

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

DEPT: Environmental Resources *AK*

BOARD AGENDA # *B-3

Urgent ☐

Routine ☒

AGENDA DATE October 6, 2009

CEO Concurs with Recommendation YES ☒ NO ☐
(Information Attached)

4/5 Vote Required YES ☐ NO ☒

SUBJECT:

Approval to Amend the Contract for Stanislaus County Refuse Removal in Franchise Area #3 with Turlock Scavenger Company and Set a Public Hearing for October 27, 2009, at 9:20 a.m., to Consider Adjustments to Stanislaus County Franchise Maximum Rates for Franchise Area #3

STAFF RECOMMENDATIONS:

1. Set a public hearing on October 27, 2009, at 9:20 a.m., to consider adjustments to Stanislaus County Franchise Maximum Rates for Franchise Area #3.
2. Authorize the Chief Executive Officer to sign Amendment No. 1 for Stanislaus County Refuse Removal in Franchise Area #3 with Turlock Scavenger Company.

FISCAL IMPACT:

There is no fiscal impact associated with amending the franchise contract or setting a public hearing. If this request is approved, then on October 27, 2009, the Board of Supervisors will be asked to consider adjustments to solid waste collection service charges in Franchise Area #3.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-669

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

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

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
CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Amend the Contract for Stanislaus County Refuse Removal in Franchise Area #3 with Turlock Scavenger Company and Set a Public Hearing for October 27, 2009, at 9:20 a.m., to Consider Adjustments to Stanislaus County Franchise Maximum Rates for Franchise Area #3

Page 2

FISCAL IMPACT (Continued):

Subscribers to residential basic service; that is, 1-90 gallon cart, curbside recycling, and bulky-item collection, may see their monthly service charges decrease from 10.85% to 20.26%. Commercial bin rate customers may see their monthly service charges decrease 11.65%. The franchise drop-box haul charge may decrease from 12.76% to 43.98%.

Residents or businesses who place waste tires in bins or drop boxes may see this charge increase 33%, from \$3.00 per tire to \$4.00 per tire. Residents and business that wish to utilize 3, 4, or 6 yard commercial bins for seven-day periods to perform clean-ups or minor construction/demolition projects performed by the property or business owner/occupant, may see charges of \$66.00, \$72.00, or \$78.00 respectively, for the seven-day rental period.

DISCUSSION:

On August 11, 2009, the Board of Supervisors approved the award of Franchise Refuse Collection Area #3 to Turlock Scavenger Company. This award was the result of a competitive procurement that began in November of 2008.

The respondents to the February 2009 Request for Proposals (RFP), including Turlock Scavenger, were asked to bid total compensation requirements for the initial 31.8 months of the contract period. County staff, in collaboration with the staff of Turlock Scavenger, have converted these total compensation requirements into a mutually agreed upon schedule of service charges designed to yield the appropriate compensation (see Attachment "A"). Per the RFP and the Agreement with Turlock Scavenger, these rates will remain constant through June 30, 2012.

While the current Rate Adjustment Process "caps" rate adjustments, up or down, at 5% per annum, this process does not apply when a competitive process determines the compensation requirement and the subsequent rates.

Franchise Area #3 consists of unincorporated areas west of Modesto between Shoemaker and California Avenues, and generally, the unincorporated areas of the County east of Modesto and south of Dry Creek, excluding the adjacent Franchise Area #4 already served by Turlock Scavenger. Approximately 6,200 residential customers, 700 commercial bin customers, and about a 1,000 drop-box hauls per year will be affected by the rate changes to be proposed at the October 27, 2009, public hearing.

