



MILES LAW GROUP

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A PROFESSIONAL CORPORATION
LAND USE • ENVIRONMENT • ENTITLEMENT

smiles@mileslawgroup.com

Via Hand Delivery

April 19, 2012

Carmen Trutanich
Los Angeles City Attorney
200 N. Main St., 8th Fl.
Los Angeles, CA 90012

Re: Notice to Cure Brown Act Violation

Dear City Attorney Trutanich:

This Office respectfully writes on behalf of several stakeholders – including environmental interests and environmentally-minded businesses, community activists, and several medium to small waste haulers and recyclers (“Stakeholders”) with regard to the Ad Hoc Committee on Waste Reduction and Recycling (“Ad Hoc Committee”) decision on April 10, 2012 to adopt six written motions (“Motions”) instructing the Bureau of Sanitation (“BOS”) to adopt a variety of measures as part of its Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program (“Report”).

These Stakeholders, many small businesses that have provided generations of quality service to Los Angeles residents, will be directly impacted if the recommendations in the Report are adopted without being afforded adequate opportunities for notice and comment that they are entitled to under the Brown Act, Gov. Code § 54950. Moreover, Stakeholders have several legal concerns with regard to the adoption of the Motions in violation of Los Angeles City Council Rules.

The Brown Act, Gov. Code § 54960.1(c)(1), requires that before suit can be initiated, a written demand to cure must be made to the agency to correct the contested action. If the agency refuses to correct the violation within 30 days thereafter, a suit can be initiated to have the contested action adjudged null and void. Further, be advised that the Brown Act has a criminal component -- pursuant to Section 54959, such penalties can apply where the agency member intends to deprive the public of information to which the member knows the public is entitled. Please consider this the required written notice to cure. If the violations at issue are not corrected, we will be forced to consider all legal remedies, including actions that may be brought under the Brown Act and all other applicable laws.

Date: 8/22/12
Submitted in: EIS
Council File No.: 10-1797, 10-1797-51 to 57
Item No.: 1
Deputy: PUBLIC
Ad Hoc Waste Reduction Committee Review



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Background

On April 10, 2012, the Ad Hoc Committee conducted a special meeting to act upon File No. 10-1797, a motion to instruct the City Administrative Office and BOS to review the City of San Jose's Commercial Solid Waste System Redesign program ("San Jose Waste Program"). The agenda is attached as Exhibit A hereto. However, in addition to its original agenda, the Ad Hoc Committee introduced and then adopted six additional written Motions. The City Clerk's April 11, 2012 Report Letter on this topic is attached hereto as Exhibit B.

The Motions instructed the BOS to support completion of a Report on an exclusive waste franchise¹, consider the exclusive waste franchise proposal's potential impact on hospitals and the film industry, as well as proposals to create small enterprise zones, additional programs to help small companies, and require waste haulers to take waste only to certified processing facilities within its Report. A copy of the six Motions is attached hereto as Exhibit C. It is clear that these Motions were prepared in writing before the meeting in violation of the Brown Act and with potential intent to deprive the public of information to which the member knows the public is entitled.

These actions violate the notice requirements of the Brown Act since the Motions, with the exception of the motion to review the San Jose Waste Program, were not posted on an agenda prior to the meeting where they were adopted. In addition, the Motions were adopted in violation of Los Angeles City Council rules concerning procedure, non-agenda items, and joint committee resolution proceedings. At a minimum, the Motions must be re-introduced in compliance with Los Angeles City Council Rules and the Ad Hoc Committee must prepare a properly noticed agenda and re-convene its meeting considering any such Motions.

1. The Ad Hoc Committee Adopted the Motions in Violation of the Brown Act.

The Ad Hoc Committee violated the notice requirements of the Brown Act in adopting the Motions at the April 10, 2012 Special Meeting of the Ad Hoc Committee ("Special Meeting"). The Ad Hoc Committee is subject to the requirements of the Brown Act,² and

¹ This Office previously submitted comment letter dated February 13, 2012 identifying how this action violates, *inter alia*, the California Environmental Quality Act and the City's Municipal Code.

² The Ad Hoc Committee constitutes a "legislative body" as per Gov. Code § 54952. Any entity may be considered a "legislative body" and therefore be subject to the Brown Act if it was created by "charter, ordinance, resolution, or formal action" from the L.A. City Council, unless it is an advisory committee "composed solely of the members of the legislative body that are less than a quorum." *Id.* § 54952(b).



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neither provided adequate notice to the public on the posted agenda for the meeting that the matter acted upon would be discussed nor made findings of fact that urgent action was necessary on a matter unforeseen at the time the agenda was posted. Gov. Code § 54954.2; *Moreno v. King*, 127 Cal. App. 4th 17, 27 (Court found that a meeting agenda violated the Brown Act's notice requirements as "the agenda's description provided no clue [as to the subject matter of what would be discussed at the meeting].")

The Agenda items posted for the Special Meeting do not meet Brown Act requirements. Gov. Code § 54954.2(a)(1) requires that the agenda contain a "brief general description of each item of business to be transacted or discussed at the meeting." The agenda for the Special Meeting only mentioned discussion of File No. 10-1797, which was a motion to instruct BOS to provide an assessment of the San Jose Waste Program. The Agenda provided no notice of any discussion of the six Motions, and did not mention in any way, shape, or form small enterprise zones, small business programs, hospital waste, or the film industry. The Ad Hoc Committee did not provide adequate notice of the Motions that were to be considered at the Special Meeting and therefore violated the Brown Act.

This violation therefore must be cured pursuant to the Brown Act by preparing a proper agenda and re-convening the meeting. In addition, given the identical majority shared by the two Committees, the City must determine whether a joint meeting of the City Council's Energy & Environment Standing Committee and Ad Hoc Committee is required under the circumstances. See L.A. City Council Rule No. 72. And under no circumstances can this matter be "waived" through the City Council's Energy & Environment Standing Committee.

In this circumstance, the Brown Act advisory committee exception is inappropriate and the Brown Act must apply to this Ad Hoc Committee. First, among the four-member Ad Hoc Committee is a quorum of three (Councilmembers Huizar, Alarcon and Koretz) of the five members of the City Council's Energy & Environment Standing Committee, which is a "legislative body." *Id.* § 54952(b). See Committee List attached hereto as Exhibit D. The City cannot avoid the Brown Act's requirements for the City Council's Energy & Environment Standing Committee by: 1) creating an Ad Committee that contains a quorum of the members of the Energy & Environment Standing Committee and then 2) having that Ad Hoc Committee consider and vote on items in violation of the Brown Act. *This is especially true where, as here, the item (File No. 10-1797) was directed to the Energy & Environment Standing Committee in the first place.* See Exhibit A p. 2.

Second, the Ad Hoc Committee should be considered a standing committee, and therefore a "legislative body" under the Brown Act, as it has "continuing subject matter jurisdiction" of creating "zero waste objectives" per Council Resolution 11529-S1 attached hereto as Exhibit E. *Id.* Merely labeling a committee "ad hoc" is insufficient to exempt it from the requirements of the Brown Act, as "[w]e ... follow function over form" in determining whether a group should be considered a legislative body for the purposes of the Brown Act. See 79 Ops.Cal.Atty.Gen. 69 (1996).



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2. The Ad Hoc Committee Adopted the Motions in Violation of Los Angeles City Council Rules

The Ad Hoc Committee adoption of the Motions further violated Los Angeles City Council Rules concerning procedure, non-agenda items, as well as joint committee resolutions. First, the Motions were never referred to the Ad Hoc Council or presented to the full City Council. Second, the Motions were never listed as an agenda item. Finally, the Motions were adopted without any indication from the Presiding Officer of whether the Motions were to be referred to separate or joint Committees.

a. The Ad Hoc Committee Adopted the Motions Without The Matters Being Properly Referred to Them or Presented to the Full City Council

The Motions were never properly brought before the Ad Hoc Committee. Los Angeles City Council Rule No. 16 requires that all matters shall be referred to the appropriate Council Committee or first presented to the Council. *See also* L.A. City Council Rule No. 43. *The Motions were never referred to the Ad Hoc Committee or seen by the full City Council before being adopted.*

b. The Ad Hoc Committee Adopted the Motions Without The Motions Being Listed on an Agenda

The Motions were never properly listed as any part of a meeting agenda. No non-agenda items may be considered at a meeting (*See* L.A. City Council Rule No. 21) unless a two-thirds vote of the council finds that "such action arose after the posting of the Agenda," a majority of the council finds that an emergency exists, or if the item was continued from a meeting no more than five days prior. *See* L.A. City Council Rule No. 23. The Motions were adopted without being listed as an agenda item, any of the necessary findings, or being continued from a prior meeting.

c. The Ad Hoc Committee Adopted the Motions Without A Joint Committee Determination

The Motions were adopted without the Presiding Officer determining whether or not to refer the matter to multiple committees for separate or joint action. L.A. City Council Rule No. 72 requires that the Presiding Officer determine whether or not a matter is to be referred to two or more committees for separate or joint action. No such determination was ever made.



