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| <h1 style="margin: 0;">County Of Sonoma</h1> <h2 style="margin: 0;">Agenda Item</h2> <h3 style="margin: 0;">Summary Report</h3> | | | Clerk of the Board Use Only | |
| | | | Meeting Date / / | Held Until / / |
| | | | Agenda Item No: _____ | Agenda Item No: _____ |
| Department: Transportation and Public Works | | | <input type="checkbox"/> 4/5 Vote Not Required | |
| Contact: Susan Klassen | Phone: (707) 565-2231 | Board Date: 9/29/2009 | Deadline for Board Action: | |
| AGENDA SHORT TITLE: Refuse Collection Services Contract – Redwood Empire Disposal of Sonoma County, Inc. | | | | |
| REQUESTED BOARD ACTION: Approve Resolution approving a 20-year solid waste collection franchise agreement by and between the County of Sonoma and Redwood Empire Disposal of Sonoma County, Inc. and giving direction to staff. | | | | |
| CURRENT FISCAL YEAR FINANCIAL IMPACT - None. | | | | |
| Explanation (if required): None. | | | | |
| Prior Board Action: 09/22/09: Board adopted an Ordinance of the County of Sonoma amending Section 22-9 of Chapter 22 of the Sonoma County Code to allow for the issuance of franchise agreements on such terms and conditions as approved by the Board of Supervisors. 07/21/09: The Board provided direction to staff on key contract terms to address in development of a new solid waste collection franchise agreements, and directed staff to enter into negotiations with the three current licensed solid waste collectors and return to the Board with a recommendation to either approve negotiated agreement(s) or, if negotiations are unsuccessful, to advertise for bids. 08/16/04: Board directed staff to competitively bid all licenses in 2011. | | | | |
| Alternatives – Results of Non-Approval: The Board could direct staff to proceed with the competitive bid process, for the current licensed areas served by North Bay Corporation and its affiliates. | | | | |

Background: The Board of Supervisors (Board) relinquished all existing solid waste collection licenses in the unincorporated areas in 2001 and issued new 10-year licenses which expire April 23, 2011. These new 10-year licenses were granted to offset the costs of implementing single stream recycling as required by AB 939. Licenses are currently held by Sonoma Garbage Collectors for the Sonoma Valley unincorporated areas, Industrial Carting for the Lake Sonoma and Tubbs Island area and North Bay Corporation for all other unincorporated areas.

Prior to 1976, the County issued non-exclusive licenses to companies wishing to haul refuse and debris, and the general service areas of the various businesses overlapped. In 1975, the Board directed staff to form a committee which included all of the haulers and negotiate a new system of exclusive license areas. In December 1976, the Board established exclusive licenses in the unincorporated County. These exclusive licenses have never been the subject of a competitive process.

In April 2004, North Bay Corporation applied for its licenses to be extended to a 20-year term (13 years beyond the current expiration of the licenses) in order to facilitate financing of its proposed new processing facility that would process single stream recycling, commercial solid waste, and construction demolition and debris. While the material recovery facility (MRF) may result in increased diversion of garbage, no additional public benefit was offered to the County at that time in exchange for the requested 13-year extension. The County did not accept North Bay's application.

On August 16, 2004, staff recommended that all licenses be competitively bid in 2011 to: (1) facilitate the County's ability to bid all licenses at one time, offering prospective bidders the best ability to capitalize on any major investments; (2) allow other haulers to competitively bid garbage franchises that could potentially result in lower rates for solid waste collection service; (3) allow staff to study various options to increase revenues and reduce expenditures to keep the solid waste system cost effective including modifications to County ordinances, licensing fee increases, and consideration of mandatory collection; (4) complete the long-term disposal analysis to determine if any future disposal options could significantly change the structure of the refuse licensing system; and (5) further study how the proposed MRF would fit with the rest of the regional refuse system and whether an amendment to the Countywide Integrated Waste Management Plan is required. The Board adopted staff's recommendation. In April 2006, pursuant to Public Resources Code Section 49520, five year notices of intent to terminate existing licenses and bid new licenses were issued to each licensed hauler.

Recent Activity

On May 10, 2007, the County hired R3 Consulting Group to perform an analysis of exclusive franchise agreement issues.

On June 4, 2009, North Bay Corporation submitted another letter proposal to extend their licenses for 15 years to 2026.

On July 21, 2009, the Board provided direction to staff on key contract terms to address in development of new modern day solid waste collection franchise agreements. Further the Board directed staff to enter into negotiations with all three of the current licensed solid waste collector(s) and return to the Board with a recommendation to either approve negotiated franchise agreement(s) or, if negotiations are unsuccessful, to advertise for bids. The changed approach was based on the fact that between 2004 and 2009 several of the cities within the County that went out to bid for collection services actually ended up with higher collection rates. Additionally, significant staff time and expense is associated with the competitive bidding process, which would be wasted if lower rates are not achieved. Also, the Board, the public and some existing local haulers in Sonoma County expressed concern that, through the bidding process, local workers and existing local small businesses could be displaced.

On September 22, 2009 the Board adopted an Ordinance of the County of Sonoma amending Section 22-9 of Chapter 22 of the Sonoma County Code to allow for the issuance of franchise agreements on such terms and conditions as approved by the Board of Supervisors.

Upon receiving direction from the Board on the key terms to be included in a Collection Services Contract, Transportation and Public Works (TPW) assembled a team of county staff from TPW, the Auditor's office, County Counsel's office, and the County Administrator's Office to work on development of a draft contract and negotiations.

