



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: February 14, 2017

Subject: Third Amendment to the County's Franchise Agreement with Crockett Sanitary Service, Inc. and related changes to collection services and rates

RECOMMENDATION(S):

1. APPROVE and AUTHORIZE the Chair of the Board of Supervisors to execute the Third Amendment to the Franchise Agreement between Contra Costa County and Crockett Sanitary Service, Inc. (Attachment 1) governing the collection services and rates in Crockett, Port Costa and Tormey through July 31, 2025.
2. ACCEPT report from Crowe Horwath, LLP, consultant, dated November 23, 2016, summarizing the results of its review of the Base Year Rate Application submitted by Crockett Sanitary Service, Inc. (Attachment 2).
3. APPROVE a 14.28% residential and commercial solid waste collection rate increase effective April 1, 2017, and a 4.99% residential and commercial solid waste collection rate increase effective April 1, 2018.
4. FIND that the Third Amendment to the County's Franchise Agreement with Crockett Sanitary Service, Inc., is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as the Amendment will not cause

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/14/2017** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 14, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Demian Hardman,
(925) 674-7826

By: June McHuen, Deputy

cc:

potentially significant effects on the environment.

5. DIRECT the Department of Conservation and Development (DCD) staff to file a CEQA Notice of Exemption with the County Clerk.

FISCAL IMPACT:

No impact to the County General Fund. The costs for County staff time spent administering the Franchise Agreement, including staff and consultant costs for conducting rate reviews, are covered by solid waste/recycling collection franchise fees.

BACKGROUND:

On November 5, 1996, the County entered into a franchise agreement with Walter Botta, the sole proprietor of the Crockett Garbage Company, to provide collection and recycling services for the unincorporated communities of Crockett, Port Costa and Tormey. Walter Botta immediately assigned his rights and obligations under the Agreement to Crockett Garbage Service, Inc. (name was subsequently changed to Crockett Sanitary Service, Inc.), which is a subsidiary of Richmond Sanitary Service, Inc. (owned by Republic Services).

On November 1, 2016, the County executed a First Amendment to the Franchise Agreement with Crockett Garbage Company, which changed the name of the Agreement to “Franchise Agreement with Crockett Sanitary Service, Inc.” and extended the term of the Agreement through December 31, 2016, to allow for negotiation of terms and conditions of a proposed long-term extension of the Agreement and the exclusive franchise granted thereunder. On December 20, 2016, the County entered into a Second Amendment to the Franchise Agreement, which extended the term of the Franchise Agreement with Crockett Sanitary Service, Inc., to March 1, 2017, to allow for further negotiations of a long-term extension of the Agreement.

The Franchise Agreement grants Crockett Sanitary Service, Inc. (CSS) the exclusive privilege and duty to collect solid waste, recyclables and organics routinely generated by residential and commercial customers within the designated Crockett service area (also known as the “Franchise Area”). The Crockett Franchise Area covers the following three (3) unincorporated areas of District V:

1. Crockett
2. Tormey
3. Port Costa

The County also establishes and regulates Collection Rates that CSS is allowed to charge for residential and commercial collection services provided in their Franchise Area. These Rates are established in accordance with the adopted rate setting methodology (Rate Manual) approved by the County in 1998 for use in setting rates for the County's Franchise Agreement with Allied Waste (also owned by Republic Services). The Rate Manual establishes a process with the following components:

- a. Every four (4) years: Base Year rate reviews. Such reviews rely upon data submitted in detailed rate applications and accompanying audited financial statements; and
- b. Intervening years between Base Years (Interim Years): The Franchisee may request

no change or a change based on one of the following options. One, a rate change which does not exceed the annual change in Consumer Price Index (CPI) (no Board approval required). The hauler is not required to submit audited financial data with the interim year rate application. Therefore, the Interim Year Rate Review is less rigorous than that carried out in a Base Year.

The Rate Manual provides for recovery of the reasonable costs that Crockett Sanitary Service will incur in performing services under the Franchise Agreement plus allowable profit.

History of Solid Waste Collection Rate Adjustments Since Last Rate Change

There have been various rate adjustments in the Crockett Franchise Area since 1998 when the County adopted a Rate Manual. However, rates charged to residential and commercial customers in this Franchise Area have remained unchanged since 2009. Since the last Board-approved rate change in 2009, the CPI for the San Francisco-Oakland-San Jose area has increased approximately 18%, or an average of 2.6% per year. Rates for residential and commercial customers were not affected and remained flat.

