



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: July 14, 2020

Subject: Fourth Amendment to County's Franchise Agreement with Garaventa Enterprises, Inc. and related changes to collection services and rates

RECOMMENDATION(S):

1. ACCEPT report from Crowe, LLP, consultant, dated March 4, 2020, summarizing the results of its review of the revised Base Year Rate Application submitted by Garaventa Enterprises, Inc. (Garaventa) (Attachment 1).
2. APPROVE and AUTHORIZE the Chair of the Board of Supervisors to execute the Fourth Amendment to the Franchise Agreement with Garaventa Enterprises (Fourth Amendment) (Attachment 2), effective July 14, 2020, governing the collection services and rates in the unincorporated County area serviced by Garaventa through May 31, 2025, and APPROVE an increase to the maximum solid waste collection rates in the amount of 4.45% for residential and commercial customers in Garaventa's service area, effective August 15, 2020.
3. FIND that the Fourth Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as the Fourth Amendment will not cause potentially significant impacts on the environment.
4. DIRECT the Department of Conservation and Development (DCD) staff to file a CEQA

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/14/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

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: July 14, 2020

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

By: Stephanie Mello, Deputy

Contact: David Brockbank,
925-674-7794

cc:

Notice of Exemption with the County Clerk.

RECOMMENDATION(S): (CONT'D)

5. DIRECT the Director of Conservation and Development, or designee, to arrange for payment of the \$50 handling fee to the County Clerk for filing the Notice of Exemption.

FISCAL IMPACT:

There is no impact to the County General Fund. The costs for County staff time spent and any related consulting services focused on administering the Franchise Agreement with Garaventa Enterprises, Inc. (Agreement), including the rate setting process, are covered by solid waste/recycling collection franchise fees.

BACKGROUND:

In May of 1995, the County entered into the Agreement with Garaventa to govern collection services provided in unincorporated East County areas. The Agreement has been amended three times and said amendments were approved by both Parties on or about January 8, 2000, January 25, 2011, and August 9, 2011.

The Agreement grants Garaventa the exclusive privilege and duty to collect residential and commercial solid waste and recyclable material (including organics) within the unincorporated service area (Franchise Area). The Franchise Area covers the following unincorporated communities, all but one of which is located in East County:

1. Part of Bay Point (western portion)
2. Bethel Island
3. Brentwood, unincorporated
4. Part of Byron (outside the Byron Sanitary District service area)
5. Discovery Bay
6. Knightsen
7. North Concord, unincorporated
8. Oakley, unincorporated

Rate Setting Process

The County establishes and regulates collection rates that Garaventa is allowed to charge for residential and commercial collection services provided in the Franchise Area, with the exception of North Concord. The unincorporated North Concord area customers have rates and services consistent with those approved by the City of Concord for neighboring incorporated area customers. The service and rate changes recommended in this Board Order would not affect unincorporated North Concord. The County establishes collection rates in accordance with the rate setting methodology set forth in the "Rate Setting Process and Methodology Manual for Solid Waste Collection Charges as Applied to Garaventa Enterprises" approved by the Board of Supervisors (Rate Manual). The Rate Manual provides for recovery of the reasonable costs that Garaventa will incur in performing services under the Agreement plus allowable profit. The Rate Manual establishes a Franchise Area-specific rate application and review process, involving

periodic detailed reviews with intervening annual adjustments based on the San Francisco-San Jose-Hayward Consumer Price Index (CPI) consistent with the terms of the Agreement, as described below:

1. Every three (3) years: Comprehensive Base Year rate reviews evaluating Garaventa's actual and projected costs and revenues directly associated with the Franchise Area services and rates. Such reviews rely upon data submitted in detailed rate applications and accompanying audited financial statements (if the Fourth Amendment is approved, it would move Base Year rate reviews to every four years instead of every three years consistent with other County franchise areas), and
2. Intervening Years between Base Years (Interim Years): Garaventa 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 CPI, where Board approval is not required. Garaventa is not required to submit audited financial statements with the Interim Year rate application. The other option is for extraordinary circumstances where Garaventa experiences significant changes in costs or revenues not under its control, in which case, a rate application and appropriate documentation can be submitted for staff review and Board approval.

History of Garaventa Rate Adjustments Since the Prior Base Year

Rate changes, since the County adopted the Manual in 1999, increased on a compounded basis by approximately 4.5 percent per year over the 20 years since 1999. This includes implementation of various new programs, including the source separated yard waste recycling program and transitioning to a three-cart based collection system. During this same timeframe the CPI increased on a compounded basis by approximately 2.9 percent per year.

2016 Base Year Rate Adjustment: Staff recommended, and the Board approved, a 5.93% rate increase that went into effect on August 15, 2016.

