

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** November 6, 2006

**FROM:** CITY MANAGER

**SUBJECT:** ADOPTION OF A RESOLUTION TO CONSIDER GRANTING NON-EXCLUSIVE SOLID WASTE FRANCHISES AND SETTING A PUBLIC HEARING

## **RECOMMENDATION**

It is recommended that City Council:

- 1) Adopt a resolution declaring its intention to consider the granting of 12 non-exclusive franchises;
- 2) Set a public hearing for December 11<sup>th</sup>, 2006, at 7:30 p.m., to consider granting these franchises; and
- 3) Direct the City Clerk to publish the resolution at least once in a newspaper of general circulation in the City not less than ten days prior to the date set for the hearing.

## **BACKGROUND**

On November 3, 1992, the City Council adopted the Solid Waste Collection Franchise System. The purpose of that ordinance was to provide standards and procedures for the granting of non-exclusive franchises for solid waste collection and to generate revenue for the preparation and implementation of an Integrated Waste Management Plan and for other municipal purposes.

The franchise is a non-exclusive franchise, allowing a permitted hauler to collect, transport, dispose and/or recycle solid waste kept, accumulated, or produced in the City. The terms and conditions are the payment of a franchise fee based upon 16% of gross monthly receipts; conformance with generally accepted accounting principles for all accounts and revenue arising out of the operations; and specified reporting of collection, disposal, waste reduction, and recycling activities.

Since July 2006, 12 applications have been received by the City. All of the applicants have met the application requirements as set forth in the non-exclusive Solid Waste Franchise section of City Ordinance 8.61.080. Seven of the applicants are current franchisees whose four-year franchise term expires December 31, 2006, three are new

solid waste and recycling collection applicants and two have additional restrictions imposed due to their prior history with the City:

Current franchisees

1. Arrow Disposal Service, Inc.
2. Franks Disposal Company
3. Heritage Disposal, Inc.
4. Looney Bins, Inc.
5. Metropolis Disposal
6. Waste and Recycling Services, Inc.
7. Western Tear-off and Disposal, Inc.

New applicants

1. Complete Service, Inc.
2. Diversion Solutions, Inc. dba General Waste Disposal
3. J & L Hauling & Disposal, Inc.

Applicants with additional restrictions imposed

1. Patriot Services, Inc.
2. Federal Disposal Service

These last two applicants have a history of late franchise fees and tonnage reports with the City as outlined in Exhibit A and B attached. Due to the performance issues, staff recommends additional conditions be imposed on to both Patriot Services, Inc. and Federal Disposal Service as follows:

1. Hauler must submit and maintain a deposit of either \$10,000 or an amount equal to average of 3 months worth of franchise fees as the Director of Public Works may determine, whichever amount is higher, to the City to secure any owed fees. The deposit must be submitted within seven days from the date the franchise agreement is granted and must be replenished within ten (10) days from any draw by the City. The City may draw upon the deposit on five (5) days written notice, and the deposit will be retained by the City until the franchise is terminated.
2. If Hauler is late more than three times within the contract year with tonnage reporting or payment, the franchise may be suspended upon written notice by the Director of Public Works.

The owner of Patriot Services, Inc. was the previous Operations Manager of Active Disposal. Active Disposal was bought out by Athens in 2004, thus terminating the City's franchise with Active.

Federal Disposal Service's franchise expired June 30, 2004, with the owner choosing not to seek renewal at that time.

For those franchisees that Council recommends for approval, the term of the franchise shall be for 18 months beginning on the effective date of the ordinance approving each

franchise application, as specified by ordinance. With an 18-month franchise term, the 12 franchisees shall fall under a fiscal year term (July-June) at the end of this period. Once all franchisees have been converted to fiscal year terms, all franchisees will return to Council for approval once a year at the same time, rather than as two separate groups at the existing six month interval process.

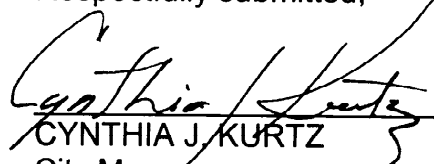
There may be up to four additional renewal terms of one year for the first three terms and six months for the fourth term at the sole discretion of the City Manager, for a maximum potential franchise of five years. The franchisee has no vested or contract right in any such renewal term. There shall be no other renewal of a non-exclusive franchise; however, any person, including any person whose franchise is not renewed, may submit a new application for a new non-exclusive franchise.

A public hearing shall be held at 7:30 p.m., on December 11th, 2006, at the Pasadena Senior Center Multi-Purpose Room, 85 East Holly Street, Pasadena, or as soon thereafter as each of the matters may be heard. At the hearing, all persons desiring will be provided the opportunity to speak in favor of, or in opposition to, the granting of a non-exclusive franchise to the applicant.

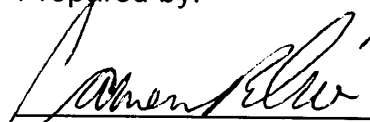
**FISCAL IMPACT**

The City will receive a fee of 16% of gross customer receipts generated by each of the franchisees. Franchisees are required to submit monthly revenue and fee reports to the City. Franchisees are subject to, and the City performs, random audits annually to ensure that the information provided to the City is accurate.

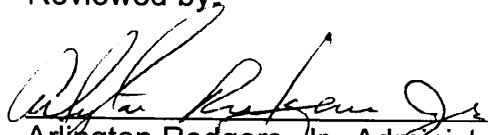
Respectfully submitted,

  
CYNTHIA J. KURTZ  
City Manager

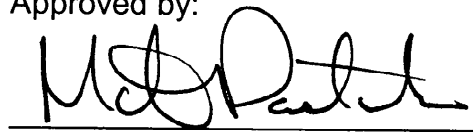
Prepared by:

  
Carmen Rubio, Program Coordinator  
Street Maintenance & Integrated Waste Management

Reviewed by:

  
Arlington Rodgers, Jr., Administrator  
Street Maintenance & Integrated Waste Management

Approved by:

  
Martin Pastucha, Director of Public Works

**Exhibit A**  
**History of Past Performance**  
**Active Disposal**

<b>Fees or Tonnage</b>	<b>Due Date</b>	<b>Date Received</b>	<b>Days Late</b>	<b>Amount Paid</b>
fees and tonnage	March 1, 2000	March 3, 2000	2	\$59.40
fees and tonnage	April 1, 2000	April 14, 2000	13	\$41.80
fees and tonnage	August 1, 2000	September 18, 2000	48	\$20.90
fees and tonnage	September 1, 2000	September 18, 2000	17	\$20.90
fees and tonnage	November 1, 2000	January 4, 2001	64	\$20.90
fees and tonnage	December 1, 2000	January 4, 2001	34	\$37.40
fees and tonnage	February 1, 2001	March 12, 2001	39	\$20.90
fees and tonnage	March 1, 2001	March 12, 2001	11	\$37.40
fees and tonnage	May 1, 2001	July 11, 2001	71	\$44.00
fees and tonnage	June 1, 2001	July 11, 2001	40	\$42.90
fees and tonnage	July 1, 2001	September 12, 2001	73	\$53.90
fees and tonnage	August 1, 2001	September 12, 2001	42	\$53.35
fees and tonnage	September 1, 2001	September 12, 2001	11	\$69.85
fees and tonnage	October 1, 2001	November 27, 2001	57	\$64.90
fees and tonnage	November 1, 2001	November 27, 2001	26	\$97.90
fees and tonnage	January 1, 2002	April 30, 2002	119	\$62.70
fees and tonnage	February 1, 2002	April 30, 2002	89	\$68.20
fees and tonnage	March 1, 2002	April 30, 2002	60	\$77.00
fees and tonnage	April 1, 2002	April 30, 2002	29	\$85.80
fees and tonnage	May 1, 2002	July 10, 2002	71	\$114.40
fees and tonnage	June 1, 2002	July 10, 2002	39	\$144.65
fees and tonnage	July 1, 2002	July 10, 2002	9	\$161.15
fees and tonnage	August 1, 2002	November 22, 2002	113	\$142.45
fees and tonnage	September 1, 2002	November 22, 2002	82	\$174.30
fees and tonnage	October 1, 2002	November 22, 2002	52	\$139.30
fees and tonnage	January 1, 2003	March 12, 2003	70	\$137.20
fees and tonnage	February 1, 2003	March 12, 2003	39	\$158.20
fees and tonnage	March 1, 2003	March 12, 2003	11	\$184.10
fees and tonnage	June 1, 2003	November 11, 2003	163	\$123.90
fees and tonnage	August 1, 2003	November 11, 2003	102	\$112.70
fees and tonnage	September 1, 2003	November 11, 2003	71	\$168.70
fees and tonnage	October 1, 2003	November 11, 2003	41	\$133.70
fees and tonnage	November 1, 2003	November 11, 2003	10	\$161.70
fees and tonnage	December 1, 2003	January 26, 2004	56	\$112.00
fees and tonnage	January 1, 2004	January 26, 2004	25	\$154.00
fees and tonnage	February 1, 2004	July 20, 2004	170	\$150.00
fees and tonnage	March 1, 2004	July 20, 2004	141	\$150.00
fees and tonnage	April 1, 2004	July 20, 2004	110	\$150.00
fees and tonnage	May 1, 2004	October 28, 2004	180	\$112.00
<b>Total Amount Submitted Late</b>				<b>\$3,864.55</b>

