

CITY OF LOS ANGELES
CALIFORNIA

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Council File No.



ANTONIO R. VILLARAIGOSA
MAYOR

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SHANNON HOPPE
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Division

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November 16, 2012

To All Interested Parties:

The City Council adopted the action(s), as attached, in the Energy and Environment Committee Majority Report and Ad Hoc on Waste Reduction and Recycling Committee, under Council File No. 10-1797, at its meeting held November 14, 2012. The Energy and Environment Committee Minority Report was Received and Filed.

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File No. 10-1797
10-1797-S1
10-1797-S2
10-1797-S3
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10-1797-S6

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your **ENERGY AND ENVIRONMENT COMMITTEE
MAJORITY REPORT
and
AD HOC ON WASTE REDUCTION AND RECYCLING COMMITTEE**

report as follows:

ENERGY AND ENVIRONMENT COMMITTEE MAJORITY REPORT and AD HOC ON WASTE REDUCTION AND RECYCLING COMMITTEE REPORT relative to the commercial and multifamily refuse collection, the creation of a franchise system for private haulers operating in the City of Los Angeles (City), and related matters in response to various motions on waste management in the City.

Recommendations for Council action:

1. INSTRUCT the Bureau of Sanitation (BOS) to develop an Exclusive (one hauler per franchise area) Franchise Implementation Plan for solid waste collection in the City, including a timeline, staffing requirements, and a transition plan, that also includes and/or recommends strategies to address the following elements:
 - a. Combining the commercial and multifamily franchising processes to generate a higher diversion rate, promote more efficient routing, and reduce truck traffic, vehicle emissions, and noise.
 - b. The number of franchises and franchise service-area boundaries, and a transparent methodology for determining the proposed number and boundaries.
 - c. Methods to enable the participation of small haulers, such as through "small enterprise" service zone(s) that allow for small hauler competition and incubation; and/or subcontracting requirements and minimum subcontracting percentages for small business enterprises in RFPs and franchise agreements for each service area, using methods defined in the City's Business Inclusion Program.
 - d. Conditions that prevent haulers from dominating the marketplace, such as a cap on the number of franchise areas that can be held by one franchisee, with a possible cap of three franchise areas per franchisee.
 - e. A program to recognize and reward businesses that can serve as peer mentors to others, who embrace practices that minimize waste production, control purchasing, and maximize collection of recyclables to create as little residual waste as possible, and rewards for businesses exerting such efforts that include awards before the Mayor and Council, networking opportunities, case studies, and media outreach.

- f. A proposed rate structure for waste hauling, including the methodology for arriving at that rate structure and that includes limitations on rates and protections for ratepayers.
- g. Setting tipping fee caps on franchisees that own their own facilities.
- h. A proposed franchise fee, which along with the existing AB939 fee, provide sufficient funds to implement and manage the franchise system and diversion programs, and to provide additional revenues to the City.
- i. An exemption from the franchise system for the hauling of medical waste, hazardous waste, construction and demolition waste, radioactive waste, pharmaceutical waste, recyclables that have been sold or donated by the generator, green waste removed from a site as incidental to a landscaping business, and other specialty wastes as designated by the BOS.
- j. Diversion planning and requirements for franchises that advance the City's Zero-Waste goals, including diversion/reduction of food waste.
- k. Strategic planning for waste infrastructure needs, including sorting, transfer, and processing facilities.
- l. Providing for processing facility certification that builds on the existing Processor Certification Program and requires all mixed-waste processing facilities used by franchised waste haulers to be certified by the BOS.
- m. Minimizing vehicle miles traveled and maximizing truck routing efficiencies.
- n. Clean truck standards and ensuring compliance with those standards.
- o. Incentives to exceed the City's environmental goals in potential RFPs and franchise agreements.
- p. Worker health and safety requirements and ensuring franchisee compliance with those requirements.
- q. A robust set of customer service requirements and metrics to impose on franchisees, and a clear recourse for inadequate service and penalties to ensure compliance, including annual revocation hearings to allow the public and others to comment on franchisee performance.
- r. Contingency plans to compensate for a franchisee failure, including requiring any franchisee to reimburse the City for costs the City incurs collecting refuse in the event of a failure.
- s. Franchisee reporting requirements.
- t. A review of the impacts an exclusive franchise system would have on the filming industry, and recommendations specific to that industry including.
 - i. Classifying temporary filming sites as similar to construction/demolition sites and therefore not subject to the private waste hauler franchise.

- ii. Terms that address specific needs of film studios such as 24-hour service and short response timeframes.
 - u. A review of the impact an exclusive franchise system would have on hospitals, and recommendations that address the needs of hospitals including:
 - i. Coordinating with hospitals on the proper segregation of mixed waste and exempted specialty waste.
 - ii. Terms that address specific needs of hospitals such as short response timeframes and other service request requirements.
 - v. Terms that address specific needs of existing and future Leadership in Energy and Environmental Design certified buildings.
 - w. Ongoing community input.
2. APPROVE the unfreezing from managed hiring of six positions in the BOS for the development of the franchise system.
 3. REQUEST the City Attorney to:
 - a. Evaluate the ability to establish a solid waste hauler franchisee fee for general City purposes;
 - b. Report on the applicability and extent of California Environmental Quality Act (CEQA) and environmental review requirements associated with moving forward with a franchise system;
 - c. Prepare a draft ordinance for an exclusive waste hauler franchise system for commercial and multi-family waste hauling within the City, in cooperation with and with assistance, as necessary, from the BOS, the City Administrative Officer (CAO) and Chief Legislative Analyst (CLA).
 4. INSTRUCT the BOS to begin a full Environmental Impact Report (EIR) to satisfy CEQA requirements, and to include in that EIR reviews of the following alternatives: a review of the status quo, a review of a non-exclusive franchise system, a review of an exclusive franchise with multiple haulers per watershed, the proposed exclusive franchise, and a city direct performance of Multifamily and Commercial Waste Hauling.

Fiscal Impact Statement: The CAO reports that structural revenue to the General Fund from a Franchise Fee can be anticipated. The amount is contingent upon further study and policy decisions on an appropriate franchise structure. The Board of Public Works (Board) reports that the recommendations contained in the February 13, 2012 Board report do not have a General Fund impact for the development of the program. Staff requests are budgeted existing positions, fully funded by the Citywide Recycling Trust Fund (CRTF).

Community Impact Statement: Yes.

Against Proposal: Mar Vista Community Council

SUMMARY

At a joint special meeting held on August 29, 2012, the Energy and Environment and Ad Hoc Waste Reduction and Recycling Committees considered the February 13, 2012, August 23, 2012, and August 24, 2012, BOS and CAO reports relative to commercial and multifamily refuse collection, the creation of a franchise system for private haulers operating in the City, and related matters in response to the following motions:

- a. 10-1797 (Huizar - Koretz - Alarcón - Garcetti - Perry - Reyes - Rosendahl) requesting the CAO and the BOS to report to Council with an assessment of the Commercial Solid Waste System Redesign Program recently put into the place by the City of San Jose, including a review of the HF&H report, "The City of San Jose: Commercial Redesign White Paper," that led to that system, and explore whether including the commercial sector in the proposed multifamily franchise would help the City reach its Zero Waste, environmental and financial goals more expediently and efficiently.
- b. 10-1797-S1 (Alarcón - Koretz) instructing the BOS to include in its report to Council the proposed new system for commercial and multifamily property waste, to have a requirement that future LA City commercial and multifamily waste franchisees take the City's "non-source separated" commercial and multifamily waste only to certified processing facilities and that said facilities be certified by the Board of Public Works to ensure maximum diversion in service pursuant to AB 939 and AB 341 requirements.
- c. 10-1797-S2 (Alarcón - Koretz - Huizar) instructing the BOS to seek input from the film industry and include in its report to Council specific directions in the Request for Proposals (RFP) or Bids to respond to the needs of studios, including such factors as quality of service, timeliness, and responsiveness to the specific demands of the studios' work and the exemption of temporary filming locations from the Proposal, due to the temporary nature of the work site.
- d. 10-1797-S3 (Alarcón - Huizar) instructing the BOS to seek input from the hospitals and the hospital industry and include in its report to Council specific directions in the RFP or Bids to respond to the needs of hospitals, including such factors as quality of service, timeliness, and responsiveness to the specific waste demands of the hospitals.
- e. 10-1797-S4 (Alarcón - Krekorian - Koretz) instructing the BOS to include in its report to Council on the proposed new system for commercial and multi-family property waste, a proposal to designate a certain number of the City's proposed exclusive zones as "small enterprise" zones, designed and targeted to provide competitive opportunities for small hauling companies and also include in said report a proposal to assist and facilitate small companies, selected for the "small enterprise" zones, in securing loans or other capital assistance to facilitate and make realistic their participation in the exclusive franchise system with the assistance coming at no financial cost to the City.
- f. 10-1797-S5 (Koretz - Alarcón) recommending that Council support the completion of the BOS's report on implementing an exclusive franchise Commercial and Multifamily Waste Program.
- g. 10-1797-S6 (Alarcón - Krekorian - Koretz) instructing the BOS to include in its report to Council on the proposed new system for commercial and multifamily waste program incentives and similar programs to businesses that meet or exceed the goals or the proposed program.

