



## Legislation Details (With Text)

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<b>Type:</b>	Action Item	<b>Status:</b>		Agenda Ready	
<b>File created:</b>	4/1/2021	<b>In control:</b>		City Council	
<b>On agenda:</b>	4/22/2021	<b>Final action:</b>			
<b>Title:</b>	<p>Actions pertaining to non-exclusive franchise agreements for roll-off collection services:</p> <ol style="list-style-type: none"><li>1. Adopt a finding that approval of Amendment No. 1 to the Non-Exclusive Agreements for Roll-Off Collection Services is exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption that it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3);</li><li>2. Authorize Amendment No. 1 to Non-Exclusive Agreement for Roll-Off Collection Services between the City of Fresno and JPA Construction Clean-Up Service, Inc., to extend terms for five years to June 30, 2026 and allow for the option of an additional extension of up to five years.</li></ol>				
<b>Sponsors:</b>	Department of Public Utilities				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Attachment 1 - Ordinance 2016-30.pdf, 2. Attachment 2 - Agreement - JPA Construction Clean Up Service Inc - Non-Exclusive Franchise for Roll-Off Collection Services.pdf, 3. Attachment 3 - Amendment No 1 - JPA.pdf				

Date	Ver.	Action By	Action	Result
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## REPORT TO THE CITY COUNCIL

**April 22, 2021**

**FROM:** MICHAEL CARBAJAL, Director  
Department of Public Utilities

**BY:** JERRY L. SCHUBER SR., Assistant Director  
Department of Public Utilities, Solid Waste Management Division

## SUBJECT

Actions pertaining to non-exclusive franchise agreements for roll-off collection services:

1. Adopt a finding that approval of Amendment No. 1 to the Non-Exclusive Agreements for Roll-Off Collection Services is exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption that it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3);

2. Authorize Amendment No. 1 to Non-Exclusive Agreement for Roll-Off Collection Services between the City of Fresno and JPA Construction Clean-Up Service, Inc., to extend terms for five years to June 30, 2026 and allow for the option of an additional extension of up to five years.

## RECOMMENDATION

Staff recommends that Council:

1. Adopt a finding that approval of Amendment No. 1 to the Non-Exclusive Agreements for Roll-Off Collection Services is exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption that it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3);
2. Authorize Amendment No. 1 to Non-Exclusive Agreement for Roll-Off Collection Services between the City of Fresno and JPA Construction Clean-Up Service, Inc., to extend the term for five years to June 30, 2026 and allow for the option of an additional extension of up to five years.
3. Authorize the Director of Public Utilities, or designee, to execute Amendment No. 1 and subsequent extensions on the City's behalf.

## EXECUTIVE SUMMARY

The City Council approved an ordinance establishing a non-exclusive roll-off collection franchise system for private haulers under City Charter Article XIII, Section 1300 on July 21, 2011. Sixteen companies were approved as franchisee at that time. Since then, eight additional companies have applied and been approved to become franchisees. The City's non-exclusive franchises are projected to generate \$875,000 in FY 2021.

Ordinance 2016-30 granted JPA Construction Clean Up Services, Inc. (JPA) a non-exclusive franchise for roll-off collection services within the City. The Initial Term of JPA's agreement expires on June 30, 2021. Consistent with the initial agreement, the City may extend the term of the agreement by five years with Council authorization and written notice to the haulers 180 days prior to the end of the agreement. In November all Franchises were extended this opportunity, however JPA Construction Clean-Up Service, Inc., was inadvertently omitted from the list approved by Council. Extension of the City's current NERO agreements would generate more than \$4,375,000 in General Fund revenues over the next five years. Therefore, staff recommends Council authorize Amendment No. 1 to JPA's agreement to authorize the five-year extension set forth in Section 3.4 and to provide the option for one additional extension of up to five years.

## BACKGROUND

On July 21, 2011, City Council approved an ordinance establishing a non-exclusive roll-off collection franchise system to regulate roll-off hauler collection activities.

