

City of Westlake Village
July 13, 2022
Agenda Item: Study Session

TO: Mayor and City Council

FROM: Rob de Geus, City Manager

SUBJECT: STUDY SESSION REGARDING SOLID WASTE COLLECTION SERVICES AGREEMENT WITH WASTE MANAGEMENT

OVERVIEW

This report recommends the City Council provide direction regarding the proposed solid waste collection services agreement with Waste Management (WM) (Attachment 1).

BACKGROUND

In 2015, the City entered into a solid waste collection services agreement with G.I. Industries, a wholly owned subsidiary of WM. The agreement grants WM the exclusive right to collect trash and recyclables from residential customers in Westlake Village. The agreement does not include commercial customers or multifamily residential customers that utilize shared trash bins.¹ These customers may obtain trash service in the open market from WM or other another hauler. G.I. Industries, WM, and their predecessor companies have been providing exclusive residential waste collection services in Westlake Village for many years under prior agreements. The current agreement will expire on August 22, 2022.

In July 2021, WM submitted a request to the City to extend the existing agreement for a term of 10 years or more and to lower the basic monthly residential collection rate from the current \$37.47 to \$29.35. This request was made per Section 1.6 of the agreement, which allows WM to request such an extension. The City notified WM that for the City to consider such a request, WM would need to submit a comprehensive proposal, including providing services and programs necessary to implement Senate Bill (SB) 1383 pertaining to organic waste recycling. WM responded with a comprehensive proposal in October 2021. Since that time, City staff and the City's waste consultant R3 have been meeting with WM representatives to negotiate the terms of a new solid waste collection services agreement.

On January 24, 2022, the Environmental Committee, consisting of Councilmembers Davis and McSweeney, discussed the proposed agreement. Staff presented information about the status of the negotiations at that time and some of the new provisions of the proposed

¹ To maintain consistent terminology with the proposed agreement and State law, this report uses the terms "cart" and "bin" to describe waste containers. A cart is a plastic wheeled container with a capacity of 32, 64, or 96 gallons, as typically utilized by single-family residential households. A bin is a metal or plastic container with a capacity of 1.5 to six cubic yards, commonly referred to as a dumpster.

agreement including programs to comply with SB 1383. The Committee indicated its support for the general direction of the negotiations.

On March 23, 2022, the City Council approved changes to the City's solid waste management ordinance to add requirements related to the implementation of SB 1383 as required by State law. One of the proposed provisions in the ordinance was to require the City to enter an exclusive contract to provide waste service to all customers in the City. Two Councilmembers expressed concern about this provision and recommended that it be discussed later in conjunction with the waste hauler agreement. The City Council voted to adopt the ordinance retaining the prior exclusivity provision that applies only to residential customers. Because all negotiations between the City and WM up to that time, including the rates proposed by WM, assumed exclusivity for all customers, staff proceeded with the negotiations based on that assumption.

On May 24, 2022, the Environmental Committee again discussed the proposed agreement. At that meeting, the Committee raised concerns about two aspects of the proposed agreement: 1) the expansion of exclusivity to all customers; and 2) the effect of the new agreement on certain neighborhoods that have historically been subject to different rates than the rest of the city. These issues are discussed further below.

FINDINGS AND ALTERNATIVES

Agreement Overview

Term: The proposed agreement term is 10 years, with two optional five-year extensions. At the end of the initial 10-year period, the City may choose to extend the agreement for an additional five years or terminate the agreement and seek proposals from other haulers. To be eligible for an extension, WM must meet minimum performance and waste diversion requirements during the initial 10-year term as specified in the agreement.

Residential waste collection: The proposed agreement continues the existing provision to exclusively provide waste collection service for residential customers including trash, recyclables, and organic waste. Under the agreement, all residential customers will be issued new grey-body carts with SB 1383 compliant color lids: grey for trash, blue for recyclables, and green for organic waste. Upon request, each customer will also be provided with a kitchen food waste pail for collecting organic waste.

Basic residential service includes a 64-gallon trash cart, 96-gallon recyclables cart, and 96-gallon organic waste cart. For the same monthly rate, households may request smaller recyclables and organic carts and may request one additional cart of each type at no additional charge. Households may request a smaller trash cart for a reduced monthly rate, or a larger or additional trash cart for an increased monthly rate. All residential rates are listed in Exhibit 1 of the proposed agreement.

Commercial waste collection: The current agreement does not include exclusive commercial collection services.² Commercial collection service is purchased in the open market and commercial customers may negotiate their own rate with WM or another hauler.

² Commercial service includes residential developments that receive bin service in lieu of individual cart service. Currently, Westpark Condominiums is the only residential development with commercial bin service.