On February 13, 2012 the Board unanimously recommended that the City Council authorize the BOS to move forward with the implementation of an Exclusive Franchise system for both commercial and multi-family solid waste hauling. The report contains a recommendation for the Council to authorize the BOS to start the development of a draft RFP and Ordinance and allow the BOS to begin the CEQA and environmental review process. A key recommendation contained in the BOS report was to report back with a detailed Franchise Implementation Plan that includes the timeline, proposed franchise area boundaries, staffing and funding requirements, and service standards. In order to develop key program components, a threshold policy question was discussed as to how the waste hauling system should be structured. The Board, through the BOS, recommended that the City implement an Exclusive Franchise system.

This recommendation and subsequent analysis and reports were discussed in a joint hearing of the Energy and Environment Committee and the Ad Hoc Committee on Waste Reduction and Recycling, on August 29, 2012.

According to the Board president, an Exclusive Franchise system will maximize waste diversion to reach the Zero Waste goal by 2025, require clean fuel vehicles, and minimize the impact of private waste collection trucks by maximizing routing efficiencies. Customer accounts will be concentrated in a defined geographic area to create a more efficient routing system, reduce truck emissions and reduce the impact of the trucks on City streets. It was mentioned that one garbage truck exerts as much stress on City streets as 9,343 SUV's and that reducing truck traffic will reduce further degradation of City streets. It was further added that an Exclusive Franchise system will also promote safe working conditions for employees handling solid waste. Under the Exclusive Franchise agreements, facilities, such as those for composting, could be handled by subcontractors which would be subject to the City's living wage and workplace safety policies, and would also be subject to inspection to ensure compliance and accountability.

The BOS commissioned HF&H, a consulting firm that specializes in the areas of recycling and solid waste management services, to study the cost of providing waste collection services under an exclusive franchise, a non-exclusive franchise, and a permit-based system and to analyze rates as a result of transitioning to a franchise system. The Bureau also instructed HF&H to identify the range of fees charged by other local municipalities and to describe how "rate caps" have been used by other municipalities. That report found that customer rates in the City cannot be directly or readily compared to rates in other municipalities, whether they operate under an exclusive, non-exclusive or permit-based system. The study also found that "city (franchise) fees", typically a percentage of gross receipts, charged to waste haulers by local municipalities range from 2% to 35%.

The HF&F study showed that the median cost for commercial services is similar under both non-exclusive and exclusive systems. The Board representative further stated that customer rates are significantly influenced by policy decisions, diversion goals, levels of service, length of contract term and franchise fee percentages, and that those things are the drivers of rate increases, not the structure of the system.

Representative from the HF&H consulting firm gave a PowerPoint presentation to give an overview of their findings. Within the context of the HF&F report, a committee member brought up the fact that no other city has the same geographic size as the City of Los Angeles. Even with the proposal for multiple zones within the City, zones may still be significantly larger.

The Board president stated that there are a total of 740 permitted waste haulers in the City, 600 of which specifically deal with construction and demolition, which translates to 81% of the market that will be excluded under the BOS proposal. Seventy-two of the remaining haulers collect less than a hundred of the 1,000 tons per year, which means that they don't need to report their gross receipts.

That leaves about 68 that collect more than 1,000 tons per year who need to report their gross receipts, per AB939. Other than new waste haulers seeking an Exclusive Franchise, only 68 haulers would be potentially affected in the BOS proposal.

AB818 and AB341 required CALRecycle to report to the State of California (State) Legislature by 2014 on a development of a plan to bring the entire State's diversion to a 75% diversion rate by 2020. By all standards within the context of the State, the City has a very aggressive diversion program with the City's current diversion rate at 72%.