The volume of roll-off materials collected is approximately 20-25% of the solid waste stream and highly recyclable, therefore the City has implemented the system to:

- Comply with current and anticipated State regulations related to the diversion of such

materials from landfill diversion;

- Implement the goals of the City's AB 939 Plan including the Source Reduction and Recycling Element as adopted by the City Council;
- Support the goals of the City to achieve 75% diversion by 2012 and Zero Waste by 2025, which were adopted by City Council by establishing minimum diversion standards for roll-off materials (50% of C&D materials and 70% of recyclables); and
- Increase the fees received from these companies from the previous material diversion fee of \$17.70 per service location to a 10% franchise fee. In FY 2021, the City anticipates receiving approximately \$875,000 in total annual franchise fees from roll-off haulers.

#### Roll-Off Hauler Application Process

Haulers may apply to the City to obtain a non-exclusive roll-off franchise. The applicant must describe and/or provide:

- Information about the company
- Qualifications of the company, which must include:
  - Names and addresses (1) officers, directors, and associates; (2) persons and entities having five percent or more of ownership; and (3) Any parent or subsidiary or business entity owning or controlling in whole or in part applicant
  - Description of applicant's experience
  - Municipal references
  - Customer references
  - Proof of insurance
  - Litigation and regulatory history
  - Criminal history
- Operations Information
  - Diversion plan
  - Description of equipment (trucks and containers)
  - Collection schedule
  - Description of the types of materials to be collected
  - Processing facilities collector intends to use
  - Hazardous waste procedures
  - Customer service plans
  - Billing services
- Other information that may be requested by the Director of Department of Public Utilities.

The current list of approved haulers includes twenty five haulers. Ordinance 2016-30 granted JPA a non-exclusive franchise for roll-off collection services within the City. The Initial Term of JPA's agreement expires on June 30, 2021. Consistent with the initial agreement, the City may extend the term of the agreement by five years with Council authorization and written notice to the haulers 180 days prior to the end of the agreement. In November all Franchises were extended this opportunity, however JPA Construction Clean-Up Service, Inc., was inadvertently omitted from the list approved by Council. JPA was notified of the extension on December 11, 2020 and returned signed copies of

Amendment No. 1. Staff recommends Council authorize Amendment No. 1 to JPA's agreement to authorize the five-year extension set forth in Section 3.4 and to amend the agreement to provide the option for one additional extension of up to five years.

If approved, the Director of Public Utilities, or designee, will execute Amendment No. 1 to JPA Construction Clean-Up Service, Inc.'s Non-Exclusive Franchise Agreement for Roll-Off Collection Services.

## **ENVIRONMENTAL FINDINGS**

CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA if it is "covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

Staff has conducted a preliminary review of this approval and has determined that it is exempt from CEQA pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) under the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

The proposed Amendment No. 1 amends the current Non-Exclusive Agreements for Roll-Off Collection Services to (1) grant a five year extension pursuant to Section 3.4 of the Agreement and (2) allow for the option of an additional extension of up to five years. The non-exclusive franchises authorize the franchisees to provide for the roll-off container collection of permitted materials within the corporate limits of the City. All of the franchisees are currently authorized to provide such collection services with the City and extending the term of their non-exclusive agreements does not change or expand the scope of collection services they are authorized to perform. The proposed amendment does not add any new franchisees to the agreement, nor does it contemplate an expansion of service. Rather it allows a continuation of service in the same capacity that is already being provided by the franchisee. Thus, it can be seen with certainty that this approval will not have a significant effect on the environment. Therefore, it is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and no further assessment is required.

## **LOCAL PREFERENCE**

Local preference was not implemented because extension of the non-exclusive roll-off franchise agreements is not an award of a services or construction contract.

## **FISCAL IMPACT**

In FY 2021, the City anticipates receiving approximately \$875,000 in total annual franchise fees from roll-off haulers. Expected revenue for the remaining five years is based on tonnage and customer participation. Over the past ten year term of the agreement the City of Fresno has received revenues of \$6,738,136 from non-exclusive roll-off.

Attachments:

Attachment 1 - Ordinance 2016-30

Attachment 2 - JPA Construction Clean-Up Service, Inc.'s Non-Exclusive Franchise Agreement for

Roll-Off Collection Services

Attachment 3 - Amendment No. 1 to JPA Construction Clean-Up Service, Inc.'s Non-Exclusive Franchise Agreement for Roll-Off Collection Services