



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT:** SEE BELOW

**DATE:** August 3, 2020

Approved

Date

8/12/20

**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 applications of the companies listed below for Non-Exclusive Franchises for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris:
  1. Yellowsack Inc.;
  2. A-Force Roll Off, LLC;
  3. Mohammed Adbo dba iDump – San Jose Dumpster Rentals.
- b) Adopt ordinances granting the franchises for these companies.
- c) Approve the Non-Exclusive Franchise Agreements with these companies for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, for the term beginning the effective date of the ordinance granting the franchise through June 30, 2021.

## OUTCOME

City Council approval of these Non-Exclusive Franchises 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 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, 2021.

## **BACKGROUND**

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 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 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.

## **ANALYSIS**

Approval of this recommendation would result in the granting of non-exclusive franchises to three haulers. The haulers have completed the required application and have valid San José business tax licenses.

The non-exclusive franchise agreement would only authorize the applicants 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 applicants the authority to collect commercial solid waste or to operate a landfill, recycling center, or other solid waste disposal facility.

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 fees 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 the franchise fees and AB 939 fees for solid waste.

### **CONCLUSION**

Granting the non-exclusive franchises for Yellowsack, Inc., A-Force Roll Off, LLC, and iDump-San Jose Dumpster Rentals, would increase the total number of these non-exclusive franchised haulers in the City to thirty-three. The non-exclusive franchise agreements do not contribute to significant revenue for the City. However, the availability of such services benefits the San José community and supports the City efforts to transport C&D material to City certified facilities which have the means to recycle and recover C&D material.

### **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 franchise facilitates job creation within the city limits and aids 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 August 25, 2020. 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.

### **COORDINATION**

This memorandum has been reviewed by the City Attorney's Office and the 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. The 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 thirty-three 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. ER20-162.

/s/  
KERRIE ROMANOW  
Director, Environmental Services

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