FORM GEN. 160 (REV. 6-80)

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: November 28, 2016

TO: Honorable Nury Martinez, Chair
Honorable Bob Blumenfield, Vice Chair
Honorable Paul Koretz, Member
Honorable Gilbert A. Cedillo, Member
Honorable Mitch O'Farrell, Member
Energy & Environment Committee

FROM: Enrique C. Zaldivar, Director
LA Sanitation

SUBJECT: **LA SANITATION REPORT PROVIDING ADDITIONAL INFORMATION REGARDING RECOMMENDATIONS TO AWARD CONTRACTS FOR THE ZERO WASTE LA EXCLUSIVE FRANCHISE SYSTEM FOR COMMERCIAL AND MULTIFAMILY SOLID WASTE COLLECTION AND HANDLING (C.F. 10-1797-S17)**

This report provides clarification and additional information related to LA Sanitation's (LASAN) recommendation to award contracts for the Zero Waste LA Exclusive Franchise System for Commercial and Multifamily Solid Waste Collection and Handling (C.F. 10-1797-S17). On November 2, 2016, the Energy and Environment Committee discussed the Board of Public Works report relative to a request for authority to award contracts for the Zero Waste LA Exclusive Franchise System for Commercial and Multifamily Solid Waste Collection and Handling (Franchise System). During the November 2 meeting, the Committee requested LASAN report back on a number of questions regarding LASAN's recommendation. This report also addresses written comments received from CR&R in various correspondences.

LASAN herein provides the following discussion to the questions introduced at the meeting:

1. **What was the process for re-assigning haulers for each zone, once the winning bidders dropped out?**

   During the negotiation process two of the shortlisted proposers (Recology and United Pacific Waste (UPW) withdrew their proposals. Recology, who proposed on large zones, and LASAN could not come to terms on some key aspects of the contract. As a result, in March 2016, Recology voluntarily withdrew from negotiations. In July 2016 it was determined that UPW, who proposed on small and large zones, and LASAN could not come to terms resulting in UPW voluntarily withdrawing from negotiations. The Franchise System, including the zone assignments, is designed as a single interconnected system. When any one zone of the system is changed, the entire system must be reassessed.

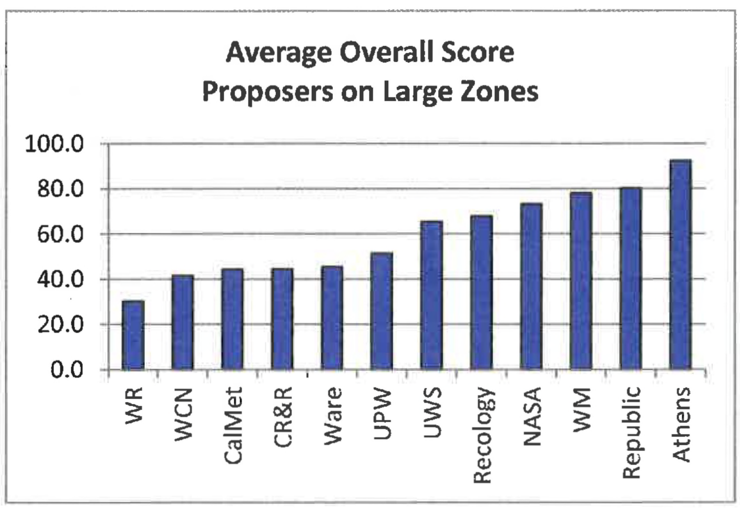
During the course of the negotiations the franchise system was treated and managed as a single integrated and interconnected system, which included zone assignments and alignment of proposer-service zone pairings. Upon the causation of the two vacancies by the withdrawal of Recology and UPW, the backfilling process involved a reassessment of the entire system and a realignment of the proposer-service zone pairings.

Withdrawal of Recology

Due to the withdrawal of Recology, LASAN reassessed the zone assignments to account for the two zones vacated by Recology. In the initial pairing of zones Waste Management was aligned with the West Valley and Harbor zones and Republic was aligned with the South LA and the Southeast Valley zones. As part of LASAN's reassessment Waste Management was reassigned to the West Valley and Southeast Valley zones, and Republic was reassigned to the South LA and Northeast Valley zones. The reassessment took into consideration proposer scoring, large zone ranking, and material flows. Upon adjusting the zone assignments, LASAN determined that the Northeast Zone and Harbor Zone would be made available for further negotiations.