**Exhibit B**  
**History of Past Performance**  
**Shubin Services dba Federal Disposal Service**

<b>Fees or Tonnage</b>	<b>Due Date</b>	<b>Date Received</b>	<b>Days Late</b>	<b>Amount Paid</b>
fees and tonnage	March 1, 2000	May 11, 2000	71	\$77.76
fees and tonnage	April 1, 2000	May 11, 2000	40	\$22.55
fees and tonnage	May 1, 2000	May 11, 2000	10	\$109.71
fees and tonnage	June 1, 2000	August 4, 2000	64	\$29.90
fees and tonnage	July 1, 2000	August 4, 2000	35	\$256.60
fees and tonnage	August 1, 2000	August 4, 2000	3	\$483.99
fees and tonnage	September 1, 2000	November 15, 2000	75	\$480.19
fees and tonnage	October 1, 2000	November 15, 2000	45	\$254.97
fees and tonnage	November 1, 2000	November 15, 2000	14	\$364.73
fees and tonnage	December 1, 2000	January 29, 2001	59	\$42.74
fees and tonnage	January 1, 2001	January 29, 2001	28	\$0
fees and tonnage	March 1, 2001	May 27, 2001	87	\$756.66
fees and tonnage	April 1, 2001	May 27, 2001	56	\$61.64
fees and tonnage	May 1, 2001	May 27, 2001	26	\$311.30
fees and tonnage	June 1, 2002	August 1, 2002	61	\$0
fees and tonnage	July 1, 2002	August 1, 2002	31	\$0
fees and tonnage	September 1, 2002	November 18, 2002	78	\$0
fees and tonnage	October 1, 2002	November 18, 2002	48	\$0
fees and tonnage	November 1, 2002	November 18, 2002	17	\$0
fees and tonnage	January 1, 2003	February 5, 2003	35	\$0
fees and tonnage	February 1, 2003	February 5, 2003	4	\$0
fees and tonnage	March 1, 2003	May 21, 2003	81	\$0
fees and tonnage	April 1, 2003	May 21, 2003	50	\$0
fees and tonnage	May 1, 2003	May 21, 2003	20	\$0
fees and tonnage	June 1, 2003	July 14, 2003	43	\$0
fees and tonnage	July 1, 2003	July 14, 2003	13	\$0
fees and tonnage	August 1, 2003	August 15, 2003	14	\$0
fees and tonnage	September 1, 2003	September 29, 2003	28	\$0
fees and tonnage	October 1, 2003	November 17, 2003	47	\$0
fees and tonnage	November 1, 2003	December 9, 2003	38	\$0
fees and tonnage	December 1, 2003	December 9, 2003	8	\$0
fees and tonnage	February 1, 2004	May 26, 2004	114	\$0
fees and tonnage	March 1, 2004	May 26, 2004	86	\$0
fees and tonnage	April 1, 2004	May 26, 2004	55	\$0
fees and tonnage	May 1, 2004	September 10, 2004	132	\$0
fees and tonnage	June 1, 2004	September 9, 2004	100	\$0
fees and tonnage	July 1, 2004	September 9, 2004	70	\$0
fees and tonnage	August 1, 2004	September 9, 2004	39	\$0
<b>Total Amount Submitted Late</b>				<b>\$3,252.74</b>

