

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

DEPT: Chief Executive Office

BOARD AGENDA # \*B-2

Urgent

Routine

AGENDA DATE October 20, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Addendum No.1 to the Agreement Between the City of Modesto and County of Stanislaus Relating to the Administration, Development and Operation of the Geer Road Sanitary Landfill and Authorization to Issue a Request for Qualifications for a Potential Solar Farm Ground Lease at the Geer Road Landfill Site

STAFF RECOMMENDATIONS:

1. Approve Addendum No.1 to the Agreement between the City of Modesto and County of Stanislaus relating to the Administration, Development and Operation of the Geer Road Sanitary Landfill.
2. Authorize the Chief Executive Officer to sign Addendum No. 1 to the Agreement.
3. Authorize staff to issue a Request for Qualifications for a potential solar farm ground lease at the Geer Road Landfill Site.

Continued on Page 2

FISCAL IMPACT:

There is no fiscal impact associated with approval of the Addendum to the Geer Road Agreement. If approved, County staff will issue a Request for Qualifications seeking parties interested in leasing the site for potential solar operations. The successful candidate would be granted a 12-month exclusive right to negotiate period with which to perform their due diligence and negotiate a ground lease with the County. All normal costs associated with the due diligence period, including environmental review and land use approvals, will be borne by the selected candidate.

Continued on Page 2

BOARD ACTION AS FOLLOWS:

No. 2009-692

On motion of Supervisor Monteith, Seconded by Supervisor O'Brien  
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)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

**Recommendations Continued:**

4. Upon evaluation of candidate qualifications, direct staff to return to the Board of Supervisors for final selection of a candidate with which to enter a 12-month exclusive right to negotiate period.

**Fiscal Impact Continued:**

While the potential annual revenue generated from a ground lease is yet to be negotiated, any revenue generated from the lease would be available solely to offset post closure and remediation costs at the Geer Road Landfill.

**Discussion:**

This item requests approval of Addendum No. 1 to the August 17, 1970 Agreement between the City of Modesto and County of Stanislaus relating to the Administration, Development and Operation of the Geer Road Sanitary Landfill. The Addendum would grant the County authority to solicit proposals and enter into a lease for portions of the Geer Road Landfill site for potential solar farm operations. The item further requests authorization for staff to issue a Request for Qualifications (RFQ) to select the most qualified candidate interested in entering into a long-term lease for the potential solar operations.

The Stanislaus County Department of Environmental Resources Landfill Division operates and maintains the Fink Road and Geer Road Landfills. Currently, only the Fink Road Landfill is in active operation. The Geer Road Sanitary Landfill, comprised of approximately 167.5 acres, was jointly purchased and developed by the City of Modesto and the County of Stanislaus. An Agreement between the City and County regarding the administration, development and operation of the Landfill was entered into in August of 1970. In the Agreement, the County was given control over day to day operations of the landfill. Landfill operations at the site closed in 1990. Remediation efforts began in 1993 and are still ongoing.

On September 29, 2009, the Board of Supervisors authorized the issuance of an RFQ for a long-term farming and potential solar farm lease on the County owned land adjacent to the Fink Road Landfill. In discussions with parties interested in the potential for solar operations at the Fink Road site, interest was also expressed in the Geer Road Landfill site for the same purpose.

Since the Geer Road Landfill is co-owned between the City of Modesto and County of Stanislaus, staff requested that the Agreement be amended to allow one of the two agencies, be it the City or the County, to solicit proposals and negotiate and approve a ground lease. This approach would allow the negotiation and approval process to be

Approval of Addendum No.1 to the Agreement Between the City of Modesto and County of Stanislaus Relating to the Administration, Development and Operation of the Geer Road Sanitary Landfill and Authorization to Issue a Request for Qualifications for a Potential Solar Farm Ground Lease at the Geer Road Landfill Site

Page 3

expedited and would minimize some of the challenges otherwise inherent in trying to come to agreement with multiple agencies. A draft of the Addendum was presented at the October 12, 2009 City-County Liaison Committee meeting. There appeared to be general concurrence with this approach. It is anticipated that the Modesto City Council will be asked to approve the Addendum at their October 27, 2009 meeting. Issuance of the Request for Qualifications will be subject to approval of the Addendum by both the Board of Supervisors and the Modesto City Council.