LASAN utilized the large zone ranking list to determine proposers to be negotiated with for the Harbor Zone as a bundle.

- LASAN offered to negotiate with Athens Services (Athens), the highest ranked proposer for the Harbor Zone.
- Athens accepted the Harbor Zone, and offered to make infrastructure improvements to provide efficient service to the Harbor Zone.

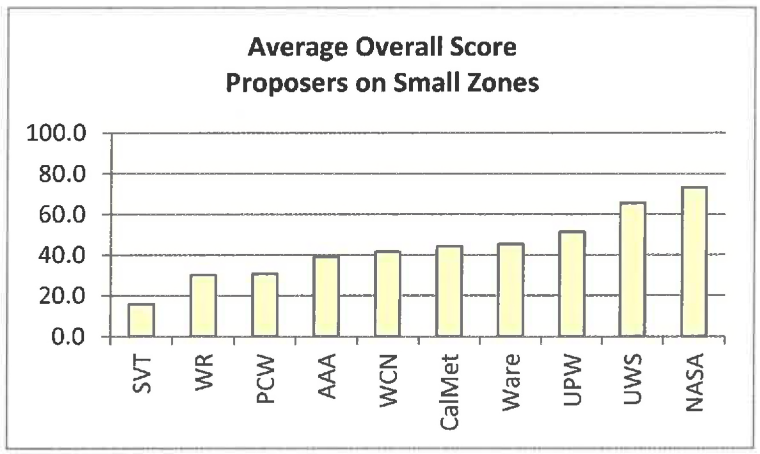


LASAN utilized the large zone ranking list to determine proposers to be negotiated with for the Northeast Zone.

- LASAN offered to negotiate with NASA Services (NASA), the highest ranked proposer for a large zone, which was not shortlisted for a large zone.
- NASA chose to stay with the Downtown Zone, the zone subject to negotiation at that time.
- LASAN then offered the zone to Universal Waste Services (UWS), the next highest ranked proposer in large zones.
- UWS accepted and vacated the Southeast Zone, the zone subject to negotiation at that time.

With UWS moving to a large zone, and given that, as a large zone, it cannot be bundled with a small zone pursuant to the ordinance and the Franchise System Request for Proposals (RFP), this movement created a vacancy in a small zone. LASAN utilized the small zone ranking list to determine proposers that would move into negotiations.

- LASAN offered to negotiate with WARE Disposal (WARE), a woman-owned business and the next highest ranked proposer for a small zone.
- WARE accepted.



Withdrawal of UPW

Not long after Recology withdrew from negotiations United Pacific Waste (UPW) also voluntarily withdrew their proposal. UPW's withdrawal created an additional opportunity for a small zone. LASAN again utilized the ranking for small zones. (As a reminder, not all proposers submitted proposals for large and small zones).

- LASAN offered to negotiate with CalMet Services, the next highest ranked proposer for a small zone.
- CalMet accepted.

2. **Why were the processes used to reassign the Northeast and Southeast zones different than the Harbor zone? We'd like to understand fully how this assignment was made.**

LASAN recognizes that it may appear the processes used to reassign the Northeast and Southeast zones were different than that of the Harbor Zone. However, LASAN's process of utilizing proposer ranking as the primary factor in recommending award of zones remained consistent throughout the negotiation process.

LASAN used sound judgment in utilizing proposer ranking after evaluations in shortlisting, negotiations, zone bundling and award recommendations. There was no process defined in the Franchise System RFP dictating how zone assignments must be made, in fact the RFP specifically reserved the discretion to short-list any of the proposers and to select the number of zones to negotiate and award. Section 4.1.1 of the RFP allowed LASAN to select the number of zones it chose to negotiate over. Section 6.21 of the RFP further reserved the right to select and enter in an agreement with a proposer who were responsive to the RFP, and whose proposal satisfies the interests of the City.

