MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: February 25, 2009

SUBJECT: **SUPPLEMENTAL COMMISSION MEMORANDUM TO AGENDA ITEM R7-J FROM CITY COMMISSION MEETING OF JANUARY 28, 2009, FOR THE SELECTION OF THE FIFTH FRANCHISE LICENSE FOR RESIDENTIAL AND COMMERCIAL WASTE COLLECTION AND DISPOSAL SERVICES.**

BACKGROUND

The Mayor and City Commission, at its January 28, 2009 Meeting, deferred Agenda Item R7J, which recommended that the Mayor and City Commission adopt a Resolution that granted a Fifth Franchise License for Residential and Commercial Waste Collection and Disposal Services to General Hauling Services, Inc.

Inasmuch as three (3) proposers filed timely bid protests which raised numerous issues, the Administration recommended that the Mayor and City Commission defer Agenda Item R7J in order to thoroughly research the issues raised and reply to the bidders' protest. The City Attorney's Office has now reviewed all timely submitted protests with the City Administration, the responses to each of the three (3) timely submitted protests are attached to this Memorandum.

CITY COMMISSION CRITERIA FOR SELECTION OF FRANCHISE WASTE CONTRATOR

Pursuant to Section 90-229 of the City Code (entitled "Selection of franchise waste contractors"), the minimum qualifications to be considered in the granting of a waste hauler franchise license include:

(1) Evidence of the applicant's ability to fulfill all duties and requirements of a franchise waste contractor as set forth in this chapter, including proper certification and adequate insurance coverage.

(2) Certification that the applicant has never defaulted on any government contract or bid award.

(3) Evidence that the applicant has the potential for a significant amount of business within the city, comprised of either a minimum of 50 committed accounts within the city or, in the alternative, the city commission may accept, in its sole discretion, 50 comparable committed accounts from outside of the city.

Agenda Item R7I
Date 2-25-09

(4) Certification that there are no unsatisfied judgments against the applicant.

(5) Certification that the applicant is not, and will not be, throughout the term that it has a license, affiliated with, as a parent, subsidiary, by virtue of an interlocking directorate, or otherwise, an affiliated entity of any existing licensee or any applicant for a licensee under section 90-191 et seq.

The City Administration, in its due diligence review of the five (5) proposals submitted pursuant to the RFQ, has determined that all proposals have met the **minimum** requirements, as set forth in Section 90-229(a)(1)-(5) above.

As provided in Section 90-229 (6) of the City Code, "if more than one applicant for a franchise waste contractor's license qualify under the minimum qualifications of this division, license issuance should be determined by the City Commission based on upon the applicant(s) that the City Commission deems, in its judgment and discretion, and having considered the recommendation of the City Manager, to have provided the most significant public benefits to the City pursuant to subsection 90-229(a)(6))."

Accordingly, the criteria in Section 90-229(a)(6) is as follows:

(6) The applicant's ability and commitment to provide the city and its businesses and multi-family residences with (i) good service; (ii) competitive prices; (iii) demonstrated and/or proposed green initiatives; and (iv) ability and commitment to provide such additional "public benefit(s)" to the city which may include, without limitation: provision of additional waste collection, disposal, and/or recycling services (at no cost to the city) to city right of ways, city-owned public buildings, parks, and/or beaches; voluntary cost and/or fee reductions; and/or such other city public benefits and/or services as the city manager may, in his reasonable judgment and discretion, from time to time, require.

Attached are comparison charts relative to the minimum qualifications requirements of Section 90-229(a)(1) thru (6) of the City Code. Additionally, each proposer has been invited to make a ten (10) minute presentation before the City Commission of its qualifications (as they relate to the minimum requirements for selection).

Also attached is the Final Internal Auditor's Report, dated February 18, 2009, which was presented to the Mayor and City Commission as a draft as part of Agenda Item R7J.

JMG:RCM:RA:GL

T:\AGENDA\2009\February 25\Regular\WasteHaulers.doc

MATRIX – Minimum Qualifications of Contractors

Section 90-229 of the City Code, sub(a) 1 through 5	**Choice Environmental**	**General Hauling**	**Southern Waste**	**World Waste**	**1-866-Junk Be Gone**
1. Evidence of Contractor's abilit to fulfill duties and requirements a franchise waste contractor as se forth in this RFQ, including prop certification and adequate insurance coverage.	Complied	Complied	Complied	Complied	Complied
2. Certification that the contractor has never defaulted on any government contract or bid award.	Complied	Complied	Complied	Complied	Complied
3. Evidence that the contractor has the potential for a significant amount of business within the City of either min. 50 committed accounts within the City, or 50 comparable committed accounts from outside the City.	Complied	Complied	Complied	Complied	Complied
4. Certification that there are no unsatisfied judgments against the contractor.	Complied	Complied	Complied	Complied	Complied
5. Certification that the contractor is not and will not be, throughout the term that it has a license, affiliated with, as a parent subsidiary, by virtue of an interlocking directorate, or otherwise, affiliated entity of any existing licensee or any contractor for a licensee under section 90-191 et seq.	Complied	Complied	Complied	Complied	Complied

Section 90-229 of the City Code, sub(a) 6	Choice Environmental	General Hauling	Southern Waste	World Waste	1-866-Junk Be Gone
Good Service	5 Evaluation Surveys (Scale of 1-10) Average: 10	5 Evaluation Surveys (Scale of 1-10) Average: 10	5 Evaluation Surveys (Scale of 1-10) Average: 9.7	42 Individual accounts Evaluation Surveys (Scale of 1-10) Average: 10	4 Evaluation Surveys (Scale of 1-10) Average: 9.9
Competitive Prices Once/week/ 2yd. container	Waste and Recyclables Range: $25.98 – $125.57	Waste Service: $55 -$99 Recyclables: $50 - 95	Waste Service: $43.13 Recyclables: $ 28.15	From $50 to $15,000 monthly depending on the type of industry and volumes	No price of 1x/wk (2 yd. twice a week $129.00)
Green initiatives	Single Stream Recycling. Plans to utilize their recycling MRF to enable to reduce waste stream which will minimize cost to the business of Miami Beach. which may result in customer rebates and will assist the City in meeting new State of Florida recycling mandates.	A. Commits to make a contribution each year to the City equal to one and one-half percent (1.5%) of the company's gross hauling revenues, net of taxes and municipal franchise fees, derived from commercial accounts pursuant to this fifth franchise license and paid to it in the preceding 12 months. B. Commits to encourage every new commercial customer, obtained pursuant to this fifth franchise license, to match its proportional share of the company's annual program payment (e.g. pay directly to the City each year one and one-half percent (1.5%) of its own total annual service payment to General Hauling Service, at the time of the company's payment to the City). For client will negotiate beneficial contract terms with each participating client for enhanced services.	Operate dry waste routes that are recycled at recycling facilities, in addition, collect cardboard, newspaper, paper, glass, cans, and plastic wherever and whenever possible.	Single Stream Recycling Advanced recycling program and $25,000 contribution for recycling education to assist the city reach the Governors Recycling Goal of 75%	Single Stream Recycling (as soon as license is granted).

Section 90-229 of the City Code, sub(a) 6	Choice Environmental	General Hauling	Southern Waste	World Waste	1-866-Junk Be Gone
Ability and commitment to provide "Additional Public Benefits"	1. Free waste collection at City owned public buildings, parks and beaches. 2. Free recycling collection at City owned public buildings, parks and beaches. 3. Free recycling drop off containers for multi-family units located in the city that do not have the space for the required equipment. 4. Voluntary cost and/or fee reductions. 5. Back up support for the city for local events where the city needs additional containers and/ or personnel. 6. Other public benefits and services as the city -manager may request.	Commits to participating equally with all four of the other licensees in all collaborative waste-collection and/or recycling programs at City locations, at reduced or no cost, and in any other programs the City Manager may request from time to time; included in that commitment is specific agreement with the "proportionate share" program for purchase and collection of 100 recycling containers as outlined in Addendum No. 1 of this RFQ.	Will support the City by providing solid waste and recycling collection services at no extra charge to the City's buildings and offices operated for City business. Will also support City sponsored special event activities with like kind services, collection service at no charge in conjunction with anticipated generated revenues from the award of the this franchise agreement. Will be able to provide portable toilet services through All Star Toilets, an affiliated company. All Star Toilets can provide toilet services for special events, and cardboard trash containers. Will print recycling brochures annually at no charge, will offer free tours of Sun Recycling facilities made to any of the schools located within the City of Miami Beach.	Free recycling service for all municipal buildings, which includes all parks, fire stations, city hall, etc. and any other opportunities deemed by the manager and/or mayor and commission. $10 per ton recycling rebate to the city. Sunday service/holiday service/special requests and emergency debris/hurricane program.	Committed to providing their fair share of public service initiatives as determined by the City and in proportion to the dollar amount of business conducted in the City.

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

JOSE SMITH
City Attorney

Telephone: (305) 673-7470
Facsimile: (305) 673-7002

VIA E-MAIL

February 20, 2009

Kent Harrison Robbins, Esquire
1224 Washington Avenue
Miami Beach, Florida 33139

RE: Request for Qualifications No. 49-07/08 for a Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services (the RFQ)

City of Miami Beach's (City) Response to World Waste Services, Inc.'s Bid Protest, dated January 27th, 2009

Dear Mr. Robbins:

The following responds to World Waste Services, Inc.'s (World Waste) bid protest, submitted via letter to City Manager Jorge Gonzalez, dated January 27, 2009. This response addresses the substantive points of World Waste protest that:

1. The Evaluation Committee proceedings were biased and the City Manager should have therefore disregarded its result;
2. General Hauling (the proposer recommended by the City Manager) failed to disclose legal cases;
3. Southern Waste Systems (the proposer recommended by the City Evaluation Committee) failed to disclose certain environmental violations of one of its affiliated companies, Sun Recycling; and
4. The City Manager, in his written recommendation, did not properly explain the final criteria for selection to the City Commission.

1. **The Evaluation Committee Process**

The Evaluation Committee is appointed by, and is advisory to, the City Manager. The Evaluation Committee for this RFQ deliberated for over five (5) hours, in a duly noticed,

tape-recorded public meeting on December 15, 2008, which deliberations included hearing presentations from each of the five (5) proposers; engaging in question and answer sessions and other discussions with the respective proposers, and, ranking and scoring of the proposals, based on the evaluative criteria and points system in the RFQ. The Committee proceedings also included briefings and staff support from City employees from, respectively, the Procurement Division and Sanitation Department.

In determining whether the actions of the Evaluation Committee were proper, the legal standard in Florida is whether the Committee (as part of the decision-making process) made its recommendation based on facts reasonably tending to support its conclusions, or whether it acted arbitrarily and capriciously, which it cannot do. (See Miami-Dade County v. Church and Tower, Inc., 715 So. 2d 1084 (Fla. 3d DCA 1998). Notwithstanding the allegations in World Waste's bid protest (and following of my own listening of the audio record of the entire Committee meeting; review of the RFQ and supporting documents; and interviews with the Procurement Division staff liaison), there is no evidence on the record which factually supports that, in making its recommendation to the City Manager, the Committee acted arbitrarily and capriciously.

In the case of Liberty County v. Baxter's Asphalt, 421 So. 2d 505 (Fla. 1982), the Florida Supreme Court established the standard by which an agency's decision on competitive bids for a public contract should be measured (which standard is also applicable to the instant RFQ):

> In Florida, ...a public body has wide discretion in soliciting and accepting bids for public improvements and its decision, when based on an honest exercise of this discretion, will not be overturned by a court even if it may appear erroneous and even if reasonable persons may disagree (Liberty County, supra, at 506).

None of the arguments raised in World Waste's protest against the actions and/or conduct of the Evaluation Committee rise to the level of arbitrariness, or abuse of discretion on the part of the Committee. On the contrary, the taped proceedings of the Committee meeting evidence that the Committee deliberated, ranked, scored, and made its final recommendation to the City Manager, in accordance with the requirements and criteria set forth for it, pursuant to Section V of the RFQ (entitled "Evaluation Selection Process").

As is customary in other City-appointed evaluation and/or selection committees, at the commencement of the meeting the Procurement Division staff liaison reviewed the RFQ criteria for review and scoring with the Committee (reading verbatim from Section V (4) of the RFQ).

World Waste's bid protest alleges that the staff liaison failed "...to provide order and guidance at both the presentations of the Committee and deliberations of the Committee..." and "...left the room and left the Committee members unattended numerous times during the presentations and deliberations." (See World Waste bid protest at page 2). Again, a review of the taped proceedings of the meeting (as well as this attorney's follow-up interview with the Procurement staff liaison) verifies that (other than to escort proposer team members in and out of the meeting room) the only instances the staff member excused herself from the meeting was, the first time, to obtain an opinion from the City's Legal Department regarding an issue pertaining to the

possible responsiveness of the proposal submitted by Junk Be Gone and, the second time, to retrieve a copy of an evaluation matrix which was missing from one of the Committee member's packets. Notwithstanding these two instances, the tape recorder (recording the entire proceedings) remained on at all times, and the Committee remained on the record.

Much is also made in World Waste's protest of the staff person's inability to "lead" the Committee, or to "control or restore order." As stated, the Committee meeting was duly noticed and advertised as a public meeting; taped minutes of the entire proceedings maintained throughout; the staff liaison properly briefed the Committee on matters of process, including the RFQ evaluation and ranking criteria; and was at all times on hand to provide staff support and/or answer inquiries, as directed by the members. The staff liaison was not a voting (or otherwise) a member of the Committee. It is not the policy of the City to have staff liaison's on selection and/or evaluation committees put in charge of, direct, or otherwise hold a position of authority with respect to, the conduct or character of the members. The order of business of such committees, including, without limitation the course of conduct of the meeting (as with other City boards, agencies, and committees), is set by the committee chairperson, and is within the discretion of the chair.[1]

World Waste's bid protest also alleges that the participation of one of the Committee members, Jonathan Fryd, "...created an appearance of impropriety and tainted the entire process" as a result of a perceived conflict of interest of that member[2]. Again, as is customary in City selection or evaluation committees, at the beginning of the meeting (prior to the commencement of any presentations), each member is asked to fill out a Disclosure Questionnaire for the purpose of determining whether any member has a potential conflict of interest issue. In this case, Mr. Fryd disclosed that he had done business with one of the proposers, Junk Be Gone, which collected waste at one or more of his private commercial properties. In addition to disclosing the relationship (in writing) in his Disclosure Questionnaire, Mr. Fryd also stated same on the record at the commencement of the meeting.

---

[1] It should be noted, however, that on listening to the audio record of the meeting, the staff liaison was, on every occasion, responsive to the requests of the Committee. In one of the examples raised by World Waste in its protest, the staff member actually corrected the Committee when (as World Waste notes in pages 3 and 4 of its bid protest) some of the Committee members asked whether the proposers present should excuse themselves during the Committee's final deliberations. At that point, the staff person specifically went on record and expressly stated that proposers did not have to leave the room (unless they so chose, on a purely voluntary basis).

[2] World Waste's protest also references improper comments (including an "ethnically tinged statement,") made by Mr. Fryd. While the City in no way condones and/or excuses inappropriate comments and/or inappropriate language by <u>any</u> City board, agency, and/or committee member, it should be noted that in over 5 hours of deliberations by this particular Committee, any such statements alluded to by World Waste were random and isolated comments, and ultimately, while regrettable – did not render the proceedings, deliberation, scoring, ranking, and final recommendation of the Committee void as a result thereof. With regard to the "joke" made by Mr. Fryd, World Waste notes on page 3 of its protest that Mr. Fryd, who made the joke, is also Jewish; what World Waste omitted was that, after initially making the comment, Mr. Fryd was admonished by the Evaluation Committee Chairperson, who told him no to "perpetuate a stereotype." Indeed, in this Attorney's own listening of the entire taped audio proceedings of the Committee meeting, it appears as though the Committee sought to establish an informal, relaxed, and congenial tone; not only with each other, but with the individual proposers. Therefore, the "tone" of the meeting must be taken into consideration. Ultimately, one must again look to the standard in <u>Liberty County v. Baxter's Asphalt</u>, <u>supra</u>: Absent illegality, fraud, oppression, or misconduct on the part of the decision-making authority, the award (or in this case, the recommendation to the City Manager) must be upheld.

The City Attorney's Office has reviewed the issue of whether or not Mr. Fryd's contractual business relationship with Junk Be Gone (by virture of his using them as a waste hauler for one or more of his private properties) presents, in this case, an actual conflict of interest. We have reviewed the applicable provisions in the City of Miami Beach and Miami-Dade County Codes, Florida Statutes, and spoken to Mr. Fryd. While there is no violation of any conflict of interest provision in either the City or County Codes, Section 112.313(7)(a), Florida Statutes (entitled "Conflicting Employment or Contractual Relationships") provides that "No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee...; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithfully discharge of his or her public duties." (See F.S. 112.313(7)(a)).

However, an applicable exemption to the conflict provisions in F.S. 112.313(7)(a) is provided in Section 112.313(12), Florida Statutes. F.S. 112.313(12) states that "...no person shall be held in violation of ...subsection (7) if (as provided in F.S. 112.313(12)(i)), "The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency;" or (in F.S. 112.313(12)(j)), "The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and: 1) The price and terms of the transactions are available to similarly situated members of the general public; and 2) The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction." (See F.S. 112.313(12)(i) and (j)).

In this case, Mr. Fryd disclosed the relationship with Junk Be Gone (both in his Disclosure Questionnaire, and as part of the taped record of the meeting). He also stated, in our subsequent telephone conversations with him, that he receives no discounts and/or other reductions from Junk Be Gone and pays the same price for their services as any other customer would on the open market.

2. **General Hauling Failure to Disclose Litigation and Southern Waste Systems' Failure to Disclose Violations**

With regard to the allegations in World Waste's bid protest concerning the proposer, General Hauling, and the proposer, Southern Waste Systems', respective failures to disclose (in the case of General Hauling) certain litigation in which the company was a party, and, in the case of Southern Waste Systems, certain administrative violations of an environmental nature against an affiliated company, Sun Recycling, neither of the aforestated failures to disclose would ultimately render either proposal non-responsive. They may, however, be considered as to the issue of **responsibility**. In fact, as set forth in the City Manager's written recommendation to the Mayor and City Commission, dated January 28, 2009 (which recommendation has not changed), in conducting his own due diligence on the proposers, the City Manager references the documentation submitted by World Waste, and stated that he verified the allegations raised against Sun Recycling, LLC with the applicable officials in Broward County. As of the date of this

response, the City Administration is continuing to verify allegations made against the respective proposers with respect to pending litigation and/or violations.

3. **The City Manager's Recommendation to the City Commission**

Finally, with regard to World Waste's allegation that the City Manager's recommendation, as submitted in the City Commission Meeting Agenda packet of January 28, 2009 (which recommendation has not changed), did not properly "explicate" the criteria for the City Commission to consider, pursuant to Section V of the RFQ, the City Manager is only required to recommend to the Mayor and City Commission "the proposal or proposals acceptance of which the City Manager deems to be in the best interest of the City." (See RFQ at Section 5(7)). Additionally (as World Waste notes in pages 4 and 5 of its bid protest) the City Manager is also required to provide his recommendation to the Commission pursuant to Section 90-229(b) of the City Code (entitled "Selection of Franchise Waste Contractors"). The City Manager has complied with both the RFQ and Section 90-229(b) of the Code.

4. **Conclusions**

For the reasons set forth above, World Waste's bid protest is hereby denied. You may appeal this decision by filing an original action in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the applicable court rules. Any action not brought in good faith shall be subject to sanctions including damages suffered by the City, and attorney's fees incurred by the City in defense of such wrongful action.