The proposed agreement expands the exclusivity to include commercial customers following a five-year transition period. At the end of the five-year transition period discussed further below, all commercial customers would be required to use WM for waste collection service.

The proposed commercial rates vary based on the size of the container and frequency of collection. All commercial rates include a trash cart or bin of the size selected by the customer, a recyclables cart or bin of the same size, and a 64-gallon organic waste cart. Customers may request additional recyclable or organics containers for an additional monthly charge. All commercial rates are listed in Exhibit 1 of the proposed agreement.

SB 1383 compliance: The proposed agreement includes a variety of programs and services specifically to implement SB 1383 including but not limited to organic waste collection for all residential and commercial customers, reporting and compliance provisions, route inspections and review, standardized containers and labeling, and public outreach and education.

Rates and increases: The agreement provides for a monthly rate of \$29.35 for basic residential service, which represents a reduction of about 22 percent from the current monthly base rate of \$37.47. The table below compares the terms of the existing agreement pertaining to rates and rate increases to the proposed agreement.

Rate	Existing Agreement	Proposed Agreement
Residential service, monthly rate for 64-gallon trash cart, 96-gallon recycling cart, and 96-gallon organics cart	\$37.47	\$29.35
Residential rate annual increase	5% cap on annual increases not tied to any index	Rates frozen until 2025, then annual increase tied to Consumer Price Index – Garbage and Trash Collection with 4% cap; increase >4% carried over for up to 2 years
Commercial service, monthly rate for 3 cubic yard trash bin, 3 cubic yard recycling bin, and 64-gallon organics cart, once per week collection	Not included in existing agreement; rates vary due to open market	\$212.06
Commercial rate annual increase	Not included in existing agreement; varies due to open market	Annual increase tied to Consumer Price Index – Garbage and Trash Collection with 5% cap; increase >5% carried over for up to 2 years
Senior discount	10%	10%
Low-income household discount	None	10%

Additional services: The proposed agreement provides a variety of additional services for residents. Some are enhanced from what is available under the current agreement and some are new services not included in the current agreement. The table below compares

the additional services provided under the existing agreement to those in the proposed agreement.

Service	Current Agreement	Proposed Agreement
Cart valet service	Provided for a monthly fee	Provided for a monthly fee; free of charge if all household members are disabled and unable to place carts at the curb
Bulky item collection	Free for 2 pickups per year up to 2 items per pickup	Free for 2 pickups per year up to 6 items or 10 32-gallon bags total
Household Hazardous Waste collection	One pickup per month at up to 17 locations	One pickup per month at up to 25 locations
Holiday tree collection	Trees must be cut up and placed in the organic waste cart	Whole trees may be placed curbside for pickup
Home compost bins	One per customer provided upon request for a \$25 delivery fee	One per customer provided free of charge
Free landfill days	None	Free dumping at Simi Valley landfill for all residents on three designated days per year
Paper shredding events	None	Two free paper shredding events annually for residents at no cost to residents or the City
Compost giveaway	None	Two free compost giveaways annually for residents at no cost to residents or the City

Services for City: The proposed agreement includes the following services to be provided free of charge to the City.

- WM will provide up to 10 roll-off containers per year to the City for use in conjunction with code enforcement actions.
- WM will provide up to 10 roll-off containers per year to the City within six hours of a request for use in removing downed trees.
- WM will assist the City with disaster recovery activities including debris hauling, special debris handling and packaging, and temporary debris storage.
- WM will collect abandoned and illegally dumped waste upon request by the City up to 50 times per year.
- WM will continue to provide waste collection, portable toilets, and portable wash stations free of charge upon request for all City-sponsored events
- WM will continue to provide waste hauling service from all City facilities.

Residential Organic Waste Collection

Several neighborhoods in Westlake Village have common landscape areas that are maintained by the homeowners association (HOA), with no individual landscaping for homeowners to maintain. As such, residents in these neighborhoods have never been provided with green waste carts. Under SB 1383, all households must be provided with

organic waste collection service. Residents may request a small organic waste cart if they believe they will not generate much organic waste, but they may not opt out of having organic waste collection. Some residents and HOAs in these neighborhoods have raised the concern that some residents may not have enough space for three waste carts.

Staff and representatives from WM have met with representatives from the HOAs and management companies in these neighborhoods on several occasions to explore the possibility of providing shared organic waste carts or bins as an alternative to providing an individual organic waste cart for each household. Different neighborhoods will have different solutions based upon the space available in the neighborhood for shared containers and the desire of the residents and the HOA. To provide maximum flexibility for these neighborhoods to find a solution that will work for them, the proposed agreement includes provisions to allow for individual or shared organic waste service.

