

TO: James L. App, City Manager
FROM: Mike Compton, Director of Administrative Services
SUBJECT: Appointment of Council Ad Hoc Committee – Pacific Waste Services Revenue Sharing Increase Request
DATE: June 7, 2005

Needs: For the City Council to appoint an ad hoc committee to assist in the review of Pacific Waste Services' (PWS) request for revenue sharing increase.

Facts:

1. The landfill operating contract with PWS provides a revenue distribution formula as to how revenues are shared between PWS and the City.
2. The contract also provides that under certain circumstances PWS may request an adjustment in the revenue distribution formula.
3. The City has received a request from PWS to modify the distribution formula to increase their share of revenues (copy attached).
4. It is current practice to work with a Council ad hoc committee before bringing such matters before the Council. Thus, this request.

Analysis
and
Conclusion:

It is desirable that the Council appoint an ad hoc committee to assist in the review of the said request and make recommendations to the full City Council.

The ad hoc committee will be assessing two methods of addressing PWS' request, assuming an adjustment is warranted. Either adjusted the current distribution formula or raise landfill tipping fees.

Fiscal
Impact:

None

Options:

- a.** Appoint a two member ad hoc committee to assist with the review and final recommendations regarding a request by Pacific Waste Services to increase their share of landfill revenues; and report back to the full Council by August 2, 2005.
- b.** Amend, modify, or reject the above option.

PACIFIC
WASTE
SERVICES,
INC.



12925 Alcosta Blvd. #1

San Ramon, CA 94583

925.244.0392 T

925.244.0210 F

April 6, 2005

Mike Compton, Director
Department of Administrative Services
City of Paso Robles
1000 Spring Street
Paso Robles, CA. 93446

Re: "Annual Contractor Retention" Cost Increase Request

Dear Mr. Compton:

Pacific Waste Services, Inc. only made a little over \$51,702 over the first 4 years of the contract on \$3,980,885 in "Annual Contractor Retention" and "Contractor's Additional Share" revenues, a very low 1.3% margin, as represented in the July 31, 2004 Financial Statement (copy attached). In addition, the April 5, 2005 City Council Approved "First Amendment To Agreement For Operation of Solid Waste Landfill, Paso Robles Municipal Landfill" added future Possessory Interest Tax liabilities to Pacific Waste Services, Inc. financial responsibility without allowance to apply for an increase in the "Annual Contractor Retention" to cover the \$25,000 \pm annual cost.

As you know, our negotiations in 2000 resulted in the August 2000 Agreement that was intended to provide fair and equitable financial distribution to both parties. PWS has experienced unforeseen fuel, housing, insurance (workers compensation, health care, general liability, equipment) cost increases along with several landfill regulation changes beyond our control that have resulted in significant increases in our cost of engineering and operation of the Paso Robles Landfill. This is the first cost adjustment we have requested of the City since taking over the operation in September 1999, over 5 years ago. The purpose of this letter is to respectfully request a cost adjustment to the Pacific Waste Services, Inc.'s "Annual Contractor Retention" for the City's approval to become effective June 1, 2005.

This cost adjustment request is allowed by Agreement Condition (5)(a) and First Amendment To Agreement Condition (6)(g). Agreement Condition (5)(a) states: *Notwithstanding anything in this Agreement to the contrary, CONTRACTOR may request from the CITY, a modification to the distribution of revenues as identified in Section 6 (based on detailed evidence submitted by the CONTRACTOR substantiating the need thereof) to compensate for CONTRACTOR's increased costs directly resulting from*

unforeseen changes in operation or increases in costs that are beyond the control of CONTRACTOR, including, but not limited to, changes in scope or type of services or manner of providing services hereunder as a result of CITY or other government mandates and changes in federal, state or local laws or regulations. Increased costs associated with routine maintenance and repair of equipment used by CONTRACTOR is the performance of this Agreement shall not constitute cause for an adjustment in the distribution of revenues hereunder. For purposes of determining the amount of increased costs under this Agreement shall constitute the baseline costs.

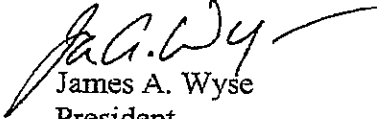
New U.S. EPA Title V Air Quality Federal Regulations on landfills, associated permitting, site improvements, and operational impacts were not anticipated nor budgeted in the original scope of work. New California Regional Water Quality Control Board Waste Discharge Requirements adopted in 2001 and subsequent New Monitoring and Reporting Program in 2004 resulted in increased monitoring costs, increased operations costs due to additional wet weather preparation requirements, and future leachate collection system layer costs. In total these new requirements have resulted in over \$150,000 of incurred increased engineering, operations and associated site improvement costs that PWS has not previously requested reimbursement. These new regulations and associated increased engineering and monitoring services have on-going annual costs and PWS requires an **“Annual Contractor Retention” increase of \$37,600 per year (\$3,125 per month)** effective June 1, 2005 to cover those increased regulation ongoing costs. As required in the April 5, 2005 approved First Amendment to the Agreement, PWS is required to reimburse the City for third party engineering service fees (including the new regulation requirements) using the “Annual Additional Contractor Share” and if necessary part of the “Annual Contractor Retention”.

The “Annual Contractor Retention” increase of 2.5% identified in Agreement Condition (6)(a) has been below the Consumer Price Index for the contract period, August 1, 2000 through February 28, 2005, as a result of significant increases in fuel costs, health care insurance costs, labor costs and housing costs. During that period (August 1, 2000 through February 28, 2005), the Agreement provided PWS with a 7.5% increase on the “Annual Contractor Retention”. The Consumer Price Index (CPI) for that same period had a 10.7% increase (see attached U.S. Department of Labor Statistics sheet). The difference is 3.2% which equates to a \$29,417 per year difference in the current “Annual Contractor Retention”. In consideration of the significant cost of living increases, we **request a one-time cost of living adjustment increase of \$29,400 (\$2,450 per month) to the “Annual Contractor Retention”** effective June 1, 2005. Subsequent annual adjustments will follow the original contract terms of 2.5% on each August 1 including August 1, 2005.

In total, PWS is requested an increase of the “Annual Contractor Retention” by \$5,583.33 per month to become effective on June 1, 2005. This adjustment is consistent with terms and conditions of the landfill operations agreement. Following this one time adjustment, annual adjustments will be at the Agreement rate of 2.5% per year per the original contract terms.

Please call to discuss any items.

Respectfully submitted,
Pacific Waste Services, Inc.


James A. Wyse
President

CC: James App, City Manager
Mayor Frank R. Mecham
Iris Yang, City Attorney
Meg Williamson, Asst. City Manager