The most recent rate review took place in 2009. Below is a brief summary of that review and subsequent allowable rate adjustments:

2009: Interim Year Rate Review – An Interim Year Rate Change of 3.49% was approved by the County Board of Supervisors on January 27, 2009. This rate change was calculated on a weighted increase in controlled (tipping fees and associated regulatory charges) and uncontrolled (adjusted changed in CPI) costs consistent with the Rate Manual.

2010: Interim Years – No change in rates requested.

2011: Base Year Rate Review – The 2011 Base Year Rate review found efficiencies that were gained in the haulers operations that generated a total annual cost savings of \$36,127, equivalent to a 15.27% reduction in the rates. In order to maximize rate stability, no adjustments were made to the rates. The cost savings served as a credit that helped offset costs of expanding routine services and avoid pass-through of subsequent annual CPI rate adjustments that would have otherwise been added to customers' rates. In 2012, CSS increased the frequency of collection of green waste from monthly to bi-weekly. In March 2015, the hauler implemented additional service enhancements increasing the frequency of green waste collection from bi-weekly to weekly (total annual cost of approximately \$54,000 for the service area) and recycling collection from bi-weekly to weekly.

2012-2015 Interim Years – No change in rates requested.

Crowe Horwath Review of Crockett Base Year Rate Application

On May 27, 2016, CSS submitted a Base Year Rate Application requesting to increase solid waste collection rates by 15.25%. To determine a Base Year Rate change for 2017, the County requested technical assistance from Crowe Horwath (consultant) to review the CSS Base Year Rate Application consistent with the County's Rate Manual. The results of Crowe Horwath's review are summarized in its report dated November 23, 2016, which is attached as Attachment 2.

The Base Year Rate setting process requires that a detailed rate change application be submitted along with supplemental financial and operational information. Using the detailed financial data provided, Crowe Horwath reviewed the following major cost categories to determine the appropriate rate adjustment:

- Direct Labor Costs
- Tipping Fees
- Corporate and Local General and Administrative Costs
- Household Hazardous Waste Program Costs
- Trucking and Equipment
- Allowable Profit
- County's Franchise Fees

BASE YEAR RATE APPLICATION: The rate increase of 15.25% requested in the Base Year Rate Application is based on projected costs for existing services, including continued collection of recyclables and green waste on a weekly basis. Crowe Horwath reviewed the Rate Application submitted by Crockett Sanitary Service for consistency with the Rate Manual, County policies, and waste management industry practices. Their analysis did a comparison on year-to-year changes in revenues and costs for reasonableness and solicited explanations from Crockett Sanitary Service for material changes. This included the examination of actual data from prior years of 2013 through 2015, estimated data for 2016, and projected data for 2017.

Crowe Horwath's review of the Rate Application led to recommending minor reductions to various cost categories, such as trucking and equipment, that resulted in a \$5,659 net decrease in annual projected costs identified in the CSS Rate Application. This equates to a 0.97% cost reduction (relative to the CSS Application) for the 2017 Base Year, resulting in a recommended rate increase 14.28%.

There are multiple factors contributing to the changes in projected costs and revenue which drive the recommended rate adjustment. Some of these are routine factors associated with existing services (e.g. increased wages and benefits based on labor agreements and CPI adjustments to various other categories of operational costs, including trucking and equipment, depreciation and disposal). Most of the recommended rate increase is associated with a new service enhancement of going from weekly to bi-weekly collection of green waste implemented in March 2015.

While the proposed rate changes are large, the existing rates are still relatively low compared to neighboring jurisdictions. Crockett Franchise Area residential customers have not had a rate increase since 2009.

RATE COMPARISON: As shown in Exhibit B, current Crockett area residential rates are 25 to 38 percent below average rates for all container sizes in neighboring non-County franchise areas. With the proposed 14.28% increase recommended to take effect on 4/1/2017, the Crockett area residential rates would range between about 14 to 29 percent below average rates charged in non-County franchise areas. Compared to other unincorporated areas franchised directly or indirectly (joint powers authority) by the County, current Crockett area residential rates are 2 to 8 percent below average except for the 65-gallon cart which is 4 percent above average. With the proposed 14.28% increase recommended to take effect on 4/1/2017, the Crockett area residential rates would range between about 4 to 11% above average County franchise area rates.

