

DEPARTMENT: Public Works/Solid Waste

BY: Dana Hertfelder

PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION:

Approve Settlement Agreement with Total Waste Systems in the amount of \$95,000; approve the Solid Waste Hauling Agreement with Total Waste Systems for the County Franchise Area and authorize the Board Chair to execute the Settlement Agreement

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The County believes Fiske Disposal Services has been in violation of their Agreement since November, 2007. Fiske Disposal Services admits to have been violation of the Franchise Agreement since March, 2008. On average, Fiske Disposal Services collects 50 tons of waste per month. This amounts to approx \$6,000 per month. In addition, Fiske Disposal Services owes Mariposa County \$16,940.20 for outstanding invoices and the loss of revenue resulting from Fiske Disposal Services' violation of the Franchise Agreement. The Department of Public Works estimates that Fiske Disposal Services owes the County between \$100,000 and \$124,000. Given the difficulty of determining the actual amount of solid waste disposed of out-of-county by Fiske Disposal Services, Public Works believes that \$95,000 is a reasonable offer and recommends settlement.

On March 10, 2009, the Board of Supervisors approved 1) Issuing a 90 day notice to terminate the Fiske Sanitary Disposal Service Franchise Agreement and 2) Soliciting proposals for solid waste disposal service in the north county franchise area. Based on Total Waste Systems offer to compensate Mariposa County for lost revenue, County Counsel approved direct negotiations with Total Waste Systems for the north county franchise area. This new Solid Waste Hauling Agreement combines the two previous Franchise Agreements creating one Franchise Agreement for the entire County of Mariposa.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Should the requested action not be approved, the Mariposa County Public Works Solid Waste Division will go out to bid for solid waste disposal in the county franchise area. There is no guarantee that another service provider will prepare a bid and be willing to compensate Mariposa County for lost revenue.

Financial Impact? <input checked="" type="checkbox"/> Yes () 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: \$ _____	1. Contract _____	
Source:	_____	
Internal Transfer _____	_____	
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.: 09-204 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

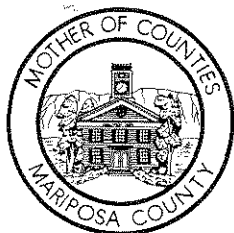
Requested Action Recommended
 No Opinion
 Comments: _____

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

CAO: RFB



COUNTY of MARIPOSA

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

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
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DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: DANA HERTFELDER, Public Works Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW MW*

SUBJECT: A) Approve Settlement Agreement with Total Waste Systems in the Amount of \$95,000; Approve the Agreement for Services with Total Waste Systems for the County Franchise Area and Authorize the Board of Supervisors Chair to Sign the Settlement Agreement; and
B) Approve the Agreement for Services with Total Waste Systems for the North County Franchise Area and Authorize the Board of Supervisors Chair to Sign the Agreement

RESOLUTION 09-274

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on June 9, 2009

ACTION AND VOTE:

Dana Hertfelder, Public Works Director;

A) Approve Settlement Agreement with Total Waste Systems in the Amount of \$95,000; Approve the Agreement for Services with Total Waste Systems for the County Franchise Area and Authorize the Board of Supervisors Chair to Sign the Settlement Agreement; and

B) Approve the Agreement for Services with Total Waste Systems for the North County Franchise Area and Authorize the Board of Supervisors Chair to Sign the Agreement

BOARD ACTION: Discussion was held with Dana Hertfelder and he advised that the requested action is to enter into one single franchise agreement on a countywide basis and a settlement agreement. He advised of the status of the settlement agreement. Steve Dahlem, County Counsel, advised that the attorney for Mr. Fiske requested some technical changes to the settlement agreement; and he recommended that the Board approve both agreements subject to any changes being agreed to by County Counsel, County Administrative Officer and Public Works Director, as long as the changes do not change the substance of the agreements. He advised of a typographical error in the settlement agreement with the duplication of "has not" that will be corrected. Further discussion was held relative to the agreements and the status of service in the North County; and it was agreed to change "unknown" to "known" site for disposal in the settlement agreement. (M)Turpin, (S)Bibby, Res. 09-274 was adopted approving the Settlement Agreement and the Solid Waste Handling Agreement. The motion was amended, agreeable with the maker and second, to include the change of "unknown" to "known" as discussed; and County Counsel noted that the Solid Waste Handling Agreement covers all of the County except Wawona 2-W. Ayes: Unanimous.

Cc: Chris Ebie, Auditor
Steve Dahlem, County Counsel
File