Refuse removal services available to residents and businesses in Franchise Area #3 will remain essentially unchanged, with the exceptions of an expanded list of materials

Approval to Amend the Contract for Stanislaus County Refuse Removal in Franchise Area #3 with Turlock Scavenger Company and Set a Public Hearing for October 27, 2009, at 9:20 a.m., to Consider Adjustments to Stanislaus County Franchise Maximum Rates for Franchise Area #3

Page 3

eligible for curbside recycling and the addition of a short-term bin rental option for residents and business that wish to utilize 3, 4, or 6 yard commercial bins for seven-day periods to perform clean-ups or minor construction/demolition projects.

Amendment of the Franchise Agreement with Turlock Scavenger

Since the execution of the Franchise Agreement for Area #3 with Turlock Scavenger, Waste Management, Inc., has agreed to voluntarily terminate their current agreement at midnight on October 31, 2009. Waste Management's agreement was set to expire at midnight on November 4, 2009.

This change prevents Waste Management from having to provide service and bill residents and businesses for four days in November, and Turlock Scavenger from having to pro-rate their billing for the same month. Pro-rated billings would have resulted in additional expense for both companies, and likely generated a great deal of confusion for residents and businesses who would have had to review and pay two different bills for the month of November. Given this, staff recommends that the Board allow Turlock Scavenger Company to begin service under the Franchise Agreement for Area #3 on November 1, 2009, as opposed to the current commencement date of November 5, as per Amendment No. 1 (see Attachment "B").

POLICY ISSUE:

The Board of Supervisors is required to set a public hearing prior to adjusting the maximum rates for solid waste collection services. After the public hearing, the rates could be changed. The Board of Supervisors should determine if adjusting the maximum rates for solid waste collection services in Franchise Area #3 is consistent with its priorities of a safe community, a healthy community, and a well-planned infrastructure system.

STAFFING IMPACTS:

There are no staffing impacts associated with this request.

CONTACT PERSON:

Sonya K. Harrigfeld, Director. Telephone: 209-525-6770

FRANCHISE AREA #3 - TURLOCK SCAVENGER

PROPOSED MAXIMUM RESIDENTIAL RATES

Service	Current Franchisee's Rate (09-'10)	Proposed Rates (EFFECTIVE 11/1/09 TO 6/30/12)	Net Change (Current vs. Proposed)
1 can	\$14.02	\$12.12	-13.55%
2 cans	\$20.92	\$18.65	-10.85%
Add'l. can	\$10.46	\$8.61	-17.69%
60 gal. cart	\$15.20	\$12.12	-20.26%
90 gal. cart	\$20.92	\$18.65	-10.85%
Add'l. cart	\$13.63	\$12.12	-11.08%

SPECIAL SERVICES - RESIDENTIAL "SPECIALS" & COMMERCIAL BINS

3 yrd. bin	\$66.00
4 yrd. bin	\$72.00
6 yrd. bin	\$78.00

Charge for tires in container	\$4.00 each plus current landfill charges
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PROPOSED MAXIMUM COMMERCIAL RATES