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3. Conclusion

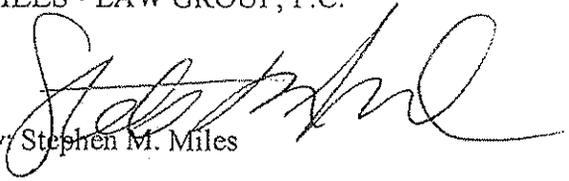
The Ad Hoc Committee's actions on April 10, 2012 violate the notice requirements of the Brown Act and violated Los Angeles City Council Rules concerning procedure, non-agenda items, and joint committee resolution proceedings. At a minimum, the Motions must be re-introduced in compliance with Los Angeles City Council Rules and the Ad Hoc Committee must prepare a properly noticed agenda and re-convene its meeting considering any such Motions.

The Brown Act, Gov. Code § 54960.1(c)(1), requires that before suit can be initiated, a written demand to cure must be made to agency to correct the contested action. If the agency refuses the correct the violation within 30 days thereafter, a suit can be initiated to have the contested action adjudged null and void pursuant to Section 54960.1, in which case we would seek the award of court costs and reasonable attorney fees pursuant to Section 54960.5. Please consider this the required written notice to cure. If the violations at issue are not corrected, we will be forced to consider all legal remedies, including actions that may be brought under the Brown Act and all other applicable laws.

Thank you for your consideration. Please contact us to confer about this matter.

Very truly yours,

MILES • LAW GROUP, P.C.

By  Stephen M. Miles

Cc: L.A. City Clerk June Lagmay (w/attach)
L.A. County Deputy District Attorney David Demerjian, Pub. Integrity Div., (w/attach)

EXHIBIT

CALLED BY THE COMMITTEE CHAIR

AD HOC COMMITTEE ON WASTE REDUCTION AND RECYCLING - **SPECIAL MEETING**

TUESDAY, APRIL 10, 2012

ROOM 1050, CITY HALL – **1:00 PM**
200 NORTH SPRING STREET, LOS ANGELES, CA 90012

MEMBERS: COUNCILMEMBER RICHARD ALARCÓN, CHAIR
COUNCILMEMBER JOSE HUIZAR
COUNCILMEMBER PAUL KORETZ
COUNCILMEMBER PAUL KREKORIAN

(Adam Lid - Legislative Assistant - 213-978-1076; e-mail AdamLid@lacity.org)
Click [here](#) for agenda packet

Note: For information regarding the Committee and its operations, please contact the Committee Legislative Assistant at the phone number and/or e-mail address listed above. The Legislative Assistant may answer questions, provide materials, and provide notice of matters scheduled before the City Council. Assistive listening devices are available at the meeting. Upon 24 hour advance notice, other accommodations, such as sign language interpretation, and translation services will be provided. Contact the Legislative Assistant listed above for the needed services. TDD available at (213) 978-1055.

FILE NO.

SUBJECT

(1)

10-1797

CONTINUED FROM OCTOBER 11, 2011

Motion (Huizar - Koretz - Perry et al.) relative to directing the City Administrative Officer and the BOS to report with an assessment of the Commercial Solid Waste System Redesign Program recently initiated by the City of San Jose.

(Also referred to the Energy and Environment Committee)

Community Impact Statement: None submitted

**COMMENTS FROM THE PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN THE COMMITTEE'S SUBJECT MATTER JURISDICTION**

Materials related to an item on this Agenda submitted to the Committee after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 200 North Spring Street, Room 395, City Hall, Los Angeles, CA 90012 during normal business hours.

wastered041012sp

10 - 1797

MOTION

In July of 2006 the City released a seven-year notice to private waste haulers informing them of our intent to take back responsibility for refuse and recycling collection for multifamily residential properties, which the options of either having City employees for this work or implementing a franchise system and having private industry bid on zones.

As part of the CAO's "Three Year Plan to Fiscal Stability" a January 2010 proposal by the Bureau of Sanitation was included. This report estimated that \$5M a year in new revenue could be generated by having the City implement a franchise agreement for apartment buildings of four units or more (the City already services the smaller ones). Sanitation recently held a stakeholder meeting for waste haulers and other interested parties to weigh in on the proposal.

Multifamily residences only generate 6% of the City's trash, with single family homes and small apartments producing 17%, the bulk of the City's refuse comes from commercial properties (77%). Given that State law provides for a five year notice period before an exclusive franchise system can be fully implemented, and given that the City is considering a stand-alone multifamily franchise, it is crucial that this exploration - and consideration of adding commercial properties to the current franchise being contemplated - happen in the immediate future.

In order for the City to achieve its Zero Waste goals and meet its interest in maximizing revenue streams, the time is now to begin a conversation about whether to pursue a franchise system for commercial properties. The City could award an exclusive commercial franchise immediately and limit incumbent haulers to their existing accounts.

The City of San Jose recently embarked on establishing a franchising program for trash collection targeting its commercial sector. They received the results of a citywide RFP in October and expect to award contracts in 2011. The benefit for businesses in a franchise system is that with fewer competitors in a single area routes are more efficient, which brings down costs. Currently, there are over 120 different waste hauling companies serving Los Angeles, with several per City block. This is inefficient and contributes to the amount of air contaminants.

San Jose instituted large fees (30% of gross receipts in franchise fees and 28% in AB 939 fees) as a way to discourage businesses from dumping their trash and instead spending a fraction of that amount in investing in best practices around recycling. The amount of commercial trash that can be recycled is higher than other types of refuse. No fees were charged on recycled materials, which helped greatly with that city's waste diversion goals as more and more trash was recycled. For those business sectors who do not meet San Jose's goals the city has stated in the future it will consider providing the necessary recycling services itself and may impose certain mandates.

I THEREFORE MOVE that the CAO and Bureau of Sanitation be requested to report to Council with an assessment of the Commercial Solid Waste System Redesign program recently put in 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.

PRESENTED BY: Jose Huizar
JOSE HUIZAR
Councilmember, 14th District

Paul Koretz
PAUL KORETZ
Councilmember, 5th District

SECONDED BY: [Signature]
[Signature]
EG

[Signature]
[Signature]

EG

**CITY OF LOS ANGELES
CALIFORNIA**

JUNE LAGMAY
City Clerk

HOLLY L. WOLCOTT
Executive Officer



ANTONIO R. VILLARAIGOSA
MAYOR

Office of the
CITY CLERK

Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
General Information - (213) 978-1133
Fax: (213) 978-1040

SHANNON HOPPE
Council and Public Services
Division

www.cityclerk.lacity.org

When making inquiries relative to
this matter, please refer to the
Council File No. 10-1797

April 11, 2012

Councilmember José Huizar, Chair
Energy & Environment Committee
Attn: Eric Villanueva

On April 10, 2012, the Ad Hoc Committee on Waste Reduction and Recycling considered a Motion (Huizar - Koretz - Perry et al.) relative to directing the City Administrative Officer (CAO) and the Bureau of Sanitation (BOS) to report with an assessment of the Commercial Solid Waste System Redesign Project recently initiated by the City of San Jose. After consideration and having provided an opportunity for public comment, the Committee moved to make the following recommendations:

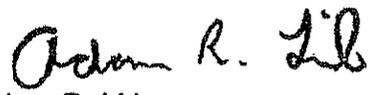
- 1) Instruct the CAO and BOS to report to Council with an assessment of the Commercial Solid Waste System Redesign program recently put in place by the City of San Jose, including a review of the HF&H report, "The City of San Jose: Commercial Redesign White Paper," that led to that system, and explore whether including the commercial sector in the proposed multifamily franchise would help the City reach its Zero Waste, environmental and financial goals more expeditiously and efficiently.
- 2) Instruct the BOS to complete and submit to Council its report regarding implementing an exclusive franchise program for Commercial and Multifamily waste to include: a) Consideration of alternatives to an exclusive franchise program; b) Completion of an Environmental Impact Report (EIR) pursuant to State mandates; and c) Consideration of issues raised in the course of the April 10, 2012 Committee meeting.
- 3) Instruct the CAO and the CLA to report jointly to Council in regard to implementing an exclusive franchise program for Commercial and Multifamily waste.

Also, during the meeting, six motions were introduced by the Committee Chair (see attached) with the following recommendations for Council action:

- 1) Instruct the BOS to seek input in regard to the impacts of the proposed Exclusive Franchise for Commercial and Multifamily Waste Program from the hospitals and hospital industry and include in the BOS's report specific directions in the Request for Proposals (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 hospitals.

