



## Legislation Text

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Environmental Management Department requesting the Board provide direction in regard to the competitive bid process for collection and disposal of municipal solid waste generated by residential, commercial and industrial customers within Franchise Area No. 4, the unincorporated portion of West Lake Tahoe Basin (Meeks Bay, Tahoma) or enter into franchise extension negotiations with Tahoe Truckee Sierra Disposal Company.

Background: To protect the health, safety and welfare of the County's constituency the Board of Supervisors determined that it is in the public's best interest to establish exclusive Franchise Areas for the collection and disposal of residential, commercial and industrial municipal solid waste generated within the County of El Dorado and passed Ordinance No. 4319 on February 8, 1994. There are a total of six (6) active Franchise Areas; two (2) Franchise Areas in the Lake Tahoe Basin and four (4) Franchise Areas on the Western Slope of El Dorado County.

Franchise Area # 4, which encompasses the unincorporated portion of the West Lake Tahoe Basin, primarily the Meeks Bay and Tahoma areas, is a non-mandatory refuse collection area that serves a relatively small customer base of approximately 730 average active accounts (up to approximately 1600 total accounts during the summer season). The area contains significant geographic and climate challenges. The collection routes are within a mountainous region that receives considerable snowfall throughout the winter months, thereby making the area difficult to service. In addition, specialized bear-proof enclosures are used by many customers. The enclosures preclude collection automation without adding significant costs and, therefore, limit collection efficiency relative to the majority of the Franchise Areas on the West Slope.

Effective April 4, 1995, the County entered into a solid waste collection and disposal agreement with Tahoe Truckee Sierra Disposal Company, Inc. (TTSD), for services within Franchise Area # 4. The term of this agreement is set to expire December 31, 2009. Pursuant to the terms of the Franchise Agreement as stipulated in Section 9 - Term, B. Renewal of Agreement,

*At the written request of either party delivered to the other prior to the expiration of this Franchise Agreement, and provided that the Contractor is not in default under this agreement, the parties agree to engage in good faith negotiations for the purpose of agreeing on terms and conditions for renewal of this Franchise Agreement for a five year period, or for such longer period as the parties may agree on in writing.*

As of June 19, 2009, TTSD has not submitted a formal written request to the County to negotiate an extension to the existing Franchise Agreement, although the issue is referenced in a recent rate increase request letter dated June 3, 2009 (See Attachment A). The County has the option to either pursue the competitive bid process or negotiate a contract extension with the existing franchisee. There are advantages and disadvantages to each type of these considerations. The best decision can be made only after considering the risks associated with bidding this hard-to-serve franchise area.

Following is a summary of the pros and cons associated with the options available to the Board related to selecting the future solid waste collection services in Franchise Area #4.

**OPTION 1 - The Board provides conceptual approval for the release of a Request for Proposal (RFP) for solid waste collection services in Franchise Area #4.**

The County wishes to ensure that the residents and businesses within Franchise Area # 4 are receiving efficient, high quality, cost-effective services. The current franchisee, TTSD, has held the franchise agreement for Franchise Area # 4 for almost fifteen (15) years. During recent solid waste planning discussions the Board has expressed a desire to competitively bid the existing long term franchise agreements. In response to this discussion, staff has developed a separate bid document with a five (5) year operating term. The Board may also direct staff to develop an RFP with a term longer than five (5) years.

It should be noted that the franchisee may exercise its right to request that the County enter into good faith negotiations at any time during the RFP process. If the franchisee exercises this right, the County is contractually bound to negotiate with the franchisee.

Pros: The RFP process allows qualified contractors the opportunity to compete for public contracts.

If the County pursues a competitive bid process for Franchise Area # 4, the intent, although not guaranteed, would be to ensure that the residents and businesses receive the most cost-effective level of service.

A short-term five (5) year contract will align the termination date of this contract with the other Franchise Agreement on the East Slope of El Dorado County.

The development of a new contract provides the County the opportunity to modify unfavorable and ambiguous language contained within the existing contract.

Cons: Given the rural, hard-to-service nature of Franchise Area # 4, there are potentially limited solid waste collection haulers that would submit responsive bids.

There is risk that the bid results could yield higher rates for existing comparable services due to the unique franchise area and the current rate structure of the surrounding areas outside Franchise Area # 4 with similar hard-to-service conditions (i.e., Placer County and South Lake Tahoe).

If the contract is awarded to a new franchisee, the County and the residents may experience potential short-term service disruptions and customer service issues while Franchise Area # 4 transitions to the new franchisee.

The short term of the proposed contract may have a negative effect on the bid response due to possible the capital investment requirements and the short time frame to recover these costs.

**OPTION 2 - The Board provides staff direction to engage in good faith negotiations per Section 9 of the Franchise Agreement with TTSD for the purpose of extending the Franchise Agreement for a five (5) year period.**

The current Collection Franchise Agreement Between El Dorado County And Tahoe Truckee Sierra Disposal Co., Inc. includes a renewal of agreement provision allowing the parties to engage in good faith negotiations for the purpose of agreeing on terms and conditions for the extension of this Franchise Agreement for a five year period, or for such longer period as the parties may agree. The Contractor is not in default under the current Agreement. As such, the Board could elect to direct staff to enter into negotiations with TTSD and extend the current contract Agreement.

**Pros:** Negotiating an extension may yield a competitive rate with an established five (5) year rate structure.

An extension would allow for a short term contractual obligation that would align the termination date of this contract to be consistent with the other Franchise Agreement on the East Slope of El Dorado County.

An extension will ensure that there are no potential service disruptions due to the bidding process and change of franchisee.

**Cons:** Qualified contractors will not be given the opportunity to compete for the solid waste services contract in Franchise Area # 4 at this time.

A 5 year contract extension will delay the competitive bid process for solid waste services in Franchise Area # 4.

#### Items for Consideration:

##### Option 1:

Should the Board consider this option, direct Environmental Management to prepare a Request for Proposals (RFP) to competitively bid the collection and disposal of residential, commercial and industrial municipal solid waste generated within Franchise Area # 4 and return to the Board for discussion and approval of the proposed RFP or,

##### Option 2:

Board to authorize the Environmental Management Department to notify Tahoe Truckee Sierra Disposal Company of the intent to enter into negotiations with the County to extend the term of the existing franchise agreement by five (5) years to December 31, 2014.

Direct Environmental Management to enter into franchise extension negotiations with TTSD and return to the Board with the proposed contract for Board discussion and approval.

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