Exclusive Commercial Waste Collection

The proposed agreement expands WM's exclusivity to include all residential and commercial customers citywide. The agreement provides some exceptions to the exclusivity, including but not limited to landscape maintenance companies hauling away green waste, and residents and businesses donating or selling recyclable materials.

Since the current agreement allows an open market for commercial collection, there are several haulers other than WM that service Westlake Village businesses. Pursuant to Public Resources Code Section 49520, any hauler that has been providing services in the City for at least three years may continue providing services for up to five additional years after exclusivity takes effect. The City Council may adopt an ordinance to prohibit those haulers from acquiring new customers in Westlake Village during the five-year period; this provision was included in the originally proposed solid waste management ordinance, but removed by the City Council on March 23, 2022. If the City Council approves an ordinance to add this provision to the Municipal Code, any businesses that already use WM for waste service would be required to remain with WM. Other businesses would have the option of remaining with their current hauler or switching to WM, but could not switch to a different hauler. Whether or not the City Council adopts such an ordinance, all businesses would be required to switch to WM by the end of the five-year period in September 2027. It is important to note that WM's rate structure is based upon the assumption that their existing customers will not be able to switch to other haulers during the five-year transition period.

City Council members have expressed concern regarding the proposed transition from an open market to an exclusive agreement for commercial collection. Staff notes that many cities, including Thousand Oaks, have commercial exclusivity in place or are transitioning to commercial exclusivity as part of a new or extended agreement. Staff have identified several benefits to exclusive commercial waste collection as follows:

- **Lower rates:** Due to the nature of waste collection service, there are certain fixed costs with providing service to a community that proportionally decrease with economies of scale. There are also long-term financial considerations that go into rate setting that can be stabilized with commercial customers because their rates are higher than residential rates. For these reasons, granting a hauler exclusivity for commercial customers generally results in lower trash rates for all customers,

including residential. WM has stated that the residential base rate of \$29.35 is dependent upon having exclusivity for all customers in Westlake Village, and that the rate would increase substantially if commercial exclusivity were not included in the agreement.

- **Rate stability:** With commercial services included as part of the City's agreement with WM, commercial customers would be subject to the rates established in the agreement and the limits on rate increases, including the five percent annual cap and basis on the Consumer Price Index – Garbage & Trash Collection. If commercial services remain in the open market, commercial customers would not be subject to the agreement. While they would be free to negotiate their own rates with WM or other waste haulers, the rates could be higher than those provided in the agreement. Further, customers would not be protected from rate increases. Haulers could increase rates as they saw fit without a cap and without a basis on any index.
- **Reduced staff and consultant resources:** The Municipal Code requires the City to issue annual permits to all waste haulers operating in the City that do not have an agreement with the City. Staff or the City's consultant would be required to review and approve permits on an annual basis for all commercial haulers other than WM, requiring staff and consultant resources. In addition, staff or the City's consultant must monitor all haulers' compliance with SB 1383 and review and consolidate hauler reports. Additional staff and consultant resources would be required to conduct monitoring and compliance activities with multiple haulers rather than one hauler.
- **SB 1383 compliance:** The proposed agreement includes a variety of monitoring, compliance, reporting, and auditing provisions to help the City ensure that WM and the City are in compliance with SB 1383. Although SB 1383 compliance is also required through the Municipal Code, a waste hauler agreement provides an additional enforcement mechanism through contractual obligation. This provides the City with added leverage to ensure SB 1383 compliance. Commercial haulers other than WM would not have agreements with the City and compliance could only be achieved through code enforcement action.

Homeowners Association Rates

Multiple neighborhoods in Westlake Village have historically had their trash service paid for by the homeowners association (HOA) on behalf of the residents. At some point in the past, these neighborhoods were treated in the same manner as commercial customers, even though the households received individual cart service in most cases. This allowed the HOAs to negotiate rates directly with WM that are lower than the standard rates paid by other neighborhoods, as reflected in the table below. These rates vary widely among the neighborhoods. Further, these neighborhoods have not had green waste collection services, which has contributed to the lower rates.

Since State law now requires all households to have organic waste service, these neighborhoods will be provided with three-cart collection service consistent with other neighborhoods. Further, under SB 1383, all households receiving individual cart service must be considered and serviced as residential customers and cannot be treated as commercial customers, even if the HOA is paying for the service on behalf of the residents.

Under the terms of the proposed agreement, residential rates would be consistent across all neighborhoods at \$29.35 per month for standard three-cart service. As a result, residents in some neighborhoods will experience an increase in their rates. These neighborhoods include 1,061 households, about 30.8 percent of the households in the City. The remaining 2,379 households in other neighborhoods, about 69.2 percent of the households in the City, will see their rates decrease.

