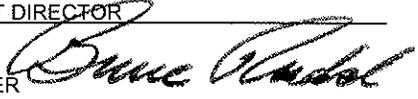


AGENDA ITEM NO.

COUNCIL MEETING 9/8/11

APPROVED BY \_\_\_\_\_

DEPARTMENT DIRECTOR \_\_\_\_\_

CITY MANAGER 

September 8, 2011

**FROM:** MARK SCOTT, City Manager  
Office of the City Manager

BRUCE A. RUDD, Assistant City Manager  
Office of the City Manager

**SUBJECT:** APPROVE A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO AWARD FRANCHISES TO ALLIED WASTE AND MID VALLEY DISPOSAL IN PREPARATION FOR HOLDING A PUBLIC HEARING ON THE MATTER AND A FINAL VOTE TO AWARD THE FRANCHISES ON SEPTEMBER 22, 2011

#### RECOMMENDATION

It is recommended that the City Council approve a resolution declaring its intention (Exhibit A) to award franchises to Allied Waste (Allied) and Mid Valley Disposal (Mid Valley) (North Area and South Area respectively), in preparation for holding a public hearing on the matter and a final vote to award the franchises on September 22, 2011.

#### EXECUTIVE SUMMARY

In 2010 and early 2011, the City proposed and developed a Commercial Solid Waste (CSW) franchising system, competitively procuring contractors Allied Waste Services and Mid Valley Disposal (Allied and Mid Valley), as well as negotiating contracts and presentations to the City Council. In December 2010, the City Council approved the Resolution of Intent (ROI) to award these franchises. However, the City Council did not approve the implementing ordinance granting the franchises in January 2011. Due to ongoing budget challenges, the Mayor included the franchise recommendation in her proposed FY 2012 budget, which was subsequently approved by City Council on June 24, 2011. It is estimated that the City will receive an annual benefit of approximately \$2.5 million from franchise fees, in addition to recycling-related revenues and free solid waste/recycling services from franchisees that can be used to support essential community services, including public safety, parks and community centers.

Therefore, it is recommended that the City Council follow the process outlined in City Charter Section 1301 and approve a resolution declaring its intention to award franchises to Allied Waste and Mid Valley, and calling for a public hearing on the matter and a final vote to award the franchises on September 22, 2011.

#### BACKGROUND

In 2010 and early 2011, the City, with assistance from the outside consulting firm of HF&H Consultants, proposed and developed a Commercial Solid Waste (CSW) franchising system, procuring contractors Allied Waste Services and Mid Valley Disposal (Allied and Mid Valley), as well as negotiating contracts and presentations to the City Council. In December 2010, the City Council approved the Resolution of Intent (ROI) to award the franchises. However, the City Council did not approve the ordinance granting the franchises in January 2011. In May of this year, the Mayor again included the franchise recommendation in her proposed

## REPORT TO THE CITY COUNCIL

Approve A Resolution Declaring City Council's Intention To Franchise The City's Commercial Solid Waste Operations

September 8, 2011

Page 2

FY 2012 budget due the continued slowing of the economy and the subsequent challenges that were affecting the City's ability to provide essential community services. The Council, recognizing this fiscal reality, adopted this recommendation on June 24, 2011, when it approved the City's FY12 Budget.

In addition to generating approximately \$2.5 million in additional revenue, CSW franchising will result in environmental benefits to the community through a new, incentive-based rate structure, expanded customer service and outreach, and additional recycling and food waste composting services that will help to reduce the amount of waste material being transported to the local land fill. The impact of the franchise to employees is will be mitigated through the one-year employment guarantee offered by the private haulers.

The attached franchise agreements (Exhibit B) provide the contract management tools contained in these agreements include all of the provision requested by Council including which further limitations on the amounts in which rates can be increased, a five-year performance review of the Contractors as well as an eight -year evaluation of the franchising system. The overall rates versus the current City rates under these two agreements are approximately 5% for Allied customers and 2% for Mid Valley customers.

As has been previously discussed, the failure to move forward with a CSW franchise will require the Council to take actions that are harmful to the public and to employees, such as potentially closing fire stations and community centers, reducing the senior meals program, and laying off more City employees who would not have an immediate employment opportunity in the private sector upon losing their job with the City.

### Next Steps

Per the City Charter, the first action needed to move forward with the franchising of the CSW operation is the approval of the attached resolution (Exhibit A) by the City Council declaring its intention to franchise the City's commercial solid waste operations, and declaring its intent to hold a public hearing prior to granting the franchises. The next step in the process, which will occur on September 15, 2011, is the introduction of an ordinance that would allow for the franchising of the CSW services, followed by a public hearing on September 22, 2011. At the conclusion of the public hearing, the City Council will decide whether to grant franchises to Mid Valley and Allied Waste.

Once approved, the City Manager or his designee will execute the agreements with both Allied and Mid Valley. The franchisees, with assistance from the City, will then begin the process of transitioning to a franchised operation that is planned to occur no later than December 1, 2011. The transition plan has already been vetted by all parties and includes frequent interaction and testing to assure a smooth transition.

### **FISCAL IMPACT**

It is estimated that the City will receive an annual benefit of approximately \$2.5 million from franchise fees, not including recycling-related revenue and free solid waste/recycling services from franchisees that can be used to support general government purposes such as public safety, parks, and community centers.

#### Attachments:

Exhibit A – Resolution Declaring the Intent to Award Franchises to Allied and Mid Valley

Exhibit B - Commercial Solid Waste Franchise Agreements with Allied and Mid Valley

## Exhibit A

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DECLARING THE CITY COUNCIL'S INTENTION TO AWARD FRANCHISES TO ALLIED WASTE (ALLIED) AND MID VALLEY DISPOSAL (MID VALLEY) IN PREPARATION FOR HOLDING A PUBLIC HEARING ON THE MATTER AND A FINAL VOTE TO AWARD THE FRANCHISES ON SEPTEMBER 22, 2011

RESOLVED, by the City Council of the City of Fresno, California, that:

WHEREAS, pursuant to Article XIII of the Charter of the City of Fresno, proceedings for the establishment of exclusive commercial solid waste franchises may be instituted by the legislative body by a Resolution of Intention to adopt an Ordinance granting the franchises;

WHEREAS, this Council, as a legislative body of the City of Fresno (the "City"), hereby determines that it is in the best interest of the City that this Council institute proceedings for the establishment of exclusive commercial solid waste franchises pursuant to the Charter in order to facilitate the administration and hauling of commercial solid waste within the City;

WHEREAS, the City has completed a Request for Proposal (RFP) process for franchising its commercial solid waste operations to private companies;

WHEREAS, Allied and Mid Valley are recommended as franchisees based on the qualitative and quantitative selection criteria that were established;

WHEREAS, subsequent to completion of the RFP process without award of any franchises, the City re-commenced negotiations with Allied and Mid Valley, based in part on their being recommended for award of franchises as a result of the RFP process;

WHEREAS, in the event the exclusive commercial solid waste franchises are established, it is the intention of the City to place both of these haulers in charge of handling the administration and hauling within specific defined quadrants of the City.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF FRESNO HEREBY:

1. The above recitals are true and correct.
2. Two exclusive commercial solid waste franchises are proposed to be established within different sections of the City under the terms of Article XIII, "Franchises" of the City Charter.

## Exhibit A

3. The City Council hereby finds and determines that the grant of the exclusive solid waste franchise agreement for a portion of the City to Mid Valley and the grant of the exclusive solid waste franchise agreement for another portion of the City to Allied is in the public interest. The franchises granted herein are awarded for a period of 10 years from the commencement date of the franchise agreement, provided that the provisions of this Resolution and the exclusive franchise agreements have been agreed to in writing by the Grantees, (Mid Valley and Allied) and the Grantees have executed the exclusive franchise agreements.
4. The form of the exclusive franchise agreements are contained in Exhibit "B" which is attached hereto and incorporated by reference.
5. A public hearing on the granting of these exclusive franchises shall be held at 3:00 p.m. on Thursday, September 22, 2011 at the regular meeting of the City Council, Fresno City Hall, 2600 Fresno Street, Fresno, California 93721. The hearing may be continued from time to time as permitted by the Code.
6. At the time and place set forth in this Resolution for the public hearing, any interested person, may appear and be heard, and the testimony of all interested persons for or against the granting of the exclusive franchise agreements will be heard and considered. Any protest may be made either orally or in writing. All written protest shall be filed with the City Clerk on or before the time fixed for the public hearing, written protest may be withdrawn in writing at any time prior to the conclusion of the hearing.
7. The City Clerk is hereby directed to publish a Notice (the "Notice") of the hearing as defined in Section 1301 of the Charter of the City of Fresno, in the form required by the Charter, within fifteen (15) days of the passage of this Resolution, in a newspaper of general circulation within the City. Said Notice shall be published at least ten (10) days prior to the date of the public hearing.

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**Exhibit A**

8. At the conclusion of the hearing, if the Council determines to grant one or both of the commercial solid waste franchise agreements, it shall adopt an ordinance granting the franchises on the terms and conditions specified in this Resolution.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF FRESNO )  
CITY OF FRESNO )

I, REBECCA E. KLISCH, Interim City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

Mayor Approval: \_\_\_\_\_, 2011  
Mayor Approval/No Return: : \_\_\_\_\_, 2011  
Mayor Veto: \_\_\_\_\_, 2011  
Council Override Vote: \_\_\_\_\_, 2011

REBECCA E. KLISCH  
Interim City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY:   
David P. Hale, Chief Assistant 8/16/11