



**Council Meeting: April 24, 2012**

**SUBJECT: Renewal of Taxicab Franchise to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company**

**REPORT IN BRIEF**

An application to renew the existing taxicab franchise, as well as the required fees have been received from Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company. The effective dates of the requested franchise are June 8, 2012 through June 7, 2014.

There are currently eight valid taxicab companies franchised to operate within the City of Sunnyvale. They are Silicon Valley Checker Cab, Yellow Cab Peninsula, Orange Cab, A-1 American Cab, Classic Cab, Green Cab, All Time Cab, and Silicon Valley Cab Co.

Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company acknowledges and accepts the requirements of a taxicab franchise as set forth in Sunnyvale Municipal Code (SMC), as well as the taxicab franchise agreement. Jasraj Bhatia (FKA Bikram Singh) dba California Cab also is aware of the right of the City of Sunnyvale to revoke or suspend the taxicab franchise if it is determined there is a violation of, or non-compliance with, the terms contained in SMC Section 5.36.

As required by SMC Section 5.36.050, the Department of Public Safety (DPS) conducted an investigation into the applicant's background. After careful review, DPS determined the applicant currently does not meet the mandatory code requirements to be awarded a non-exclusive taxicab franchise. DPS recommends denying the renewal of the taxicab franchise as requested by Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company. This recommendation to deny renewal is based on this franchise's history of non-compliance with SMC and California Code, as well as a history of late payments. The franchise is currently suspended due to lack of drivers and vehicles. It should also be noted the franchise owner has been delinquent in paying the quarterly vehicle fees 5 times. Delinquencies range from 30 days to over 3 months.

**EXISTING POLICY**

The term "non-exclusive franchise" as used in SMC means the City does not limit the number of like franchises in operation at one time. The City's non-

exclusive taxicab franchise requirements contained in SMC Section 5.36 state it is unlawful to operate any taxicab in the City unless the owner applies for and obtains a franchise. The City Council may deny a franchise to any applicant if:

1. The applicant has been convicted of certain criminal offenses.
2. The proposed color scheme or other insignia may tend to confuse the identification with other franchises already operating within the City.
3. The applicant has been in violation of any law or SMC regulation relating to the conduct of a taxicab business.
4. The applicant has had a taxicab license revoked or suspended in the City of Sunnyvale or any other jurisdiction within five years prior to the date of application.
5. Any other reasonable cause exists which, within the City Council's sound discretion, would render the proposed operation undesirable to the City of Sunnyvale.

If an applicant meets the provisions as outlined in SMC and none of the above has occurred, a franchise to operate a taxicab service should be issued to the applicant(s). A franchise is issued for a term of two years. At the expiration of the term, the franchise shall be deemed expired and shall no longer be valid unless a new franchise is issued under the provisions of SMC Section 5.36.

### **DISCUSSION**

On February 23, 2010, City Council awarded a non-exclusive taxicab franchise to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company (RTC 10-029). This action allowed California Cab Company to begin operating with its first franchise in the City at midnight on April 2, 2010 through April 1, 2012. California Cab Company currently is requesting a taxicab franchise with effective dates of June 8, 2012 through June 7, 2014. Its franchise renewal application was received on February 16, 2012; however, the required documents were not completed until February 23, 2012. To date, DPS has not received a request from Jasraj Bhatia (FKA Bikram Singh) to continue operating under his previously issued franchise.

### **Justification for Non-renewal:**

Since beginning operations in April 2010, California Cab Company's taxicab franchise has been issued three suspension warning notices and is currently suspended. In August 2010, March 2011, and April 2011, the franchise was issued warning notices for failure to have the required five (5) vehicles and five

(5) drivers. In March 2012, the franchise was suspended for failure to have the required five (5) drivers.

Further, Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company has been late 5 times by more than 30 days in paying its quarterly vehicle fees since April 2010. Twice, the applicant was more than 30 days late, twice over two months late and over three months late one time. The Department of Finance administers the quarterly taxicab vehicle billing for the City. Failure to pay in a timely manner requires additional City resources be spent to make subsequent notifications.

Justification for Renewal:

The owner, Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company, has submitted information and documentation to demonstrate compliance with each of the criteria identified in SMC Section 5.36, as outlined below.

