

## REPORT TO CITY COUNCIL

**DATE:** MAY 23, 2007

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER

**BY:** LOUIS CELAYA, ASSISTANT TO THE CITY MANAGER

**SUBJECT:** INTERGRATED RESIDENTIAL SOLID WASTE FRANCHISE AGREEMENT – G.I. INDUSTRIES & USA WASTE OF CALIFORNIA

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The City currently has a nonexclusive residential franchise agreement with GI Industries for the provision of residential solid waste and recycling collection services. In March 2006, the City was advised by its other residential service provider, Consolidated Disposal Services, that it wished to negate their agreement and no longer provide residential refuse services for City residents, and transferred its accounts to G.I. Industries. Additionally, staff had arranged a freeze on the current residential rates during the transition period. In April 2006, the City Council approved the transfer and termination of the non-exclusive franchise agreement with Consolidated Disposal Services, a rate freeze, and directed staff to begin negotiations with G.I. Industries for a possible exclusive residential franchise agreement to be held by G.I. Industries.

The sudden departure of Consolidated Disposal Service from the City, as well as in other cities they have serviced, the continual discussions in Sacramento to change State mandated diversion rate from 50% to a potential 75% and the annual landfill rate increases occurring at County of Los Angeles Sanitation District landfills, has raised the level of awareness that the solid waste disposal arena is changing. These constant changes make it vital that a consideration to change from a non-exclusive agreement to a exclusive franchise agreement for the provision of residential refuse services is needed for the protection of the our residents, the rates they pay currently and in future, and securing of necessary services to insure all their refusing and recycling disposal needs are met conveniently. From the initial point and throughout this entire process, the protection of our residents and their needs has been the guiding factor and paramount to our success.

In December 2006, the City Council approved staff's recommendation to avoid the automatic extension of current non-exclusive franchise agreement (scheduled to automatically extend the agreement to December 2009) and extend it until June 30, 2007, while staff and G.I. Industries continued negotiations. After several months, staff and G.I. Industries have concluded negotiations and agreed to the proposed franchise agreement.

The new franchise agreement is scheduled to commence on July 1, 2007 and terminate June 30, 2013, with an automatic three year extension scheduled on July 1, 2010. There is also, upon the mutual agreement of the parties, an option to extend the agreement for three additional years, thereby extending the agreement until January 30, 2016. The automatic extension can be avoided via written notification by either party prior to April 1, 2010. The franchise agreement also provides for periodic reviews and additionally three performance reviews during the term of

the agreement whereby staff can evaluate G.I. Industries' performance and compliance with the agreement.

Under the new proposed franchise agreement, the automated curbside residential services will remain in its same six level structure thereby still affording residents the ability to select a service that best suits their needs.

Service Level	Solid Waste Cart (in Gallons)	Recycling Cart (in Gallons)	Green Waste Cart (In Gallons)
Mini-Can	32	65	95
Basic	65	65	95
Level Two	95	65	95
Level Three	2 Basic Carts	65	95
Level Four	1 Basic Cart + 1 Level 2 Cart	65	95
Level Five	2 Level 2 Carts	65	95

Current existing services such as on-call bulky item pick ups, holiday tree collection, permanent bins service and collection from city parks are also present in the new agreement. New services being provided under the new franchise agreement include, at no cost to the residents, an annual household hazardous waste collection event to be held in the City, and an Electronic and Universal Waste collection program. Also senior discounts for residential cart service and the provision of trash bin services for City and Community events and limited City projects are required by G.I. Industries as part of this agreement.

Since April 2006, the rate for curbside service has remained frozen with two different rate structures for residential curbside service due to the departure of Consolidated Disposal Services. Staff's goal from the initial start was to secure one unified rate for the all accounts while attempting to establish reasonable and fair initial starting rate, and achieve a hold on that rate. The last rate increase for G.I. Industries customers was in January 2006. After much discussion, a rate of \$22.50 for basic curbside service for all customers has been established and will be effective July 1, 2007. This rate will remain unchanged until January 1, 2009. The proposed initial rates will result in an increase for some residents of approximately 2.4%, about \$0.54 (less than CPI), while other residents will see a decrease in their rates as a result of the current two-tier structure.

Future rate adjustments will be established by escalation, calculated percentage changes in the Customer Price Index (CPI) for September 1 to be escalated by one hundred percent. The Company must submit new proposed rates by October 30<sup>th</sup> of each calendar with supporting documentation for review by the City's solid waste consultant or staff. The company may also apply for additional solid waste rate adjustment beyond escalation, if the company can demonstrate that the operational costs (fuel, insurance, etc.) have substantially increased. Documentation is required and approval is subject to the discretion of the City Manager and not guaranteed. Additional factors taken into consideration that affect the supplemental rate adjustment request include:

- Overall customer satisfaction

- Satisfactory compliance with all provisions of this Agreement
- Company has complied with solid waste diversion requirements as defined and mandated by the state of California and implemented by the City of Agoura Hills

The additional solid waste rate adjustment is not available until January 2009.

Also within the confines of the new agreement are new enhancements and protections afforded to the City that currently are not present in the existing agreement. The proposed agreement contains a “Most Favorite City” clause whereby future exclusive agreements entered into between G.I. Industries and neighboring cities results in the City of Agoura Hills receiving rates for residential solid waste service reduced to an amount not greater than the amount charged to customers in that neighboring city (lowest rates). Another enhancement is an Indemnification for Failure to Meet Diversion Requirements (AB 939 Indemnification). The indemnification provides protection to the City from and against all fines and penalties imposed by the California Integrated Waste Management Board if the source reduction and recycling goals established by AB 939, or similar legislative reenactments, are not met by the City.

The proposed agreement also includes Liquidated Damages for Service Performance Standards where per incident and per day monetary fines are assessed for failures by the company in the areas of collection reliability, collector quality, customer responsiveness, timely submission to the City and accuracy of billings. Finally the agreement also affords the City Right to Direct Changes to services including new diversion programs or innovative services, the Right to Acquire Additional Services for the provision of additional solid waste services not otherwise provided for in the agreement if the City and G.I. Industries cannot agree on terms, and the provision of a \$250,000 Faithful Performance Bond fifteen (15) days after the operating date of the agreement.

Staff has presented the proposed franchise agreement to the Public Works Committee for discussion on two separate occasions and the Committee is in full support of the proposed agreement and rates.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

## **RECOMMENDATION**

Staff respectfully recommends the City Council approve the Franchise Agreement for Integrated Exclusive Residential Management Services with GI Industries and approve Resolution No. 07-1445 establishing initial rates for residential waste collection services.

Attachment: Resolution No. 07-1445  
Residential Franchise Agreement