Service	Current Franchisee's Rate ('09-'10)	Proposed Rates (EFFECTIVE 11/1/09 TO 6/30/12)	Net Change (Current vs. Proposed)
1 yd., 1 X week	\$52.57	\$46.45	-11.64%
1 yd., 2 X week	\$105.14	\$92.89	-11.65%
1 yd., 3 X week	\$157.70	\$139.33	-11.65%
1 yd., 4 X week	\$210.26	\$185.76	-11.65%
1 yd., 5 X week	\$262.83	\$232.21	-11.65%
1 yd., 6 X week	\$315.40	\$278.66	-11.65%
1 yd., 7 X week	\$367.97	\$325.10	-11.65%
2 yd., 1 X week	\$67.40	\$59.55	-11.65%
2 yd., 2 X week	\$134.76	\$119.06	-11.65%
2 yd., 3 X week	\$202.15	\$178.60	-11.65%
2 yd., 4 X week	\$269.53	\$238.13	-11.65%
2 yd., 5 X week	\$336.92	\$297.67	-11.65%
2 yd., 6 X week	\$404.30	\$357.20	-11.65%
2 yd., 7 X week	\$471.68	\$416.73	-11.65%
3 yd., 1 X week	\$75.91	\$67.07	-11.65%
3 yd., 2 X week	\$151.78	\$134.10	-11.65%
3 yd., 3 X week	\$227.69	\$201.16	-11.65%
3 yd., 4 X week	\$303.57	\$268.20	-11.65%
3 yd., 5 X week	\$379.50	\$335.29	-11.65%
3 yd., 6 X week	\$455.38	\$402.33	-11.65%
3 yd., 7 X week	\$531.29	\$469.39	-11.65%
4 yd., 1 X week	\$83.36	\$73.65	-11.65%
4 yd., 2 X week	\$166.73	\$147.31	-11.65%
4 yd., 3 X week	\$250.08	\$220.95	-11.65%
4 yd., 4 X week	\$333.19	\$294.37	-11.65%
4 yd., 5 X week	\$416.81	\$368.25	-11.65%
4 yd., 6 X week	\$500.17	\$441.90	-11.65%
4 yd., 7 X week	\$583.53	\$515.55	-11.65%
6 yd., 1 X week	\$89.89	\$79.42	-11.65%
6 yd., 2 X week	\$179.78	\$158.84	-11.65%
6 yd., 3 X week	\$269.67	\$238.25	-11.65%
6 yd., 4 X week	\$359.54	\$317.65	-11.65%
6 yd., 5 X week	\$449.43	\$397.07	-11.65%
6 yd., 6 X week	\$539.31	\$476.48	-11.65%
6 yd., 7 X week	\$629.21	\$555.91	-11.65%

PROPOSED MAXIMUM DROP BOX HAUL RATE (per haul)

Size of Box	Current Franchisee's Rate ('09-'10)	Proposed Rates (EFFECTIVE 11/1/09 TO 6/30/12)	Net Change (Current vs. Proposed)
10 - 19 yrd	\$202.23	\$176.42	-12.76%
20 - 29 yrd	\$266.62	\$176.42	-33.83%
30 yrd and up	\$314.91	\$176.42	-43.98%

SPECIAL SERVICES - DROP BOXES

Charge for tires in container	\$4.00 each plus current landfill charges
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DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C, Modesto, CA 95358
Phone: (209) 525-6770
Fax: (209) 525-6773

AMENDMENT NO. 1
TO
FRANCHISE AGREEMENT

This Amendment No. 1 to Franchise Agreement ("Amendment No. 1") by and between the County of Stanislaus ("County") and Turlock Scavenger Company ("Franchisee") (collectively the "Parties") is made and entered into on October 27, 2009.

Whereas, the County and Franchisee entered into a Franchise Agreement on August 11, 2009; and

Whereas, the term of the Agreement commences at 12:01 a.m., on November 5, 2009 and terminates at 11:59 p.m., on November 5, 2016; and

Whereas the County has a need for the Agreement to commence at 12:01 a.m. on November 1, 2009; and

Whereas, this amendment is for the mutual benefit of County and Franchisee;

Now, therefore, the County and Franchisee agree as follows:

1. Article 1.1.A of the Agreement is amended to read as follows:

"1.1 Term of the Agreement:

A. Initial Term: The term of this Agreement shall commence at 12:01 a.m. on November 1, 2009, and shall end at 11:59 p.m., on November 5, 2016, unless terminated earlier or extended as provided in this Agreement."

2. Except as provided in this Amendment, all other terms and conditions of the Agreement remain unchanged.

(signatures on the next page)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written.

