

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** June 1, 2009

**FROM:** CITY MANAGER

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

**RECOMMENDATION:**

It is recommended that City Council:

- 1) Acknowledge that the non-exclusive franchise system Ordinance is categorically exempt from the California Environmental Quality Act (CEQA). A Notice of Exemption has been filed with the Los Angeles County Clerk;
- 2) Adopt a Resolution declaring its intention to consider granting renewal of a non-exclusive franchise to three existing franchises;
- 3) Set a public hearing for June 22, 2009, at 7:30 p.m. to consider granting these franchises; and
- 4) 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 include the payment of a franchise fee based upon 19.515 percent of gross monthly receipts (effective July 1, 2009); 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.

On August 6, 2007, City Council approved an action to close the solid waste franchise system to new franchisees under Chapter 8.61 of the Pasadena Municipal Code until further action of City Council. However, a franchisee with the City on or prior to August 6, 2007, may apply for a franchise renewal by following the procedures set forth in the non-exclusive Solid Waste Franchise section of City Ordinance 8.61.070.

The proposed franchisees have completed renewal applications and are in compliance with the provisions set forth in the non-exclusive Solid Waste Franchise section of City Ordinance 8.61.080. The franchisees have no vested or contract right in any such renewal term. All applicants have held a franchise since July 1, 2005, and have since received a yearly franchise renewal at the sole discretion of the City Manager. All Applicants have met the past performance requirements (see attachment A) including the diversion percentage of 60% for solid waste and 75% for construction and demolition debris which is a franchise renewal criteria.

For the franchisees that City Council recommends for approval, the franchise term shall be from July 1, 2009, through June 30, 2010, with up to four one-year renewal terms at the sole discretion of the City Manager:

- 1<sup>st</sup> renewal term: July 1, 2010 through June 30, 2011
- 2<sup>nd</sup> renewal term: July 1, 2011 through June 30, 2012
- 3<sup>rd</sup> renewal term: July 1, 2012 through June 30, 2013
- 4<sup>th</sup> renewal term: July 1, 2013 through June 30, 2014

A public hearing shall be held at 7:30 p.m., on June 22, 2009, in the City Council Chambers, 100 North Garfield Avenue, Room #S249, 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 applicants.

Staff recommends the following applicants for franchise renewal:

<b>Franchisee</b>	<b>City</b>
Direct Disposal, Inc.	Huntington Beach, California
Interior Removal Specialist, Inc.	Southgate, California
Nu-Way Roll-off Service	Monrovia, California

**ENVIRONMENTAL ISSUES:**

Per item 8.61.099 Emission Standards of the Franchise Ordinance, every vehicle operated by a franchise hauler must comply with the emission regulations adopted by the California Air Resources Board. These three haulers are in compliance with the vehicle emission standards.

**FISCAL IMPACT:**

Effective July 3, 2009, the City will receive a fee of 19.515 percent of gross customer receipts generated by each of the franchisees. The amount of revenue generated by each hauler is dependent upon the amount and business conducted in the City and cannot be reasonably estimated. Staff has provided the amount of their past year's franchise fees in Attachment A. 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,



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MICHAEL J. BECK  
City Manager

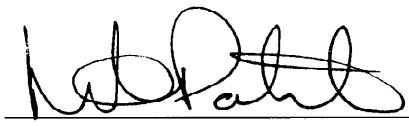
Prepared by:



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Carmen Rubio, Program Coordinator  
Street Maintenance & Integrated Waste Management

Approved by:



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Martin Pastucha, Director of Public Works

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

**A RESOLUTION DECLARING THE CITY OF PASADENA'S INTENTION TO  
CONSIDER THE GRANTING OF NON-EXCLUSIVE SOLID WASTE FRANCHISE  
RENEWALS 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, the non-exclusive franchise system Ordinance is categorically exempt from the California Environmental Quality Act (CEQA). A Notice of Exemption has been filed with the Los Angeles County Clerk; and

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

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, and have been recommended for renewal of a non-exclusive franchise to collect solid waste pursuant to Pasadena Municipal Code, Chapter 8.61. All have provided the information required by the Director of Public Works.

1. Direct Disposal, Inc.
2. Interior Removal Specialist, Inc.
3. Nu-Way Roll-off Service

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.

The proposed franchisees have completed renewal applications and are in compliance with the provisions set forth in the non-exclusive Solid Waste Franchise section of City Ordinance 8.61.080. The franchisees have no vested or contract right in any such renewal term. All applicants have held a franchise since July 1, 2008, and have met the past performance renewal criteria.

For the franchisees that Council recommends for approval, the franchise term shall be from July 1, 2009 through June 30, 2010, with up to four renewal terms at the sole discretion of the City Manager:

1<sup>st</sup> renewal term: July 1, 2010 through June 30, 2011

2<sup>nd</sup> renewal term: July 1, 2011 through June 30, 2012

3<sup>rd</sup> renewal term: July 1, 2012 through June 30, 2013

4<sup>th</sup> renewal term: July 1, 2013 through June 30, 2014

- II. A public hearing shall be held at 7:30 p.m., on June 22, 2009, at the City Council Chambers, 100 N. Garfield Ave., Room #S249, 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:

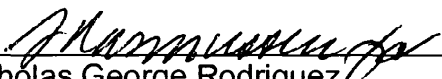
ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mark Jomsky , City Clerk

PUBLISH:

APPROVED AS TO FORM:

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

**ATTACHMENT A  
NON-EXCLUSIVE SOLID WASTE COLLECTION FRANCHISE RENEWALS PAST PERFORMANCE  
ACTUAL DATA OF JULY 1, 2008 THROUGH MARCH 31, 2009**

<b>FRANCHISES</b>	<b>Solid Waste and C&amp;D Recycling Percentage from 7/1/08 to 9/30/08 (50% Recycling Requirement)</b>	<b>C &amp; D Recycling Diversion from 10/1/08 to 03/31/09 (75% Recycling Requirement)</b>	<b>Number of Suspension and Collection Notices Mailed</b>	<b>Current or Past Due Amount For Collections</b>	<b>Tonnage Collected (Tons)</b>	<b>Franchise Fees Paid</b>
<b>Direct Disposal Inc.</b>	<b>85%</b>	<b>84%</b>	<b>0</b>	<b>0</b>	<b>847</b>	<b>\$12,185</b>
<b>Interior Removal Specialist, Inc.</b>	<b>79%</b>	<b>80%</b>	<b>0</b>	<b>0</b>	<b>438</b>	<b>\$1,259</b>
<b>Nu-Way Roll off Service</b>	<b>97%</b>	<b>99%</b>	<b>0</b>	<b>0</b>	<b>880</b>	<b>\$12,822</b>

Nu-Way achieved 97% and 99% recycling rates as the construction and demolition material collected was 100% clean recycling material from construction and demolition sites and transported to recycling facilities that provide between 77% and 100% recycling diversion rate.

There are two separate recycling percentage requirement categories above of 50% and 75% because the diversion percentage requirement increased beginning October 1, 2008 from 50% to 75% as per City Council approval.