



## Agenda Report

21-1138

Agenda Date: 12/7/2021

### REPORT TO COUNCIL

#### **SUBJECT**

Public Hearing: Adoption of a Resolution Granting Non-Exclusive Franchise Agreements for Hauling of Industrial Refuse and Recyclables and Approval of Related Budget Amendment (Five Affirmative Votes Required)

#### **COUNCIL PILLAR**

Deliver and Enhance High Quality Efficient Services and Infrastructure

#### **BACKGROUND**

Properties zoned for industrial use may contract for industrial refuse and recyclable collection by selecting a hauler with a franchise granted by the City through a non-exclusive franchise (NEF) agreement. NEF refuse haulers set their own rates, perform billing services, and enter into separate agreements with industrial customers to provide specified services. The City currently has 12 NEF agreements with the refuse haulers listed below. The NEF agreements will expire on December 31, 2021.

1. RD Mendes Enterprises dba Accurate Cleaning Systems
2. Eco Box Recycling, Inc.
3. Ferma Corporation
4. Waste Connections dba Green Team of San Jose
5. GW Debris Services
6. Lam Hauling
7. Mission Trail Waste Systems
8. Jonna Corporation, Inc. dba Premier Recycle Company
9. Recology South Bay
10. AWIM Management dba Republic Services
11. Toca Debris Box
12. Guadalupe Rubbish Disposal dba Waste Management

Under the NEF agreements, refuse haulers pay the City quarterly franchise fees of 12 percent of gross billings for all materials collected. In FY 2020/21, franchise fees totaled approximately \$2,090,000. Franchise fees are General Fund revenue and quarterly franchise fee payments are audited annually to ensure accuracy.

#### **DISCUSSION**

The process for granting a franchise (either exclusive or non-exclusive) to collect and dispose of refuse is contained in Chapter 8.25 of the Santa Clara City Code. The process generally consists of an application and a public hearing during a regular meeting of the City Council. At the public hearing, the Council considers the application and receives comments from any interested person. At

the conclusion of the public hearing, the Council shall decide whether to grant a franchise to the applicant(s).

#### Application Process

On September 7, 2021, the City posted a Request for Proposals (RFP) to solicit applications for new NEF agreements to haul industrial refuse and recyclables. On September 17, 2021 staff conducted pre-application meetings with refuse haulers to discuss the process for the next iteration of the NEF Agreements. By the close of the RFP on September 29, 2021, a total of 11 companies submitted complete applications to be considered for the term of January 1, 2022 through December 31, 2026. The applicants include:

1. EcoBox Recycling, Inc.
2. Ferma Greenbox, Inc.
3. GreenTeam of San Jose
4. GW Debris Services, LLC
5. Hernandez Dumpsters & Demolition, Inc.
6. Jonna Corporation, Inc. dba Premier Recycle Company
7. Mission Trail Waste Systems, Inc.
8. RD Mendes Enterprises, Inc. dba Accurate Cleaning Systems
9. Recology South Bay
10. Republic Services, Inc.
11. Toca Debris Box

#### Hauler Requirements

NEF refuse haulers are required to offer bundled services to customers with weekly service above two or more cubic yards collectively (garbage, recycling and organics), or deliver loads of garbage to a Materials Recovery Facility (MRF) for mixed waste processing to recover commercial recyclables and organics. The bundled service requirements enable the City to comply with mandatory commercial recycling requirements set forth in Assembly Bill (AB) 341 and mandatory commercial organics requirements set forth in Assembly Bill (AB) 1826 and Senate Bill (SB) 1383. The franchise fees will continue to be directed to the General Fund.

#### SB 1383 Compliance Fee

In addition to mandating the implementation of organic collection programs, SB 1383 also requires jurisdictions to implement edible food recovery programs and procure large quantities of recovered organic waste products (compost, mulch, fuel, and/or electricity) beginning January 1, 2022. The City needs to develop funding sources to generate the additional revenue necessary to comply with the new requirements.