Recommended Service Enhancements and Associated Rate Changes

In conjunction with the 2016 Base Year Rate Review, County staff and CSS negotiated proposed terms for an amendment to the County's Franchise Agreement with Crockett Sanitary Service, Inc. The amendment includes various updates needed for consistency with previously approved amendments to other County Franchise Agreements. The amendment terms also involve a phased implementation approach to spread rate increases over a two year period (2017 and 2018) in conjunction with new, enhanced on-call services and an increase to Franchise Fees (to be consistent with the fees charged in other franchises). The purpose of this phased approach is primarily to ease the rate impact, which necessitates that the service and fee changes proposed in the Third Amendment not be implemented all at once in 2017. The following summarizes the suggested phased implementation of franchise service and rate changes consistent with the approach built into the proposed Third Amendment to the Franchise Agreement.

Recommended Rate and Service Changes Proposed to take Effect In 2017: Staff recommends approval of a Base Year Rate increase of 14.28% consistent with Crowe Horwath's suggestions based upon their detailed review of the 2016 Base Year Rate Application submitted by CSS. This increase is proposed to take effect on April 1, 2017, contingent upon the required written notice having been provided to customers at least 30-days in advance. Simultaneous with the proposed 2017 rate increase taking effect, CSS has agreed to implement new On-Call Curbside Bulky Item Clean-up service more fully described in Exhibit B to Attachment 1. However, the associated rate increase is proposed to go into effect a year later (April 1, 2018) as discussed in more depth below. Annual cost savings of \$1,661 resulting from changing pick-up frequency for five existing street can locations from twice to once per week will help offset a portion of the cost for the On-call Bulky Item Clean-up service, which reduces the amount of additional rate revenue needed from customers through 2020.

Recommended Rate, Fee and Service Changes Proposed to take Effect In 2018: To avoid

burdening customers with a single annual rate increase in excess of 15%, staff is recommending that implementation of the recommended rate change in excess of the Base Year adjustment be delayed for one year. Solely implementing the Base Year Rate adjustment in the first year, allows the County to defer the remainder of the proposed increase to a future date as long as it coincides with the implementation timeframe for the additional proposed services and increased franchise fees. The remaining recommended rate adjustment totaling 4.99% is recommended to take effect on April 1, 2018, to coincide with the implementation of the franchise fee increase and service enhancements (Second Annual On-Call Bagged Clean-up and On-Call Right-of-Way Clean-up). This recommended 2018 rate increase would include the following elements and is in addition to any increase that may be requested and due based on the annual change in CPI:

Increase Franchise Fees (4%) - Implementation deferred until 4/1/2018

- a. 4% rate increase for commensurate Franchise Fee increase (from 3% to 7%), consistent with the 7% franchise fees established in all of the other County and JPA controlled collection franchises

Enhance On-call Services (0.99%) – Implementation deferred until 4/1/2018 (exception noted in b)

- a. 0.80% rate increase to cover cost of one (1) annual On-Call Curbside Bulky Item Clean-up per residential customer [addition of new pick-up option to be included with standard residential service at no additional cost to requesting customers effective 4/1/2017]
- b. 0.10% rate increase to provide residential customers with a Second On-Call Bagged Clean-up per year
- c. 0.09% rate increase to provide the County with On-Call Right-of-Way Clean-ups

Table 1 shows the existing monthly residential rates and the phased implementation of the rate increases recommended to be approved for 2017 and 2018. Phased rate increases are contingent upon deferred implementation of corresponding service enhancements and franchise fee increase.

Table 1 - Phased Rate Increases for 2017 (Base Year Rates) & 2018 (Added Services & Fees)

Curbside Cart Size <i>(Cans = Backyard service)</i>	Existing Monthly Rates	Recommended 2017 Base Year Rate Increase (14.28%)	Recommended Monthly Rate in 2017 (as of 4/1/2017)	Recommended 2018 Phased Rate Increase (4.99%)*	Recommended Monthly Rate in 2018* (as of 4/1/2018)
20-gallon	\$22.44	\$3.20	\$25.64	\$1.28	\$26.92
35-gallon	\$26.61	\$3.80	\$30.41	\$1.52	\$31.93
45-gallon	\$35.15	\$5.02	\$40.17	\$2.00	\$42.17
65-gallon	\$46.66	\$6.66	\$53.32	\$2.66	\$55.98
95-gallon	\$56.69	\$8.10	\$64.79	\$3.23	\$68.02

32-gal Can	\$27.32	\$3.90	\$31.22	\$1.56	\$32.78
45-gal Can	\$35.90	\$5.13	\$41.03	\$2.05	\$43.08

*In addition to the recommended 4.99% rate increase proposed to take effect on April 1, 2018, Crockett Sanitary Service is entitled to request an annual Interim Year/CPI rate adjustment.

