



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 20, 2012

Approved

Date

8/28/12

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

RECOMMENDATION

Conduct a public hearing on the applications of the following companies for Commercial Solid Waste and Recyclables Collection Franchises for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris; approve the ordinances granting the franchises; and approve the Commercial Solid Waste and Recyclables Collection Franchise Agreements for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris for a term from October 25, 2012 to June 30, 2014, with the option of three one-year extensions.

- a. Pacific Coast Recycling, Inc.
- b. Recycling & Waste Services, Inc.

OUTCOME

Council approval of these franchises would authorize the collection and transport of residential clean-out material and construction and demolition (C&D) debris within the City of San José under the terms and conditions set forth in the franchise agreements and as established in the San José Municipal Code for a term beginning October 25, 2012 through June 30, 2014, with the option of three, one-year extensions.

BACKGROUND

The San José Municipal Code Chapter 9.10 requires that the City Council issue commercial solid waste and recyclables collections franchises after a public hearing and by adoption of an ordinance. The proposed non-exclusive franchise agreements will only authorize and regulate the collection of two material types—residential clean-out material and C&D debris. These material types are excluded from the franchise granted to Republic Services. The C&D debris that can be collected pursuant to the non-exclusive franchise includes:

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 applicant would collect material resulting from clean-outs at residential premises (“Residential Clean-Out”), and 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 one of the aforementioned haulers for residential clean-out material collection services.

The City does not anticipate receiving significant revenue from the recommended franchise agreements. Historically, the City has collected franchise fees and Source Reduction and Recycling Fees (AB 939 Fees) on material that is landfilled, and exempted recyclable material to encourage recycling. Since Residential Clean-Out material and C&D debris are generally considered recyclable material, the franchise fee and AB 939 fees have been set at zero. However, if a load is landfilled or contains contamination in excess of 20%, the collected material will be deemed to be commercial solid waste subject to the franchise fees and AB 939 fees for solid waste. Franchise and AB 939 fees are currently set at \$3.67 per cubic yard of uncompacted solid waste and \$0.89 per cubic yard of uncompacted solid waste, respectively.

ANALYSIS

Both franchise applicants have been granted a Commercial Solid Waste and Recyclables Collection Franchise with the City in the past. Both applicants have submitted the required franchise application and have a valid San José business tax certificate. More information about each applicant may be found in an attachment to this report.

Staff has reviewed each application and recommends issuing a Commercial Solid Waste and Recyclables Collection Franchise (with the options for three one-year extensions) for the non-exclusive collection and transport of residential clean-out material and C&D debris to both

applicants. This will ensure that these two franchise agreements will coincide with the terms of the franchise agreements previously approved by Council. Approval would authorize the franchisees to collect Residential Clean-Out material and C&D debris under the terms and conditions set for in the franchise agreements and as established in the San José Municipal Code.

EVALUATION AND FOLLOW-UP

Staff will monitor hauler performance to ensure compliance with the franchise agreements and San José Municipal Code. No additional follow-up actions with Council are expected at this time.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

Although the criteria above do not apply to this recommendation, this memorandum will be posted on the City's website for the Council Agenda of September 11, 2012. On August 17, 2012, a public notice identifying each 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, the City Manager's Budget Office, and the Department of Planning, Building & Code Enforcement.

COST SUMMARY/IMPLICATIONS

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

HONORABLE MAYOR AND CITY COUNCIL
August 20, 2012
Subject: Non-Exclusive Franchise Agreements
Page 4

CEQA

Exemption, File No. PP08-228.

/s/
KERRIE ROMANOW
Acting Director, Environmental Services

For questions please contact Jo Zientek, Deputy Director, Environmental Services Department,
at 408-535-8557.

Attachment: Non-Exclusive Franchise Applicants

Attachment: Commercial Solid Waste and Recyclables Collection Franchise Applicants

Company Name	doing business as (dba)	Business Location	Organization Type	Years in Business	Material Types		Container Types		
					C&D Debris	Residential Clean-Out	Roll-Off Boxes	Bins	Other
Pacific Coast Recycling, Inc.		Gilroy, CA	Corporation	17	yes	yes	yes	no	no
Recycling & Waste Services, Inc		San José, CA	Corporation	10	yes	yes	yes	yes	Carts/Cans, Compactor Boxes