2017 Interim Year Rate Adjustment: Residential and commercial CPI rate increase of 3.48% that went into effect on January 15, 2018.

2018 Interim Year Adjustment: No CPI rate increase was proposed. The 3.48% CPI rate increase that went into effect on January 15, 2018 is the most recent change to the rates.

Garaventa's 2019 Base Year Rate Application

On July 11, 2018, Garaventa submitted a Base Year Rate Application proposing to increase residential and commercial solid waste collection rates by 4.22% based on projected costs for existing services. DCD staff solicited assistance from Crowe to conduct a detailed review of Garaventa's Base Year Rate Application and associated audited financial statement(s). During Crowe's review of the Rate Application, consistent with the Rate Manual, Garaventa provided additional requested financial and operational information deemed necessary to complete the analysis. Using the detailed financial data

provided, Crowe reviewed the following major cost categories to determine the appropriate rate adjustment:

- * Direct Labor Costs
- * Disposal Fees
- * County's Franchise Fee
- * Corporate and Local General and Administrative Costs
- * Household Hazardous Waste Program Costs
- * Trucking and Equipment Lease Costs
- * Depreciation
- * Professional Fees
- * Other Operating Expense

Revised Base Year Rate Application & Associated Adjustments

Crowe reviewed Garaventa's Rate Application for consistency with the Rate Manual, County policies, and waste management industry practices. Crowe worked diligently with Garaventa representatives to validate costs and determine where adjustments were needed. The rate review analysis led to recommended adjustments to various cost categories which included eliminating unallowable costs, correcting costs for services to County, and adding allowable costs for programs/services that were not accounted for in the Base Year Rate Application. Crowe's rate review conducted based on the existing rate setting methodology found that a 5% rate reduction was potentially warranted,

Garaventa identified potential shortcomings with the Base Year Rate Application previously submitted and requested that staff not proceed with the rate review process until a revised Base Year Rate Application was submitted. Garaventa was not comfortable having the County proceed with the proposed rate reduction, given the current recycling market, and requested some additional time to revise their Rate Application. Garaventa submitted a revised Base Year Rate Application in October 2019.

Request for Recycling Surcharge & Proposed Rate Setting Policy Changes

In addition to the Base Year rate adjustment, Garaventa requested a supplemental recycling surcharge due to the deflated recycling commodities markets resulting primarily from China's National Sword policy. China's National Sword policy has stymied commodities markets, caused largely by the recent changes in the contamination limits and bans on the types of recycled materials accepted by China.

DCD staff is not recommending approval of a recycling surcharge as that would be inconsistent with the established rate setting policies used in any of the County's franchise areas. DCD staff proposed and Garaventa is agreeable to an alternative approach based on the revenues and costs associated with collecting and processing recycled materials, consistent with rate setting practices in the County's other franchise areas.

The Rate Manual specifies that Garaventa may credit the Franchise Area for the value of

collected recyclables at a rate of \$5 per ton for the materials processed and sold on the open market. This flat \$5 per ton for recyclables has consistently been used for rate setting in this Franchise Area. Due to the circumstances associated with the current recycling markets, staff is proposing to instead use the alternative recycling cost/revenue method, which the Rate Manual provides for at the County's sole discretion. This alternative method specified in the Rate Manual calculates rates based on the actual revenues and costs of processing and selling of recycled materials, consistent with other County collection franchises.

Using this alternative, the County calculates allowable Base Year Rate adjustments based on the revenues from recycling commodity sales and the costs associated with processing curbside recycled materials separately within the Base Year Rate Application's line items. The revised application submitted by Garaventa in October 2019 included these line items.

County staff identified a willingness to recommend a rate adjustment based on this change in the rate setting policy contingent upon Garaventa agreeing to amend the Agreement to provide enhanced services described in the next section. Additionally, Garaventa requested and staff has agreed to recommend that the Agreement be amended to change the Base Year Rate cycle from every 3 to every 4 years. If the Fourth Amendment and recommended Base Year Rate adjustment are approved, DCD staff will work with Crowe to update the Rate Manual accordingly.

Proposed Service Enhancements in Fourth Amendment

In consideration for the above described changes in rate setting policy, Garaventa has agreed to amend the Agreement to provide the following service enhancements.

On-Call Bulky Item Pick-ups: In the County's other three franchise areas, the contractor's offer an on-call bulky item service to residential customers at no additional charge. This is a popular service in the County's other franchise areas. Furthermore, adding this service in the East County area is one of the illegal dumping strategies approved by the Board due to the large number of bulky items that are illegally dumped. Garaventa will start offering residential customers the option of requesting pick-up of one bulky item (e.g. mattress, furniture item, or appliance) per year at no additional charge. Garaventa will provide these pick-ups without rate compensation for an initial period of approximately 18 months. Details regarding this new on-call service can be found in Exhibit C in Attachment 2.

