



CITY OF SANTA BARBARA

SUSTAINABILITY COMMITTEE AGENDA REPORT

AGENDA DATE: October 17, 2022

TO: Council Sustainability Committee

FROM: Environmental Services Division, Sustainability & Resilience Department

SUBJECT: Discussion of Changes to Solid Waste Programs and Services for New MarBorg Solid Waste Franchise Agreement

RECOMMENDATION:

That the Committee forward a recommendation to Council supporting the negotiation direction on changes to solid waste programs and services for the new MarBorg Solid Waste Franchise Agreement.

EXECUTIVE SUMMARY:

The City is preparing for the expiration of its current solid waste franchise hauler agreement (Agreement) with MarBorg Industries (MarBorg) in June 2023. As directed by Council on July 19, 2022, City staff and solid waste consultants from R3 Consulting Group Inc. (R3) are negotiating the terms and conditions of a new Agreement with MarBorg. Negotiations began in August 2022 and are anticipated to conclude by January 2023 with intended recommendation for a new Agreement coming to Council by March 2023

The City conducted an online survey solid waste customers from June to September 2022 which indicated that a majority of customers are satisfied or very satisfied with MarBorg's services. Respondents to the survey provided feedback regarding priorities for enhanced service offerings, which are being pursued during the negotiation process, in addition to new and enhanced programs and services recommended by City staff and R3. New and enhanced programs and services being considered in negotiations include:

- Enhancements to a variety of neighborhood collection services
- Compliance with new State legislative mandates
- Terms and conditions reflecting current industry standards in a variety of areas
- Changes to compensation methodology and financial reporting

- Transitioning residential collection service to a curbside cart collection program. Negotiations are progressing smoothly and are anticipated to be completed well within the eight-month timeline established by Council. Staff, R3 and MarBorg anticipate financial outcomes resulting in modest increases in MarBorg's compensation, which will result in modest increases in rates for most customers to effectuate important changes to programs and services benefitting ratepayers and community. Some customers, namely those residential customers who opt-in to "on-premises" collection of solid waste containers, will see increased rates corresponding to the higher cost of providing that service.

At this time, Council is only being requested to provide direction relating to the preparation of the final draft Agreement that is under negotiation. Final approval of that Agreement will be subject to later Council approval, anticipated in February or March 2023. Final adjustments to MarBorg's compensation will also be subject to Council approval on that same timeframe. Increases in MarBorg's compensation will require adjustments to the City's customer rates, which are subject to future Council action after compliance with Proposition 218 procedural and substantive requirements.

DISCUSSION:

Background

The solid waste industry has changed significantly since the City first entered into the Agreement with MarBorg in 2003. In the last ten years, a series of legislative mandates have been signed into law requiring recycling and organic collections services in certain sectors and establishing targets to reduce statewide disposal of organic waste. Additionally, changes in recycling and labor markets and advancements in technology have shifted industry operating standards.

Implementing these mandates and new industry standards into a new Agreement will involve significant changes. Additionally, evaluating and incorporating lessons learned since current programs and services were put into place will be critical to developing a modern Agreement in alignment with industry best practices and the service needs of the Santa Barbara community. To support the City in that effort, on April 12, 2022, Council approved a professional service agreement with R3 for expert consulting services relating to developing and negotiating the new Agreement.

On June 13, 2022, the Council Sustainability Committee voted to recommend pursuing a direct negotiation with MarBorg, establishing an eight-month period to come to an agreement, while maintaining the right to conduct competitive procurement if an agreement is not reached during that time, as well as to extend the existing contract by one year. On July 19, 2022, the City Council voted to support the Sustainability Committee's recommendation.