- 2) Support the completion of the BOS's Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program for submittal to Council.
- 3) Instruct the BOS to include in its Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program 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.
- 4) Instruct the BOS to include in its Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program 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 said assistance to come at no financial cost to the City.
- 5) Instruct the BOS to include in its Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program incentives and similar programs to businesses that meet or exceed the goals of the proposed Program.
- 6) Instruct the BOS to seek input from the filming industry and include in its report in regard to Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program:
 - a. Specific directions in the 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.
 - b. Exemption of temporary filming locations from the Exclusive Franchise for Commercial and Multifamily Waste Program, due to the temporary nature of the work site.
- 7) Instruct the BOS to include in its Report on Implementing an Exclusive Franchise for Commercial and Multifamily Waste Program a requirement that future City commercial and multifamily waste franchise-holders take the City's "non-source separated" commercial and multifamily waste only to certified processing facilities; and that those facilities be certified by the Board of Public Works to ensure maximum diversion in service pursuant to AB 939 and AB 341 requirements.

The file is now being transmitted to the Energy and Environment Committee. If you have any questions, please contact me at (213) 978-1076.



Adam R. Lid
Legislative Assistant

MEMBER	VOTE
ALARCÓN:	YES
HUIZAR:	YES
KORETZ:	YES
KREKORIAN:	YES

MOTION

The filming business is a uniquely Los Angeles business. It is rooted in the City and it has played an historic role in the development and life of the City. Its business practices are subject to unique conditions and terms that require the City to address its needs in a manner that continues to strengthen the production of entertainment in its various forms.

The proposed Exclusive Franchise for Commercial and Multifamily Waste Program is likely to have a significant impact on the filming business' current business practices.

According to the filming businesses, they have many different kinds of waste such as hazardous waste, medical waste, construction and demolition waste, office waste, etc.. Depending on the type and volume of production on a studio lot, the amount of waste can vary on a daily basis, and the studios require a hauler who can respond quickly when necessary, handle several different waste streams, and conduct the appropriate sorting to achieve the high levels of diversion set by the studios. Further, studios claim to have an excellent recycling rate (over 73% of waste is diverted from landfills). Further, studios state that many of the streets on the studio lots are not large enough to accommodate a standard dump truck, requiring arrangements for custom vehicles to be used for pickups.

Further, when filming on location, a filming business may film in several locations in the city on a single day and would be forced to contract with different waste haulers in different locations. In addition, productions need immediate responsiveness on location to ensure that waste is promptly removed. This is especially important when filming in neighborhoods where the industry is served by several smaller vendors who know the business, can respond within an hour or so, and operate smaller vehicles that can effectively remove waste without disrupting neighborhoods.

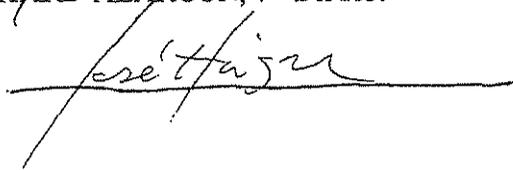
We therefore instruct the Bureau of Sanitation to seek input from the filming industry and include in its Report to the Council:

1. Specific directions in the Request for Proposals 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.
2. Exemption of temporary filming locations from the Proposal, due to the temporary nature of the work site


RICHARD ALARCÓN, 7th District

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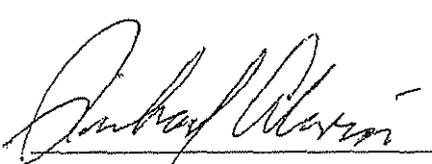


MOTION

The Bureau of Sanitation's proposed changes in the City's commercial and multi-family waste collection will require changes in the current business practices. In order to achieve the proposed goals under the proposal, business will need to work with a new model. The Bureau will monitor the businesses for adherence to a number of significant goals, including greater safety, oversight, accountability and quality of life in the City's efforts to reach a Zero Waste future.

It is therefore important that the businesses that operate under the new model also receive incentives to motivate them to meet and, more importantly, exceed the City's proposed goals for reducing the City's waste going to landfills to Zero, reduce air pollution by a measurable amount and provide safer, cleaner, and more remunerative work environment for the workers. These goals, if met, will significantly improve the quality of life of all residents of Los Angeles and any business that helps bring about such positive impacts should be encouraged through an incentive program that rewards the business for its beneficial contributions.

We, therefore, instruct the Bureau of Sanitation to include in its Report to the Council on the proposed new system for commercial and multifamily waste program incentives and similar programs to businesses that meet or exceed the goals of the proposed program.


RICHARD ALARCÓN, 7th District

CO: 

2ND: 

MOTION ~~04~~

The Bureau of Sanitation has estimated that over ninety-five percent of the commercial and multi-family waste stream is handled by 10 companies, with another 10-15 handling the remaining work.

The City's proposed new system for commercial and multi-family waste collection is to be based on certain "zones" that will be served by exclusive franchisees. This new system has the potential to exclude "rogue operators" from participating in our market as noted in the HF&H Consulting report (*City of Los Angeles: Solid Waste Franchise Assessment, Final Report*), while also excluding some responsible small companies that currently operate in the City.

It is therefore very important that the proposed new system allow responsible small companies that currently operate in the City a fair and full opportunity to compete.

We, therefore, instruct the Bureau of Sanitation to include in its Report to the 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.

We also instruct the Bureau to include in its 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. The assistance must come at no financial cost to the City.



RICHARD ALARCÓN, 7th District

CO: 

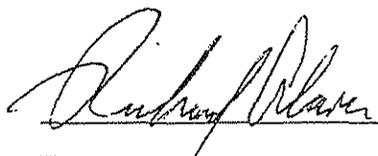
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MOTION

The Bureau of Sanitation has proposed changes in the City's commercial and multi-family waste collection in order to achieve a number of significant goals, including greater safety, oversight, accountability and quality of life in the City's efforts to reach a Zero Waste future.

Given the geographical dispersion of the waste collection, sorting, and diversion process due to business, transportation, safety, and environmental requirements, it is important that the City's proposed commercial and multi-family waste collection system ensure that its goals are met and that those results are verifiable, irrespective of the local jurisdiction where the waste is handled.

We, therefore, instruct the Bureau of Sanitation to include in its Report to the Council on the proposed new system for commercial and multi-family property waste, to have a requirement that future LA City commercial and multifamily waste franchise-holders take the City's "non-source separated" commercial and multifamily waste only to certified processing facilities; and that those facilities be certified by the Board of Public Works to ensure maximum diversion in service pursuant to AB 939 and AB 341 requirements.



RICHARD ALARCÓN, 7th District



MOTION

Pursuant to state mandates and the City's own goals to achieve Zero Waste, the Bureau of Sanitation is developing a Report on implementing an Exclusive Franchise Commercial and Multifamily Waste Program to address the issue.

We reviewed the Bureau's Report as summarized at the hearing today of the Ad-Hoc Committee on Waste Reduction and recommend that the Council support the completion of the Bureau's Report on implementing an Exclusive Franchise Commercial and Multifamily Waste Program for submittal to the Council.



PAUL KORETZ, 5th District

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MOTION

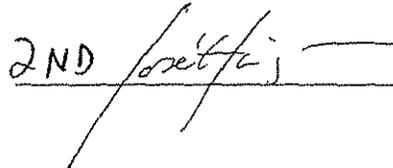
Hospitals play a unique and critical role in every community. Hospitals are subject to unique conditions and terms for their waste stream that require the City to address its needs in a manner that continues to strengthen hospital services while enhancing our environmental goals.

The proposed Exclusive Franchise for Commercial and Multifamily Waste Program needs to address is likely to have a significant impact on the hospitals' current business practices.

We therefore instruct the Bureau of Sanitation to seek input from the hospitals and the hospital industry and include in its Report to the Council specific directions in the Request for Proposals 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.



RICHARD ALARCÓN, 7th District



2ND District

THE COUNCIL
OF THE CITY OF LOS ANGELES
JANUARY 2012 - JUNE 2013

Council meets Tuesday, Wednesday, and Friday* in the
John Ferraro Council Chamber, Room 340, City Hall, at 10:00 a.m.
*1st Friday of every other month at Van Nuys City Hall, Council Chamber, 14410 Sylvan Street,
Van Nuys at 10:00 a.m.

