



## Legislation Text

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**File #:** 15-010, **Version:** 1

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Staff Report for a Resolution Approving 11th Amendment to ACI, Inc.'s Franchise Agreement

### **SUMMARY**

Staff recommends that the City Council, in accordance with Section 13.6 of the franchise agreement between ACI, Inc. and the City of San Leandro, authorize the City Manager to execute the 11th Amendment to the franchise agreement, subject to approval as to form by the City Attorney.

### **BACKGROUND**

Pursuant to ACI, Inc.'s plans to refurbish ACI's Materials Recovery Facility (the "MRF") to expand operations to take in more solid waste, recyclable, and green waste tonnage, the imminent execution of a collective bargaining agreement with ACI's employees who work at the MRF, payment of the City's Living Wage Ordinance, and a formal request in accordance with the franchise agreement from ACI for special rate review, the City Manager conducted a review of the City's franchise agreement with ACI, and recommends that the City Council find that it is in the best interest of the City to approve an amendment to the franchise agreement between the City and ACI, Inc., and to authorize the City Manager to execute such an agreement, subject to approval as to form by the City Attorney.

This recommendation is in line with the following City Council goals:

- Place San Leandro on a firm foundation for long-term fiscal sustainability; and
- Provide quality public safety service and grow our partnership with the community to keep San Leandro safe.

Providing efficient and cost-effective waste management services ensures customer rates remain stable and comply with the law. Providing waste management and recycling services is a key component of public safety by promoting community health and welfare. Waste management and recycling services allow the City to comply with its public health mandates and standards so that the community is not detrimentally affected by trash, vectors, and disease.

### **DISCUSSION**

The City Council should find that the 11th Amendment to the franchise agreement is in the City's best interest because:

- It furthers the City Council's goal to place the City on a firm foundation for fiscal sustainability. As the City negotiates the terms of ACI, Inc.'s request for special rate review that would lead to amendments to the City's franchise agreement with ACI, it is necessary for the parties to examine and understand what rate increases, if any, may occur from such negotiations. Thus, operations and costs could be planned that would minimize effects on ACI's San Leandro customers, their refuse

rates, and levels of service. This would also ensure rate parity between the customers of ACI and Oro Loma Sanitary District's franchise with Waste Management, which affects approximately 35% of the City. To that end, the City Manager recommends that the City Council formally ratify the 4.01% rate increase (effective February 1, 2015) permitted by the franchise agreement in Section 6.3(C). ACI delayed the implementation of this contractually permitted rate increase, which was supposed to take effect July 1, 2014, while ACI was analyzing and negotiating the terms of a settlement agreement to pay back wages to MRF employees related to the City's Living Wage Ordinance. The City Manager also recommends that the City Council approve an advance to ACI of \$1,109,706.74, which would be repaid by ACI together with simple interest at 2.5% per annum in forty equal installments of \$31,441.00. This advance is in lieu of any immediate rate increases not contemplated in the current version of the franchise agreement pursuant to ACI's special rate review. Although a 2.14% rate increase effective July 1, 2015 is contemplated and identified in the settlement agreement, the parties intend to negotiate in good faith any and all requested and already permitted rate adjustments pursuant to the special rate review, which could include rate adjustments as soon as July 1, 2015.

- The City seeks to ensure public health and safety are protected through negotiating updates to ACI's franchise agreement that induce ACI to continue investing into newer and better processing equipment so that the MRF operates at optimal levels. ACI's stated goal is to process more solid waste tonnage at the MRF than it does currently.

### **Financial Impact**

The City's advance of \$1,109,706.74 from General Fund reserves will earn interest at a rate greater than the Local Agency Investment Fund (LAIF) rate.

### **ATTACHMENTS**

#### **Attachment to Staff Report**

- Loan Amortization Schedule

#### **Attachment to Resolution**

- 11th Amendment

**PREPARED BY:** Chris Zapata, City Manager and Richard D. Pio Roda, City Attorney