Sincerely,

Raul J. Aguila
Deputy City Attorney

RJA/ed
Enclosures

c: Jorge M. Gonzalez, City Manager
Jose Smith, City Attorney
Bob Middaugh, Public Works Director
Gus Lopez, Procurement Director
Al Zamora, Sanitation Director
Bob Parcher, City Clerk

F:\atto\AGUR\LETTERS\Solid Waste - Response to Bid Protest (World Waste Services).doc

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

JOSE SMITH
City Attorney

Telephone: **(305) 673-7470**
Facsimile: **(305) 673-7002**

VIA E-MAIL

February 20, 2009

Michael A. Pizzi, Jr., Esquire
15271 N.W. 60th Avenue, Suite 206A
Miami Lakes, Florida 33014

RE: Request for Qualifications No. 49-07/08 for a Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services (the RFQ)

City of Miami Beach's (City) Response to Choice Environmental Services, Inc.'s Bid Protest, dated January 26th, 2009

Dear Mr. Pizzi:

The following responds to Choice Environmental Services, Inc.'s (Choice) bid protest, submitted via letter to City Manager Jorge Gonzalez, dated January 26, 2009. This response addresses the substantive points of Choice's protest that:

1. City staff and the RFQ Evaluation Committee "miscalculated" Choice's pricing plan;
2. The Evaluation Committee and City staff were "misinformed" as to certain issues regarding Choice's predecessor company, Americarting;
3. Certain Evaluation Committee members made "improper, discriminatory, and inappropriate comments;"
4. The City Manager's recommended proposer (General Hauling Services, Inc.) has no municipal contracts; and
5. The recommended proposer, General Hauling, failed to disclose its relationship with a City Commissioner.

1. **Choice's Pricing Submittal**

Section 90-229 of the City Code (entitled "Selection of franchise waste contractors") states that one of the minimum qualifications to be considered by the City in the granting of a waste contractor franchise license is evidence of the "...applicant's ability and commitment to provide the City and its businesses and multi-family residences with ...; (ii) competitive prices; ... ." (See Section 90-229(a)(6) of the City Code). This requirement was also incorporated as one of the minimum requirements of the RFQ (See RFQ, "Qualification Statement format," at Section II (2)(b)(6)(ii) thereof).

The requirement in the RFQ to provide clear, understandable pricing was the sole responsibility of each proposer. Notwithstanding, the minimum requirement as to pricing was further clarified in Addendum No. 2 to the RFQ, dated October 28, 2008 (which all proposers, including Choice, acknowledged receipt of). In response to a question from one of the proposers, Addendum No. 2 clearly stated:

> In order for the Evaluation Committee to evaluate whether franchise waste contractors are offering competitive prices, contractors must submit as part of your qualifications packages/proposals, a schedule of *proposed* rates. Some schedule must contain sufficient information (i.e., range of prices) for "evaluation purposes" only. The actual cost per services based on the scope of work, will be negotiated between the successful contractor and their customers. (See Addendum No. 2 to the RFQ, paragraph 4 thereof).

Unlike the three (3) other proposers, General Hauling Service, Southern Waste Systems, and World Waste Services, which, in their respective pricing submittals pursuant to the RFQ[1], provided schedules which clearly identified and distinguished the range of prices for collection of solid waste versus the prices for collection of recyclable waste/materials, Choice's submittal (which is also included as Exhibit 1 to Choice's bid protest) provides no clear delineation and/or distinction. Additionally, Choice offered no significant clarification to its submittal during its presentation before the Evaluation Committee.

Choice's bid protest attempts, after the fact, to clarify the apparent vagueness of, and/or ambiguities in, the range of prices in the schedule submitted in response to the RFQ. On page 2 of its protest, Choice states:

> Choice submitted its price schedule in the RFQ [See Exhibit 1], giving the City an honest range based on the type of merchant, whether it was a stationary store versus a restaurant. It's common practice in the industry to charge less for merchants who do not have an excess of garbage each week, whereas a restaurant would demand a higher price because of the volume and nature of its garbage. That is why Choice submitted a low range of $25.96 for one 2 cy container once a week, and a high range price of $125.57 based on wet waste. (See Choice bid protest at paragraph 3, page 2)

[1] The fourth proposer, Junk Be Gone, did not provide pricing information.

This after-the-fact clarification was not expressly apparent in Choice's original written submittal to the RFQ. On the contrary, that submittal does not identify what the range of prices include, and/or the type of waste and/or recyclable materials contemplated by their respective price. In fact, the schedule notes that the submitted pricing range "...will vary based upon the specifics of the accounts, some of the variables that will come into play are: The actual weight of the waste generated, ...The type of waste material..." (See Exhibit 1 to Choice bid protest).

Given the vagueness of Choice's submittal and, further, given the qualifying "variables" in the submittal, it was not possible for either the Evaluation Committee, or the City Manager (in his written recommendation to the City Commission), to confirm with any certainty whether Choice did indeed submit the lowest price of any of the proposers. Additionally, the Evaluation Committee, which was able to hear Choice's presentation and engaged in a question and answer session and other discussions with Choice, received no further clarification and (correctly so) expressed concerns regarding the vagueness of Choice's prices.

Neither the conclusion reached by the Evaluation Committee, nor in the information set forth, in the City Manager's written recommendation to the City Commission, was arbitrary or capricious. The Evaluation Committee deliberated extensively on the issue of price, and also expressed concern on the record that the pricing submitted by Choice sounded high. Additionally, in addition to deliberating, as a group, with regard to the qualifications of each proposer (including pricing information), each Committee member filled out and submitted (which submittal is part of the record of the Evaluation Committee proceedings) his/her individual scoring matrix (the Evaluation Matrix) for each proposal. Each matrix included points allotted for the pricing component of the RFQ.

There is no evidence on the record, and no factual evidence presented by Choice in its bid protest, to suggest that any Committee member improperly swayed another Committee member with respect to any individual member's scoring of the proposers. The Evaluation Committee (and the City Manager's) interpretation and evaluation of Choice's pricing proposal was entirely reasonable and, in any event, entitled to great deference. "[T]he agency's interpretation need not be the sole possible interpretation or even the most desirable one; it need only be within the range of possible interpretations." Orange Park Kennel Club, Inc. v. Department of Business and Professional Regulation, 644 So. 2d 574 (Fla. 1st DCA 1994).

In Liberty County v. Baxter's Asphalt and Concrete, Inc., 421 So. 2d 505 (Fla. 1982), the Florida Supreme Court established the standard by which an agency's decision on competitive bids for a public contract should be measured (which standard is also applicable to the instant RFQ):

> In Florida, ...a public body has wide discretion in soliciting and accepting bids for public improvements and its decision, when based on an honest exercise of this discretion, will not be overturned by a court even if it may appear erroneous and even if reasonable persons may disagree (Liberty County, supra, at 506).

2. **Americarting**

There is no evidence to support the allegation in Choice's bid protest that the Evaluation Committee recommendation was arbitrary and capricious as a result of a Committee member "tainting" the record based upon alleged statements made by that Committee member as to a predecessor company of Choice, Americarting (which is not even a proposer to the RFQ). In fact, in reviewing each Committee member's individual Evaluation Matrix, it should be noted that, under the category of "Good Service," four members awarded Choice 20 out of a possible 25 points (including the Committee member who allegedly "tainted" the record); one Committee member awarded Choice 24 out of 25 points; and the remaining 2 members awarded Choice the full 25 points. At a minimum, therefore, Choice received at least 80% of the total allowable points under this category from each member.

Additionally, Choice alludes that one of the Committee members, Jonathan Fryd had a conflict of interest "...based on a prior business relationship with Choice,..." (See Choice's protest at page 4). The City Attorney's Office has reviewed the issue of whether or not Mr. Fryd's contractual business relationship with Junk Be Gone (by virture of his using them as a waste hauler for one or more of his private properties) presents, in this case, an actual conflict of interest. We have reviewed the applicable provisions in the City of Miami Beach and Miami-Dade County Codes, Florida Statutes, and spoken to Mr. Fryd. While there is no violation of any conflict of interest provision in either the City or County Codes, Section 112.313(7)(a), Florida Statutes (entitled "Conflicting Employment or Contractual Relationships") provides that "No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee...; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithfully discharge of his or her public duties." (See F.S. 112.313(7)(a)).

However, an applicable exemption to the conflict provisions in F.S. 112.313(7)(a) is, provided in Section 112.313(12), Florida Statutes. F.S. 112.313(12) states that "...no person shall be held in violation of ...subsection (7) if (as provided in F.S. 112.313(12)(i)), "The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency;" or (in F.S. 112.313(12)(j)), "The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and: 1) The price and terms of the transactions are available to similarly situated members of the general public; and 2) The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction." (See F.S. 112.313(12)(i) and (j)).

In this case, Mr. Fryd disclosed the relationship with Junk Be Gone (both in his Disclosure Questionnaire, and as part of the taped record of the meeting). He also stated, in our subsequent telephone conversations with him, that he receives no discounts and/or other reductions from Junk Be Gone and pays the same price for their services as any other customer would on the open market.

3. **Improper, Discriminatory, and Inappropriate Comments Made by the Evaluation Committee Members**

While the City in no way condones and/or excuses inappropriate comments and/or inappropriate language by any City board, agency, and/or committee member, it should be noted that in over 5 hours of deliberations by this particular Committee, any such statements alluded to by Choice were random and isolated comments, and ultimately, while regrettable – did not render the proceedings, deliberation, scoring, ranking, and final recommendation of the Committee void as a result thereof.

With regard to the "Sopranos" example stated on page 5 of Choice's bid protest (and, again, while in no way condoning and/or excusing such comments), it should be noted that the statement was made following the presentation of the proposer that the Committee unanimously recommended as the top-ranked proposer (Southern Waste Systems). Indeed, in this attorney's own listening of the entire taped audio proceedings of the Committee meeting, it appears as though the Committee sought to establish an informal, relaxed, and congenial tone; not only with each other, but with the individual proposers. Therefore, the "tone" of the meeting must be taken into consideration.

Ultimately, one must again look to the standard in Liberty County v. Baxter's Asphalt, supra: Absent illegality, fraud, oppression, or misconduct on the part of the decision-making authority, the award (or in this case, the recommendation to the City Manager) must be upheld.

4. **The Recommended Proposer has no Municipal Contracts**

As set forth in Section 90-229(a)(3) of the City Code, an applicant for a franchise license only has to demonstrate evidence that it has the potential for a significant amount of business within the City "...comprised of either a minimum of 50 committed accounts within the city or, in the alternative, the city commission may accept, in its sole discretion, 50 comparable committed accounts from outside of the City." (See Section 90-229(a)(3) of the City Code).

5. **Failure to Disclose Relationship with a City Commission Member**

In the Questionnaire filled out by General Hauling Service, Inc. as part of its submittal to the RFQ, that proposer discloses a relationship with "Miami Beach City Commissioner Deede Weithorn and her CPA firm of Berkowitz, Dick, Pollack & Brant CPA's." (See RFQ Questionnaire, paragraph 7, entitled "Conflicts of Interest").

6. **Conclusion**

For the reasons set forth above, Choice Environmental Services, Inc.'s bid protest is hereby denied. You may appeal this decision by filing an original action in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the applicable court rules. Any action not brought in good faith shall be

subject to sanctions including damages suffered by the City, and attorney's fees incurred by the City in defense of such wrongful action.

Sincerely,

Raul J. Aguila
Deputy City Attorney

RJA/ed
Enclosures

c: Jorge M. Gonzalez, City Manager
Jose Smith, City Attorney
Bob Middaugh, Public Works Director
Gus Lopez, Procurement Director
Al Zamora, Sanitation Director
Bob Parcher, City Clerk

F:\atto\AGUR\LETTERS\Solid Waste - Response to Bid Protest (Choice Environmental).doc

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

JOSE SMITH
City Attorney

Telephone: (305) 673-7470
Facsimile: (305) 673-7002

VIA E-MAIL

February 20, 2009

Charles Gusmano, Member Manager
Southern Waste Systems, LLC
790 Hillbrath Drive
Lantana, Florida 33462

Daniel E. Taylor, Esquire
Tripp Scott
110 Southeast Sixth Street, 15th Floor
Ft. Lauderdale, Florida 33302

RE: Request for Qualifications No. 49-07/08 for a Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services (the RFQ)

City of Miami Beach's (City) Response to Southern Waste Systems' Bid Protests, dated January 26th, and January 27th, 2009

Dear Messrs. Gusmano and Taylor:

The following responds to Southern Waste Systems, LLC's (Southern Waste) bid protests, submitted via letter from Charles Gusmano to Procurement Director Gus Lopez, dated January 26th, and January 27th, 2009, respectively, and submitted via letter from Attorney Daniel Taylor to Mr. Lopez, dated January 27th, 2009 (collectively, the aforestated bid protest may hereinafter be referenced to as the Southern Waste bid protest or Southern Waste's protest).

Southern Waste protests the written recommendation of the City Manager to the City Commission, as set forth in the City Commission Memorandum, dated January 28th, 2009 (and which recommendation has not changed), recommending award of the RFQ to General Hauling Services, Inc. In part, Southern Waste's protest is based on the fact that it was ranked first by the City Evaluation Committee for this RFQ.

Section V of the RFQ, entitled, "Evaluation Selection Process," states that the Evaluation Committee's recommendation is advisory to the City Manager. After considering the recommendation(s) of the Evaluation Committee, the City Manager then makes his own

recommendation to Mayor and City Commission of "...the proposal or proposals acceptance of which the City Manager deems to be in the best interest of the City." (See RFQ at Section V (6)

and (7)). The City Manager's recommendation to the City Commission need not be the same as the Evaluation Committee's (as is the case with regard to this RFQ); the legal standard in Florida merely requires that such recommendation be based on facts reasonably tending to support its conclusions, and that it not be arbitrary and capricious. (See Miami-Dade County v. Church and Tower, Inc., 715 So. 2d 1084 (Fla. 3d DCA 1998).

The City Manager's decision to recommend General Hauling Services, Inc. (who was the second-ranked proposer by the Evaluation Committee, summing a total score of 622 points to Southern Waste's score of 636), was an honest, proper exercise of his decision-making authority.

In the City Commission Memorandum dated January 28th, 2009, the City Manager references a letter and supporting documentation submitted by Attorney Kent Harrison Robbins (who represents the proposer, World Waste Services, Inc.) referencing multiple violations filed by the Broward County Environmental Protection Department (EPD) (roughly between the period of July 25th, 2006 and February 7th, 2007), against Sun Recycling, LLC (Sun Recycling), an affiliated company of Southern Waste Systems[1]. While Mr. Gusmano's protest letter notes that the EPD violations were against Sun Recycling, it is clear that that entity would also be providing services here, were Southern Waste to be awarded the franchise pursuant to the RFQ. Therefore, the City Manager's consideration of the EPD violations were proper, as they potentially go toward the responsibility of the proposer.

The City may properly consider and weigh such violations, as they are not only directly related to the responsibility of the proposer to perform the services required under the RFP, but they are also directly related to the criteria for selection of franchise waste contractors; not only in the RFQ but pursuant to Section 90-229 of the City Code (entitled, "Selection of franchise waste contractors").

As to the substance of the EPD violations, following review of World Waste's letter and the supporting documentation, the City Manager requested staff to independently investigate and confirm the allegations therein with regard to the violation history of Sun Recycling. The Administration's due diligence confirmed the allegations directly with the Broward County Environmental Protection (See Exhibits A and B).

On Friday, January 9, 2009, the City Procurement Division spoke to a representative at EPD, who provided staff with an enforcement history report on Sun Recycling, LLC that included numerous violations. Said violations were not solely for the improper placement of Residual Screened Material, but also included the following:

a. Receiving and depositing unapproved solid waste;
b. Disposing of waste to a non-licensed facility;
c. Operating without a spotter;

---

[1] As set forth in Southern Waste's written submittal in response to the RFQ, Sun Recycling is the "recycling arm" of Southern Waste. The owners of Southern Waste are also the owners of Sun Recycling (See Southern Waste submittal in response to the RFQ at Division 4, page 1). During its presentation before the Evaluation Committee on December 15th, 2008, the individuals presenting on behalf of Southern Waste also consistently referred to the proposing entity as "Southern Waste Systems and Sun".

d. Failure to submit records;
e. Filling in a wetland without a license;
f. Placing and depositing solid waste in a wetland; and
g. Unloading and processing solid waste outside of the designated building.

For the reasons set forth above, World Waste's bid protest is hereby denied. You may appeal this decision by filing an original action in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the applicable court rules. Any action not brought in good faith shall be subject to sanctions including damages suffered by the City, and attorney's fees incurred by the City in defense of such wrongful action.

Sincerely,

Raul J. Aguila
Deputy City Attorney

RJA/ed
Enclosures

c: Jorge M. Gonzalez, City Manager
Jose Smith, City Attorney
Bob Middaugh, Public Works Director
Gus Lopez, Procurement Director
Al Zamora, Sanitation Director
Bob Parcher, City Clerk

F:\atto\AGUR\LETTERS\Solid Waste - Response to Bid Protest (Southern Waste Systems).doc

EXHIBIT "A"

Sun Recycling, LLC
Enforcement History

Issued Date	NOV #	Respondent	Violation	Penalties Paid
8/21/2001	01-30758 **Count:** 27-58(c)	Sun Recycling, LLC & Waste Corporation of Florida	Receiving and depositing unapproved solid waste (wood, plastic, metal and insulation material)	
	01-30759 **Count:** 27-58(c)	Sun Recycling, LLC #2	Disposing of waste to a non-licensed facility	
	01-30760 **Count:** 27-215(a)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, plastic, metal and insulation material)	
	01-30769 **Count:** 27-58(c)	Sun Recycling, LLC #1	Operating w/o a spotter	
	01-30770 **Count:** 27-58(c)	Sun Recycling, LLC #1	Failed to submit records	
	01-30771 **Count:** 27-58(c)	Sun Recycling, LLC #1	Improper disposal of recovered screen material (RSM)	
	01-30772 **Count:** 27-58(c)	Sun Recycling, LLC #2	Failed to submit records	
	01-30773 **Count:** 27-58(c)	Sun Recycling, LLC #2	Operating w/o a spotter	
12/7/2001	01-0003 **Counts 1-2:** 27-58(c)	Sun Recycling, LLC #1	Improper disposal of RSM	Settlement $78,500 includes all above
2/8/2002	02-0011 **Counts:** 27-216(c)(3)e.7 27-58(c)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Final Order $3,600

11/22/2002	02-0083 **Counts:** 27-58(c)	Sun Recycling, LLC #2	Receiving and depositing unapproved solid waste (auto body parts, plastics and garbage)	Settlement $1500
4/1/2004	04-0017 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024
6/11/2004	04-0024 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #3	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024
10/13/2004	04-0046 **Counts:** 27-27(a)(2)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, metal & plastics)	Settlement $11,400 04-0046 ($3,500) 04-0060 ($7,900)
12/21/2004	04-0060 **Counts:** 27-27(a)(2)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, metal & plastics)	Settlement $11,400 04-0046 ($3,500) 04-0060 ($7,900)
12/28/04	04-0061 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024

1/27/05	05-0004 **Counts 1-2:** 27-27(a)(2)	Sun Recycling, LLC #1	Receiving and processing into mulch pressure treated and painted wood AND Receiving and depositing unapproved solid waste (household garbage)	Settlement $5,750
9/20/06	06-0033 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/20/06	06-0034 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/28/06	06-0039 **Counts 1-3:** 27-27(a)(2)	Sun Recycling, LLC #3	Unloading and processing solid waste outside of the designated building AND Failing to provide use of RSM AND Failing to produce material that meets the definition of RSM	Final Order: $8,250 (Respondent appealing)

3/1/07	07-0014 **Counts 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 38:** 27-27(a)(2) **Counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36:** 27-215(a)	Sun Recycling, LLC #3	Disposing of solid waste (not RSM) at a non-licensed facility (residential properties) AND Reporting (inaccurate documentation of end-user forms) AND Failing to provide use of RSM	Final Order: $80,000 (Respondent appealing)
3/1/07	07-0015 **Counts 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31:** 27-27(a)(2) **Counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22:** 27-215(a)	Sun Recycling, LLC #2	Disposing of solid waste (not RSM) at a non-licensed facility (residential properties) AND Receiving unapproved (co-mingled) solid waste AND Reporting (no RSM disposal record book & inaccurate portrayal of RSM generation site) AND Failing to produce material that meets the definition of RSM AND Presence of asphalt roofing material	Final Order: $50,000 (Respondent appealing)

			AND Reporting (inaccurate documentation of end-user forms) AND Failing to provide use of RSM	
4/2/07	07-0021 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
5/15/07	07-0028 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/5/07	07-0046 **Counts1-2:** 27-333(a)(1) 27-27(a)(2)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Failing to use RSM in a manner approved by EPD (placing RSM in a wetland)	No penalty assessed:
9/5/07	07-0050 **Counts1-2:** 27-27(a)(2)	Sun Recycling, LLC #2	Accepting and processing asbestos containing material AND Receiving unapproved solid waste	Pending penalty: $6,000

EXHIBIT "B"

Jeffrey J. Newton
County Attorney

BROWARD COUNTY FLORIDA

OFFICE OF THE COUNTY ATTORNEY
115 S. Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301

954-357-7600 • FAX 954-357-7641

February 2, 2009

File No: NOV07-205

Solid Waste Systems
Attn: Gus Lopez, CPPO
Procurement Division
1700 Convention Center Drive
Miami Beach, FL 33139

RE: Sun Recycling, LLC

Dear Mr. Lopez:

In response to your email to Tanya King of Environmental Protection and Growth Management Department dated January 26, 2009, the action stems from a Final Order that was entered by the Hearing Officer in an Administrative Hearing on behalf of Broward County Environmental Protection and Growth Management Department. The Hearing Officer concluded that Sun Recycling had deviated from County Code and licensing requirements by its continued and widespread noncompliance with solid waste restrictions. As a result of that finding, civil penalties were imposed on Sun Recycling, LLC. In addition, the Hearing Officer reserved jurisdiction on the issue of economic benefit, i.e. the benefit Sun Recycling obtained by failing to dispose of the solid waste in accordance with its license. The parties are currently in negotiation with respect to the amount of the economic benefit Sun Recycling obtained for disposing of solid waste not in accordance with the license.