The initial assignment of two zone bundles of the large zones was for negotiation purposes, and subject to change. Several of the highest ranked proposers included facility development in their proposals, dependent on size of award and material flows that would support these efforts. Two zone bundles, while by no means the four zone bundles sought by some proposers, allowed for this material flow and support. The size of initial assignment was dependent on ranking. LASAN elected to assign one additional large zone to the highest ranked proposer, well within the guidelines prescribed by City Council and detailed in the RFP. This continued the process already established to bundle zones to maximize LASAN's ability to negotiate the strongest contracts that deliver excellent service at low competitive rates.

To the extent this question asks why the Harbor zone recommendation was made, when replacing the proposers that withdrew from negotiations LASAN utilized the scoring and exercised its discretion and sound judgment in offering the Harbor Zone to the highest ranked proposer, and not recommending a large zone to a proposer with a low score.

3. **Why were the RFP's evaluated based on rates, if the Bureau was going to ultimately negotiate the same rates for the entire city? 20% of the score was based on the rates charged to customers, however - the Bureau decided to standardize the rates, but didn't go back to re-rank the bids. Why is this?**

Although LASAN was ultimately able to negotiate a Citywide maximum rate structure, the ability to achieve this was not determined until the end of negotiations. Early in the process all proposers were evaluated and scored on cost, as well many other factors as detailed in the RFP. LASAN moved from the evaluation process and into negotiations once proposer scoring and ranking were completed. Electing to diverge from the evaluation process, for example disregarding cost as evaluation criteria after proposal submission, would jeopardize the integrity of the process, as the RFP sets the cost component at 20% of the total score.

The RFP for the Franchise System was the most detailed and specific ever developed. LASAN could not be sure that a citywide maximum rate schedule could be negotiated. In fact, as detailed in the RFP, among the goals for the

Franchise System is to ensure that equitable services, at reasonable rates, are available in the City. LASAN did not change the evaluation scores for the proposals throughout the process.

In preparing for their proposal submission, qualified proposers needed several months to include all the elements and requirements. The proposed cost of service in each proposal was closely tied to the scope of services presented in each proposal. For the evaluation, each RFP category was scored separately. To ensure reasonable rates, LASAN incorporated cost into the evaluation process. Proposers were required to submit costs components for collection, processing and disposal, fuel, administration, customer service, container rental and profit. These cost components were evaluated for reasonableness and clarity. Then each category was added together to provide a final score.

Contracts established by considering only cost are often plagued with poor service because specific requirements for staffing and investment are not included in these agreements. It is common in commercial Franchise systems to see a 'low ball' bid win, with the winning proposer coming back within three years for exorbitant prices increases. The RFP was clear that increases would be capped. The LASAN evaluation also provided a 'floor' when comparing cost proposals to guard against this potential practice. Conversely, contracts developed without any focus on cost will result in extremely high customer rates. LASAN was always mindful of the impact on customers of the cost of service.

While negotiating with the shortlisted proposers to ensure they were capable and willing to provide the services expected of them, LASAN developed a model to compare service costs for the City to assist in developing a Citywide maximum rate structure with the negotiating proposers. The model took into consideration the information provided in the proposals as well as additional cost information provided during evaluation and negotiations. Although LASAN was ultimately able to negotiate a Citywide maximum rate structure, the ability to achieve this was not determined until contracts were signed by the 7 proposers. In November 2015, a negotiated rate was presented to the proposers and they agreed to the maximum rate structure, contingent on contract review. A draft contract was issued in February 2016. Even after initial agreement, subsequently one of the shortlisted proposers withdrew from the process because they could not come to terms with the City including cost. The remaining proposers could not definitively agree to the negotiated maximum rates until all terms of the contract were finalized. All fees for extra services, and temporary bin services, were finalized late in the negotiation process, and not added to the contracts until just before contractor signatures in September 2016.

For the reasons noted above, cost was a component of the approved RFP and the subsequent evaluation process. All proposers were evaluated fairly and equally based on the approved set of criteria. The approved RFP did not contemplate rejecting the cost criteria component if citywide maximum rates could be achieved. Based on the totality of the proposals received, LASAN is recommending the best proposers to meet the needs of the City.

4. What is it that City Council has before them? Can the Council vote on each contract separately instead of all 7 contracts at once?

LASAN recognizes City Council's authority to approve any or all of the franchise contracts; however LASAN strongly recommends that the system be approved as a whole, as all of the contracts provide the same customer benefits and system integration for all customers and all areas of the City. The partial implementation of the Franchise System would be more prone to failure as discussed further below, and is not recommended.

