



## Legislation Text

File #: 22-0984, Version: 1

**HEARING** - Environmental Management Department recommending the Board consider the following regarding Material Recovery Facility and solid waste collection rates for Waste Connections of California, Inc., doing business as El Dorado Disposal Service, Franchise Areas A, B, and C:

- 1) Find that a 4.07% Consumer Price Index increase to the existing Material Recovery Facility and solid waste collection rates, both residential and commercial, in Franchise Areas A, B, and C, to be in accordance with the interim year rate-setting process as outlined in the Solid Waste Rate Setting Policies and Procedures Manual;
- 2) Acknowledge and approve rate increases to the Material Recovery Facility incorporated herein, to which the 4.07% is added, as were approved by the Board in Interim Year 2020 to incrementally increase fees over a three-year period to align with increasing costs of new WERS facility;
- 3) Adopt and authorize the Chair to sign Resolution **090-2022** (Attachment B), adjusting the Material Recovery Facility rates by 4.07%; and
- 4) Adopt and authorize the Chair to sign Resolution **091-2022** (Attachment C), adjusting the residential and commercial solid waste collection rates for El Dorado Disposal Service, Areas A, B, and C by 4.07%, for the 2022 Interim year to become effective July 1, 2022.

**FUNDING:** User Fees, Franchise Fees.

### **DISCUSSION / BACKGROUND**

On October 21, 2014 (Legistar 14-1047, Item 32), the Board adopted Resolution No. 187-2014 authorizing a new Solid Waste Services Agreement (Franchise Agreement) between the County and Waste Connections of California, Inc., doing business as El Dorado Disposal Service (El Dorado Disposal), for the collection of solid waste throughout the franchise area and operation of the Material Recovery Facility (MRF). In addition to significant changes from the previous agreement, this Franchise Agreement also incorporated a new Solid Waste Rate Setting Policies and Procedure Manual (Rate Manual) developed by NewPoint Group (now Crowe LLP).

The Rate Manual provides specific requirements for the setting of collection rates during "Base" years (every third year of the Franchise Agreement) and "Interim" years (years falling between base years). Base year rate adjustments require an in-depth financial analysis to determine if rates require adjustment, the amount of the adjustment, and whether or not an increase or decrease to rates is warranted. Interim year rate adjustments are calculated based upon 85% of the change in the U.S. City Average - Garbage and Trash Collection Consumer Price Index (CPI) of the previous 12 months (December to December). Interim year rate adjustments are subject to a minimum increase of 1% and a maximum increase of 6%. The franchise hauler is not obligated to request an increase in interim years.

On August 18, 2015 (Legistar 15-0905, Item 13), the El Dorado Disposal Service Agreement was amended (First Amendment) to consolidate the services provided by Amador Disposal Service under the Amador Disposal Service Franchise Agreement into the El Dorado Disposal Service Agreement (Area B) and terminate the Amador Disposal Service Franchise Agreement. Also on August 18, 2015 (Legistar 15-0632, Item 14), the Sierra Disposal Service Franchise Agreement was assigned to El

Dorado Disposal and the El Dorado Disposal Service Agreement was amended (Second Amendment) to consolidate the services provided by Sierra Disposal Service into the El Dorado Disposal Service Agreement (Area C). On December 12, 2017 (Legistar 14-1047, Item 25), The El Dorado Disposal Agreement was amended (Third Amendment) to provide seasonal curbside green waste cart service in the Area B community of Grizzly Flats.

Interim year rate increases for El Dorado Disposal, Areas A, B, and C, were previously approved by the Board on the following dates:

- June 7, 2016 (Legistar 14-1047, Item 38, 1.75%),
- May 23, 2017 (Legistar 14-1047, Item 26, 1.51%),
- June 12, 2018 (Legistar 18-0825, Item 30) the Board approved a base year rate increase of 5.02% to El Dorado Disposal residential and commercial customer rates, Areas A, B and C, and a 1.69% CPI increase for MRF rates. The MRF rates are adjusted annually by CPI and are not subject to the base year rate setting process
- June 25, 2019 (Legistar 19-0920, Item 42 8.86%),
- August 25, 2020 (Legistar 20-0919, 3.46% to MRF and 6.69% to Franchise areas).

