

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Dave Klotzle, City Engineer/Public Works Director 
Prepared by: Shaun Kroes, Senior Management Analyst 

DATE: May 9, 2014 (CC Meeting of 05/21/14)

SUBJECT: Consider Resolution Amending the City of Moorpark Franchise Agreements with G.I. Industries and Moorpark Rubbish Disposal, for both Residential and Commercial Solid Waste Services, and Authorize the City Manager to Execute the Amendments to the Agreements to Extend Term to December 31, 2014

BACKGROUND

In December, 2010, the City Council (Council) approved the extension of the Franchise Agreements with both G.I. Industries and Moorpark Rubbish Disposal (Franchise Agreements) for six months from their expiration date of December 20, 2010, to June 30, 2011, and in May, 2011, the Council again approved by resolution the extension of the Franchise Agreements for an additional six months from June 30, 2011, to December 31, 2011. On December 7, 2011, Council extended the term by another two months to expire on February 29, 2012, and on February 1, 2012, Council extended the term by an additional two months to expire on April 30, 2012. On April 18, 2012, Council again extended the term by an additional five months to expire on September 30, 2012, and on July 18, 2012, Council extended the term by an additional three months to expire on December 31, 2012. On December 5, 2012, Council again extended the term by an additional six months to expire on June 30, 2013. On June 5, 2013, Council again extended the term by an additional six months to expire on December 31, 2013. On November 6, 2013, Council again extended the term by an additional six months to expire on June 30, 2014. The Franchise Agreements allow annual rate adjustments to be effective on January 1 however; no adjustments have been approved since January 1, 2011.

DISCUSSION

Council is being asked to consider amending the Franchise Agreements, to extend the Agreements for an additional six months through December 31, 2014, so that City Staff can continue to negotiate terms of the Franchise Agreements including options for additional service enhancements. Council is also being asked to defer consideration of the annual rate adjustment for the same period.

FISCAL IMPACT

No fiscal impact.

STAFF RECOMMENDATION

1. Adopt Resolution No. 2014 - _____, Amendment to City of Moorpark Franchise Agreements between the City of Moorpark and G.I. Industries and the City of Moorpark and Moorpark Rubbish Disposal for Providing Commercial Solid Waste and Recycling Services and Residential Solid Waste and Recycling Services to Extend Term to December 31, 2014.
2. Authorize the City Manager to execute the amendments to the Franchise Agreements subject to final language approval of the City Manager and City Attorney.

Attachment A – Draft Resolution

Attachment B – G.I. Industries Commercial Agreement Amendment No. 9

Attachment C – G.I. Industries Residential Agreement Amendment No. 10

Attachment D – Moorpark Rubbish Disposal Commercial Agreement Amendment No. 9

Attachment E – Moorpark Rubbish Disposal Residential Agreement Amendment No. 10

RESOLUTION NO. 2014 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING THE FRANCHISE AGREEMENTS BETWEEN THE CITY OF MOORPARK AND G.I. INDUSTRIES AND THE CITY OF MOORPARK AND MOORPARK RUBBISH DISPOSAL FOR PROVIDING RESIDENTIAL SOLID WASTE SERVICES AND COMMERCIAL SOLID WASTE SERVICES TO EXTEND TERM TO DECEMBER 31, 2014

WHEREAS, the City provides residential and commercial solid waste and recycling collection services; and

WHEREAS, on September 18, 2002, the City Council granted two exclusive Franchise Agreements with G.I. Industries and two exclusive Franchise Agreements with Moorpark Rubbish Disposal for the collection, transportation, recycling, and disposal of residential solid waste and commercial solid waste in designated areas within the City limits; and

WHEREAS, the Franchise Agreements included an expiration date of December 31, 2010, with an option to extend the term for up to an additional two (2) years, and Franchise Agreements were extended for six (6) months to June 30, 2011 with the adoption of Resolution Numbers 2010-2977, 2010-2978, 2010-2979, and 2010-2980, extended for another six (6) months to December 31, 2011 with the adoption of Resolution Number 2011-3024, and extended again for two (2) months to February 29, 2012 with the adoption of Resolution Number 2011-3076, and extended again for another two (2) months to April 30, 2012 with the adoption of Resolution Number 2012-3085, and extended again for another five (5) months to September 30, 2012 with the adoption of Resolution Number 2012-3102, and extended again for another three (3) months to December 31, 2012 with the adoption of Resolution Number 2012-3125; and extended again for another six (6) months to June 30, 2013 with the adoption of Resolution Number 2012-3147; and extended again for another six (6) months to December 31, 2013 with the adoption of Resolution Number 2013-3194; and extend again for another six (6) months to June 30, 2014 with the adoption of Resolution Number 2013-3234; and

WHEREAS, the Franchise Agreements state that annual rate adjustments shall be effective each January 1 during the term of the Franchise Agreements, and

WHEREAS, the City Council declares its intention to further extend the term of the Franchise Agreements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK,
DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Franchise Agreements for Residential Solid Waste Services and for Commercial Solid Waste Services, Section 2, shall be amended to include "The collection services to be provided pursuant to this Agreement shall begin on October 1, 2002, and end on December 31, 2014, unless sooner terminated."