The Board president stated that in an Exclusive system the City will be in a position to negotiate and mandate far greater and more aggressive diversion rates than in a non-exclusive system.

The CAO then presented its report, which recommends a non-exclusive system. The CAO reported that in a non-exclusive system the City Council can adopt measurable standards similar to those available in an exclusive system. Once the City establishes standards, the various haulers are expected to meet those standards. The City then needs to regulate and ensure that those standards are being met as opposed to building an infrastructure internally that not only regulates those standards but also becomes the point of contact for the various businesses and apartment buildings to ensure that quality of service is provided. For comparison purposes, the city of Sacramento mirrors the City in terms of having the City run the sanitation system for multi-family and having a non-exclusive system for businesses; Sacramento has been successful in reaching a diversion rate of 70%, so there should be some consideration of how Sacramento's system works,

As it relates to rates the CAO agrees with the study made by HF&H, and since there are no other jurisdictions similar to the size of the City, the CAO stated that it would be difficult to ultimately determine what the impact would be on rates.

Customer service concerns were discussed. The CAO and the representative from the BOS discussed service scenarios such as a business owner requesting an extra pick-up and options available to the business owner should a hauler deny the request. Under an exclusive system, the business owner would not be in a position to cancel the contract and would end up asking the City for a remedy.

The representative from the BOS stated a service guarantee would be included in an exclusive system. The BOS believes that a hauler has a responsibility to respond to the customer. He went on to say that it will not be difficult to add a system to address quality issues as part of the requirement in the franchise agreement. A committee member suggested having a very robust customer guarantee system in place as part of any RFP to alleviate the lack of competitive forces to ensure quality of service under an exclusive system.

A committee member cautioned everyone in making an analogy between residential and business trash hauling. It was stated that any anomaly with business trash hauling might affect a business's bottom line and its ability to keep their doors open for business, and that such an exclusive system might lead to loss of jobs. Another member suggested having a very robust customer guarantee system to be in place as part of any RFP to alleviate the lack of competitive forces to ensure quality of service under an exclusive system.

After the representatives from the Board, CAO, HF&F, BOS, and City Attorney gave extensive background information on the matter and responded to related questions from the Committee members, an opportunity for public comment was held. After a thorough discussion of the matter, both Committees moved to approve recommendations contained in the February 13, 2012 and August 23, 2012 BOS reports, as amended by Councilmember recommendations and as is reflected in this report.

The Councilmember from Council District Six, stated that he is not ready to go forward with only an exclusive system or only a non-exclusive system. He is not ready to rule out either one of the processes and sought to instruct staff to go forward with both processes. The Councilmember from Council District Six requested to move forward instructing staff to follow through with the recommendations in the CAO report relative to the non-exclusive franchise, and at the same time continue to move forward with the process advocated by the BOS in their report for an exclusive franchise. A minority report was prepared for information purposes unless it is adopted by a motion to be substituted for the majority report. This majority report is now submitted to Council for its consideration.

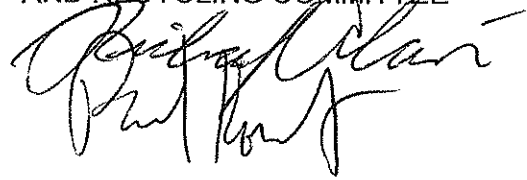
Respectfully submitted,

ENERGY AND ENVIRONMENT COMMITTEE

AD HOC ON WASTE REDUCTION
AND RECYCLING COMMITTEE



Handwritten signature of Tony Cardenas.



Handwritten signatures of committee members.

<u>MEMBER</u>	<u>VOTE</u>
HUIZAR:	YES
ZINE:	YES
CÁRDENAS:	YES
ALARCÓN:	YES
KORETZ:	YES

<u>MEMBER</u>	<u>VOTE</u>
ALARCÓN:	YES
HUIZAR:	YES
KORETZ:	YES
KREKORIAN:	YES

ADOPTED

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LOS ANGELES CITY COUNCIL

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Respectfully submitted,



TONY CÁRDENAS, MEMBER
ENERGY AND ENVIRONMENT COMMITTEE

NOV 14 2012

Received and Filed

<u>MEMBER</u>	<u>VOTE</u>
HUIZAR:	NO
ZINE:	NO
CÁRDENAS:	YES
ALARCÓN:	NO
KORETZ:	NO

EV
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