The rate increases in 2019 and 2020 reflected additional adjustments due to unforeseen circumstances resulting from increasingly restrictive changes in recycling laws and further declines in the recycling commodity market, and capital costs associated with the construction of the new Transfer Station/MRF. The Rate Manual provides for rate setting outside of the normal annual process under Section 1, C for unforeseen circumstances. In addition, the Fourth Amendment to the EDDS Franchise Agreement, approved by the Board on November 13, 2018 (Item 21, File No. 18-1693), under Section 11A allows the franchised hauler to request the Board to consider an increase to the MRF rates if the estimated project cost significantly exceeds the original maximum project estimate.

On March 28, 2021 El Dorado Disposal submitted a Base Year Rate Application (Rate Application) to the Environmental Management Department (Environmental Management) for collection services for rate year 2021 requesting a 3.75% rate increase to the MRF as well as residential and commercial collection rates. Environmental Management is responsible for overseeing the franchise agreements for Solid Waste Management and rate setting is guided by the Rate Manual.

In March of 2021, Environmental Management requested that Crowe LLP, the County's solid waste consultant, perform a review of El Dorado Disposal's Rate Application and supporting information. The Rate Application included audited financial statements for the year ending December 31, 2019, and internally prepared estimated financial information and operational data for years 2020 (estimated) and 2021 (projected). Crowe LLP completed the analysis of El Dorado Disposal's Rate Application and provided the final Base Year 2021 Rate Analysis (Rate Analysis) to Environmental Management (Attachment E). Based upon the analysis conducted, Crowe LLP recommended the approval of a 3.75% rate increase for the MRF rates and a 5.52% rate increase for residential and commercial solid waste collection rates for El Dorado Disposal's franchised areas in the unincorporated portion of the County (Franchise Areas A, B, and C). These rates were adopted and implemented after the Board approved Item 21-0904.

In February 2022 El Dorado Disposal submitted an Interim Year Rate Application to the Environmental Management Department for collection services for rate year 2022 and requested a

4.07% rate increase to the MRF as well as residential and commercial collection rates in Franchise Areas A, B and C. Environmental Management hired Crowe LLP to review the rate request and Crowe determined that the requested 4.07% was in accordance with the interim year rate-setting process as outlined in the Solid Waste Rate Setting Policies and Procedures Manual and has recommended this proposed increase.

Many of the rate increases for the Material Recovery Facility are notably increased higher than 4.07%. This is due to the approved incremental increases approved in Legistar Item 20-0919 with many items to be increased over a period of three years, in addition to regularly scheduled rate increases. All increases are in line with approved and projected increases.

### **ALTERNATIVES**

None. Denial of the requested 4.07% 2022 interim year rate increase would not be consistent with the terms of the Board approved Franchise Agreement and Rate Manual incorporated therein. Section 22 of the Franchise Agreement provides that rates are "established and adjusted" in accordance with the Rate Manual. The Manual provides that a Franchisee "shall be entitled to adjust its rates" during an interim year based upon a formula that includes the CPI. The Board could choose to not approve an interim year Application, should any "deficiencies" be identified in determining the rates, which would require the County to address the deficiencies and return to the Board with a resolution for Board adoption. Staff has reviewed the Application and find no deficiencies in the Application, supporting data, or the required notice.

### **PRIOR BOARD ACTION**

See Discussion/Background above.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel has approved the proposed Resolutions.

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended. It should be noted that although the Board has no discretion in approving the rate increase at this time due to the terms in the current Franchise Agreement, both the County and the Franchisee have the option of negotiating an amendment to the terms of the Franchise Agreement, including the Rate Setting Manual, at any time, to apply to future rate increase applications.

### **FINANCIAL IMPACT**

The increase in rates proposed by El Dorado Disposal are directly related to the cost to provide these services to customers. The County's Franchise Fee will remain at 5%. However, as rates are incrementally increased, the County will see a slight increase in Franchise Fee revenue. Additionally, in 2020 the Board approved 20-0918, increasing the per tonnage surcharge from \$2.70/ton to \$10.80/ton resulting in an estimated increase of \$250,000 to \$750,000 in funding.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Clerk of the Board will obtain the Chair's signature on one (1) original copy of each adopted Resolution.
- 2) Clerk of the Board will forward one (1) copy of each executed Resolution to Environmental Management for further processing.

**STRATEGIC PLAN COMPONENT**

Healthy Communities, Good Governance

**CONTACT**

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