

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

**Tracking Number:** \_\_\_\_\_ *16.*

**Date of Request:** July 14, 2008

**Date Request Received:** July 14, 2008

**Board Meeting Date Requested:** July 21, 2008

**Board Meeting Date Assigned:** July 21, 2008

**Short Title:** Reconsideration Of Resolution Authorizing Eight (8) Year Extension Of Existing Waste Industries Contract (To June 20, 2018).

- Request Status:**
- Request is proceeding to Board of Commissioners
  - More information is needed – see attached
  - Request on hold – no further information needed
  - Other:

**Background:** In 2005, Pender County entered into a contract with Waste Industries to manage all solid waste and recycling at the County-owned convenience centers and Transfer Station for a period of five (5) years. The contract has a provision for costs to be adjusted annually according to the Transportation subcategory of the Federal Consumer Price Index. Largely due to the cost of fuel increasing over 35% in the last year, Waste Industries is contractually eligible for a 9.4% increase for the FY 08-09 budget year. In addition, the Federal Minimum Wage is to increase by \$0.40/hours on July 24, 2008 and the State of North Carolina General Assembly will impose a \$2.00/ton excise tax ratified in The Solid Waste Management Act of 2007 and effective July 1, 2008. Staff has worked diligently negotiating with Waste Industries to keep the cost to the residents as low as possible. As part of the negotiations, Waste Industries offered to provide a rebate on incremental cost components included in the net per ton cost of hauling and disposal. In return, they have requested an 8-year extension to the current contract that would provide Pender County guaranteed availability in the Sampson County Landfill through 2018. While the overall cost of solid waste management will increase by approximately \$320,000 (9.4%) in FY 08-09, this figure is over \$86,000 less than before the negotiations and could save the County \$1.3 million over the next ten years. If this negotiated extension is not granted, the cost per ton of hauling and disposal could increase by at least \$3.00 per ton effective immediately and the savings would be negated. The amendment to the contract will also change the CPI category from Transportation to Urban-Unadjusted-Water and Sewer and Trash Collection Services for more stable and predictable annual cost adjustments.

*(Administrative Use Only)*

**CONTRACT TYPE**

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grant or
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

**PURCHASING** Budgeted Item:  Yes  No  
 Date Rec'd:  Reviewed and Approved  
 Comments on Reverse

Date Sent: \_\_\_\_\_  
 Signed: \_\_\_\_\_

**ATTORNEY**  Reviewed and Approved  
 Date Rec'd:  Legal Problem(s)  
 Comments on Reverse

Date Sent: \_\_\_\_\_  
 Signed: \_\_\_\_\_

**FINANCE** Sufficient Funds  Available  
 Date Rec'd:  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent: \_\_\_\_\_  
 Signed: \_\_\_\_\_

**CLERK** Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd Approved by Board:  Yes  No  
 At meeting on

Staff recommends the eight (8) year extension and contract amendment to Waste Industries solid waste management contract.

**Specific Action Requested:** The Board of Commissioners is requested to approve the eight (8) year contract extension and amendment with Waste Industries, LLC.

Requested by: Michael G. Mack  
 Department: Utilities Director  
 Title:  
 Contact Phone: 910.259.1570  
 Contact Fax: 910-259-1579

**MANAGER'S RECOMMENDATION:**

Respectfully Recommend Approval

PBJ  
Initials

**RESOLUTION: NOW THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that

the SOLID WASTE AND RECYCLING COLLECTION, TRANSPORTATION, AND DISPOSAL AGREEMENT BETWEEN THE COUNTY OF PENDER AND WASTE INDUSTRIES, LLC, dated July 1, 2005 is hereby extended for the term of an additional eight (8) years ending June 30, 2018 and the AMENDMENT of the original Agreement is hereby approved. The Chairman and/or County Manager are authorized to execute any documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS \_\_\_\_\_

YEA VOTES: Williams \_\_\_ Tate \_\_\_ Blanchard \_\_\_ Brown \_\_\_ Rivenbark \_\_\_

\_\_\_\_\_  
J. David Williams, Jr., Chairman      07/21/08  
Date

\_\_\_\_\_  
Attest      07/21/08  
Date

**STATE OF NORTH CAROLINA  
COUNTY OF PENDER**

**AMENDMENT OF SOLID WASTE AND RECYCLING COLLECTION, TRANSPORTATION,  
AND DISPOSAL AGREEMENT BETWEEN COUNTY OF PENDER AND WASTE  
INDUSTRIES, LLC.**

This is an Amendment of the original Agreement made between the County of Pender and Waste Industries, LLC dated July 1, 2005:

**Section 2: Term**

Upon finding that the Contractor's performance is satisfactory and that it is in the mutual interest of the County and Waste Industries, LLC to continue this Agreement beyond the original agreement term for the promise of future landfill space ; the parties hereto agree to extend the term of the Agreement for an additional eight (8) year period ending June 30, 2018.

**Section 5.2: Rates**

Compensation payable to the Contractor hereunder will automatically be adjusted on July 1, 2009 and July 1 of each subsequent year, effective as of each such date, to reflect the percent change in the Consumer Price Index (CPI-U) – Urban-Unadjusted-Water and Sewer and Trash Collection Services for the period December to December of each previous calendar year.

1. Reduction of \$1.00 per ton on all MSW from the Transfer Station at Hampstead. This will be effective July 1, 2008 prior to the CPI increase.
2. Waste Industries will rebate \$2.00 per ton on all C&D and MSW waster after the CPI increase.
3. Waste Industries would absorb 0.50 (fifty cents) per ton Administrative Fee for the reporting of tonnage to the State of North Carolina.
4. The trash tax (pursuant to the Solid Waste Management Act of 2007) will apply with the State's activation of the tax and Waste Industries agrees to handle all reporting requirements with the NC Department of Revenue in conjunction with the remittance of this tax.

In witness thereof, the County of Pender and Waste Industries, LLC have executed this contract amendment as of this the \_\_\_\_\_ day of July, 2008:

**WASTE INDUSTRIES, LLC**

**COUNTY OF PENDER**

By: \_\_\_\_\_  
Thomas Winstead, Division VP

By: \_\_\_\_\_  
Paul Parker, Interim County Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Robert Lohr, Division Controller

Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_