

RESOLUTION NO. 73256

**RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
JOSE SETTING COMMERCIAL SOLID WASTE  
COLLECTION FRANCHISE FEES FOR SERVICES  
PERFORMED ON OR AFTER AUGUST 1, 2006**

**WHEREAS**, effective January 1, 1995, pursuant to Section 9.10.1710 of the San José Municipal Code, each person engaging in the business of collecting, transporting, or disposing of commercial solid waste kept, accumulated or generated in the City of San José shall pay a franchise fee to the City in an amount as set forth in a resolution of the City Council; and

**WHEREAS**, by Resolution No. 65676, adopted December 13, 1994, the City Council set commercial solid waste collection franchise fees effective January 1, 1995; and

**WHEREAS**, by Resolution No. 66598, adopted May 7, 1996, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after July 1, 1996; and

**WHEREAS**, by Resolution No. 67832, adopted December 16, 1997, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after January 1, 1998; and

**WHEREAS**, by Resolution No. 68970, adopted June 22, 1999, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after August 1, 1999; and

**WHEREAS**, by Resolution No. 71243, adopted October 8, 2002, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after November 1, 2002; and

**WHEREAS**, by Resolution No. 71582, adopted May 27, 2003, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after July 1, 2003; and

**WHEREAS**, by Resolution No. 72163, adopted June 15, 2004, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after August 1, 2004; and

**WHEREAS**, by Resolution No. 72754, adopted June 21, 2005, the City Council set commercial solid waste collection franchise fees for solid waste handling services performed on or after August 1, 2005; and

**WHEREAS**, the City Council desires to revise the commercial solid waste collection franchise fees for solid waste handling services performed on or after August 1, 2006;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** Except as provided in Section 5 of this Resolution, each person engaging in the business of collecting, transporting or disposing of commercial solid waste kept, accumulated or generated in the City of San José shall pay a franchise fee to the City calculated as follows:

1. Three Dollars and Sixty-Seven Cents (\$3.67) per cubic yard, or fraction thereof, of uncompacted solid waste capacity per collection; plus
2. Eleven Dollars and One Cent (\$11.01) per cubic yard, or fraction thereof, of compacted solid waste capacity per collection.

**SECTION 2.** The following definitions shall apply in the calculation of commercial solid waste collection franchise fees:

1. “Solid waste capacity” means the size (expressed in cubic yards) of the solid waste container from which the solid wastes are collected, regardless of the actual amount of solid wastes in the container. In the case where solid wastes are not placed in containers but are placed directly into the collection vehicle, “solid waste capacity” means the size (expressed in cubic yards) of the solid waste holding area of the collection vehicle.

2. “Compacted” capacity means the solid waste capacity in a compactor unit or separate compactor system receiving box where solid wastes are compacted by the solid waste generator prior to collection. Compacted does not include any compaction which occurs after the solid wastes are placed in the collection vehicle.
3. “Per collection” means each time solid waste collection service is provided for a particular container.
4. “Uncompacted” capacity means the solid waste capacity in a can, bag, bin, roll-off box, or other solid waste container where solid wastes are placed loose in the container and are not compacted prior to collection.

Example: If the solid waste container is a four-cubic yard bin with no compaction, the franchise fee is \$14.68 (i.e., 4 x \$3.67) for each time solid waste collection services are performed with respect to that container. If a four-yard bin is serviced eight times per month, the franchise fee payable for one month is \$117.44 (i.e., 4 x \$3.67 x 8).

**SECTION 3.** Except as provided in Sections 4 and 5 of this Resolution, the franchise fees specified in Section 1 of this Resolution shall be payable for all commercial solid waste collection, transportation and/or disposal services performed on or after August 1, 2006. For services performed July 1, 2006, through July 31, 2006, the franchise fees shall be as set forth in Resolution No. 72754, subject to the provisions of Section 4 of this Resolution.

**SECTION 4.** For franchisees who do not perform any front-loader service to any customer in San José, the first Twenty Thousand (20,000) cubic yards of uncompacted solid waste, or the compacted equivalent in the case where the solid wastes are compacted prior to collection, collected in any fiscal year (measured from July 1 through June 30) shall be exempt from the franchise fees specified in this Resolution. The compacted equivalent shall be calculated at the ratio of three

uncompacted cubic yards per one compacted cubic yard (3 cubic yard uncompacted = 1 cubic yard compacted).

**SECTION 5.**     Franchise Fees Applicable to Solid Waste Handling Services at City Facilities.

- A. The provisions of Sections 1 – 4 of this Resolution shall not apply to a franchisee who, on or after August 1, 2006, collects transports or disposes of solid waste kept, accumulated or generated at City of San José facilities located in the City pursuant to the Agreement for Solid Waste Collection Services at City Facilities (the “Agreement”).
- B. In lieu of the requirements for franchise fees set forth in Sections 1 – 7, the contractor described in paragraph A shall pay a franchise fee to the City for all solid waste collected pursuant to the Agreement on or after July 1, 1999, but prior to August 1, 2006, as follows:
  - 1. For all solid waste that is weighed at the time of collection or at the time of delivery to the solid waste disposal facility, \$38.87 per ton; and
  - 2. For all solid waste for which scales are not available to determine the weight of the solid waste collected, an amount per cubic yard equivalent to \$38.87 per ton as determined by the Director of Environmental Services.
- C. In lieu of the requirements for franchise fees set forth in Sections 1 – 4, the contractor described in paragraph A shall pay a franchise fee to the City for all solid waste collected pursuant to the Agreement on or after August 1, 2006, as follows:
  - 1. For all solid waste that is weighed at the time of collection or at the time of delivery to the solid waste disposal facility, \$61.17 per ton; and
  - 2. For all solid waste for which scales are not available to determine the weight of the solid waste collected, an amount per cubic yard equivalent to \$61.17 per ton as determined by the Director of Environmental Services.

**SECTION 6.** The franchise fees shall be payable to the City in accordance with the requirements of Section 9.10.1710 of the San José Municipal Code.

**SECTION 7.** This Resolution supersedes Resolution No. 72754 with respect to services performed on or after August 1, 2006. For those persons described in Sections 1 – 4, Resolution No. 72754 shall govern the calculation of franchise fees due to the City for services performed before August 1, 2005.

ADOPTED this 20<sup>th</sup> day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CORTESE, LeZOTTE, NGUYEN,  
PYLE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CHIRCO

DISQUALIFIED: NONE

---

RON GONZALES  
Mayor

ATTEST:

---

LEE PRICE, MMC  
City Clerk