nevertheless, separate providers would mean separate transfer facilities and the potential for duplication with trucks hauling the waste over the hill to Willits and/or its final destination.

C&S, Solid Waste of Willits, Inc. and WM have all indicated that they are interested in providing solid waste services to the City of Fort Bragg and Mendocino Franchise Area 2.

There may also be other providers, who are unknown to the City at this time, but potentially could submit a response to the joint RFP.

Subject to change, the following is an estimated Procurement Schedule:

Table 1 Procurement Schedule	
Activity	Date
RFP Released	June 15, 2021
Mandatory Pre-Proposal Video Conference	June 29, 2021, 2 pm
Last Day to Submit Questions	July 15, 2021, 4 pm
Proposals Due	July 30, 2021, 2 pm
Interview Qualified Vendors	August 3, 2021
Present Evaluation Results to City Council	August 9, 2021
Present Evaluations Results to County Board of Supervisors	August 10, 2021
Finalize New Agreement for County Board of Supervisors Approval	August 27, 2021
Finalize New Agreement for City Council Approval	August 27, 2021
City Council Award of Agreement	September 13, 2021
County Board of Supervisors Award of Agreement	September 14, 2021
Vendor Payment of Proposal Development Fee	October 20, 2021
Start Collection Services	July 1, 2022

Compliance with Recent Solid Waste Legislation

The structure of the RFP and the draft Franchise Agreement provides for compliance with recent solid waste legislation by transferring these responsibilities to the provider. That legislation includes:

AB 827 requires businesses to make available to customers separate waste, recycling and organic recycling bins.

AB 341 requires local jurisdictions to implement commercial recycling programs.

AB 1826 requires businesses that generate a specific amount of organic waste per week to arrange for recycling services and implement a program to divert organic waste to an organic waste recycling program.

SB 1383 sets forth a series of local requirements to divert organic waste from landfills starting in 2020.

The responsibility to implement this legislation falls on the local jurisdictions and the costs onto local ratepayers. As CalRecycle representatives have stated, the requirements are mandated by the state and there is no funding provided. The Legislature must have intended that local jurisdictions would need to use their ability to increase rates to cover these costs. Significant education and outreach is a part of these legislative requirements. The RFP and draft Franchise Agreement place the responsibility for these requirements on the provider. As a result, we anticipate that costs to ratepayers will increase. As an example, both City of San Ramon and City of Stockton recently entered into new franchise agreements that incorporated compliance with SB 1383 and the other diversion mandates. City of Stockton's agreement had an overall rate increase of 32.6% associated with those measures and San Ramon, a 30% increase.

A recent [League of California Cities survey](#) of 149 Cities found that 9 out of 10 cities anticipate increases in solid waste and recycling rates in the next three years. The costs associated with implementing SB 1383 and the lack of recycling and organic waste infrastructure are the top factors for rate increases.

The other issue related to implementation of SB 1383 that could affect residents and businesses in the City, is CalRecycle's position that compliance with SB 1383 requires mandatory service. The City does not currently require that all residents and businesses in City limits subscribe to solid waste collection. An estimate based on total water and sewer accounts in City limits indicates that up to 400 additional customers (approximately an 18% increase) could be required to enroll in solid waste collections in the City limits.

Service Levels

The RFP also assumes continued, although not necessarily identical, level of service, minimized service disruption, and use of new technologies to reduce the impact to the greenhouse gas emissions and climate change. Service options will remain similar to the current providers' offerings. Another area of concern highlighted in the RFP is the wear-and-tear on the City and County streets.

The expectation is that the provider will continue to collect up to 45 City of Fort Bragg locations, including public litter and recycling containers in the Central Business District. Collections will increase from twice per week to three times per week under the new Franchise Agreement and place a requirement on the service provider to clean the litter and recycle containers once a year.

The selected provider will operate a California Redemption Value (CRV) Center. If the same provider serves both the City and County customers, this could be a single coastal location.

The terms of the RFP require that the selected Vendor provide employment to displaced employees of the prior Vendor for a period of not less than ninety (90) days and comply with [California Labor Code 1072](#) and [1075](#). As a part of the submitted proposal, the responders must include a declaration of intent indicating their agreement to retain the employees. Failure to include the written intent may be considered non-responsive, with the exception of the current provider.

Environmental Concerns

An issue that has already raised concern and interest in the greater coastal community is the location of a solid waste transfer station operated by a provider other than WM. WM operates a direct-haul transfer facility and California Redemption Value (CRV) Center at 219 Pudding Creek Road within Fort Bragg City limits. This facility currently serves both City and County Coastal customers. Depending on the responses received additional environmental review may be needed to evaluate the impact from the potential providers.

Approving the RFP and draft Franchise Agreement does not meet the definition of a “Project” under the California Environmental Quality Act (CEQA) and therefore it is exempt from CEQA. Approval and issuance of the RFP and the draft Franchise Agreement, is not a commitment to a specific project that could potentially result in a significant physical impact to the environment. The administrative activity of issuing the RFP will not create a direct or indirect change in the environment.

RECOMMENDED ACTION:

Staff recommends that the City Council approve the Joint County/City Request for Proposals (RFP) for Solid Waste Collection subject to final editing and review by City and County staff.

ALTERNATIVE ACTION(S):

1. Approve the Joint County/City Request for Proposals (RFP) for Solid Waste Collection with modifications.
2. Do not approve Joint County/City Request for Proposals (RFP) for Solid Waste Collection and the draft Franchise Agreement.
3. Provide alternative direction, such as a City only RFP process.

FISCAL IMPACT:

The draft Franchise Agreement set the franchise fees at the same rate as the current WM Franchise Agreement. The current franchise fee has two components; 1) a 10% administrative fee and 2) a 10.96% Caspar Landfill Closure fee. If the additional services associated with meeting the legislative mandates for solid waste increases the cost of services significantly, the City Council may want to consider reducing the franchise fee, so that it remains consistent with current revenue levels.

GREENHOUSE GAS EMISSIONS IMPACT:

Changes in service levels under a new Franchise Agreement are limited but mandatory per SB 1383. Additional diversion of food waste will reduce methane released in the decomposing process.

CONSISTENCY:

Securing a contract with a provider is consistent with Chapter 6.08: Refuse and Recyclable Collection – of the Fort Bragg Municipal Code.

IMPLEMENTATION/TIMEFRAMES:

See Procurement Schedule above.

ATTACHMENTS:

1. Draft Request for Proposals (RFP)
2. Draft Franchise Agreement
3. Draft Exhibits to Franchise Agreement

NOTIFICATION:

1. Notify Me, Solid Waste Franchise