



# TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor and Town Council **Date:** August 28, 2012

**From:** Joseph Moon  
Special Projects Manager **Item No:** 9

**Subject:** EXTENTION TO THE WASTE DELIVERY AGREEMENT BETWEEN  
THE TOWN OF APPLE VALLEY AND THE COUNTY OF SAN  
BERNARDINO.

**T.M. Approval:** \_\_\_\_\_

**Budgeted Item:**  Yes  No  N/A

## RECOMMENDED ACTION:

That the Town Council approve the fifth amendment to the Waste Delivery Agreement (WDA) between the Town of Apple Valley and the County of San Bernardino to extend the term of the agreement until June 30, 2016.

## SUMMARY:

The Town entered into a Waste Delivery Agreement (WDA) with the County of San Bernardino in 1988 allowing trash generated within the Town to be taken to county landfills in return for receiving the lowest tipping fee in use at the landfills.

The WDA for the Town expires on January 27, 2013. The County has express concerns citing that the WDA covers fifteen (15) municipalities with multiple agreement expiration dates. Attached is the fifth amendment to the WDA. This amendment extends the terms of the WDA until June 30, 2016 in order to have each City/Town on the same termination date.

(Continued on the following page)

## STAFF RECOMMENDATION:

Staff recommends that the Town Council approve the fifth amendment to the Waste Delivery Agreement (WDA) between the Town of Apple Valley and the County of San Bernardino to extend the term of the agreement until June 30, 2016.

**FISCAL IMPACT:** The extension to the WDA maintains the current fee structure resulting in no additional fiscal impact.

(continued)

**BACKGROUND:**

In 2002, the WDA was amended to allow Burrtec Waste Industries, Inc. to bring additional waste to the landfill system at a cost of \$20.50 per ton; lower than the \$29.42 per ton that was being paid by other WDA cities. The amendment established a mechanism that allowed the County to share 50% of the net profit generated by the additional tonnage with the WDA cities.

A second amendment was approved in 2003 authorizing Burrtec to increase by 75,000 tons the amount of waste brought into the system with the County again agreeing to share the net profit generated by the additional tonnage.

In 2005, after an upgrade to the Material Recovery Facility (MRF), the Town started diverting approximately 4,000 tons of waste from the Victorville landfill. That amount increased to over 7,000 tons in 2006. In August 2007, a third amendment was approved which established a fee to fund landfill-based recycling programs at all landfills and transfer stations in the county.

A fourth amendment to the WDA was approved in November 2007 to change the 12-month time period of the annual price adjustment calculation from February to September. The change was requested to allow sufficient time for the county's Solid Waste Management Department to calculate the new tipping rate, obtain Board of Supervisors' approval and provide the new rate to the cities in time to hold public hearing prior to finalizing city budgets in May or June.

**CONCLUSION:**

As previously stated, the WDA for the Town expires on January 27, 2013. The WDA covers fifteen (15) municipalities with multiple agreement expiration dates. The County wants to extend the terms of the WDA until June 30, 2016 in order to have each City/Town on the same termination date. The agreement will not take effect unless and until all of the WDA cities have each separately agreed to the terms. If one City fails or refuses to sign the agreement, it becomes null and void without regard to the Council having previously approved it.

Attached is the fifth amendment to the WDA.

# DEPARTMENT OF PUBLIC WORKS

FLOOD CONTROL • LAND DEVELOPMENT & CONSTRUCTION • OPERATIONS  
SOLID WASTE MANAGEMENT • SURVEYOR • TRANSPORTATION



COUNTY OF SAN BERNARDINO

SOLID WASTE MANAGEMENT DIVISION  
222 West Hospitality Lane, Second Floor • San Bernardino, CA 92415-0017 • (909) 386-8701  
Administration/Engineering Fax (909) 386-8900

GERRY NEWCOMBE  
Director of Public Works

July 13, 2012

Frank W. Robinson  
Town Manager  
14955 Dale Evans Parkway  
Apple Valley, CA 92307

RECEIVED  
JUL 17 2012  
TOWN MANAGER

**RE: AMENDMENT TO WASTE DELIVERY AGREEMENT (WDA) BETWEEN THE CITY/TOWN AND THE COUNTY OF SAN BERNARDINO**

Dear Mr. <sup>Frank</sup> Robinson:

As a result of the recent review process regarding the WDAs, County staff and the City and Town Managers have agreed to recommend amending the current WDA to extend the term until June 30, 2016. This amendment will also put each City/Town on the same termination date.

Enclosed are two copies of the amendment to the WDA for consideration and approval by your City/Town Council. As with any amendment to the WDA, this amendment shall be effective only if all fifteen affected WDA entities agree to it and the County is able to adopt it on or before December 18, 2012.

Once you obtain Council approval, please return both signed copies, no later than October 31, 2012, and we will present the fifteen WDA amendments to the Board of Supervisors (BOS) for approval.

After BOS approval, the County will return one fully executed original document to you for your records. If you have any questions regarding this letter, please contact me at (909) 387-7906.