1. Local Contact Requirement – Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company has provided a toll-free telephone number to its dispatchers, together with sufficient phone lines to provide for prompt response to callers.
2. Vehicles – Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company is the registered owner of five (5) company-owned vehicles that have been identified for operation under this franchise. The taxicabs are identical in color schemes and markings; they are yellow on the top half of the vehicles and black on the lower half with the company name and telephone number in white lettering on the door.
3. Taximeter – Each taxicab, which has been identified for operation under the franchise, is equipped with a taximeter which must be inspected annually by the Santa Clara County Sealer of Weights and Measures. Staff has been provided with compliance reports for the vehicles identified for this franchise agreement renewal.
4. Insurance – A valid certificate of insurance was submitted by Jasraj Bhatia (FKA Bikram Singh) dba California Cab. The insurance is issued by Y. A. Tittle & Associates for \$1,000,000 combined single limit; with City of Sunnyvale listed as the Additional Insured; and has a 30-day prior notices of cancellation clause, as required in SMC 5.36.300. Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company understands it may not operate without proper insurance as listed in SMC Section 5.36.300.
5. Criminal History – A criminal history check of the applicant was conducted as required by SMC. The applicant has not been convicted of

any felonies, narcotic violations, or crimes of moral turpitude as referenced in SMC.

6. Experience of Owner – The investigation has revealed the applicant, Jasraj Bhatia (FKA Bikram Singh) has been in the transportation business since 1992 as the owner of his own taxicab company, as well as a taxicab driver. He currently operates taxicabs in San Jose and Palo Alto.
7. Personnel – Individual drivers were not identified in the franchise renewal application; however, each will be required to obtain a taxicab driver's permit issued by DPS. The applicants are aware of the requirement to maintain five (5) permitted drivers while operating in the City of Sunnyvale.

The applicants adhere to the random drug testing requirements as established by State Law. The applicant's company has contracted with One Source Labs for their medical review officer services.

8. Fees – The applicant has paid the required franchise application fee of \$1,212. The applicant agrees to pay the quarterly vehicle fees that are due during the month following the quarter the agreement is signed and each quarter thereafter during the term of the franchise. The applicant has agreed to complete a Taxicab Franchise Questionnaire listing driver and vehicle information each quarter during the term of the franchise.
9. Fare Schedule – California Cab Company has filed its fare schedule with DPS in accordance with SMC Section 5.36.280.

### **FISCAL IMPACT**

The revenue generated from this franchise was included in the FY 2011/2012 Adopted Budget. This franchise generates General Fund revenues of approximately \$6,000 during the two years of the agreement due to application fees (\$1,212), quarterly vehicle fees (\$116 per vehicle per quarter), and the business license fee (\$195). This amount does not include revenue generated by the driver permits issued (\$198 per driver for year 1; \$137 per driver for each subsequent year). Driver permit fees are not included because it fluctuates due to driver turn over during the term of the agreement.

The associated fees do not represent full cost recovery for the overall program administration, primarily because costs are passed directly to drivers, making for a difficult balance between the need for service and the cost of regulation. Staff estimates the City's annual subsidy to be less than \$600 per franchise and \$700 per vehicle. In general, this subsidy is believed to be in the best

interest of the City so that taxicab services to the community are regulated and comply with all applicable laws.

However, in the case of California Cab Company, it is believed the General Fund subsidy for this taxicab franchise is considerably higher. DPS estimates that each time a franchise is suspended then reinstated, there is an additional cost to the City of approximately \$315 (4.0 hours of Sr. Office Assistant + 1.0 hour DPS Manager). When an administrative hearing is requested, the additional cost to suspend and reinstate is approximately \$530.

DPS estimates that California Cab Company's non-compliance and subsequent suspension have cost the City an additional \$845 over the effective dates of California Cab Company's most recent franchise agreement. The additional costs resulted from the issuance of warning notices on August 5, 2010, March 14, 2011, April 20, 2011, and the franchise suspension issued on March 2, 2012. California Cab Company's franchise is currently suspended for failure to maintain five (5) minimum drivers as required by SMC.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center, and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk, and on the City's Web site.

A copy of this RTC was provided to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company via U.S. Post to the address listed on the franchise application.

