



City of Huntington Beach

File #: 19-531

MEETING DATE: 5/6/2019

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Travis K. Hopkins, PE, Director of Public Works

Subject:

Receive Report on Refuse Collection Franchise Agreement Negotiations with Rainbow Disposal Company Inc./Republic Services, and Consider Issuing a Notice of Termination of Annual Extension of the Agreement

Statement of Issue:

Mayor Peterson and Mayor Pro Tem Semeta submitted a Council Member item at the April 1st, 2019 City Council meeting recommending the City Council direct the City Manager to prepare a letter issuing Rainbow Disposal Company Inc./Republic Services a Notice of Termination of Annual Extension of the Franchise Agreement and present to City Council at the next scheduled meeting.

After review and discussion, the City Council directed the City Manager to prepare the written notification to Rainbow Disposal Company Inc./Republic Services of the Notice of Termination and return at the May 6th City Council Meeting for approval. Additionally, the City Council amended the action to request information on the current status of negotiations, differences in programs and processes, an update on the status of recyclable material, and how the cancellation clause affects residents.

Financial Impact:

There is no immediate financial impact from this action. Any financial impact will occur at conclusion of the franchise agreement term, 18 years from the issuance of a Notice of Termination of Annual Extension from the City.

Recommended Action:

Approve the issuance of the Notice of Termination of Annual Extension letter to Rainbow Disposal Company Inc./Republic Services, converting the franchise agreement to a 15-year fixed term with a 3-year notice period.

Alternative Action(s):

Do not approve the issuance of the Notice of Termination of Annual Extension. The Agreement will continue in its current form and proceed under the current agreement or continue to negotiate an

updated agreement.

Analysis:

Rainbow/Republic Services has been the exclusive provider of solid waste (refuse) collection services in Huntington Beach since the late 1950's. City Council approved the current Agreement on July 17, 2006, following negotiations between Rainbow/Republic and the city for the implementation of automated residential collection service.

On May 15, 2017, the City Council formed an Ad Hoc Council Committee to review the Agreement with Rainbow, now a division of Republic Services. The purpose of the Ad Hoc Committee was to review the terms of the Agreement and identify items to consider in a negotiation for an updated Agreement. The Committee identified several key items in the Agreement and directed staff to negotiate for a revised Agreement with Rainbow/Republic.

Key items considered in the negotiating process include:

- Term of Agreement
- Revenue enhancement from Franchise and Transfer Station Host fees
- Index/Formula for annual rate calculation
- Compliance with current legislation affecting recycling and disposal programs
- Responsibilities and performance standards - clarify and define

During the contract review there were several items that required resolution due to new regulation implementation required by CalRecycle including AB 1826 Mandatory Commercial Organics Recycling and other unresolved legal issues. Staff and Rainbow/Republic exchanged proposed changes and revisions of the Agreement. As of the most recent draft exchanged earlier this year, the parties had not reached a consensus on the key points, as summarized in attached table. At this point in time, the parties have not reached agreement on the major topics identified by the City Council Ad Hoc Committee.

The existing term of the Agreement is 15 years and renews annually for a new 15-year term, automatically. Additionally, the termination provision of the Agreement provides for a 3-year notice period upon termination of the annual term renewal. This creates an 18-year actual contract term upon issuance of the notice. If the City issues the Notice, the effect would only terminate the automatic annual renewal extension and convert the Agreement to a fixed term, which will then continue for 18 years or until June 30, 2037

The residential and commercial collection and recycling services provided per the Agreement will continue for the fixed term. The elimination of export markets for recyclable commodity materials is projected to continue to have an effect on the solid waste industry overall. This will affect how our customers recycle in their curbside receptacles as markets for recyclable commodities shift over the next several years.

A representative of Rainbow/Republic will be in attendance at the May 6th City Council Meeting to provide additional information on the changes of the world recycling market and impacts of those

changes.

Environmental Status:

This Request for Council Action involves a report on ongoing negotiations regarding the City's Refuse Franchise Agreement with Rainbow/Republic Services and consideration of a revision to the agreement that would modify the term of the agreement. This is an administrative action that will not result in any direct or reasonably foreseeable indirect physical changes to the environment, and as such, is not a project as defined in Section 15378 (b)(5) of the CEQA Guidelines.

Strategic Plan Goal:

Non-Applicable - Administrative Item

Attachment(s):

1. Table
2. Notice of Termination of Annual Extension letter