On-Call Right-of-Way Pick-ups: Currently, County Public Works crews remove illegally dumped waste found in the County's right-of-way within the Franchise Area. The contractors serving the County's other three franchise areas currently provide on-call right-of-way pick-up services, which reduces County's road maintenance costs. This has been effective in West and Central County and is a much-needed service in East County. Providing this service in East County is one of the illegal dumping strategies approved by the Board. Garaventa will service up to 200 right-of-way locations to remove up to one

cubic yard of debris per pickup or a maximum of 200 cubic yards of debris collectively in any number of pickups per year. Garaventa will provide these pick-ups without rate compensation for an initial period of approximately 18 months. Once that annual limit is reached, Garaventa is willing to continue providing on-call right-of-way pick-ups on a fee for service basis until such time as the County approves rates that cover Garaventa's costs for providing these services. Details regarding this new on-call service can be found in Exhibit D in Attachment 2.

Enhanced Community Clean-up Boxes: Garaventa will service up to forty 40-cubic yard debris boxes from community clean-ups, rather than the ten 20-cubic yard boxes currently required in the Agreement. The cost of this enhanced community clean-up box service has been factored into the recommended 2020 Base Year Rate Adjustment. Details regarding this new on-call service can be found in Exhibit D in Attachment 2.

Expanded Mandatory Commercial Recycling Assistance: Garaventa will provide expanded assistance associated with state mandated commercial recycling program monitoring and reporting. The cost of this expanded mandatory commercial recycling assistance has been factored into the recommended 2020 Base Year Rate Adjustment. Details regarding this new on-call service can be found in Exhibit C in Attachment 2.

Proposed 2020 Rate Adjustment

Crowe recalculated the proposed Base Year Rate adjustment based on the revised Base Year Rate Application, the rate setting policy changes identified above, and certain service enhancements as explained in the prior section. Additionally, Crowe factored a CPI increase into the proposed rate adjustment to account for the estimated change in costs due to the passage of time from the submittal of the initial Base Year Rate application. As a result of the revised rate review, Crowe recommended a Base Year Rate increase of 4.45%

The details of Crowe's recommended adjustments to the revenues, costs, and profits that Garaventa submitted in their revised Base Year Rate Application are discussed in the Final Report (Attachment 1), starting on Page 9. Table 1 below shows the recommended rate increase, which provides Garaventa the profit level (operating ratio) allowed for based on the recommended Fourth Amendment and proposed rate setting policy changes. This increase is proposed to take effect on August 15, 2020, contingent upon the simultaneous implementation of the new services provided for under the Fourth Amendment (Attachment 2).

Table 1: Recommended Residential Collection Rates, per Customer, per Month in 2020 with +4.45% Increase

Trash Cart Size	Existing Maximum Monthly Rate	Recommended Base Year Rate Increase for 2020 (4.45%)	Recommended Maximum Monthly Base Year Rate for 2020
20 Gallon	\$30.27	\$1.35	\$31.62
32 Gallon	\$37.77	\$1.68	\$39.45
64 Gallon	\$43.81	\$1.95	\$45.76
96 Gallon	\$52.12	\$2.32	\$54.44

Rate Comparison

As shown in Table F-1 in Attachment 1 (pg. 41), current residential rates in the Franchise Area are 10 to 20 percent above average rates in neighboring non-County franchise areas for the smaller 20 and 32-gallon container sizes, but are 15 to 30 percent below average rates in neighboring non-County franchise areas for the larger 64 and 96-gallon containers. With the proposed 4.45% increase recommended to take effect on August 15, 2020, the Franchise Area residential rates would range between about 18 to 25 percent higher for the smaller containers but 10 to 25 percent below average rates charged in non-County franchise areas. Compared to other unincorporated areas franchised by the County, current Franchise Area residential rates are about 30 percent above average for smaller containers and 20 percent below average for the larger containers. With the proposed 4.45% rate increase, the Franchise Area residential rates would range between 30 to 35 percent above average for smaller containers and between 10 to 25 percent lower for the larger containers than the average unincorporated County franchise area rates.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not approve these recommendations, the Agreement would not be amended to provide for enhanced services and rate setting policies would remain unchanged. Therefore, staff would be obligated to recommend the Board decrease rates by five percent consistent with existing rate setting policies and the Agreement.

ATTACHMENTS

1. Final Report - Base Year Rate Review for Garaventa Enterprises Franchise
4th Amendment to Franchise Agreement with Garaventa Enterprises, Inc. with Exhibits