



## Legislation Details (With Text)

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**Title:** CONSIDER APPROVAL OF AN EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF SOLID WASTE HANDLING SERVICES FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS (CITY COUNCIL)

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**Attachments:** 1. Franchise Agreement, 2. Resolution approving the Franchise Agreement for Waste Management Servicers, 3. File Summary

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## Report to Mayor and City Council

Tuesday, February 20, 2018

Discussion

### SUBJECT:

**CONSIDER APPROVAL OF AN EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF SOLID WASTE HANDLING SERVICES FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS (CITY COUNCIL)**

### I. SUMMARY

On July 20, 2017, staff released a Request for Proposal for Integrated Solid Waste Management Services (RFP P17-19), seeking qualified companies to provide solid waste collection, transportation, recycling and disposal services, as well as the potential development of solid waste facilities within the City.

The City received proposals from the following solid waste haulers: EDCO Disposal (EDCO), Waste Management Services, Inc. (WMI), Commercial Waste Services (CWS), Southland Environmental Services (SES), Athens Services (AS), Universal Waste Systems (UWS) and Waste Resources Inc. ("WRI" or Waste Technology Resources, a Delaware Corporation) by the October 5, 2017 RFP submission deadline. An Ad-hoc Solid Waste Committee (Committee) narrowed the contract prospects to two final candidates, EDCO and WRI for Council consideration.

On December 5, 2018 the City Council chose to direct City staff to negotiate RFP P17-19's "Exclusive Franchise Agreement for Provision of Solid Waste Handling Services" (the "Agreement") with WRI for the provision of refuse and recycling services to commercial and residential customers. The parties have negotiated the Agreement in the form attached hereto at Exhibit 1. Staff is recommending City Council approval of the Agreement. The Agreement provides for an exclusive franchise arrangement with WRI for residential and commercial/industrial solid waste management services for 15 years, with a one-time option to extend for an additional twenty-four months.

The residential and commercial rates chargeable by WRI are, or have been, processed pursuant to a Proposition 218 "majority protest" hearing under separate cover and separate Council action. The action recommended here would approve the balance of the Agreement.

## **II. RECOMMENDATION**

1. SELECT WRI to exclusively provide solid waste management services to the City of Carson.
2. ADOPT the Resolution APPROVING the "Exclusive Franchise Agreement for Provision of Solid Waste Handling Services" (the "Agreement") with WRI for the provision of refuse and recycling services to commercial and residential customers, and AUTHORIZE the City Manager and City Attorney to process the Agreement to a form that is final and substantially similar to Exhibit 1.

## **III. ALTERNATIVES**

1. TAKE any other action that the City Council deems appropriate, consistent with the law.

## **IV. BACKGROUND**

Under the Integrated Waste Management Act ("Act"), codified at Public Resources Code 40000 et seq., the City of Carson has the authority to award a nonexclusive, partially exclusive or wholly exclusive franchise, contract, license, or permit for solid waste collection services pursuant to Public Resources Code section 40059. The Act at section 49501 defines "exclusive solid waste handling services" to include circumstances when one or more solid waste enterprises has the exclusive right to provide solid waste handling services of any class or type within all or any part of the territory of the City local agency. Further, Carson Municipal Code section 5220 requires that waste collection services be provided by contract, with some exceptions, as follows:

"No person shall collect and/or dispose of solid waste in the City unless such person has been awarded a solid waste collector franchise and has entered into a franchise agreement with the City, except as otherwise specifically provided in this Chapter. No person shall collect recyclable materials generated on or emanating from residential premises in the City unless such person has been awarded a residential recycling franchise and has entered into a franchise agreement with the City."

### **A. RFP P17-19**

The City of Carson (City) and Waste Management, Inc. (WMI) entered into separate contracts for Integrated Residential and Commercial/Industrial Waste Management Services on July 13, 2003. On July 20, 2010, the City Council approved a five-year contract extension for both Integrated Residential and Commercial/Industrial Waste Management Services, which expire on June 30, 2018.

