



STAFF REPORT

TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
MEETING DATE: SEPTEMBER 16, 2024
FROM: DEREK COLE, CITY ATTORNEY
SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK CONSENTING TO THE ASSIGNMENT OF A SOLID WASTE FRANCHISE FROM ACES WASTE SERVICES, INC. TO DELTA CONTAINER CORPORATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE SOLID WASTE FRANCHISE AGREEMENT BETWEEN THE CITY AND ACES

Recommendation

Adopt Resolution 24-25-* Consenting to the assignment of a solid waste franchise from Aces Waste Services, Inc. to Delta Container Corporation and authorizing the City Manager to execute an amendment to the solid waste franchise agreement between the City and Aces.

Background and Analysis

ACES Waste Services, Inc. (“ACES”) has been the City’s exclusive solid waste franchise hauler for many years. Most recently, the City and entered into an Amended and Restated Solid Waste Franchise Agreement (“Agreement”) effective January 1, 2023 (see **Attachment 1**). This agreement authorizes ACES to serve as the City’s exclusive franchise provider through the end of 2037 and for an additional five-year term.

ACES has entered into a transaction in which it will sell all its assets to Republic Services (“Republic”), a national solid waste hauler that does business in numerous jurisdictions throughout the County. ACES and Republic request that the City authorize the assignment of the franchise and Agreement to Republic. The City Attorney and staff have reviewed the proposed transaction and believe the assignment would be appropriate for the City Council to authorize. (A fact sheet describing Republic’s national operations is attached as **Attachment 2.**)

The assignment of the Agreement is governed by Article N of the Agreement. As a condition for approving the assignment, the Article requires the City Council to make certain findings concerning the qualifications and financial capability of the proposed assignee. The City Attorney

and Staff are confident these findings can be made. To this end, the attached resolution includes the following findings:

- “1. Republic has the capacity, financial competency, performance and service record, and equipment inventory necessary to perform the covenants of the Agreement;
2. Republic has provided an adequate guarantee and has the financial security and bonding capability necessary to perform the covenants of the Agreement; and
3. The proposed transaction does not involve an agreement between affiliated parties[.]”

Fiscal Impact

Article N authorizes the City to collect, as a condition for approving an assignment of the franchise, a transfer fee. This fee is intended to allow the City to recoup all its expenses in considering and preparing the necessary documentation (including this staff report and the attached resolution.). To this end, the resolution authorizes the City to collect \$2,500 as a condition for the transfer, which is the best estimate of the total expenses the City has and will incur in coordinating its approval for the assignment.

ATTACHMENTS:

1. Current Solid Waste Franchise Agreement
2. Republic Fact Sheet
3. Resolution Authorizing Amendment and Consent to Agreement
4. Proposed Amendment and Consent to Assignment