HERB J. WESSON, JR., President
ED P. REYES, President Pro Tempore
TOM LABONGE, Assistant President Pro Tempore

JUNE LAGMAY, City Clerk
Council Agenda Information
City Hall, Room 395, (213) 978-1059

GERRY MILLER, Chief Legislative Analyst
City Hall, Room 255, (213) 473-5746

BROADCAST COVERAGE OF CITY COUNCIL MEETINGS:

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 (310) 471-CITY (Westside) (818) 904-9450 (Valley)

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<http://lacity.org/lacity/YourGovernment/CityCouncil/CouncilMeetings/index.htm>

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City Hall, 200 North Spring Street
Los Angeles, CA 90012-4801

Or, Communicate Directly With Your Councilmember

DISTRICT	COUNCILMEMBER	TELEPHONE	ROOM
1st	ED P. REYES	473-7001	410
2nd	PAUL KREKORIAN	473-7002	425
3rd	DENNIS P. ZINE	473-7003	450
4th	TOM LABONGE	473-7004	480
5th	PAUL KORETZ	473-7005	440
6th	TONY CARDENAS	473-7006	455
7th	RICHARD ALARCON	473-7007	470
8th	BERNARD C. PARKS	473-7008	460
9th	JAN PERRY	473-7009	420
10th	HERB J. WESSON, JR.	473-7010	430
11th	BILL ROSENDAHL	473-7011	415
12th	MITCHELL ENGLANDER	473-7012	405
13th	ERIC GARCETTI	473-7013	475
14th	JOSE HUIZAR	473-7014	465
15th	JOE BUSCAINO	473-7015	435

01

City Council Committee Assignments

Effective April 11, 2012

<u>COMMITTEE</u>	<u>TIME AND LOCATION</u>	<u>CHAIR</u>	<u>VICE CHAIR</u>	<u>MEMBER(S)</u>	<u>LEGIS. ASST.</u>	<u>ALTERNATE</u>
ARTS, PARKS, HEALTH & AGING	1st, 3rd Tuesdays 8:30 am Room 1060	ALARCON,	LABONGE,	REYES.	A. Lid 978-1076	E. Puist 978-1075
AUDITS & GOVERNMENTAL EFFICIENCY	2nd, 4th Tuesdays 2:00 pm Room 1010	ZINE,	ROSENDAHL,	LABONGE.	A. Lid 978-1076	E. Villanueva 978-1077
BUDGET & FINANCE	Mondays 2:00 pm Room 1010	KREKORIAN,	ENGLANDER,	CARDENAS, KORETZ, ROSENDAHL.	E. Puist 978-1075	Maria Espinoza 978-1078
EDUCATION & NEIGHBORHOODS	3rd Tuesday 1:00 pm Room 1010	PARKS,	PERRY,	ZINE.	R. Williams 978-1071	J. White 978-1072
ENERGY & ENVIRONMENT	1st, 3rd Wednesdays 2:00 pm Room 1010	HUIZAR,	ZINE,	CARDENAS. ALARCON, KORETZ.	E. Villanueva 978-1077	Michael Espinoza 978-1064
HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT	Wednesdays 8:30 am Room 1010	CARDENAS,	REYES,	WESSON, ALARCON, PERRY.	R. Williams 978-1071	S. Gin 978-1074
INFORMATION TECHNOLOGY & GENERAL SERVICES	2nd, 4th Tuesdays 9:00 am Room 1010	PERRY,	BUSCAINO,	CARDENAS.	Maria Espinoza 978-1078	E. Puist 978-1075
JOBS & BUSINESS DEVELOPMENT	2nd & 4th Wednesdays 9:00 am Room 340	GARCETTI,	PARKS,	LABONGE.	E. Villanueva 978-1077	J. White 978-1072
PERSONNEL AND ANIMAL WELFARE	1st & 3rd Tuesdays 3:00 pm Room 1050	KORETZ,	ALARCON,	ZINE.	Maria Espinoza 978-1078	Michael Espinoza 978-1064
PLANNING & LAND USE MANAGEMENT	Tuesdays 2:30 pm Room 350	REYES,	HUIZAR,	ENGLANDER.	S. Gin 978-1074	P. Lattimore 978-1056
PUBLIC SAFETY	2nd & 4th Fridays 8:30 am Room 1010	ENGLANDER,	PERRY,	BUSCAINO, KREKORIAN, ZINE.	J. White 978-1072	A. Lid 978-1076
PUBLIC WORKS	2nd, 4th Wednesdays 2:00 pm Room 1050	BUSCAINO,	KREKORIAN,	GARCETTI.	Michael Espinoza 978-1064	A. Lid 978-1076
RULES, ELECTIONS AND INTERGOVERNMENTAL RELATIONS	3rd Friday 8:30 am Room 1060	WESSON,	LABONGE,	HUIZAR, BUSCAINO, ENGLANDER.	E. Puist 978-1075	A. Alietti 978-1057
TRADE, COMMERCE & TOURISM	2nd, 4th Mondays 10:00 am Room 1010	LABONGE,	ROSENDAHL,	BUSCAINO.	Michael Espinoza 978-1064	E. Villanueva 978-1077
TRANSPORTATION	2nd, 4th Wednesdays 2:00 pm Room 1010	ROSENDAHL,	KORETZ,	PARKS, LABONGE, HUIZAR.	J. White 978-1072	R. Williams 978-1071
BOARD OF REFERRED POWERS		CARDENAS,	KREKORIAN,	HUIZAR, REYES, ROSENDAHL.	E. Puist 978-1075	A. Alietti 978-1057
AD HOC CITY MASTER PLAN ON INFORMATION TECHNOLOGY		ALARCON			Maria Espinoza 978-1078	P. Lattimore 978-1056
AD HOC ON THE PROPOSED DOWNTOWN STADIUM & EVENT CENTER		PERRY,	CARDENAS,	REYES, LABONGE, ROSENDAHL.	J. White 978-1072	A. Lid 978-1076
AD HOC ON WASTE REDUCTION & RECYCLING		ALARCON,	VACANT,	HUIZAR, KORETZ, KREKORIAN.	A. Lid 978-1076	R. Williams 978-1071
AD HOC RIVER COMMITTEE		REYES,	LABONGE,	HUIZAR.	E. Villanueva 978-1077	Maria Espinoza 978-1078
AD HOC ON SOCIAL EQUITY		ROSENDAHL,	KORETZ.		Michael Espinoza 978-1064	E. Villanueva 978-1077

COUNCIL CLERKS

A. Alietti 978-1057
P. Lattimore 978-1056

02

TO CITY CLERK FOR PLACEMENT ON NEXT
REGULAR COUNCIL AGENDA TO BE POSTED

SEP 06 2011

11-1529-S1

#55 RESOLUTION

RULES & ELECTIONS
Rule 16

WHEREAS, Section 242(b) of the Los Angeles City Charter provides that the Council by resolution, shall establish a sufficient number of committees to enable it to carry out its duties; and

WHEREAS, the duty of the Council and its committees is to become fully informed of the business of the City so as to oversee all the functions of the City government, and to report to the Council any information or recommendations necessary to enable the Council to properly legislate; and

WHEREAS, in order to fully carry out the Council's duties there are subject matter and administrative changes in the functions of the City government which make necessary a reorganization of the City Council's committees and committee structure;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 242(b) of the Los Angeles City Charter, and by the adoption of this resolution, the City Council is hereby organized into the following committees overseeing the functions of government listed thereunder, and the President of the City Council is authorized to appoint up to five members for each committee and up to seven members for each Ad Hoc committee:

(a) Arts, Parks and Neighborhoods.

Aging Department, Cultural Affairs Department, El Pueblo de Los Angeles, Library Department, Recreation and Parks Department, Zoo Department, Greater Los Angeles Zoo Association, Department on Disability, City Schools, Department of Neighborhood Empowerment, City's Child Care Coordinator, Neighborhood Councils; civic participation and empowerment; alcoholism; drug abuse; health; obesity; communicable diseases; mental health; needs of the disabled; child care issues; City's day care programs; youth development issues other than gang violence and youth development issues under the jurisdiction of the Housing, Community and Economic Development Committee; life style and human needs; senior citizens; volunteers; charities; the arts and their funding, including expenditures from the Arts Trust Fund; cultural tourism; siting and location of new schools; after school programs; school governance and school board ethics, redistricting and elections issues; joint use opportunities with school facilities; and school safety issues.

(b) Audits and Governmental Efficiency.

Controller, Bureau of Contract Administration, and the Quality and Productivity Commission. Controller's audit function including Controller's management audits, financial audits, operational audits, and any single audit of grants or other funds that are required by other levels of government; productivity; privatization; and all matters related to the City's policies on discriminatory practices.

(c) Budget and Finance.

