



## Legislation Details (With Text)

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**On agenda:** 7/21/2020      **Final action:**  
**Title:** APPROVAL OF A TRANSFER STATION IMPROVEMENTS AND OPERATIONS AGREEMENT BETWEEN THE CITY AND USA WASTE OF CALIFORNIA ("OPERATIONS AGREEMENT") FOR IMPLEMENTATION OF PROJECT IMPROVEMENTS, BEAUTIFICATION AND OPERATIONAL STANDARDS AT THE WASTE MANAGEMENT TRANSFER STATION AT FRANCISCO AND MAIN STREET (CITY COUNCIL)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ex. 1, Carson TS Improvements and Operations Agreement FINAL 7.13.2020, 2. New db ATTACHMENT A, 3. Att A, Agreement, 4. New db ATTACHMENT B, 5. Att B RESO 96-1612, 6. New db ATTACHMENT C title only, 7. New Ex. C 2nd page Attachment C - Project Scope and Plans, 8. Att C, Carson TS Improvements\_11x17 for Planning\_2020-03-17\_, 9. New db ATTACHMENT D, 10. Att D, PC\_COA\_321 W Francisco (USA Waste)\_DRAFT\_WM Legal Comments\_FINAL, 11. EX. E, 12. New db ATTACHMENT F, 13. Att F, Carson Schedule 06-11-2020

Date	Ver.	Action By	Action	Result
7/21/2020	1	City Council		

## Report to Mayor and City Council

Tuesday, July 21, 2020

Discussion

### SUBJECT:

**APPROVAL OF A TRANSFER STATION IMPROVEMENTS AND OPERATIONS AGREEMENT BETWEEN THE CITY AND USA WASTE OF CALIFORNIA ("OPERATIONS AGREEMENT") FOR IMPLEMENTATION OF PROJECT IMPROVEMENTS, BEAUTIFICATION AND OPERATIONAL STANDARDS AT THE WASTE MANAGEMENT TRANSFER STATION AT FRANCISCO AND MAIN STREET (CITY COUNCIL)**

### I. SUMMARY

USA Waste owns and operates the Carson Transfer Station located at 135-401 Francisco Street, 19803-19809 Main Street, 19821 Main Street and 19831 Main Street, Carson, CA 90745 ("Transfer Station" or "Site"), which is permitted to receive, process, and arrange for disposal and transport of municipal solid waste.

Starting in March 2018, the City was made party to several litigation actions relating to its award of an exclusive solid waste hauling franchise to Waste Resources Technologies (“WRT”). The City’s former franchised hauler, USA Waste, challenged the City’s award of franchise to WRT and the transition of certain solid waste accounts to WRT. The City and USA Waste also had other longstanding disputes with respect to USA Waste’s operation of the Transfer Station. All parties to the WM/WRT litigation worked diligently for several months towards a global settlement of all disputes, and on September 10, 2019, the Council approved the global settlement arrangement and attendant agreements.

As part of the global settlement, USA Waste and the City established a path forward for resolving claims related to the Transfer Station. The settlement thus *required* USA Waste and the City to negotiate towards obtaining permits and entering an “Operations/Improvement Agreement” for USA Waste to install at least \$5,000,000.00 in improvements to the Site.

The “Transfer Station Improvements and Operations Agreement” attached hereto at Exhibit 1 (the “Operations Agreement”) is the culmination of the negotiations as contemplated by the settlement.

Aside from being a mandatory component of the global settlement, the Operations Agreement facilitates USA Waste’s ability to improve the Transfer Station to a state-of-the art condition *and substantially benefits the City of Carson and its citizens by implementing strict operational standards and nuisance prevention measures.*

Furthermore,

The \$5,000,000.00 in Site improvements include, without limitation:

1. Landscaping and fencing improvements to beautify area;
2. Foundational slab expansion;
3. Ventilation/Air Filtration System installed to prevent odor issues;
4. Remodel 2-story office building to be consistent with presentation boards;
5. Demolition of certain facilities to accommodate additional space;
6. Additional paving as needed;
7. Relocate scale & scale house, replace load-out scales;
8. Electrical upgrades and power to scales;
9. Replace or put in place walls and translucent materials on Transfer Station building (metal & translucent) and appropriate doors;
10. A wall or other agreed-upon visual barrier on the maintenance facility lot to

improve appearance from Main Street.

Consistent with the terms specified in the settlement, the Operations Agreement allows USA to continue Site operations for a period of 15 years. The Operations Agreement also ratifies USA Waste's agreement to pay substantially higher "host fees" to the City in exchange for the ability to continue Site operations. *It is estimated that the new fees will generate approximately over \$500,000 in additional revenues to the City annually.*

This substantial financial benefit follows from another portion of the global settlement by which the City received a payment of \$1.2 Million to the City for back-payment of previously-incurred host fees.

## **II. RECOMMENDATION**

TAKE the following Actions:

1. FIND that the Operations Agreement is exempt from the California Environmental Quality ("CEQA") pursuant to CEQA Guidelines Section 15301 and Section 15060(c)(2).
2. APPROVE the Operations Agreement attached hereto at Exhibit 1.
3. AUTHORIZE Mayor to execute the Operations Agreement upon approval as to form by the City Attorney.