SECTION 2. The Franchise Agreements for Residential Solid Waste Services and for Commercial Solid Waste Services, Exhibit G.A, shall be amended to include "Consideration for the rate adjustment scheduled to be effective January 1, 2012 shall be deferred until a date no later than December 31, 2014." With the exception of the change to the above noted document, all other provisions contained in the Franchise Agreements shall remain in full force and effect.

SECTION 3. This extension shall become effective upon execution of the amendment by both parties.

SECTION 4. The City Clerk shall certify to the adoption of the resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 21st day of May, 2014.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

AMENDMENT NO. 9
FRANCHISE AGREEMENT BETWEEN THE CITY OF MOORPARK AND
G.I. INDUSTRIES FOR MULTI-FAMILY AND COMMERCIAL
SOLID WASTE SERVICES

THIS AMENDMENT NO. 9 TO THE MULTI-FAMILY AND COMMERCIAL FRANCHISE AGREEMENT, made and entered into this _____ day of _____, 2014, by and between the City of Moorpark, a municipal corporation located in the County of Ventura, State of California, hereinafter referred to as "City" and G.I. Industries, hereinafter referred to as "Grantee" as an amendment to the Multi-Family and Commercial Franchise Agreement between the City and G.I. Industries, dated October 1, 2002.

WITNESSETH

WHEREAS, the City provides commercial – industrial solid waste and recycling collection services; and

WHEREAS, on September 18, 2002, the City Council granted exclusive franchise agreements with G.I. Industries and Moorpark Rubbish Disposal for the collection, transportation, recycling, and disposal of solid waste in residential and commercial – industrial areas within City limits; and

WHEREAS, the Franchise Agreement includes an expiration date of December 31, 2010, with an option to extend the term for up to an additional 2 years, and the Franchise Agreement was extended for 6 months to June 30, 2011 with the adoption of Resolution No. 2010-2979; for an additional 6 months to December 31, 2011 with the adoption of Resolution No. 2011-3024; for an additional 2 months to February 29, 2012 with the adoption of Resolution No. 2011-3076; and for an additional 2 months to April 30, 2012 with the adoption of Resolution No. 2012-3085; and for an additional 5 months to September 30, 2012 with the adoption of Resolution No. 2012-3102; and for an additional 3 months to December 31, 2012 with the adoption of Resolution No. 2012-3125; and for an additional 6 months to June 30, 2013 with the adoption of Resolution No. 2012-3147; and for an additional 6 months to December 31, 2013 with the adoption of Resolution No. 2013-3194; and for an additional 6 months to June 30, 2014 with the adoption of Resolution No. 2013-3234; and for an additional 6 months to December 31, 2014 with the adoption of Resolution No. 2014-____; and

WHEREAS, the City Council declares its intention to further extend the term of the Franchise Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree to amend the aforesaid Agreement as follows:

City of Moorpark, G.I. Industries
Multi-Family and Commercial Franchise Agreement
Amendment 9, Page 2 of 2

I. Section 2, Term, Part A, shall be amended, to read, in its entirety, as follows:

“A. TERM. The collection services to be provided pursuant to this Agreement shall begin on October 1, 2002, and end on December 31, 2014, unless sooner terminated. GRANTEE’s duty to provide indemnification shall survive the end of the period during which collection services are to be provided.”

II. Exhibit G, Rate Adjustment Schedule, Part A, shall be amended to include:

“Consideration for the rate adjustment scheduled to be effective January 1, 2012 shall be deferred until a date no later than December 31, 2014.”

III. Remaining Provisions:

All other provisions of the aforesaid Agreement shall remain in full force and effect.

In WITNESS WHEREOF, the parties hereto have caused this Amendment No. 9 to be executed by their duly authorized officers the day and year first above written.

CITY OF MOORPARK:

G.I. INDUSTRIES:

Steven Kueny, City Manager

Mike Smith, Director of Operations

Date _____

Date _____

ATTEST:

Maureen Benson, City Clerk

AMENDMENT NO. 10
FRANCHISE AGREEMENT BETWEEN THE CITY OF MOORPARK AND
G.I. INDUSTRIES FOR RESIDENTIAL SOLID WASTE SERVICES

THIS AMENDMENT NO. 10 TO THE RESIDENTIAL FRANCHISE AGREEMENT, made and entered into this _____ day of _____, 2014, by and between the City of Moorpark, a municipal corporation located in the County of Ventura, State of California, hereinafter referred to as "City" and G.I. Industries, a corporation, hereinafter referred to as "Grantee" as an amendment to the Residential Franchise Agreement between the City and G.I. Industries, dated October 1, 2002.

