

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # *B-9

Urgent

Routine

AGENDA DATE June 24, 2008

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Extend the Stanislaus County Refuse Removal Franchise Agreement (Area 3) with USA Waste of California, Inc., through November 5, 2009

STAFF RECOMMENDATIONS:

1. Approve the extension of the Stanislaus County Refuse Removal Franchise Agreement (Area 3) with USA Waste of California, Inc., through November 5, 2009.
2. Adopt Amendment No. 3 to the Stanislaus County Refuse Removal Franchise Agreement (Area 3).
3. Authorize the Chairman of the Board to sign Amendment No. 3 to the Stanislaus County Refuse Removal Franchise Agreement (Area 3).

FISCAL IMPACT:

The residents and businesses in Area 3 will continue to be subject to refuse collection rates as approved by the Stanislaus County Board of Supervisors. The current period for which refuse collection rates have been established is through June 30, 2008, although rates will remain unchanged until the Board considers recommended changes at a public hearing. Staff is presently recommending that the Board consider such changes at a public hearing on July 22, 2008. If rates are revised at that time, the recommended effective date would be August 1, 2008.

BOARD ACTION AS FOLLOWS:

No. 2008-467

On motion of Supervisor Monteith, Seconded by Supervisor Grover
and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

ATTEST:


CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

On April 1, 1982, Stanislaus County and Modesto Garbage Co., Inc., a California corporation currently doing business as USA Waste of California, Inc. (the Franchisee), entered into the Stanislaus County Refuse Removal Franchise Agreement ([Agreement], for Area 3). Area 3 consists of the following unincorporated areas: a portion of southwestern Modesto, Empire, Hughson, Denair, Waterford, and LaGrange. The Franchisee operates under the umbrella of the parent organization, Waste Management, Inc.

The Agreement was amended by the Board of Supervisors on November 4, 1997, and set to expire on November 5, 2007. On September 11, 2007, the Board approved a one-year extension to the Agreement that will expire on November 5, 2008. A primary reason for the extension was to complete a process of revising the County's current methodology for making adjustments to refuse rates. The County engaged the services of Hilton, Farnkoph & Hobson to assist staff in developing the revised Rate Adjustment Methodology, however, this process will extend through August 2008. Staff will return to the Board of Supervisors in September 2008 with a recommendation for a new methodology.

Following the Board's consideration of the new methodology, staff will bring an additional item for consideration, within 30 days thereafter, that details all possible options for how to manage Franchise Area 3 over the long-term. Extending the Agreement for one (1) additional year will allow sufficient time for the revised Rate Adjustment Methodology to be adopted and for staff to implement the Board's recommendation for Area 3, prior to the expiration of the Agreement.

Amendment No. 3 (Attachment "A") has been prepared to allow the continuation of all of the provisions of the current Agreement. This Amendment has been reviewed and approved as to form by County Counsel and agreed to by the Franchisee.

POLICY ISSUE:

The Board of Supervisors should determine if extending this Refuse Removal Agreement is consistent with the Board's priorities of effective partnerships, the efficient delivery of public services and a well-planned infrastructure system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

AMENDMENT NO. 3
to
STANISLAUS COUNTY REFUSE REMOVAL
FRANCHISE AGREEMENT
(AREA 3)

Whereas, the County of Stanislaus ("County") and Modesto Garbage Co., Inc., a California corporation doing business as Modesto Disposal Service (the Franchisee), entered into Stanislaus County Refuse Removal Franchise Agreement (Area 3) effective April 1, 1982 (the Agreement); and

Whereas, the County and the Franchisee executed Amendment No. 1 to the Agreement dated November 4, 1997; and

Whereas, Section 2(a) of the Amendment No. 1 provides that the Agreement shall automatically expire on November 5, 2007; and

Whereas, by Board of Supervisors Resolution No. 97-886 dated November 4, 1997, USA Waste of California, Inc. acquired the interest in the Agreement and Amendment No. 1 and is now the Franchisee; and

Whereas, by Board of Supervisors Resolution No. 2007-722 dated September 11, 2007, the County and the Franchisee agreed to extend the term of the Agreement one year, terminating on November 5, 2008; and

Whereas, the Franchisee and County desire to extend the term of the Agreement for an additional one-year term on the same terms and conditions; and

Now, Therefore, the parties hereby amend the Agreement and Amendment No. 1 as follows:

1. Section 2(a) of Amendment No. 1 is revised to read as follows:

Unless terminated earlier, pursuant to any other provision in the Agreement or any amendment to the Agreement, or unless extended by mutual agreement of the parties, this Agreement shall automatically expire on November 5, 2009.

2. If at any time during the term of the Agreement, as amended hereunder, the County adopts or applies a methodology for the establishment of base rates for the Franchisee or adjustments to the Franchisee's base rates that would be more favorable to the Franchisee, then the Agreement shall be deemed amended without further action by the parties to incorporate the newly established methodology and to adopt and adjust base rates in accordance with the new methodology.

3. Except as set forth in this Amendment No. 3, all other terms and conditions set forth in Amendment No. 1 shall remain the same during the extended term of the Agreement.


In Witness Whereof, the parties have executed this Amendment No. 3 to the Agreement on JUN 24 2008, 2008.

COUNTY OF STANISLAUS

By 
Thomas Mayfield
Chair of the Board of Supervisors

"County"

USA WASTE OF CALIFORNIA, INC.

By 
Alex Oseguera
Market Area Vice-President

"Franchisee"

ATTEST:

Christine Ferraro-Tallman
Clerk of the Board of Supervisors

By 
Deputy Clerk

APPROVED AS TO CONTENT:


Sonya Harrigfeld, Director
Department of Environmental Resources

APPROVED AS TO FORM:


John P. Doering
County Counsel