### **ALTERNATIVES**

1. Introduce and adopt an ordinance renewing a non-exclusive franchise for taxicab service to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company for the period June 8, 2012 through June 7, 2014 per applicant's request and authorize the City Manager to execute necessary documents of agreement.
2. Do not introduce or adopt an ordinance renewing a non-exclusive franchise for taxicab service to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company for the period June 8, 2012 through June 7, 2014 per applicant's request.

### **RECOMMENDATION**

Staff recommends Council approve Alternative #2: Do not introduce or adopt an ordinance renewing a non-exclusive franchise for taxicab service to Jasraj

Bhatia (FKA Bikram Singh) dba California Cab Company for the period June 8, 2012 through June 7, 2014 per applicant's request.

This recommendation to deny renewal of a taxicab franchise to Jasraj Bhatia (FKA Bikram Singh) dba California Cab Company is based on this franchise's history of non-compliance with SMC and California State Law, as well as a history of late payments.

Reviewed by:

Frank Grgurina, Chief of Public Safety  
Reviewed by: Ann Durkes, Manager, Strategic Services  
Prepared by: Rachel Vasquez, License & Permits Coordinator

Reviewed by:

David Kahn  
City Attorney

Approved by:

Gary M. Luebbbers  
City Manager

**Attachments**

- A. Non-exclusive Franchise Ordinance
- B. Taxicab Franchise and Agreement

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AWARDING NONEXCLUSIVE FRANCHISE TO JASRAJ BHATA (FKA BIKRAM SINGH), OWNER OF CALIFORNIA CAB COMPANY**

WHEREAS, Chapter 5.36 of the Sunnyvale Municipal Code establishes a procedure for the consideration and award of nonexclusive taxi franchises by the City of Sunnyvale; and

WHEREAS, Jasraj Bhata (FKA Bikram Singh), owner of California Cab Company, has applied for a nonexclusive taxicab franchise; and

WHEREAS, public notice in accordance with Sunnyvale Municipal Code Section 5.36.070 has been given that the City Council of the City of Sunnyvale would hold a public hearing for the purpose of determining whether to award the franchise; and

WHEREAS, the City Council finds that it would be in the best interests of the City of Sunnyvale to award a nonexclusive franchise for taxicab service to the applicant;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FRANCHISE GRANTED. The City of Sunnyvale hereby grants to Jasraj Bhata (FKA Bikram Singh), owner of California Cab Company (hereinafter "Franchisee"), a nonexclusive Franchise for taxicab service within the corporate boundaries of the City of Sunnyvale as such boundaries presently exist or as they may be changed during the term of this Franchise. The Franchisee shall conduct its operations under the Franchise in strict compliance with Sunnyvale City Charter and Chapter 5.36 of the Sunnyvale Municipal Code, and any amendments thereto, together with all applicable laws and regulations of the State of California, the United States or any regulatory agency having jurisdiction.

SECTION 2. TERM. The term for which this Franchise is granted shall be two years commencing June 8, 2012, and ending at 12:00 midnight on June 7, 2014.

SECTION 3. CONSIDERATION. The Franchisee shall pay quarterly to the City as consideration for the granting of this Franchise the amounts per vehicle as set forth in the City's Master Fee Schedule, which is incorporated by reference herein.

SECTION 4. USE OF CITY STREETS. The Franchisee hereby is given permission to use City streets for the purpose of providing taxicab service in accordance with the terms of this ordinance and the franchise agreement.

SECTION 5. GENERAL CONDITIONS. This Franchise is granted subject to the terms and conditions set forth in the "Taxicab Franchise and Agreement" attached and incorporated.

SECTION 6. ACCEPTANCE OF FRANCHISE TERMS AND CONDITIONS. This Franchise shall not become effective until the Franchisee accepts the Franchise by executing the Taxicab Franchise Agreement within ten (10) days after adoption of this ordinance.

SECTION 7. APPROVAL OF FRANCHISE AGREEMENT—EXECUTING AND ATTESTING. The Taxicab Franchise Agreement is hereby approved, and the City Manager is authorized to execute it on behalf of the City.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 9. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 10. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2012, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2012, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Attestation:

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David Kahn, City Attorney

## **TAXICAB FRANCHISE AND AGREEMENT**

THIS FRANCHISE AND AGREEMENT, dated June 8, 2012, is between the CITY OF SUNNYVALE, a municipal corporation of the State of California (herein "City"), and Jasraj Bhata (FKA Bikram Singh), doing business as California Cab Company (herein "Franchisee").