## **III. ALTERNATIVES**

1. TAKE another action the City Council deems appropriate, subject to the requirements of applicable law.

## **IV. BACKGROUND**

### **A. Site History & Events Leading to Operations Agreement.**

The Site consists of approximately 6.4 acres and has been in use as a waste handling facility for over 49 years. There are currently four buildings on the Site that are occupied accordingly: a transfer station, two-story office, materials processing and maintenance building. Properties to the north are zoned MH-D (Heavy Industrial, Design Overlay District), to the south are zoned ML-ORL-D (Manufacturing Light, Organic Refuse Landfill, Design Overlay District), to the east are zoned CR-D-ORL (Commercial Regional, Design Overlay District, Organic Refuse Landfill) and to the west are zoned OS (Open Space). The General Plan Land Use Designation for the area is Mixed Use - Business Park.

USA Waste owns and operates the Site, which is permitted to receive, process, and arrange for disposal and transport of municipal solid waste. The Transfer Station was a matter of dispute between the City and USA Waste for several years, namely:

- i. City and USA Waste disputed the expiration or termination date of the Transfer Station's conditional use permit No. 391-92 and zoning and general plan

designations associated with the Transfer Station;

- ii. City and USA Waste disputed whether additional permit fees are allegedly owed to the City relating to the operations of the Transfer Station under Carson Municipal Code §63153 or otherwise; and
- iii. City and USA Waste dispute whether any activities at the Transfer Station have resulted in or caused any nuisance due to odors or otherwise.

As part of the larger 2018/2019 litigation between the City, USA Waste and WRT, settlement negotiations followed a global approach by which the above-listed Transfer Station disputes could be settled with USA Waste. To that end, effective October 1, 2019, Company and City entered into the Carson Transfer Station Agreement (“Carson TSA”) regarding in pertinent part certain Site improvements, the responsibilities of USA Waste and the City with respect thereto, host fees to be paid by the USA Waste, and the term of operations at the Site. A true and correct copy of the Carson TSA is attached hereto at Attachment A in Exhibit 1 hereto. Pursuant to the Carson TSA, USA Waste agreed that it would diligently negotiate and in good faith process the agreed upon project improvements in a timely manner, with at least Five Million Dollars (\$5,000,000) in value.

The Operations Agreement attached hereto at Exhibit 1 is the culmination of negotiations mandated by the Carson TSA.

#### B. Terms of Operations Agreement.

The Operations Agreement requires USA Waste to install at least \$5,000,000.00 in improvements to the Site, including:

1. Landscaping and fencing improvements to beautify area;
2. Foundational slab expansion;
3. Ventilation/Air Filtration System installed to prevent odor issues;
4. Remodel 2-story office building to be consistent with presentation boards;
5. Demolition of certain facilities to accommodate additional space;
6. Additional paving as needed;
7. Relocate scale & scale house, replace load-out scales;
8. Electrical upgrades and power to scales;
9. Replace or put in place walls and translucent materials on Transfer Station building metal & translucent) and appropriate doors;
10. A wall or other agreed-upon visual barrier on the maintenance facility lot to improve appearance from Main Street.



Further plans, descriptions and depictions of Site improvements are detailed in Attachment C shown at Exhibit 1. The façades for the block, stucco and metal buildings are discolored and worn. USA Waste will repaint and install metal panels on all the buildings to create design consistency and interest in the facades. The material selection and featured articulation effectively breaks up the facades and produces a modern design aesthetic that improves the Site's appearance and compatibility with the surrounding industrial land uses.

Landscaping for the Site will be replaced and improved with drought tolerant ground covers shrubs and trees along Francisco Street, the office building, the transfer station, the northwest corner of Francisco Street and Main Street, and the Main Street building frontage. New 24-inch Brisbane Box trees will be installed along the western wall of the Site to screen the proposed truck parking along the wall. (40' feet on center) in new 4' by 4' foot tree planters. To screen the wall from Figueroa Street, ivy will be planted in wells located between the trees along the inside/east face of the wall. Holes will be cored in the base of the wall through which the ivy could be fed and permitted to grow on the west face.

Aside from being a mandatory component of the global settlement, the Operations Agreement facilitates USA Waste's ability to improve the Transfer Station to a state-of-the-art condition *and substantially benefits the City of Carson and its citizens by implementing strict operational standards and nuisance prevention measures:*