As mentioned by Mr. Dan Taylor, counsel for Sun Recycling, Sun Recycling is in the business of receiving and processing construction and demolition debris, and distributing the processed product to residential, commercial and industrial disposal sites and landfills. The resulting products of this business is recovered screen material (hereinafter "RSM") which can be appropriately used as both commercial and residential fill material, and solid waste that has to be disposed of in landfills. The solid waste fill material at issue during the hearing included physical matter and/or chemicals that are prohibited from distribution at particular sites under Code and licensing requirements. At hearing, Sun Recycling was charged with over 80 counts of solid waste disposal to residential, commercial and wetland properties. The material that was disposed of was placed on residential and commercial sites and was classified as solid waste by the Department, not RSM. Sun Recycling presented evidence to suggest that the equipment had malfunctioned that separates certain materials by size that ultimately

Broward County Board of County Commissioners
Josephus Eggelletion, Jr. • Sue Gunzburger • Kristin D. Jacobs • Ken Keechl • Ilene Lieberman • Stacy Ritter • John E. Rodstrom, Jr. • Diana Wasserman-Rubin • Lois Wexler
www.broward.org/legal

produces RSM that would have been permitted according to Sun Recycling's license. However, all materials that were dumped into a wetland areas as well as water bodies by Sun Recycling would not have been permitted whether one would classify the material as solid waste or RSM.

By way of Joint Stipulation, Sun Recycling admitted to the Notice of Violations but stated that it "never intentionally violated the law". Further, Sun Recycling stipulated that there was a lack of institutional controls within the company that could have prevented the violations and that the violations could have been reasonably foreseen. The institutional control problems relate to ongoing and known problems with the star screen that is used to separate and ultimately produce RSM, which ultimately resulted in an uninterrupted distribution of a significant amount of solid waste material distributed throughout Broward and Palm Beach County.

The Hearing Officer ruled that the County demonstrated through evidence produced at hearing that there was an extensive and ongoing distribution of prohibited solid waste material produced by Sun Recycling. Further, that the extent of deviation was major due to the lack of institutional controls that allowed the material to be distributed throughout two counties; however, the potential for harm to the environment was minor. In assessing a penalty of $254,642.00, clearly the Hearing Officer took into consideration Sun Recycling's good faith efforts to clean up the affected sites and ensure that it would be in future compliance. Sun Recycling has appealed this decision by filing of a *Writ of Certiorari* that is still pending.

If I may be of further assistance, please let me know.

Sincerely,

Daphne Jones
Assistant County Attorney

DEJ/bjl

c: Tanya King, Natural Resource Specialist II, Enforcement Administration
Environmental Protection and Growth Management Department

MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor

DATE: February 18, 2009
AUDIT: General Hauling Service, Inc.
PERIOD: January 2006 to August 2008

This report is the result of a scheduled audit of the Roll-off Fee Returns for General Hauling Services, Inc.

INTRODUCTION

A Roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess occupational licenses to operate Roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, and maintaining sufficient insurance.

General Hauling's provides roll-off waste services and have been in South Florida since 1945. Their roll-off service includes delivery, hauling to the disposal site and the disposal of construction debris at a licensed facility.

OVERALL OPINION

General Hauling has not fully complied with certain provisions of the City Code's during the audit. As a result, some gross receipts were not reported and the franchise fees were not paid to the City. The following items were noted during audit:

- Gross receipts in the amount of $137,048.88 were not reported resulting in $25,244.10 in franchise fees and interest due to the City. The majority (92%) of this underreporting was attributed to miscoding to other municipalities. General Hauling has changed their procedures to prevent miscoding errors attributed to corporate billings.

- General Hauling has not filed a list of accounts upon renewal and the required CPA statement of gross receipts. A listing of accounts was provided during the audit.

- General Hauling has submitted the certificate of liability insurance.

PURPOSE

The purpose of this audit is to determine whether all Roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *Unreported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as "*the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal".* Therefore, all monies collected by the Roll-off waste contractor from Miami Beach service addresses, including debris pickup on-construction load, delivery charges, fuel surcharges, dry run and overload should be included in reported gross receipts.

Out of $385,914.19 audited gross receipts, General Hauling paid the City of Miami Beach $39,818.45 in franchise fees for $248,865.31 in reported gross receipts. General Hauling collected an additional $137,048.88 in gross receipts for roll-off waste removal services within the city limits and did not report these amounts in compliance with the City Code.

Initial confirmations with General Hauling's customers indicated that several invoices were not included in their returns submitted to the City. Our results were submitted to General Hauling's outside accountants who subsequently informed us that $125,348.88 (92%)were miscoded to other municipalities using a corporate billing address outside of Miami Beach rather than the service location address. As a result, franchise fees were incorrectly remitted to other municipalities rather than to the City of Miami Beach. We were able to verify these miscoding errors. The miscoding errors examined were inadvertently reported and paid to the City of Miami (22%) of such monthly gross receipt as a regulatory permit fee as opposed to remitting the City of Miami Beach's 16% franchise roll-off fee rate.

Their outside accountants performed an internal review and discovered two additional accounts miscoded totaling $13,250 in gross receipts that were not reported to the City of Miami Beach. We have included these additional amounts below that were not paid to the City. We reviewed additional accounts and determined that they were correctly coded to the City of Miami Beach.

The following table summarizes the amount due from General Hauling for our audit period:

	2006	2007	2008 (Jan to Aug)	TOTAL
Audited Gross Receipts	$147,340.50	$155,027.40	$83,546.29	$385,914.19
Less Report Gross Receipt	102,717.74	87,392.40	58,755.17	248,865.31
Unreported Revenues	44,622.76	$67,635.00	$24,791.12	137,048.88
Roll-off fees due	7,139.64	10,821.60	3,966.58	$21,927.82
Interest	1,623.89	1,424.66	267.73	3,316.28
Total Due	$8,763.53	$12,246.26	$4,234.31	$25,244.10

During the course of our audit, General Hauling remitted the above amount to the City and effective January 2009 changed their procedures to ensure that miscoding errors do not re-occur by not permitting corporate billing.

Recommendation(s)
We recommend that the company continue to monitor the effectiveness of their procedural change to ensure the proper coding of municipalities.

2. Finding – *Required Reporting*
General Hauling did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90-278 (3) states" *The licensed Roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each Roll-off container or construction dumpster as per account and the address serviced by each Roll-off container or construction dumpster."* General Hauling has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each Roll-off container. However, a listing of customer names was provided during the audit.

b. Section 90 - 278 (4) states "*The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year*". General Hauling did not provide a statement of its annual gross receipts generated from accounts within the city certified by an independent public accountant during the audit period. The waste contractor agreed to provide the annual CPA statement going forward.

c. City Code Section 90 -196 lists the insurance coverage that must be maintained by Roll-off waste contractors. General Hauling provided proof of the required insurance during the audit.

Recommendation(s)
General Hauling must comply with the designated sections of the City Codes and submit lists of accounts and certified statements of gross receipts annually.

EXIT CONFERENCE

The results of our audit were forwarded to General Hauling's accountants (Berkowitz Dick Pollack & Brant) to present to their client. General Hauling concurred with our findings and paid the audit assessment. In their response, they stated that procedures have been changed effective January 2009 to ensure that miscoding errors do not re-occur.

JJS: CD
Audit performed by Carmin Dufour

F:\obpi\$AUD\DOC08-09\REPORTS - FINAL\GENERAL HAULING.doc

cc: Robert Middaugh, Interim Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Zachary Bush, General Hauling

Condensed Title:

A Resolution Accepting The Recommendation Of The City Manager Pursuant To Request For Qualifications (RFQ) No. 49-07/08, For A Solid Waste Franchise Contractor To Provide Commercial Waste Collection And Disposal Services, That The Mayor And City Commission Grant/Issue The Fifth Franchise License For Residential And Commercial Waste Collection And Disposal Services To General Hauling Service, Inc. As The Top-Ranked Proposer; Further Making The Award Of The Fifth Franchise Subject To And Contingent Upon The Successful Proposer Entering Into A Service Agreement With The City (Along With The Other Four Current Franchisees) For The Provision Of Additional Public Waste Collection And Disposal And Recycling Services; And Further Authorizing The City Manager To Execute The Service Agreement.

Key Intended Outcome Supported:

Improve cleanliness of Miami Beach Right-of-Ways especially in business areas.

Supporting Data (Surveys, Environmental Scan, etc.): The 2007 Miami Beach Community survey shows the following improvements compared to the 2005 survey in cleanliness of streets in business/ commercial areas, residential neighborhoods and canals/ waterways: 9% improvement in rating of street cleanliness in neighborhoods by Mid Beach and Condo Corridor residents respectively, 10% improvement in street cleanliness in business/ commercial areas by Mid Beach residents, 8% and 6% improvement in street cleanliness in business/ commercial areas by South and Mid Beach, and 17% improvements in Mid Beach resident rating of canals/ waterways as excellent or good.

Issue:

Shall the City Commission approve the City Manager's recommendation?

Item Summary/Recommendation:

On October 6, 2008, Request for Qualifications (RFQ) No. 49-07/08, for A Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services, (the "RFQ"), was issued.

At its meeting on October 7, 2008, the Mayor and City Commission approved Resolution No. 2008-3616, which authorized and approved four (4), three (3) year franchises with the existing Solid Waste Contractors, commencing retroactively to October 1, 2008 and ending on September 30, 2011. The franchises were approved subject to each franchisee's agreement to execute a separate service agreement with the City (which agreement is intended to run concurrent with the term of the franchise) to continue to provide each franchisee's "proportionate share."

On October 6, 2008, the RFQ was issued with an opening date of November 6, 2008. A Pre-proposal meeting to provide information to prospective Proposers was held on October 22, 2008. BidNet issued notices to 96 prospective Proposers; RFP Depot sent notices to 3454 prospective Proposers of which 27 viewed the documentation; which resulted in the receipt of the following five (5) proposals: 1-866-Junk Be Gone, General Hauling Service, World Waste Services, Choice Environmental Services, Southern Waste Systems.

The City Manager, via Letter to Commission (LTC) No. 303-2008, an Evaluation Committee (the "Committee") that convened on December 15, 2008 for presentations, deliberations, and recommendations.

Notwithstanding, the ranking of the Evaluation Committtee, in light of information on the City's Internal Audit findings, and a history of environmental violations confirmed during the due diligence subsequent to the Committee process, Southern Waste Systems will not be recommended as a vendor. General Hauling, Service Inc. is being recommended as the top-ranked proposer for the Mayor and City Commission's consideration.

ACCEPT THE CITY MANAGER'S RECOMMENDATION.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account	Approved
OBPI	1			
	Total			

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Gus Lopez, Ext: 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL_____	RCM_____ PDW_____	JMG_____

T:\AGENDA\2009\January 28\Consent\RFQ 49-07-08 Solid Waste Franchise Contractor - SUMM.doc

MIAMIBEACH

AGENDA ITEM R7J
DATE 1-28-09

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: January 28, 2009

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, HAVING CONSIDERED AND ACCEPTED THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 49-07/08, FOR A SOLID WASTE FRANCHISE CONTRACTOR TO PROVIDE COMMERCIAL WASTE COLLECTION AND DISPOSAL SERVICES, AND SECTION 90-229 OF THE CITY CODE, AND GRANTING/ISSUING THE FIFTH FRANCHISE LICENSE FOR RESIDENTIAL AND COMMERCIAL WASTE COLLECTION AND DISPOSAL SERVICES, TO GENERAL HAULING SERVICE, INC.; FURTHER MAKING THE AWARD OF THE FIFTH FRANCHISE SUBJECT TO AND CONTINGENT UPON THE FRANCHISEE ENTERING INTO A SERVICE AGREEMENT WITH THE CITY (ALONG WITH THE OTHER FOUR CURRENT FRANCHISEES) FOR THE PROVISION OF ADDITIONAL PUBLIC WASTE COLLECTION AND DISPOSAL AND RECYCLING SERVICES; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE SERVICE AGREEMENT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Section 90-229 of Chapter 90 (the City's Solid Waste Ordinance, see attached) sets forth the minimum requirements and qualifications for the selection of franchise waste contractors for commercial waste collection and disposal.

On September 17, 2008, the Mayor and City Commission adopted on second and final reading, Ordinance No. 2008-3616, which approved certain amendments to Chapter 90 of the Miami Beach City Code, including new requirements for qualification and evaluation of solid waste franchisees.

Previously, at the September 8, 2008 City Commission Meeting, the Mayor and City Commission approved the issuance of a Request for Qualifications for selection of a fifth franchise waste contractor for commercial waste collection and disposal services (the "RFQ"); subsequently, the final RFQ incorporated the new requirements for qualification and evaluation for solid waste franchisees (as adopted pursuant to Ordinance No. 2008-3616).

On October 6, 2008, Request for Qualifications (RFQ) No. 49-07/08, for A Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services, was issued.

At its meeting on October 7, 2008, the Mayor and City Commission approved Resolution No. 2008-3616, which authorized and approved franchises for an initial term of three (3) years, commencing retroactively on October 1, 2008 and ending on September 30, 2011, with the four (4) existing solid waste franchisees:

1) Waste Management of Dade County North;
2) Republic Services of Florida;
3) Waste Services, Inc; and
4) Davis Sanitation, Inc.

The franchises were approved subject to each franchisee's agreement to execute a separate service agreement with the City (which agreement is intended to run concurrent with the term of the franchise) to continue to provide each franchisee's "proportionate share" of certain additional public benefits/services to the City as referenced in the attached Exhibit "A" hereto.

In order to provide its proportionate share of the aforestated public benefits/services to the City, the fifth selected franchisee will also be required to execute a service agreement, as a condition to award of the franchise. Notwithstanding the preceding requirement, in order to allow the new franchisee a "ramp up" period, this obligation shall not commence, as to the 5th franchisee only, until April 1, 2009.

RFQ PROCESS

On October 6, 2008, the RFQ was issued with an opening date of November 6, 2008. A Pre-proposal meeting to provide information to prospective proposers was held on October 22, 2008. BidNet sent notices to 96 prospective proposers; RFP Depot sent notices to 3454 prospective proposers of which 27 viewed the documentation; which resulted in the receipt of the following five (5) proposals:

- 1-866-Junk Be Gone;
- General Hauling Service, Inc.;
- World Waste Services, Inc.;
- Choice Environmental Services, Inc.; and
- Southern Waste Systems, LLC.

The City Manager, via Letter to Commission (LTC) No. 303-2008, appointed an Evaluation Committee ("The Committee") consisting of the following individuals:

- Graziano Sbroggio, Business Owner;
- Martha Iglesias, Miami Beach Resident;
- Jorge Exposito, Miami Beach Resident, Leadership Academy;
- Debbie Leibowitz, Miami Beach Resident, Leadership Academy;
- Rhonda McPherson, Assistant Director, Sanitation Division;
- Georgie Echert, Assistant Director, Finance Department; and
- Jonathan Fryd, Business Owner.

EVALUATION PROCESS

On December 15, 2008, the Evaluation Committee (the "Committee") convened for presentations, deliberations, and recommendation. The Committee unanimously agreed to appoint Debbie Leibowitz as Committee Chair.

During discussions, Debbie Leibowitz, the Committee's chairperson, stated for the record, that as a Green Committee member, she knows that there is a lack of recycling options in the City of Miami Beach at the present time, and that "Recycling was to be considered an important component of this RFQ evaluation process."

In deliberations, the Committee discussed the evaluation criteria set forth in the RFQ:

a) good service; **25 points**
b) competitive prices; **25 points**
c) demonstrated and/or proposed green initiatives; and **25 points**
d) ability and commitment to provide such additional "public benefit(s)" to the City which may include, without limitation: provision of additional waste collection, disposal, and /or recycling services (at no cost to the City) to city right of way, city-owned public buildings, parks, and/or beaches; voluntary cost and/or fee reductions; and/or such other city public benefits and/or services as the city manager may, in his reasonable judgment and discretion, from time to time, require. **25 points**

The Committee, in its deliberation of proposal pricing, commented on the lack of precise numbers offered by World Waste Services, as opposed to the other Proposers, noting that it was an integral part of the evaluation criteria.

The following chart includes monthly rates for a 2 cubic yard container by frequency per week (presented by each proposer):

FIRMS	2 yds. 1x week/ month	2 yds. 2x week/ month	2 yds. 3x week/ month	2 yds. 4x week/ month	2 yds. 5x week/ month
Southern Waste Systems	$43.13	$86.25	$129.38	$172.51	$215.64
General Hauling Service	$55 -$99	$110 - $198	$165 - $297	$220 - $396	$275 - $495
World Waste Services	$50 to $15,000/mth depending on the type of industry and volumes	$50 to $15,000/mth depending on the type of industry and volumes	$50 to $15,000/mth depending on the type of industry and volumes	$50 to $15,000/mth depending on the type of industry and volumes	$50 to $15,000/mth depending on the type of industry and volumes
Choice Environmental	$125.57	$243.61	$361.64	$477.17	$590.18
1-866-Junk Be Gone	none	129.00	155.00	207.00	258.00

The Committee, after sharing their perceptions of the information read and presented, proceeded to score and rank as follows:

FIRMS	Graziano Sbroggio	Martha Iglesias	Jorge Espositto	Debbie Leibowitz	Rhonda McPherson	Georgie Echert	Jonathan Fryd	TOTALS
Southern Waste Systems	91 (2)	95 (1)	80 (1)	95 (tie)	80 (2)	95 (1)	100 (1)	636 (1)
General Hauling Service	97 (1)	90 (2)	70 (2)	95 (tie)	95 (1)	85 (2)	90 (2)	622 (2)
World Waste Services	86 (4)	75 (4)	60 (4)	78 (3)	88 (3)	80 (tie)	85 (4)	552
Choice Environmental	88 (3)	80 (3)	65 (3)	75 (4)	80 (4)	80 (tie)	88 (3)	548
1-866-Junk Be Gone	68 (5)	60 (5)	50 (5)	40 (5)	60 (5)	50 (5)	80 (5)	408

Following its deliberation, the Committee recommended Southern Waste Systems as the top-ranked proposer.

