



Legislation Text

File #: 18-1693, **Version:** 1

Community Development Services, Environmental Management Department, recommending the Board adopt and authorize the Chair to sign Resolution **239-2018**, which approves and authorizes the Chair to sign the Fourth Amendment to the Solid Waste Services Franchise Agreement for Waste Connections of California, Inc., doing business as El Dorado Disposal Service, extending the initial term and modifying the criteria for future term renewals.

FUNDING: User Fees, Franchise Fees. (No Federal Funds)

DISCUSSION / BACKGROUND

On October 21, 2014, (Item 32, File No. 14-1047), the Board approved a new Solid Waste Services Franchise Agreement (Franchise Agreement) between the County and El Dorado Disposal Service (El Dorado Disposal) for solid waste services and operation of the Material Recovery Facility (MRF). This Franchise Agreement included significant changes compared to the prior Franchise Agreement, such as the addition of contractor-provided carts for all residential collection services in the unincorporated portion of the County, the implementation of multiple strategies cited in the County's Solid Waste Management Plan, and the construction of a new state-of-the-art transfer station/MRF.

Since the Franchise Agreement was approved in 2014, it has been amended three times. On August 18, 2015, (Item 12, File No. 15-0905), the Board approved the First Amendment to the Franchise Agreement, which consolidated the services provided by Amador Disposal Service under the Amador Disposal Service Franchise Agreement into the El Dorado Disposal Franchise Agreement, thereby terminating the Amador Disposal Service Franchise Agreement. On August 18, 2015, (Item 13, File No. 15-0632), the Board also approved the Second Amendment to the Franchise Agreement, which consolidated the services provided by Sierra Disposal Service into the El Dorado Disposal Franchise Agreement following the assignment of the Sierra Disposal Service Franchise Agreement to El Dorado Disposal. On December 12, 2017, (Item 25, File No. 14-1047), the Board approved the Third Amendment to the Franchise Agreement, which authorized El Dorado Disposal to provide bi-weekly green waste cart collection services to residents within the community of Grizzly Flats within El Dorado Disposal Area B during the months of May through October annually.

The Franchise Agreement, as amended, with El Dorado Disposal includes an automatic ten (10) year extension on the condition that the upgrades to the transfer station/MRF (MRF Upgrade Project) as specified in the Franchise Agreement be completed by the end of the initial five (5) year term, which will conclude on October 21, 2019. However, during the initial stages of the MRF Upgrade Project, the California Central Valley Regional Water Quality Control Board (Water Board) required an extensive investigation of lime that was found on the property, as well as adjacent properties, and delayed El Dorado Disposal's planned construction. The significant accumulation of lime is due to the operations of the former Diamond Lime plant of which the footprint included the MRF Upgrade Project.

In July 2016, as part of the geotechnical investigation process of the MRF Upgrade Project, soil samples were collected and some of the results indicated elevated pH levels in soils beneath the

planned MRF Upgrade Project site. These results were submitted to the Water Board for review in August 2016 and following their review, it was determined by the Water Board that El Dorado Disposal be required to prepare a Remedial Investigation Work Plan. Upon the Water Board's approval of the Remedial Investigation Work Plan, El Dorado Disposal conducted extensive soil and groundwater sampling to determine the extent of the high pH material beneath the proposed MRF Upgrade Project site. El Dorado Disposal is continuing to conduct groundwater monitoring under the authority of the Water Board. El Dorado Disposal submitted a Draft Remedial Action Plan, dated September 19, 2018, to the Water Board for review and approval, which proposes mitigation of the elevated pH material. Upon the Water Board's approval, and pending any further modifications, El Dorado Disposal intends to begin remediation activities and simultaneous portions of the MRF Upgrade Project, where feasible, beginning in the Spring of 2019. El Dorado Disposal anticipates completion of the MRF Upgrade Project by the Fall of 2022, which is approximately three (3) years beyond the end of the initial five (5) year term specified in the Franchise Agreement.

On August 14, 2018, (Item 32, File No. 18-1143), the Board received a presentation from El Dorado Disposal regarding the status of the MRF Upgrade Project. The presentation provided detailed information on the results of the site investigation and plans for moving forward with the MRF Upgrade Project.

At the time the Franchise Agreement was executed, delays with the MRF Upgrade Project were not anticipated. In addition, El Dorado Disposal's cost of completing the MRF Upgrade Project, including extensive geotechnical investigations, remediation activities, and increased construction supply costs, has approximately doubled the original project estimate, which was estimated between \$8 and \$12 million.

The proposed changes to the Franchise Agreement include extending the automatic term extension of the Franchise Agreement from ten (10) to twenty (20) years upon El Dorado Disposal's completion of the MRF Upgrade Project and to extend the initial term of the Franchise Agreement from five (5) years to eight (8) years in order to ensure that the Franchise Agreement is still in place by the end of the MRF Upgrade Project. The twenty (20) year term extension is proposed due to the additional and unforeseen costs as detailed above and to allow for amortization of the significantly higher capital costs.

In addition to the unforeseen MRF Upgrade Project costs, the market for recyclable materials has decreased significantly due to the shrinking demand for recyclable materials, especially because of the closing of the Asian market to recyclable material exported by the United States that occurred in 2017. According to the State of California, Department of Resources Recycling and Recovery (CalRecycle), the export of recyclable material is a key component of the State's recycling infrastructure and that these recycling import bans have led to a stockpiling of recyclable materials at California solid waste and recycling facilities as well as declining markets for recyclables. Because of these significant changes, recyclables that were once a commodity and a source of revenue to the solid waste haulers are now a financial liability. El Dorado Disposal will be returning to the Board to present, in accordance with the Unforeseen Circumstances clause specified in the approved Solid Waste Rate Setting Policies and Procedures Manual, a proposed rate increase for services to cover the additional costs of disposing materials that were once a commodity as well as partial costs of the MRF Upgrade Project which exceed the originate cost estimate.

ALTERNATIVES

The Board may choose not to approve the Fourth Amendment to the Franchise Agreement. This would result in El Dorado Disposal being unable to complete the MRF Upgrade Project within the initial term of the Franchise Agreement, and therefore, would require the denial of the current term extension option based on the terms of the Franchise Agreement. Completion of the MRF Upgrade Project provides a significant benefit to County residents.

PRIOR BOARD ACTION

See Background/Discussion above.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel has approved the proposed Resolution and Fourth Amendment.

CAO RECOMMENDATION

It is recommended that the Board approve this item with the understanding that the MRF project goals align with the proposed extensions and completion of the MRF Upgrade Project provides a significant benefit to County residents.

FINANCIAL IMPACT

There is no County funding associated with the construction of the MRF Upgrade Project. Additionally, El Dorado Disposal has committed to not passing the cost of this project along to ratepayers based on the original cost estimate. Any additional project costs which exceed the originally estimated \$8 to \$12 million will be presented to the Board for consideration and inclusion in the rates when El Dorado Disposal returns to the Board in approximately January of 2019.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) Clerk of the Board will obtain the Chair's signature on one (1) original copy of the Fourth Amendment Resolution, and forward one (1) copy of the signed Resolution to Environmental Management for further processing.
- 2) Clerk of the Board will obtain the Chair's signature on two (2) original copies of the Fourth Amendment to the El Dorado Disposal Solid Waste Services Franchise Agreement, and forward one (1) original signed copy to Environmental Management for further processing.

STRATEGIC PLAN COMPONENT

Healthy Communities, Good Governance

CONTACT

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