Based upon the Board's input, the team entered into negotiations with Redwood Empire Disposal of Sonoma County, Inc., which is an affiliate of North Bay Corporation first, as the largest provider of services in the County. The team will negotiate with Industrial Carting and Sonoma Garbage Collector in the coming months and bring each agreement to the Board as negotiations are completed.

Current Franchise Negotiation

The negotiated Franchise Agreement before you today for your consideration includes the following new benefits to the County, in exchange for a term of 20 years, with an option to revisit and consider reducing the term to 12.5 years in the event that there is no divestiture of the landfill:

- Upon commencement of the Franchise Agreement, the franchised hauler shall pay to the County a flat franchise fee of \$2,000,000.
- Beginning July 1, 2011 the County will receive monthly franchise fee payments based upon a percentage of gross revenue resulting from the franchised hauler's operations. As of July 1, 2011 the franchise fee will be 5%, increasing to 10% by July 1, 2013. The annual franchise fee revenue to the County is estimated to be \$1.33 million starting July 2011, rising to more than \$2.8 million per year after July 2014. The franchise fee revenues will be needed to pay for: (i) staff costs associated with management of the franchise agreement, (ii) other refuse enterprise related expenses, such as maintenance of closed landfills, road repair costs related to the impact of garbage trucks on County roads, and (iii) such other similar programs as determined by the Board of Supervisors.
- Collection rates, which were last established in 2008, will not be increased in any of the six existing license areas until July, 2011, with the exception of an increase to cover the County's FY 2009/10 refuse disposal tip fee adjustment, which impacts the residential and commercial rates on average 2.69% and an increase of \$40.00/each to debris box rates to cover the extra cost associated with transporting all boxes to the Central Facility. From July, 2011 forward the annual adjustment formula will be based upon change in CPI (with a minimum adjustment of 3.2% and a maximum adjustment of 5%) and fuel cost index, plus pass through of the franchise fee and the refuse disposal tip fee.
- Two new urban rate zones will be created in areas with high density development in Larkfield Wikiup and Roseland, which will have rates set to match the adjacent urban areas of Santa Rosa and Windsor which are lower than the current rates.
- Consolidated rate calculations will allow all rate zones to be adjusted by the same percentage each year.
- All solid waste collected will be delivered to the regional disposal system to support the financial strength of the regional system.
- Additional Services will be provided at no additional charge to the rate payers:
 - Bulky item pick-up will be provided up to four times per year to all residential and multi-family residential customers.
 - Street sweeping will be provided up to six times per year in areas with curb and gutter streets as required to comply with County storm water permits.
 - Residential units will receive a second green waste and a second recycling bin, if requested, as part of their base rate for their subscribed service.
 - Roadside pick-up of whole Christmas trees after the holiday
 - Walk-in service for the disabled free of charge
- The franchised hauler has agreed to implement a pilot project over the course of the next year to work with the County on an on-call litter pick up service to clean up roadside dumping. After the initial year, County will evaluate the program and if County desires to continue it, the parties will negotiate a mutually agreeable adjustment to the service rates to cover the costs of the program on a going forward basis.
- The franchised hauler will continue to process all source separated recyclable materials at its affiliates' Material Recovery Facilities (MRF) in Sonoma County and will use its best efforts to achieve a minimum 45% diversion rate in processing such materials. The contract includes economic incentives for the franchised hauler diversion targets.
- The franchised hauler has also agreed to deliver the following materials to the regional disposal system to support the financial strength of the regional system: (i) all residual solid waste generated from processing all source separated recyclables (regardless of origin) through any of its affiliates' MRFs or processing facilities located in Sonoma County; and (ii) all construction and demolition (C&D) debris waste that its affiliates collect within the County, including materials collected within the incorporated areas where the franchised hauler has the right to collect C&D.

Additionally, the negotiated franchise agreement has other provisions which address customer service and vehicle standards, auditing and reporting requirements, etc. A comparison of the direction from the Board and the negotiated provisions of the Franchise Agreement is attached along with the sections of the Franchise Agreement which address the scope of services and the service rates. The complete Franchise Agreement is on file with the Clerk of the Board.

It is staff's opinion that given the payment of the \$2,000,000 franchise fee to the County upon commencement, the agreement to hold the current rates between October 2008 until July 1, 2011, with the exception of a pass through of landfill disposal tipping fee adjustments, and that a number of additional services and benefits are provided, the

negotiated agreement provides significant public benefit to the ratepayers. What the County is giving in return is an exclusive agreement for collection services for a period of up to 20 years, which is of significant benefit to Redwood.

It is important to note that the scope of the exclusive franchise agreement is a continuation of the existing licenses in that the franchise hauler will continue to have the exclusive right to collect all materials in the service area, except such materials that are exempt from licensing requirements pursuant to Section 22-21 of the Sonoma County Code.

Recommendation:

Approve Resolution approving a 20-year solid waste collection franchise agreement by and between the County of Sonoma and Redwood Empire Disposal of Sonoma County, Inc. and giving direction to staff

Attachments: Comparison Table and Proposed Scope of Services and Service Rates, Article 4 & 5 of Franchise Agreement, Exhibit E of Franchise Agreement, Resolution

On File With Clerk: Proposed Solid Waste Collection Franchise Agreement between the County of Sonoma and Redwood Empire Disposal of Sonoma County, Inc.

CLERK OF THE BOARD USE ONLY

Board Action (If other than "Requested")

Vote: