



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 04-21-08

Approved

Date

4/24/08

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: TERMINATION OF THE COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE WITH THE RESIDENTIAL BIN CO., INC.**

## RECOMMENDATION

- 1) Adopt an ordinance repealing Ordinance No. 27748 to terminate the Commercial Solid Waste and Recyclables Collection Franchise with The Residential Bin Co., Inc.
- 2) Adopt a resolution authorizing the Director of the Environmental Services Department to send a notice to The Residential Bin Co., Inc., terminating the Commercial Solid Waste and Recyclables Collection Franchise Agreement effective July 1, 2008.

## OUTCOME

In the event The Residential Bin Co., Inc.'s franchise is terminated, the grantee will have no further right or authority to engage in commercial solid waste or commingled recyclables collection, transportation, or disposal operations in the City.

## BACKGROUND

On May 9, 2006, the Council approved Ordinance No. 27748 granting a Commercial Solid Waste and Recyclables Collection Franchise to The Residential Bin Co., Inc. (Residential Bin). In addition, Residential Bin entered into a non-exclusive Commercial Solid Waste Franchise Agreement with the City for a term beginning July 1, 2006 and ending June 30, 2007. This Agreement authorized Residential Bin to collect solid waste and commingled recyclables from San José businesses.

On May 24, 2007, Residential Bin requested an extension of its Franchise Agreement with the City to June 30, 2008. However, on June 4, 2007, Residential Bin requested a voluntary suspension of its Franchise Agreement. Residential Bin discontinued providing service to San José customers in June 2007. In February 2008, Residential Bin requested that the Franchise be terminated effective June 30, 2008.

### ANALYSIS

Under San José Municipal Code section 9.10.1690, a Commercial Solid Waste and Recyclables Collection Franchise granted to a Franchisee may be terminated by the City Council. In the event a franchise is terminated, the grantee shall have no right or authority to engage in commercial solid waste or commingled recyclables collection, transportation, or disposal operations in the City. Residential Bin services less than 1% of the solid waste market. Terminating Residential Bin will have a minimum impact on the community.

### EVALUATION AND FOLLOW-UP

This action does not address any performance measures.

### PUBLIC OUTREACH/INTEREST

Although the criteria below do not apply to this item, this memorandum will be posted on the City's website for the Council Agenda of May 13, 2008.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

### COORDINATION

This memorandum was coordinated with the City Attorney's Office and Planning, Building, and Code Enforcement.

HONORABLE MAYOR AND CITY COUNCIL

04-21-08

**Subject: Residential Bin Co., Inc., Franchise Termination**

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**FISCAL/POLICY ALIGNMENT**

Not applicable

**COST SUMMARY**

Residential Bin reported collecting 243 cubic yards of material from May 2006 through March 2007, which represents less than 0.2% of the total waste stream collected by all franchised haulers. Residential Bin was a hauler exempt from paying the franchise fee on the first 20,000 cubic yards collected. Therefore, terminating this franchise should have no effect on the General Fund.

**CEQA**

Negative Declaration, PP92-11-308.



JOHN STUFFLEBEAN  
Director, Environmental Services

Attachments

For questions please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557.

**DRAFT**

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE  
AUTHORIZING THE DIRECTOR OF ENVIRONMENTAL  
SERVICES TO SEND A NOTICE TO THE RESIDENTIAL BIN  
CO., INC. TERMINATING THE COMMERCIAL SOLID WASTE  
AND RECYCLABLES COLLECTION FRANCHISE**

**WHEREAS**, on May 9, 2006, the City Council held a public hearing to consider the application from The Residential Bin Co., Inc. for a Commercial Solid Waste and Recyclables Collection Franchise; and

**WHEREAS**, on May 23, 2006, the Council adopted Ordinance No. 27748 granting such franchise to The Residential Bin Co., Inc.; and

**WHEREAS**, on May 13, 2008, in response to the request of The Residential Bin Co., Inc. that its Commercial Solid Waste and Recyclables Collection Franchise be terminated, the Council approved an ordinance repealing Ordinance No. 27748 effective July 1, 2008;

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# DRAFT

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
SAN JOSE:

The Director of Environmental Services is hereby authorized to send a notice to The Residential Bin Co., Inc. that it's Commercial Solid Waste and Recyclables Collection Franchise is terminated effective July 1, 2008.

ADOPTED this 13<sup>th</sup> day of May 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk

# DRAFT

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE REPEALING ORDINANCE  
NO. 27748 TO TERMINATE THE COMMERCIAL SOLID WASTE AND  
RECYCLABLES COLLECTION FRANCHISE PREVIOUSLY GRANTED TO  
THE RESIDENTIAL BIN CO., INC.**

**WHEREAS**, on May 9, 2006, the City Council held a public hearing to consider the application from The Residential Bin Co., Inc. for a Commercial Solid Waste and Recyclables Collection Franchise; and

**WHEREAS**, on May 23, 2006, the Council adopted Ordinance No. 27748 granting such franchise to The Residential Bin Co., Inc.; and

**WHEREAS**, The Residential Bin Co., Inc. has requested that its Commercial Solid Waste and Recyclables Collection Franchise be terminated;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

**SECTION 1.** Ordinance No. 27748 is hereby repealed effective July 1, 2008.

**PASSED FOR PUBLICATION OF TITLE** this 13<sup>th</sup> day of May, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
CHUCK REED  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk