



CITY OF LONG BEACH **H-4**

DEPARTMENT OF PUBLIC WORKS

333 West Ocean Boulevard 9th Floor • Long Beach, CA 90802 • (562) 570-6383 • Fax (562) 570-6012

October 20, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

1. Direct the City Attorney to draft Amendments to the Municipal Code Chapter 8.60 regarding operating rules and regulations and the implementation of the Refuse Hauler Business Fee for private refuse haulers.
2. Receive the supporting documentation into the record, conclude the public hearing, declare the attached ordinance read the first time and laid over to the next meeting of the City Council for a second reading and adopt the attached resolution establishing the Refuse Hauler Business Fee.
3. Authorize the City Manager to develop and execute agreements of up to ten years with all private refuse haulers currently operating in compliance with their Refuse Transportation Permit.
4. Authorize the Director of Public Works to:
 - a. Develop and implement rules and regulations as required for the successful execution, implementation and administration of the Agreements and to ensure compliance with Federal, State and local regulations;
 - b. Limit the number of permits to be issued to the 16 existing permitted haulers only;
 - c. Collect any and all fees as authorized by the City Council, including the currently authorized AB 939 fee and the proposed Refuse Hauler Business Fee;
 - d. Require private refuse haulers to utilize alternative fuel vehicles when operating in the City after September 30, 2015;
 - e. Continue to require private refuse haulers to provide recycling services to all multi-family and commercial accounts as determined by the Director of Public Works. (Citywide)

DISCUSSION

The City currently regulates its commercial solid waste collection program through permits issued to private refuse haulers, who are required to comply with the Municipal Code and Administrative Regulations. The Municipal Code currently limits the number of permitted haulers and regulates their activities. Although the permit program has effectively assisted the City in meeting its waste reduction mandates, staff recommends an administratively more flexible means of enforcing all permit, Municipal Code and environmental program requirements.

Staff recommends that the City Council authorize the City Manager, as a condition of permit approval, to enter into agreements of up to ten years (Agreements) with each of the 16 currently permitted private refuse haulers. The initial term will be for seven years, extendable for up to three additional years as discussed below. The proposed Agreements would incorporate the current requirements of Chapter 8.60 of the Municipal Code, enhance waste collection and recycling requirements, mandate the use of alternative fuel vehicles by 2015 and provide contractual remedies for illegal or unapproved activities.

In support of the City's sustainability efforts, private refuse haulers will be offered the following incentives to comply with the alternate fuel requirement early:

- If 100 percent of their Long Beach fleet is comprised of alternative fuel vehicles by October 1, 2012, then three additional years will be added to the initial seven-year term of the vendor's contract, making the respective vendor's contract effective through September 30, 2019;
- If 100 percent of their Long Beach fleet is comprised of alternative fuel vehicles by October 1, 2013, then 2 (two) additional years will be added to the initial seven-year term of the vendor's contract, making the respective vendor's contract effective through September 30, 2018.

If 100 percent of the Long Beach fleet is not compliant by October 1, 2015, then the City will consider the private refuse hauler to be in violation of their contract and will require the vendor to cease operating in Long Beach within a one-year period as determined by the City.

Agreements will provide the City with clear legal authority to enforce City Council or City Manager mandates, such as recycling for multi-family buildings, use of alternative fuel vehicles, or other operating conditions. The Agreements will also allow for a more timely and effective resolution of service complaints. For example, the increase in mixed-use development (combined commercial and residential buildings) has resulted in an increase in complaints regarding haulers operating in violation of the hours set by the Municipal Code. While haulers are required to operate in compliance with the current Municipal Code, individual Agreements with each hauler would enable the City to assess monetary damages against a hauler for breach of contract.

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In consideration for being one of the limited haulers allowed to collect solid waste in the City for an extended permit term, staff also recommends that City Council institute an 8 percent Refuse Hauler Business Fee (based on gross receipts), to be deposited in the General Fund, and eliminate the current Recycling Incentive Fee (payable based on a calculation of tons disposed), currently deposited into the Refuse Fund. This fee would be in addition to the AB 939 fee of 8 percent (of gross receipts) to support the City's efforts to maintain compliance with State recycling mandates. Adoption of the attached resolution would establish the amount of the fee, which would take effect at the same time as the amendment to the Municipal Code.

Pursuant to CEQA guidelines, California Code of Regulations, Article 19 §15300, et seq., a categorical exemption has been issued for this project.

This letter was reviewed by Deputy City Attorney Amy R. Burton on September 29, 2009 and by Budget and Performance Management Bureau Manager David Wodynski on September 30, 2009.