City Administrative Office, City Attorney as it pertains to civil matters, Controller, except audits, Treasurer, Office of Finance, Department of Fire and Police Pensions, Los Angeles City Employees' Retirement System. The City Budget in its entirety; expenditure of City funds; levying of taxes and fees, except City business taxes; receipt of City funds; City Attorney liability report; refunds; claims; approval of City bond issues and other financing mechanisms which have a direct impact on the City's General Fund, including selection

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of bond counsel and financial consultants; all grants which have a direct impact on the City's General Fund; upon specific request, review or concurrently review these matters for Airport, Harbor, Water and Power, Housing, the Community Redevelopment Agency, joint powers agencies, or other entities that are elsewhere assigned; review of the City's debt financing procedures and activities; and preliminary approval of sale of surplus equipment at less than market value to other governments or agencies for humanitarian purposes.

(d) Energy and Environment.

The Department of Water and Power, including but not limited to its fees, rates, property, leases, tariffs, contracts, and required or requested audits of this department, Bureau of Sanitation, South Coast Air Quality Management District, State Solid Waste Management Board, and State Water Quality Control Board. Recycling; sanitation systems for solid, liquid, hazardous, and toxic waste and for all matters directly related to those matters, including siting, sewers, air quality, water quality, overall review of environmental impact reports or statements, or of the environmental impact of proposed Council actions that have not been considered as part of a land use decision; all matters relating to the Environmental, and Sewer Construction and Maintenance Trust Funds, including the review or concurrent review of the use of bonds or other financing mechanism involving these funds; energy; water supply and conservation; expenditure of funds from the Proposition 0 Clean Water, Ocean, River, Beach, Bay Storm Water Cleanup Fund.

(e) Housing, Community and Economic Development.

Community Redevelopment Agency, Mayor's Office of Economic Development, Community Development Department, Housing Department, Housing Authority, Housing Appeal Board, Los Angeles Homeless Services Authority; Gang Reduction Youth Development (GRYD) Program. Consolidated Plan; all housing matters including grants, review or concurrent review of bonds and subsidies for housing from all sources, including the Housing Trust Fund; rent control; the homeless; residential code enforcement on existing housing, slum housing abatement and the Rent Escrow Account Program (REAP); community development programs; industrial and commercial development; economic development; enterprise zones/empowerment zones/renewal communities; all matters pertaining to homelessness; day laborer programs and all related functions of the listed departments not otherwise specifically assigned.

(f) Information Technology and General Services.

General Services Department, Information Technology Department, City Clerk except the Elections Division, City Mall and Parking Authority. Information systems, enhanced delivery of services through adoption of technology, departmental technology initiatives. Acquisition and sale of City property; City building security; City building services; City telephone services; mail services; cable television franchises and matters relative to the Telecommunications Trust Fund; City employee parking; pool vehicles; printing and duplicating; purchasing; storage and distribution of supplies; record retention and destruction; messenger services, and other related functions of these departments not elsewhere specifically assigned.

(g) Intergovernmental Relations.

Official City positions with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency; Council's Legislative Advocacy; liaison with City's legislative offices in Sacramento and

Washington, D.C.; liaison with national, state and local intergovernmental associations such as the National League of Cities, the League of California Cities, the Independent Cities Association, and local councils of government (COG's); all activities with the Federal, State, County, and regional levels of Government, the Legislature, the Congress, and the Administration at all levels pursuant to the provisions of the Charter and Administrative Code; creation of joint powers agreements; protocol; all matters relating to Sister Cities; and other relationships with other governmental agencies outside the City except in matters related to housing, grants, trade or economic development, or other matters directly assigned elsewhere, such as transportation (Metropolitan Transportation Authority) and environmental quality (South Coast Air Quality Management District).

(h) Jobs and Business Development.

Workforce Investment Board (WIB), Minority Business Opportunity Committee (MBOC), Minority Business Enterprises (MBE); Women Business Enterprises (WBE); Small Business Enterprises (SBE); Office of Economic Analysis; workforce development; Business Improvement Districts; business associations; all matters related to business and job attraction, retention, and growth; all matters related to city business taxes, including the Business Tax Advisory Committee (BTAC); concurrently review enterprise zones/empowerment zones/renewal communities; all matters pertaining to the Master Plan to End Poverty in Los Angeles; Film LA and all matters pertaining to the film industry; all matters pertaining to the American Recovery and Reinvestment Act (ARRA).

(i) Personnel.

Employee Relations Board, Personnel Department, Employee Relations function of the City Administrative Officer, and Executive Employee Relations Committee. Employment methods; management and labor relations; comparable worth and pay equity; equal employment opportunities; employee benefits including proposed changes in City pensions and retirement provisions; all matters directly related to wages, hours, and working conditions.

(j) Planning and Land Use Management.

Planning Department, City Planning Commission, Cultural Heritage Commission, Area Planning Commissions, Office of Zoning Administration, Boundary Adjustment Board, General Plan Advisory Board, Local Agency Formation Commission, Coastal Commission, Building and Safety and the Construction Services Committee. All land use planning matters including but not limited to the General Plan, Community Plans, subdivisions, zoning, height districts, condominium, mini-malls, annexations and detachments, conditional uses, variances, interim control ordinances, moratoriums, and environmental determinations directly related to those matters; population estimates; growth management, code enforcement, except residential code enforcement on existing housing, slum housing abatement and the Rent Escrow Account Program (REAP); building permit appeals; construction and maintenance standards and testing; architectural review and cultural monuments; and Mills Act function (Historical Property Contracts)

(k) Public Safety.

Animal Services Department, Fire Department, Police Department; Emergency Preparedness Department; City Attorney as it pertains to criminal matters; police and fire communications systems; protection of lives and property; public safety; regulation of animals; bingo; criminal drug activities; rewards; gang violence, other than the GRYD

programs; earthquake awareness and expenditures from the Earthquake Trust Fund; all other matters directly related to the listed departments not otherwise specifically assigned.

(l) Public Works.

Board of Public Works, Bureau of Engineering, Bureau of Street Lighting, Bureau of Street Services, Storm drains; streets and their construction, improvement, maintenance and naming; street lighting; special assessments; design and construction of City owned public facilities; all matters relating to the City's Capital Improvement Program; and State and Federal highways and freeways.

(m) Rules and Elections.

Council, Chief Legislative Analyst, Mayor's Office except as otherwise assigned, City Attorney as it pertains to all matters under the jurisdiction of the Committee, City Ethics Commission, Election Division of the City Clerk, Ballot Simplification Committee. Scheduling of ballot measures and other election matters; campaign practices; Charter amendments; conflicts of interest; City's lobbyist ordinance; Code of Ethics; fair political practices; Council district boundaries; Council rules and policies; election practices; voter registration and fraud; and elected official salaries; the U.S. Census and redistricting.

(n) Trade, Commerce, and Tourism.

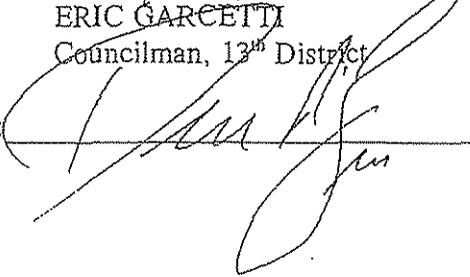
Los Angeles World Airports, the Port of Los Angeles, and the Los Angeles Convention Center. Matters involving free trade zones; all other matters directly related to the listed departments that are not otherwise specifically assigned, including but not limited to their fees, rates, property, leases, tariffs, contracts, required or requested audits of these departments, and review or concurrent review of their bond issues or other financing mechanisms; conventions; LA, Inc.; the Los Angeles Sports and Entertainment Commission and marketing and branding of Los Angeles.

(o) Transportation.

Transportation Department, Los Angeles County Metropolitan Transportation Authority. Public transportation; school crossings; traffic; transportation; parking enforcement and control; taxicabs; utility franchises except those for cable television; off-street parking facilities except by the City Mall; radio communication systems; traffic signalization and control; transportation franchises; expenditure of funds from the Proposition A Local Transit Assistance Fund and the Proposition C Anti-Gridlock Transit Assistance Fund.

BE IT FURTHER RESOLVED that the Ad Hoc Stadium Committee; and the Ad Hoc River Committee are hereby re-authorized; and a new Ad Hoc Waste Reduction and Recycling Committee is hereby created to achieve zero waste objectives.

