

STAFF REPORT
City of Lancaster

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MVB

Date: September 11, 2012

To: Mayor Parris and City Council Members

From: Mark V. Bozigian, City Manager
Jason Caudle, Deputy City Manager
Robert C. Neal, Director of Public Works

Subject: **Extension and Modifications to the April 2007 Amended and Restated Agreement for the Collection of Solid Waste between the City of Lancaster & Waste Management of Antelope Valley**

Recommendation:

Authorize the City Manager and City Attorney to revise and execute an extension and modifications to the April 2007 Amended and Restated Agreement for the Collection of Solid Waste between the City of Lancaster & Waste Management (WM) of Antelope Valley as specified in this staff report. Authorize the City Manager, or his designee, to sign all documents.

Fiscal Impact:

The City of Lancaster will receive \$6.9 million in one-time fees from Waste Management in February 2013. The annual franchise fee rate will increase from 8.11% to 17% of total gross receipts for the period of July 1, 2017 through June 30, 2027, along with an additional \$1 million annually in impact fees for that same period of time. This increase in the franchise fee and impact fees will provide an approximate \$3 million increase annually to the City beginning in July 2017. Lancaster residential customers of Waste Management will receive a 2% monthly rate decrease from existing monthly rates, and commercial/industrial customers will receive a 3% monthly rate increase from existing monthly rates, through June 2013; these rate adjustments replace what would have been a cumulative 9.9% residential and 13.1% commercial/industrial rate increase, which Waste Management was entitled to impose in July 2011 and July 2012.

Background:

The City of Lancaster has granted to Waste Management Inc. (WMI) a franchise for the collection and disposal of solid waste and recyclable materials since 1991. In April 2007, the City Council authorized modifications to the franchise agreement to update the contract language and overall service requirements. This was necessitated by numerous changes to state law, regulations, and case law; and a desire to modify rate escalators and related fees, the term of the agreement, and overall service levels.

In late 2011, City staff, Mayor Parris, and Council Member Crist began discussions with Waste Management regarding potential modifications to the April 2007 Agreement. This was necessitated primarily by potentially significant customer rate increases that would result from the approved rate escalator formula and a need to have greater ownership and control of the City's Material Waste Stream (MWS) to effectively pursue Material Recovery Facility (MRF) opportunities, such as the Council authorized partnership with Ecolution, or other revenue and recycling opportunities. Waste Management, having served Lancaster for 20 years, had a strong desire to continue that service beyond the Agreement termination date of June 30, 2017.

As stated previously, the existing Agreement would have resulted in a cumulative 9.9% residential and 13.1% commercial/industrial rate increase, which Waste Management was entitled to impose in July 2011 and July 2012. Waste Management rates in Lancaster are further exacerbated by the fact that the Waste Management disposal facility is not within the City of Lancaster but, instead, is located in unincorporated Los Angeles County. This location makes Waste Management and, ultimately, Lancaster residents and businesses subject to additional tipping and other fees imposed by the Los Angeles County Conditional Use Permit (CUP) on the Waste Management disposal facility. Additionally, without modifications to the existing Agreement regarding the City's MWS, the City would be at a disadvantage in effectively pursuing a MRF or other revenue and recycling partnerships.

After considerable discussions and meetings, the City and Waste Management representatives have agreed on tentative major modifications to the existing Agreement, as detailed below, and recommend these for approval by the City Council. Staff believes that the resultant revised Agreement with Waste Management will be of real and substantial benefit to the residents and businesses of the City of Lancaster.

Agreement Modifications and Adjustments

- Extend Term of Agreement through June 30, 2027;
- Reduce Residential customer rates by 2%, from existing rates, through June 30, 2013, and forgo potential July 2011 and July 2012 rate adjustments;
- Increase Commercial / Industrial customer rates by 3%, from existing rates, through June 30, 2013, and forgo potential July 2011 and July 2012 rate adjustments;
- Revise rate adjustment formula to use a 12-month average methodology, based on currently identified indices, and capped at no more than a 4% increase. If annual justified increases are higher than 4%, the difference may be carried forward to future years where the justified increase would be less than 4%;
- Increase the annual Franchise Fee on gross receipts payable to the City from 8.11% to 17%, commencing on July 1, 2017. Should Waste Management revise its franchise fee above 17% in communities within a 25 mile radius of the City boundaries, the Agreement with the City of Lancaster will be reopened for the purpose of increasing the City's Franchise Fee to the same franchise fee percentage above 17%;
- Ensure City ownership and control of Material Waste Stream and negotiate impact on Waste Management;
- Include an annual Impact Fee payment to the City of \$1,000,000, commencing on July 1, 2017;

- Include annual enhanced sponsorships or services, commencing on July 1, 2017, as follows:
 - Community Garden Sponsorship - \$10,000
 - Scholarships for local children - \$25,000
 - Portable toilets at City events – valued at up to \$80,000
 - Weekly Alley Sweeps – valued at up to \$70,000
 - Compost for City facilities up to 300 tons – valued at up to \$11,000
 - Bicycle Redistribution Program – valued at up to \$5,000
 - Operation CleanSweep – valued at up to \$30,000
- Include One-Time Fees, payable to the City on February 28, 2013, totaling \$6,900,000 as follows:
 - Cedar Street Theatre Sponsorship - \$250,000
 - Contract Modification Fee - \$150,000
 - Pre-Paid Disposal Franchise Fees - \$6,500,000