The Franchise System, as contemplated in the City Council and Mayor approved Program EIR, Implementation Plan, Ordinance, RFP and contracts, is a single system, where access to recycling services, employee and residential outreach and education, utilizing a single point of contact, providing field support and assistance, and movement to Zero Waste, are interdependent. Legally each contract stands on its own since the proposals were not made as a joint venture or as a coalition of companies, and City Council does have the ability to reject one or more contracts; this does not change the fact that we must implement the complete franchise system as a single unit. Three of the seven recommended contracts contain multiple zones awards. If, for example, the City Council chooses to reject the Athens contract containing the Harbor zone, all three of the zones in the contract, constituting 36 % of the City over multiple Council Districts, would return to the Board of Public Works. The contracts were developed and agreed to by the recommended franchisees and approved by the Board of Public Works with the presented zone assignments.

LA Sanitation has extensive operational experience in implementation of large scale Citywide programs. From every aspect, including Citywide media efforts needed to support the program, a partial implementation of the Franchise System is likely to fail. LA Sanitation's plan is to use large media in mid-2017 such as radio and newspapers as well as local efforts. Comprehensive outreach will include neighborhood councils, trade associations, chambers of commerce, apartment owners association, tenant associations, and environmental groups who will be solicited and educated in combination with local community efforts, to help customers understand the goals of the system and their responsibilities. We cannot use that approach if every neighborhood in the City may or may not be within the new system.

Residents and businesses would not know whether they are entitled to Blue Bin or Organics recycling. The businesses would not know whether to bid for solid waste collection services under an open market, or to call their Franchise service provider for collection and educational services. In some areas, one side of the freeway would be serviced under the Franchise system, the other under an open market. Waste haulers would be able to solicit new business only in open market areas and zones, but both parties may not understand their status, creating greater confusion.

Denying the award of one or more of the seven recommended contracts would have impacts to the implementation of the Franchise System, including but not limited to:

- Creating a system with separate implementation schedules in various areas of the City, fostering confusion for residents and businesses;
- Exposing the City to potential findings of non-compliance with state-mandated Commercial Organics Recycling (AB 1826). The City is required on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste generated by businesses, including multifamily residential dwellings that consist of five or more units. The Franchise System requires the development of infrastructure crucial to complying with this requirement;
- State Mandatory Commercial Recycling (all businesses and multifamily) requires all businesses and multifamily complexes to subscribe to recycling services. Without the Franchise System individual businesses may not comply;
- Hindering the smooth transition of customers. The City could not deliver a clear consistent outreach and education program to the customers and city residents, particularly during the transition;
- Through the Franchise System, the franchisees' IT will be synchronized with the City's MyLA311 system so that the City will have real time information regarding service of commercial and multi-family accounts, including any service requests and complaints. Zones within a rejected contract would not have these customer service protections or technological oversight;
- Delaying the establishment of programs and infrastructure improvements necessary to meet the City's zero waste goals;
- Creating a two tier system, where the higher standards of the Facility Certification Program would only be required of some haulers;
- Customers not served by the Franchise System would not have blue bin recycling as part of their basic level of service, and may not have access to organic recycling programs;
- Continuing a system of inefficiencies, including overlapping truck routing;
- Delaying the requirements for clean fuel vehicles in all areas of the City;
- Not guaranteeing consistent citywide maximum rates;
- Considering the re-release of the RFP for the zones not approved. This could delay the implementation in the zones not approved by up to three years.
- It is also possible, if not highly likely, that the City would face legal challenges by not awarding to the highest ranked proposers. Any legal challenges could delay the implementation of the entire system;

- Creates contractual and legal uncertainty amongst the haulers receiving a large zone Franchise award (Republic, WM, NASA and UWS) as to the ability to negotiate for zones that are vacated by the contract rejection;
- The City would not realize the full potential of the franchise fee revenue, due to the delays. Delaying the award of the Athens zones alone will cost the City $10 million annually in lost revenue. If the entire system was delayed it would cost the City over $35 million annually in lost revenue.