1. USA Waste shall install and diligently maintain new, updated odor control equipment, including without limitation an exhaust ventilation system with exhaust air drawn through odor-adsorbing activated carbon or better odor and dust filtration system; a water misting system to control dust in the tipping area and transition areas of the building where handling of solid waste tends to release dust;
2. USA Waste shall complete enclosure of the facility, with all tipping, sorting and transfer operations taking place indoors; and doors on all vehicle entrances and exits on the Site.
3. USA Waste shall clean the Site daily of loose materials and litter, using mechanical equipment (street sweeper) and water. Drive areas and tipping floors shall be manually swept as needed to prevent the tracking of waste materials off-site. In addition, litter found on Francisco Street and the adjoining portions of Main Street and Figueroa Avenue shall be picked up daily, or more often as needed, including daily street-sweeping along such corridors.
4. USA Waste shall take upgraded steps to control or prevent the propagation, harborage and attraction of flies, rodents, or other pests, and animals, and to minimize bird attraction, including cleanup of litter and debris.
5. USA Waste must take actions to minimize traffic queuing on surrounding streets by Site users, and to enforce enclosure/coverage of truck loads to prevent waste spillage.
6. The Operations Agreement provides that USA Waste shall maintain and operate the Site in accordance with the terms of this Agreement with the understanding that the Carson TS shall be improved and operated as a state-of-the-art transfer station without violation of aesthetic landscaping, odor, noise, litter, or pest vector standards.
7. The Operations Agreement sets forth a stringent process for the handling of citizen and City complaints about the Site's condition, and heightened procedures and rights for the City to enforce against nuisance conditions.

Importantly, disagreements between the City and USA Waste over the Transfer Station included a dispute over the amount of "host fees" that have historically been paid by USA Waste to the City for Waste's operation of the Transfer Station. This dispute was also resolved via the Carson TSA and is ratified in this Operations Agreement.

Prior to entering the Carson TSA, it was estimated that USA Waste only paid the City *less than sixteen cents (16¢) per ton* for the processing of externally-generated waste at the Transfer Station. As part of the Carson TSA, and as ratified in the Operations Agreement, a new, significantly increased schedule of host fees has been negotiated:

Settlement Host Fee**	Effective Date
\$1.00 per ton of City MSW	January 1, 2020 through December 31, 2020.
\$1.45 per ton of City MSW	January 1, 2021 through December 31, 2021.

\$1.65 per ton of City MSW	January 1, 2022 through December 31, 2022.
\$1.65 per ton of City MSW plus CPI Adjustment	January 1, 2023 through December 31, 2023; CPI Adjustment applied annually thereafter effective January 1 through December 31 of each particular year.
\$2.75 per ton of Non-City MSW	January 1, 2020 through December 31, 2020.
\$2.75 per ton of Non-City MSW plus CPI Adjustment	January 1, 2021 through December 31, 2021; CPI Adjustment applied annually thereafter effective January 1 through December 31 of each particular year.

\*\* "City MSW" has the same meaning as "Solid Waste" as defined in Public Resources Code §40191, including putrescible and non-putrescible refuse, that is generated in the City, and is delivered to the Transfer Station; provided, however, "Solid Waste" does not include recyclable material and source-separated organic waste, food waste, green waste, manure and livestock bedding waste.

\*\* "Non-City MSW" has the same meaning as "Solid Waste" as defined in Public Resources Code §40191, including putrescible and non-putrescible refuse, that is generated outside of the City, and is delivered to the Transfer Station; provided, however, "Solid Waste" does not include recyclable material and source-separated organic waste, food waste, green waste, manure and livestock bedding waste.

It is estimated that the new fees will generate approximately over \$500,000 in additional revenues to the City annually.

#### C. Planning Commission Approvals.

On April 14, 2020, the Planning Commission heard and unanimously approved Site Plan and Design Review (DOR) No. 1810-19 for purposes of approving the project aspects of the Site improvements to be installed by USA Waste. The Planning Commission found that the proposed Site upgrades will be compatible with the surrounding commercial, industrial and manufacturing uses. *However, City Council approval of the Operations Agreement is a condition of approval to the Site Plan and DOR entitlements. Therefore, Council approval of the Operations Agreement is needed before the Site improvements may proceed.*

#### D. Environmental Review.

As to the construction-related components (i.e., the \$5M in improvements) mandated by the Operations Agreement, the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Class 1 - Existing Facilities. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project meets all of the foregoing criteria. A Notice of Exemption shall be filed with the County Clerk of the County of Los Angeles pursuant to CEQA.

As to the non-construction obligations and terms set forth the Operations Agreement, pursuant to Section 15060(c)(2) of the California Environmental Quality Act (CEQA) Guidelines, the proposed Operations Agreement is not subject to CEQA because the activity will not result in direct or reasonable foreseeable indirect physical change in the environment.

### V. FISCAL IMPACT

Fiscal impacts to the City are expected to be positive. The increased, per-ton host fees payable to the City from USA Waste for continued operation of the Transfer Station are

significantly higher than the current host fees accruing to the City. It is estimated that the new fees will generate approximately over \$500,000 in additional revenues to the City annually. This is in addition to the \$1.2 Million payment already received by the City as part of the global settlement.

**VI. EXHIBITS**

1. Transfer Station Improvements and Operations Agreement, attachments thereto being:  
(pgs. 9-47)
    - A. Carson Transfer Station Agreement (pgs. 48-81)
    - B. 1996 CUP (pgs. 82-99)
    - C. Project Scope & Plans (pgs. 100-112)
    - D. Conditions of Project Approval (pgs. 113-121)
    - E. Single Stream Specifications - Recyclable Materials (pgs. 122-123)
    - F. 

Schedule (pgs. 124-125)	Project	Construction
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- Prepared by: City Attorney's Office