NEF refuse haulers will be required to pay a new SB 1383 Compliance Fee (Compliance Fee) for services rendered beginning January 1, 2022. The Compliance Fee will be 2 percent of the haulers' total gross billings, which will help the City raise approximately \$308,000 per year. This revenue will help fund the SB 1383 mandated procurement of recovered organic waste products and edible food recovery requirements. The Compliance Fee revenue will be directed to the Solid Waste Fund. Residential and commercial cart and bin garbage customers will also have to contribute towards this Compliance Fee. This contribution is currently being evaluated; however, it is anticipated that future rates will need to be increased by approximately 1 - 2 percent to generate necessary funding to comply with the requirements.

Process for Granting NEF Agreements

The SCCC Chapter 8.25 specifies the process for granting NEF refuse collection contracts and states that the Council may notice and provide a public hearing to review an application for a refuse contract. Section 8.25.250 permits the Council to grant a refuse contract following the consideration of an application at a public hearing. At the close of the public hearing, the Council can approve the resolution and authorize the City Manager to execute agreements (Attachments 2 - 12) with the 11 applicants.

City Staff Review of Applications

Based on staff's review, all 11 of the applicants satisfy the application requirements for a non-exclusive franchise. A proposed resolution granting these franchises and NEF agreements for each applicant is attached to this report. (Attachment 1)

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has not potential for resulting in either a direct physical change in the environment, or as a reasonably foreseeable indirect physical change in the environment.

**FISCAL IMPACT**

The NEF refuse haulers will pay the City an estimated \$2,154,000 in franchise fees in FY 2021/22. These franchise fees are General Fund revenue incorporated into the Biennial FY 2021/22 and FY 2022/23 Adopted Operating Budget.

Additionally, the new SB 1383 Compliance Fee to be paid by the NEF refuse haulers of 2 percent of the haulers' total gross billings will generate approximately \$154,000 in revenue in FY 2021/22, assuming a January 2022 implementation, and \$308,000 ongoing. These fees will be used to cover a portion of the increased costs associated with SB1383 compliance in the Solid Waste Fund. Ongoing annual revenue and expenditure increases associated with the SB 1383 requirements will be incorporated into the Biennial FY 2022/23 and FY 2023/24 Capital Budget process, and these increases are also expected to factor in additional revenues from residential and commercial cart and bin garbage customers that will also support the estimated annual costs of \$600,000.

The budget amendment below recognizes the Compliance Fee revenue from the NEF refuse haulers in the Solid Waste Fund and increases the Materials, Services, and Supplies expenditure to comply with SB 1383 as recommended in this memorandum.

	<b>Budget Amendment</b>		
	<b>FY 2021/22</b>		
	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<b>Solid Waste Fund</b>			
<u>Revenues</u>			
Other Fees for Services	\$0	\$154,000	\$154,000
<u>Expenditures</u>			
Materials, Services, and Supplies	\$1,852,364	\$154,000	\$2,006,364

## **COORDINATION**

This report has been coordinated with the Finance Department and the City Attorney's Office.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

## **RECOMMENDATION**

1. Adopt a Resolution to Grant Non-Exclusive Franchise Agreements for Hauling of Industrial Refuse and Recyclables;
2. Approve and Authorize the City Manager to Execute Non-Exclusive Franchise Agreements for Hauling of Industrial Refuse and Recyclables with 11 applicants; and
3. Consistent with City Charter Section 1305, *"At any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the **affirmative votes of at least five members** so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenue not included in the budget,"* approve the FY 2021/22 budget amendment in the Solid Waste Fund to recognize revenue in the amount of \$154,000 and increase the Materials, Services, and Supplies appropriation in the amount of \$154,000 (**five affirmative Council votes required to appropriate additional revenue**).

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

## **ATTACHMENTS**

1. Resolution
2. Agreement with EcoBox Recycling, Inc.
3. Agreement with Ferma Greenbox, Inc.
4. Agreement with GreenTeam of San Jose
5. Agreement with GW Debris Services, LLC
6. Agreement with Hernandez Dumpsters & Demolition, Inc.
7. Agreement with Jonna Corporation, Inc. dba Premier Recycle Company
8. Agreement with Mission Trail Waste Systems, Inc.
9. Agreement with R&D Mendes Enterprises, Inc. dba Accurate Cleaning Systems
10. Agreement with Recology South Bay
11. Agreement with Republic Services, Inc.
12. Agreement with Toca Debris Box
13. Notice of Public Hearing