If all contracts are not approved at the same time LASAN recommends to hold the implementation of the Franchise System until the new contract(s) are awarded. This process takes up to three years. This option would also require renegotiating with the Franchise contract holders on terms and conditions around the implementation dates and cost proposals. The citywide uniform maximum rates were negotiated with each shortlisted proposer. LASAN could not guarantee that future negotiations with proposers would yield the same reasonable rates in the Franchise System.

LASAN respectfully recommends that all contracts be approved to implement the system; or should the Council not support the recommendation, that the entire slate of contracts be disapproved and returned to the Board of Public Works.

5. **Did the Bureau audit each of the haulers to ensure they are all current in their payment of AB 939 Fees and gross receipts tax?**

All City permitted waste haulers are subject to audit by the City, per Los Angeles Municipal Code Section 66.32.4(e). Many of the recommended franchisees have been subject to audit under the waste hauler permit system. Due to current staffing limitations, audits are typically initiated due to errors or conflicting information received by LASAN. During the negotiations, one proposer (UPW) made misrepresentations to LASAN through written submissions and verbal statements regarding its customer accounts and gross receipts, which also bear upon the company's payment (and non-payment) of AB 939 fees. Upon being so placed on notice of possible reporting and remittance issues, LASAN commissioned an independent audit under its permit program. This audit confirmed serious malfeasance and material misstatements by UPW regarding its gross receipts, fractional fee remittance to the City, and failures in business practices in general.

In brief, as corroborated by an independent audit that now is public record, over the last three years, UPW made material misstatements to the City involving tens of millions of dollars and exhibited material weaknesses in UPW's operations. The audit results demonstrated UPW's lack of accounting controls and operational controls and a significant failure to comply with City laws.

UPW ultimately made a business decision to voluntarily withdraw from the contract negotiations after being informed that LASAN intended to refer a non-responsibility complaint to the Bureau of Contract Administration for debarment proceedings before the Board of Public Works. UPW withdrew its proposal from further consideration in writing.

The franchise contracts require compliance with the City's AB 939 permit, fee, and reporting requirements. All franchisees would remain subject to audit under the Los Angeles Municipal Code.

6. **Why is the Bureau proposing that all the franchise revenues be placed into a special fund? What will be the purposes of that fund?**

   The Franchise service providers will remit, on a quarterly basis, a negotiated Franchise Fee (Fee) to the City based on a percentage of the gross receipts billed to all customers.

   LASAN seeks City Council consideration to establish a special fund and dedicate part of the Franchise fee to support the management and oversight of the Franchise program with the remaining fee directed to the General Fund that would be allocated through the City's normal budgeting process. The Fee will be the primary funding instrument for meeting the environmental and social objectives set by the City Council for the Franchise Program. As detailed in LASAN's approved resource plan, sufficient staffing and resources are necessary to ensure the implementation and long term oversight of the Franchise system and to meet the goal of the City.

7. **Why didn't the contract include services like Christmas tree pickup, emptying street side trash cans or picking up illegal dumping?**

   LASAN recognizes these as critical services. LASAN currently provides many citywide services including Christmas tree collection, unlimited bulky item collection from single family and multifamily units, street side solid resources bin collection and illegal dumping removal and cleanups. These services are provided by City union members and including them in the RFP would have needed a 1022 determination and approval from the City unions to contract out these services. From the onset City unions were vehemently opposed to contracting out services provided by City staff. Therefore these services were not included in the RFP, the City Council and Mayor approved Implementation Plan, CEQA documentation, or ordinance; neither were they included in the Request for Proposal approved by the Board of Public Works. As such, proposal did not or could not address these services.

   Adding the above services would have resulted in significant increases to the customer services cost. LASAN is devoted to serving the community with the essential needs of cleaner water, cleaner air, cleaner streets for all to live in safe, vibrant, well-connected, and healthy neighborhoods.

8. Why was Republic Services recommended for award given the City Council policy on awarding contracts to companies with headquarters in Arizona?

The RFP and City Council policy did not prohibit any company from submitting a proposal, being evaluated or from entering into negotiations. Republic Services was the second highest ranking proposer for the large zones and, its participation in the negotiations provided for increased competition throughout the process.