In addition, on August 19, 2003, EDCO entered into a contract with the City for Integrated Commercial/Industrial Waste Management Services. On July 20, 2010, the City Council approved a five-year contract extension for Integrated Commercial/Industrial Waste Management Services, which expires on June 30, 2018.

In preparation for the expiration of the aforementioned contracts, the City decided to consolidate all solid waste management services (commercial and residential) under one exclusive and comprehensive franchise agreement for a period of 15 years, with a City option to provide one additional twenty-four month extension. On July 20, 2017, staff released a Request for Proposal for Integrated Solid Waste Management Services (RFP P17-19) with a deadline of October 5, 2017. The City sought qualified companies to provide solid waste collection, transportation, recycling, disposal services as well as the potential development of solid waste facilities within the City.

RFP P17-19 requested that solid waste services be provided pursuant to a franchise contract substantially similar to the Agreement at Exhibit 1. Under the Agreement the provision of new solid waste management services would commence on July 1, 2018 and end on June 30, 2033 (if no extension is granted), or on June 30, 2035 (if the option to extend is exercised).

## **B. The Proposed Agreement.**

On December 5, 2018 the City Council chose to direct City staff to negotiate the Agreement (Exhibit 1) with WRI for the provision of refuse and recycling services to commercial and residential customers. The parties have negotiated the Agreement in the form attached hereto at Exhibit 1. Staff is recommending that the City Council approve the Agreement, and authorize the City Manager and City Attorney to process the Agreement to a form that is final and substantially similar to Exhibit 1.

For residents, the Agreement proposes to maintain the type of “three-stream” collection services (i.e., separate carts for refuse, recyclables and green waste) to which City residents have become accustomed. Commercial customers will also receive levels of service similar to those currently provided, *plus a number of new programs* for mandatory food and commercial recycling, which are now mandated under new State laws. Other salient provisions of the Agreement include:

- WRI agrees to pay the City a franchise fee equaling:
  - 12.5% of the gross receipts derived by WRI from the services provided in City to all cart (i.e., residential) customers; and
  - 15% of the gross receipts derived by WRI from the collection services provided in City to large container and commercial customers.
- Enhanced programs to increase waste diversion in the City-meaning new programs that will prevent as much refuse as possible from being deposited in landfills destructive to the environment. It is expected under the terms of the Agreement that the City’s diversion rates will increase significantly compared to its current diversion rates.
- WRI will provide special collection services annually during two one-week cleanup campaigns occurring one week in the Spring and one week in the Fall of

each year, and including many free services for bulky item pick-up, extra trash and recycling collection, collection of E-waste and household hazardous waste (e.g., paint), and paper shredding events.

- Weekly bulky item “sweeps” to proactively identify and collect items that have been illegally abandoned or “dumped” in public areas.
- WRI will pay several categories of administrative fees to support the City’s administrative costs of implementing and facilitating higher rates of recycling throughout the City and the costs of preventative code enforcement measures to deter illegal scavenging and dumping. WRI estimates this to bring approximately \$787,200.00 in benefits to the City per year.
- WRI will pay the City a \$1.00/ton processing fee for tonnage generated within the City limits of Carson that it delivers to its solid waste handling facility in Gardena. WRI estimates that this may generate the City \$1,000,000.00 over the life of the Agreement.
- WRI will provide “food waste” recycling for commercial food establishments in accordance with new State laws. State-mandated commercial recycling programs will also be followed.
- WRI will provide a sharps collection program, on-call bulky waste pick-ups, and other special pick-up services.

