



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 3/15/2022

To: Board of Supervisors

Department or Agency Name(s): Transportation and Public Works

Staff Name and Phone Number: Johannes J. Hoevertsz, 707-565-2231

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

SB 1383 Compliance - Resolution Suspending County Code Mandate to Subscribe to Collection Service; Amendments to Franchised Hauler Agreements and County MOA with Republic Services

Recommended Action:

The Department of Transportation and Public Works (TPW) is recommending that the Board:

- A) Authorize the Chair to execute the Amended Franchise Agreement with Recology Sonoma Marin ("Recology") to comply with SB-1383 and allowing for related adjustments to Recology's maximum rates;
- B) Authorize the Chair to execute the Amended Franchise Agreement with Sonoma Garbage Collectors ("SGC") to comply with SB-1383 and allowing for related adjustments to SGC's maximum rates;
- C) Authorize the Chair to execute the First Amendment to the Amended and Restated Agreement for Operations of the Central Landfill and County Transfer Stations, also known as Master Operations Agreement (MOA), between County of Sonoma ("County") and Republic Services of Sonoma County, Inc. ("Republic Services") to retire the commercial food waste program in favor of SB-1383 compliant programs to be delivered on behalf of the cities and counties;
- D) Authorize specified changes to the Prime Subcontract to the MOA between Republic and Recology to implement the proposed amendment to the MOA;
- E) Adopt a Resolution suspending the mandatory subscription obligations established by Chapter 22 of the Sonoma County Code; and
- F) Authorize the TPW Director to execute a Letter of Authorization allowing Zero Waste Sonoma to submit a regional grant application to CalRecycle and administer all funds received.

Executive Summary:

The Department of Transportation and Public Works is recommending the Board approve amendments to the solid waste collection Franchise Agreements with Recology and SGC. In addition, TPW is also recommending the approval of the First Amendment to the MOA, changes to the Prime Subcontract to the MOA, and the adoption of a Resolution suspending mandatory subscription obligations established by Chapter 22 of the Sonoma County Code of Ordinances.

These recommendations are in response to California's Senate Bill 1383 which was signed into law in 2016 in order to reduce greenhouse gas emissions by reducing the amount of organic material going into landfills.

Discussion:

Background

In 2016, Governor Brown signed SB-1383 into law in an effort to reduce emissions of short-lived climate pollutants, such as methane, which are generated from landfilling organic material like food and yard trimmings. SB-1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years, establishing a statewide target of a 75% reduction of organic material disposed in landfills and a 20% increase of edible food recovery by 2025, compared to the 2014 baseline.

On June 8, 2021, staff presented a workshop to the Board which reviewed the County's efforts to implement SB-1383. On November 2, 2021, the Board took the following actions to start implementing SB-1383:

- Approval of an MOU with Zero Waste Sonoma (ZWS) for administration of specified SB 1383 responsibilities on behalf of the County;
- Adoption of a Resolution introducing, reading the title of, and waiving the reading of an Ordinance Repealing and Replacing Chapter 22 of the Sonoma County Code Mandating Solid Waste Removal and Participation in Organics Waste Diversion Programs, Subject to Certain Exemptions, and Providing for the Granting of Related Exclusive Franchises.

The above-described ordinance was finally adopted on November 16, 2021. This item proposes further actions necessary to comply with SB-1383 as follows:

- Amendment of existing franchised hauler agreements (Attachments #1 and #2) to offer organic service to all customers within the franchised service areas, and to provide for required route reviews and contamination notices, and various reporting duties; and
- Execution of a First Amendment to the MOA between the County and Republic Services (Attachment #3) and approval of related changes to the MOA Prime Subcontract (Attachment #4). Changes to these agreements will eliminate the existing organic collection service required by the MOA in favor of SB-1383 compliant programs to be delivered via the County and City franchise agreements.

SB-1383 Overview & Goals

As has been presented to the Board in prior workshop and board items, SB-1383 and the detailed regulations promulgated by CalRecycle require the County to:

- Reduce methane gas emissions by diverting organic waste from the landfill by offering organic waste collection service to all residential and commercial generators;
- Educate generators about proper separation of organic materials, waste prevention and recycling, and availability of organic waste collection services;
- Conduct inspections of randomly-selected disposal containers for contaminants;
- Require all haulers providing residential, commercial, or industrial organic waste collection services to

meet specified requirements as a condition of their authorization to collect organic waste;

- Assess the County's organic waste recycling and edible food recovery capacity and generate plans for how capacity will be expanded, if needed to comply with the law;
- Develop and implement an edible food recovery program to reduce waste and food insecurity;
- Procure recovered organic waste (e.g. compost) in accordance with a target determined by CalRecycle; and
- Conduct extensive recordkeeping of all implementation efforts and provide compliance reports to the State.