Presently, Republic employs over 1,000 employees within Los Angeles County, with 145 residing in the City. Republic owns and operates multiple facilities in Los Angeles County, with the local main office located in the City. Republic has had a long presence in the City, and it holds solid waste and recycling contracts with the City. In addition Republic currently collects solid waste from over twenty percent of the customers transitioning into the franchise system.

9. Written and verbal public comments submitted by CR&R.

CR&R provided verbal comments during the November 2, 2016, Energy and the Environment Committee meeting and subsequent written comments. The accusations and assumptions that drive these comments are false. These comments confuse and misrepresent the RFP, evaluation, and negotiation process, and attempt to seek contract modifications to divert attention from CR&R's poorly written proposal. Given the inadequacies of their proposal there is no path that would lead to a recommendation for award to CR&R. The following is in response to comments provided by CR&R, beginning with a description of the evaluation process.

The evaluation process was extensive and exhaustive, and was both fair and thorough. LASAN established five separated evaluation teams, one for each scoring criteria detailed in the RFP. There was one team each for Qualifications, Customer Service, Service Plan, Diversion, and Cost Proposal. The teams ranged from 4 to 6 members and were made up of City and private sector industry experts. There were no members from management on the teams. No member served on more than one team.

Each Team was given a unique scoring input tool developed for their scoring category that was the same for each proposer. The scoring tool had details for each scoring category, which was broken into subcategories. There were over 70 subcategories in all. Each of these categories or subcategories were evaluated and scored by the appropriate Teams. All Team Members agreed to confidentiality throughout the process. Teams were not allowed to see, nor had access to, scoring from other teams.

The magnitude and intensity of the evaluations were unprecedented. There were over 70 separate subcategories that were evaluated, spread over the 5 scoring categories. The teams discussed each of their appropriate subcategories for each proposer in detail. For the 15 proposers, that equals 1,000 separate discussions. A team would discuss each subcategory for a hauler until consensus was reach on scoring. Evaluations began in January 2015 and concluded in June 2015.

The overall findings from the evaluations were that CR&R's proposal was weak and poorly written. CR&R submitted a proposal for only large zones; West LA, South LA, and Harbor Zones. Large zones are by design inherently more challenging. CR&R did not submit a proposal for the three small zones. As such CR&R was scored and ranked against those that submitted proposals for large zones. CR&R's proposal did not adequately respond to all of the required elements of the RFP, as compared to other proposers. CR&R scored only 45 points out of a possible 100. It is important to note that all proposers were evaluated solely on the merits and context of their proposal that was submitted and that CR&R's proposal did not merit, under any circumstances, the award of a large zone.

Below is a list of some of the weaknesses identified in the CR&R proposal:

- Did not provide any commercial references as required, only municipal references and therefore was scored lower in the Reference criteria;
- Various enforcement actions against its CR&R facility earned it a lower score in Litigation criteria;
- Lower score in Safety criteria due to a fatality in the facility CR&R owns;
- Service Plan lacked specifics in many areas required in the RFP;
- Staffing levels were very lean;
- Protocol for missed collections is not immediate enough to meet requirements;
- Very poorly defined contingency plan and disaster recovery and support outside of verbal assurances;
- Commingled recycling and Organic materials show a steady growth until 2021 and then they plateau;
- Multifamily residences would be given a choice of source separated recyclable or MSW processing, not in compliance with the requirements of the RFP;
- Piloting customer service software however the rest of their fulfillment process was done on paper;
- Selected vehicle technology is in use for some franchise cities, however, no infield updates;
- Proposed initial outreach plan was not adequate.

CR&R stated that LASAN arbitrarily disqualified CR&R with a score of 45 but awarded a small zone to a proposer with a lower score.

CR&R chose not to be considered for a small zone by not submitting a proposal for any small zone. Large zones are significantly different from small zones, by design. Small zones range from a one-third to one-tenth the size of larger zones. The small zones were sized and developed to provide a more accessible competitive field for small to medium size proposers. From an implementation stand point, the limited size of the small zones allows the City to better manage and assist as necessary those proposers with lower scores. The City is not afforded this ability with the large zones. In addition, these small zones do not have the same contractual requirement for infrastructure improvements. Anyone proposer had to make a strategic decision on whether to propose on the large zones, small zones, or both. In line with the Franchise System rules, no one company can be awarded both a small and a large zone, thus if a company proposed for both, the city would make the determination of best suitability given their ranking and strength of their proposal. If a company did not want to be deemed better suitable for a small zone at the expense of a larger zone (as was the case with UWS in round 1 of the negotiations), they would conceivably not propose on the small zones, as was the case of CR&R, Republic, Waste Management, Athens, and Recology.