PROPOSED FRANCHISE AMENDMENT TERMS

Staff is recommending that the Board of Supervisors approve the proposed Third Amendment to the Franchise Agreement and associated Exhibits provided in Attachment 1 in conjunction with the recommended rate adjustments specified in Table 1 above. The Amendment also includes updates and corrections warranted to reflect current services provided by Contractor, including additional recyclable materials collected in blue carts and more frequent collection of recyclables and organics now offered as discussed above. Additional revisions have been incorporated to reflect current industry practices and facilitate consistency with the other Franchise amendments approved by the County over the past couple of years. Below is a summary of the changes to the proposed Third Amendment to the Franchise Agreement:

- Extending the term of the Agreement approximately 8 years, from March 1, 2017 through July 31, 2025.
- Expanding the Franchise Area to include land to the north which is currently occupied by an industrial complex (C&H Sugar).
- Increase in number of public facilities served at no extra charge (see more Street Cans below).
- Deletion of a section pertaining to a local advisory committee that no longer exists.

Public Street Cans: The proposed Amendment includes routine pick-up for twenty-one (21) street cans (19 in Crockett and 2 in Port-Costa), which is five more than the Contractor is obligated to serve or repair/replace under the existing Franchise Agreement. Since the Franchise was approved in 1996, additional street cans have been installed by other parties, presumably to address needs identified by the Community. The proposed Amendment also includes twice a week pick-up for five (5) of the street cans at specified locations. The hauler would only continue to be required to maintain and repair/replace up to sixteen (16) of the 21 street cans in the Franchise Area. County staff has coordinated with the Crockett Improvement Association regarding this and the Crockett Improvement Association has agreed to seek grant funding to assist in providing maintenance for the other five (5) street cans in Crockett. The location and frequency of pick-up of all twenty-one (21) street cans are specified in Exhibit D of Attachment 1.

FUTURE FRANCHISE AGREEMENTS

This is the last of the four Franchise Agreements that the County entered into between

1993 and 1996. It is also the last proposed to be amended in order to extend the term for nine years (ten years for the other franchises). In order to seek direction from the Board regarding whether or not to extend these solid waste and recycling collection franchise agreements again in future years, staff will return to the Board of Supervisors three years prior to their termination dates, which fall between 2023 and 2025. This three-year "tickler" should allow adequate time for staff to conduct a Request for Proposals process should the Board so direct, including soliciting and selecting a contractor as well as completing negotiations with the selected contractor

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not approve an Amendment that extends the term of the County's Franchise Agreement with Crockett Sanitary Service and no replacement Franchise Agreement is executed prior to March 1, 2017, any collection services provided in the Crockett area thereafter would violate County Code requirements (Chapter 418-7). Furthermore, the hauler(s) providing said collection services would be driven by free market conditions, free from rate regulation, unobligated to satisfy recycling/customer service standards, nor required to pay franchise fees. Furthermore, property owners in the area would have no certainty that there is a company mandated to provide routine collection services required to comply with Chapter 418-6.

CLERK'S ADDENDUM

By unanimous vote the Board waived the Better Government Ordinance 96-hour time limit to accept additional material into the record as part of the item (supplemental rate increase option for 2018 regarding rate increase to 5.33% versus 4.99%, Contractor required to provide up to 24 right-of-way pick-ups to remove illegally dumped debris per year). ADOPTED the recommendations, as amended today, for a 5.33% residential and commercial solid waste collection rate increase effective April 1, 2018, and a provision for Contractor to provide up to 24 right-of-way pickups of illegally dumped debris.

ATTACHMENTS

Attachment 1 - Third Amendment to the County Franchise Agreement with Crockett Sanitary Service, Inc.
Attachment 2 - Final Report – 2017 Base Year Rate Review for Crockett Sanitary Service Franchise