THE CITY MANAGER'S DUE DILIGENCE

The City Manager, as part of his due diligence in making his recommendation to the City Commission, reviewed the Committee's findings and recommendations.

On December 22, 2008, the City Manager was presented with written documentation by Attorney Kent Harrison Robbins, representing World Waste Services, Inc., dated December, 22, 2008, which raised several issues. First, it alleged multiple violations by Sun Recycling LLC, with the Broward County Department of Environmental Protection Solid Waste Management. The allegations included an enforcement history dating back to 2001, for illegal dumping and other environmental infringements (attached Exhibit B). Following review of Mr. Robbins' letter, the City Manager requested staff to independently investigate and confirm the allegations therein with regard to the protection history of Sun Recycling. The Administration's due diligence confirmed the allegations directly with the Broward County Environmental Protection.

As part of his ongoing due diligence the City Manager also asked to see a comparison of costs with the four (4) franchise contractors. The Sanitation Division provided an average rate, calculated by taking the gross monthly receipts submitted to the Finance Department, divided by the size and frequency of the container being serviced.

The below chart was done as comparison averages amongst various municipalities:

City of Coral Gables	Exclusive Franchise	Waste Management	$14.31 per cy	$114.48 *
Cit of Opa-Locka	Exclusive Franchise	Waste Management	$13.95 per cy	$111.60 *
City of Hialeah Gardens	Exclusive Franchise	Waste Management	$9.76 per cy	$78.08 *
Florida City	Exclusive Franchise	Waste Management	$9.12 per cy	$72.96 *
City of Miami Beach	**Non-exclusive Franchise**	**4 Franchise Contractors**	**$9.86 per cy ***	**$78.88 ***

*Calculated as a 2 yd. container/1x week/month.

The below chart shows the City of Miami Beach average (4 current haulers) compared to the proposed pricing:

FIRMS	2 yds 1x week/ month
Southern Waste Systems	$43.13
General Hauling Service	$55 -$99
World Waste Services	$50 to $15,000/mth depending on the type of industry and volumes
Choice Environmental	$125.57
1-866-Junk Be Gone	none
City of Miami Beach (4 haulers average)	$78.88

The Administration also reviewed Internal Audit findings that related to the proposers. Internal Audit completed an audit report on August 31, 2006 for the Roll-Off Fee Returns. The purpose of the audit was to determine whether all roll-off waste contractor billings were correct, whether all City revenues were correctly calculated, received timely, and accurately recorded, and that the contractor proper was in compliance with applicable sections of the City Code and related Ordinances.

The following findings for each proposer concluded that revenues were under-reported over the audit period, which resulted in Roll-Off fees due, plus interest (detailed audit reports attached as Exhibit C):

Company	Audit Period	Date of Report	Audit Assessment	Status as of 1/23/09
Southern Waste	10/02-5/05	8/31/06	$64,943.48	Paid
Southern Waste	6/05-6/08	10/6/08	$12,394.25	Paid
Choice Environmental Service	1/03-5/06	12/14/06	$3,076.10	Paid
World Waste	1/02-9/05	8/14/06	$5,424.56	Paid
1-866-Junk Be Gone	1/05-9/07	2/12/08	$8,849.12	Eight monthly payments of $1,118.64 were agreed to starting in 5/08. Only three payments were made. The last payment was made in 8/08. Balance due is $5,593.20. Account is currently in default.
General Hauling Service	1/06-8/08	Pending	$25,244.10	Paid. Draft report issued to contractor awaiting response.

In addition, the issue was raised that one of the Committee members, Mr. Jonathan Fryd, had a perceived conflict of interest, since as a business owner, he disclosed that he utilized the services of several haulers: Junk Be Gone, Davis Sanitation, Magic Waste Management, Better Waste Management and Waste Management. In the abundance of caution, the City Manager evaluated the Committee's scores, to review what, if any impact, Mr. Fryd's score would have on the proposed ranking.

It is important to know that the inclusion or exclusion of Mr. Fryd's scores (as shown excluded below) does not affect the top-ranked; however, the remaining ranking changes slightly.

FIRMS	Graziano Sbroggio	Martha Iglesias	Jorge Capasso	Debbie Lebowitz	Rhonda McPherson	Georgie Echert	TOTALS
Southern Waste Systems	91	95	80	95	80	95	536
General Hauling Service	97	90	70	95	95	85	532 (1)
World Waste Services	86	75	60	78	88	80	467
Choice Environmental	88	80	65	75	80	80	468
1-866-Junk Be Gone	68	60	50	40	60	50	328

Notwithstanding, the ranking of the Evaluation Committtee, in light of information on the City's Internal Audit findings, and a history of environmental violations confirmed during the City Manager's due diligence (subsequent to the Committee process), the City Manager recommends General Hauling, Service Inc. as the top-ranked proposer for the Mayor and City Commission's recommendation.

GENERAL HAULING'S PROPOSAL

General Hauling is a privately owned company and was established in 1945, it has been in business with the same ownership for over 62 years. General Hauling Service, Inc. is a third-generation, family-owned company. Ben Bush is the chief operating officer, and Zack Bush is the chief financial officer.

General Hauling Service has annual revenues in excess of $10 million. The company also has excellent banking relationships and access to capital, through two major financial institutions.

General Hauling Service commits to competitive, fair and reasonable pricing of its commercial services. Every commercial customer has its own waste disposal needs, often with unique constraints due to location and/or layout and/or hours of operation. Determination of each customer's frequency of service requirements, and pricing for those services, is made mutually after careful evaluation of (a) the customer's operational needs and constraints and (b) the customer's waste stream, with an emphasis on control and diversion of waste materials to maximize recycling efforts.

General Hauling Service commits to provide "outstanding service." Macy's, dating to its predecessor department store Burdines, has been a client of General Hauling Service without interruption since the early 1950's. Florida Power and Light, has been a client for over three decades.

General Hauling Service clients have included the Public Defender office building, Courthouse Center, the Corrections and Rehabilitation Department's Metro West facility, the Opa-Locka Neighborhood Center, various Miami-Dade Park and Recreation Department locations (Deering Estate, Bill Sadowski Park and Three Lakes Park among them), and the Opa-Locka Airport Fire and Crash Station. The company has serviced and continues to service public schools, libraries, banks, office buildings, condominiums, retail stores, pharmacies, medical centers, universities, warehouses, hotels.

General Hauling Service has provided waste services at a variety of other challenging construction sites in Miami Beach, including at Mt. Sinai Hospital and La Gorce Country Club. Other government agencies long have trusted General Hauling Service to meet tough standards in serving the public: Jackson Health Systems and the Public Health Trust, Miami International Airport landside and construction operations and various air carriers there, the Florida Department of Corrections, the Miami Intermodal Center under construction for the Florida Dept. of Transportation, and the City of Miami Police Dept.

General Hauling Service would establish a dedicated email address, CleanMiamiBeach@generalhauling.com, for customers or even ordinary residents and visitors to report waste spillage or other problems – whether at a General Hauling Service location or not. This address would be monitored throughout each day to insure immediate response to keep the City's streets and open areas as clean as possible.

OPERATIONAL PLAN

General Hauling Service will provide services to commercial accounts in the City of Miami Beach from its operational headquarters and central maintenance facility on NW 20th Street in Miami, proximate to Interstates 395 and 195 and a very modest distance from Miami Beach. This will insure timely, efficient and cost-effective delivery of services

to Miami Beach commercial customers.
The company will deploy its newest equipment and dedicate its most experienced personnel to Miami Beach in the development of its commercial franchise operations there; a brand-new garbage truck arrives in two weeks and would debut in Miami Beach. Ben and Zack Bush, General Hauling Service's chief operating and chief financial officers and residents of Miami Beach, will closely manage all prospective-client identification and solicitation, new-contract negotiations, and route planning, staffing and supervision.

Only rear load packer-type collection vehicles will be utilized, because that equipment configuration guarantees the best, safest and most efficient operations. Each truck will have two highly-trained, experienced drivers (as opposed to a driver and "casual labor" helpers, contract day laborers or any other under-skilled employee.) This is critical for timely adherence to route configurations, on-the-ground interaction with customers and City personnel, and optimal delivery of services in the real world of congested streets, both vehicular and pedestrians.

All trucks and other equipment will be kept clean and in excellent running condition at all times; the same will be true of all containers. General Hauling Service will provide more than sufficient personnel, machinery, supervision, tools, equipment, insurance and all other things necessary to provide the best possible service to its Miami Beach customers, without interruption and in the most efficient manner. General Hauling Service does not deny employment or in any other way discriminate on the basis of race, sex, national origin, creed, age, religion or sexual orientation. Nor does the company discriminate in any way regarding its offer and willingness to provide waste-collection services to our community.

Particular emphasis will be on safety of operations to absolutely minimize injury to any person; to avoid damage to any property, public or private, or to utilities; and to prevent spillage on rights-of-way or private property. All employees will be properly uniformed, properly licensed, thoroughly trained, fully insured and dedicated at all times to customer service and courteous behavior. All new hires undergo rigorous screening, including a pre-employment drug test and background check. General Hauling Service is a drug-free workplace with a zero tolerance for any substance abuse and/or inappropriate professional and personal behavior. Random drug testing is ongoing, and is performed by an independent, third-party contractor.

Collection routes will be established for maximum efficiency and minimum truck time on City streets. Additional equipment and personnel will be over-deployed to Miami Beach, as the volume of business increases, in order to guarantee that trucks get into and out of the City as quickly as possible, spending as little time on City streets as necessary. This will guarantee the best service quality, consistency and reliability. Strict adherence to approved route schedules, in order to minimize noise at inappropriate times too early or too late each day, will govern. No route shortcuts will be allowed. Professional training and safety seminars will be conducted regularly, as will unannounced follow-along, by route supervisors. A supervisor dedicated to General Hauling Service customers in Miami Beach will be available for contact 24 hours daily, seven days a week, to all customers and City personnel. Likewise, appropriate City personnel will be given the personal phone numbers of Ben Bush and Zack Bush.

Accurate, detailed records of all scheduled appointments and service dates by customer address will be maintained by General Hauling Service for the City's inspection at any time, and copies of all records will be provided to the City immediately upon request. The company shall provide the City with all collection routes, and shall update those route records and keep the City current regarding them at all times.

General Hauling Service issues each driver a take-home cellphone which each employee is authorized to use for personal phone calls as well. That's another aspect of the company's "family culture." But the phones have rules: For safety reasons, texting function is disabled. No talking is allowed while operating a vehicle. Any incoming calls to the driver behind the wheel must go to voicemail, for message retrieval when parked. Personnel at General Hauling Service's office know to communicate with the rider-driver in each truck. General Hauling Service has a quarterly driver safety program that recognizes outstanding performance with cash bonuses, cumulating in a year-end recognition of many safe drivers receiving $1,500 apiece.

General Hauling drivers will become extra sets of "eyes and ears" for the City, but reporting of events or situations that require immediate action would be handled by the rider-driver. General Hauling Service has one of the best driver safety records in South Florida's waste-hauling industry; we have a dedicated safety officer on staff.

GREEN INITIATIVES

Zack Bush, chief financial officer, is the company's representative member of both the United States Green Building Council and of its South Florida chapter. General Hauling Service will not, under any circumstances, take any construction-site waste load directly to a landfill; in worst-case scenarios, where customers are unwilling or unable to source-separate, fully commingled loads are taken to the appropriate specialty, licensed recycling center(s) to recover as much recyclable material as possible. For clients willing to source-separate on site, General Hauling Service has a full range of right-sized containers to meet the multiple-product recycling goals of each and every client.

Diversion of commercial waste from landfills will be a paramount priority if General Hauling Service is awarded the fifth franchise license by the City of Miami Beach.

The company is intimately familiar with the Leadership in Energy and Environmental Design (LEED) rating system administered by the U.S. Green Building Council, and has a demonstrated track record of LEED accomplishment working with various contractors on construction sites throughout Miami-Dade County. This collaborative approach to clients' recycling and green challenges will migrate effortlessly to the company's commercial accounts in the City of Miami Beach.

General Hauling proposes, as the centerpiece of this proposal, to help fund the City's ongoing efforts to enhance voluntary recycling and other green programs. The company proposes to accomplish this in two ways:

A. General Hauling Service commits to make a contribution each year to the City of Miami Beach equal to one and one-half percent (1.5%) of the company's gross hauling revenues, net of taxes and municipal franchise fees, derived from commercial accounts pursuant to this fifth franchise license and paid to it in the preceding 12 months.

B. General Hauling Service commits to encourage every new commercial customer, obtained pursuant to this fifth franchise license, to match its proportional share of the company's annual program payment (e.g., pay directly to the City each year one and one-half percent (1.5%) of its own total annual service payment to General Hauling Service, at the time of the company's payment to the City). For clients agreeing in writing to participate, General Hauling Service will negotiate beneficial contract terms with each participating client for enhanced services.

It is respectfully suggested that these revenues be protected by the City in a Keep Miami Beach Clean Fund account, which would help focus public attention on the vital importance of environmental stewardship and underwrite green initiatives. The Fund also would serve as the repository for financial contributions from other companies and individuals who wish to support City-managed environmental programs, where an advisory board of citizen advocates could be appointed, and either Ben Bush or Zack Bush would volunteer.

Civic involvement and support of worthy local charities long has been an important part of General Hauling Service's culture. Most recently the company was a major sponsor of the Third Annual Miami Beach Police Athletic League fundraiser. The company has also provided waste collection services at no cost for more than 25 years to Miami's Red Berry's Baseball World, one of America's finest youth sports facilities. If awarded this franchise license and allowed to grow its business within the City of Miami Beach, General Hauling Service would be vigorous in expanding its charitable donations and free-service activities within the City limits.

General Hauling Service proposes to provide free waste collection service for the public park now under construction at the New World Symphony site on 17th Street. Moreover, General Hauling Service would donate free of charge a container for the park and recommend that it be turned into a four-sided "piece of art" each year in conjunction with the City's signature Art Basel event – the City could select four artists each year, and General Hauling Service will provide all of the paint and materials at no cost.

PROPOSALS for Commission's information, attached is a copy of General Hauling Inc.'s proposal.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the attached Resolution, that recommends granting/issuing the fifth franchise license for residential and commercial waste collection and disposal services to General Hauling Service, Inc.; further making the award of the fifth franchise subject to and contingent upon the franchisee entering into a service agreement with the City (along with the other four current franchisees) for the provision of additional public waste collection and disposal and recycling services; and further authorizing the City Manager to execute the service agreement.

T:\AGENDA\2009\January 28\Consent\RFQ 49-07-08 Solid Waste Franchise Contractor - Memo.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, HAVING CONSIDERED AND ACCEPTED THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 49-07/08, FOR A SOLID WASTE FRANCHISE CONTRACTOR TO PROVIDE COMMERCIAL WASTE COLLECTION AND DISPOSAL SERVICES, AND SECTION 90-229 OF THE CITY CODE, AND GRANTING/ISSUING THE FIFTH FRANCHISE LICENSE FOR RESIDENTIAL AND COMMERCIAL WASTE COLLECTION AND DISPOSAL SERVICES, TO GENERAL HAULING SERVICE, INC.; FURTHER MAKING THE AWARD OF THE FIFTH FRANCHISE SUBJECT TO AND CONTINGENT UPON THE FRANCHISEE ENTERING INTO A SERVICE AGREEMENT WITH THE CITY (ALONG WITH THE OTHER FOUR CURRENT FRANCHISEES) FOR THE PROVISION OF ADDITIONAL PUBLIC WASTE COLLECTION AND DISPOSAL AND RECYCLING SERVICES; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE SERVICE AGREEMENT.

WHEREAS, Chapter 90 of the City Code is the City's Solid Waste Ordinance; and

WHEREAS, Section 90-229 of the City Code provides for the minimum qualifications for the selection of franchise waste contractors for residential and commercial waste collection and disposal; and

WHEREAS, on September 17, 2008, the Mayor and City Commission adopted on second and final reading, Ordinance No. 2008-3616, which approved certain amendments to Chapter 90 of the Miami Beach City Code (the City's Solid Waste Ordinance), including new requirements for qualification and evaluation of solid waste franchisees; and

WHEREAS, previously, at the September 8, 2008 City Commission Meeting, the Mayor and City Commission approved the issuance of a Request for Qualifications for selection of a fifth franchise waste contractor for commercial waste collection and disposal services (the "RFQ"); subsequently, the final RFQ incorporated the new requirements for qualification and evaluation for solid waste franchisees (as adopted pursuant to Ordinance No. 2008-3616); and

WHEREAS, on October 6, 2008, Request for Qualifications (RFQ) No. 49-07/08, for a Solid Waste Franchise Contractor to Provide Commercial Waste Collection and Disposal Services, was issued; and

WHEREAS, a pre-proposal meeting to provide information to prospective proposers was held on October 22, 2008; and

WHEREAS, BidNet sent notices to 96 prospective proposers; RFP Depot sent notices to 3454 prospective proposers of which 27 viewed the documentation; which resulted in the receipt of the following five (5) proposals; and

WHEREAS, the City Manager, via Letter to Commission (LTC) No. 303-2008, appointed an evaluation Committee ("The Committee") consisting of the following individuals:

- Graziano Sbroggio, Business Owner;

- Martha Iglesias, Miami Beach Resident;
- Jorge Exposito, Miami Beach Resident, Leadership Academy;
- Debbie Leibowitz, Miami Beach Resident, Leadership Academy;
- Rhonda McPherson, Assistant Director, Sanitation Division;
- Georgie Echert, Assistant Director, Finance Department;
- Jonathan Fryd, Business Owner; and

WHEREAS, on December 15, 2008, the Committee convened and, following presentations, unanimously recommended Southern Waste Systems as the top-ranked proposer; and

WHEREAS, the City Manager, in making his own recommendation to the City Commission, both pursuant to the RFQ and as provided under Section 90-229 (b) of the City Code, reviewed the Committee's findings and recommendations and additionally, conducted his own independent review and due diligence on the proposers; and

WHEREAS, additionally, subsequent to the Committee's meeting, the City Administration was made aware of other relevant issues which related to the responsibility of the proposer recommended by the Committee (particularly as might be related to the proposer's ability to provide good service and fulfill its duties as a franchise waste contractor under Chapter 90, and as more specifically set forth in the Commission Memorandum accompanying this item, which is also incorporated by reference hereto); and

WHEREAS, in light of information received as a result of this additional due diligence conducted by the City Administration, all as more specifically set forth in the accompanying Commission Memorandum, the City Manager recommends that the City Commission issue the fifth franchise license to General Hauling, Service Inc., as the City Manager's recommended proposer pursuant to the RFQ, and Section 90-229 of the City Code.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, having considered the minimum criteria for selection of franchise waste contractors pursuant to Section 90-229 of the City Code, as well as pursuant to RFQ No. 49-07/08, for a Solid Waste Franchise Contractor to provide Commercial Waste Collection and Disposal Services, hereby accept the City Manager's recommendation and grant/issue the fifth franchise license for residential and commercial waste collection and disposal services to General Hauling Service, Inc.; further making the award of the fifth franchise subject to and contingent upon the franchisee entering into a service agreement with the City (along with the other four current franchisees) for the provision of additional public waste collection and disposal and recycling services; and further authorizing the City Manager to execute the service agreement.