CR&R submitted written comments stating that LASAN disqualified proposers based on infrastructure requirements.
This statement is not true. CR&R uses unsound logic which implies that, by the City recognizing that small zones do not have the same infrastructure needs as the large zones, it disqualified candidates for large zones based on infrastructure development. The discussion LASAN presented during the E&E Committee meeting on November 2, 2016, was related to how the City could mitigate the risk of awarding to firms with lower scores for the small zones for variety of factors including limiting any need for new infrastructure. At this point the proposers had been evaluated, scored, and ranked for either the small or large zones.

CR&R implies that the City did not take facility infrastructure in account during the evaluation process.
This is not true. Facility infrastructure was a component of both Service Plan and Diversion Plan scoring categories, and were evaluated, scored, and ranked accordingly. The Service Plan evaluation tool contained five separate scoring criteria addressing facilities requirements. The Diversion Plan evaluation tool contained an additional scoring criteria for infrastructure. The infrastructure improvements detailed in the contracts were finalized during the negotiation process.

CR&R submitted public comment stating that cost should not be a factor of the RFP and Evaluation.
Cost to the customer cannot be disregarded. As detailed in LASAN's response to question number three above, cost is a valid and integral component in evaluating Franchise service proposals. As noted in LASAN's response above, in order to ensure reasonable rates, LASAN incorporated cost into the evaluation process. Proposers were required to submit costs components for collection, processing and disposal, fuel, administration, customer service, container rental and profit. These cost components were evaluated and used during the

negotiation process to establish negotiated maximum rates. All proposers were evaluated fairly and equally based on the approved set of criteria. LASAN conducted an in-depth analysis of each proposer's performance data and costs and calculated the cost per collection hour for each proposal. Proposers with per-hour collection costs below an accepted industry standard had their costs increased to that standard. This ensured that those who "low balled" the bid did not benefit unfairly.

CR&R submitted public comment stating that cost criteria should have been removed from evaluations once maximum rates were established.
This is not the case, and in fact would jeopardize the evaluation process. The method of evaluating proposals to establish score and ranking, is a separate process from negotiations. The negotiated maximum rates were established in the negotiation. LASAN did not change the method of evaluating proposals throughout the process. Electing to diverge from the evaluation process, for example disregarding cost as evaluation criteria, would jeopardize the integrity of the process. The approved RFP did not contemplate rejecting the cost criteria component if citywide maximum rates could be achieved. Based on the totality of the proposals received, LASAN is recommending the best proposers to meet the needs of the City.

CR&R submitted in written comments that LASAN developed a uniform maximum rate prior to negotiations.
This statement is completely untrue and has no basis in fact. The development of maximum rates occurred during negotiations as stated above. Negotiation began in August 2015. In September 2015 LASAN requested additional detailed proforma financial data from all of the proposers in negotiations to develop a maximum rate model. The model took into consideration the information provided in the proposals as well as the additional information provided during evaluation and negotiations. In November 2015 a negotiated rate was presented to the proposers and they agreed to the maximum rate structure, contingent on contract review. A draft contract was issued in February 2016. Even after initial agreement, subsequently one of the shortlisted proposers withdrew from the process because they could not come to terms with the City including cost. The remaining proposers could not definitively agree to the negotiated maximum rates until all terms of the contract were finalized.

LASAN would not consider modifying the approved criteria stipulated in the RFP. However, for sake of clarity, it is interesting to note that if cost were removed for the large zone scores, CR&R's ranking among those being recommended for award would remain unchanged. CR&R's score would remain nearly 20 points lower than the next lowest ranked recommended proposer for large zones. This further supports that CR&R's overall proposal was weak.

