



April 7, 2022

TO: LOCSD Board of Directors

FROM: Ron Munds, General Manager

SUBJECT: Agenda Item 5B – 04/07/2022 Board Meeting
Adopt Resolution Number 2022-11 Supporting the County of San Luis Obispo's Rate Setting Process and Proposed Solid Waste Rate Increase.

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DESCRIPTION

At the February 3, 2022 Board meeting, the Board adopted a resolution to assign the Solid Waste Franchise agreement from the County of San Luis Obispo (County) to the District. At the meeting, the Board was informed that the County was in the process of reviewing a rate application submitted by Waste Connections. This report summarizes the actions taken since the February 3rd Board meeting.

STAFF RECOMMENDATION

Motion:

I move that the Board adopt Resolution Number 2022-11 supporting the County of San Luis Obispo's Rate Setting Process and the Proposed Solid Waste Rates.

DISCUSSION

At the February 3, 2022 Board meeting, the Board adopted a resolution to assign the Solid Waste Franchise agreement from the County of San Luis Obispo (County) to the District. At the meeting, the Board was informed that the County was in the process of reviewing a rate application submitted by Waste Connections. Under the requirements of the Franchise Agreement, the requested rate increase will need to be adopted by the Board of Supervisors which will occur after the transfer of the Franchise Agreement to the District. As part of the agreement, the District agreed to accept the rates once approved.

At the March 1, 2022 Board of Supervisors meeting, Supervisor Gibson requested, and the other members of the Board agreed, that the following condition be added and approved by the District before the assignment is finalized:

Authorize the Director of Public Works to execute and deliver the Assignment of Franchise Agreement between the County of San Luis Obispo, Los Osos Community Services District, Waste Connections US Inc., and Mission Country Disposal only after the Los Osos Community Services District Board adopts a resolution supporting the proposed new rate structure and County's rate setting process.

Working with County Public Works staff, the attached resolution satisfies the condition and is the recommended action.

Overview of the Solid Waste Rate Setting Process and Rate Application

The solid waste rate setting process for all the Waste Connection service areas is guided by the City of San Luis Obispo's Solid Waste Rate Setting Manual. The rate setting procedures in the manual call for a three-year process where the first year (base year) requires comprehensive revenue and expense information which identifies the allowable profit and rate of return, pass through costs and other pertinent information that supports the requested rates. Years two and three typically only adjust rates based on the Consumer Price Index (CPI) and allowable pass-through costs like tipping fees at the landfill. Once the rates have been reviewed and agreed upon by the parties, the rates must follow the Proposition 218 procedures where rate payers and property owners are duly notified of the increase and have the ability to "protest" the rate increase in writing.

The Waste Connections rate application, currently under review by the County, proposes a 45.93% rate increase. The County is doing its due diligence to evaluate the revenue and expense information as previously explained before accepting the rates as proposed. Additionally, a consultant has been contracted with to review and verify the revenue and expense information, and provide a third party verification of the rates as well. The following is the breakdown for the increase provided to the County by Waste Connections.

Factor	% Increase
IWMA Expense	3.42%
Capital Investment (depreciation)	9.56%
HZI Digester Expense (green waste)	6.67%
Wage Adjustments to Market	4.91%
Recycle Processing Fee	1.88%
Franchise Fee	4.59%
Truck Repairs	3.2%
Insurance	1.8%
Other Outside Services	2.7%
Fuel	1.2%
Landfill Disposal	2.7%
CPI/Other	3.3%
Total	45.93%

The final report from the County's rate consultant is still pending and was not available at the time this report was written. Preliminary results of the review indicate the percent increase could come down slightly but will remain close to Waste Connections requested rates. Additionally, since there has been a delay in adopting the solid waste rates, the rate increase will be retroactive to a date to be determined; most likely February 1, 2020. Staff has been involved in the rate review process and supports the finding of the rate consultant once available.

FINANCIAL IMPACT

There is no direct financial impact to the District resulting from the recommended action. The consequence of not taking action would result in the franchise agreement responsibilities and revenue from the franchise fee not being assigned to the District as proposed.

Attachments

Resolution Number 2022-11

RESOLUTION NO. 2022-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT SUPPORTING THE PROPOSED RATE SETTING PROCESS AND NEW RATES FOR THE SOLID WASTE COLLECTION FRANCHISE

WHEREAS, on or about September 4, 2008, the Los Osos Community Services District (“District”) and Mission Country Disposal and Waste Connections US, Inc. (“Contractor”) entered into an Amended and Restated Solid Waste Collection Franchise Agreement (“Franchise Agreement”); and

WHEREAS, on or about December 10, 2013, the District assigned all of its rights and obligations to the County of San Luis Obispo (“County”) under the Franchise Agreement in exchange for the County’s contribution of \$2,800,000 to the settlement and resolution of the District’s bankruptcy filed in 2006; and

WHEREAS, the County desires to assign all of its rights and obligation under the Franchise Agreement, as amended, to the District in exchange for the District’s payment of \$1,195,614.55 over a 120-month period (“Assignment”); and

WHEREAS, prior to the effective date of the Assignment, the County received an application for rate analysis and adjustment from the Contractor; and

WHEREAS, the Contractor requests a 45.93% increase for the Base Year Rate Adjustment for Fiscal Year 2022, due to, among other things, increased costs related to labor, fuel, truck replacement, commingled recycling, anaerobic digester processing, and solid waste management fees; and

WHEREAS, most residences in Los Osos use the 32-gallon cart service and, if the Contractor’s requested rate as presented, is approved, the corresponding rate would increase by \$11.63 per month; and

WHEREAS, the proposed rate adjustment includes the increased solid waste management fees approved by the San Luis Obispo County Integrated Waste Management Authority (IWMA) Board on March 9, 2022 (i.e., 5.4% fee on all accounts); and

WHEREAS, at the District’s request and on its behalf, the County has agreed to review the application and complete all required processes to revise services rates in a manner consistent with the Franchise Agreement, as amended, and approve rates in an amount that will not exceed the Contractor’s requested Base Year adjustment; and

WHEREAS, the rate setting process shall comply with applicable law, including, but not limited to, Article XIII D of the California Constitution and the Proposition 218 Omnibus Implementation Act (commencing with Section 53750 of the California Government Code); and

WHEREAS, on March 1, 2022, the County Board of Supervisors authorized execution of the Assignment only in the event the District Board of Directors adopts a resolution supporting the proposed new rate structure and the County’s rate setting process; and

WHEREAS, if the County revises the service rates after the completion of these processes, the Assignment requires the District to adopt those rates; and

WHEREAS, the County has performed a rate review, including hiring a professional consultant, to deem appropriate those rates requested by the Contractor; and

WHEREAS, the County is prepared to conduct the necessary noticing and rate setting process on behalf of the District under the Assignment contingent upon the District's support for said process and the aforementioned proposed solid waste collection rates.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

1. The District supports the proposed increase in solid waste collection rates in an amount not to exceed 45.93%, and any temporary increase due to delayed rate implementation, for the District's service area based on the Contractor's application.
2. The District supports the County's rate setting process, including the Proposition 218 noticing and hearing requirements, for the proposed increase in solid waste collection rates for the District's service area.

On the motion of Director _____, seconded by Director _____ and on the following roll call vote, to wit:

AYES: _____
 NOES: _____
 ABSTAIN: _____
 ABSENT: _____

The foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Los Osos Community Services District this 7th day of April 2022.

 Matthew D. Fourcroy, President
 Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

 Ron Munds
 General Manager and Secretary to the Board

 Jeffrey A. Minnery
 District Legal Counsel