

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SAN BERNARDINO  
AND RECORD OF ACTION**

October 8, 2019

**FROM**

**KEVIN BLAKESLEE, Director, Department of Public Works - Solid Waste Management**

**SUBJECT**

Public Hearing – Proposition 218 and Amendment to Franchise Agreements with Empire Disposal and Mountain Disposal Company

**RECOMMENDATION(S)**

Conduct a public hearing pursuant to Proposition 218 and approve the following two amendments to the Solid Waste Handling Franchise Agreements for two County Franchise Areas within the unincorporated portion of the County to add a fee waiver program for homes that are infrequently occupied or homes that are vacant during various months throughout the year:

1. Empire Disposal (affiliate of Burrtec Waste Industries) for County Franchise Area 12-Zone A Communities of Mentone and Oak Glen and Zone C unincorporated area near Redlands. (Agreement No. 09-609 Amendment No. 7).
2. Mountain Disposal Company (affiliate of Burrtec Waste Industries) for County Franchise Area 16-Communities of Crestline, Running Springs, Lake Arrowhead, Green Valley Lake, and Blue Jay (Agreement No. 09-611 Amendment No. 5).

(Presenter: Kevin Blakeslee, Director, 387-7906)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost) as the Department of Public Works – Solid Waste Management Division (SWMD) is financed by fee revenue. SWMD establishes fees that are charged to the public and other agencies for utilization of the County's Waste Disposal System. This item will have a minimal impact on revenue for the SWMD 2019-20 budget.

**BACKGROUND INFORMATION**

The proposed amendments to the two Solid Waste Handling Franchise Agreements (Franchise Agreements) will add a fee waiver program for customers subject to mandatory residential trash collection (Uniform Handling) that infrequently occupy their homes or for homes that are vacant during various months throughout the year. County Franchise Area (CFA) 16 has Uniform Handling for all residential homes and CFA 12 Zone A has Uniform Handling in Mentone and Oak Glen (Zone A) and the unincorporated area near Redlands (Zone C).

The current franchise agreements do not have a provision requiring the waiver of fees for part time or infrequent use of a property. Granting a waiver of fees is at the discretion of the franchise waste hauler in accordance with section 46.0505 of the Solid Waste handling ordinance subject to a methodology approved by the Director of Public Works.

~~Inland~~ Empire Disposal and Mountain Disposal Company (hauler) did provide this service as a courtesy but became concerned about the number of customers utilizing the fee waiver program

and the administrative cost involved in the program. In December 2017, the hauler notified all residents in CFA 16 that it would be discontinuing the fee waiver program. In January 2018, the hauler discontinued the fee waiver program in all unincorporated areas where it was offered.

The hauler agreed to reinstate the fee waiver program and SWMD staff worked with the hauler to develop a fee waiver program. The hauler will charge a non-refundable administration fee currently set at \$27.50 and subject to annual cost of living adjustments (COLA) similar to other rates in the agreement. The fee waiver program will be added to the agreements for CFA 16 and CFA 12 – Zones A and C as a required service the hauler must provide. The program will be retro-active to July 1, 2019.

Customers requesting a fee waiver will be required to provide the hauler with monthly electric bills from the prior calendar year that show average daily use of 6.00 kwh or less for each qualifying month (“qualified month electric bill”). The hauler will review all of the submitted customer’s electric bills to confirm that they are at or below the maximum usage of 6.00 kwh average daily use for each individual month. Any qualifying month electric bills (for the prior calendar year) need to be submitted to the hauler for review between January 1 and February 28 (or February 29 on leap years). No electric bills will be accepted for review after the last day of February for the prior calendar year.

For each month the customer submits a qualified month electric bill, the hauler will issue a credit towards the current year’s trash bill, or a refund for fees previously paid. Unless the customer specifically requests otherwise, the amount will be credited to the account as opposed to a refund.

In order to qualify for a fee waiver, the customer’s account must be current and reflect a zero balance at the end of December of the year prior to the year during which the customer is applying for the fee waiver. Customers must complete and submit to the hauler an application form, qualified monthly electric bills, and a non-refundable fee waiver program annual application fee prior to review by the hauler for application of the fee waiver program. The hauler will respond in writing to each customer applying for the fee waiver program.

The hauler will implement the fee waiver program beginning with qualified monthly electric bills from July 1, 2019 through December 31, 2019, with a review period of January 1, 2020 through February 29, 2020. For this first review period the maximum number of months a customer may receive a credit or refund will be six months from July 1, 2019 through December 31, 2019. All subsequent review periods will allow for a maximum of 12 months per year a customer may receive a credit or refund following each January 1 through February 28 or 29.

The hauler will notify all residential customers of the fee waiver program within 30 days of Board of Supervisors (Board) approval of this Franchise Agreement Amendment and shall post information, including the application form, regarding the fee waiver program on the hauler’s website. Thereafter, the hauler will provide at least annual notification to all residential customers of the Fee Waiver Program.

Customers may not qualify for the fee waiver program during any month the customer utilizes the Clean Mountain Sites or curbside waste/recycling collections programs.

Pursuant to Proposition 218 requirements, the hauler mailed parcel owners and tenants a notice of the County’s intent to amend the existing franchise agreements to include a fee waiver program effective July 1, 2019. The Proposition 218 notices were mailed on or before August 23, 2019 to 22,697 owners/tenants. Each owner/tenant has at least 45 days to submit a written protest to the proposed fee and can submit protests up and until the close of the public hearing. Protests will be totaled after the close of the public hearing. A protest by the majority of the identified parcels is needed to prevent the Board from approving the new service and fee.

The Franchise Agreements were originally approved by the Board on May 19, 1998 (Item No. 57) and completely amended and restated on June 16, 2009 (Item No. 92) to include the following major provisions: make changes to contract length of term (to an eight year rolling term), include a new COLA formula, and add provisions for new commercial waste diversion programs.

On November 6, 2012 (Item No. 96), the Board approved Amendment No. 1 that clarified the methodology for the calculation of the COLA.

On June 18, 2013 (Item No. 70) and November 19, 2013 (Item No. 35), the Board approved Amendments No. 2 and No. 3, respectively, which amended the term of the Agreements. The Franchise Agreements automatically extend one additional year on July 1 unless either party provides written termination notice at least 60 days prior to the extension date.

On November 18, 2014 (Item No. 71), the Board Approved Amendment No. 4 to adopt a new COLA methodology, clarify the extraordinary adjustment and non-renew provisions, and make other administrative revisions.

The Franchise Agreement for CFA 12 was amended on May 24, 2016 (Item No. 116), to authorize a pilot study in the Angelus Oaks area for the use of bear resistant refuse collection containers and on July 11, 2017 (Item No. 50) to add a service of a bear resistant container and smaller refuse containers.

#### **PROCUREMENT**

Not applicable.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Julie Surber, Principal Assistant County Counsel, 387-5455) on August 19, 2019; Finance (Wen Mai, Principal Administrative Analyst, 387-4020) on September 19, 2019; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on September 22, 2019.