To mitigate the impact of the increased rates on these households, WM has agreed to phase-in the increases in three increments, as follows:

- The first one-third of the total increase will be effective September 1, 2022
- The next one-third of the total increase will be effective July 1, 2023
- The final one-third of the total increase will be effective July 1, 2024, at which time the affected households will be paying the standard rate of \$29.35 per month. Their rates would then increase at the same rate as other households in the City in accordance with the agreement starting July 1, 2025.

Staff has contacted and offered to meet with the affected HOAs to discuss the cost increases and addition of organic waste service. Staff held open meetings on June 2, 2022, and June 21, 2022, and invited all affected HOAs to attend.

The following table shows the existing rates paid by the affected HOAs, the new rate, and monthly rate increase each neighborhood would experience under the phase-in approach described above. Staff notes that under the new agreement, discounts would be available for seniors 62 and older, and for qualifying low-income households. In addition, households will have the option of using a 32-gallon trash cart in lieu of the standard 64-gallon cart, which would reduce the monthly service rate.

Neighborhood	Current Rate	New Rate	Phased-In Monthly Increase
Lakeshore	\$21.14	\$29.35	\$2.74
Oak Forest Estates	\$15.68	\$29.35	\$4.56
Summershore	\$18.51	\$29.35	\$3.62
Watergate	\$16.79	\$29.35	\$4.19
Westlake Colony	\$18.90	\$29.35	\$3.49
Westlake Pointe	\$19.63	\$29.35	\$3.24
Westlake Terrace	\$31.59	\$29.35	None (current rate is higher than new rate)
Westpark*	\$199.58	\$377.15	\$36.32

*Westpark's service is twice weekly collection of three cubic yard bins.

Extending Agreement vs. Request for Proposals

With the current agreement expiring, the City has the option of continuing the relationship with WM by renewing the agreement or issuing a Request for Proposals (RFP) to solicit proposals from other haulers. Per the terms of the current agreement, WM submitted a request to the City to extend the agreement subject a new rate structure that would provide lower rates for most Westlake Village residents. Since WM's offer was reasonable based on the analysis of staff and the City's subject matter experts R3, and since most residents are generally happy with WM's service, staff concluded that the best course of action for the City would be to begin negotiating with WM rather than recommending that the City seek proposals from other

haulers. In January 2022, the Environmental Committee endorsed continuing negotiations with WM rather than issuing an RFP, based upon the status of the negotiations at the time.

With the negotiations now essentially concluded, staff believes that the proposed agreement with WM provides highly competitive rates and a wide variety of new and continuing benefits for the community while enabling the City to achieve full compliance with SB 1383. Staff and the City's waste consultant R3 believe that the rate structure and benefits of the proposed agreement are as good, and likely better, than what could have been obtained through the RFP process. There is no guarantee that rates from other haulers would be as competitive, especially given the current economic climate, and given Westlake Village's relatively small size and low customer volume. Overall, staff and R3 believe that negotiating a new agreement with WM has allowed for a number of advantages including a competitive rate for customers, and avoids potentially transitioning to a new waste hauler which can be an arduous process for all customers, particularly in a time when there are many changes occurring in how waste, recycling, and organics are to be handled by both customers and the waste hauler. Additionally, the new agreement with WM creates stability by remaining with our existing waste hauler that has served the City well for many years.

FISCAL IMPACT

The proposed agreement includes several revenue streams for the City with a one-time revenue of \$25,000 and an estimated ongoing revenue of about \$189,000 annually, as follows:

- **Procurement reimbursement fee:** WM will pay the City a one-time procurement reimbursement fee of \$25,000. This is to offset the cost paid to R3 to assist with the review and negotiation of the proposed agreement.
- **Reporting program fee:** WM will pay the City an annual reporting program fee of \$30,000 to partially offset the cost to the City of complying with State requirements for reporting and compliance. This amount will increase annually by the same percentage as the service rates.
- **Solid waste user fee:** WM will pay the City a solid waste user fee of \$1 per account per month. The estimated annual revenue is about \$39,000.
- **Franchise fee:** WM will pay the City a franchise fee of 10 percent of their gross revenue from accounts in the City. The estimated annual revenue is about \$120,000, which will increase over time as rates increase.

The proposed agreement provides that the reporting program fee and solid waste user fee may be adjusted by City Council Resolution. However, in the event of such an adjustment, WM is entitled to a special rate adjustment to recover the cost of the increased fees.

The proposed agreement will not result in any direct costs to the City. As under the current agreement, the proposed agreement includes waste collection services for all City facilities and special events at no cost to the City.

RECOMMENDATION

Staff recommends the City Council provide direction to staff regarding the proposed agreement.

Prepared by: Michael Forbes
Planning Director

Attachment: 1. Proposed/draft solid waste collection services agreement