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE CITY OF PASADENA'S INTENTION TO  
CONSIDER THE GRANTING OF NON-EXCLUSIVE SOLID WASTE  
FRANCHISES AND THE SETTING OF A PUBLIC HEARING THEREON**

**WHEREAS**, on November 3, 1992, the City Council approved an ordinance which established the Solid Waste Collection Franchise System; and

**WHEREAS**, Section 8.61.080 of the Pasadena Municipal Code as enacted by said ordinance, provides that the City Council shall adopt a resolution declaring its intention to consider the granting of non-exclusive franchises and setting a hearing thereon; and

**WHEREAS**, staff has reviewed the applications and found that they comply with the provisions as set forth in said application; and

**WHEREAS**, the applications have been presented to and reviewed by the City Council;

**WHEREAS**, the City Council desires to hold such hearing;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PASADENA THAT:**

- I. The following applicants shall be considered for award of a non-exclusive franchise to collect refuse in the City of Pasadena. All have provided the information required by the Director of Public Works.

The potential franchisees are:

1. Arrow Disposal Service, Inc.
2. Complete Service, Inc.
3. Diversion Solutions, Inc. dba General Waste Disposal
4. Federal Disposal Service
5. Franks Disposal Company
6. Heritage Disposal, Inc.
7. J & L Hauling & Disposal, Inc.
8. Looney Bins, Inc.
9. Metropolis Disposal
10. Patriot Services, Inc.
11. Waste and Recycling Services, Inc.
12. Western Tear-off and Disposal, Inc.

Each approved franchise shall be subject to the terms and conditions specified in the City Charter, in the non-exclusive franchise system ordinance, in the

ordinances and resolutions granting the franchise, and in all other applicable federal, state, and local laws and regulations.

For those franchisees that Council recommends for approval, the term of the franchise will begin on the date the franchise agreement is signed and will end on June 30, 2008. Renewal terms will be for one year and will each start on July 1 of the following year.

- II. Patriot Services, Inc. and Federal Disposal Service have a history of late franchise fees and tonnage reports with the City. Due to the performance issues, staff recommends additional conditions be imposed on to both Patriot Services, Inc. and Federal Disposal Service as follows:
  1. Hauler must submit and maintain a deposit of either \$10,000 or an amount equal to average of 3 months worth of franchise fees as the Director of Public Works may determine, whichever amount is higher, to the City to secure any owed fees. The deposit must be submitted within seven days from the date the franchise agreement is granted and must be replenished within ten (10) days from any draw by the City. The City may draw upon the deposit on five (5) days written notice, and the deposit will be retained by the City until the franchise is terminated.
  2. If Hauler is late more than three times within the contract year with tonnage reporting or payment, the franchise may be suspended upon written notice by the Director of Public Works.
- III. A public hearing shall be held at 7:30 p.m., on December 11th, 2006, at the Pasadena Senior Center Multi-Purpose Room, 85 East Holly Street, Pasadena, or as soon thereafter as each of the matters may be heard. At the hearing, all persons desiring will be provided the opportunity to speak in favor of, or in opposition to, the granting of a non-exclusive franchise to the applicant.



**ADOPTED** at the regular meeting of the Council of the City of Pasadena on this \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jane Rodriguez, City Clerk

PUBLISH:

APPROVED AS TO FORM:



10/31/06

\_\_\_\_\_  
Nicholas George Rodriguez  
Assistant City Attorney