

Agenda Report

TO: CITY COUNCIL

DATE: December 11, 2006

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.
2. After closure of the public hearing, grant a franchise to all applicants consistent with the solid waste collection franchise ordinance for an 18-month franchise term. There may be up to four additional renewal terms of one year each at the discretion of the City Manager.
3. Direct the City Attorney to prepare the necessary ordinances for the approved applications and authorize the City Manager to enter into the franchise agreements on or after the effective date of the ordinance approving such franchise.

BACKGROUND:

On November 6, 2006, 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 December 11, 2006.

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.

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 the ordinance. All of these applications provide the information as set forth in the non-exclusive Solid Waste Franchise System, section of the City Ordinance, 8.61.080.

The proposed franchisees are:

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

The owner of Patriot Services, Inc. was previously employed by Active Disposal. As the Operations Manager of Active Disposal he was responsible for numerous aspects of the business. The history of compliance with the reporting and franchise payments as detailed in Attachment A demonstrates a lack of timely compliance with the City's requirements. Because this is a new firm to our franchise system, it was determined that additional conditions be placed on Patriot Services, Inc. to assure compliance with franchise requirements.

Federal Disposal Service's franchise expired on June 30, 2004, with the owner choosing not to seek renewal at that time. Federal Disposal did not conduct business in the City for the last two years of their franchise. During this time they failed to submit the required monthly reports indicating no business for that month. The City did eventually receive all the reports, but not in the timeframe required by the franchise agreement. Due to their history of late reports and franchise payments, it was determined that additional conditions be placed on Federal Disposal to assure timely and accurate reporting of franchise requirements.

Due to the performance issues outlined above, staff recommends additional conditions be imposed on both haulers as follows:

1. Hauler must submit and maintain a deposit of either \$10,000 or an amount equal to average of three 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 days from any draw by the City. The City may draw upon the deposit on five 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.

For the seven current franchisees, each franchisee met or exceeded the minimum recycling diversion rate of 50 percent from January 2006 through September 2006.

Franchises Requesting Franchise Renewal	Average Recycling Diversion Percentage (January through September 2006)
ARROW ROLLOFF/TARGET	75%
FRANK'S DISPOSAL	100%
HERITAGE DISPOSAL	59%
LOONEY BINS	79%
METROPOLIS DISPOSAL	79%
WASTE & RECYCLING SERVICES	64%
WESTERN TEAR OFF & DISPOSAL	59%

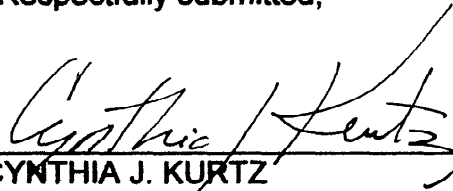
Copies of the franchise applications are attached as Attachment C, and are also on file with the Street Maintenance and Integrated Waste Management office. The applications have been certified by staff to be accurate and complete. Each approved franchise shall be subject to the terms and conditions specified in the City Charter, in the non-exclusive franchise system ordinance, in the ordinances and resolutions granting the franchise, and in all other applicable federal, state, and local laws and regulations.

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. 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,



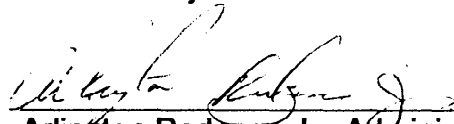
CYNTHIA J. KURTZ
City Manager

Prepared by:



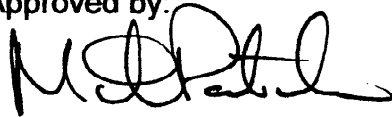
Carmen Rubio, Program Coordinator
Street Maintenance & Integrated Waste Management

Reviewed by:



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

Approved by:



Martin Pastucha, Director of Public Works

ATTACHMENT A: Active Disposal

ATTACHMENT B: Shubin Services dba Federal Disposal Service

ATTACHMENT C: Applications