PRESENTED BY: 
ERIC GARCETTI
Councilman, 13th District

SECONDED BY: 

ak

SEP 6 2011

E4

California Communities Against Toxics * P.O. Box 845
Rosamond, CA 93560 * (661) 510-3412

Via Hand Delivery

August 29, 2012

Hon. Jose Huizar, Chair
Environmental & Energy Committee
Hon. Richard Alarcon, Chair
Ad Hoc Committee on Waste Reduction and Recycling
Los Angeles City Council
200 N. Spring St.
Los Angeles, CA 90012

Date: 8/29/12
Submitted in 076 / AV 100- WASTE Reduc
Council File No: 10-1797, 10-1797-S1 to S7
Committee
Item No.: 1
Deputy: PUBLIC

Re: August 29, 2012 Joint Meeting Agenda Item #1 – Solid Waste Franchise

I am Executive Director of California Communities Against Toxics, formed in 1989 at the Santa Isabel Church in East Los Angeles, and one of the nation's oldest environmental justice networks. For identification purposes, I also am Chair of the Sierra Club National Air Toxics Taskforce. I have worked with Councilmen Cárdenas, Alarcon, Koretz, and Krekorian on many environmental issues during their service in the State Legislature. I attended your April 2012 *Ad Hoc* meeting, and regret I cannot attend today because I am in Sacramento for end-of-session. However, I wish to submit the following comments on the agenda topic today:

1. The City Should Focus on Infrastructure, Not Waste Hauling. The City has a unique opportunity to create its own waste infrastructure, not one exclusively dominated by large companies. The City should invest and study this infrastructure. Waste hauling, where we worked to ensure that all South Coast Air Basin trucks must be LNG by 2020 no matter what the City does, is not the problem. The real solid waste crisis we face, especially with the upcoming closure of Puente Hills Landfill, is that the City lacks its own green, non-polluting infrastructure.
2. An EIR Is Required. The proposed exclusive franchise would have dramatic impacts on waste destination from the current open model. These environmental impacts and the City's solid waste footprint, where its trash comes and where its trash goes, and how it is handled, must be studied in an Environmental Impact Report, considering all options, before we pre-judge any particular franchise scheme.

Thank you for considering these comments.

Sincerely,


Jane Williams
Executive Director, CCAT

GIDEON KRACOV

Attorney at Law

801 South Grand Avenue
11th Floor
Los Angeles, California 90017

(213) 629-2071
Fax: (213) 623-7755

gk@gideonlaw.net
www.gideonlaw.net

Memorandum

TO: File
FROM: Gideon Kracov (GK)
DATE: June 13, 2012
RE: Near Term Implementation of a Non-Exclusive Franchise System for Waste Collection in the City of Los Angeles Is Legal

The City of Los Angeles presently is considering a proposal to create a solid waste collection franchise system. In December 2011, the City mailed the required Cal. Pub. Res. Code § 49520 5-year notice to all permitted solid waste haulers in the City, informing them that the City may be implementing a franchise system in the future.

A voluntary non-exclusive solid waste collection franchise could be implemented before the 5-year phase-out notice period expires. Solid waste hauling companies would be able to opt-in to the franchise system early, generating significant revenue for the City of Los Angeles.

In fact, the City's own consultant HF&H Consultants, in its January 2012 "Solid Waste Franchise Assessment: Final Report" Option 4 at p. 32 (see attached Exhibit A), concluded that such a voluntary franchise could be implemented without waiting for the 5-year notice period to end. The report explicitly stated that a voluntary franchise system "would not require waiting for expiration of a 5-year notice period, and ... existing haulers not awarded a franchise could continue serving their customers until expiration of the 5-year notice." *Id.* at p. 34 emphasis added.

The courts have upheld the implementation of a solid waste franchise while the 5-year notice is pending. In *Valley Vista Services, Inc. v. Monterey Park*, the city signed a franchise agreement with Athens Services for solid waste disposal. The City restricted other haulers from adding any new accounts, despite the fact that they still had the right to service their existing accounts until the 5-year notice period expired. *Valley Vista Services, Inc. v. Monterey Park* (2004) 118 Cal.App.4th 881, 884-85 (see attached Exhibit B). The new franchise terms were implemented in *Valley Vista Services, Inc. v. Monterey Park* during the 5-year period, otherwise, there would have been no dispute in the case. The Court upheld the restriction noting at p. 886 that "the [Integrated Waste Management] Act is silent about soliciting new customers during the phase-out period." The case stands for the rule that new franchise terms can begin to be implemented during the 5-year phase-out period.

Thus, the City of Los Angeles Bureau of Sanitation has recognized, consistent with *Valley Vista Services, Inc. v. Monterey Park*, that a franchise can be implemented during the 5-year period. In its February 13, 2012 Board Report on the issue, the Bureau noted that "service can begin within the transition period" of the new franchise, but "[a]ccounts cannot be transitioned [from non-franchised

haulers] to the franchise haulers until the end of the five-year notification period.” Bureau of Sanitation, Board Report No. 1 (Feb. 13, 2012) pp. 19, 24 (see attached Exhibit C).

Similarly, Cal. Pub. Res. Code § 49523 states that a “local agency or solid waste handling enterprise may contract ... for the termination of all or any part of the business ... before the expiration of the [five-year notice period].” While it is true that 5-year rights cannot be waived, nothing in the Act bars a solid waste hauler from voluntarily altering or terminating some of its business operations in exchange for award of a non-exclusive franchise contract. This is precisely what the City’s own consultant HF&H Consultants described in its “Solid Waste Franchise Assessment: Final Report” Option 4 at pp. 32-34.

In sum, Los Angeles can adopt a non-exclusive solid waste collection franchise that would allow haulers to voluntarily opt into the franchise system and phase-out haulers that choose not to operate under the franchise once their 5-year notice rights have expired. A voluntary non-exclusive franchise system would provide an immediate near-term boost for City revenue by allowing the City to begin receiving franchise fees in 2013, long before any of the other options being considered could realistically be implemented. “All of the other options would take longer to implement.” HF&H Consultants “Solid Waste Franchise Assessment: Final Report” at p. 34.

EXHIBIT A

City of Los Angeles
Solid Waste Franchise Assessment

FINAL REPORT

January 23, 2012

Prepared by:
HF&H Consultants, LLC
under Subcontract to
Parsons Water and Infrastructure



Option	Advantages	Disadvantages
<p>3. Move forward with RFP for both multi-family and commercial franchising process; implement multi-family first, and implement commercial franchise after submittal and completion of minimum 5-year notice period</p>	<ul style="list-style-type: none"> • One combined competitive process instead of separate multi-family and commercial processes • One group of service providers may be selected at the same time, allowing routing efficiencies for the same multi-family and commercial haulers • Transition and implementation challenges would be spread over two periods and not all at once, minimizing customer complaints 	<ul style="list-style-type: none"> • Developing the additional commercial RFP requirements to add to the existing multi-family draft RFP requirements will delay the multi-family implementation • Rushing to develop the commercial portion of the RFP may result in less thoughtful decisions • Commercial stakeholders' concerns may slow down implementation • Long delay between selection of commercial haulers and start of service may create challenges with enforcement for haulers not selected • The same contractor may not submit the best proposal for both multi-family and commercial services
<p>4. Develop voluntary franchising process for existing multi-family and commercial haulers. For example, offer all current haulers a 10-year franchise agreement (recycling requirements may be phased in)</p>	<ul style="list-style-type: none"> • Implement multi-family and commercial franchise fee now without waiting for commercial 5-year notice period • Avoid potentially contentious RFP contractor selection process • All haulers that execute a franchise may continue to service their customers • Would achieve the City's revenue goals more quickly due to full implementation of franchise fee in multi-family and commercial sectors at earliest possible date 	<ul style="list-style-type: none"> • No reduction in the number of trucks operating in the City and corresponding health, environmental, and truck impacts • Continued monitoring by City of a large number of haulers • Does not address current differences in rates customers pay for the same service • May be more challenging to increase diversion from current levels because some small haulers may be unable to finance or cost effectively operate diversion programs and facilities • May delay earlier implementation of clean-fuel trucks

Option	Advantages	Disadvantages
5. Move forward with both multi-family and commercial franchising processes; implement multi-family first, and phase-in commercial prior to completion of minimum 5-year noticing period	<ul style="list-style-type: none"> One combined process for multi-family and commercial One group of service providers may be selected at same time, ultimately allowing for routing efficiencies after the phase-in period is complete If franchises are awarded to the existing haulers with largest market shares, commercial franchise requirements may be implemented for most customers prior to expiration of 5-year notice Haulers not awarded franchises may choose to negotiate a sale of their operations to the franchisee prior to expiration of the 5-year notice 	<ul style="list-style-type: none"> May be difficult to monitor compliance by commercial haulers not awarded franchises prior to expiration of 5-year notice Exclusive commercial option difficult to implement prior to expiration of 5-year notice Customers served by haulers not awarded franchises would potentially receive different services with different rates and terms than franchise customers until expiration of 5-year notice (unless existing permit system requirements are revised to match franchise system requirements, although could not implement franchise fee for permit system)