COUNTY OF STANISLAUS

By: _____
Richard W. Robinson
Chief Executive Officer

Date: _____

FRANCHISEE

By: Alan Marchant
Alan Marchant
President

Lee Marchant
Lee Marchant
Treasurer/Secretary

Date: 9/25/09

APPROVED AS TO CONTENT:
Department of Environmental Resources

By: Sonya K. Harrigfeld
Sonya K. Harrigfeld
Director

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: Thomas E. Boze
Thomas E. Boze
Deputy County Counsel



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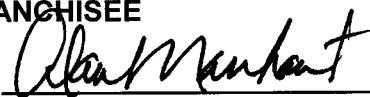
COUNTY OF STANISLAUS

By: 

Richard W. Robinson
Chief Executive Officer

Date: 10/6/09

FRANCHISEE

By: 

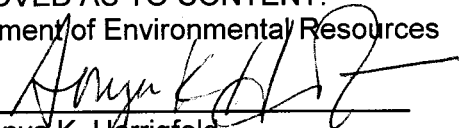
Alan Marchant
President


Lee Marchant
Treasurer/Secretary

Date: 9/25/09

APPROVED AS TO CONTENT:

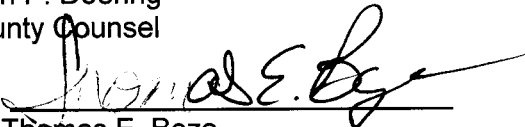
Department of Environmental Resources

By: 

Sonya K. Harrigfeld
Director

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 

Thomas E. Boze
Deputy County Counsel

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on October 27, 2009, at the hour of 9:20 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will conduct a public hearing in the basement Chambers, Lower Level, 1010 Tenth Street, Modesto, CA, **to consider adjustments to the rates for the Stanislaus County Franchise Area # 3 currently being served by Waste Management Inc.,** and will be transferred to Turlock Scavenger. These rate adjustments are applicable to properties in the unincorporated areas and do not apply to properties within any of the incorporated cities. A recommendation will be made that these adjustments be effective November 1, 2009, pursuant to the following:

Residential Rates	Commercial Rates	Drop Box Haul
1 can - \$12.12	1 cu. yd.1 x week - \$ 46.45	\$ 176.42
2 cans - \$ 18.65	2 cu. yd.1 x week - \$ 59.55	plus disposal cost
Add'l can - \$ 8.61	3 cu. yd.1 x week - \$67.07	
60 gal cart - \$ 12.12	4 cu. yd.1 x week - \$73.65	
90 gal cart - \$ 18.65	6 cu. yd.1 x week - \$79.42	
Add'l cart - \$12.12		

AT THE ABOVE NOTICED TIME AND PLACE, interested persons will be given an opportunity to be heard. Material submitted to the Board of Supervisors or the Department of Environmental Resources for consideration (i.e., petitions, etc.), will be retained by the County. If a challenge to the above process is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board or the Department of Environmental Resources. For further information, call (209) 525-6700.

BY ORDER OF THE BOARD OF SUPERVISORS

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of
the Board of Supervisors of the County of Stanislaus,
State of California

Date: OCT 06 2009

By: Elizabeth King
Elizabeth King, Assistant Clerk of the Board

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Oct 17, 2009, Oct 23, 2009

NOTICE OF PUBLIC HEARING

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Commercial Rates:

1 cu. yd. 1 x week - \$ 46.45
2 cu. yd. 1 x week - \$ 59.55
3 cu. yd. 1 x week - \$ 67.07
4 cu. yd. 1 x week - \$ 73.65
6 cu. yd. 1 x week - \$ 79.42

Drop Box Haul:

\$ 176.42 plus disposal cost

AT THE ABOVE NOTICED TIME AND PLACE, interested persons will be given an opportunity to be heard. Material submitted to the Board of Supervisors or the Department of Environmental Resources for consideration (i.e., petitions, etc.), will be retained by the County. If a challenge to the above process is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board or the Department of Environmental Resources. For further information, call (209) 525-6700. BY ORDER OF THE BOARD OF SUPERVISORS. ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. Date: October 6, 2009. By: Elizabeth King, Assistant Clerk of the Board.
Pub Dates Oct 17, 23, 2009

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

October 23rd, 2009

(Signature)

Marie Hickman