

STAFF REPORT

City Council Business Item

DATE: June 20, 2023

TO: Honorable Mayor and Council Members

FROM: Merritt Perry, City Manager

SUBJECT: Professional Services Agreement with CSG Consulting for SB 1383 Compliance and Franchise Agreement Development

STAFF RECOMMENDATION:

Authorize the City Manager to negotiate and execute a contract with CSG Consultants to assist the City with SB 1383 compliance and development of an updated franchise agreement.

BACKGROUND:

The City of Fortuna entered into a franchise agreement with Eel River Disposal in 1998 for solid waste and recycling and collection. The franchise agreement was transferred to Recology, Inc. in 2017. The term of the franchise agreement currently ends in 2025.

In September 2016, Governor Brown signed into law SB 1383 (Lara, Chapter 395, Statutes of 2016), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. The new law codifies the California Air Resources Board's Short-Lived Climate Pollutant Reduction Strategy, established pursuant to SB 605 (Lara, Chapter 523, Statutes of 2014), to achieve reductions in the statewide emissions of short-lived climate pollutants. Actions to reduce short-lived climate pollutants are essential to address the many impacts of climate change on human health, especially in California's most at-risk communities, and on the environment.

From 2016-2020, the California Department of Resources, Recycling and Recovery (CalRecycle) worked to develop regulations to achieve the goals of SB 1383. These new regulations were finalized by CalRecycle in November 2020. The regulations went into effect January 1, 2022 and every city and county in California is required to have an enforceable SB 1383 Ordinance in place by this date. The law establishes statewide targets to reduce the amount of organic waste disposed of in landfills (50% reduction by 2020 and 75% by 2025). It also sets a goal to rescue at least 20% of currently disposed edible food by 2025 and redirect that food to people in need.

The state defines "Organic waste" as food, landscape and pruning trimmings, lumber, wood, manure, cardboard, paper products, printing and writing paper, and other plant and animal-based products. The SB 1383 regulations require that jurisdictions conduct education and outreach on organics recycling to all residents, businesses (including those that generate edible food

that can be donated), haulers, solid waste facilities, and local food banks and other food recovery organizations.

There are many parts of SB 1383 that will take time and effort to develop and implement. The City completed an Implementation Plan in collaboration with the HWMA and other jurisdictions in Humboldt County. A part of that effort was the development of a roadmap of options for how we might look to identify the requirements of the various portions of the new regulations. The City will have to make changes to the City's waste collection, recycling, and organics programs in the next few years to satisfy the requirements of SB 1383.

Ordinance 2022-755 was adopted by the council on June 2nd 2022 to satisfy the City's requirement to adopt an enforceable ordinance, with implementation of the requirements delayed until January 1, 2023. The council subsequently adjusted the timeline to July 1, 2023 by Ordinance 2022-757 due delays in negotiating the franchise agreement and availability of equipment to process the organic waste. Currently staff is still negotiating the franchise agreement changes with our franchise waste hauler (Recology) and do not anticipate being able to complete the franchise agreement changes until sometime within the first six months of 2024.

On June 5, 2023, the council delayed the effective date until July 1, 2024 of the Organic Waste and Recycling Ordinance, as Recology does not anticipate having the necessary equipment to implement mandatory collection (collection bins and trucks) of organic and solid waste, and currently there is not a regional facility that can process the organic waste for recycling. The Humboldt Waste Management Authority (HWMA) is working on a project to create a tipping floor to process and haul organic waste to an approved facility. The soonest a facility would be available is July 1, 2024. Therefore, if the schedule for the HWMA facility is delayed, or Recology continues to experience supply chain delays for equipment, changes may need to be revised again in the future.

EXECUTIVE SUMMARY:

The City of Fortuna currently is working to comply with the provisions of SB 1383 and CalRecycle has issued a Corrective Action Plan (CAP) with specific tasks and completion dates for the steps necessary for the City to comply with SB 1383. The compliance dates in the CAP can be changed if tasks take longer than anticipated provided the City demonstrates it is making a good faith effort to comply with the timelines in the CAP. A copy of the CAP is attached to this staff report.

