



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 08-09-10

Approved *Debra Pitra*

Date *8/17/10*

COUNCIL DISTRICT: City-Wide

**SUBJECT: COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION
FRANCHISE AGREEMENT BETWEEN THE CITY OF SAN JOSE AND
ON THE MOVE TRUCKING AND RECYCLING**

RECOMMENDATION

Hold a public hearing on the application of On the Move Trucking and Recycling for a Commercial Solid Waste and Recyclables Collection Franchise, approve the ordinances granting the franchise, and approve the Commercial Solid Waste and Recyclables Collection Franchise Agreement for a term from October 27, 2010 to June 30, 2012 with the option of three one-year extensions.

OUTCOME

With Council approval, the Franchisee would be authorized to collect commercial solid waste and recyclables within the City of San José under the terms and conditions set forth in the Franchise Agreement between the City and the Franchisee and as established in the San José Municipal Code, for a term beginning October 27, 2010 through June 30, 2012 with three optional one-year extensions.

BACKGROUND

The City of San José has had an open market for the collection of solid waste and recyclables from businesses, institutions, and other non-residential properties since 1994. Chapter 9.10 of the San José Municipal Code and the City Charter authorize the City Council to issue a Commercial Solid Waste and Recyclables Collection Franchise after a public hearing and by adoption of an ordinance. Franchises granted under this open market system are non-exclusive and the franchisees compete with each other to collect solid waste and commingled recyclables

from commercial properties and to provide temporary debris box services to residences and construction sites. Franchisees may conduct business throughout the city and are not limited to service districts. The franchise only authorizes the holder to perform collection services and does not constitute permission to operate a solid waste facility or a recycling center, which must be permitted separately.

The City generates revenue from the issuance of franchises in the form of franchise fees. The City provides no compensation to franchisees. The franchisees receive compensation directly from their customers. The City does not regulate service rates. The hauler and the customer contract directly for services costs and the rates are based on competition between haulers. Franchised haulers are also required to collect a Commercial Source Reduction and Recycling fee (AB 939 fee) from their San José customers and to remit this fee to the City. The AB 939 fee is assessed on the generator based on the customer's level of garbage service. As an incentive to encourage recycling, the City does not require haulers to pay franchise fees or the customer to pay AB 939 fees on recyclable materials. The City is in the process of redesigning the commercial solid waste system; however these changes are not anticipated to go into effect until July 1, 2012.

ANALYSIS

On the Move Trucking and Recycling already has a Business license with the City of San José to collect source-separated recyclables. The recommended Franchise Agreement would expand their authority to collect additional materials within the City of San José under the terms and conditions set forth in the franchise and as established in San José Municipal Code Chapter 9.10. The franchise would authorize them to collect solid waste and recyclables materials (including wood, metal, cardboard, sheetrock, concrete, green waste, commercial solid waste, or any combination of these materials), which would be collected by two roll-off collection vehicles and delivered to processing facilities located in San Jose. On the Move Trucking has indicated that their primary business would be the collection of recyclables which is not subject to franchise or AB939 fees, thus, staff does not anticipate an increase in overall fee collection as a result of this action. Staff has reviewed On the Move Trucking and Recycling's franchise application and recommends awarding a franchise with a term beginning October 27, 2010 through June 30, 2012, with three optional one-year extensions.

EVALUATION AND FOLLOW-UP

This action does not address any performance measures

PUBLIC OUTREACH/INTEREST

Although the criteria below do not apply to this item, this memorandum will be posted on the City's website for the Council Agenda of August 31, 2010. On August 15, 2010, a public

hearing notice identifying the applicant was submitted to the City Clerk's office in accordance with San Jose Municipal Code section 9.10.1650.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum was coordinated with the City Attorney's Office, City Manager's Budget Office, and the Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

The new franchise will help the City achieve the Green Vision goal number five - Divert 100 percent of the waste from our landfill and convert waste to energy, and has no impact on the General Fund.

COST SUMMARY/IMPLICATIONS

The applicant has paid the \$195 application fee as required by San José Municipal Code Section 9.10.1670.

CEQA

CEQA: Exemption; File No. PP08-228.

/s/
JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact Jo Zientek, Deputy Director at (408) 535-8557.