PASSED AND ADOPTED THIS _____ DAY OF _____2009.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

T:\AGENDA\2009\January 28\Consent\RFQ 49-07-08 Solid Waste Franchise Contractor- RESO.doc

1-22-09

City Attorney Date

Proposal

collection, ~~only~~ of garbage, rubbish, ~~and~~ trash, and recyclable materials as defined in this chapter, up to and within that immediate area of the owner's private property line where a dumpster, compactor, recyclable material container, and other garbage facility may be located and, at a minimum, within a radius of ten feet surrounding the location of said dumpster, compactor, recyclable material container, and other garbage facility, regardless of whether such garbage, rubbish, ~~and~~ trash, or recyclable materials may or may not be included or secured with a dumpster, compactor, recyclable material container, and other garbage facility. Such immediate collection of garbage, rubbish, ~~and~~ trash or recyclable materials shall be incorporated by ~~licensees~~ contractors as part of their regularly scheduled service pickups.

Sec. 90-229. Selection of franchise waste contractors.

(a) Except as provided in section 90-232~~3~~, the city shall license not more than five franchise waste contractors for residential and commercial waste collections and disposal as provided in section 90-97. Each applicant for a garbage and trash disposal license or renewal thereof shall submit, in writing, a list of its qualifications. The minimum qualifications to be considered in the granting of such license shall include:

(1) Evidence of the applicant's ability to fulfill all duties and requirements of a franchise waste contractor as set forth in this chapter, including proper certification and adequate insurance coverage.

(2) Certification that the applicant has never defaulted on any government contracts or bid awards.

(3) Evidence that the applicant has the potential for a significant amount of business within the city, comprised of either a minimum of 50 committed accounts within the city or, in the alternative, the city commission may accept, in its sole discretion, 50 comparable committed accounts from outside of the city.

(4) Certification that there are no unsatisfied judgments against the applicant.

(5) Certification that the applicant is not, and will not be, throughout the term that ~~he~~ it has a license, affiliated with, as a parent, subsidiary, by virtue of an interlocking ~~dicertorate~~ directorate, or otherwise, an affiliated entity of any existing licensee or any applicant for a licensee under section 90-191 et seq.

(6) The applicant's ability and commitment to provide the city and its ~~residences and~~ businesses and multi-family residences with (i) good service; (ii) competitive prices; (iii) demonstrated and/or proposed green initiatives; and (iv) ability and commitment to provide such additional "public benefit(s)" to the city which may include, without limitation: provision of additional waste collection, disposal, and/or recycling services (at no cost to the city) to city right of ways, city-owned public buildings, parks, and/or beaches; voluntary cost and/or fee reductions; and/or such other city public benefits and/or services as the city manager may, in his reasonable judgment and discretion, from time to time, require.

(b) If more than one applicant for a franchise waste contractor's license qualify under the minimum qualifications of this divisions, license issuance shall be determined by the city commission based upon the ~~greatest number of committed accounts, either within the city or, where the city commission has so accepted same, in its discretion, from outside the city~~

applicant(s) that the City Commission deems, in its judgment and discretion, and having considered the recommendation of the city manager, to have provided the most significant public benefit(s) to the city (pursuant to subsection 90-229(a)(6)).

(c) In lieu of accepting applications from new applicants as set forth above, the city commission may choose to issue new licenses to previous licensees. The decision shall be based on the criteria set forth in section 90-230.

Sec. 90-230. Renewal of contracts.

After ~~May 4, 1991~~ October 1, 2008, franchise waste contractors' franchise agreements within the city shall be valid for a period of ~~seven~~ three years from the date of contract. At the expiration or earlier revocation of the franchise, the city commission may choose, in its sole discretion, to accept applications for new franchise waste contract licenses conditioned and limited as noted above or, in the alternative, to renew licenses previously issued for an additional ~~five~~ three year period. In deciding to issue new licenses and/or accepting applications ~~from applications~~ for license, the city commission will consider the following factors:

(1) The licensee's full and faithful compliance with all the terms of this chapter.

(2) The licensees and/or applicants who best meet the qualifications established by this division for the issuance of the license.

(3) The current garbage, trash, ~~and~~ waste, and recyclable materials disposal needs of the city, including, without limitation, population, demographic and geographic needs and state and federal requirements.

Sec. 90-231. Recycling requirements for franchise waste contractors.; protest procedures.

(a) Recycling requirements.

(1) Each franchise waste contractor shall, as a condition of the franchise, be required to offer directly or to provide for a subcontract for recycling services for any multi-family residence with eight or more units for which solid waste services are provided as a franchise waste contractor.

(~~b~~2) Every contract with a multi-family residence by a franchise waste contractor for waste removal services shall also include a proposal to provide the recycling services required pursuant to Miami-Dade County Code. Such recycling proposal shall be specifically made to maximize the recycling activity at each multi-family residence. Such proposal shall provide for sufficient flexibility in recyclable materials container size and location as is both necessary and consistent for that specific multi-family residence.

(~~c~~3) Whether directly provided or subcontracted with a qualified recycling contractor, each multi-family residence recycling proposal shall be required to disclose to the contract holder the savings offset that is anticipated from the franchise waste contractor's waste hauling agreement with the multi-family residence as a result of the provision of recycling services and the reduction of solid waste disposed. The recycling proposal and the required savings offset from the solid waste hauling agreement is

EXHIBIT "A"

Facility Name	Location	#	Container Description	Frequency
Bass Museum	2121 Park Ave.	3	90 Gal Totes	7 times/wk
Bass Museum	2121 Park Ave.	2	6 yd can	7 times/wk
City Hall	1700 Convention Ctr Dr.	1	4 yd can	5 times/wk
City Hall	1700 Convention Ctr Dr.	1	2 yd can	1 time/wk
City Hall	1700 Convention Ctr Dr.	10	.5 Gal RTC	2 times/wk
Fire Station #1	1051 Jefferson Ave.	4	95 gal totes	MWF
Fire Station #1	1051 Jefferson Ave.	1	90Gal RCT	1 time/wk
Fire Station #2	2300 Pinetree Dr.	2	90Gal RCT	1 time/wk
Fire Station #2	2300 Pinetree Dr.	2	4 yd can	1 time/wk
Fire Station #2	2300 Pinetree Dr.	5	95 gal totes	MWF
Fire Station #3	5303 Collins Ave.	4	95 gal totes	MWF
Fire Station #4	6860 Indian Creek Dr.	4	95 gal totes	MWF
CMB Fire Station	5303 Collins Ave.	1	90 Gal Totes	1 time/wk
Garden Center Conserv	2000 Convention Ctr. Dr.	1	1 yd can	5 times/wk
Log Cabin	8128 Collins Ave.	1	2yd can	5 times/wk
MB Golf Course	2301 Alton Rd.	1	6yd can	7 times/wk
CMB Pool	12th St. & Michigan	1	1 yd can	6 times/wk
Youth Center	2700 Sheridan Ave.	1	4 yd can	5 times/wk
MB Ocean Rescue	7940 Collins Ave.	4	95 gal totes	MWF
N.Shore Open Space Pk	73rd & Collins Ave. (350 73rd St.)	1	2yd can	6 times/wk
N. Shore Tennis Ctr	73rd St. & Harding Ave (350 73rd St.)	1	3yd can	6 times/wk
N. Shore Tennis Ctr	73rd St. & Harding Ave (350 73rd St.)	4	90 Gal Totes	5 times/wk
Normandy Shore Golf	2401 Biarritz Dr.	1	20 yd Roll-off	3 times/wk
Stash Site	7986 Collins Ave.	1	6 yd can	7 times/wk
Parking Department	1833-37 Bay Rd.	1	20yd Roll-off	On Call
Parking Garage	7th St. & Collins Ave.	4	90 Gal Totes	7 times/wk
Parking Garage	17th St. & Penn Ave. (640 17th St.)	1	8 yd can	7 times/wk
Parks Division	2100 Meridian Ave.	1	6yd can	5 times/wk
Parks Division	2100 Meridian Ave.	1	30 yd Roll-Off	3 times/wk
Police Station	1100 Washington Ave.	7	.5 Totes	7 times/wk
Police Station	1100 Washington Ave.	4	.5 Gal RTC	2 times/wk
Police Station	7030 Trouville Esplanade	1	2 yd can	3 times/wk
PD N. Sub-Station	6840 Indian Creek Dr.	1	2 yd can	4 times/wk
Property Management	1245 Michigan Ave.	1	2 yd can	5 times/wk
Property Management	1245-55 Michigan Ave.	1	4 yd can	5 times/wk
Property Management	1245 Michigan Ave.	1	20 yd Roll-off	On Call
Public Works Yard	451 Dade Blvd.	1	4 yd can	5 times/wk
Public Works Yard	451 Dade Blvd.	1	30 yd Roll-Off	3 times/wk
Sanitation Yard	140 MacArthur Cswy	1	20 yd Roll-Off	3 times/wk
Sanitation Yard	140 MacArthur Cswy	1	4 yd can	5 times/wk
South Shore Community Center	833 6th St.	1	4 yd can	MWFS
Wasteful Weekend	75th St. & Dickens Ave.	4	20 yd Roll-off	1 mo
Wasteful Weekend	6th St. & Meridian Ave.	2	20 yd Roll-off	1 mo
Youth Center	2700 Sheridan Ave.	5	.5 Gal RTC	2 times/wk
Youth Center North Shore	501 72nd St.	3	.5 Gal RTC	2 times/wk
CMB	555 17th St.	5	90Gal RCT	1 time/wk
Current Work Total Savings				
Disposal of litter collected in the Entertainment District (Lincoln Road, Washington Avenue, Collins Avenue, Ocean Drive, Beach walk, and Boardwalk)	10th & Ocean	1	20 yrd Roll-Off	7 times/wk
City wide litter can P/U and disposal	ROW and Parks		Litter cans City wide	7 times/wk

F:\PURC\$ALL\OLGA\RFQ's 07-08\RFQ 49-07-08 - SOLID WASTE FRANCHISE CONTRACTOR\Addendums\In Kind Services.xls01/21/20091:02 PM

EXHIBIT "A"

Facility Name	Location	#	Container Description	Frequency
Expanded City Facilities Recycling (N. Shore, Sanitation, Fleet, Property Mgmt Yard, Public Works Yard, MMPF, 21st Street Rec Center, 777 Building, 555 Building, Parking Dept, FS 3, FS 4, PAL, Flamingo, Botanical Gardens, Bass Museum, Old City Hall)	City wide		90 gal toter	2 times
Public ROW Recycling	ROW and Parks	50	90 gal toter	2 times/wk
Special events(CMB)	City wide	50	20 yrd Roll-Off	Per year
Special events(CMB)	City wide	30	Porto lets	Per year
Partnership educational recycling program	City wide		Handouts, Facility Tous	Per year
New Work Total Savings				
Current Work Total Savings				
Combined Total Savings				
Yellow = Recycling acct				

F:\PURC\$ALL\OLGA\RFQ's 07-08\RFQ 49-07-08 - SOLID WASTE FRANCHISE CONTRACTOR\Addendums\In Kind Services.xls01/21/20091:02 PM

EXHIBIT B

Sun Recycling, LLC
Enforcement History

Issued Date	NOV #	Respondent	Violation	Penalties Paid
8/21/2001	01-30758 **Count:** 27-58(c)	Sun Recycling, LLC & Waste Corporation of Florida	Receiving and depositing unapproved solid waste (wood, plastic, metal and insulation material)	
	01-30759 **Count:** 27-58(c)	Sun Recycling, LLC #2	Disposing of waste to a non-licensed facility	
	01-30760 **Count:** 27-215(a)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, plastic, metal and insulation material)	
	01-30769 **Count:** 27-58(c)	Sun Recycling, LLC #1	Operating w/o a spotter	
	01-30770 **Count:** 27-58(c)	Sun Recycling, LLC #1	Failed to submit records	
	01-30771 **Count:** 27-58(c)	Sun Recycling, LLC #1	Improper disposal of recovered screen material (RSM)	
	01-30772 **Count:** 27-58(c)	Sun Recycling, LLC #2	Failed to submit records	
	01-30773 **Count:** 27-58(c)	Sun Recycling, LLC #2	Operating w/o a spotter	
12/7/2001	01-0003 **Counts 1-2:** 27-58(c)	Sun Recycling, LLC #1	Improper disposal of RSM	Settlement $78,500 includes all above
2/8/2002	02-0011 **Counts:** 27-216(c)(3)e.7 27-58(c)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Final Order $3,600

11/22/2002	02-0083 **Counts:** 27-58(c)	Sun Recycling, LLC #2	Receiving and depositing unapproved solid waste (auto body parts, plastics and garbage)	Settlement $1500
4/1/2004	04-0017 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024
6/11/2004	04-0024 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #3	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024
10/13/2004	04-0046 **Counts:** 27-27(a)(2)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, metal & plastics)	Settlement $11,400 04-0046 ($3,500) 04-0060 ($7,900)
12/21/2004	04-0060 **Counts:** 27-27(a)(2)	Sun Recycling, LLC #3	Receiving and depositing unapproved solid waste (wood, metal & plastics)	Settlement $11,400 04-0046 ($3,500) 04-0060 ($7,900)
12/28/04	04-0061 **Counts:** 27-216(c)(3)e.7 27-27(a)(2)	Sun Recycling, LLC #2	Failing to control fugitive particulate matter (dust)	Settlement $3,333 $10,000 (in kind) 04-0017 ($335) 04-0061 ($67) 04-0024

1/27/05	05-0004 **Counts 1-2:** 27-27(a)(2)	Sun Recycling, LLC #1	Receiving and processing into mulch pressure treated and painted wood AND Receiving and depositing unapproved solid waste (household garbage)	Settlement $5,750
9/20/06	06-0033 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/20/06	06-0034 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/28/06	06-0039 **Counts 1-3:** 27-27(a)(2)	Sun Recycling, LLC #3	Unloading and processing solid waste outside of the designated building AND Failing to provide use of RSM AND Failing to produce material that meets the definition of RSM	Final Order: $8,250 (Respondent appealing)

3/1/07	07-0014 **Counts 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 38:** 27-27(a)(2) **Counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36:** 27-215(a)	Sun Recycling, LLC #3	Disposing of solid waste (not RSM) at a non-licensed facility (residential properties) AND Reporting (inaccurate documentation of end-user forms) AND Failing to provide use of RSM	Final Order: $80,000 (Respondent appealing)
3/1/07	07-0015 **Counts 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31:** 27-27(a)(2) **Counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22:** 27-215(a)	Sun Recycling, LLC #2	Disposing of solid waste (not RSM) at a non-licensed facility (residential properties) AND Receiving unapproved (co-mingled) solid waste AND Reporting (no RSM disposal record book & inaccurate portrayal of RSM generation site) AND Failing to produce material that meets the definition of RSM AND Presence of asphalt roofing material	Final Order: $50,000 (Respondent appealing)

			AND Reporting (inaccurate documentation of end-user forms) AND Failing to provide use of RSM	
4/2/07	07-0021 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
5/15/07	07-0028 **Counts1-2:** 27-333(a)(1) 27-215(a)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Placing and depositing solid waste in a wetland	Final Order: $8,899 (Respondent appealing)
9/5/07	07-0046 **Counts1-2:** 27-333(a)(1) 27-27(a)(2)	Sun Recycling, LLC #3	Filling in a wetland w/out a ERL license AND Failing to use RSM in a manner approved by EPD (placing RSM in a wetland)	No penalty assessed:
9/5/07	07-0050 **Counts1-2:** 27-27(a)(2)	Sun Recycling, LLC #2	Accepting and processing asbestos containing material AND Receiving unapproved solid waste	Pending penalty: $6,000

County Garbage Deal is Questioned

Oct 2, 07 | South Florida Sun-Sentinel

Broward County has fined a company more than $250,000 for illegal dumping in a case that was under way when officials awarded its sister firm a $1.3-million contract to pick up garbage at government buildings, documents obtained by the South Florida Sun-Sentinel show.

The fine against Sun Recycling of Lantana is one of the largest that the county Department of Environmental Protection has levied and involves dumping at more than 30 sites, including sensitive wetlands. Broward County commissioners say they were not told of the case when they hired Sun Recycling's affiliate, Southern Waste Systems, in April.

"It clearly points to how disappointed I am with this administration," Broward Mayor Josephus Eggelletion said. "We are seeing too much information held back by staff, critical things that embarrass the commission. That has to stop."

The hearing officer who imposed the fine on Aug. 31 termed Sun Recycling's conduct as a "deliberate violation" of county solid waste regulations and charged that it had a "history of noncompliance." Between July 2006 and February, environmental regulators documented illegal dumping on property from Southwest Ranches to West Palm Beach.

County attorneys are now looking at whether Southern Waste should have revealed the charges when it bid on the garbage contract, and commissioners are demanding answers for why they were in the dark.

Sun Recycling argues that machinery at its recycling plants used to sort out large debris broke and caused the problem. According to the company, oversize debris was then dumped at the selected locations. Contractors often use small debris material as fill to level lots or yards in their projects, but to be legal it must be fine, such as dirt from other construction sites.

A spokesman for the firms, Philip Medico, said Sun Recycling will spend almost $1 million to clean up the sites, but he said the company also is considering an appeal of the fines. Medico said expert toxicologists concluded the material that was spread poses no threat to the environment.

"The company, Sun Recycling, has and continues to actively clean up these sites," Medico said. "This was a malfunction of equipment that was overly stressed because of the massive cleanups we did across the community after Hurricane Wilma."

In testimony before the hearing officer, environmental regulators said they saw large pieces of wood, asphalt roofing, foam insulation, metal and plastic in the fill. They also said they saw garbage other than construction debris being delivered to one of Sun Recycling's facilities, including televisions, computer monitors and furniture.

According to the case file, Sun Recycling has been cited six other times between 2001 and 2005 for environmental violations. That led the hearing officer to impose the $254,652 fine, saying the company had been undeterred from violating the law.

Three months after environmental regulators issued the last round of citations in the case after inspecting one of Sun Recycling's sorting centers, the commission took up the garbage contract.

The companies share executives, Charles Gusmano and Anthony Lomangino, and share headquarters on Hillbrath Drive in Lantana. Medico said Sun Recycling is the recycling arm of the operation and Southern Waste is the collection end. Southern Waste was the lowest of six bidders for the contract to pick up garbage at county parks, libraries, the Government Center, Fort Lauderdale-Hollywood International Airport, Port Everglades and other government facilities.

The contract prompted intense debate among commissioners, but not because of Sun Recycling's problems. Southern Waste has filed a federal lawsuit that seeks to overturn key underpinnings of the compact between Broward and most of its cities that requires garbage to go to two incinerators.

One of the arguments that the commission made in giving Southern Waste the contract despite the lawsuit was that Sun Recycling's reuse of construction debris was worth merit and extends the life of landfills. In the end, Commissioner Ilene Lieberman cast the sole vote against hiring Southern Waste.

Other commissioners said they wished they had known about Sun Recycling's violations because it would have put a different light on the firms' performance in the garbage business. Deputy County Administrator Bertha Henry said no one on staff pieced together the connection because the violations were being handled by the Department of Environmental Protection and the garbage contract by the Public Works Department.

"This is continual problem of purchases coming to us with less than complete information," said Lieberman, who wants to find a way to overturn the contract. "If I'm supposed to make an informed decision, I need to weigh all the facts."

Scott Wyman can be reached at swyman@sun-sentinel.com or 954-356-4511.

INFORMATIONAL BOX:

WHERE STATE SAYS ILLEGAL DUMPING OCCURRED

The Department of Environmental Protection alleged that Sun Recycling illegally dumped material at 35 locations across South Florida. Some were lots with no address. Here is a list of the other properties involved in the charges.

