



Board Agenda Item 36

DATE: February 12, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Amendment to the Joint Powers Agreement for the Southeast Regional Disposal Site

RECOMMENDED ACTION(S):

- 1. Adopt Resolution authorizing the Chairman's execution of the Amended Joint Powers Agreement with the Cities of Sanger, Reedley, Selma, Orange Cove, Kingsburg, Fowler, and Parlier regarding the closed Southeast Regional Disposal Site; and**
- 2. Approve and authorize the Chairman to execute the Amended Joint Powers Agreement with the Cities of Sanger, Reedley, Selma, Orange Cove, Kingsburg, Fowler, and Parlier regarding the closed Southeast Regional Disposal Site to reflect the post-closure status of the site.**

Approval of the recommended actions will authorize the execution of the amended Joint Powers Agreement (JPA) No. 88-590, last revised in 1988. The amendment will update the language to confirm the closure of Southeast Regional Disposal Site (SERDS), an inactive solid waste disposal facility that closed in 1990. The amendment will supersede the prior JPA to reflect the post-closure maintenance status of SERDS, funding details consisting of the \$3.50 per ton surcharge, and incorporates the direction provided by the Southeast Regional Solid Waste Commission (Commission) Board regarding their approval of annual supplemental fees collected from each jurisdiction. This item pertains to locations in Districts 1, 4, and 5.

ALTERNATIVE ACTION(S):

There is no viable alternative action.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The \$3.50 per ton surcharge fee (Surcharge) assessed to landfilled tonnage generated within the SERDS area and paid by the member jurisdiction or the contracted haulers funds the cost for ongoing administration of the SERDS JPA. Based on the Commission's direction, a supplemental payment will be assessed in an amount to be revised annually, based upon post-closure maintenance activities conducted at SERDS, the County's FY 2018-19 supplemental payment is estimated at \$49,096. Sufficient appropriations and estimated revenues are included in the Department of Public Works and Planning - Resources Division Org 9020, FY 2018-19 Adopted Budget. The County's annual supplemental payment is included in the Department's - Public Works Org 4360 FY 2018-19 Adopted Budget.

DISCUSSION:

The cities of Sanger, Reedley, Selma, Orange Cove, Kingsburg, Fowler, and Parlier (Cities) and the County of Fresno (County) share ownership of the closed SERDS located at 12716 E. Dinuba, Selma, CA, a map depicting the area is attached as Exhibit A. In 1970, the Cities and County executed a JPA to manage and to secure appropriate funding for the operation of the SERDS. The JPA detailed ownership and identified the County as the administrator of the agreement. The Department established Enterprise Fund 0720 and Budget Unit 9020 to administer revenues and oversee expenses for the SERDS. In October 1988, the Board of Supervisors approved the most recent amendment to the JPA, as Agreement No. 88-590. The SERDS ceased to operate in 1990 and has since been in post-closure maintenance status. The maintenance activities are funded by the Surcharge applied to landfilled waste generated within the SERDS area. Maintenance will continue until SERDS is no longer considered by the California Department of Resources Recycling and Recovery (CalRecycle) to pose a threat to public health and safety, and the environment. Post-closure requirements are set forth in regulations promulgated by the State Water Resources Control Board and CalRecycle in the California Code of Regulations Title 27, Sections 20950 and 21100. In 1987, it was estimated that 138,800 tons of waste from the SERDS area would be subject to the Surcharge; however, since then the CalRecycle has mandated recycling and diversion programs, which have significantly reduced the amount of waste generated within the area, which in turn has created a revenue shortfall. Additionally, the County has been diligent in the reduction and/or elimination of expenditures, but is unable to match the revenue shortfall as most of the costs are directly related to post-closure compliance.

During the March 28, 2016 Commission meeting, Department staff explained that an evaluation of the financial data identified that beginning FY 2017-18, expenditures would exceed the SERDS fund cash reserves and Surcharge revenues collected. Staff provided a report that detailed the balance of funds, current, and proposed expenditures, which quantified that the current funds and cash reserves will not be sufficient to continue to fund the closure, post-closure maintenance activities. Staff stated that a supplemental payment would be required, on an annual basis, from each JPA member jurisdiction to ensure on-going and future regulatory compliance. Department staff provided copies of executed JPAs and noted to the Commission that the JPA specified ownership and stipulated a guaranteed amount of waste by jurisdiction to secure the funds needed to operate and maintain SERDS. The JPA also prescribed actions to be taken to address insufficient funds or a shortfall in revenues. The Commission requested that staff provide a comprehensive analysis of funding needed to continue to adhere to the state-mandated closure, post-closure regulations for SERDS. The proposed approach was to assess the amount of shortfall to be made up by each member jurisdiction in accordance with the provisions of the JPA that specified the percentage of ownership and guaranteed tonnage delivery of each jurisdiction.

During the June 27, 2016 Commission meeting, Department staff provided a spreadsheet detailing the following information: Jurisdiction, Percentage of Share, see Exhibit B, and the anticipated funding needs for the four-year period beginning with FY 2017-18 through FY 2020-21. The Commission requested that staff also develop a "blended" cost table that takes into account a portion of the SERDS ownership, placing a larger liability on the County, as the County is the majority owner of SERDS. The Commission requested that prior to October 31, 2016, staff issue correspondence to each jurisdiction apprising them of the SERDS financial forecast, and to coordinate with the Commission member representing each jurisdiction to facilitate presentation of the forecast to each of the respective jurisdictions' governing bodies.

During the January 23, 2017 Commission meeting, Department staff reported that all member jurisdictions had been apprised of the SERDS financial forecast. Commission members acknowledged a preference in using the "blended" method to determine cost apportionment. The Commission Chairman requested that an official vote be taken and the members voted unanimously to implement the "blended" method. The Commission directed Department staff to present a report to the Board of Supervisors apprising them of the actions taken and authorized staff to prepare and issue invoices for the supplemental payment to each respective jurisdiction utilizing the "blended" table, as identified, see Exhibit C, prior to July thereafter. The report was presented to the Board on April 4, 2017.

The amendment reflects the post-closure maintenance status of SERDS, identifies ownership and cost apportionment, and incorporates the Commission's direction regarding the supplemental payment from each jurisdiction, which shall be assessed in an amount to be revised annually, based upon post-closure maintenance activities conducted at SERDS.

OTHER REVIEWING AGENCIES:

The amendment has been adopted by resolution by the City Council of each member jurisdiction: Sanger, Reedley, Selma, Orange Cove, Kingsburg, Fowler, and Parlier.

REFERENCE MATERIAL:

BAI #11, April 4, 2017
BAI #35c, October 25, 1988 (Agt. No. 88-590)
BAI #26d, September 30, 1986 (Agt. No. 86-485)
BAI #23, April 24, 1984 (Agt. 84-231)
Index No. 78-276, February 7, 1978

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Exhibit B
Exhibit C
On file with Clerk - Resolution
On file with Clerk - Amended Joint Powers Agreement

CAO ANALYST:

Sonia M. De La Rosa