### RECITALS

WHEREAS, Franchisee has filed a verified application of a nonexclusive Franchise to operate a taxicab service pursuant to Chapter 5.36 of the Sunnyvale Municipal Code; and

WHEREAS, on \_\_\_\_\_, 2012, the City Council passed and adopted Ordinance No. \_\_\_\_-12, after Notice and Public Hearing, approving issuance of such Franchise;

NOW, THEREFORE, in consideration of the award of a nonexclusive Franchise and of the mutual covenants and conditions as set forth herein, it is agreed as follows:

1. City grants to Franchisee a nonexclusive Franchise to use the public streets, ways, alleys and places, as the same now or may hereafter exist, within the corporate limits of the City of Sunnyvale as they presently exist or as they may be changed during the term of this Franchise by annexations or detachments, in connection with furnishing the City of Sunnyvale and its inhabitants with taxicab service for a term of two (2) years, beginning June 8, 2012, and ending at midnight on June 7, 2014.

2. The Franchisee during the term of this Franchise shall pay to the City the consideration based on the number of vehicles in service under the Franchise, as set forth in the City's Master Fee Schedule, which is incorporated by reference herein.

3. The Franchisee shall:

A. Appear and defend all actions against the City arising out of the exercise of the Franchise and shall indemnify and save City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the Franchise.

B. Obtain and keep in force during the term of the Franchise insurance in compliance with the requirements of Sunnyvale Municipal Code Section 5.36.300.

C. Comply with all other requirements of Sunnyvale Municipal Code Chapter 5.36 and any amendments thereto, and with all applicable laws and regulations of the State of California, and all applicable laws and regulations of the United States, or any regulatory agency having jurisdiction. Franchisee shall establish a controlled substance and alcohol certification program. The program shall be included in a written company policy. Each driver must sign for receipt of said policy, and the receipt shall be retained by Franchisee. A copy shall be provided to DPS upon request. Every driver shall test negative for controlled substances as specified in 40 CFR Part 40 and 49 CFR Part 382.

4. The Franchise granted hereunder shall not be assignable, either voluntarily or by operation of law, without the prior approval of the City Council, by resolution. At least forty-five (45) days prior to the date for the formal transfer of such interest or ownership, the Franchisee shall so notify City in writing. If the Franchisee at any time during the term of this Franchise becomes insolvent, or if any proceeding in bankruptcy shall be instituted by or against the Franchisee, or if the Franchisee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy, or receiver of any property of the Franchisee shall be appointed in any suit or proceeding brought by or against the Franchisee, or if the Franchisee shall make an assignment for the benefit of creditors, then and in each and

every such case this Franchise and the rights and privileges granted thereby shall immediately cease, and be forfeited and cancelled, without notice and without suit or other proceeding.

5. If the Franchisee at any time during the term of this Franchise shall sell, exchange or otherwise transfer more than one-half of the equity interest in or ownership of the taxicab service business, whether with or without the property, equipment or other assets in connection therewith, permitted to be operated by the Franchise granted hereunder, the City Council shall have the right to cancel and revoke the Franchise following a hearing held after then (10) days' written notice thereof to the Franchisee. The right to cancel and revoke the Franchise shall not be triggered by any mortgage or deed of trust made in good faith by the Franchisee.

6. This Franchise and Agreement may be amended by the City during its term with the consent of the Franchisee.

7. The Franchise is granted to and is accepted by the Franchisee upon the express condition that the public streets, ways, alleys and places shall be used and taxicab service furnished in strict compliance with the terms of this Franchise Agreement, the Sunnyvale City Charter, and all applicable provisions of the Sunnyvale Municipal Code.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**"FRANCHISEE"**

**"CITY"**

CALIFORNIA CAB COMPANY

CITY OF SUNNYVALE

A Municipal Corporation

By \_\_\_\_\_

Jasraj Bhata (FKA Bikram Singh)

Owner

By \_\_\_\_\_

Gary Luebbers, City Manager

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_

David Kahn, City Attorney