Community Survey Results

Staff and R3 prepared for negotiating programs and services for the City by conducting a community survey from June 8 through September 2022. There were over 1,200 respondents to the survey, which was conducted online, and while the results are not statistically significant, the majority of respondents indicated being satisfied or very satisfied with MarBorg's services. The majority of respondents also indicated that quality of overall service was of highest priority, with range of services provided and cost of service being the next highest overall priorities. Respondents also expressed interest in broader access to household hazardous waste (HHW) collection services, access to compost for gardens and backyards, and additional bulky item pickups, in that order of priority.

Status of Negotiations

Staff, MarBorg and R3 are meeting monthly to negotiate terms, conditions, programs, and services for inclusion in the new Agreement, which is proposed to be a 10-year Agreement with an optional 5-year extension. Negotiations are progressing well and are on-track for successful completion within the eight-month period approved by Council. Staff anticipates bringing a recommended Agreement with MarBorg forward to Council in February or March 2023.

During negotiation meetings in August and September, Staff, MarBorg and R3 identified certain opportunities for changes to solid waste programs and services that may be necessary and desirable to include in the new Agreement. While changes to programs and services are still being negotiated and are thus still subject to revision, the purpose of this item is to brief the Council Sustainability Committee on the nature of those changes and seek feedback.

Enhanced Neighborhood Collection Services

Staff is proposing enhancements and additions to several existing MarBorg programs and services which, together, will contribute to greater cleanliness on City streets and public rights-of-way. The enhanced services are summarized below, with all services being provided to the City by MarBorg at minimum set levels via compensation to be negotiated, and with scalability for increased level of service need at set per unit compensation rates.

- **Bulky Items:** Expanding bulky item collection service to include large residential units, which will triple the amount of bulky item collections available to residents in the City, which will be provided within 5 business days of requests by residents.

- **Abandoned Waste:** Enhancing abandoned waste clean-up efforts, which will be provided within 48 hours of City direction and providing for a greater number of abandoned waste collections based on City's needs.
- **Palm Fronds:** As requested by City staff, providing collection of palm fronds cleaned up by City crews on City property. Separately, collection of palm fronds generated on residential properties via the bulky item collection service provided to residents.
- **Clean Santa Barbara and City Services:** Providing additional solid waste collection services via roll-off containers from the City's designated yard locations as well as for the Clean Santa Barbara program.
- **Premium Sunday Service:** Providing a premium Sunday collection service to businesses that subscribe to service on all other collection days.
- **HHW Collection Events:** Providing periodic events for City residents to drop-off HHW at convenient and centralized locations, supplementing the existing Community HHW Collection program at UCSB.

Programs and Services for Legislative Compliance

A primary reason to update the City's Agreement with MarBorg is to secure programs and services to facilitate compliance with State legislative requirements.

Over the last ten years, the solid waste industry has undergone a series of significant changes in response to post-consumer material markets and state legislation, driving the need to create a more adaptive system. Some of the major legislation includes Mandatory Commercial & Multi-Family Recycling (AB 341 (2012)) and Mandatory Commercial Organics Recycling (AB 1826 (2014)), which require commercial and multi-family residents to subscribe to recycling and organic collection services and Short-Lived Climate Pollutants (SB 1383 (2016)), which is intended to reduce greenhouse gas emissions, such as methane, and address food insecurity in California.

SB 1383 imposes significant new administrative requirements on jurisdictions including program implementation, reporting to CalRecycle, and enforcement. The following are not included in the current Agreement and will be incorporated into the new Agreement to address these important changes:

- **New Containers/Lids and Labeling:** The City must adopt a collection system that complies with prescribed labeling and container or lid color for all account holders. This includes providing new containers or lids for those that do not comply. This City's brown trash containers do not comply as SB 1383 requires them to be grey

or black. Containers will be replaced over the first 5 years of the new Agreement to comply with this requirement.

- **Contamination Monitoring:** SB 1383 includes annual inspection requirements to verify self-hauler compliance, including inspections of Tier One and Tier Two commercial edible food generators to verify compliance with food recovery requirements and annual residential and commercial route reviews to visually assess container contamination.
- **Reporting and Data Tracking:** There are a number of reporting requirements that the City intends to have MarBorg fulfill, including type of organic waste collection service(s) provided to generators, results of waste evaluations performed to minimize contamination and the number of resulting targeted route reviews, and the total number of generators that receive each type of organic waste collection service provided.

