



RESOLUTION NO. 163-2022

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

**RESOLUTION AUTHORIZING A SIXTH AMENDMENT TO THE
SOLID WASTE SERVICES FRANCHISE AGREEMENT BETWEEN THE COUNTY
OF EL DORADO AND WASTE CONNECTIONS OF CALIFORNIA, INC.,
DBA EL DORADO DISPOSAL SERVICE**

WHEREAS, the Legislature of the State of California, by the enactment of the California Integrated Waste Management Act of 1989 (AB 939), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

WHEREAS effective October 21, 2014, the County entered into a Franchise Agreement with Waste Connections, Inc., dba El Dorado Disposal Service ("El Dorado Disposal") which, among other things, granted the exclusive right and obligation, subject to certain limitations and renewal options, until October 20, 2029, to collect, transport, process, recycle, and dispose of municipal solid waste generated by residential, commercial, and industrial customers in a delineated franchise area on the west slope of the County, defined in Exhibit A to the El Dorado Disposal Service Franchise Agreement (El Dorado Disposal Franchise Agreement), and to operate the Material Recovery Facility; and

WHEREAS, on August 18, 2015, the El Dorado Disposal Franchise Agreement was amended (First Amendment) to consolidate the services provided by Amador Disposal Service under the Amador Disposal Service Franchise Agreement into the El Dorado Disposal Franchise Agreement and terminate the Amador Disposal Service Franchise Agreement; and

WHEREAS, on August 18, 2015, the Sierra Disposal Service Franchise Agreement was assigned to El Dorado Disposal, and the El Dorado Disposal Franchise Agreement was amended (Second Amendment) to consolidate the services provided by Sierra Disposal Service into the El Dorado Disposal Franchise Agreement; and

WHEREAS the El Dorado Disposal Franchise Agreement consists of three (3) distinct service areas: Area A (original service area), Area B (former Amador Disposal Service), and Area C (former Sierra Disposal Service); and

WHEREAS, on December 12, 2017, the El Dorado Disposal Service Franchise Agreement was amended (Third Amendment) to provide bi-weekly green waste cart collection services to residents within the community of Grizzly Flats within El Dorado Disposal Area B during the months of May through October of each year, beginning May of 2018; and

WHEREAS, on November 13, 2018, the El Dorado Disposal Service Franchise Agreement was amended (Fourth Amendment) to provide for an automatic term extension for an additional period of twenty (20) years contingent upon El Dorado Disposal's completion of the new transfer station/Materials Recovery Facility (MRF) by October 20, 2022; and also provided a mechanism for El Dorado Disposal to recover capital costs invested in the construction of the new transfer station/MRF, subject to approval by the Board

of Supervisors, in the event that estimated construction costs significantly exceed the Contractor's 2014 maximum cost estimate of twelve million dollars (\$12,000,000); and

WHEREAS, on August 25th, 2020, the El Dorado Disposal Service Franchise Agreement was amended (Fifth amendment) to reflect the elimination of non-compostable disposable bags from use for the purpose of disposal of green waste collected and/or received by El Dorado Disposal and instituted a Spring and Fall special curbside green waste pickup in Franchise Areas A, B and C. The amendment included greater specificity on requirements for compostable disposable bags, limited their number and included stipulations for customers to schedule pickups in advance. The County found that the surcharge was insufficient to support the County's long-term operation and maintenance of the Union Mine Landfill in compliance with State mandated diversion programs including AB 939, AB 1826 and SB 1383. The amendment thereby increased the surcharge collected to two dollars and seventy cents (\$2.70) per ton for all tons of solid waste exported from the MRF and disposed of at an approved solid waste landfill; and

WHEREAS, the terms of the 4th Amendment of the Franchise Agreement required the Contractor, El Dorado Disposal, to complete the new transfer station/Materials Recovery Facility (MRF) by October 20, 2022, to stay in compliance with the remaining terms of the Agreement, lest an unforeseen event prevent them from meeting this deadline. The 4th Amendment allowed that the *"County may exercise renewal options under Section 11.B if the County, in its sole discretion, determines that Contractor had made diligent efforts to complete the Transfer Station I MRF by October 20, 2022, and the delay is a result of unforeseen circumstances outside the control of Contractor."*

WHEREAS, due to unforeseen significant disruptions and delays caused by the COVID-19 pandemic, including, without limitation, due to engineering office closures, manufacturing plant shutdowns and material availability, construction of a new state-of-the-art transfer station/MRF has been delayed and will prevent Contractor from completing the project by October 20, 2022.

WHEREAS, the 4th Amendment details that this project must be completed by October 20, 2022, in order to comply with the terms of the Agreement and that the automatic extension of this Agreement for 20 additional years is contingent upon the completion date of October 20, 2022 being met.

WHEREAS, given that the delays were caused by a pandemic which was outside the control of the Contractor and diligent efforts were made to comply with the agreed upon deadline as required per the Agreement, the Board of Supervisors believes that it is in the best interest of the County to allow for additional time to complete the transfer station/MRF project, granting an extension as requested until October 20, 2024 and retaining the term extension as detailed in the Fourth Amendment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of El Dorado hereby:

1. Approves the Sixth Amendment to the El Dorado Disposal Service Franchise Agreement and authorizes the chair of the Board to execute the Sixth Amendment on behalf of the County.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 8th day of November, 2022, by the following vote of said Board:

Attest:

Ayes: Parlin, Thomas, Hidahl, Turnboo, Novasel

Noes: None

Absent: None

Clerk of the Board of Supervisors

By:


Deputy Clerk


Chair, Board of Supervisors
Lori Parlin