Sincerely,

**GERRY NEWCOMBE**  
Director

Enclosures as noted

cc: Arthur L. Rivera, Interim Division Manager, Solid Waste Management  
C. Rozzi/E. Barrington, DPW-Administrative Services Division

Board of Supervisors

GREGORY C. DEVEREAUX ..... Chief Executive Officer  
BRAD MITZELFELT ..... First District  
JANICE RUTHERFORD ..... Second District  
NEIL DERRY ..... Third District  
GARY C. OVITT ..... Fourth District  
JOSIE GONZALES ..... Fifth District



County of San Bernardino

F A S

CONTRACT TRANSMITTAL

FOR COUNTY USE ONLY

<input type="checkbox"/> New	FAS Vendor Code		<b>SC</b>	Dept.	<b>A</b>	Contract Number	
<input checked="" type="checkbox"/> Change				<b>SWM</b>		97-1052 A-5	
<input type="checkbox"/> Cancel							
ePro Vendor Number					ePro Contract Number		
County Department				Dept.	Orgn.	Contractor's License No.	
DPW/Solid Waste Management Division				<b>SWM</b>	<b>SWM</b>		
County Department Contract Representative					Telephone	Total Contract Amount	
Gerry Newcombe					(909)387-7906	VARIOUS	
Contract Type							
<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount		
		01/27/1998	06/30/2016				
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
EAA	SWM	SWM		9700	None		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
Project Name				Estimated Payment Total by Fiscal Year			
Amendment No. 5 to the Waste Disposal Agreement Extends Agreement End Date to 6/30/16				FY	Amount	I/D	FY

CONTRACTOR Town of Apple Valley

Federal ID No. or Social Security No. \_\_\_\_\_

Contractor's Representative Frank W. Robinson, Town Manager

Address 14955 Dale Evans Parkway, Apple Valley, CA 92307

Phone (909) 240-7000

Nature of Contract: *(Briefly describe the general terms of the contract):*

The Waste Disposal Agreement that is the subject of this amendment is a fifteen year agreement between the County and the Town of Apple Valley for use of the County landfill system. Amendment No. 1 was to implement the "Article 19 Solid Waste" component of the County's waste management system and define the City's share of that revenue. Amendment No. 2 was to increase the annual maximum limits of "Article 19 Solid Waste" in the County landfill system. Amendment No. 3 allowed the County to charge the fee of \$10.00 per ton (pro rated) for identified controllable waste of the City (e.g., roll off container trucks and other County/City vehicles such as pick-ups and dump trucks) and have such waste subject to being processed in the recycling program. Amendment No. 4 allowed the County to calculate the annual cost of living adjustment earlier in the calendar year.

The purpose of this Amendment No. 5 is to allow the Parties to extend the end date of the Waste Disposal Agreement to June 30, 2016.

*(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)*

Approved as to Legal Form (sign in blue ink)

Reviewed as to Contract Compliance

Presented to BOS for Signature

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Department Head

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Auditor-Controller/Treasurer/Tax Collector Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Revised 03/22/2012

WASTE DISPOSAL AGREEMENT

BETWEEN

THE COUNTY OF SAN BERNARDINO, CALIFORNIA

AND

THE TOWN OF APPLE VALLEY

DATED: JANUARY 27, 1998

County Authorization Date:

\_\_\_\_\_

Town Authorization Date:

\_\_\_\_\_

County Notice Address:

Solid Waste Management Division  
222 Hospitality Lane, 2<sup>nd</sup> Floor  
San Bernardino, CA 92415-0017

Town Notice Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Emergency Contact:

Arthur L. Rivera  
Interim Division Manager  
(909) 386-8703

Emergency Contact:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMENDMENT NO. 5 TO THE  
WASTE DISPOSAL AGREEMENT

On January 27, 1998 the Town of Apple Valley ("Town") and the County of San Bernardino ("County") entered into a Waste Disposal Agreement ("WDA"). The parties hereby amend the WDA, on the Effective Date as provided herein, by their respective execution of this agreement (hereinafter "Amendment").

Recitals

- A. In connection with the on-going administration of the WDA, the Parties have determined it is now in their best interests to change the termination date to June 30, 2016.
- B. This change in the termination date will assist both the City and the County in planning for future fiscal years' budgeting of solid waste disposal services and costs.

NOW THEREFORE, in consideration of the forgoing recitals and the following covenants and promises the Parties agree as follows:

- 1. Amended ARTICLE VI TERM, Section 6.1 EFFECTIVE DATE AND TERM. (A) Term. This section is amended in its entirety to read:

SECTION 6.1. EFFECTIVE DATE AND TERM. (A) Term. This Agreement shall become effective, shall be in full force and effect and shall be legally binding upon the City and the County from the Contract Date and shall continue in full force and effect until June 30, 2016 unless earlier terminated in accordance with its terms.

- 2. Effective Date. This Amendment shall be effective if and only when all fifteen cities listed on Exhibit "A" have each adopted and executed a counterpart of this Amendment No. 5 (the amendment number may differ for each city listed on Exhibit "A") on or before October 31, 2012 and such amendment has been adopted and executed by the County on or before December 18, 2012. In all events, the conditions in the forgoing sentence shall occur otherwise this Amendment No. 5 shall be null and void and without any effect whatsoever.
- 3. No other amendments. Except as modified in this Amendment (or in any prior Amendment(s)) all other terms and conditions of the WDA, including without limit those contained in any prior Amendment, shall remain in full force and effect.

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EXHIBIT A

CITIES/TOWNS WITH A WASTE DELIVERY AGREEMENT  
WITH THE COUNTY OF SAN BERNARDINO  
OFFERED THIS AMENDMENT JULY 2012  
FOR AN AGREEMENT END DATE OF JUNE 30, 2016

1. APPLE VALLEY
2. BARSTOW
3. BIG BEAR LAKE
4. COLTON
5. FONTANA
6. GRAND TERRACE
7. HESPERIA
8. HIGHLAND
9. LOMA LINDA
10. RIALTO
11. SAN BERNARDINO
12. TWENTYNINE PALMS
13. VICTORVILLE
14. YUCAIPA
15. YUCCA VALLEY