Dedicated Staffing, New Collection Vehicles, and Other Industry Standards

The new Agreement will also include terms and conditions meeting industry standards in a variety of areas. Among those are:

- **Dedicated Staffing:** MarBorg will provide a dedicated point-of-contact serving as the primary liaison to the City and being responsible for resolution of City inquiries (such as service needs, compliant resolution, reporting requests, etc.).
- **New Collection Vehicles:** MarBorg's collection vehicles are due for replacement and vehicles over 10-years-old will be replaced with new compressed natural gas (CNG vehicles) during the Agreement. Additionally, the City and MarBorg will periodically meet-and-confer to review the economic and technological viability of implementing zero emission vehicles, with the intention of piloting such vehicles as soon as it is feasible.

Other industry standard terms and conditions include, but are not limited to:

- **Reporting:** To meet legislative requirements and facilitate best practices in management and administration of the Agreement.
- **Performance Standards:** Providing the City with assurances of MarBorg's performance including administrative penalties for uncured failures to perform.
- **Performance Reviews:** Providing the City with the ability to audit MarBorg's operations and finances periodically to ensure adherence to the terms and conditions of the Agreement.

- **Risk Management:** Meeting current City standards for insurance coverages and performance bond assurances.

Residential Curbside Cart Collection Program

The City's residential collection program is provided in a manner that is outdated compared to current industry standard in Santa Barbara County and the rest of California. Currently, residential collection services in the City are provided via collection vehicles that require two employees to exit the vehicle to gather containers and manually move those containers to the rear of the collection vehicle for emptying. Containers are often located away from the public right-of-way, meaning that employees spend valuable time walking to and from the collection vehicle to gather and return containers. MarBorg is proposing to move away from this very labor intensive means of providing residential collection services.

The approach that MarBorg is proposing is the same collection approach that has been approved in MarBorg's other service areas and is the industry standard for communities in California. This approach entails use of automated collection vehicles (operated by one employee) which use a mechanical arm to collect specially designed wheeled carts which are placed at the curb by residents. MarBorg has implemented (or is imminently scheduled to implement) this residential curbside cart collection program in all the other communities to which it provides services. The program has been well-received in those communities, and, according to the City's consultant R3, this collection approach has been in widespread use throughout the State for decades and is thus a time-proven method of providing residential collection service.

Curbside cart collection for the City will be flexible, providing for cost-effective rates for most of the customers while maintaining an option for those who would like to pay for the added convenience of "on-premises" non-curbside service. There are many benefits to a curbside cart collection program, including but not limited to:

- **Efficiency:** Shorter service time to collect carts from the curb.
- **Reduced Idling:** Fewer emissions from idling vehicles due to shorter service time.
- **Traffic Safety:** Safer traffic neighborhood traffic conditions resulting from less time with trucks collecting containers in the street.
- **Worker Safety:** Safer working conditions for MarBorg employees by virtue of less need to physically maneuver containers.

- **Customer Convenience:** Wheeled containers that are easier for customers to maneuver.
- **Litter Improvements:** Reduced roadside litter by providing containers with attached lids.
- **Uniformity:** Cleaner appearance of roadways with standardized containers.

Via the curbside cart collection program, MarBorg will provide every residential customer in the City with wheeled carts (color coordinated to meet the requirements of SB 1383) for collection of trash, recycling and organic waste. Customers will place those wheeled carts out to the curbside on their collection day and MarBorg will collect the containers from the curbside collection point. MarBorg will employ the new automated collection vehicles where the conditions of service make automated collection feasible (estimated at 60% of the City's residential customers) and will continue to employ the current approach in areas of the City where automated collection is infeasible due to density and/or traffic conditions (estimated at 40% of the City's residential customers).

With this change, all residential customers will need to use wheeled carts (to which 70% of customers already subscribe) and place those carts curbside. Customers will not be allowed to use non-wheeled cans, and all customers with non-wheeled cans will be provided new wheeled carts (affecting 30% of customers). Currently, MarBorg provides collection service customers using non-wheeled cans on-premises as a default service. Under the curbside cart collection program, the default collection option will be at the curbside, with customers being able to opt-in to on-premises collection service at an additional cost-of-service, which will be above the cost of curbside collection (with exception for customers requiring a disability accommodation).

Staff and R3 concur with MarBorg that the change to residential curbside cart collection should be included in the new Agreement. If approved by Council, the change to this new collection approach would be enacted over time as per an agreed-upon transition schedule, providing the City and MarBorg with plenty of time and opportunity to ensure a smooth transition. Customers will be provided plenty of advance notice via outreach and education regarding the change and will have the ability to keep or change their subscription levels during the transition. MarBorg leadership will personally oversee the container exchange process and will use MarBorg employees to deliver the new carts (not a third-party service provider which is typically the case for such transitions).

The tentative transition timeline for the curbside cart collection program is outlined below:

- **July 2023** – Place orders for vehicles, carts, and bins
- **August 2023** – Mail first packet of information to customers

- **October 2023** – Send second letter customers regarding container exchanges
- **December 2023** – Send third letter to customers regarding container exchanges
- **January 2024** – Send reminder for service change and cart delivery
- **February 2024** – Complete exchange of remaining cans for carts

Revised Compensation Methodology

The means of compensating MarBorg in the current Agreement are complicated, outdated, and not in-keeping with industry standards. Currently, MarBorg is compensated based on a complex set of calculations wherein the amount due to MarBorg is derived based on what the City collects from solid waste customers. Additionally, MarBorg's current compensation includes compensation for the post-collection costs of processing, recycling, composting and disposal, which the City intends to pay directly to the County pursuant to its Material Delivery Agreement going forward.

Via the new Agreement, MarBorg will be compensated for collection services it provides to customers in accordance with a set of cost-of-service per unit rates. Those cost-of-service compensation rates will originally be set based on financial analysis conducted by the City, R3 and other City consultants, and subject to negotiation and agreement with MarBorg. Once set, the compensation per unit will adjusted annually in accordance with a consumer price index (CPI) posted by the Bureau of Labor Statistics (BLS). Post-collection costs will be paid to the County by the City directly, a will no longer be included as a pass-through cost in MarBorg's compensation. MarBorg will also provide the City with financial statements necessary for the City to periodically quantify the cost-of-service provided to the City and the reasonableness of compensation to MarBorg.

BUDGET/FINANCIAL INFORMATION:

Proposed changes to solid waste programs and services to be provided by MarBorg via new Agreement, including amounts of compensation to MarBorg for those programs and services, are still being negotiated. Staff and R3 are not yet positioned to provide specifics regarding resultant effects on MarBorg's compensation and the City's customer rates.

However, it is anticipated that the Residential Curbside Cart Collection Program will result in modest changes to MarBorg's compensation and the City's customer rates for collection of carts that are placed out for curbside collection. Customers that choose to opt-in to on-premises collection, and that are not able to demonstrate the need for a disability accommodation, will see increases in their collection rate as a result of higher cost-of-service compensation to MarBorg for on-premises collection service.

It is further anticipated that the addition of new and revised programs and services will result in modest increases to MarBorg's compensation and thus City customer rates. The next steps in the negotiation process will be to review compensation proposals from MarBorg, negotiate revisions as necessary to achieve desirable outcomes, and present a recommended suite of programs and services at fair compensation for Council consideration for award. Increases in MarBorg's compensation will require adjustments to the City's customer rates, which are subject to future Council action after compliance with Proposition 218 procedural and substantive requirements.

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