

**DEPARTMENT:** County Counsel      **BY:** Thomas P. Guarino      **PHONE:** 966-3222

**RECOMMENDED ACTION AND JUSTIFICATION:**

Resolution approving and authorizing Chairman to sign Settlement Agreement with Total Waste Systems, Inc.; and authorizing Chairman to sign 2<sup>nd</sup> Amendment to the Solid Waste Franchise Agreement.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

The Public Works Department assessed liquidated and other damages for Total Waste Systems violations involving trucks 212, 208, and 742 in June of 2005, the two violations cited by the California Highway Patrol regarding maintenance and driver programs in June 2005, and the Health Department violations noted by inspections dated April 4, 2005, April 14, 2005, May 9, 2005, May 19, 2005, June 16, 2005, and July 6, 2005 and the failure to collect in Wawona September 2006. Total Waste Systems by this Agreement will pay \$7000 in liquidated damages to the County. Total Waste Systems has requested a revision of the liquidated damages assessment process in the franchise agreement. This revision will provide an incentive to more timely respond to reported violations.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

County may choose to proceed with litigation or other measures to recover damages and enforce contract.

Financial Impact? ( ) Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded		
Amount in Budget: \$ _____		List Attachments, number pages consecutively _____
Additional Funding Needed: \$ _____		_____
Source:		Settlement Agreement
Internal Transfer _____		2 <sup>nd</sup> Amendment to Solid Waste Franchise Agreement
Unanticipated Revenue _____ 4/5's vote		_____
Transfer Between Funds _____ 4/5's vote		_____
Contingency _____ 4/5's vote		_____
( ) General ( ) Other		_____

**CLERK'S USE ONLY:**

Res. No.: 06-528      Ord. No. \_\_\_\_\_  
Vote - Ayes: 5      Noes: \_\_\_\_\_  
Absent: \_\_\_\_\_  
AW Approved  
AW Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: \_\_\_\_\_  
Deputy

**COUNTY ADMINISTRATIVE OFFICER:**

AW Requested Action Recommended  
\_\_\_\_\_ No Opinion  
Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CAO: AWB

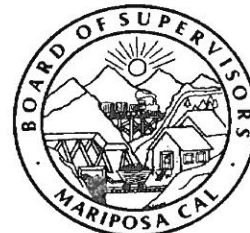


# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

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JANET BIBBY, VICE CHAIR  
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BOB PICKARD

DISTRICT I  
DISTRICT III  
DISTRICT II  
DISTRICT IV  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: THOMAS P. GUARINO, County Counsel  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: Adopt a Resolution Approving a Settlement Agreement with Total Waste Systems, Inc. and Authorize the Chairman of the Board of Supervisors to Sign the Agreement; and Approve Second Amendment to the Solid Waste Franchise Agreement and Authorize the Chairman of the Board of Supervisors to Sign the Amendment

RESOLUTION 06-528

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on November 14, 2006

#### ACTION AND VOTE:

Adopt a Resolution Approving a Settlement Agreement with Total Waste Systems, Inc. and Authorize the Chairman of the Board of Supervisors to Sign the Agreement; and Approve Second Amendment to the Solid Waste Franchise Agreement and Authorize the Chairman of the Board of Supervisors to Sign the Amendment (County Counsel)

**BOARD ACTION:** Discussion was held with Thomas P. Guarino, County Counsel, and he recommended that the Board authorize the Chairman to sign the Agreement and approve the Second Amendment contingent upon Total Waste Systems paying the agreed sums no later than November 27, 2006; and if they fail to pay and to sign the agreements, the agreements are withdrawn. (M)Pickard, (S)Turpin, Res. 06-528 was adopted approving the requested actions as recommended by County Counsel. Following discussion relative to the dates in the agreements, the motion was amended, agreeable with the maker and second, to authorize County Counsel to make any necessary corrections to the agreements/Ayes: Unanimous.

Cc: Dana Hertfelder, Public Works Director  
Steve Engfer, Solid Waste and Recycling Manager  
Chris Ebbe, Auditor  
File