Relating to the development of maximum rates, CR&R further stated that the benchmarking against other city rates, presented in LASAN's report, occurred prior to negotiations leading to rate developed prior to negotiations.
This statement is completely untrue and has no basis in fact. Benchmarking the City's maximum rates against other cities occurred after the maximum rates were negotiated. Between March and April of 2016, LASAN staff performed a detailed benchmarking study of 100 cities in California. This information was used by LASAN to convey the reasonableness of the negotiated maximum rates. CR&R incorrectly stated that the survey conducted of other cities resulting in a finding that the rates are capped at $216.72, this not correct. The amount of $216.72 is the City's contracted maximum rate and not the result of the benchmarking. Benchmarking found that the median rate was $206.80 and the average rate was $257.24, the minimum and maximum rates were separated by over $1000.

CR&R submitted in written comments that LASAN evaluation process was biased to haulers operating in the City and their current hauling levels.
This statement is untrue. CR&R and all other proposers were evaluated based on the strengths of the proposals that were submitted, and not market share. Hauling levels or market share were not factors considered by any of the evaluation teams. The evaluation tools did not contain categories related to market share. The evaluation process was fair and unbiased.

As to any correlation to a hauler's market share and scores received, this speaks to the extremely competitive nature of the franchise system. It is reasonable to assume that haulers with larger market share would work extremely hard to keep or expand their business; this is supported by the evident thoroughness of some of the proposals received. It is also important to note that, due to the current open permit system, the market share is continually changing and is only a snapshot in time. For example, from 2014 to 2016 the number accounts services by Athens grew by 10%.

It is worth noting that proposers CalMet and Ware, both with very limited hauling business in the City, were recommended for award.

CR&R submitted in written comments that there was a lack of opportunity to appeal the score.
This is not true. LASAN met all the necessary notifications related to recommending a contract award. Consistent with the recommendation for award of personal services contracts and the Brown Act, LASAN's report and recommendations were posted in a public forum at least 72 hours in advance of being considered. The Board of Public Works, the awarding authority, posted LASAN's report and recommendations on Thursday, September 22, 2016. The recommendations were considered at the Board of Public Works normally scheduled public meeting on Monday, September 26, 2016. CR&R was afforded the ability to appeal their score at the September 26th Board of Public Works

hearing. CR&R was aware that they were not being considered for a contract award, however, CR&R did not appeal their score or any other aspect of LASAN's report or recommendations.

CR&R submitted in written comments that rejecting the contract for the Harbor Zone would not delay implementation of the Franchise System.

This is a false statement. If the City Council chooses to reject the Athens contract that contains the Harbor Zone, all three of the zones in the contract (Harbor, West LA, and North Central), constituting 36 % of the City over multiple Council Districts (Council Districts 4, 5, 10, 11, and 15), would return to the Board of Public Works and the rest of the zones would have to be realigned in the absence of the highest proposer, effectively throwing out the entire system. Athens is the highest ranked proposer for the large zones, and as such is the firm best capable of delivering the service commitments and waste reduction requirements to City customers. It is not conceivable that after establishing and adhering to a sound process of recommending award to the highest ranked proposers that LASAN could, at this juncture, recommend award to a lower ranked proposer. If the Athens contract was not approved, that would require LASAN to reassess all zone assignments. It is also possible, if not highly likely, that the City would face legal challenges by not awarding to the highest ranked proposer.

Furthermore, implementation for the West LA, North Central and Harbor Zones (at least 21,864 customer accounts) would *all* be delayed. LASAN's current recommendations and contracts were developed over a year of negotiations with the highest ranked proposers. LASAN's recommendations would not change based on this procurement process due to the fair scores and rankings of the proposers. LASAN would consider the rerelease of the RFP for the 36% of the City in the three zones not approved. This could delay the implementation in the zones not approved by up to three years.

CR&R's proposal was plain and simple not befitting and not up to par of the magnitude and scale of the challenge presented by the large zones as articulated in the RFP. With such a low score, LASAN felt strongly about responsibly exercising its discretion and judgment in not considering them for negotiations, be it the Harbor Zone or any other zone they proposed. Instead, LASAN correctly exercised its judgment in awarding it to Athens who had demonstrated a far superior commitment to ensuring a successful franchise system.

It's conceivable and certainly possible that at the time that CR&R had to make the critical decision about how seriously and aggressively to pursue the LA Franchise RFP, they may have decided not to invest enough effort and resources warranted by a comprehensive and well-thought out proposal. They may be serious now, but it is too late.