



# Town of Yountville

6550 Yount Street  
Yountville, CA 94599

## Staff Report

**Agenda Item #:** {{section.number}}D

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### Yountville Town Council Staff Report

**DATE:** March 2, 2021

**TO:** Mayor and Town Council

**FROM:** Joe Tagliaboschi, Public Works Director

**PREPARED BY:** Joe Tagliaboschi, Public Works Director

**SUBJECT:**

Adopt Resolution Number 21-4038 Approving the Fifth Amendment to Napa County Agreement Number 3265 (Upper Valley Waste Management Agency Joint Powers Agreements).

#### **DISCUSSION/BACKGROUND**

The Town of Yountville is a Member of the Upper Valley Waste Management Agency, a joint powers agency organized and operating under the Joint Exercise of Powers Act (Government Code section 6500 et seq.). The Agency's members include the County of Napa, the City of Calistoga, the City of St. Helena, and the Town of Yountville. Its operations are governed by state law and the Joint Powers Agreement between the members. Section 9.1 of the Joint Powers Agreement states:

Amendments to this Agreement shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power; any such consent shall be in the form of duly authorized resolutions of the MEMBERS' respective governing bodies.

This Resolution would amend the Joint Powers Agreement to: (1) distribute franchise fees to members according to members' pro rata share of gross receipts collected by the franchisee, and (2) authorize the Agency to implement state organic waste recycling mandates such as those imposed by AB 341, AB 1826, and SB 1383.

#### **The Amended and Restated Franchise Agreement with Upper Valley Disposal Service**

On October 19, 2020, the Agency entered into an Amended and Restated Franchise Agreement with Upper Valley Disposal Service for recyclables, organics, construction and demolition debris and solid waste collection services. Among many other things, the agreement requires the franchisee to pay franchise fees and an AB 939/Statutory fee for the Agency's operations. The new franchise fees are phased in as follows: 2.5% of gross receipts in fiscal year 2021-2022, 6% of gross receipts in fiscal year 2022-2023, and 10% of gross receipts in fiscal year 2023-2024 and for each fiscal year thereafter.

Under the current Joint Powers Agreement, Members of the Agency may request that the Agency collect franchise fees on their behalf. The City of Calistoga is currently the only Member with such an arrangement. This Resolution amends Section 6.5 to the Joint Powers Agreement to remove this procedure, while ensuring prior commitments regarding franchise fees are met, and would instead provide:

**Distribution of Franchise Fees.** If the AGENCY imposes a franchise fee on FRANCHISE for SOLID WASTE HANDLING SERVICES, the franchise fee shall be distributed to MEMBERS, within 120 days of the AGENCY's receipt thereof, based on each MEMBER's pro rata share of the FRANCHISE's gross receipts collected within that MEMBER's jurisdiction. For example, if the FRANCHISE receives twenty percent (20%) of its gross receipts from a MEMBER's jurisdiction, that MEMBER shall receive twenty percent (20%) of any franchise fees received by the AGENCY. Notwithstanding the foregoing, if a MEMBER is receiving a franchise fee as of October 19, 2020, that MEMBER shall continue to receive franchise fees under this Section equal to the amount otherwise due until the amount distributed hereunder equals or exceeds such amount; thereafter, such MEMBER shall receive distributions hereunder in the same manner as other MEMBERS.

This Resolution also amends Section 7.2 of the Joint Powers Agreement to explicitly authorize the Agency to use fees and charges to fund its operations including, for example, an AB 939/Statutory fee. While other provisions of the Joint Powers Agreement grant this authority, Section 7.2 would do so explicitly in the same section governing other funding mechanisms for the Agency.

### **Mandatory Organics Recycling SB 1383**

SB 1383 was signed by the Governor in late 2016 and regulations implementing its provisions were finalized in late 2020. The bill, as approved, sets specific targets for reducing the amount of organic waste in landfills as follows:

- 50% reduction from 2014 levels by 2020
- 75% reduction from 2014 levels by 2025

The bill also sets a goal of recovering 20% of edible food for human consumption by 2025. The bill authorizes CalRecycle to adopt regulations to achieve these targets, including those mentioned above. The regulations take effect on January 1, 2022, two years after the 2020 goal. In addition, the bill authorizes local jurisdictions to charge fees to recover the costs incurred in complying with the regulations. Local jurisdictions must monitor compliance with organic waste disposal requirements, inspect waste containers, and contact violators for failing to sort waste. Beginning in 2024, local jurisdictions may impose penalties on individuals or businesses that contaminate waste bins with the incorrect waste. Local jurisdictions must also provide education and outreach to organic waste generators.

The bill also requires local jurisdictions to adopt enforceable ordinances or mechanisms by Jan. 1, 2022 and establish an enforcement program that requires commercial and residential organic waste generators to comply with organic waste requirements. If a violation occurs between Jan. 1, 2022 and Dec. 31, 2023, jurisdictions must provide violators with educational materials. If a violation occurs after Jan. 1, 2024, jurisdictions may take enforcement action against the violator.

This Resolution amends Section 6.1 of the Joint Powers Agreement to add subsection (s). The amendment grants the Agency the authority to enter into franchises to assist with implementation and enforcement of state organic waste recycling mandates under AB 341, AB 1826, and SB 1383. It further grants it authority to enter into franchises for the procurement of recovered organic waste

products and enter into Memorandums of Understanding with Members to impose and enforce penalties on generators of organic waste for noncompliance with recycling and collection mandates under SB 1383. Alternatively, or concurrently, the amendment allows the Agency to impose and enforce penalties on generators of organic waste for noncompliance with recycling and collection mandates under SB 1383 in all parts of the Service Area. The Agency anticipates future Memoranda of Understanding with each Member to define and clarify the responsibilities of the Agency and Members regarding implementation of AB 1383 and related laws. This amendment provides the groundwork for the Agency's authority and discussions with Members to ensure compliance with the new law.

#### **ENVIRONMENTAL REVIEW**

Not Applicable

#### **FISCAL IMPACT**

Is there a Fiscal Impact?

Yes, Is it Currently

Budgeted? No Where is it

Budgeted? N/A

Is it Mandatory or Discretionary?

Mandatory Is there a Staff Resource

Impact? Nominal

#### **STRATEGIC PLAN GOAL**

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. **Responsible Fiscal Policy:** The Town maintains its fiscal health through policies designed to maximize economic opportunities, manage expenses, and ensure prudent reserves.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Lower costs and expanding revenue resources is a prudent use of Town resources and helps preserve General Fund expenditures.

#### **RECOMMENDATION**

Adopt Resolution Number 21-4038 Approving the Fifth Amendment to Napa County Agreement Number 3265 (Upper Valley Waste Management Agency Joint Powers Agreement).