

Agenda Report

TO: CITY COUNCIL

DATE: May 19, 2008

FROM: CITY MANAGER

SUBJECT: PUBLIC HEARING TO CONSIDER GRANTING NON-EXCLUSIVE SOLID WASTE FRANCHISES

RECOMMENDATION:

It is recommended that City Council:

1. Hold a public hearing to consider granting non-exclusive solid waste franchises to: AAA Rubbish, Inc., Allan Company, Allied Waste Services, American Reclamation, A Rent-A-Bin, Athens Services, Consolidated Disposal, Crown Disposal Co., Haul-Away Rubbish, Nasa Services, Southland Disposal, Universal Waste Systems, Valley Vista Services and Ware Disposal;
2. After closure of the public hearing, grant a franchise to all applicants from the date of execution through June 30, 2009, consistent with the Solid Waste Collection Franchise Ordinance; and
3. Direct the City Attorney to prepare the necessary ordinance for the approved applications and authorize the City Manager to enter into the franchise agreements on or after the effective date of the ordinances approving such franchise.

BACKGROUND:

On April 14, 2008, the City Council adopted a resolution declaring its intention to consider the granting of these non-exclusive franchises and set a public hearing date for May 19, 2008.

On November 3, 1992, the City Council adopted the Solid Waste Collection Franchise System Ordinance. The purpose of that ordinance was to provide standards and procedures for the granting of non-exclusive franchises for solid waste collection at commercial, industrial and multi-family residential accounts. On August 6, 2007, City Council approved an action to close the solid waste franchise system to any new franchisees. These 14 applications represent renewals.

The franchise is a non-exclusive franchise, permitting the 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 percent 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.

The following proposed franchisees have completed applications and comply with the provisions as set forth in city Ordinance, 8.61.080. Both franchises met or exceeded the minimum recycling diversion rate of 50 percent from January 2007 through December 2007.

Franchises Requesting Franchise Renewal	Average Recycling Diversion Percentage
<i>AAA Rubbish, Inc.</i>	<i>75%</i>
<i>Allan Company</i>	<i>100%</i>
<i>Allied Waste Services</i>	<i>66%</i>
<i>American Reclamation</i>	<i>72%</i>
<i>A Rent-A-Bin</i>	<i>57%</i>
<i>Athens Services</i>	<i>50%</i>
<i>Consolidated Disposal</i>	<i>58%</i>
<i>Crown Disposal Co.</i>	<i>91%</i>
<i>Haul-Away Rubbish</i>	<i>50%</i>
<i>Nasa Services</i>	<i>74%</i>
<i>Southland Disposal</i>	<i>52%</i>
<i>Universal Waste Systems</i>	<i>54%</i>
<i>Valley Vista Services</i>	<i>53%</i>
<i>Ware Disposal</i>	<i>0% (no business)</i>

Original Applications are on file in the Street Maintenance and Integrated Waste Management office and have been certified by staff to be accurate and complete. Each approved franchise shall be subject to the terms and conditions specified in the City Charter, in the non-exclusive franchise agreement, in the ordinances and resolutions granting the franchise, and in all other applicable federal, state, and local laws and regulations.

Ware Disposal indicates 0% diversion because franchisee did not conduct business of solid waste/recycling collection during the one year franchise term.

The following revisions to the franchise ordinance were approved in concept by the City Council on February 11, 2008, and will be included in the requirements of the franchise holder's user revision of the underlying ordinance.

The regulatory mechanisms and standards include:

- Clarify franchise fee calculations by defining "gross receipts."
- Establish standards for annual financial audits whenever an audit determines that franchise fees were underpaid by 5% or more.
- Haulers shall submit and maintain a minimum deposit of either \$10,000 or an amount equal to average of three months' worth of franchise fees, whichever amount is higher, to the City to secure any owed fees.
- Increase the recycling diversion rate from the current 50 percent to 60 percent of the material franchise haulers collect or be subject to revocation of their franchise agreement. Construction and demolition recycling requirements shall be increased

from the existing 50% to 75%. Based on the existing diversion rates, the new higher diversion rates of 60% and 75% are achievable.

- Improve emission standards and reduce pollutants by requiring proof from haulers that they are in compliance with the Air Resource Board (ARB) particulate control measure as well as using best available control technology (BACT) for on-road heavy-duty residential and commercial solid waste collection vehicles. All franchisees shall have each waste collection vehicle inspected as per the requirements of the California Highway Patrol and submit such report with yearly franchise renewal application packet. The city manager or his or her designee shall have the authority to require additional inspections as he/she deems necessary to insure that the public health, safety and welfare are adequately protected. All costs of such inspections shall be the responsibility of the waste collector.
- Franchisee shall at intervals of twice per contract year provide to each customer on-call curbside bulky good pick ups and outreach literature regarding bulky items, abandoned items, household hazardous waste, including medical waste, universal waste and electronic waste, as part of the basic commercial solid waste service at no additional cost.
- Limit third-party tonnage recycling exceptions to 25% per month of total tonnage reported by franchisee with the exception of food waste. Currently there are no limits to the amount of recycling a hauler can claim was picked up by a third party (i.e., community groups, recycling centers, etc.) in order to meet the existing 50% diversion rate.
- Modify the definition of exempted haulers to include self-hauled waste generated solely from its own operations and using its own equipment, including but not limited to landscape, arborist, roofer or gardener as well as construction and demolition debris.
- Provide the Director of Public Works the ability to act as the enforcement official to issue a compliance order or administrative citation.
- Provide the Director of Public Works the authority to impound any unlawful container.
- Provide exemption to allow licensed contractors to self-haul inert material as an incidental part of a total construction, remodeling, or demolition service offered by such contractor.
- Maintain every trash container and roll-off box clean and painted with the franchise name and telephone number on both sides (front and back) of said equipment.
- Provide for the termination or suspension of a non-exclusive franchise for failure to pay all franchise fees for one or more months, receive one or more noncompliance notices and/or receive one or more collection notices within the contract year.
- Provide the Director of Public Works the authority to temporarily suspend a franchise for failure to submit reports or payments for one or more months within the contract year.

Franchises shall be awarded from the date of execution through June 30, 2009, with up to four single-year renewal terms at the sole discretion of the City Manager:

- 1st renewal term: July 1, 2009 through June 30, 2010
- 2nd renewal term: July 1, 2010 through June 30, 2011
- 3rd renewal term: July 1, 2011 through June 30, 2012
- 4th renewal term: July 1, 2012 through June 30, 2013

Under the State Guidelines for the implementation of the California Environmental Quality Act (CEQA), the non-exclusive franchise system ordinance is categorically exempt. A

Notice of Exemption was filed with the Los Angeles County Clerk in conjunction with the passage of the non-exclusive franchise system ordinance.

FISCAL IMPACT:

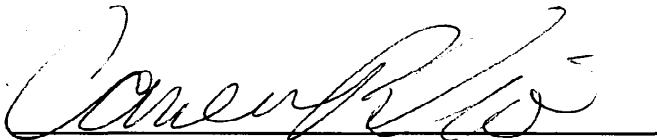
The City will receive a fee of 16 percent of gross customer receipts generated by each of the franchisees. The amount of revenue the City will receive from the franchise holders is based upon the number of customers and level of service they provide and cannot be determined at this time. Franchisees are required to submit monthly revenue and fee reports to the City. Franchisees are subject to, and the City performs, random audits annually to insure that the information provided to the City is accurate.

Respectfully submitted,



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City Manager

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Approved by:



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