5721 SW 198th Terrace, Southwest Ranches

5901 SW 198th Terrace, Southwest Ranches

5301 SW 198th Terrace, Southwest Ranches

20401 SW 48th Place, Southwest Ranches

19100 SW 56th St., Southwest Ranches

Northeast corner of Southwest 54th Street and Southwest 178th Avenue, Southwest Ranches

4610 SW 178th Ave., Southwest Ranches

5111 SW 196th Lane, Southwest Ranches

5200 SW 166th Lane, Southwest Ranches

19000 SW 56th St., Southwest Ranches

16401 SW 47th St., Miramar

14699 SW 47th St., Miramar

2308 NW 26th St., Fort Lauderdale

1000 SW 196th Ave., Pembroke Pines

5071 SW 64th Ave., Davie

1010 SW 196th Ave., Pembroke Pines

2050 NW 27th St., Oakland Park

14847 69th St. N., Loxahatchee

14918 Temple Blvd., Loxahatchee

Northeast corner of 74th Street North and 140th Avenue North, West Palm Beach

14538 95th Lane N., West Palm Beach

14620 96th Lane N., West Palm Beach

10401 Orange Drive, Davie

12111 58th St. N., Royal Palm Beach

12116 58th St. N., Royal Palm Beach

13771 Okeechobee Blvd., Loxahatchee

16975 W. Harlena Drive, Loxahatchee

5400 SW 198th Terrace, Southwest Ranches

17711 SW 48th St., Southwest Ranches

Copyright 2007 South Florida Sun-Sentinel

EXHIBIT C

MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

To: Jorge M. Gonzalez, City Manager
Via: Kathie G. Brooks, Budget and Performance Improvement Director
From: James J. Sutter, Internal Auditor

Date: August 31, 2006
Audit: Southern Waste System, Ltd. Roll-Off Fees
Period: October 2002 to May 2005

This report is the result of a scheduled audit of the Roll-Off Fee Returns for Southern Waste System, Ltd., (Southern Waste).

INTRODUCTION

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess occupational licenses to operate roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, maintaining sufficient insurance, etc.

OVERALL OPINION

Southern Waste did not comply with the City Code reporting provisions during the audit period. As a result, gross receipts were under reported and franchise fees were not paid to the City. The following items were noted during our audit:

- Gross receipts in the amount of $347,947.81 were under reported with the City. Consequently, Southern Waste owed the amount of $64,943.48 in delinquent roll-off franchise fees (including interest to the City). This has been paid by the company.
- Four outstanding city bills for placing roll-offs without permits totaling $1,910.00 (including interest). This amount was paid during the audit.
- Required lists of accounts were not filed timely but received during our audit. The certified annual statements of gross receipts have not been filed. Southern Waste provided proof of the insurance on a timely basis.

PURPOSE

The purpose of this audit is to determine whether all roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *Under-reported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as "*the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal*". Therefore, all monies collected by the roll-off waste contractor from Miami Beach service addresses, including fuel surcharges and overloading fees, should be included in reported gross receipts. Southern Waste did not include all gross receipts in the Miami Beach Roll-off Fees Returns.

Initially during our audit, Southern Waste provided individual invoices for each of the monthly reports filed with the City. Since there were no summaries provided, we totaled the invoices for a selected sample and compared the amounts reported to the City. We noted various differences between what was reported and the invoices attached.

Southern Waste uses a computer system to track each of their clients transactions for waste services provided. We requested a system report that summaries Miami Beach accounts for each month. After several requests, the company provided us with a detail report of monthly revenues which summarized all fees due. Upon review of this information we concluded that $347,947.81 in revenues was under reported over the audit period.

The following table summarizes the amount due from Southern Waste:

	2003	2004	01/05 05/05	TOTAL
Audited Under-reported Gross Receipts	$104,530.93	$207,679.31	$37,737.57	$347,947.81
Roll-Off Fees Due	16,724.95	33,228.69	5,718.01	55,671.65
Interest Due	3,784.30	5,035.92	451.61	9,271.83
Total Due	$20,509.25	$38,264.61	$6,169.62	$64,943.48

Findings were presented to Southern Waste and they remitted payment for the above amount. The company is presently filing monthly returns with the supporting documentation.

Recommendation(s)
Southern Waste should continue to report all gross receipts earned in the City and file roll-off fee returns monthly with all fees due.

2. Finding –*Outstanding city bills*
The roll-off waste contractor incurred city bills in May 2001 and August 2005 respectively for placing roll-offs without first obtaining the required permits. Consequently they were fined a total of $1,910.00 (including interest). This amount was paid during the audit.

Recommendation(s)
The waste contractor should obtain all roll-off permits necessary for operating within the City.

3. Finding – *Required Reporting*
Southern Waste did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90 - 278 (4) states "*The licensee shall deliver to the finance director and the city manager a true and correct monthly report of gross receipts generated during the previous month from accounts within the city on or before the last day of each month. This detailed monthly report shall include the customers' names, service addresses, account numbers, and the actual amount collected from each customer.*" Southern Waste did not file the supporting reports with the City. As a result we could not verify which accounts comprise the amounts reported. During the audit, Southern Waste developed a summary report from their computer system and is now filing it with the City's monthly reports.

b. Section 90-278 (3) states "*The licensed roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll-off container or construction dumpster as per account and the address serviced by each roll-off container or construction dumpster.*" Southern Waste has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll off container or construction dumpster. However, a listing of customer names was provided during audit.

c. Section 90 - 278 (4) states "*The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year*". Southern Waste did not provide a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year.

Recommendation(s)
Southern Waste must comply with the City Codes and submit timely list of accounts and certified annual statements of gross receipts.

EXIT CONFERENCE

Audit findings were originally presented to Anthony Badala, Operations Manager of Southern Waste. After several meetings and examination of further supporting documentation, they concurred with our audit assessment. On 08/23/06 we received a check from Southern Waste for the total amount owed of $ 64,943.48.

JJS: CD
Audit performed by Carmin Dufour

F:\obpi\$AUD\DOC04-05\REPORTS - FINAL\ SOUTHERN WASTE REPORT.doc

cc: Robert Middaugh Jr., Assistant City Manager
Fred Beckmann, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Anthony Badala, Southern Waste System Ltd. (Operations Manager)

MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

To: Jorge M. Gonzalez, City Manager
Via: Kathie G. Brooks, Budget and Performance Improvement Director
From: James J. Sutter, Internal Auditor

Date: October 6, 2008
Audit: Southern Waste System, LLC Roll-Off Fees
Period: June 2005 to June 2008

This report is the result of a scheduled audit of the Roll-Off Fee Returns for Southern Waste System, LLC. (SWS)

INTRODUCTION

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess business tax receipts to operate roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, maintaining sufficient insurance, etc.

BACKGROUND

Previously, Internal Audit conducted an audit of SWS for period of October 2002 to May 2005. Our audit report dated August 31, 2006 produced an audit assessment of $64,943.48. This assessment was attributed to under reporting of roll-off revenues. On August 23, 2006 SWS paid the total amount of the audit assessment.

OVERALL OPINION

SWS did not fully comply with the City Code's reporting provisions during the audit period. Gross receipts were under reported and franchise fees were not paid to the City. The following items were noted during our audit:

- Gross receipts in the amount of $67,193.35 were not reported, therefore SWS owes the City $12,394.25 in roll-off franchise fees (including interest charges).
- SWS has not filed a list of accounts and the required CPA annual statement of gross receipts.

- SWS has submitted the certificate of liability insurance.

PURPOSE

The purpose of this audit is to determine whether all roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *Unreported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as "*the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal*". Therefore, all monies collected by the waste contractor for Miami Beach service addresses, including fuel surcharges and overloading fees, should be included in reported gross receipts. During our audit period, SWS did not report all gross receipts on returns filed with the City of Miami Beach. We noted gross receipts for fuel surcharges in the amount of $39,235.42 that were not paid from June 2005 to June 2008. In addition, gross receipts for dumpster/grapple, delivery, dry run, relocate, disposal, and over load fees totaling $27,957.93 were not paid as well. Therefore, SWS owes the City of Miami Beach franchise fees for those gross receipts for roll off waste removal services which were not reported in compliance with the City Code. The contractor was not aware that these fees should have been included in gross receipt reported.

In some instances, grapple services were charged at per unit pricing without franchise fee being collected. We found that this charge is for grappling services and it is subject to the franchise tax. We place those instances under the dumpster / grappling category in the table below. Furthermore, some roll-off container charges contained a separate disposal fee rather than combining the fee into one roll-off charge. SWS stated that this disposal fee is a fee to the Miami transfer station or Miami landfill. This charge is included in the gross receipts definition under the City's code ordinances. By separating these charges, SWS did not pay the entire franchise fee on the total charge.

The following table summarizes the total unreported gross receipts by category:

Category	2005 Jun-Dec.	2006 Jan-Dec.	2007 Jan-Dec.	2008 Jan-Jun.	TOTAL
Fuel surcharges fees	$9,115.90	$14,573.55	$8,932.98	$6,612.99	$39,235.42
Dumpster / grapple	0	5,936.18	3,200.00	5,670.00	14,806.18
Relocate, delivery and Miscellaneous	2,975.00	5,225.00	2,400.00	1,525.00	12,125.00
Disposal, overload fees	20.00	160.00	250.00	596.75	1,026.75
Total under reported	**$12,110.90**	**$25,894.73**	**$14,782.98**	**$14,404.74**	**$67,193.35**

The following table summaries the audited gross receipts as compared to reported gross receipts with the amount of franchise tax due:

	2005 Jun-Dec.	2006 Jan-Dec.	2007 Jan-Dec.	2008 Jan-Jun.	TOTAL
Audited Receipts	$257,910.90	$402,968.42	$255,177.23	$210,375.97	$1,126,432.52
Less Reported Receipts	(245,800.00)	(377,073.69)	(240,394.25)	(195,971.23)	(1,059,239.17)
Unreported Gross Receipts	12,110.90	25,894.73	14,782.98	14,404.74	67,193.35
Roll-Off Fees Due (16%)	1,937.74	4,143.16	2,365.28	2,304.76	$10,750.94
Interest Due	539.48	823.96	245.33	34.54	1,643.31
Total Franchise tax Due	**$2,477.22**	**$4,967.12**	**$2,610.61**	**$2,339.30**	**$12,394.25**

Recommendation
SWS should report all gross receipts as per the City code. This includes but is not limited to fuel surcharges, delivery dry run, relocate, disposal, and over load fees. SWS should remit $12,394.25 for taxes due for unreported gross receipts.

2. Finding – *Required Reporting*
SWS did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90-278 (3) states *"The licensed roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll-off container or construction dumpster as per account and the address serviced by each roll-off container or construction dumpster."* SWS has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business tax receipt, the frequency of service, the permit number and capacity of each roll off container or construction dumpster. However, a list of accounts was provided during the audit.

b. Section 90 - 278 (4) states "*The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year".* SWS did not provide a statement of its annual gross receipts generated from accounts within the city certified by an independent public accountant reflecting gross receipts within the city for the preceding fiscal year.

Recommendation
SWS must comply with the designated sections of the City Codes and submit the correct amount of gross receipts, lists of accounts and certified annual statements of gross receipts.

EXIT CONFERENCE

Audit findings were e-mailed on 09/24/08 to Anthony Badala, Operations Manager for Southern Waste Ltd. We received a response from SWS on 10/03/08 stating that a check has been made in the amount of $12,394.25 and they have contacted a software programmer to include fuel surcharges and other items in the calculation of gross receipts.

JJS:CD
Audit performed by Carmin Dufour

F:\obpl\$AUD\DOC007-08\REPORTS - FINAL\ SWS WASTE REPORT.doc

cc: Robert Middaugh Jr., Assistant City Manager
Fred Beckmann, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Anthony Badala, Southern Waste System LLC (Operations Manager)

MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

To: Jorge M. Gonzalez, City Manager
Via: Kathie G. Brooks, Budget and Performance Improvement Director
From: James J. Sutter, Internal Auditor

Date: August 14, 2006
Audit: World Waste Services, Inc.
Period: January 2002 to September 2005

This report is the result of a scheduled audit of the Roll-Off Fee Returns for World Waste Services, Inc. (World Waste).

INTRODUCTION

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess occupational licenses to operate roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, maintaining sufficient insurance, etc.

OVERALL OPINION

World Waste was not in compliance with certain reporting provision sections of the City Code. Even though monthly roll-off franchise fee returns were filed late, the supporting listing of accounts were not included. As of the month of October 2005, a detailed listing has been submitted and includes the customers' name, service addresses, account numbers and the actual amount collected from each customer. The following items were noted during our audit:

- Gross receipts were not reported resulting in World Waste owing the sum of $5,424.56 in delinquent roll-off franchise fees (including interest) to the City. This has been paid by the company.
- 23 out of 41 returns were filed late. Late fees and interest in the amount of $2,424.34 was subsequently billed by the city and paid by World Waste.
- World Waste has not filed the required CPA annual statement of gross receipts.

- World Waste needs to enhance its system of recordkeeping in order for the audit not to be hindered.

PURPOSE

The purpose of this audit is to determine whether all roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *Unreported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as "*the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal*". Therefore, all monies collected by the roll-off waste contractor from Miami Beach service addresses, including fuel surcharges and overloading fees, should be included in reported gross receipts. During our audit period, we noted several invoices with receipts totaling $15,920.48 that were not reported to the City. Of this amount $12,565.30 was from a single customer, the Miami Beach Housing Authority.

The following table summarizes the amount due from World Waste for our audit period:

	2002	2003	2004	2005 *	TOTAL
Audited Unreported Gross Receipts	$520.00	$13,891.74	$1,508.74	0	$15,920.48
Roll-Off Fees Due	$83.20	$2,222.68	$241.40	0	$2,547.28
Interest Due	$23.52	$586.16	$921.05	$596.55	$2,127.28
Late Filing Fees	0	$150.00	$200.00	$400.00	$750.00
Total Due	$106.72	$2,958.84	$1,362.45	$996.55	$5,424.56

* Audited Unreported Gross Receipts & Roll-Off Fees Due for 2005 shows zero because the company paid the monthly fees late. However, interest due and late filing fees were not paid.

Findings were presented to World Waste and they remitted payment for the above amount. The company is presently filing monthly returns.

Recommendation(s)
World Waste should continue to report all gross receipts earned in the City and file roll-off fee returns monthly with all fees due.

2. Finding –*Late returns*
Returns were not filed in a timely manner. Section 90 - 278 (4) states "*The licensee shall deliver to the finance director and the city manager a true and correct monthly report of gross receipts generated during the previous month from accounts within the city on or before the last*

day of each month. This detailed monthly report shall include the customers' names, service addresses, account numbers, and the actual amount collected from each customer.

As of January 2002 to September 2005 World Waste has filed returns late on 23 out of 41 returns. At the commencement of the audit, World Waste remitted the amount of $10,413.02 for three late roll-off returns pertaining to May 2005, June 2005 and July 2005. Late fees and interest in the amount of $2,424.34 was subsequently billed by the city and paid by World Waste.

Recommendation(s)
World Waste must comply with the designated section 90-278 (4) by reporting on timely manner gross receipts generated during the previous month from accounts within the City on or before the last day of each month.

3. Finding – *Required Reporting*
World Waste did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90-278 (3) states *"The licensed roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll-off container or construction dumpster as per account and the address serviced by each roll-off container or construction dumpster."* World Waste has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll off container or construction dumpster. However, list of names customer was provided during audit.

b. Section 90 - 278 (4) states *"The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year".* World Waste failed to provide a statement of its annual gross receipts generated from accounts within the city certified by an independent public accountant reflecting gross receipts within the city for the preceding fiscal year.

Recommendation(s)
World Waste must comply with the City Codes and submit complete and timely list of accounts and certified annual statements of gross receipts.

4. Finding – *Records Maintenance*
World Waste needs to enhance its system of recordkeeping in order for the audit not to be hindered. Records were kept in a disorderly manner. It was difficult to track individual invoices by municipality.

Recommendation(s)
Contractor should maintain their records in an organized manner so that specific invoices by

municipality can be easily located. Work orders should be entered into their accounting database using a separate municipality code. Monthly reports should be printed by municipality and attached to each return filed.

EXIT CONFERENCE

Audit findings were e-mailed on 07/25/06 and confirmed by Martha Saroza, President of World Waste. On 07/31/06 we received a check from World Waste for the total amount owed of $ 5,424.56.

JJS: CD
Audit performed by Carmin Dufour

F:\obpl\$AUD\DOC04-05\REPORTS - FINAL\ WORLD WASTE REPORT.doc

cc: Robert Middaugh Jr., Assistant City Manager
Fred Beckmann, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Martha Saroza, World Waste Services, Inc. (President)

MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

To: Jorge M. Gonzalez, City Manager
Via: Kathie G. Brooks, Budget and Performance Improvement Director
From: James J. Sutter, Internal Auditor

Date: December 14, 2006
Audit: Choice Environmental Services, Inc.
Period: January 2003 to May 2006

This report is the result of a scheduled audit of the Roll-Off Fee Returns for Choice environmental Services, Inc. (Choice).

INTRODUCTION

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess occupational licenses to operate roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, maintaining sufficient insurance, etc.

OVERALL OPINION

Choice did not comply with the City Code's reporting provisions during the audit period. As a result, gross receipts were not reported and franchise fees were not paid to the City. The following items were noted during our audit:

- Gross receipts were not reported resulting in Choice owing the sum of $3,076.10 in delinquent roll-off franchise fees (including interest & late filing charges) to the City.
- Choice has submitted the certificate of liability insurance.
- Choice has not filed the required CPA annual statement of gross receipts.
- Choice needs to enhance its system of recordkeeping in order for the audit not to be hindered.

Internal Audit Report
Choice Environmental Services, Inc.
December 14, 2006

PURPOSE

The purpose of this audit is to determine whether all roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *Unreported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as "*the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal*". Therefore, all monies collected by the roll-off waste contractor from Miami Beach service addresses, including fuel surcharges and overloading fees, should be included in reported gross receipts. Choice did not file gross receipts until our field agent located their roll-off container operating in the City. Unreported gross receipts were not filed from January 2003 to April 2006. During the audit, Choice paid the sum of $4,379.61 for unreported gross receipts. However, we found invoices with gross receipts, fuel surcharges and miscellaneous fees that were not paid to the City. In addition, Choice did not pay interest and penalties incurred for not reporting roll-off gross receipts from 2003 to 2006.

The following table summarizes the amount due from Choice Waste for our audit period:

	2003	2004	2005	2006	TOTAL
Reported Gross Receipts (G/R)	$4,165.14	$14,812.05	$5,041.67	$3,353.71	$27,372.57
Tax paid 6/7/06	666.42	2,369.93	806.67	536.59	4,379.61
Interest Due	156.65	457.91	42.16	6.04	662.76
Late filing Fees Due	50.00	350.00	150.00	50.00	600.00
Total Due - Reported G/R	206.65	807.91	192.16	56.04	1,262.76

Audited Unreported Gross Receipts	0	$949.63	$925.00	$7,880.53	$9,755.16
Roll-Off Fees Due	0	151.94	148.00	1,260.88	1,560.82
Interest Due	– 0	23.07	15.60	13.85	52.52
Late filing Fees Due	0	100.00	100.00	0	200.00
Total Due – Unreported G/R	0	275.01	263.60	1,274.73	1,813.34

Total Due	**$206.65**	**$1,082.92**	**$455.76**	**$1,330.77**	**$3,076.10**

Recommendation(s)
Choice should remit the amount of $3,076.10. Any past due monthly roll-off fee returns and corresponding late charges occurring outside the audit period should also be remitted to the city as soon as possible. Going forward, roll-off franchise fees should be charged, collected and remitted timely on all Miami Beach gross receipts.