In order to both create an open and transparent process and effectively negotiate the most favorable ground lease rates to the County, staff is proposing a Request for Qualifications process similar to that used for the land adjacent to the Fink Road Landfill. In this process, interested parties would submit their qualifications and experience for review by an evaluation panel. The top candidates would be asked to make a presentation and be interviewed by the evaluation panel. Staff would then return to the Board of Supervisors for final selection. The selected candidate would enter into an Exclusive Right to Negotiate contract with the County for a 12 month period. This 12 month period would allow the selected candidate to perform their due diligence, including but not limited to, environmental review and clearance, land use approvals, negotiation of a Power Purchase Agreement, financing, construction contracts and the negotiation of a long-term ground lease with the County.

**Policy Issues:**

The Board of Supervisors is asked to consider whether the Addendum to the Geer Road Landfill Agreement and the negotiation of a long term ground lease with the potential for a solar farm operation is consistent with the priority of efficient government operations and a well planned infrastructure.

**Staffing Issues:**

There are no staffing issues associated with this item. If approved, staff from the Chief Executive Office, County Counsel, Environmental Resources, General Services Agency and Planning and Community Development will be involved in the review and evaluation of submittals and contract negotiations.

**ADDENDUM NO. 1  
TO**

2011 JAN 14 P 2:40

**AGREEMENT BETWEEN CITY OF MODESTO AND COUNTY  
OF STANISLAUS RELATING TO THE ADMINISTRATION,  
DEVELOPMENT AND OPERATION OF A SANITARY LANDFILL**

This Addendum No. 1 is entered into by and between the City of Modesto (the "City") and the County of Stanislaus (the "County") on October \_\_\_\_, 2009.

Introduction

A. The City and County jointly purchased property for use as the Geer Road Land Fill, and entered into an Agreement Between City of Modesto and County Of Stanislaus Relating to the Administration, Development and Operation of a Sanitary Landfill dated August 17, 1970 (the "Agreement").

B. Section 1 of the Agreement provides for the construction of various improvements related to the operation of a sanitary landfill, including other improvements as may be mutually agreed upon by the City and the County.

C. Section 10 of the Agreement provides that the mutual consent of the City and the County is required for use of any portion of the landfill property, and that any income received from use of the landfill property shall be paid into the landfill enterprise fund.

D. Section 11 of the Agreement provides that neither the City nor the County shall sell, assign, transfer or convey its interest in the Geer Road Landfill without the other party's written consent.

E. The City and County mutually desire to document their mutual consent to solicit proposals to lease portions of the Geer Road Landfill to one or more private companies to establish and construct a solar energy farm.

Understanding and Agreement

1. All of the recitals set forth above are true and correct.
2. The City and County mutually agree that it is in both party's mutual interest for the County to solicit proposals to lease portions of the Geer Road Landfill for the purpose of establishing, constructing, and operating a solar energy farm.
3. The City authorizes the County to initiate and conclude, without further City consultation or approval, all necessary and appropriate actions, including signing all leases and related documents, to establish, construct and operate a privately owned solar energy farm located at the Geer Road Landfill. The County will provide regular

updates on the status of the solar farm project to the City-County Liaison Committee.

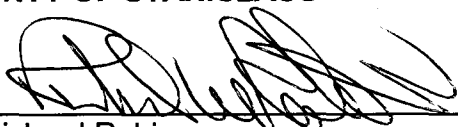
4. The City and County mutually agree that all income received from the private commercial use of the Geer Road Landfill shall be deposited into the Geer Road Landfill Enterprise Fund to be available solely for and applied to help offset post closure and remediation costs at the landfill.

5. The County agrees to hold the City free and harmless from any and all damages or liability of any kind or description to any person or property of any person who may have or acquire any claim or action for damages arising out of contract for the construction and operation of a solar farm at the Geer Road Landfill.

6. Except as may be modified by this Addendum No. 1, all other provisions of the Agreement, all other provisions of the Agreement shall remain unchanged and in effect.

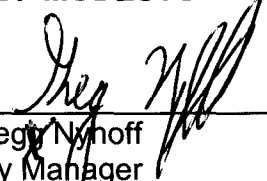
The parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written.

**COUNTY OF STANISLAUS**

By:   
Richard Robinson  
Chief Executive Officer

"County"

**CITY OF MODESTO**

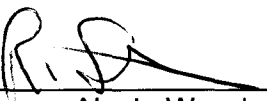
By:   
Greg Nynhoff  
City Manager

"City"

APPROVED AS TO FORM:

By:   
John P. Doering  
Assistant County Counsel

APPROVED AS TO FORM:

By:   
Susana Alcala Wood  
City Attorney