TIMING CONSIDERATIONS

City Council action on this matter is requested on October 20, 2009, to begin implementation of the new Agreements and establishment of the Refuse Hauler Business Fee as soon as possible.

FISCAL IMPACT

Proceeds from the Refuse Hauler Business Fee will be deposited in the General Fund (GP) in the Department of Public Works (PW). Based on current estimated gross receipts of existing private haulers, annual revenue would be approximately \$1.3 million. Proceeds from the AB 939 fee, also estimated at \$1.3 million annually, based on gross receipts of existing private haulers, will continue to accrue to the Refuse Fund (EF 330) in the Department of Public Works (PW). The Refuse Fund will no longer receive annual revenue from the Recycling Incentive Fee, currently estimated at \$400,000, which is based on the private haulers' current waste diversion compliance rates.

SUGGESTED ACTION:

Approve Recommendation.

Respectfully submitted,



MICHAEL P. CONWAY
DIRECTOR OF PUBLIC WORKS

MPC:JK:az

P:CL/Private Hauler Permit rev 2

APPROVED:



PATRICK H. WEST
CITY MANAGER

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SUBSECTION
8.60.087.A AND SECTION 8.60.087.5, ALL RELATING TO
OPERATING RULES AND REGULATIONS FOR PRIVATE
REFUSE HAULERS

WHEREAS, the City Council finds and determines that in order to meet the
requirements of the California Integrated Waste Management Act of 1989 (Public
Resources Code Section 40000 et seq.), including source reduction of municipal solid
waste, the diversion of municipal solid waste from landfills and conservation of natural
resources, it is necessary to regulate the collection and recycling of municipal solid
waste, including that provided by private refuse haulers for commercial and multi-family
residential building in the City; and

WHEREAS, the City Council hereby finds and determines that the
mandates of the Environmental Protection Agency, the Southern California Air Quality
Management District and other regulatory agencies concerning air pollution and traffic
congestion management require the regulation and, where possible, reduction of
contaminants from solid waste collection vehicles that create air pollution; and

WHEREAS, the City currently regulates private refuse haulers through the
issuance of permits according to Long Beach Municipal Code Chapter 8.60; and

WHEREAS, the addition of certain permit conditions regulating solid waste
enterprises in the City will promote public health, safety and welfare by ensuring
compliance with City policies, ordinances and state law;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as
follows:

1 Section 1. Subsection 8.60.087.A of the Long Beach Municipal Code is
2 hereby amended to read as follows:

3 A. Each Permittee shall:

4 1. Provide waste receptacles or bins of sufficient capacity
5 and quantity so as to contain all refuse generated by an account;

6 2. Be responsible for the collection and disposal of
7 overflow refuse around receptacles. Following the collection of refuse or the
8 emptying of waste receptacles, the area where the refuse was placed for
9 collection shall be left free of refuse, litter, liquid waste and other debris;

10 3. Provide bulky item collection service for each account.
11 The Permittee is responsible for the removal and proper disposal of all bulky
12 items placed for collection for each account it services. The Permittees
13 shall remove such items within forty-eight (48) hours of servicing an account
14 or receiving a request for collection from the account or from the City. Each
15 Permittee shall maintain a log of such requests for bulky item collection and
16 make such log available for inspection by the Director of Public Works;

17 4. Comply with monthly and annual reporting
18 requirements as established by the Director of Public Works;

19 5. Provide a recycling program as set forth in Section
20 8.60.087.5;

21 6. Execute and maintain in effect a commercial franchise
22 agreement with the City, as a permit condition, for the use of streets,
23 highways or roads in the City of Long Beach for the conduct of its business
24 activity. The City hereby grants a solid waste hauling franchise to any solid
25 waste enterprise upon the issuance to it of a permit issued pursuant to
26 Section 8.60.80 of this Article. The term of the franchise shall run
27 concurrently with the term of the permit and shall end upon termination of
28 the permit. The valid possession of such a permit shall be deemed to make

1 a solid waste enterprise a franchisee under this Section.

2 7. Pay a franchise fee, known as the "Refuse Hauler
3 Business Fee", in an amount established by the City Council by resolution.

4
5 Section 2. Section 8.60.087.5 of the Long Beach Municipal Code is
6 hereby amended to read as follows:

7 8.60.087.5 Recycling program – Fee.

8 Each Permittee shall implement a recycling program approved by the
9 Director of Public Works.

10
11 Section 3. The City Clerk shall certify to the passage of this ordinance by
12 the City Council and cause it to be posted in three (3) conspicuous places in the City of
13 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
14 Mayor.

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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor