



City of Carson

Report to Mayor and City Council

July 16, 2013
New Business Discussion

SUBJECT: CONSIDERATION OF A REQUEST FOR PROPOSAL FOR A THIRD COMMERCIAL/INDUSTRIAL SOLID WASTE SERVICE HAULER

Submitted by Farrokh Abolfathi
Director of Public Works

Approved by Jacquelyn Acosta
Acting City Manager

I. SUMMARY

This item is on the agenda at the request of Councilmember Gipson.

It had been presented previously to the Council on July 17, 2012, and at that time, it was continued indefinitely. The purpose of the item is to discuss and provide staff with direction on the possibility of having a third commercial/industrial solid waste hauler based on previous actions by City Council as shown on the Timeline Summary (Exhibit No. 1).

II. RECOMMENDATION

CONSIDER AND PROVIDE direction.

III. ALTERNATIVES

1. DIRECT staff to proceed with the Request for Proposal (RFP) for a third commercial/industrial solid waste service hauler.
2. CONTINUE to have only two commercial/industrial solid waste service haulers until the expiration of the current contract in 2018.
3. TAKE another action the City Council deems appropriate.

IV. BACKGROUND

On July 17, 2012, this item was presented to the Council and, at that time, it was continued indefinitely without discussion. This item was presented again to Council on May 7, 2013 but was not discussed. Councilmember Gipson has requested that the Council consider the item at this time.

On July 15, 2003, City Council authorized a non-exclusive franchise agreement for integrated commercial/industrial with USA Waste of California, Inc., dba Waste Management Services Inc., (WM), as one of the three "non-exclusive" commercial/industrial solid waste service haulers for the City; and also approved the rate schedule (Exhibit No. 2).

Per the Franchise Agreement between the City of Carson and WM, Article 2 "Grant and Acceptance of Franchise" - Section 2.2 A, (Exhibit No. 3) "*During the term of this Agreement, except as otherwise be provided by federal or state*

law, the non-exclusive rights granted to the Company under this Agreement will be limited to the Company and up to two other service haulers. In the event that, through assignment, merger or otherwise, there are less than three commercial and industrial service haulers operating in the City, the City may award a new commercial franchise to ensure that there are not less than three commercial and industrial service haulers."

On August 19, 2003, Council authorized a non-exclusive commercial/industrial franchise agreement with EDCO Waste Services, LLC (EDCO), as the second, "non-exclusive" commercial/industrial hauler and directed staff to proceed with the Request for Qualifications (RFQ) for a third commercial/industrial hauler (Exhibit No. 4). Two companies responded - (1) Consolidated Disposal Services and (2) Universal Waste Systems, Inc.

On December 8, 2004, Council considered staff's recommendation to select Universal Waste Systems, Inc., as the third and final commercial/industrial hauler. However, Council's action was to reject a third hauler (Exhibit No. 5). There were long discussions at the dias by councilmembers at the December 8, 2004, Council meeting, regarding having a third commercial/industrial hauler. Unfortunately, the minutes from that meeting do not completely represent the discussions that evening, and it does not thoroughly explain the reasons for the rejection of the third solid waste collector. Staff briefed Council of the pros and cons of acquiring a third hauler as follows:

- A third hauler would be a benefit to the commercial/industrial business community because it would be vital for the third hauler to always provide outstanding services for the commercial/industrial business customer and not risk the chance of losing its clientele.
- A third hauler would significantly increase heavy truck traffic in the City, which will result in more noise and air pollution.
- The possible contract for the third hauler must replicate the current contracts with WM and EDCO.
- A third hauler would be contractually obligated to haul all trash to the Carson transfer station (T-Station), as same with WM and EDCO. For example, if the third hauler's truck has a quarter or half a load, it must utilize the Carson T-Station before the trucks haul any additional loads of trash outside the City.
- A third hauler would be required to wait in line at the T-Station and not utilize its own T-Station, because it will be very costly, with respect to fuel alone.
- A third hauler would be required to comply with City's approved rate schedule for Commercial/Industrial solid waste collection fee. This uniform service fee will prohibit the third hauler from soliciting services

for a lower fee and may make it extremely difficult to convince commercial/ industrial businesses to change their service providers.

In several occasions, a waste disposal company would solicit for an opportunity to provide service as a third hauler, and they would immediately be informed with the reiteration listed above. Furthermore, they would be informed that the City currently has a contract with WM and EDCO until 2018, and that the third hauler would also be subjected to comply with the same contractual agreement.

Council has discussed this item on numerous occasions and raised the same concerns, i.e., it is possible to have a third hauler for the City of Carson, but it may not be profitable for the interested waste disposal company as explained above.

V. FISCAL IMPACT

The third hauler would adhere to the same rate schedule and franchise fee assessment as approved by Council in prior actions and as administrated by WM and EDCO Waste Services LLC. Therefore, the City would receive those franchise fees collected from any new commercial/industrial businesses served.

VI. EXHIBITS

1. Timeline of Summary. (pg. 4)
2. Minutes of July 15, 2003, Item No. 21. (pg. 5)
3. Franchise Agreement, Article 2 Grant and Acceptance of Franchise. (pg. 6)
4. Minutes August 19, 2003, Item No. 27A. (pgs. 7-8)
5. Minutes December 8, 2004, Item No. 20. (pg. 9)

Prepared by: Raymond Velasco, P.E., Public Works Program Administrator
TO: Rev06-19-2013

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council

Date _____ Action _____

COMMERCIAL AND INDUSTRIAL SOLID WASTE PROVIDER

City Council Timeline Summary

- 7/15/2003 City Council approved to award the “non-exclusive” Franchise Agreement “with Waste Management for Commercial and Industrial waste service provider.
City Council also approved rate schedule for commercial/industrial solid waste collection per City Council’s direction to staff on previous meeting.
- 8/19/2003 Staff recommended to City Council to consider awarding the two remaining non-exclusive commercial/industrial franchises to the two haulers rated second (EDCO Waste Services) and third (Klistoff and Sons Inc.) in the original RFP process.
City Council approved staff’s recommendation to award the second non-exclusive Franchise Agreement to EDCO Waste Services for Integrated Commercial and Industrial Waste Management Services. However City Council directed staff to initiate a Request For Proposal (RFQ) for a third commercial/industrial waste service provider.
- 12/8/2004 Staff recommended to award the third non-exclusive Commercial/Industrial waste collection to Universal Waste Systems Inc. However City Council’s action was to **reject** a third solid waste collector. The minutes for the 12/8/2004 City Council meeting do not completely represent and explain the discussions at the dais that evening. Per recent discussion with Denny Bacon, (former PW Prog Administrator) there were long discussions by council members about having a third company for the commercial/industrial solid waste collection.
- 07/20/2010 City Council approved to extend contract services with Waste Management for Residential and Commercial/Industrial solid waste collection service for a five-year period through FY 2017/18

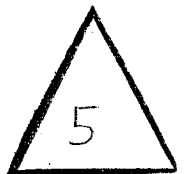
**ITEM NO. (21) FRANCHISE AGREEMENT BETWEEN THE CITY OF CARSON AND USA
WASTE OF CALIFORNIA, INC. - INTEGRATED COMMERCIAL AND
INDUSTRIAL WASTE MANAGEMENT SERVICES (DEVELOPMENT
SERVICES)**

RECOMMENDATION for the City Council:

TAKE the following actions:

1. **APPROVE** the Rate Regulation Table (exhibit 1) authorizing mandated rates for the collection and recycling of commercial/industrial solid waste.
2. **APPROVE** the "non-exclusive" Franchise Agreement for Integrated Commercial and Industrial Waste Management Services.
3. **AUTHORIZE** the Mayor to execute the agreement after approval as to form by the City Attorney.

ACTION: This item was heard before the New Business Consent Calendar.



ARTICLE 2

GRANT AND ACCEPTANCE OF FRANCHISE

2.1 Grant and Acceptance of Franchise

- A. Subject to the terms and conditions of this Agreement, the City grants to the Company a non-exclusive franchise to arrange for the collection, transfer, transportation, recycling, processing, and disposal of all solid waste generated at all commercial and industrial premises located in the City, as that term is defined in Article 1 of this Agreement.
- B. The Company accepts the franchise on the terms and conditions set forth in this Agreement.

2.2 Nature of Franchise

- A. During the term of this Agreement, except as otherwise provided in Section 2.7, or as may otherwise be provided by federal or state law, the non-exclusive rights granted to the Company under this Agreement will be limited to the Company and up to two other service providers. In the event that, through assignment, merger or otherwise, there are less than three commercial and industrial service providers operating in the City, the City may award a new commercial franchise to ensure that there are not less than three commercial and industrial service providers.
- B. The City will protect the Company's franchise rights by appropriate ordinances, and by reasonable enforcement of those ordinances. If, at the request of the Company, the City takes administrative, law enforcement, or other legal action against any person who infringes on the Company's non-exclusive franchise rights, the Company must reimburse the City for its reasonable administrative, law enforcement, or legal costs related to any such action. Nothing herein precludes the Company from taking such legal action against third parties as it deems appropriate to protect its rights under this Agreement.