In addition to the services franchised under the Agreement, WRI’s competitive proposal offered:

- i. To lease areas of the City’s Corporate Yard located at 2390 E. Dominguez St., Carson, CA 90810 for WRI’s storage of certain equipment utilized by WRI in the course of providing Carson collection services. The City Yard may also serve as a base for WRI customer service representatives in the Carson for ease of contact and customer service access to Carson customers. Such lease arrangement shall be memorialized in a lease agreement to be separately entered by WRI and the City. City staff and WRI are in the process of developing the leasing plan and will return to the City Council with a separate agenda item at a later date with the lease.
- ii. To take reasonable efforts to facilitate the opening of the headquarters of a third-party international company, Dongfeng Progen Electric Vehicles LLC, within Carson’s boundaries. WRI negotiated with Dongfeng Progen to open its wholly-owned subsidiary in Carson to serve as Dongfeng Progen’s primary arm of operations in the State of California. Dongfeng Progen opened Carson operations around February 1, 2018.

These two additional business opportunities were material inducements to the City’s recommendation to award this Agreement to WRI.

Importantly, the residential and commercial rates chargeable by WRI are, or have been, processed pursuant to a Proposition 218 “majority protest” hearing under separate cover and separate Council action. The action recommended here would approve the balance (or non-rate related terms) of the Agreement.

### **C. The Transition Plan**

The City of Los Angeles is experiencing a very difficult time in transitioning their waste haulers. Staff and WRI have worked on an Initial Transition Plan in an attempt to minimize the potential of disruption caused by the transition from Waste Management and EDCO services to WRI. The details of the Initial Transition Plan can be found in Section 4.1.1 of the Agreement. No later than March 1, 2018, WRI will provide a written transition plan for review by the City staff. It will cover such items as truck procurement, equipment and bin

procurement, development of the customer data base and billing procedures, routing and mapping, incremental personnel hiring and training, communications and outreach to residents and businesses. WRI has also committed to having a backup contractor available to assist in the initial transition period.

The proposed Agreement sets a service start date of July 1, 2018, for WRI to actually commence refuse and recycling collections. It is anticipated that residential customers will promptly receive brand new refuse, recycling and green waste containers. However, some commercial customers may continue using their existing commercial containers and will be “phased” to receive new containers as their service needs become better gaged through the transition period. Because WRI will need several months to “ramp-up” its personnel and equipment orders. Staff suggests the approval of the Agreement without delay in order to facilitate a smooth transition from the City’s current waste hauling services to WRI. One of the key components of the Initial Transition Plan is that WRI provide one point of contact to handle customer complaints. This is a major transition and it is entirely possible that during the first few weeks of the transition that refuse may not be picked up at certain addresses. Upon notification by the customer, WRI will provide next day pick-up of the refuse.

## V. FISCAL IMPACT

Based on the proposal submissions, and the solid waste hauler’s remittance of administrative fees, host fees and franchise fees to the City, the General Fund will be positively impacted.

For the last four quarters, the City has collected a total of \$1,309,057 from Waste Management and \$178,206 from EDCO for total annual franchise fee revenue of \$1,487,263 for commercial waste accounts. The estimated annual fees to be collected from WRI are summarized below as calculated by our consultant HR Green.

Annual Estimated Franchise Fee (commercial & residential combined)	\$1,869,041
Annual Administrative Fees	\$787,000
Subtotal Estimated Annual Fees	\$2,656,041
<b>Multiplied by 15 Years (not adjusted for inflation)</b>	<b>\$39,840,615</b>
One-Time Administration Fee	\$150,000
Processing Fees over the life of the contract (\$1 per ton)	\$1,000,000
<b>Total Estimated 15-Year Revenue</b>	<b>\$40,990,615</b>

If we multiply the current revenue stream from Waste Management and EDCO by 15 years (not adjusted for inflation), the total revenue would be \$22,308,945.

## VI. EXHIBITS

1. “Exclusive Franchise Agreement for Provision of Solid Waste Handling Services” (the

“Agreement”) with WRI (pgs. 6-84)

2. Resolution APPROVING the Exclusive Agreement for Provision of Solid Waste Handling Services (pgs. 85-165)

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