2. Finding – *Required Reporting*
Choice did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90 - 278 (4) states "*The licensee shall deliver to the finance director and the city manager a true and correct monthly report of gross receipts generated during the previous month from accounts within the city on or before the last day of each month. This detailed monthly report shall include the customers' names, service addresses, account numbers, and the actual amount collected from each customer.*" Therefore, all monies collected by the roll-off waste contractor from Miami Beach service addresses, including fuel surcharges and overloading fees, should be included in reported gross receipts. Choice did not submit 39 monthly reports of gross receipts to the City. Returns were filed for only two months during the audit period and they did not contain the supporting listing of accounts.

b. Section 90-278 (3) states "*The licensed roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll-off container or construction dumpster as per account and the address serviced by each roll-off container or construction dumpster.*" Choice has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each roll-off container or construction dumpster. However, a listing of customer names was provided during audit.

c. Section 90 - 278 (4) states "*The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year*". Choice did not provide a statement of its annual gross receipts generated from accounts within the city certified by an independent public accountant reflecting gross receipts within the city for the preceding fiscal year.

d. City Code Section 90-196 lists the insurance coverage that must be maintained by roll-off waste contractors. Choice provided proof of the required insurance during the audit.

Recommendation(s)
Choice must comply with the designated sections of the City Codes and submit timely monthly reports of gross receipts, lists of accounts, certified annual statements of gross receipts.

3. Finding – *Records Maintenance*
Choice needs to enhance its system of recordkeeping in order for the audit not to be hindered. Since, records are not maintained by municipal location, it was difficult to track individual invoices by municipality.

Recommendation(s)
Work orders (invoices) should be entered into their accounting database using a separate municipality code. Monthly reports should be printed by municipality and attached to each return filed.

EXIT CONFERENCE

Audit findings were transmitted to Mr. Arthur Swaun, (Comptroller) of Choice Environmental Services dated 11/16/06. On 11/20/06 we telephoned Choice for a follow-up and e-mailed on 11/27/06 to obtain a response. They opted not to respond to the audit findings. Therefore, a city bill was issued on December 07, 2006 for the amount of $3,076.10. Failure to pay the audit assessment may result in legal action and revocation of the company's occupational license for operating within the City of Miami Beach.

JJS: CD
Audit performed by Carmin Dufour

F:\obpi\$AUD\DOC05-06\REPORTS - \ Choice Environmental Servies waste Report.doc

cc: Robert Middaugh Jr., Assistant City Manager
Fred Beckmann, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Arthur Swaun, Choice Environmental Services, Inc. (Comptroller)

MIAMIBEACH

Exhibit B

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor

DATE: January 20, 2009 **DRAFT**
AUDIT: General Hauling Service, Inc.
PERIOD: January 2006 to August 2008

This report is the result of a scheduled audit of the Roll-off Fee Returns for General Hauling Services, Inc.

INTRODUCTION

A Roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. They are typically used for the purpose of removing construction debris, which include rock, metal and other materials used in connection with a construction project or for the removal of large quantities of trash and bulky waste.

Approximately thirty companies currently possess occupational licenses to operate Roll-offs within the City's boundaries. In return, they are required to abide by the terms outlined in the City Code. This includes the remittance of franchise fees equaling 16% of Miami Beach gross receipts to the City's Finance Department by the end of the subsequent month, filing various reports, and maintaining sufficient insurance.

General Hauling's provides roll-off waste services and have been in South Florida since 1945. Their roll-off service includes delivery, hauling to the disposal site and the disposal of construction debris at a licensed facility.

OVERALL OPINION

General Hauling has not fully complied with certain provisions of the City Code's during the audit. As a result, some gross receipts were not reported and the franchise fees were not paid to the City. The following items were noted during audit:

- Gross receipts in the amount of $137,048.88 were not reported resulting in $25,244.10 in franchise fees and interest due to the City. The waste contractor's accountants contend that the underreporting was attributed to miscoding to other municipalities. We are awaiting documentation to confirm these miscoding errors. In addition, a further self review is being performed by their outside accountants which may result in additional amounts due to the

City.

- General Hauling has not filed a list of accounts upon renewal and the required CPA statement of gross receipts. A listing of accounts was provided during the audit.
- General Hauling has submitted the certificate of liability insurance.

PURPOSE

The purpose of this audit is to determine whether all Roll-off waste contractor billings were correct, and whether all City revenues were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *Unreported Gross Receipts*
City Code Section 90 - 221 defines gross receipts as *"the entire amount of the fees collected by the licensee, exclusive of taxes as provided by law, whether wholly or partially collected, within the city, for solid waste removal and disposal"*. Therefore, all monies collected by the Roll-off waste contractor from Miami Beach service addresses, including debris pickup on-construction load, delivery charges, fuel surcharges, dry run and overload should be included in reported gross receipts.

Out of $385,914.19 audited gross receipts, General Hauling paid the City of Miami Beach $39,818.45 in franchise fees for $248,865.31 in reported gross receipts. General Hauling collected an additional $137,048.88 in gross receipts for roll-off waste removal services within the city limits and did not report these amounts in compliance with the City Code.

Initial confirmations with General Hauling's customers indicated that several invoices were not included in their returns submitted to the City. Our results were submitted to General Hauling's outside accountants who subsequently informed us that these invoices were miscoded to another municipality using a corporate billing address outside of Miami Beach rather than the service location address. Therefore, they are contending that franchise taxes were incorrectly remitted to other municipalities rather than to the City of Miami Beach. We have requested their accountants to provide the supporting documents to substantiate the miscoding errors in order for us to conclude our verification.

Upon this discovery, their outside accountant began an internal review and discovered two additional accounts totaling $13,250 in gross receipts that were not reported to the City of Miami Beach. We are submitting this audit report with these additional amounts that were not paid to the City. We have informed their accountants that we will need to verify their self review. The amount listed below does not reflect any pending amounts which maybe be discovered upon completion of this review.

The following table summarizes the amount due from General Hauling for our audit period:

	2006	2007	2008 (Jan to Aug)	TOTAL
Audited Gross Receipts	$147,340.50	$155,027.40	$83,546.29	$385,914.19
Less Report Gross Receipt	102,717.74	87,392.40	58,755.17	248,865.31
Unreported Revenues	44,622.76	$67,635.00	$24,791.12	137,048.88
Roll-off fees due	7,139.64	10,821.60	3,966.58	$21,927.82
Interest	1,623.89	1,424.66	267.73	3,316.28
Total Due	$8,763.53	$12,246.26	$4,234.31	$25,244.10

Recommendation(s)

General Hauling should remit the amount of $25,244.10. Their outside accountant's self review should be completed and any additional franchise fees relating to miscoding the municipality to corporate billing address should be reported to the City. The City will verify the results of this self review.

2. Finding – *Required Reporting*

General Hauling did not submit the following documents in accordance with the listed City Code sections during the audit period:

a. Section 90-278 (3) states "*The licensed Roll-off waste contractor shall provide the city manager and the sanitation director with a current list of the names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each Roll-off container or construction dumpster as per account and the address serviced by each Roll-off container or construction dumpster.*" General Hauling has not provided the city manager and the sanitation director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each Roll-off container. However, a listing of customer names was provided during the audit.

b. Section 90 - 278 (4) states "*The licensee shall on or before 30 days following the close of its fiscal year deliver to the finance director and the city manager a statement of its annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year*". General Hauling did not provide a statement of its annual gross receipts generated from accounts within the city certified by an independent public accountant during the audit period. The waste contractor agreed to provide the annual CPA statement going forward.

c. City Code Section 90 -196 lists the insurance coverage that must be maintained by Roll-off waste contractors. General Hauling provided proof of the required insurance during the audit.

Recommendation(s)

General Hauling must comply with the designated sections of the City Codes and submit lists of accounts and certified statements of gross receipts annually.

EXIT CONFERENCE

Audit assessment for unreported gross receipts was forwarded to General Hauling's accountants (Berkowitz Dick Pollack & Brant). They agreed to the assessment amount and will have the waste contractor forward payment.

JJS: CD
Audit performed by Carmin Dufour

F:\obpi\$AUD\DOC08-09\REPORTS - FINAL\GENERAL HAULING.doc

cc: Robert Middaugh, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Martin Goldberg, Owner of General Hauling

DRAFT

EXHIBIT - D

General Hauling Service, Inc.

1451 NW 20th Street
Miami, FL 33142
Phone: (305) 325-8666
Fax: (305) 325-1877

November 6, 2008

The Honorable Matti Herrera Bower
Mayor, City of Miami Beach
and Members, Miami Beach City Commission
Miami Beach City Hall
1700 Convention Center Drive
Miami Beach, FL 33139

Dear Mayor Bower and Commissioners:

General Hauling Service is pleased to submit this comprehensive proposal to become your fifth solid waste franchise contractor. We believe our proposal far exceeds the minimum requirements of RFQ No. 49-07/08, and we look forward to participating in your professional procurement process.

Founded in our community 62 years ago, General Hauling Service has earned a reputation as a high-quality waste collector whose entire focus is on customer satisfaction, environmental stewardship and personalized service. Something of a "David" in an industry dominated by "Goliath" firms, our loyal clients are genuine partners in the daily challenge of professional, cost-effective and reliable removal of waste generated by commercial establishments and other operations.

General Hauling Service has the human resources and full range of mechanical equipment required to more than meet the exacting needs of the City of Miami Beach. Our client list is extensive and wide-ranging – some new customers are iconic locations in Miami Beach, and some older customers date to the very earliest years of our firm. The company's day-to-day management, both signatories below, lives in Miami Beach: No one is more attuned to the special needs of the City, nor is more committed to being its best service provider ever, than we are.

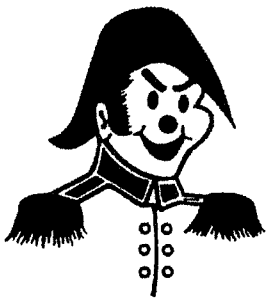
Our record of performance speaks for itself. We understand the City of Miami Beach better than everyone else. We look forward to serving our neighbors with distinction. **We simply wish to work where we live, and to help keep our City spotless!**

Sincerely,

Ben Bush
Chief Operating Officer

and

Zack Bush
Chief Financial Officer



Qualifications

THE GENERAL IS HERE !

2

General Hauling Service, Inc. is a third-generation, family-owned company whose dynamic duo of day-to-day management officials-in-charge are residents of the most important city in America: the City of Miami Beach.

Ben Bush and Zack Bush are grandsons of Martin Goldberg, who as a young G.I. in 1944 bivouacked at the Floridian Hotel for eight weeks of basic training before heading off to World War II, boots full of Miami Beach sand. Two years later, Marty returned to attend the University of Miami, and while still a student launched his modest trash collection and hauling company with only two open trucks. Serving a clientele of commercial accounts, Marty coined the company's slogan early on: The General Is Here! "Service is our big thing, always has been," Marty boasts. "And always will be."

Son-in-law Barry Bush joined the family business and helped grow it significantly in the 1970s, expanding into a comprehensive line of roll-off equipment and garbage trucks, acquiring a centralized site for offices, equipment storage and vehicle repair, and lengthening a substantial list of very loyal clients. And beginning in their early teen years in the late 1980s, Barry's sons Ben and Zack have learned every aspect of the profession and family business, becoming the new generation in command of South Florida's premier, home-grown, full-service waste collection, hauling, processing and recycling company. Marty, still spry at age 84, swings by the central office like clockwork three days a week to keep his fingers on the pulse of things and to tell a yarn or two. Barry is there daily, lending support, guidance and helping with customer relations. Ben and Zack – well, together they are in command today and for the future of General Hauling Service.

Ben and Zack Bush <u>are</u> Miami Beach, having lived in the City for almost 20 years combined. Ben, the chief operating officer, has lived in Miami Beach since 1999. Zack, the chief financial officer, moved back to the City right out of college in 2000; in fact, he lives in the Floridian Condominium in South Beach at the very same West Avenue address his grandfather once called home. No one better understands the

unique Miami Beach community – not just the physical infrastructure, but its residents and visitors as well – than Ben and Zack. When they drive her streets, they are driving their own streets, through their own neighborhoods, in a special place each has called home for many years. (Their resumes are found at Tab 8.)

General Hauling Service takes zero exceptions to this Request for Qualifications, agreeing to meet every requirement as written therein.

1. General Hauling Service has the manpower, equipment and facilities resources to significantly exceed the minimum duties and requirements of a franchise waste contractor as set forth in this Request for Qualifications and in Ordinance No. 2008-3616. Copies of all required corporate and insurance documentation, giving regulatory evidence of General Hauling Service's abilities, are located at Tab 7. Included are copies of General Hauling Service's registration with the Florida Secretary of State; its current Business License Tax Receipts issued by Miami-Dade County, the City of Miami Beach and the City of Miami; its permit approval to operate a Solid Waste Management Facility issued by Miami-Dade's Department of Environmental Resources Management; its permit as a waste hauler issued by Miami-Dade's Department of Solid Waste Management; and its current certificate of liability and other insurance. Please note that General Hauling Service already has amended its insurance policy to fully protect and indemnify the City of Miami Beach and its residents for all services rendered by General Hauling Service in Miami Beach. The terms and conditions of the company's insurance coverage is constantly monitored by an independent, third-party expert to guarantee adequacy of policies at all times.

2. General Hauling Service never has defaulted on any government contract or bid award. General Hauling Service is familiar with, and will comply with, all applicable laws, rules and regulations. (Sworn affidavits for these two certifications are located at Tab 6 following this Request for Qualifications' required Affidavits and Acknowledgments.)

3. After more than six decades of continuous, successful corporate growth and development concentrated in Miami-Dade County, no question exists concerning General Hauling Service's ability to generate significant new client business within the City of Miami Beach. The ability to attract – and, importantly, to retain – new clients is a hallmark of General Hauling Service's record of continual expansion. General Hauling Service is proud to service today some 1,500 distinct and separate South Florida clients, vastly exceeding this Request for Qualifications' requirement to have a minimum 50 commercial waste-hauling accounts. More than 50 of those clients have written testimonial letters of recommendation, which are at Tab 5. And the owners of some 35 property locations within the City of Miami Beach have expressed their written desire (said letters are located at the end of this section) to enter into service contract negotiations if General Hauling Service is awarded the fifth Miami Beach franchise license.

General Hauling Service is a model of sound business management and operation, with annual revenues in excess of $10 million. (A sworn affidavit for this certification is located at the beginning of Tab 7.) Moreover, the company enjoys excellent banking relationships and access to capital, as evidenced by correspondence from two of major financial institutions included immediately following the annual revenue affidavit at the beginning of Tab 7. The client roster of General Hauling Service totals dozens of prominent companies, including some of Greater Miami's largest general contractors, largest public agencies and most prominent cultural facilities. The company's reputation for integrity and unsurpassed service is the underpinning of its continuing success, which will extend seamlessly into the City of Miami Beach if awarded the fifth franchise license.

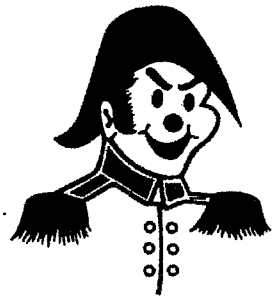
General Hauling Service is uniquely positioned to acquire and deploy equipment, and provide outstanding service, to commercial accounts throughout the City of Miami Beach. The final pages of this section contain letters of interest from commercial establishments who wish to meet with General Hauling Service to explore contracting for waste removal and recycling services.

4. There are no unsatisfied judgments against General Hauling Service, Inc. (A sworn affidavit for this certification is located at Tab 6 following this Request for Qualifications' required Affidavits and Acknowledgments.)

5. Should General Hauling Service be awarded this franchise license, it will never affiliate – as a parent, subsidiary, by virtue of an interlocking directorate or in any other manner – with any other solid waste franchise contractor in the City of Miami Beach for the duration of this license term. (A sworn affidavit for this certification is located at Tab 6 following this Request for Qualifications' required Affidavits and Acknowledgments.)

6. General Hauling Service commits not only to provide "good service," as required by this Request For Qualifications, but to provide OUTSTANDING SERVICE. For example, why has Macy's, dating to its predecessor department store Burdines, been a client of General Hauling Service without interruption since the early 1950s? Because, as a "David versus Goliath" waste collector and processor, General Hauling Service has set itself apart from every competitor by establishing and meeting the highest service standards in the industry. That is why Florida Power and Light, for more than three decades, has utilized General Hauling Service and its "rapid response team" to accelerate debris removal and clean-up after hurricanes and other storms.

Similarly, General Hauling Service commits to competitive, fair and reasonable pricing of its commercial services. The next-following page represents General Hauling Service's initial schedule of proposed price ranges. Every commercial customer has its own waste disposal needs, often with unique constraints due to location and/or layout and/or hours of operation. Determination of each customer's frequency of service requirements, and pricing for those services, is made mutually after careful evaluation of (a) the customer's operational needs and constraints and (b) the customer's waste stream, with an emphasis on control and diversion of waste materials to maximize recycling efforts.



Operational Plan

THE GENERAL IS HERE !

35

801

502

General Hauling Service will provide services to commercial accounts in the City of Miami Beach from its operational headquarters and central maintenance facility on NW 20th Street in Miami, proximate to Interstates 395 and 195 and a very modest distance from Miami Beach. This will insure timely, efficient and cost-effective delivery of services to Miami Beach commercial customers.

The company will deploy its newest equipment and dedicate its most experienced personnel to Miami Beach in the development of its commercial franchise operations there; a brand-new garbage truck arrives in two weeks and would debut in Miami Beach. Ben and Zack Bush, General Hauling Service's chief operating and chief financial officers and residents of Miami Beach, will closely manage all prospective-client identification and solicitation, new-contract negotiations, and route planning, staffing and supervision.

Only rear load packer-type collection vehicles will be utilized, because that equipment configuration guarantees the best, safest and most efficient operations. Each truck will have two highly-trained, experienced drivers (as opposed to a driver and "casual labor" helpers, contract day laborers or any other under-skilled employee.) This is critical for timely adherence to route configurations, on-the-ground interaction with customers and City personnel, and optimal delivery of services in the real world of congested streets, both vehicular and pedestrians.

All trucks and other equipment will be kept clean and in excellent running condition at all times; the same will be true of all containers. General Hauling Service will provide more than sufficient personnel, machinery, supervision, tools, equipment, insurance and all other things necessary to provide the best possible service to its Miami Beach customers, without interruption and in the most efficient manner. General Hauling Service does not deny employment or in any other way discriminate on the basis of race, sex, national origin, creed, age, religion or sexual orientation. Nor does the company discriminate in any way regarding its offer and willingness to provide waste-collection services to our community.

Particular emphasis will be on safety of operations to absolutely minimize injury to any person; to avoid damage to any property, public or private, or to utilities; and to prevent spillage on rights-of-way or private property. (A copy of the Employee Safety Manual follows at the end of this section.) All employees will be properly uniformed, properly licensed, thoroughly trained, fully insured and dedicated at all times to customer service and courteous behavior. All new hires undergo rigorous screening, including a pre-employment drug test and background check. General Hauling Service is a drug-free workplace with a zero tolerance for any substance abuse and/or inappropriate professional and personal behavior. Random drug testing is ongoing, and is performed by an independent, third-party contractor.

Collection routes will be established for maximum efficiency and minimum truck time on City streets. Additional equipment and personnel will be over-deployed to Miami Beach, as the volume of business increases, in order to guarantee that trucks get into and out of the City as quickly as possible, spending as little time on City streets as necessary. This will guarantee the best service quality, consistency and reliability. Strict adherence to approved route schedules, in order to minimize noise at inappropriate times too early or too late each day, will govern. No route shortcuts will be allowed. Professional training and safety seminars will be conducted regularly, as will unannounced follow-alongs by route supervisors.

A supervisor dedicated to General Hauling Service customers in Miami Beach will be available for contact 24 hours daily, seven days a week, to all customers and City personnel. Likewise, appropriate City personnel will be given the personal phone numbers of Ben Bush and Zack Bush.

Every multi-family building in Miami Beach with more than eight units, as well as every business establishment, must have solid waste services provided by one of the City's five franchise licensees. It is General Hauling Service's plan to offer to become a superior vendor for waste-collection and recycling to every prospective client that wishes to utilize its services. The mission will be to reach terms fairly and quickly

with every potential account; in other words, the goal is to provide beneficial services, not to waste time in administrative appeal hearings. General Hauling Service has built a 62-year success story on unsurpassed quality of services, pioneering emphasis on commercial recycling efforts to reduce both the volume and the cost of solid waste disposal. To that end, General Hauling Service will offer service on Saturdays as well as Sundays to any customer whose needs are best met by weekend collection.

Accurate, detailed records of all scheduled appointments and service dates by customer address will be maintained by General Hauling Service for the City's inspection at any time, and copies of all records will be provided to the City immediately upon request. The company shall provide the City with all collection routes, and shall update those route records and keep the City current regarding them at all times.

General Hauling Service is a family – not just in its ownership structure, but in its employee relations throughout the organization. Ben Bush and Zack Bush share a common office with side-by-side desks. Each is fully informed about all aspects of daily operations at all times. Every employee in the headquarter office is empowered and instructed to answer a ringing telephone: no call is allowed to ring more than twice. Fulltime dedication to customer service is priority number one at all times. Every office employee has the ability and experience to personally handle or appropriately re-direct any communication from any person – customer, City personnel, potential new client or anyone else – from initial dialogue through complete and satisfactory conclusion. In the event of a complaint, it would be entered in a log book in writing, and resolved by that day's end by the Miami Beach supervisor, in person.

All decisions at General Hauling Service regarding commercial service in the City of Miami Beach will, at all times, be made by local management directly supervised by Ben Bush and Zack Bush. All operations will be conducted by trained and

supervised local employees who live in, work in, care about and support our community. General Hauling Service's workforce numbers approximately 60 persons, many of whom have worked for the company for an extensive number of years; the head of our Mechanics Shop, for example, has been with the company for more than a decade. With his two assistants specifically dedicated to the Shop, General Hauling Service operates its own full-service repair yard exclusively utilized to keep all company equipment mechanically safe and in excellent working order. All equipment is thoroughly inspected, against a detailed checklist, at the beginning and at the end of each shift every day. Any defects are fully repaired before equipment re-use to insure the highest degree of safety and efficient operations.

As with much in life, the best service almost never is the cheapest service. The City of Miami Beach and its residents, visitors and business establishments deserve superior service, and General Hauling Service is fully prepared to deliver it. Rear load packer-type collection vehicles will be utilized exclusively, for safety and efficiency reasons. Two fully-trained drivers – double the minimum expertise – will be aboard each garbage truck. This is highly unusual in the industry, but with two experts, each knowing the route, each knowing the customers on the route, each knowing the equipment intimately, the highest level of quality services will be attained and maintained for the benefit of the City of Miami Beach.

General Hauling Service issues each driver a take-home cellphone which each employee is authorized to use for personal phone calls as well. That's another aspect of the company's "family culture." But the phones have rules: For safety reasons, texting function is disabled. No talking is allowed while operating a vehicle. Any incoming calls to the driver behind the wheel must go to voicemail, for message retrieval when parked. Personnel at General Hauling Service's office know to communicate with the rider-driver in each truck. Our drivers will become extra sets of "eyes and ears" for the City, but reporting of events or situations that require immediate action would be handled by the rider-driver. General Hauling Service

has one of the best driver safety records in South Florida's waste-hauling industry; we have a dedicated safety officer on staff. Trash collection is a dangerous profession, and our ongoing safety education program is pivotal for safe operations on the streets of Miami Beach. General Hauling Service has a quarterly driver safety program that recognizes outstanding performance with cash bonuses, cumulating in a year-end recognition of many safe drivers receiving $1,500 apiece.

The companion ethic to work safety for General Hauling Service drivers is courteous behavior. Given the high densities in much of Miami Beach, and the frequent proximity of residential units to commercial establishments, strict adherence to authorized hours of service is paramount for good community relations as the City's partner in waste removal. In addition to honoring appropriate service-delivery times, the company has particular expertise in the latest developments in trash-compaction technology and products. General Hauling Service will aggressively promote this cost-saving approach, both with new buildings coming online and older buildings that wish to upgrade or replace their existing equipment. Even though the long-term savings and efficiencies of industrial trash compactors can be significant, the upfront investment can be daunting . . . but General Hauling Service is committed to working with every customer to help meet its every need.

Only by working closely with each client and treating each client as an individual entity can the City of Miami Beach be kept as clean as possible. With more than six decades of successful experience, General Hauling Service well knows that the "market rules" when customers are choosing their waste-hauler vendor. The company has the demonstrated ability to competitively price its service <u>and</u> provide unsurpassed quality of service and attention to detail. How else to explain General Hauling Service being the oldest, continuously-run and family-owned waste removal company in all of South Florida?

Precisely those factors guarantee that General Hauling Service has more than the potential to generate a significant amount of business within the City of Miami

Beach. The longevity of so many of the company's clients is quiet but compelling proof of the quality of its Operational Plan throughout every one of its service areas. Some of General Hauling Service's most important new clients are in the City, most notably the New World Symphony construction project, a major Miami Beach cultural facility including the auditorium, public park and parking garage. General Hauling Service has provided waste services at a variety of other challenging construction sites in Miami Beach, including at Mt. Sinai Hospital and La Gorce Country Club. Other government agencies long have trusted General Hauling Service to meet tough standards in serving the public: Jackson Health Systems and the Public Health Trust, Miami International Airport landside and construction operations and various air carriers there, the Florida Department of Corrections, the massive Miami Intermodal Center under construction for the Florida Department of Transportation, and the City of Miami Police Department.

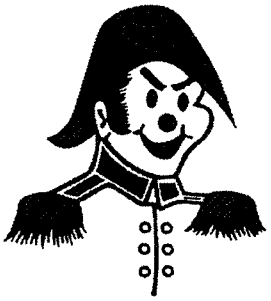
Over the years, General Hauling Service has considered its public-agency clients to be among the most prestigious in the marketplace. They have included the Public Defender office building, Courthouse Center, the Corrections and Rehabilitation Department's Metro West facility, the Opa-Locka Neighborhood Center, various Miami-Dade Park and Recreation Department locations (Deering Estate, Bill Sadowski Park and Three Lakes Park among them), and the Opa-Locka Airport Fire and Crash Station.

The company has serviced and continues to service public schools, libraries, banks, office buildings, condominiums, retail stores, pharmacies, medical centers, universities, warehouses, hotels and more. Florida Power and Light has been a loyal customer for more than 30 years – not quite as long as Macy's, but close. And General Hauling Service was proud to be the official waste collection company during construction of the Adrienne Arsht Performing Arts Center, as important a customer as any in the company's history.

No question can exist about General Hauling Service's ability and dedication to

growing its distinguished client list if afforded the honor of the fifth franchise license by the City of Miami Beach.

The next-following pages contain General Hauling Service's employee roster, service equipment inventory, Code of Business Ethics, current Miami-Dade County certification of its Affirmative Action Plan, and the Employee Safety Manual.



THE GENERAL IS HERE!

Code of Business Ethics

General Hauling Service, believing that a meaningful set of ethical guidelines is essential for its relationships with customers, suppliers, government regulators and the public at large, hereby adopts the following principles as unwavering corporate policy:

1. We will properly maintain all records and post all licenses and certificates in prominent places easily seen by our employees and clients.

2. We will conduct all business in full accord with all applicable rules and regulations and in a transparent manner.

3. We will report any irregularities and/or other improper or unlawful business practices to the appropriate ethics commission, inspector general's office or other law enforcement authorities.

4. We will avoid all conflicts of interest and disclose any potential for conflict immediately when identified.

5. We will accept no gifts or gratuities that could compromise the integrity of a

business transaction. We will not kick back any portion of a contract payment to anyone employed by or representing the other contracting party, nor shall we accept such a kickback.

6. We will properly and accurately record all financial transactions in appropriate, permanent bookkeeping records, and there will be no "off the books" transactions and/or secret accounts.

7. We will comply with all applicable safety and quality standards.

8. We will promote and advertise our business and services in a manner that is accurate, is not misleading, and which does not falsely disparage our competitors.

9. We will conduct business with government agencies and employees in a manner which avoids even the appearance of impropriety.

10. We will submit competitive bid proposals and documents, and we will prepare them independently of any other business entity.

11. We will challenge adverse decisions in contract awards only upon belief of a meritorious cause of action, not merely because we were unsuccessful.

12. We will, to the best of our ability, perform all services at the price and under the terms provided for in a customer's contract. We will not submit inflated invoices for services performed under any contract, and claims will be made only for work actually performed.

13. We will not, directly or indirectly, offer to give a bribe or otherwise channel an inappropriate payment from contracts awarded to anyone, including government officials, their family members or business associates.

14. We will not seek or expect or accept preferential treatment on bids based on our participation in political campaigns.

15. We will comply with all applicable federal, state and local laws, ordinances, codes and regulations, including but not limited to the Americans with Disabilities Act, Title VII of the Civil Rights Act, the EEOC Uniform Guidelines and all other EEOC requirements; specifically, we will comply with all county and municipal regulations regarding conflicts of interest, lobbying and ethical practices.

16. We will encourage all employees to participate in community life, public service and the democratic process.

17. We will encourage all employees to recruit, support and elect ethical and qualified public officials and engage them in dialogue and debate about business and community issues.

18. We will make contributions to political parties, committees and individual candidates only in accordance with applicable law, and we will comply fully with all requirements for public disclosure. We will only make contributions on behalf of General Hauling Service upon the approval of its president.

19. We will not knowingly disseminate false campaign information or support those who do.

Analysis of each customer's operational requirements is a crucial factor when performing individualized pricing analysis. Both Ben and Zack Bush, residents of Miami Beach and day-to-day managers of all General Hauling Service operations, personally will manage new-client pricing evaluations and negotiations. Their intimate knowledge of the City and of collection practices that are safe, feasible and efficient – combined with aggressive recycling goals – will drive customer costs as low as possible.

Physical space is at an absolute premium throughout Miami Beach, particularly south of Fifth Street and along both sides of Lincoln Road. Both of those areas generate abnormally high volumes of waste materials due to their pre-eminence as year-round resident and tourist destinations; thus, pricing and quality of service to maintain world-class standards will be essential. Likewise, significant challenges are presented by high-rise condominiums in which a substantial number of persons reside on a small geographical footprint that affords inadequate space for waste containers commensurate with volumes produced. As General Hauling Service fully appreciates, servicing a complex variety of high-traffic yet space-constrained locations requires constant dedication to customer communications and cooperation.

The second critical factor when performing individualized pricing analysis is the customer's waste stream, with an emphasis on diversion of waste materials to achieve maximum recycling benefits. Disposal fees paid by General Hauling Service constitute a significant portion of the price it must charge all of its customers; therefore, it is critical to understand the actual volumes and weights of the components of each, individual client's waste/recycling stream. For example, the typical waste of an office environment (consisting mostly of papers, boxes and other lightweight items) generally will cost less to service than the waste of a restaurant or bar (consisting of bottles and large amounts of heavy food waste). Frequency of service, a direct consequence of the nature of a customer's business, also will affect pricing discussions. General Hauling Service understands that each

customer must be viewed and treated fairly and alone, to achieve fair pricing, sufficient regularity of service and maximum recycling achievements.

General Hauling Service is a South Florida pioneer in recycling and other green initiatives, as is more fully explained at Tab 4. The company is a member of both the United States Green Building Council and of its South Florida chapter. General Hauling Service is proud that, for many years and as a matter of corporate policy, it will not take any commingled construction-site waste load directly to a landfill. The company works with each and every client to improve separation of waste-stream components at the customer source, in order to maximize the amount of materials that are delivered to recycling processors or utilized for clean fill, while minimizing the amount of materials delivered to landfills. This corporate commitment enhances the environment and drives customer prices down.

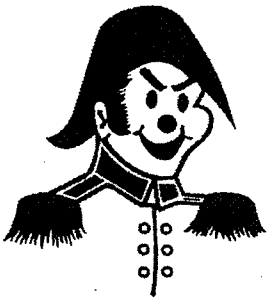
Civic involvement and support of worthy local charities long has been an important part of General Hauling Service's culture. Most recently the company was a major sponsor of the Third Annual Miami Beach Police Athletic League fundraiser. Most "anciently" the company has provided waste collection services at no cost for more than 25 years to Miami's Red Berry's Baseball World, one of America's finest youth sports facilities. If awarded this franchise license and allowed to grow its business within the City of Miami Beach, General Hauling Service would be vigorous in expanding its charitable donations and free-service activities within the City limits.

In addition, General Hauling Service commits to participating equally with all four of the other licensees in all collaborative waste-collection and/or recycling programs at City locations, at reduced or no cost, and in any other programs the City Manager may request from time to time; included in that commitment is specific agreement with the "proportionate share" program for purchase and collection of 100 recycling containers as outlined in Addendum No. 1 to this Request for Qualifications. (A sworn affidavit for this certification is located at Tab 6 following this Request for Qualifications' required Affidavits and Acknowledgments.)

In that spirit of robust cooperation with the City Commission and its administration, our personnel will become additional "eyes and ears" for City Hall. Each General Hauling Service garbage truck has two experienced drivers at all times, each of whom will be alert to any situation – be it waste-related or otherwise – that demands attention by City officials. All non-driving employees will use their company-issued cellphones to report situations as warranted to General Hauling Service's operations center, where the information will be immediately forwarded to appropriate City officials.

Similarly, General Hauling Service would establish a dedicated email address, CleanMiamiBeach@generalhauling.com, for customers or even ordinary residents and visitors to report waste spillage or other problems – whether at a General Hauling Service location or not. This address would be monitored throughout each day to insure immediate response to keep the City's streets and open areas as clean as possible.

Finally, General Hauling Service proposes to provide free waste collection service for the public park now under construction at the New World Symphony site on 17th Street. Moreover, General Hauling Service would donate free of charge a container for the park and recommend that it be turned into a four-sided "piece of art" each year in conjunction with the City's signature Art Basel event – the City can select four artists each year, and General Hauling Service will provide all of the paint and materials at no cost.



Proposed Miami Beach Commercial Account Price Schedule

Available container sizes include a 65-gallon bin and dumpsters of one, two, three, four, six and eight cubic yard capacities. Prices shown are for weekly service. Thorough analysis of each client's needs will determine where in the price range a charge would be quoted. Customers receiving service more than once weekly would be charged a multiple of that quote.

WASTE SERVICE – once a week service

65 gallon bin:	$40 to $95 per month
1 cubic yard container:	$50 to $95 per month
2 cubic yard container:	$55 to $99 per month
3 cubic yard container:	$70 to $135 per month
4 cubic yard container:	$90 to $155 per month
6 cubic yard container:	$125 to $205 per month
8 cubic yard container:	$170 to $265 per month

RECYCLING SERVICE (office paper, newspaper, etc.) – once a week service

65 gallon bin:	$35 to $75 per month
1 cubic yard container:	$45 to $85 per month
2 cubic yard container:	$50 to $95 per month
3 cubic yard container:	$65 to $115 per month
4 cubic yard container:	$75 to $135 per month
6 cubic yard container:	$95 o $195 per month
8 cubic yard container:	$125 to $200 per month

OPEN TOP AND COMPACTOR SYSTEMS – Roll-off service is available via open top and compactor systems, customizable to almost any size, for large-volume waste generators. Pricing ranges from $95 to $250 transportation fee, plus disposal charges with discount for recycling program.

THE GENERAL IS HERE !

This proposal is printed on 35% recycled, Green Seal certified, envirocopy paper. An early and continuous practitioner of "all things green," General Hauling Service is a tireless advocate within the waste-hauling industry and, more important, among its clients for maximum diversion of recoverable components from the waste stream. This dedication to environmental stewardship adds value for customers, helps preserve capacity at South Florida's landfills and lowers costs for everyone – from garbage creation to final garbage disposal. General Hauling carefully tracks all environmental regulations affecting its business practices, and follows an "eco-first" policy in the acquisition of all new operating equipment and supplies.

Zack Bush, chief financial officer, is the company's representative member of both the United States Green Building Council and of its South Florida chapter. General Hauling Service will not, under any circumstances, take any construction-site waste load directly to a landfill; in worst-case scenarios, where customers are unwilling or unable to source-separate, fully commingled loads are taken to the appropriate specialty, licensed recycling center(s) to recover as much recyclable material as possible. For clients willing to source-separate on site, General Hauling Service has a full range of right-sized containers to meet the multiple-product recycling goals of <u>each and every client</u>.

Diversion of commercial waste from landfills will be a paramount priority if General Hauling Service is awarded the fifth franchise license by the City of Miami Beach.

The company is intimately familiar with the Leadership in Energy and Environmental Design (LEED) rating system administered by the U.S. Green Building Council, and has a demonstrated track record of LEED accomplishment working with various contractors on construction sites throughout Miami-Dade County. This collaborative approach to clients' recycling and green challenges will migrate effortlessly to the company's commercial accounts in the City of Miami Beach.

General Hauling Service is proud to be both a planning and performing partner in

the first-ever LEED project of Miami-Dade County Public Schools, high school "YYY" under construction for the School Board. And although not officially a LEED-designated project, General Hauling Service nonetheless is applying LEED standards to its assignments at the City of Miami Police College under construction in the Downtown Government Center. Several of the company's major general contractors have become green-dedicated because of Zack Bush's personal advocacy and planning assistance from the very outset of major construction projects throughout our community – and that extra advisory and tracking service is provided at no additional cost to customers. General Hauling Service has implemented a comprehensive recycling program at 19 of its current client facilities. In addition to "YYY," two other customers are fully LEED projects: a private office building and the new basketball facility under construction at the University of Miami.

The company's support of LEED accreditation in all client projects is unwavering. Its LEED tracking program is offered and recommended to every customer. This dedication to LEED and all other environmentally important goals and programs is vital to the future of "smart" commercial waste collection and processing in the City of Miami Beach.

Thus, General Hauling Service has a demonstrated track record of green initiatives. Looking ahead, General Hauling Service is proud to propose a bold, new green initiative for the City of Miami Beach. Continuous public education and awareness is essential for the future of our environment. General Hauling proposes, as the centerpiece of this proposal, to help fund the City's ongoing efforts to enhance voluntary recycling and other green programs. The company proposes to accomplish this in two ways:

A. General Hauling Service commits to make a contribution each year to the City of Miami Beach equal to one and one-half percent (1.5%) of the company's gross hauling revenues, net of taxes and municipal franchise fees, derived from

commercial accounts pursuant to this fifth franchise license and paid to it in the preceding 12 months.

B. General Hauling Service commits to encourage every new commercial customer, obtained pursuant to this fifth franchise license, to match its proportional share of the company's annual program payment (e.g., pay directly to the City each year one and one-half percent (1.5%) of its own total annual service payment to General Hauling Service, at the time of the company's payment to the City). For clients agreeing in writing to participate, General Hauling Service will negotiate beneficial contract terms with each participating client for enhanced services.

It is respectfully suggested that these revenues be protected by the City in a Keep Miami Beach Clean Fund account, which would help focus public attention on the vital importance of environmental stewardship and underwrite green initiatives. The Fund also would serve as the repository for financial contributions from other companies and individuals who wish to support City-managed environmental programs. An advisory board of citizen advocates could be appointed to give of their time and talent, and either Ben Bush or Zack Bush would enthusiastically volunteer.