WITNESSETH

WHEREAS, the City provides residential solid waste and recycling collection services; and

WHEREAS, on September 18, 2002, the City Council granted exclusive franchise agreements with G.I. Industries and Moorpark Rubbish Disposal for the collection, transportation, recycling, and disposal of solid waste in residential and commercial – industrial areas within City limits; and

WHEREAS, on December 9, 2009, Amendment No. 1 was signed to increase the franchise fee to 6%; and

WHEREAS, the Franchise Agreement includes an expiration date of December 31, 2010, with an option to extend the term for up to an additional 2 years, and the Franchise Agreement was extended for 6 months to June 30, 2011 with the adoption of Resolution No. 2010-2977; for an additional 6 months to December 31, 2011 with the adoption of Resolution No. 2011-3024; for an additional 2 months to February 29, 2012 with the adoption of Resolution No. 2011-3076; and for an additional 2 months to April 30, 2012 with the adoption of Resolution No. 2012-3085; and for an additional 5 months to September 30, 2012 with the adoption of Resolution No. 2012-3102; and for an additional 3 months to December 31, 2012 with the adoption of Resolution No. 2012-3125; and for an additional 6 months to June 30, 2013 with the adoption of Resolution No. 2012-3147; and for an additional 6 months to December 31, 2013 with the adoption of Resolution 2013-3194; and for an additional 6 months to June 30, 2014 with the adoption of Resolution 2013-3234; and for an additional 6 months to December 31, 2014 with the adoption of Resolution 2014-____; and

WHEREAS, the City Council declares its intention to further extend the term of the Franchise Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree to amend the aforesaid Agreement as follows:

I. Section 2, Term, Part A, shall be amended, to read, in its entirety, as follows:

"A. TERM. The collection services to be provided pursuant to this Agreement shall begin on October 1, 2002, and end on December 31, 2014, unless sooner terminated. GRANTEE's duty to provide indemnification shall survive the end of the period during which collection services are to be provided."

II. Exhibit G, Rate Adjustment Schedule, Part A, shall be amended to include:

"Consideration for the rate adjustment scheduled to be effective January 1, 2012 shall be deferred until a date no later than December 31, 2014."

III. Remaining Provisions:

All other provisions of the aforesaid Agreement shall remain in full force and effect.

In WITNESS WHEREOF, the parties hereto have caused this Amendment No. 10 to be executed by their duly authorized officers the day and year first above written.

CITY OF MOORPARK:

G.I. INDUSTRIES:

Steven Kueny, City Manager

Mike Smith, Director of Operations

Date _____

Date _____

ATTEST:

Maureen Benson, City Clerk

AMENDMENT NO. 9
FRANCHISE AGREEMENT BETWEEN THE CITY OF MOORPARK AND
MOORPARK RUBBISH DISPOSAL FOR MULTI-FAMILY AND
COMMERCIAL SOLID WASTE SERVICES

THIS AMENDMENT NO. 9 TO THE MULTI-FAMILY AND COMMERCIAL FRANCHISE AGREEMENT, made and entered into this ____ day of _____, 2014, by and between the City of Moorpark, a municipal corporation located in the County of Ventura, State of California, hereinafter referred to as "City" and Moorpark Rubbish Disposal, a limited liability company, hereinafter referred to as "Grantee" as an amendment to the Multi-Family and Commercial Franchise Agreement between the City and Moorpark Rubbish Disposal, dated October 1, 2002.

WITNESSETH

WHEREAS, the City provides commercial – industrial solid waste and recycling collection services; and

WHEREAS, on September 18, 2002, the City Council granted exclusive franchise agreements with G.I. Industries and Moorpark Rubbish Disposal for the collection, transportation, recycling, and disposal of solid waste in residential and commercial – industrial areas within City limits; and

WHEREAS, the Franchise Agreement includes an expiration date of December 31, 2010, with an option to extend the term for up to an additional 2 years, and the Franchise Agreement was extended for 6 months to June 30, 2011 with the adoption of Resolution No. 2010-2980; for an additional 6 months to December 31, 2011 with the adoption of Resolution No. 2011-3024; for an additional 2 months to February 29, 2012 with the adoption of Resolution No. 2011-3076; and for an additional 2 months to April 30, 2012 with the adoption of Resolution No. 2012-3085; and for an additional 5 months to September 30, 2012 with the adoption of Resolution No. 2012-3102; and for an additional 3 months to December 31, 2012 with the adoption of Resolution No. 2012-3125 and for an additional 6 months to June 30, 2013 with the adoption of Resolution No. 2012-3147; and for an additional 6 months to December 31, 2013 with the adoption of Resolution No. 2013-3194; and for an additional 6 months to June 30, 2014 with the adoption of Resolution 2013-3234; and for an additional 6 months to December 31, 2014 with the adoption of Resolution 2014-_____.