Exhibit 19
Franchise Timing Options

Service Arrangements	Sector	1. Proceed with multi-family RFP, delay commercial RFP*		2. Delay both sectors pending conclusion of commercial 5-year noticing period		3. Proceed with RFP for both sectors; implement multi-family, delay comm'l pending conclusion of 5-year noticing period		4. Voluntary non-exclusive franchise		5. Move forward with both franchising processes; implement multi-family first, and phase-in commercial	
		Non-Excl	Exclusive	Non-Excl	Exclusive	Non-Excl	Exclusive	Non-Excl	Exclusive	Non-Excl	Exclusive
1. Issue 5-year notice to commercial haulers	Commercial	2011	2011	2011	2011	2011	2011	2011	2011	2011	2011
2. Develop exclusive service requirements and area boundaries ⁽¹⁾	Multi-Family and Commercial		2012		2012		2012				2012
3. Release RFP	Multi-Family	2012	2013	2013	2013	2012	2013	Develop Agreement 2012		2012	2013
	Commercial	2013	2014								
4. Award	Multi-Family	2012-13	2013-14	2015	2015	2013	2014	2012		2013	2014
	Commercial	2015	2015								
5. Start of service ⁽²⁾	Multi-Family	2013	2014	2016	2016	2014	2014-15	2012-13		2014	2014-15
	Commercial	2016	2015			2016	2016			2016	2016

* Assumes commercial franchise is not implemented prior to expiration date of a 5-year notice

- (1) Time has been included in Task 2 to determine service area boundaries.
- (2) Time has been included in Task 5 to allow for the procurement of equipment by the successful proposer(s) which is normally 6 to 12 months and could be longer for a city the size of Los Angeles. Implementation dates could be staggered to facilitate a smoother transition.

Options 1, 2 and 3 assume that commercial franchise services would not commence prior to expiration of a 5-year notice of intent to modify commercial service arrangements. Option 4 is a "voluntary" agreement to a franchise and therefore would not require waiting for expiration of a 5-year notice period. Option 5 assumes that the City proceeds with a commercial franchise prior to expiration of a 5-year notice period, and therefore existing haulers not awarded a franchise could continue serving their customers until expiration of the 5-year notice, resulting in franchise requirements only being implemented for those customers served by franchisees for a period of time.

The City can require the remittance of franchise fees under each of the franchising options described in this section (subject to any Proposition 26 limitations). If the City were to choose option #4, the voluntary non-exclusive franchising process, the City could start receiving franchise fees for the multi-family and commercial sectors via the franchise agreements in 2012 or 2013. All of the other options would take longer to implement, as shown in Exhibit 14, and therefore, would delay full implementation of the franchise fee.

To encourage haulers to participate in a voluntary non-exclusive system, the term of the franchise agreements offered should be longer than the 5-year notice period required by the Public Resources Code. A term of seven to ten years may be appropriate. While this option would best achieve the City's revenue goals in the short-run, it might delay the achievement of the highest diversion levels.

An exclusive franchising process would take longer to implement than a non-exclusive system for the following reasons:

1. The haulers in an exclusive system need to propose specific rates and the City approves the rates.
2. In order to reasonably propose rates, it would be helpful for the City to provide all proposers service level and operating data in the RFP for each exclusive zone, and the City does not currently have such data available (we understand the City plans to request hauler receipts by zip code). However, companies have proposed in cases where such data has not been available and, in any event, most companies do their own analysis to determine the reasonableness of the data provided in RFPs. Without providing a container matrix in the RFP for exclusive service, it will be more difficult to evaluate rates because of the many different service levels. In such case, we recommend defining the rate relationships so that all service rates are proportional to a basic level of service in order to be able to evaluate the relative rates on a consistent basis from multiple proposers.
3. To eliminate all but one service provider to award exclusive zones would require a more complex and time consuming evaluation process.
4. A longer transition period would be required to implement exclusive service, as more customers would be impacted and significant quantities of equipment would need to be ordered by the successful proposer.

EXHIBIT B

ed federal issues. To
SD permit that may
ssion's certification
find that the trial
amend on both state
petition for writ of

[No. B168056. Second Dist., Div. Eight. May 17, 2004.]

VALLEY VISTA SERVICES, INC., Plaintiff and Appellant, v.
CITY OF MONTEREY PARK et al., Defendants and Respondents.

SUMMARY

A solid waste disposal company sought a writ of mandate against a city, alleging that the state had preempted any local waste disposal ordinances, making an amendment to a local waste ordinance unconstitutional. In order to meet certain obligations under the California Integrated Waste Management Act of 1989, Pub. Res. Code, § 40000, et seq., the city had granted an exclusive franchise for residential, commercial, and industrial waste disposal services to a solid waste disposal company. The city notified plaintiff that it could continue to operate under Pub. Res. Code, § 49520 for up to five years, but only as to its then-current accounts. After a warning by the city, plaintiff challenged the new business restriction. In response, the city amended its waste disposal ordinance to state that waste disposal companies that received the termination notice were limited to servicing their existing accounts. A trial court denied the petition, finding that the city's amended ordinance was not preempted by, and not in conflict with, state law. (Superior Court of Los Angeles County, No. BS079878, David P. Yaffe, Judge.)

The Court of Appeals affirmed. As a preliminary matter, the court noted that Pub. Res. Code, § 49520 is silent about soliciting new customers during the statutory phase-out period. The court held that the amended waste ordinance did not conflict with state law. The Waste Management Act does not include an express preemption clause. On the contrary, it specifically allows for continued local waste disposal regulations, vesting local agencies with considerable discretion in that area. Given these provisions and the fact that local agencies through their traditional police power have played the dominant role in local sanitation matters, the court held that the Waste Management Act does not impliedly preempt the field of waste disposal. Furthermore, restricting solid waste disposal companies with nonexclusive franchises to their existing accounts during the Pub. Res. Code, § 49520, phase-out period is not inimical to the Waste Management Act. It does not prohibit what the statute commands or command what it prohibits, and is not irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation. (Opinion by Rubin, J., with Cooper, P. J., and Flier, J., concurring.)

contentions—that is
ative appeal challeng
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continue to operate under Pub. Res. Code, § 49520, for up to five years were limited to their then-existing accounts, the amended ordinance did not preempt or conflict with the Waste Management Act.

[4 Witkin, Summary of Cal. Law (9th ed. 1987) Real Property, § 75; 8 Witkin, Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 795.]

COUNSEL

Law Offices of Michael B. Montgomery, Michael B. Montgomery and Charles R. Martin for Plaintiff and Appellant.

Gibson, Dunn & Crutcher, Robert E. Palmer, Christopher L. Pitet, Joshua A. Jessen; Brown, Winfield & Canzoneri, Mark W. Steres and Jennifer A. Vargas for Defendants and Respondents.

OPINION

RUBIN, J.—

INTRODUCTION

Under the California Integrated Waste Management Act of 1989 (Pub. Res. Code, § 40000, et seq.), local agencies are allowed to grant exclusive operating rights to solid waste disposal companies. (Pub. Res. Code, § 40059, subd. (a)(1).)¹ If other disposal companies have been authorized by the agency to operate within the municipality's boundaries for more than three years, the agency may notify them that as a result of the exclusive franchise, their operating rights will expire within five years. (§ 49520.)² At issue here is whether a city ordinance which prevents a waste disposal company that has received the five-year termination notice from soliciting new business during that five-year period conflicts with the Act. We conclude it does not.

FACTS AND PROCEDURAL HISTORY

The Act requires local agencies to divert from landfills half of the trash they produce, either by recycling or other means. By early 2002, the City

¹ We will sometimes refer to this as "the Act" or the "Waste Management Act." All further undesignated section references are to the Public Resources Code.

² The statutory scheme is slightly different depending on whether the previous hauler had an exclusive arrangement with the local agency. (§ 49520.)

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of Monterey Park (the city) had not complied with those requirements and faced the prospect of a compliance order and daily \$10,000 fines. In order to meet its obligations under the Act, the city decided to grant an exclusive franchise for residential, commercial and industrial waste disposal services to Athens Services (Athens). Athens already had an exclusive franchise over residential waste disposal within the city and handled roughly 99 percent of all waste disposal accounts. The new 15-year exclusive contract offered several advantages, including use of a materials recovery facility, automated collection containers, higher customer service standards, and a reduced number of trash collection vehicles.

On May 23, 2002, the city notified Valley Vista that it was planning to award an exclusive waste disposal franchise.³ At that time, Valley Vista serviced just 15 commercial waste disposal accounts. Valley Vista was notified that it could continue to operate under section 49520 for up to another five years, but only as to its then-current accounts. Valley Vista ignored that directive and added several new customers. After being warned by the city, Valley Vista's lawyer challenged the new business restriction, contending that because section 49520 said nothing about taking on new accounts, Valley Vista was allowed to do so during the five-year termination period. In response, the city amended its waste disposal ordinance to state that waste disposal companies which received the May 23 termination notice were limited to servicing their then-existing accounts.

