



## Legislation Details (With Text)

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<b>Title:</b>	CONSIDER APPROVAL OF FIFTH AMENDMENT TO CONTRACT SERVICES AGREEMENT FOR STREET SWEEPING SERVICES WITH NATIONWIDE ENVIRONMENTAL SERVICES (C-08-001) TO APPROVE A DISPOSAL RATE ADJUSTMENT AND 1.5% ANNUAL CONSUMER PRICE INDEX COST OF LIVING RATE ADJUSTMENT (CITY COUNCIL).				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Final-Amendment No. 5 to Nationwide Environmental Services Contract (5.13), 2. Fourth Amendment to NES Contract, 3. NES Rate Adjustment Request (2.16.21), 4. Exhibit No. 4-NES Contract 2.4, 5. Exhibit No. 5-NES Contract 2.3				

Date	Ver.	Action By	Action	Result
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## Report to Mayor and City Council

Tuesday, May 18, 2021

Consent

### SUBJECT:

**CONSIDER APPROVAL OF FIFTH AMENDMENT TO CONTRACT SERVICES AGREEMENT FOR STREET SWEEPING SERVICES WITH NATIONWIDE ENVIRONMENTAL SERVICES (C-08-001) TO APPROVE A DISPOSAL RATE ADJUSTMENT AND 1.5% ANNUAL CONSUMER PRICE INDEX COST OF LIVING RATE ADJUSTMENT (CITY COUNCIL).**

### I. SUMMARY

On February 16, 2021, Nationwide Environmental Services ("NES") submitted a request for a monthly Disposal Rate Adjustment, ("DRA") increase of \$4,836.25 to be effective April 1, 2021 and an annual cost of living increase per the Consumer Price Index ("CPI"), in the amount of \$1,152.06 per month, which equals 1.5% of the contract sum. If approved, this combined increase will be effective July 1, 2021 as the City and NES agree that the rate increases will not take effect until then. The total amount of the requested increase will be \$5,988.31/month.

The request for the DRA increase was submitted pursuant to Section 2.4 of NES' Contract Services Agreement for the Provision of Street Sweeping Services ("Agreement") with the

City. As amended, the Agreement authorizes extraordinary adjustments other than those listed in Section 2.3 of the Agreement, which may be granted by the City Council upon request and submission of the essential information by NES.

The request for the CPI increase was submitted pursuant to Section 2.3 of NES' Agreement. As amended, the Agreement authorizes annual CPI adjustments to be granted by the City Council upon request along with the submission of supporting documents by NES.

The proposed Fifth Amendment to the Agreement would grant the increase requests. The requested DRA increase and CPI increase to the annual contract sum will be allocated from the Gas Tax Account. The increase of \$71,859.68 will be included within the FY 2021-22 budget, bringing the contract total to \$993,505.17.

## **II. RECOMMENDATION**

TAKE the following actions:

1. APPROVE the proposed Fifth Amendment to the Contract Services Agreement with Nationwide Environmental Services, Inc., a division of Joe's Sweeping, Inc., to Provide Street Sweeping Services for the City of Carson, California, to approve a Disposal Rate Adjustment of \$58,035 and annual Consumer Price Index rate adjustment of \$13,824.68 for FY 2021-22 in an amount not-to-exceed \$71,859.68, thereby increasing the total annual contract sum under the Agreement to \$993,505.17; and
2. AUTHORIZE the Mayor to execute the same following approval as to form by the City Attorney (Exhibit No. 1).

## **III. ALTERNATIVES**

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

## **IV. BACKGROUND**

The City entered into the Agreement with NES in 2008. The Agreement provided for a term of three years, commencing July 1, 2008. On February 1, 2011, the parties entered into a First Amendment to the Agreement, which, among other things, authorized additional sidewalk sweeping services, extended the term of the Agreement through June 30, 2018, and amended Section 2.3 to the Agreement, allowing annual CPI increases to the compensation payable under the Agreement subject to Council approval. On April 1, 2014, the parties entered into a Second Amendment to the Agreement, which, among other things, further extended the term. Effective July 1, 2019, the parties entered into a Third Amendment to the Agreement, which amended the Agreement as necessary to memorialize and ratify the approval of four previous CPI adjustments, and to approve a

further CPI adjustment.

On April 1, 2020, NES submitted a CPI rate adjustment request of 2.96% for FY 2020-21 pursuant to Section 2.3 of the Agreement. Effective July 1, 2020, the parties entered a Fourth Amendment to the Agreement, which amended the Agreement as necessary to memorialize and ratify the approval of the CPI adjustment. (Exhibit No. 2)

*Requested Disposal Rate Adjustment Increase & CPI Rate Adjustment Increase*

On February 16, 2021, Nationwide Environmental Services (“NES”) submitted a request for a monthly DRA increase of \$4,836.25 and an annual cost of living increase per the CPI, in the amount of 1.5%, which equals \$1,152.06 of the contract sum. The total amount of the monthly increase requested will be \$5,988.31.

The request for the DRA was submitted pursuant to Section 2.4 of NES’ Agreement, as amended, which authorizes extraordinary adjustments other than those listed in Section 2.3 of the Agreement. Furthermore, the extraordinary adjustments are to be granted by the City Council upon request and submission of the necessary information by NES. (Exhibit No. 3)

References to Sections 2.3 and 2.4 in this staff report refer to those sections as amended by the First Amendment.

NES’ DRA request states, “In 2008, when NES was awarded the contract (after a competitive RFP process), the price per ton to dispose street sweeping debris was \$34.00. Currently the price per ton is \$60.50 (increase of 77.94%).” Also, NES provides additional justification, stating “This does not account for the significant savings the City has already experienced over the past 13 years as a result of NES not seeking any disposal rate adjustments. Furthermore, if NES were to transport the street sweeping debris to other transfer stations, such as, Waste Management’s Transfer Station in Carson or to the Puente Hills MRF, the extraordinary adjustment request would be significantly higher as UWS (current transfer station) offers the most competitive rates (see cost analysis set forth in Attachment A).” (Exhibit No. 3)

In order for NES to request a DRA increase, the request must fall within the guidelines outlined in the Agreement under Section 2.4 Extraordinary Adjustments. (Exhibit No. 4) It states, “The Contractor or the City may request an adjustment to the compensation paid to the Contractor at times other than those specified in Section 2.3, based upon unusual changes in the cost of providing service under this agreement The Contractor may request only one such adjustment during any rate year. Unusual changes may include changes in components of the disposal rate, changes in the disposal site requested by the City, changes in state or local government solid waste fees and charges, and changes in the law. These changes do not include inaccurate estimates by the Contractor of its proposed cost of operations. For each request, the Contractor must prepare a schedule documenting the extraordinary costs. The request shall be prepared in a form acceptable by the City with support for all assumptions made by the Contractor in preparing the estimate. The City shall review the Contractors request and, in the City’s reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any.”

On April 13, 2021, the City sent correspondence to NES, according to Section 2.4 of the

Agreement, requesting a “schedule documenting the extraordinary costs” and other documentation to substantiate the DRA request. In order to present the requests together, the City proposed that both the DRA and CPI requests be reviewed before the City Council simultaneously.

As requested, NES provided the additional documentation to the City regarding the extraordinary adjustment to validate the DRA increase request. Additionally, NES agreed with the City’s request to review both the DRA and CPI increase requests together. NES suggested and the City agree that both rate increases will not take effect until July 1, 2021. Therefore, it would be saving the City an additional \$14,508.75 for 3 months (April 1, 2021-June 1, 2021); instead of the original DRA increase request with an April 1, 2021 effective date.

Section 2.3 Future Adjustments of the Agreement, allows the rates to be adjusted annually based upon changes in the Consumer Price Index (CPI), All Urban Consumers, for Los Angeles-Anaheim Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics. (Exhibit No. 5) Therefore, this section provides that the contract sum may be adjusted annually provided NES submits a request and documentation in support of an annual adjustment; including changes in the CPI that occurred during the preceding calendar year. It also provides that the City Manager or designee shall review the information submitted by NES and will refer the proposed adjustment to the City Council for approval, in its reasonable judgment. NES’ request made on February 16, 2021 is timely.

It is important to note there are services that NES provides to the City, which are free of charge. Some of these services include: parking lot sweeping of City Hall, Community Center and all of the City Parks and cleaning/pressure washing of all sidewalks in and around the Community Center and City Hall.

Staff is recommending the approval of the DRA increase, because it is an “extraordinary adjustment” request and NES’ supporting documents substantiate there has been an extraordinary disposal rate increase from 2008 until present. This based upon price changes in the disposal industry and available facilities. This is a separate request from the annual CPI request. Also, in reviewing NES’ documentation, it is determined that this recommendation is based upon enabling NES to become properly compensated for the current disposal rates that are charged to them by Universal Waste Systems, “UWS”, which processes the street sweeping debris.

The DRA increase is larger than the CPI increase, but represents a catchup of several years’ shortfall in this category. Such an increase is warranted based on the assessment of the causes of the increase, and does not automatically entitle NES to request such an increase next year, even if disposal costs were to increase faster than inflation, if such increase was based merely on a general rise in prices.

Staff recommends the approval of the CPI increase due to the information from the United States Bureau of Labor Statistics, which prescribes the CPI Increase of 1.5%.

The adjustments in the rates shall be pro-rated to the two portions of the contract: street sweeping and sidewalk sweeping. The pro-ration is approximately 93.045% street sweeping to 6.9550% sidewalk sweeping. Therefore, the total adjusted street sweeping

sum will be \$924,406.25/year and the total sidewalk sweeping sum will be \$69,098.92/year, resulting in an overall annual total of \$993,505.17 for FY 2021-22.

## **V. FISCAL IMPACT**

The requested DRA and CPI increase to the annual contract sum, would be allocated from the Gas Tax Account (212-80-840-281-6004). The total contract amount for FY 2020/21 was \$921,645.48. If the proposed disposal rate adjustment of \$58,035 and 1.5% CPI increase of \$13,824.68 and is approved, the associated dollar amount total increase is \$71,859.68 and the annual allocation for FY 2021-22 would increase to \$993,505.17. This increase will be included in the FY 2021/22 budget for the Agreement.

## **VI. EXHIBITS**

1. Proposed Fifth Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California. (pgs. 6-12)
2. Fourth Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California. (pgs. 13-36)
3. Nationwide Environmental Services' Disposal Rate Adjustment and CPI Rate Adjustment Request, dated February 16, 2021 (pgs. 37-40)
4. Section 2.4 of NES Amended Agreement (pg. 41)
5. Section 2.3 of NES Amended Agreement (pgs. 42-43)

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