WHEREAS, the City Council declares its intention to further extend the term of the Franchise Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree to amend the aforesaid Agreement as follows:

City of Moorpark, Moorpark Rubbish Disposal
Multi-Family and Commercial Franchise Agreement
Amendment 9, Page 2 of 2

I. Section 2, Term, Part A, shall be amended, to read, in its entirety, as follows:

“A. TERM. The collection services to be provided pursuant to this Agreement shall begin on October 1, 2002, and end on December 31, 2014, unless sooner terminated. GRANTEE’s duty to provide indemnification shall survive the end of the period during which collection services are to be provided.”

II. Exhibit G, Rate Adjustment Schedule, Part A, shall be amended to include:

“Consideration for the rate adjustment scheduled to be effective January 1, 2012 shall be deferred until a date no later than December 31, 2014.”

III. Remaining Provisions:

All other provisions of the aforesaid Agreement shall remain in full force and effect.

In WITNESS WHEREOF, the parties hereto have caused this Amendment No. 9 to be executed by their duly authorized officers the day and year first above written.

CITY OF MOORPARK:

MOORPARK RUBBISH DISPOSAL:

Steven Kueny, City Manager

Charles Anderson, Owner

Date _____

Date _____

ATTEST:

Maureen Benson, City Clerk

AMENDMENT NO. 10
FRANCHISE AGREEMENT BETWEEN THE CITY OF MOORPARK AND
MOORPARK RUBBISH DISPOSAL
FOR RESIDENTIAL SOLID WASTE SERVICES

THIS AMENDMENT NO. 10 TO THE RESIDENTIAL FRANCHISE AGREEMENT, made and entered into this ____ day of _____, 2014, by and between the City of Moorpark, a municipal corporation located in the County of Ventura, State of California, hereinafter referred to as "City" and Moorpark Rubbish Disposal, a limited liability company, hereinafter referred to as "Grantee" as an amendment to the Residential Franchise Agreement between the City and Moorpark Rubbish Disposal, dated October 1, 2002.

WITNESSETH

WHEREAS, the City provides residential solid waste and recycling collection services; and

WHEREAS, on September 18, 2002, the City Council granted exclusive franchise agreements with G.I. Industries and Moorpark Rubbish Disposal for the collection, transportation, recycling, and disposal of solid waste in residential and commercial – industrial areas within City limits; and

WHEREAS, on December 9, 2009, Amendment No. 1 was signed to increase the franchise fee to 6%; and

WHEREAS, the Franchise Agreement includes an expiration date of December 31, 2010, with an option to extend the term for up to an additional 2 years, and the Franchise Agreement was extended for 6 months to June 30, 2011 with the adoption of Resolution No. 2010-2978; for an additional 6 months to December 31, 2011 with the adoption of Resolution No. 2011-3024; for an additional 2 months to February 29, 2012 with the adoption of Resolution No. 2011-3076; and for an additional 2 months to April 30, 2012 with the adoption of Resolution No. 2012-3085; and for an additional 5 months to September 30, 2012 with the adoption of Resolution No. 2012-3102; and for an additional 3 months to December 31, 2012 with the adoption of Resolution No. 2012-3125; and for an additional 6 months to June 30, 2013 with the adoption of Resolution No. 2012-3147; and for an additional 6 months to December 31, 2013 with the adoption of Resolution 2013-3194; and for an additional 6 months to June 30, 2014 with the adoption of Resolution 2013-3234; and for an additional 6 months to December 31, 2014 with the adoption of Resolution 2014-____; and

WHEREAS, the City Council declares its intention to further extend the term of the Franchise Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree to amend the aforesaid Agreement as follows:

I. Section 2, Term, Part A, shall be amended, to read, in its entirety, as follows:

“A. TERM. The collection services to be provided pursuant to this Agreement shall begin on October 1, 2002, and end on December 31, 2014, unless sooner terminated. GRANTEE’s duty to provide indemnification shall survive the end of the period during which collection services are to be provided.”

II. Exhibit G, Rate Adjustment Schedule, Part A, shall be amended to include:

“Consideration for the rate adjustment scheduled to be effective January 1, 2012 shall be deferred until a date no later than December 31, 2014.”

III. Remaining Provisions:

All other provisions of the aforesaid Agreement shall remain in full force and effect.

In WITNESS WHEREOF, the parties hereto have caused this Amendment No. 10 to be executed by their duly authorized officers the day and year first above written.

CITY OF MOORPARK:

MOORPARK RUBBISH DISPOSAL:

Steven Kueny, City Manager

Charles Anderson, Owner

Date _____

Date _____

ATTEST:

Maureen Benson, City Clerk