ANALYSIS

This Ordinance amends Title 20 – Utilities of the Los Angeles County Code, to authorize the Director of Public Works, or his/her authorized designee, to annually transfer from the Solid Waste Management Fund to the Road Fund or other funds an amount not to exceed thirty percent (30 %) of franchise fee payments received during the fiscal year.

ANDREA SHERIDAN ORDIN
County Counsel

By
TALIN HALABI
Deputy County Counsel
Public Works Division

TH:gm

10/20/10 (requested)
03/24/11 (revised)

ORDINANCE NO. 2011-0027

An ordinance amending Title 20 - Utilities of the Los Angeles County Code, to authorize the Director of Public Works, or his/her authorized designee, to annually transfer from the Solid Waste Management Fund to the Road Fund or other funds an amount not to exceed thirty percent (30 %) of franchise fee payments received during the fiscal year.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 20.70.021 is hereby amended to read as follows:

20.70.021 Payment of franchise fee.

A. As consideration for the grant of a franchise awarded as provided in Section 20.70.020, the franchisee shall pay a franchise fee to the ~~c~~County in such amount as may be determined by the ~~b~~Board of ~~s~~Supervisors, expressed as a percentage of the monthly gross receipts of the franchisee arising from the use, operation, or possession of the franchise. Franchise fee payments shall be deposited in the Solid Waste Management Fund of the Department of Public Works. The Director of Public Works, or his/her authorized designee shall annually determine an amount, not to exceed thirty percent (30 %) of all franchise fee payments received during the current fiscal year, to be transferred from the Solid Waste Management Fund to the Road Fund or other funds on or before June 30 of each fiscal year for purposes including, but not limited to, the collection of solid waste, street sweeping in public rights-of-way, and activities aimed at improving storm-water quality such as reducing litter that enters waterways.

B. As used above, "gross receipts" means any and all fees, charges, and other compensation received directly or indirectly by the franchisee, its affiliates, subsidiaries, parent, and any other person or entity in which the franchisee has a financial interest or which has a financial interest in the franchisee, arising from or attributable to the franchisee's provision of solid waste handling services in accordance with the franchise agreement, but excluding any such compensation attributable to the franchisee's sale of materials or substances having commercial value which have been segregated from other solid waste materials for collection as recyclable materials.

C. The franchise fee shall accrue from the effective date of the franchise and payment shall be due thirty (30) days after the end of each month or as otherwise provided in the franchise agreement. The franchise fee shall be made payable to the "Los Angeles County Department of Public Works" and transmitted to the Department of Public Works, Cashier's Office, 900 South Fremont Avenue, Alhambra, California 91803-1131. Payment of the fee shall be accompanied by a report, verified under oath by the franchisee or a duly authorized representative of the franchisee, setting forth in detail the computation of the amount of the franchise fee payment. The report shall show the total monthly gross receipts of the franchisee for the immediately preceding month, together with such additional data as is reasonably necessary in the opinion of the ~~d~~Director of ~~p~~Public ~~w~~Works to calculate or verify the calculation of the monthly franchise fee payment.

D. Unpaid franchise fees are delinquent thirty (30) days after they are due. In the event the franchisee fails to pay any franchise fee in full on or before the

delinquency date, the franchisee shall pay a late payment charge equal to ten~~10~~ percent (10 %) of the unpaid amount. As an additional late payment charge, an assessment of interest will accrue at the rate of two percent of the unpaid franchise fee due for each month, or any portion thereof, that the unpaid fee plus late payment charges remain delinquent. The ~~d~~Director of ~~p~~Public ~~w~~Works may reduce or waive late payment charges upon a determination that there is a reasonable basis for the franchisee's failure to timely pay the franchise fee. The ~~c~~County is not obligated to notify the franchisee of the accumulation of late payment charges.

E. If the report of gross receipts made by the franchisee should be found to be less than the amount of gross receipts disclosed by audit or review, the franchisee shall pay, within thirty (30) days of billing, the delinquent fee amount and all late payment charges that have accrued under subsection D above. In the event the additional franchise fee amount due to the ~~c~~County exceeds two percent (2 %) of the total amount that should have been paid as determined by such audit or review, the franchisee shall pay the cost of the audit or review unless the ~~d~~Director of ~~p~~Public ~~w~~Works determines that there is a reasonable basis for the failure to report or pay.

F. If overpayment of the franchise fee is disclosed by an audit or review, the franchisee shall take the amount of overpayment as a credit against subsequent franchise fee payments.

[2070021THCC]

SECTION 2. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Mike Antonovich
Mayor

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of May 24, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Mark Ridley-Thomas		
	Zev Yaroslavsky		
	Don Knabe		
	Michael D. Antonovich		

Effective Date: June 23, 2011

~~Operative Date:~~

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By
Deputy

APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By
Leela Kapur
Chief Deputy County Counsel

S:\Ordinances\County Counsel\2011\2011-0027