FILE NO. 240556 RESOLUTION NO342-24

[Landfill Disposal Agreement - Recology San Francisco - Term Extension]

Resolution approving under Charter, Section 9.118, the extension of the Landfill Disposal Agreement with Recology San Francisco as authorized under the current Landfill Disposal Agreement for a period of six years, or an additional 1,600,000 tons of waste have been disposed under the Agreement, whichever comes first.

WHEREAS, On February 4, 2014, the San Francisco Board of Supervisors adopted Ordinance No. 8-14 by a unanimous vote, pursuant to which the Board of Supervisors:

(1) Found that the Environment Department had conducted a competitive selection process ("Competitive Selection Process") in compliance with any requirements of Chapter 21 of the San Francisco Administrative Code to select a landfill disposal contractor that resulted in the City's selection of Recology San Francisco ("Recology").

(2) Ratified and confirmed all actions taken by City officials in carrying out the Competitive Selection Process and selecting Recology as the City's preferred landfill disposal contractor in that process.

(3) Endorsed the process under which the Environment Department, the Planning Department and other City agencies and staff undertook environmental review of the proposed project, including the disposal and transportation of refuse consistent with the Recology's landfill disposal proposal.

(4) Clarified that, consistent with prior practice in the approval of previous landfill disposal agreements in 1987, contracts for the disposal and transportation of refuse resulting from the Competitive Selection Process were not contracts for "services" within the meaning of that term set forth in Section 21.02 of the Administrative Code or its statutory predecessors; and

WHEREAS, On July 22, 2015, the City, acting through and by the Environment Department, and Recology San Francisco ("Recology") executed a Landfill Disposal Agreement; and

WHEREAS, On May 1, 2016, the Landfill Disposal Agreement was amended through the First Amendment ("First Amendment") to modify the landfill operations component of the initial disposal fees authorized under the agreement; and

WHEREAS, The Landfill Disposal Agreement as modified by the First Amendment ("Current Landfill Agreement") in Section 2.2 grants the City the right to deposit at the Hay Road Landfill all solid waste collected in the City for the disposal term of a period of nine years from the effective date of the Current Landfill Agreement (July 22, 2015), or until 3.4 million tons of solid waste have been deposited under the Current Landfill Agreement; and

WHEREAS, On January 15, 2016, Recology began to dispose solid waste at the Hay Road Landfill under the Current Landfill Agreement, and as of January 1, 2024, the City estimates that it has used approximately 3.1 million tons of that capacity; and

WHEREAS, The Current Landfill Agreement will reach the term limit of nine years on July 21, 2024, on which date the City estimates it will not yet have reached the 3.4 million ton capacity limit, which at the current rate would be reached on approximately October 14, 2024, and the Current Landfill Agreement is therefore expected to expire on July 21, 2024; and

WHEREAS, The Current Landfill Agreement in Section 2.2 states the City shall have one option to extend the Current Landfill Agreement for a period of six years, or until an additional 1.6 million tons of solid waste have been disposed under the Agreement, whichever comes first. Furthermore, Section 2.2 states that the City may extend the Current Landfill Agreement by exercising the extension option at the City's sole and absolute discretion and by modifying the Current Landfill Agreement through an executed written amendment; and

WHEREAS, The Environment Department is proposing a Second Amendment to the Current Landfill Agreement that would exercise the option to extend, and would extend the term of the Current Landfill Agreement for a period of six years, or until an additional 1.6 million tons of solid waste have been disposed under the Agreement, whichever comes first ("Second Amendment"); and

WHEREAS, The Environment Department estimates that, given the current rate of solid waste disposal, an extended landfill agreement would reach the additional capacity of 1.6 million tons of solid waste disposed in November 2028, which is approximately 4.3 years from July 21, 2024, and before the extended term period of an additional six years is reached; and

WHEREAS, The Environment Department estimates that the additional 4.3 years of extended landfill agreement time is needed to prepare for and conduct a new landfill agreement solicitation, selection and contract negotiation including any necessary CEQA process and acquire Board of Supervisor approval for a new landfill agreement; and

WHEREAS, The Planning Department prepared in 2015 a final negative declaration (FND) as required by CEQA, on the proposed disposal at Recology's Hay Road landfill for a term of up to 5 million tons of solid waste disposed or a period of up to 15 years, finding in its Motion No. 19376 the FND was adequate, accurate and objective, and reflected the independent analysis and judgment of the Planning Commission, and approved the FND for the Agreement in compliance with CEQA, the CEQA Guidelines and Chapter 31, and therefore, the previous FND satisfies the CEQA requirement for the proposed extended term of the Current Landfill Agreement, as the proposed extension would not exceed a cumulative 5 million tons of solid waste disposal or a total term of 15 years; and

WHEREAS, A copy of the Current Landfill Agreement, the First Amendment, and the Second Amendment are on file with the Clerk of the Board of Supervisors in File No. 240556 and are hereby declared to be a part of this Resolution as if set forth fully herein; and

WHEREAS, San Francisco Charter, Section 9.118, requires the Board of Supervisors to approve contracts having a term of more than 10 years; and

WHEREAS, The Director of the Environment Department recommends approval of the proposed Second Amendment; now, therefore, be it

RESOLVED, That the Board of Supervisors under Charter, Section 9.118, approves the proposed Second Amendment; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of the Environment Department to execute the Second Amendment.

Recommended:

Approved: /s/
Mayor

/s/
Tyrone Jue, Director, Environment Department

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240556 **Date Passed:** June 11, 2024

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June 05, 2024 Budget and Finance Committee - RECOMMENDED

June 11, 2024 Board of Supervisors - ADOPTED

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Stefani and Walton
Excused: 1 - Safai

File No. 240556

I hereby certify that the foregoing Resolution was ADOPTED on 6/11/2024 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

6/21/24
Date Approved