

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

840



FROM: Waste Management & Environmental Health Departments SUBMITTAL DATE: April 22, 2003

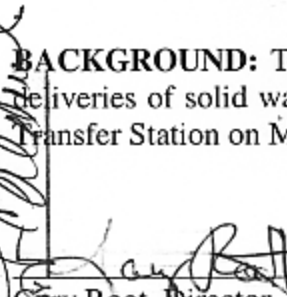
SUBJECT: Franchise Area 4 – Execution of First Amendment to the Waste Delivery Agreement

RECOMMENDED MOTION: That the Board:

1. Approve the attached amendment to the Franchise Area 4 Waste Delivery Agreement to allow for deliveries of solid waste north of the 91 freeway to designated system facilities, not just the Robert A. Nelson Transfer Station.
2. Authorize the Chairman to execute the Amendment on behalf of the Board.
3. Approve the attached Indemnification Agreement.
4. Authorize the Chairman to execute the Indemnification Agreement on behalf of the Board.
5. Authorize the General Manager-Chief Engineer of the Waste Management Department to coordinate amendment negotiations with Burrtec Waste Industries related to the Robert A. Nelson Transfer Station Master Lease.

BACKGROUND: The Board directed staff to modify the Franchise Area 4 Agreement to allow for deliveries of solid waste north of the 91 freeway to all system facilities, not just the Robert A. Nelson Transfer Station on March 25, 2003. (Cont'd)

FORM APPROVED
COUNTY COUNSEL
MAY 05 2003



Gary Root, Director
Environmental Health Department



Joseph R. McCann, General Manager- Chief Engineer
Waste Management Department

FINANCIAL DATA:
CURRENT YEAR COST: \$ -0-
NET COUNTY COST: \$ -0-
SOURCE OF FUNDS:

ANNUAL COST: \$ -0-
IN CURRENT YEAR BUDGET: N/A
BUDGET ADJUSTMENT: N/A

COUNTY C.E.O. RECOMMENDATION:

APPROVE

Executive Officer Signature



Policy
 Policy
 Consent
 Consent

Department Recommendation:
Per Executive Office:

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BACKGROUND (CONT'D):

The Board recently approved the purchase of Franchise Area 4 from International Rubbish Service, Inc. (IRS) to Waste Management of the Inland Empire (WMIE), through Board Resolution No. 2003-128 on March 11, 2003. Staff has reviewed, and County Counsel has approved, execution of the attached first amendment to the Waste Delivery Agreement, which removes the requirement to deliver all solid waste north of the 91 freeway to the Robert A. Nelson Transfer Station (RANTS). The remaining language lists the Badlands Landfill, the El Sobrante Landfill or the RANTS facilities as the "Designated System Facilities" for the franchisee to use. The amendment does not allow the franchisee to take waste to all system facilities due to the distance. The three listed are the ones closest to the Franchise Area 4 boundaries and both IRS and WMIE are satisfied with the list.

Burrtec Waste Industries (operator of the RANTS) advises that they have pending litigation against IRS for failing to deliver waste to RANTS, even though they are not a formal party to the Franchise Area 4 agreement. Modification of the agreement today could prompt legal action from Burrtec, as an "expectation of waste deliveries" may have been made during original franchise agreement negotiations in 1998. County Counsel advises that to limit the County's exposure, the attached Indemnification Agreement be executed between the County and WMIE, whereby the County would be indemnified by WMIE from the date of amendment forward.

Ongoing discussions with Burrtec and recent correspondence from their attorney indicate that Burrtec continues to claim both past and future "beneficial interests" exist related to the Franchise Area 4 agreement requirements to deliver waste to their facility. Burrtec has indicated they will not pursue litigation related to the Franchise Area 4 amendment, as long as the County continues to pursue good faith negotiations with Burrtec in relation to a potential amendment to the RANTS lease. It is staff's and County Counsel's recommendation to pursue negotiations with Burrtec, in an effort to avoid potential litigation. It is anticipated that sixty days would be needed to effectively negotiate with Burrtec and prepare a RANTS lease amendment. Staff would then report back to the Board with either a recommended amendment to the RANTS lease or a recommendation to reject Burrtec's claim.

JRM:DW:ga

Attachments