

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/02/2016 by the following vote:

AYE:

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2016/61

RESOLUTION CONTINUING THE DELEGATION OF CERTAIN AUTHORITY TO THE CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY (“CCCSWA”) AND AUTHORIZING CCCSWA TO ENTER INTO WASTE COLLECTION, PROCESSING AND DISPOSAL SERVICE AGREEMENTS

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, California Public Resources Code section 4000 et seq. (“AB 939”) as amended from time to time, has declared that it is in the public interest to authorize and require local agencies, including counties, to make adequate provisions for solid waste handling within their jurisdictions;

WHEREAS, AB 939 directed cities and counties, among other public agencies, to develop and implement Source Reduction and Recycling Elements (“SRRE”) and Household Hazardous Waste Elements (“HHWE”);

WHEREAS, the Legislature of the State of California, by enactment of the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011 [Chesbro, 94 AB 341]) (“AB 341”), established a mandatory statewide commercial recycling program effective July 1, 2012;

WHEREAS, the Legislature of the State of California, by enactment of the California Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 [Chesbro, AB 1826]), (“AB 1826”), established a mandatory statewide commercial organics recycling requirements effective on April 1, 2016;

WHEREAS, the County of Contra Costa (“County”) has concluded that authorizing CCCSWA to implement the following measures at the regional level will consolidate the coordination and planning of the collection, transfer, transport, processing, diversion and disposal of solid waste, thereby maximizing ratepayers’ market power while providing for economies of scale and benefiting the citizens of the County: (i) franchising solid waste collection, (ii) implementing SRRE and HHWE programs on a regional basis, (iii) complying with mandatory commercial recycling and organics requirements on a regional basis, (iv) conducting the monitoring, reporting and any related actions that may be required to comply with the State’s mandatory commercial recycling and organics laws (AB 341 and AB 1826), and (v) preparing AB939 compliance information that must be filed with CalRecycle;

WHEREAS, CCCSWA is a joint powers agency formed pursuant to Government Code section 6500 et seq., and is currently comprised of the following members: the cities of Lafayette, Orinda, and Walnut Creek, the towns of Danville and Moraga, and the County of Contra Costa (for the unincorporated areas of Alamo, Blackhawk, Diablo, Tassajara, and most unincorporated areas in and around the above-mentioned cities [See Exhibit I for a map of the relevant unincorporated areas]);

WHEREAS, a joint powers agency, as a separate public entity, may exercise those powers commonly held by its members, to the extent the member agencies provide for the exercise of such common powers to the joint powers agency; and accordingly, CCCSWA through the Third Amended Joint Exercise of Powers Agreement, as amended, has the authority to contract for the collection, transfer, transport, processing and disposal of solid waste generated within the jurisdictional boundaries of its member agencies and for the performance of other services related to compliance with state mandated waste diversion and recycling requirements;

WHEREAS, the CCCSWA Board of Directors has determined that the public health, safety and well-being of the citizens within its service area are best served by CCCSWA obtaining long-term commitments from qualified companies for the handling of

solid waste, recyclable materials and compostable organic materials on a multi-jurisdictional basis and, further, that such commitments are fiscally prudent and related to meeting the requirements of AB 939, AB 341 and AB 1826;

WHEREAS, CCCSWA has successfully negotiated a franchise agreement with Allied Waste Systems, Inc. dba Republic Services of Contra Costa County (“Republic Services”) for franchised materials collection, transfer, transport, processing, diversion and disposal services for a term commencing March 1, 2015, and continuing through February 28, 2025, with an option to extend for up to twenty-four (24) months (the “Republic Collection and Disposal Agreement”);

WHEREAS, the services provided under the Republic Collection and Disposal Agreement include but are not limited to collection of solid waste, compostable organic materials and recyclable materials from residential and commercial subscribers, delivery of commercial food waste to the East Bay Municipal Utility District for anaerobic digestion and energy recovery and delivery of recyclable materials to Mt. Diablo Recycling for processing;

WHEREAS, CCCSWA has successfully negotiated an agreement with Mt. Diablo Paper Stock, Inc. dba Mt. Diablo Recycling for recyclable materials transfer, transport, processing and diversion services, for a term commencing March 1, 2015, and continuing through February 28, 2025, with an option to extend for up to twenty-four (24) months (the “Mt. Diablo Processing Agreement”);

WHEREAS, the services provided under the Mt. Diablo Processing Agreement include but are not limited to processing and marketing of all source-separated recyclable materials generated in the CCCSWA service area and collected by Republic Services pursuant to the Republic Collection and Disposal Agreement, and implementing a Reuse and Cleanup Days Program and Retail Battery Collection Program;

WHEREAS, on May 16, 2014, the CCCSWA Board of Directors authorized the execution of both the Republic Collection and Disposal Agreement and the Mt. Diablo Processing Agreement (together, the “Franchise Agreements”) and the Chair of the CCCSWA Board of Directors executed those agreements; and

WHEREAS, the County desires to continue delegating certain of its solid waste collection franchising authority to CCCSWA.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Contra Costa County as follows:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The County delegates its authority to CCCSWA to enter into the Republic Collection and Disposal Agreement for the collection, transfer, transport, processing and diversion or disposal of solid waste, recyclable materials and compostable organic materials in that portion of the unincorporated County that is identified on Exhibit I.
3. The County delegates its authority to CCCSWA to enter into the Mt. Diablo Processing Agreement for recyclable materials transfer, transport, processing and diversion services applicable to materials collected from that portion of the unincorporated County that is identified on Exhibit I.
4. The County delegates its authority to CCCSWA to implement the SRRE and HWWE programs and perform the monitoring and reporting required to comply with the State’s mandatory commercial recycling and organics laws (AB 341 and AB 1826 respectively) in that portion of the unincorporated County that is identified on Exhibit I.
5. Subject to the reservations described below, the delegation of authority set forth above begins March 1, 2015, and continues for term of the Franchise Agreements, which have a ten (10) year term with a possible extension of up to twenty-four (24) months, through February 28, 2027.
6. The County reserves the right to withdraw the above-described delegation of authority from the CCCSWA at any time for any reason. The County acknowledges that if it withdraws the above-described delegation of authority from CCCSWA, the Franchise Agreements, to the extent they apply to the unincorporated area of Contra Costa County shown on Exhibit I, will be assigned to and administered by the County for their remaining term.
7. The County’s delegation of the above-described authority to the CCCSWA is further conditioned on CCCSWA’s agreement that CCCSWA will not dissolve before the end of term of the Franchise Agreements term unless either (i) the County agrees to accept an assignment of the Franchise Agreements, for that portion of the unincorporated area of Contra Costa County shown on Exhibit I, or (ii) the Franchise Agreements are assigned to a successor joint powers authority.
8. This resolution is effective as of March 1, 2015.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 2, 2016

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: David Brockbank (925) 674-7794

By: , Deputy

cc: