

City of Jacksonville Landfill Contract

The Future Of Waste In
Our City

Executive Summary

Proposed contract extension with
Waste Management:

- Captures competitive market rate
- Ensures long-term disposal capacity
- Minimizes risk
- Provides substantial savings to taxpayers
- Avoids costly litigation

To Beat The Current Deal, Bidders Would Have To:

- ◆ Offer an operating fee of less than \$10.21 per ton, plus
- ◆ Cover all closure and post-closure costs (\$138 million), plus
- ◆ Offer upfront payment of \$85+ million from lost savings on current contract, plus
- ◆ Indemnify city against all legal fees and court-related damages

LANDFILL HISTORY

COJ Faced Major Waste Crisis

- ◆ Previous landfills nearing capacity in late 1980s
 - East Landfill closed in 1991
 - North Landfill operated under emergency order until Trail Ridge opened in 1992
- ◆ City began process to permit new site near St. Johns County
 - Permit faced significant community opposition
 - Spent five years and more than \$6 million before abandoning attempts

How Trail Ridge Landfill Came About

- ◆ In 1991, city issued RFP for company to site, permit, construct and operate a landfill in Duval County
- ◆ Waste Management won the competitive bid
 - Lowest bidder by 60 percent
- ◆ Life of site vs. life of facility question quickly became source of contract dispute

SOLID WASTE CHALLENGES UNDER PEYTON ADMINISTRATION

Faced Two Pending Solid Waste Issues

- ◆ Residential hauling contracts set to expire
- ◆ Landfill was approaching permitted capacity
 - Legal dispute with Waste Management continued over terms of contract
 - Solid Waste leadership began researching feasibility of city operating landfill
 - Data did not support the city operations of Trail Ridge

Residential Hauler Contracts

- ◆ Originally awarded in 1970s without bids
 - Have been extended since then with waivers of the ordinance code by council
- ◆ In late 2006, conducted research to determine competitive market rates
- ◆ Approached three haulers to negotiate new contracts
- ◆ Reached acceptable terms with Republic Services and ADS
 - Through a waiver, city extended contracts for 9-year period (2007-327 and 2007-328)
- ◆ Did not reach acceptable terms with WM
 - Put service area out for bid
 - Area awarded to Waste Pro in 2007

Landfill Operating Contract

Identified key elements that a competitive contract for landfill operations would include:

- ◆ Operating fee comparable with recent rates throughout state
- ◆ Operator responsible for closure/ post-closure and environmental liability
- ◆ City has right to implement new technologies and terminate for convenience
- ◆ Must be a deal that makes litigation risk not worth taking

Negotiated Contract Terms

- ◆ Lower operating fee on current contract from \$14.06 to \$10.21 per ton (blended rate = \$11.38)
 - Rate below market surveys of other Fla. landfills
- ◆ Define total tonnage commitment = 42 million tons (current and future cell)
- ◆ Rate escalated at 70 percent of CPI
- ◆ WM assumes closure and post-closure for current and future cell
- ◆ WM keeps operator environmental liability
- ◆ City has right to implement new technologies
- ◆ WM waives disposal fees for EPA/DEP approved soils

Council Auditor's Report

The Council Auditor's Report affirmed the savings

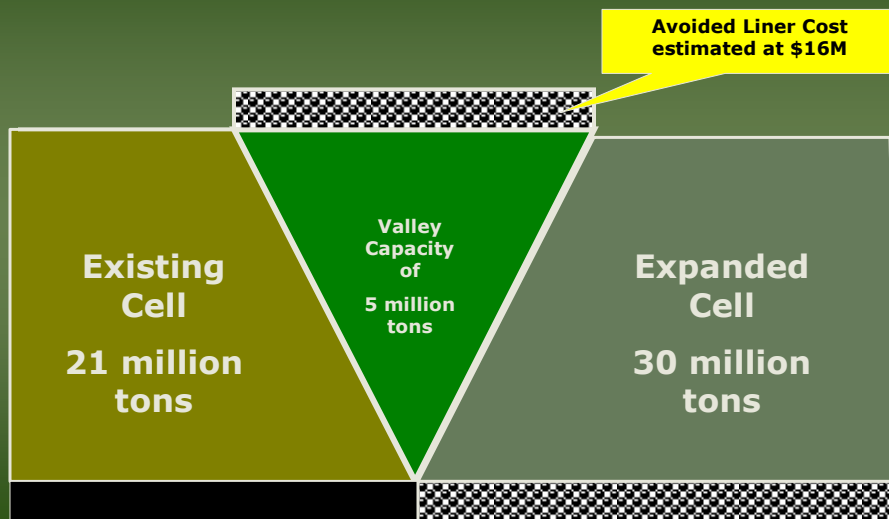
- The closure and post-closure for both cells is estimated at \$168 million
- A savings of \$20 million in operating fees and escrow
- A savings of \$35 million in soil disposal costs
- Additional savings including liner cost avoidance of \$16 million

Total savings: \$200-plus million

Business Risk Issues

- ◆ Immediate loss of:
 - \$20 million in savings from the reduced operating fee on current cell
 - \$30 million in cost avoidance for closure of current cell
 - \$35 million in savings by utilizing EPA & DEP approved soils from city projects
- ◆ Next mayor and city council could face lengthy court battles and millions in legal fees to combat contract dispute
- ◆ Delays in permitting of new cell could cost taxpayers millions in out-of-county hauling fees when current landfill runs out of capacity

Value of the “V”



ADDRESSING ISSUES YOU'VE RAISED

Some Say:

This is a 35-year, \$750 million no-bid
contract

The Facts

- ◆ The original contract was bid in 1990. WM was the lowest bidder by 60 percent
- ◆ The proposed contract is based on volume, not time
- ◆ Based on current tonnage projections and a modest rate of growth, the contract results in an extension of about 25 years beyond the current agreement

Some Say:

The original operating agreement gives Waste Management the right to operate only on the current landfill site

The Facts

- ◆ Office of General Counsel believes agreement is only for the current 144 acres cell (facility)

Some Say:

Other companies can offer the city a better deal if allowed to bid on the contract

The Facts

Florida comparisons

- ◆ Hillsborough (WM) - \$13.51/ton (2008 data)
- ◆ Indian River (WM) - \$10.35/ton* (2008 data)
- ◆ Pinellas (Veolia) - \$12.43/ton**(2007-08 data)
- ◆ Sarasota (Veolia) - \$9.76/ton** (2007 bid response)
- ◆ Seminole (County) - \$8.76/ton** (2006 data)

*Only includes closure costs during term of contract

**Does not include closure/post-closure costs (estimated to be about \$2-\$4/ton at Trail Ridge)

The Facts

Other municipal owned, privately operated market comparisons (operated by Republic)

- ◆ Mohave Valley, AZ -- \$21.52/ton
- ◆ Victoria, TX -- \$22.95/ton
- ◆ Arlington, TX -- \$22.32/ton*

*The Arlington, TX contract was entered into between that city and Republic Services in 2005. It is a 40-year (20-year, plus 20-year renewal), life of site contract, with no rate review

Some Say:

Under the proposed contract, landfill customers will pay twice for closure and post closure of the existing cell
(Double Taxation)

The Facts

- ◆ Escrow is self-imposed accounting mechanism
- ◆ General Fund subsidizes Solid Waste Enterprise Fund by approx. \$20 million annually
- ◆ Approximately 50% of the escrow fund was paid by the city for residential hauling
- ◆ About \$10 million will be set aside for purchase and development of borrow pit
- ◆ Balance of fund could be used for closure costs at other county owned landfills and construction of new cell at Trail Ridge

Some Say:

The negotiated deal with Waste Management gives that company approximately \$100 million in excess profits that could be saved

The Facts

- ◆ Based on current market surveys, the negotiated rate is competitive:
 - Compared to other landfills in Fla.
 - Compared to at least one other operator's track record across the U.S.
 - Council Auditor's report shows this deal is more cost effective than the city operating the landfill itself on a net present value basis

Some Say:

This agreement sweeps certain violations by Waste Management under the rug

The Facts

City settled with three hauler companies for violations of commingling and noise

- ◆ Commingling Penalties
 - ADS - \$39,518.29
 - SWS/Republic - \$ 44,829.51
 - WM - \$198,499.70 (pending)

- ◆ Noise Penalties
 - ADS - Avg. penalty of \$1,500 per incident
 - SWS/Republic - Avg. penalty of \$1,500 per incident
 - WM - \$88,354 (lawsuits pending)

- ◆ City is holding back payments to Waste Management in excess of \$1 million, pending resolution of contract extension.

The Facts

- ◆ Out-of-County Hauling Penalties
 - BFI – \$50,000 (1999)
 - Refuse Services/WM – \$1.4 million (2003)
 - ◆ Local management immediately terminated
 - ◆ Company paid city's investigative costs
 - ◆ City made whole
 - ◆ Company incurred costly penalty by hauling waste back in county
 - ◆ The Council Auditor's March 10, 2009 report identified the 2003 settlement agreement regarding the out-of-county hauling by a subsidiary of Waste Management
 - ◆ The subsidiary no longer performs residential hauling services for the city

Some Say:

There is plenty of time to deal with any threat of litigation regarding life of site vs. life of facility before the landfill reaches capacity

The Facts

- ◆ The latest independent engineering estimates (Feb 2009) indicate about 5.5 years remaining in current landfill capacity
 - Does not account for any weather-related increase in waste generation

The Facts

- ◆ March 2009 article in *Hernando Today* newspaper outlined Hernando County's landfill issue:
 - Nearly three years since the county started the permitting process to build a new cell
 - New cell will not be done before current cell reaches capacity and county will pay additional \$50 per ton to haul waste out of county
 - Taxpayers are on the hook for \$3.6 million in out-of-county hauling expenses (for 200 tons/day)
 - Proposal to double solid waste fee for residents to \$107 annually

Some Say:

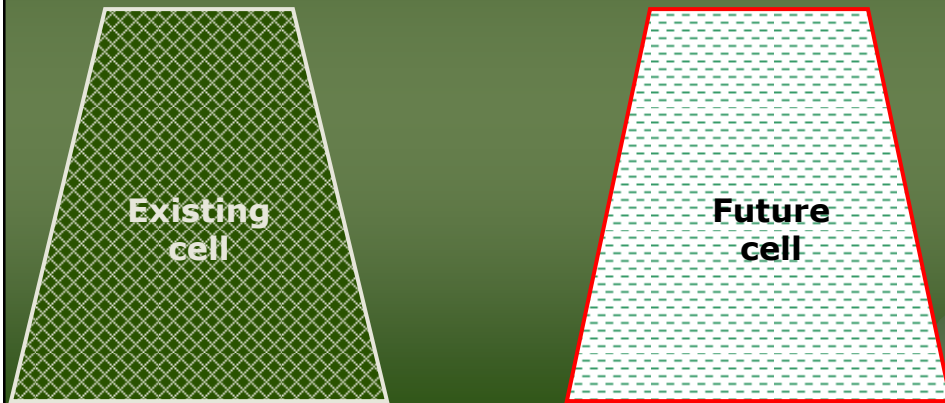
The city could immediately pursue the permitting and development of a new site to avoid any time constraint litigation might cause

The Facts

- ◆ Uncertain what city would attempt to permit
 - Extension of current cell or new, separate cell?
- ◆ Initiation of permitting could trigger a breach of contract lawsuit

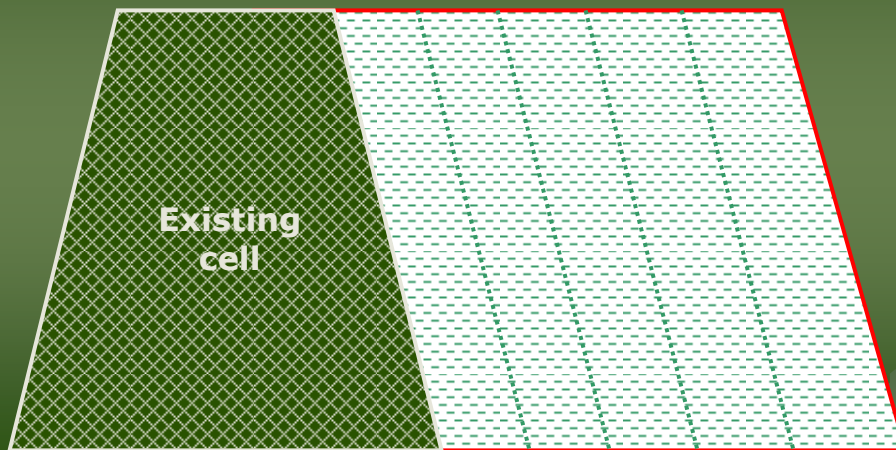
The Facts

Permit scenario if put out for bid



The Facts

Permit scenario if contract is extended



Some Say:

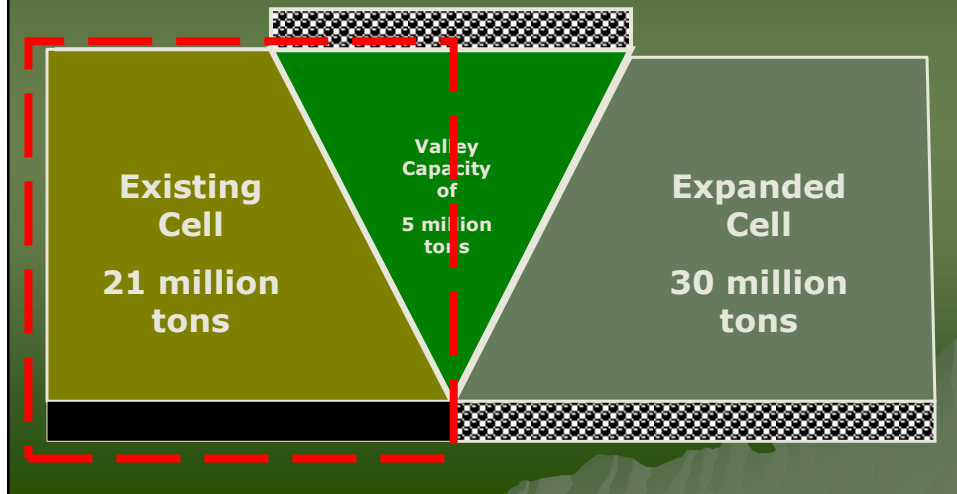
Other potential landfill operators could capture the volume between cells
(value of the valley)

The Facts

- ◆ General Counsel's Feb. 27, 2009 opinion:

"If the city intends to expand vertically, with any other operator other than Waste Management, the City should seek indemnification for legal and environmental liability"

Value of the "V"



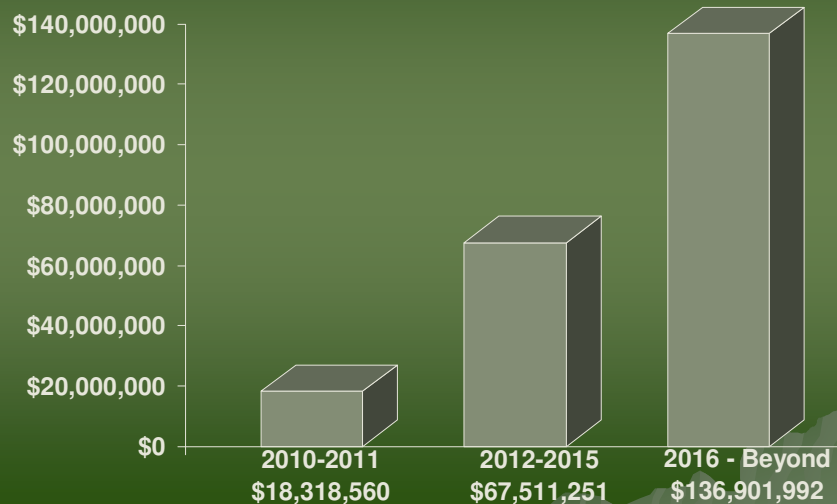
Some Say:

Why is the administration pushing
this deal so hard?

The Facts

- ◆ Minimizes risk and ensures uninterrupted waste disposal capacity
- ◆ Realizes significant savings for the taxpayer
- ◆ Most of these savings will be realized over the life of the contract, long after the current administration's term has ended

Estimated Savings Over Time (Proposed vs. Existing Contract)



POTENTIAL COST TO TAXPAYERS

Potential Costs to Taxpayers

- ◆ Loss of:
 - \$20 million in savings on current contract
 - \$30 million in cost avoidance for closure of the current cell
 - \$35 million in savings by utilizing approved soils for daily cover at the current cell
 - Available, potential landfill capacity
- ◆ Lengthy court battles and millions spent on legal fees to combat the contract dispute

Potential Costs to Taxpayers

- ◆ Delays in permitting additional capacity at Trail Ridge could result in the city having to haul garbage out of county (\$35 million-plus annually) and doubling of residential solid waste fee
- ◆ Potential legal exposure could cost every man, woman and child in Duval County more than \$200,
- ◆ Limited landfill capacity at Trail Ridge could affect the city's concurrency requirements, impacting growth in Duval County

City of Jacksonville Landfill Contract