



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: November 20, 2017

Approved

D. DSYL

Date

11/30/17

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

RECOMMENDATION

- (a) Conduct a Public Hearing on the application of Eco Box Recycling Inc. for a Non-Exclusive Franchise for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris.
- (b) Approve an ordinance granting the franchise.
- (c) Approve the Non-Exclusive Franchise Agreement with Eco Box Recycling Inc. for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, from February 8, 2018 through June 30, 2018, with up to three one-year options to extend the term through June 30, 2021.

OUTCOME

City Council approval of the non-exclusive franchise would 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 agreement and as established in the San José Municipal Code for a term beginning February 8, 2018 to June 30, 2018 with up to three one-year options through June 30, 2021.

BACKGROUND

The San José Municipal Code requires that a public hearing be held before Council adopts an ordinance issuing solid waste and recyclables collection franchises (see Section 9.10.1650 of Chapter 9.10 of the San José Municipal Code). The proposed non-exclusive franchise agreement

will only authorize and regulate the collection of residential clean-out material and C&D debris. These material types are excluded from the exclusive commercial solid waste franchise granted to Republic Services. 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; and/or
2. Rock, concrete, asphalt and dirt.

In addition, the non-exclusive franchise agreement allows the collection of material resulting from clean-outs at residential premises provided the material is collected in a roll-off or front-load container rented for a period of one week or less. For example, a person clearing their backyard or emptying out their garage could contract with an approved hauler for residential clean-out material collection services.

ANALYSIS

Approval of this recommendation would result in the granting of non-exclusive franchise to Eco Box Recycling, Inc. This hauler has completed the required application and has a valid San José business tax license.

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

EVALUATION AND FOLLOW-UP

No subsequent Council action on this issue is necessary.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the Council Agenda of December 12, 2017. A public notice identifying the applicant was submitted to the City Clerk's Office in accordance with the San José Municipal Code section 9.10.1650.

COORDINATION

This memorandum was coordinated with the Office of the City Attorney 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 agreement. Historically, the City has collected franchise fees and Source Reduction and Recycling (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 fees have been set at 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 the franchise fees and AB 939 fees for solid waste. 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. The AB 939 fees are currently set at \$2.67 per cubic yard of compacted solid waste and \$0.89 per cubic yard of uncompacted solid waste, respectively. Revenues from these fees cannot be predicted, making this revenue stream volatile. Only a modest amount of revenue (less than \$50,000) is budgeted each year for these fees.

The applicant has paid the application fee as required by the San José Municipal Code section 9.10.1670.

CEQA

Exemption; File No. PP08-228. Commercial Solid Waste and Recyclables Collection Franchise agreements between the City of San José and private haulers for commercial solid waste and mixed recyclables collection in the City of San José.

/s/
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Jeff Anderson, Interim Deputy Director, Environmental Services Department, at 408-975-2518.