



**CITY OF ELK GROVE**

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**ELK GROVE CITY COUNCIL  
SPECIAL MEETING  
AGENDA ITEM**

May 23, 2002

**TO: Mayor and City Council**

**FROM: Anthony Manzanetti – City Attorney  
Constance Hornig – Special Counsel regarding Solid Waste**

**SUBJECT: Action and/or Direction Regarding the City of Elk Grove Negotiating a 10-Year Exclusive Non-Competitive Residential Solid Waste Collection and Disposal Contract With Central Valley Waste Services, a Waste Management Company; or Obtaining Residential Solid Waste Services Through a Competitive Procurement to Commence in June 2004, and Related Matters Regarding Commercial Solid Waste Collection and Disposal.**

**RECOMMENDATION:**

- A. Staff recommends the City Council direct staff to attempt to negotiate with Central Valley Waste Services, a Waste Management Company, terms for an exclusive contract for residential solid waste collection and disposal fully protective of the rate payers and insuring the highest level of service in all regards while preserving, as much as possible, the Key Terms negotiated by the Ad Hoc Committee on Solid Waste;

Staff Report



Re: Action and/or Direction Regarding the City of Elk Grove Negotiating a 10-Year Exclusive Non-Competitive Residential Solid Waste Collection and Disposal Contract With Central Valley Waste Services, a Waste Management Company; or Obtaining residential Solid Waste Services Through a Competitive Procurement to Commence in June 2004, and Related Matters Regarding Commercial Solid Waste Collection and Disposal.

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- B. If staff and CVWS are not able to come to agreement on the terms of such a contract, staff is to return to the City Council for direction on whether to;
1. Agree to the terms proposed by CVWS; or
  2. Prepare a Request for Proposals for Competitive Procurement of Residential Solid Waste Services to Commence in June of 2004, at the end of the term imposed by the LAFCo Resolution of Incorporation.

**BACKGROUND:**

The City was incorporated by a vote of the people subject to the terms of a resolution passed by the Local Agency Formation Commission. That resolution provides that the County of Sacramento shall provide solid waste services to the City of Elk Grove until June 2004, when its contract for those services with Central Valley Waste Services, a Waste Management Company (CVWS) ends.

Recently, and over the objection of the City of Elk Grove, the County raised the rates the residents of Elk Grove pay for residential solid waste collection and disposal. That new rate is being collected by CVWS, under its contract with the County.

The rate increase prompted the City Council to explore possibilities for rate reduction and rate stabilization while ensuring the highest quality service. The City Council appointed an ad hoc committee consisting of then Mayor Cooper and current Mayor Leary. That committee met several times with representatives of CVWS and announced to the City Council that it had reached agreement on Key Terms with CVWS. Staff was directed to embody the Key terms in a 10-year exclusive contract with CVWS. Meanwhile, the City retained an expert in the nuances of municipal solid waste, Ms. Constance Hornig, who was added to the staff team



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working on this issue.

In the course of the negotiations, CVWS presented the City with a document styled as a contract, but was more in the nature of an extended terms sheet. In response Ms. Hornig analyzed the CVWS produced document and found it to be severely tilted toward the private contractor and lacking basic protections for the City and its ratepayers. Ms. Hornig prepared a draft contract that embodied as much as possible the Key terms negotiated by the ad hoc committee. Ms. Hornig, the City Attorney and the City Manger met with the ad hoc committee to explain some of the deficiencies in the CVWS produced document and the advantages of the City prepared draft contract. Staff also provided the ad hoc committee with a Confidential Memo identifying some of the differences in the CVWS produced document and the document staff had prepared. The memo contained a full outline of the city's proposed draft document.

Upon receiving input from the ad hoc committee, on February 19, 2002, the City transmitted its draft contract via Federal Express to Mr. Alex Oseguera, of CVWS. On the next day, February 20, 2002 the City transmitted an electronic version via email to Mr. Oseguera.

On April 16, 2001, the City Attorney received a letter from Mr. Alex Oseguera, of CVWS, dated April 10, 2002. In that letter Mr. Oseguera stated that the contract proposed by staff "... is not in the best interest of either party..." Staff disagrees with that assessment, at least as far as it relates to the ratepayers of the City of Elk Grove.

The City's proposed service agreement clearly and in detail outlines the obligations and services responsibilities of the solid waste contractor. It is the legal opinion of staff, including the opinion of Ms. Hornig, the City special solid waste consultant on this matter, that such a fully detailed contract is the only way to protect the interests of the ratepayers of the City

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of Elk Grove. It is the opinion of the City Attorney and Ms. Hornig that the document submitted by CVWS does not provide the ratepayers sufficient assurances of quality service for the next ten- (10) years.

One simple service issue serves as an example. If a City Council member gets complaints from ratepayers that when they tried to contact the trash company and the company didn't answer the phone after letting it ring for seven (7) rings, or they were put on hold 11 minutes, or got stuck in an answering tree, that Council Member needs to be able to say to the rate payer:

*"That's not acceptable. The City requires that the phone be answered in three (3) rings, not be placed on hold more than 3 minutes, and not use answering trees, and I will have staff look into that."*

If that level of service is not specified in detail in the contract, that Council Member will only be able to say:

*"Well, I'm sorry, when the City contracted with the trash company we didn't specify that level of service so we can't make trash hauler improve the level of service. We will have to wait until this contract expires, in 10 years."*

The gap between what CVWS believe is in the best interest of the company and what staff has opined is in the best interest of the rate payers and general fund of the City of Elk Grove is so wide that staff needs to get direction from the City Council. CVWS as asserted that the ad hoc committee gave direction for a vaguely worded contract without assurances protecting the City rate payers.

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Thus, the staff needs direction on the "best interests" of the City of Elk Grove and brings this item for action and/or direction by the City Council.

**RECOMMENDATION:**

A. Staff recommends the City Council direct staff to attempt to negotiate with Central Valley Waste Services, a Waste Management Company (CVWS), terms for an exclusive contract for residential solid waste collection and disposal fully protective of the rate payers and insuring the highest level of service in all regards while preserving, as much as possible, the Key Terms negotiated by the Ad Hoc Committee on Solid Waste;

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**FINANCIAL IMPLICATIONS:**

- ◆ A conservative estimate of the value of this contract is one hundred million dollars (\$100,000,000.00) over the course of the proposed ten-year term. The ratepayers and/or the general fund of the City of Elk Grove will pay all of that. The services, level of service and the payment of the rates for the next decade will be governed by the contract terms negotiated now, by staff and approved by this City Council.

# Elk Grove Special City Council Meeting - May 23, 2002

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- ◆ Without having undergone a competitive procurement for residential solid waste services, the savings or cost to the ratepayers and/or general fund of a negotiated exclusive contract cannot be estimated.

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