**ITEM NO. (27A) NON-EXCLUSIVE COMMERCIAL/INDUSTRIAL FRANCHISE -
REMAINING SERVICE PROVIDER SELECTION (DEVELOPMENT
SERVICES)**

Public Comments

Joe Sloan, 4280 Bandini Boulevard, Vernon, California 90023, representing Klistoff & Sons, Inc., reserved comment for the second item.

Steve South, representing EDCO Waste Services, LLC, expressed his support for the staff recommendation.

Mark Bozajian, 12949 Telegraph Road, Santa Fe Springs, California 90670, Regional Director of Marketing, Consolidated Disposal Service, stated that he believed that his firm had a compelling case for being included in the top three. At minimum, he hoped that the City Council would consider the alternative recommendation set forth in the staff report and initiate an RFP process.

Tommie Williams, 1886 Kamm Street, Carson, California 90746, suggested that the City Council also look at Waste Management as well as other companies that come to the City.

Ron Saldana, 5753-G Santa Ana Canyon Road, Anaheim, California, Executive Vice President, L. A. County Disposal Association, wished to advocate that the City Council choose one company over another and select the best companies for the City and for your businesses in the City.

Joe Sloan, 4280 Bandini Boulevard, Vernon, California 90023, representing Klistoff & Sons, Inc., felt that his firm would be an excellent complement to EDCO and Waste Management.

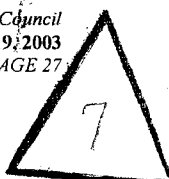
Patricia Seals, 157 W. 234th Place, Carson, California 90745, urged the City Council to trust staff's recommendations.

RECOMMENDATION for the City Council:

TAKE the following actions:

1. **SELECT** EDCO Waste Services, LLC, as the second, non-exclusive commercial/industrial service provider; **AUTHORIZE** the Mayor Pro Tem to execute the non-exclusive commercial/industrial franchise agreement after approval as to form by the City Attorney.
2. **SELECT** Klistoff and Sons, Inc. as the third, non-exclusive commercial/industrial service provider; **AUTHORIZE** the Mayor Pro Tem to execute the non-exclusive commercial/industrial franchise agreement after approval as to form by the City Attorney.

EXHIBIT NO. 04



ACTION: It was moved to Approve staff recommendation No. 1 on motion of Raber, seconded by Dear unanimously carried by the following vote:

Ayes:	Calas, Dear, Santarina, and Raber
Noes:	None
Abstain:	None
Absent:	None

It was moved to have an RFQ for the third hauler on motion of Raber, seconded by Santarina unanimously carried by the following vote:

Ayes:	Calas, Dear, Santarina, and Raber
Noes:	None
Abstain:	None
Absent:	None



**ITEM NO. (20) SELECTION OF THIRD SOLID WASTE SERVICE PROVIDER FOR THE
NON-EXCLUSIVE COMMERCIAL/INDUSTRIAL FRANCHISE
AGREEMENT (DEVELOPMENT SERVICES)**

Public Comments

Ron Saldana, 5753 E. Santa Ana Canyon Road, Anaheim Hills, California 92807, representing Los Angeles County Disposal Association, offered comments in support of the staff recommendation.

Robert Lesley, P. O. Box 11634, Carson, California 90746, felt that Waste Management and ADCO were doing a good job for the City. He inquired into the beneficial aspects of bringing a third solid waste provider to Carson.

RECOMMENDATION for the City Council:

TAKE the following actions:

1. SELECT Universal Waste Systems Inc. as the third, non-exclusive commercial/industrial solid waste service provider.
2. AUTHORIZE the Mayor to execute the non-exclusive commercial/industrial franchise agreement following approval as to form by the City Attorney.

ACTION: It was moved to reject a third solid waste provider on motion of Ruiz-Raber, seconded by Williams and unanimously carried by the following vote:

Ayes:	Mayor Dear, Council Member Santarina, Council Member Ruiz-Raber, and Council Member Williams
Noes:	None
Abstain:	None
Absent:	Mayor Pro Tem Calas

