



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: May 3, 2021

Approved

Date

5/5/2021

SUBJECT: ACTIONS RELATED TO THE ISSUANCE OF NON-EXCLUSIVE FRANCHISE AGREEMENTS FOR THE COLLECTION, TRANSPORT, AND DELIVERY OF RESIDENTIAL CLEAN-OUT MATERIAL AND CONSTRUCTION AND DEMOLITION DEBRIS

RECOMMENDATION

(a) Conduct a public hearing on the applications of the companies listed below for Non-Exclusive Franchises for the non-exclusive collection, transport, and delivery of residential clean-out material and construction and demolition debris for twenty-nine companies. These businesses are listed below:

- (1) GW Debris Services, LLC dba \$99 Debris Box Service
- (2) Lam Hauling dba 7 Days Box
- (3) Accurate Cleaning Systems dba R&D Mendes Enterprises, Inc.
- (4) All Points Roll Off, Inc.
- (5) American Debris Box Service, Inc.
- (6) Bernardini Enterprises, Inc.
- (7) Citywide Fibers, Inc.
- (8) David Jaimes dba D & L Hauling and Demolition Services
- (9) Uriel Del Toro dba Del Toro Haul
- (10) Eco Box Recycling, Inc.
- (11) Evergreen Waste Services
- (12) Ferma GreenBox, Inc.
- (13) Waste Connections of California, Inc. dba GreenTeam of San José
- (14) Guadalupe Rubbish Disposal Co., Inc. dba Guadalupe Recycling & Disposal Facility

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- (15) GW Debris Services, LLC
 - (16) M & G Hauling, Inc.
 - (17) Pacific Coast Recycling Inc.
 - (18) Peninsula Debris Box Service, LLC
 - (19) Jonna Corporation dba Premier Recycle Company
 - (20) Recology South Bay dba Recology Silicon Valley
 - (21) Allied Waste Services of North America LLC dba Republic Services of Santa Clara County
 - (22) Recycling & Waste Services, Inc.
 - (23) Phil Ta dba TA Trucking
 - (24) Francisco Toca dba Toca Debris Box Services
 - (25) Hong Anh Nguyen dba United Recycle Services, LLC
 - (26) Environmental Resource Recovery Inc. dba Valley Recycling
 - (27) Garden of Eden Landscapes, Inc. dba Ground Force Enterprises
 - (28) Yellowsack Inc.
 - (29) Superior Demolition Services Inc.
- (b) Approve ordinances granting the franchises for these companies.
- (c) Approve the Non Exclusive Franchise Agreements with these companies for the collection, transport, and delivery of residential clean out material and construction and demolition debris, for one year term beginning July 1, 2021 through June 30, 2022, with an option for the City to extend the agreement for an additional one year term through, June 30, 2023.

OUTCOME

City Council approval of these Non-Exclusive Franchises would result in the granting of non-exclusive franchises to twenty nine haulers and authorize the collection and transport of residential clean-out material and construction and demolition (C&D) debris within the City under the terms and conditions set forth in the franchise agreements and as established in the San José Municipal Code for a term beginning the effective date of the ordinance granting the franchises through to June 30, 2022.

BACKGROUND

Construction and Demolition material represents San José's largest waste stream (approximately 30%) and although the City has one of the most comprehensive networks of City-certified C&D recycling facilities, a large portion of this material historically ended up in the landfill.

The non-exclusive franchise agreements allow the collection of material resulting from the cleaning out of residential premises and collected in roll-off or front load containers rented for a period of one week or less. For example, a person clearing their backyard or emptying out their garage could contract with one of the approved non-exclusive haulers for residential clean-out material collection services.

These haulers also transport and deliver C&D material from San José's building permit holders. Under the City of San José Construction and Demolition Diversion Program (CDD), the building permit holders must meet the City C&D diversion compliance requirements to receive their refundable deposit back (50% or more diversion from landfill) or to meet the State of California, Green Building Code (Title 24, Part 11) mandatory 75% diversion. Permit holders must demonstrate that the material was hauled to a City-certified facility.

ANALYSIS

San José Municipal Code section 9.10.1650 requires that a public hearing be held before Council adopts an ordinance issuing solid waste and recyclables collection franchises. The haulers have completed the required application, have valid San José business tax licenses, and meet the insurance requirements set forward by the City. The City Charter, under Section 602, also requires that the Council adopt an ordinance for each franchise granted.

The proposed non-exclusive franchise agreements will only authorize and regulate the collection of residential clean-out material and C&D debris. These material types are not exclusive to the contractors under agreement that service residential and commercial customers citywide. While roll-off service is available to commercial customers and junk pickup service is available to residential customers, in neither system are these services intended to be used for residential clean-out or C&D debris. The C&D debris that can be collected pursuant to the non-exclusive franchise include:

1. Recyclable and non-recyclable waste building materials, packaging, and rubble resulting solely from construction, remodeling, and demolition operations on pavements, houses, commercial buildings, and other structures authorized by a permit issued under Chapter 24.02 of the San José Municipal Code, and collected pursuant to a temporary service agreement of no longer than one year; or
2. Rock, concrete, asphalt, and dirt.

The agreements would only authorize the applicants to engage in the business of collecting, transporting, and delivering residential clean-out material and C&D debris from San José customers to an approved processing facility and to use the public streets and rights of way for such purpose. It does not grant the applicants the authority to collect commercial solid waste or to operate a landfill, recycling center, or other solid waste disposal facility.

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The agreement streamlines the documentation and reporting of C&D material handled by these haulers. It also requires them to inform City's building permit holders if the material is hauled to a non-certified facility. This is to ensure that the permit holders stay in compliance with the requirements of the CDD program to receive refund of their deposit.

Historically, the City has collected Franchise Fees and Source Reduction and Recycling Fees ("AB 939 Fees") on material that is landfilled but has exempted recyclable material to encourage recycling. Since residential clean-out material and C&D debris are generally considered recyclable materials, the Franchise Fee and AB 939 Fee have been set to zero. However, if a franchisee reports that a load contains contamination in excess of 20 percent, or is landfilled or disposed, the collected material will be deemed to be commercial solid waste subject to Franchise Fees and AB 939 Fees for solid waste.

CONCLUSION

Granting the non-exclusive franchises would allow twenty-nine companies to lawfully conduct businesses under a City of San José Non-Exclusive contract. The availability of such services benefits the San José community and supports the City's efforts to transport C&D material to City certified facilities which have the means to recycle and recover C&D material. The non-exclusive franchise agreements do not contribute to significant revenue for the City.

EVALUATION AND FOLLOW-UP

No subsequent Council action on this issue is necessary.

CLIMATE SMART SAN JOSE

The recommendations in this memo align with one or more Climate Smart San José energy, water, or mobility goals. Establishing the franchise agreements and providing incentives for C&D diversion by setting the Franchise and AB 939 Fees to zero promotes the City of San José's sustainability goals and objectives. The franchises facilitate job creation within the city limits and aid the efficient transportation of construction debris to City certified facilities, contributing to the increase in recycling of C&D material.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the Council Agenda of May 18, 2021. A public notice identifying the applicants was submitted to the City Clerk's Office in accordance with the San José's Municipal Code section 9.10.1650.

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COORDINATION

This memorandum has been reviewed by the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

Staff does not anticipate receiving significant revenue from the recommended non-exclusive franchise agreements. The Franchise Fee is currently set at \$3.67 per cubic yard of uncompacted solid waste, and \$11.01 per cubic yard of compacted solid waste. AB 939 Fees are currently set at \$2.67 per compacted cubic yard of solid waste, and \$0.89 per un-compacted cubic yard of solid waste. Revenue from these fees cannot be predicted and is generally unintended, making this revenue stream volatile. Only a modest amount of revenue (less than \$50,000) is budgeted from all the non-exclusive agreements per fiscal year.

The applicants have paid the application fee of \$750.00 as required by the San José's Municipal Code section 9.10.1670.

CEQA

Categorically Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment, File No. ER21-060.

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions, please contact Valerie Osmond, Deputy Director, Integrated Waste Management, Environmental Services, at (408) 535-8557.