



# City of Carson

## Report to Mayor and City Council

October 1, 2013  
New Business Discussion

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

Submitted by Gilbert Marquez, P.E.  
Acting Principal Civil Engineer

Approved by Jacquelyn Acosta  
Acting City Manager

### **I. SUMMARY**

On July 16, 2013, this item was on the agenda at the request of Councilmember Gipson. Tonight it is on the agenda for further discussion at the request of Mayor Dear and Councilmember Robles.

This issue was presented previously to the City 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. A timeline showing previous actions of the City Council related to this item is attached as 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 hauler.
2. CONTINUE to have only two commercial/industrial solid waste haulers until the expiration of the current franchises in 2018.
3. TAKE another action the City Council deems appropriate.

### **IV. BACKGROUND**

On July 17, 2012, this item was presented to the City Council and, at that time, it was continued indefinitely without discussion. This item was presented again to City Council on May 7, 2013, but was not discussed. At this time, Mayor Dear and Councilmember Robles have requested this item be placed on the agenda.

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

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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, City Council authorized a non-exclusive Integrated Commercial and Industrial Waste Management Services with EDCO Waste Services, LLC (EDCO), as the second, "non-exclusive" hauler and directed staff to proceed with the Request for Qualifications (RFQ) for a third commercial/industrial hauler (Exhibit No. 4). Two companies responded - Consolidated Disposal Services and 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 dais by councilmembers at the December 8, 2004, City Council meeting, regarding having a third commercial/industrial hauler. Unfortunately, the minutes from that meeting do not completely represent the discussions that evening, and do not thoroughly explain the reasons for the rejection of the third solid waste collector. Staff briefed City 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), the same as 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 the 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.

City 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 hauling company as explained above.

**V. FISCAL IMPACT**

The third hauler would adhere to the same rate schedule and franchise fees as approved by City Council in prior actions for WM and EDCO.

**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)

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Prepared by: Raymond Velasco, P.E., Public Works Program Administrator

TO: Rev09-05-2013

Reviewed by:

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

| Action taken by City Council |              |
|------------------------------|--------------|
| Date _____                   | Action _____ |
|                              |              |
|                              |              |

Timeline of Council Actions  
Related to Solid Waste Franchise Agreements

7/15/2003 City Council approved the award of a non-exclusive franchise agreement with waste Management for Integrated Commercial and Industrial Waste Management Services.

City Council also approved the rate schedule for commercial/industrial solid waste collection per the City Council's direction to staff at a previous meeting.

8/19/2003 Staff recommended to the 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, the City Council directed staff to initiate a Request For Proposal (RFQ) for a third commercial/industrial waste hauler.

12/8/2004 Staff recommended the award of the third non-exclusive franchise agreement to Universal Waste Systems, Inc. However, City Council's action was to **reject** a third hauler. The minutes for the 12/8/2004 City Council meeting do not completely represent and explain the discussions on the dais that evening. Per recent discussion with Denny Bacon (former PW Programs Administrator), there were long discussions by council members about the need to have a third commercial/industrial waste hauler.

07/20/2010 City Council approved the extension of the franchise agreements with Waste Management for Integrated Residential Waste Management Services and for Integrated Commercial and Industrial Waste Management Services for a five-year period through June 30, 2018.

City Council approved the extension of the franchise agreement with EDCO Waste Services for the Integrated Commercial and Industrial Waste Management Services for a five-year period through June 30, 2018.

**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. 234<sup>th</sup> 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.

**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:

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