



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** October 23, 2012

From: Joseph Moon **Item No:** 6
Special Projects Manager

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 Council approved this amendment to Waste Delivery Agreement (WDA) with the County of San Bernardino at the August 28, 2012 Council meeting. The Agreement required all 15 participating cities to approve the Amendment in order for it to be adopted by the County. Due to the uncertainty of the City of San Bernardino's participation in extending their WDA, the County has decided to proceed with the extension without the City of San Bernardino. As a result, the WDA approved by the Council has been modified by changing the number of approving cities from 15 to 14 and by deleting the City of San Bernardino from the WDA approval list. All other components of the WDA remain the same as was previously approved.

(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.

BACKGROUND:

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 fourteen (14) 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.

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 fourteen (14) 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

September 20, 2012

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

RECEIVED
SEP 24 2012
TOWN MANAGER

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

Dear Mr. Robinson:

Attached is a revision to the WDA amendment that was sent on July 13, 2012, to extend the term until June 30, 2016. Due to the uncertainty of the City of San Bernardino's participation in extending their WDA, the County has decided to proceed with the extension without the City of San Bernardino at this time. 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 fourteen 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 fourteen 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, Division Manager, Solid Waste Management Division
Claudia Rozzi, DPW-Administrative Services Division

Board of Supervisors

GREGORY C. DEVEREAUX
Chief Executive Officer

BRAD MITZELFELT First District NEIL DERRY Third District
JANICE RUTHERFORD Second District GARY C. CVITT Fourth District
JOSE GONZALES Fifth District

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, 2nd Floor
San Bernardino, CA 92415-0017

Town Notice Address:

Emergency Contact:

Arthur L. Rivera
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 fourteen 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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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

TOWN OF APPLE VALLEY

COUNTY OF SAN BERNARDINO

By: _____

By: _____
Chairman, Board of Supervisors

Name: _____
Print Name

Title: _____

Date: _____

Date: _____

ATTEST:

SIGNED AND CERTIFIED THAT A COPY OF THIS CONTRACT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
Of the County of San Bernardino

By: _____
Town Clerk

By: _____
Deputy

APPROVED AS TO FORM:
TOWN ATTORNEY

APPROVED AS TO FORM:
COUNTY COUNSEL SAN BERNARDINO
COUNTY, CALIFORNIA

By: _____

By: _____

Date: _____

Date: _____



EXHIBIT A

CITIES/TOWNS WITH A WASTE DELIVERY AGREEMENT
WITH THE COUNTY OF SAN BERNARDINO
OFFERED THIS AMENDMENT SEPTEMBER 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. TWENTYNINE PALMS
12. VICTORVILLE
13. YUCAIPA
14. YUCCA VALLEY