As can be seen in the CAP, several of the compliance tasks will be anticipated to become the responsibility of Recology, the City's solid waste hauler and are dependent upon the City re-negotiating the Solid Waste Franchise agreement with Recology to add those responsibilities to their work. The tasks in the CAP for which Recology will complete work or take responsibility include the following:

- Task 3 – providing three-container waste collection
- Task 4 – waste container contamination minimization
- Task 5 – Update franchise agreement to include container monitoring
- Task 6 – Performing container contamination minimization

- Task 8 – Update franchise agreement to document route reviews
- Task 9 - Documentation to track route reviews
- Task 10 – Tracking contamination minimization
- Task 11 – Providing compliant containers
- Task 12 – Labeling containers
- Task 13 – Amend franchise agreement to provide organic collection
- Task 21 – Implement and track education and outreach for organic waste collection

The list above includes many items in the CAP for which Recology will have some responsibility. Updating the franchise agreement to include these tasks is the critical path to transferring the responsibility to Recology and gaining compliance with SB 1383.

The City currently does not have the direct expertise of having negotiated franchise agreements in the recent past, or familiarity with industry standards for these agreements including aspects of the agreement including: Responsibility for meeting waste reduction goals, allowable profit, frequency of rate reviews, range of services that should be provide for SB 1383 compliance and responsible party and typical responsibility level for various tasks that are included in the franchise agreement. It is anticipated that the updated franchise agreement will be for a minimum term of 10 years to allow for the costs for new equipment to spread out over its useful life and keep costs to customers to a minimum.

With limited expertise on staff, and the fact that this agreement could extended for decades (as was the current agreement) it is important that the staff have the expertise to evaluate the proposed rates and the provision of the agreement using professionals familiar with the industry. Not doing so could lead to higher solid waste rates, and more responsibility being put on the City for compliance with solid waste regulations.

Staff administratively approved a contract with Bell and Associates to audit Recology's operations and confirm the current solid waste rates and the anticipated rates for the additional SB 1383 services that are needed. Bell and Associates was completing similar work for the Cities of Arcata, Eureka, and Humboldt County and this contract was executed to recognize an economy of scale for the work to be completed at the same time as it was for those other entities. A copy of the proposal for this work is attached.

Staff is recommending that the City contract with CSG Consultants to assist with the development of a new franchise agreement and to assist the City with SB 1383 compliance. Kathleen Gallagher will be the primary consultant providing services and has extensive experience with franchise agreements, solid waste and sustainability practices.

The combination of the audit by Bell and Associates and the assistance with the franchise agreement by CSG will provide comprehensive support to ensure the City is making informed decisions for the comprehensive solid waste services with a rates that are fair to Fortuna citizens.

FINANCIAL IMPACT:

The proposed cost for the services from CSG Consultants is \$22,000 and the previously approved contract with Bell and Associates for audit services was for \$12,373, for a total of \$34,373. The City currently has \$35,000 remaining in Solid Waste Fund 210 that will be carried over into FY 2023-2024. The City also applied for and received a \$20,000 AB 1985 grant from CalRecycle for SB 1383 compliance that has been deposited Fund 306, Various CalRecycle Grant Funds. Approximately \$15,000 is remaining in this account and can be used for SB 1383 compliance including the contract with CSG or Bell and Associates. Therefore, there is approximately \$20,000 remaining for other SB 1383 compliance purposes.

RECOMMENDED COUNCIL ACTION

1. Receive staff report and review questions with staff
2. Open Public Comment
3. Close Public Comment
4. Motion to authorize the City Manager to negotiate and execute an agreement with CSG Consultants to assist the city with SB 1383 compliance and Development of a franchise agreement

ATTACHMENT:

- CalRecycle Corrective Action Plan
- Proposal from Bell and Associates for Audit Services
- Proposal from CSG Consultants Inc. for Franchise Agreement Negotiation and SB 1383 Compliance Assistance