Implementation of SB-1383

In order to comply with certain provisions of SB 1383, the County entered into an agreement with ZWS on November 8, 2021 for administration of specified responsibilities on behalf of the County, including education and outreach, record keeping and reporting, food recovery program administration and tracking, and compost procurement. On November 16, 2021, the County adopted an organic waste disposal reduction ordinance as required by CalRecycle's regulations.

The proposed amendments to the County's franchise agreements with Recology and SGC require the County's haulers to offer organic service to all customers within the franchised service areas, and to perform route reviews, contamination monitoring, noticing and reporting services. The amendments allow the haulers to adjust rates up to revised maximum amounts to provide these additional services. The revised rate caps were reviewed by R3, the County's consultant, who determined them to be fair and reasonable. In accordance with the proposed Resolution (Attachment #5), the agreements require the franchised haulers to offer service, but generators are not required to subscribe. For the duration of the Board's action to suspend enforcement of Section 22-3 of the County Code, property owners can chose to self-haul their waste to a permitted facility.

Rate Impacts

- a. Recology Sonoma Marin Rate Summary. Under the amended franchise agreement, Recology is permitted to increase rates up to 8% over a minimum of a 2-year period. The first adjustment effective April 1, 2022 can be up to 2.4%. On or after April 1, 2023, Recology can increase rates up to 5.6%, provided it can justify the full increase through a specified formula within the agreement, and the County concurs upon review.
- b. Sonoma Garbage Collectors Rate Summary. SGC is already providing most of the services required by SB 1383 therefore, no rate increase is proposed by SGC to comply with the proposed amendment to the franchise agreement.

Amendment of the Master Operations Agreement (MOA)

Historically, Republic Services has been obligated through the MOA to provide a Commercial Food Waste

program to urban areas, including incorporated areas, as reasonably necessary to meet the diversion goals of the MOA. Republic subcontracts with Recology, to deliver these programs, which are delivered only as cost considerations allow. The MOA and the Prime Subcontract do not require Republic or Recology to perform all duties required by SB 1383. Examples of these deficiencies include:

- a. SB 1383 requires service be offered to all residential and commercial generators, not just “urban” customers, as directed by the existing agreements; and
- b. SB 1383 requires detailed route reviews for contamination and related reporting which are not required by the MOA or Prime Subcontract.

The scale and quality of the programs required by SB 1383 is greater than what the existing agreements contemplate and as such, cities and the County cannot rely exclusively on the MOA-based program to achieve SB 1383 compliance. In lieu of attempting compliance through a patchwork of agreements managed independently by the cities, the County, Recology, and Republic, the County has negotiated amendments to the MOA and Prime Subcontract to eliminate the existing commercial food waste program historically delivered by Republic through Recology. Instead, SB 1383 compliant programs will be delivered directly by the franchised haulers for the cities and the County.

The proposed amendments to the MOA and Prime Subcontract agreements retire the existing commercial food waste/dry waste program and eliminate the associated \$4.21/ton gate fee that funds this program. Retirement of the existing program under the MOA will allow all jurisdictions to manage their SB 1383 obligations directly with the haulers through their franchise agreements. In addition, the MOA diversion goal has been adjusted to reflect that commercial food waste and dry commercial diversion will be accomplished through franchise agreements with each jurisdiction. The MOA requires that Republic secure approval from the County for any changes to the Prime Subcontract. Staff have reviewed and recommend the Board approve the proposed amendment to the Primes Subcontract.

In addition, the MOA Amendment adjusts the cap imposed on the Waste Management Agency (Zero Waste Sonoma / “ZWS”) fee to allow for an increase to its fees on self-haul material. Prior to this amendment, ZWS fees on self-haul disposal have been capped with no adjustment for inflation or program expansions. The ZWS Fee of \$5.95 per ton covers the costs of programs, including but not limited to:

- a) Recycling and disposal of Household Hazardous Waste (HHW) from the member jurisdictions;
- b) Education and outreach for recycling;
- c) SB 1383 compliance; and
- d) ZWS operations and other methods of waste diversion delivered to the public.

Increased fees may be necessary to adequately fund a new north County HHW facility and provide SB 1383 compliance support to the member jurisdictions. To allow for these potential increases by ZWS, the cap has been increased to \$10.16 and will increase annually by CPI.

The increase in the ZWS fee cap will not immediately increase disposal rates, however. Because the gate rate is to be reduced by \$4.21/ton as of April 1, 2022 to reflect elimination of the commercial food waste program

delivered by Republic, the potential increases in the gate rate by up to \$4.21/ton from any increase to the ZWS fee will be fully offset.

Suspension of implementation of the mandatory service provision of Chapter 22 of the Sonoma County Code Mandating Solid Waste Collection Service

On November 16, 2021, the Board approved amendments to Chapter 22 of the County Code. Among other changes, the County Code now mandates participation in collection service and diversion of all organic waste. Since adoption of these code updates, staff have learned that jurisdictions around the State, including neighboring Napa, Marin, and Mendocino counties, are opting not to mandate participation in collection service. CalRecycle has provided guidance to select stakeholders that the regulations require mandatory curbside collection for all generators. However, this guidance is at odds with the plain language of the regulations, which appears to allow generators to self-haul their organic waste in lieu of subscription to franchised service. This allowance provides jurisdictions the option not to impose mandates on generators when it is not practical to do so, which may occur in many rural counties. In Sonoma County, even with the low-population waivers, there are still areas where curbside collection is not economically feasible. For that reason, staff propose the Board adopt the attached Resolution suspending enforcement of Section 22-3 of the Sonoma County Code (Mandatory service) until such time as the CalRecycle's regulations and guidance unequivocally demonstrates that all jurisdictions must impose mandatory service to achieve the purposes of SB 1383.

SB 1383 Local Assistance Grant Program Application

CalRecycle is offering one-time funding to local jurisdictions to assist with the implementation of SB 1383 regulations. Zero Waste Sonoma tendered an application on behalf of all member jurisdictions, including the County of Sonoma, on February 1, 2022. If the grant is awarded, ZWS will be responsible for the performance of the grant and all required documentation. For ZWS's application to be considered complete, CalRecycle requires a letter from the County of Sonoma authorizing Zero Waste Sonoma to execute all documents necessary to implement the grant program. ZWS is eligible to receive \$678,611 from CalRecycle which will be apportioned for various SB 1383 implementation projects, including education and outreach. This item requests the Board authorize the TPW Director to execute the letter of authorization required by CalRecycle.

Equity and Outreach

At the beginning of this process, staff met with the Office of Equity to develop a community engagement and mitigation plan for SB-1383 program implementation. All commercial customers were initially notified of the change in law via a mailer by Zero Waste Sonoma (ZWS). Similarly, ZWS issues regular news bulletins to customers which include information about available financial assistance, such as the California Alternate Rates for Energy (CARE) program. The CARE program is advertised in Spanish and English in quarterly newsletters to customers provided by Recology. Zero Waste Sonoma has similar outreach and education programs in place which will continue to engage the Spanish-speaking community regarding SB-1383 requirements.

In addition to the ZWS's notification to all commercial customers, TPW mailed out a SB 1383 informative mailer on February 15th, 2022 to all existing commercial and residential customers, as well as to all potential customers within the unincorporated County.

Given the enormity of the State’s requirements under SB-1383 to provide organic waste collection service, the program will be rolled out in phases over an 18-month period. To implement this roll out, Recology Sonoma-Marin will be hiring additional customer service representatives to supplement education and outreach efforts that will be performed by ZWS and TPW staff.

Summary of Recommended Actions:

Approve both amendments to the solid waste collection Franchise Agreements with both of the County’s Franchised Haulers, approve the First Amendment to the MOA including changes to the MOA’s Prime Subcontract, adopt a Resolution suspending mandatory subscription obligations established by Chapter 22 of the Sonoma County Code, and authorize the TPW Director to execute a Letter of Authorization required by CalRecycle for purposes of a regional grant application tendered by ZWS.

Strategic Plan:

This item directly support the County’s Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

Pillar: Climate Action and Resiliency

Goal: Goal 5: Maximize opportunities for mitigation of climate change and adaptation through land conservation work and land use policies

Objective: N/A

Prior Board Actions:

November 16, 2021 - Adopt Ordinance Repealing and Replacing Chapter 22

November 2, 2021 - Agreement with Zero Waste Sonoma and First Reading of an Ordinance for Chapter 22 Amendment

June 8, 2021: Board workshop on County’s efforts to implement SB-1383.

FISCAL SUMMARY

Narrative Explanation of Fiscal Impacts:

Funding sources for the administration of the MOA are generated from the collection of Concession fees on waste disposed at the County owned landfill and transfer stations on a per ton basis. Funding sources for the administration of the franchise agreements are generated from the collection of franchise fees from the franchisees. The proposed service and disposal rate adjustments will only impact customers subscribed to solid waste collection services and customers who use County waste disposal facilities. No additional appropriations are requested at this time for implementation of the recommended items.

Narrative Explanation of Staffing Impacts (If Required):

None.

Agenda Date: 3/15/2022

Attachments:

1. Amendment to Franchise Agreement with Recology Sonoma-Marin
2. Amendment to Franchise Agreement with Sonoma Garbage Collectors
3. First Amendment to Amended and Restated MOA
4. Amendment to Prime Subcontract
5. Resolution Suspending Section 22-3 of the Sonoma County Code
6. Letter of Authorization
7. Presentation - SB 1383 Implementation

Related Items “On File” with the Clerk of the Board:

Equity Memorandum
R3 Rate Review
Outreach Mailers