After the ordinance was amended, Valley Vista sued the city, filing a mandate petition, which alleged that the state had preempted any local waste disposal ordinances, making the amendment unconstitutional. Valley Vista's petition also named Athens as a real party in interest. After a bench trial, based on the parties' briefs and exhibits, the court denied the petition, finding that the city's amended ordinance was not preempted by, and did not conflict with, state law. Valley Vista appeals.

STANDARD OF REVIEW

Because the issues raised on appeal call for the interpretation of statutes and ordinances, we exercise our independent review. (*Big Creek Lumber Co. v. County of Santa Cruz* (2004) 115 Cal.App.4th 952, 966 [10 Cal.Rptr.3d 356] (*Big Creek Lumber*).

³ Athens was awarded its franchise on June 19, 2002. In its reply brief, Valley Vista contends for the first time that the timing of the city's notification was defective because it preceded the award of Athens's exclusive franchise. We deem the issue waived because it was not raised below (*North Coast Business Park v. Nielsen Construction Co.* (1993) 17 Cal.App.4th 22, 28 [21 Cal.Rptr.2d 104]) and because it was first raised in Valley Vista's reply brief. (*Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764 [60 Cal.Rptr.2d 770].)

DISCUSSION

1. *The Act Is Silent About Soliciting New Customers During The Phase-out Period*

By 1988, landfills throughout the state were nearly filled, and we were figuratively awash in our own trash. To meet this crisis, the Legislature passed the Waste Management Act. Its goals were to reduce, recycle and reuse solid waste to the extent possible. Local agencies such as cities which were responsible for waste disposal within their boundaries were obliged to enact comprehensive waste management plans that would eventually divert half of their trash from landfills. (*City of Alhambra v. P.J.B. Disposal Co.* (1998) 61 Cal.App.4th 136, 138 [71 Cal.Rptr.2d 364] (*City of Alhambra*.) The Act is designed to protect the environment, improve regulation of existing landfills, ensure that new landfills are environmentally sound, improve permitting procedures for solid waste management facilities, and specify the responsibilities of local governments to develop and implement integrated waste management plans. (*Ibid.*)

The Act gives local agencies discretion to grant exclusive waste disposal franchises. (§ 40059, subd. (a)(2).) Section 49520 provides: "If a local agency has authorized, by franchise, contract, license, or permit, a solid waste enterprise to provide solid waste handling services and those services have been lawfully provided for more than three previous years, the solid waste enterprise *may continue to provide those services* up to five years after mailed notification . . . by the local agency having jurisdiction that exclusive solid waste handling services are to be provided or authorized, unless the solid waste enterprise has an exclusive franchise or contract. [¶] If the solid waste enterprise has an exclusive franchise or contract, the solid waste enterprise shall continue to provide those services and shall be limited to the unexpired term of the contract or franchise or five years, whichever is less." (Italics added.)⁴

As Valley Vista points out, section 49520 does not state that a trash hauler which receives a termination notice may not solicit new business during the allowed termination period. According to Valley Vista, its right to do so is implicit in the Legislature's statement that it "may continue to provide those [waste disposal] services" during that time. Valley Vista contends the city's amended ordinance restricting its right to seek new customers conflicts with

⁴ We will sometimes use the phrase "trash hauler" when referring to solid waste disposal companies. When we refer to exclusive "franchises" under section 49520, we also include contracts. We also wish to make clear that our holding concerns the section 49520 rights of only those trash haulers, like Valley Vista, that have operated under nonexclusive franchises or that do not possess the preexisting right to service a particular route.

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ection 49520. (See Cal. Const., art. XI, § 7 [cities may make and enforce all local police, sanitary, and other ordinances that do not conflict with general laws].) In short, Valley Vista contends that because it was lawfully entitled to augment its customer base as part of providing services before receiving the statutory phase-out notice, section 40059, subdivision (a)(2) grants it the right to keep doing so during the phase-out period.

The problem with that argument is that it has no support in either the legislative history or the plain meaning of the statute. The term "those services" is equally susceptible of meaning the serving of those clients the hauler had as of the notification date. Valley Vista argues that if that is what the Legislature meant, it would have used the phrase "continue to serve existing accounts." The easy rejoinder to that contention, however, is that the Legislature could equally have said "provide or expand such service," or "nothing contained herein shall restrict a waste hauler's right to expand its business during the phase out period." We therefore agree with Judge Yaffe, who in denying the mandate petition in the trial court, wrote that the Act "is silent as to whether or not the nonexclusive haulers can solicit or accept new business during the five year period."

The Ordinance Does Not Conflict With State Law

(1) Even though the Act is silent on the solicitation of new business, the city's ordinance might be unlawful if it conflicts with state law. A local ordinance conflicts with state law if it enters an area that has been preempted by state law, or if it otherwise duplicates or contradicts the general law. (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897 [16 Cal.Rptr.2d 215, 844 P.2d 534] (*Sherwin-Williams*.)

(2) Preemption may be express or implied. Express preemption requires an express statement by the Legislature that it intends a state law to fully occupy the area. (*Big Creek Lumber, supra*, 115 Cal.App.4th at p. 983.) Implied preemption may take many forms, but it cannot exist if the Legislature has expressed its intent to permit local regulations or where the statutory scheme recognizes local regulations. (*People ex rel. Deukmejian v. County of Mendocino* (1984) 36 Cal.3d 476, 485 [204 Cal.Rptr. 897, 683 P.2d 1150].)

(3) The Waste Management Act does not include an express preemption clause. On the contrary, it specifically allows for continued local waste disposal regulations, vesting local agencies with considerable discretion in that area. (§§ 40001, subd. (a) [state and local agencies share responsibility for waste disposal], 40059, subd. (a)(1), (2) [local agencies may determine aspects of solid waste handling of local concern, including but not limited to the nature, location, and extent of providing disposal services and whether the services shall be provided by exclusive contract], 40703 [local government

responsibilities are integral to the successful implementation of the Act.) Given these provisions and the fact that local agencies through their traditional police power have played the dominant role in local sanitation matters, the Act does not impliedly preempt the field of waste disposal. (*Waste Resource Technologies v. Department of Public Health* (1994) 23 Cal.App.4th 299, 305-309 [28 Cal.Rptr.2d 422].)

(4) That leaves duplication and contradiction of state law as the only remaining bases for determining whether the city's ordinance conflicts with the Waste Management Act. An ordinance that is coextensive with a state law is duplicative. (*Sherwin-Williams, supra*, 4 Cal.4th at p. 897, citing *In re Portnoy* (1942) 21 Cal.2d 237, 240 [131 P.2d 1] [local legislation was duplicative where it tried to impose the same criminal prohibition that general law imposed].) (5) Because, as we have explained above, the Act in general and section 49520 in particular are silent on a trash hauler's right to solicit new business during the section 49520 phase-out period, the city's amended ordinance does not, by definition, duplicate the general law.

(6) Local laws contradict state laws if they "prohibit what the statute commands or command what it prohibits." (*Sherwin-Williams, supra*, 4 Cal.4th at p. 902.) A contradiction is generally found only when the state and local acts "are irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation." (*Big Creek Lumber, supra*, 115 Cal.App.4th at pp. 989-990.) Determining whether a contradiction exists requires us to interpret both the ordinance and the statute. (See *id.* at pp. 985-992 [examining the relevant laws measure by measure to determine their meaning]; *Shea Homes Limited Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1259-1266 [2 Cal.Rptr.3d 739] [examining terms of the various measures, then applying rules of statutory construction to determine whether a conflict exists].)

(7) The fundamental rule of statutory construction is to ascertain the intent of the legislative body in order to effectuate the purpose of the law. In doing so, we first look to the words of the enactment and try to give effect to the usual, ordinary import of the language, at the same time not rendering any language mere surplusage. The words must be construed in context and in light of the nature and obvious purpose of the statute where they appear. The statute must be given a reasonable and common sense interpretation consistent with the legislative body's apparent purpose and intention. The interpretation should be practical, not technical, and should result in wise policy rather than mischief or absurdity. If the language of a statute is clear, we

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should not add to or alter it to accomplish a purpose which does not appear on the face of the statute or from its legislative history. (*Kotler v. Alma Lodge* (1998) 63 Cal.App.4th 1381, 1390-1391 [74 Cal.Rptr.2d 721].) Statutes should be interpreted with reference to the whole system of law of which they are a part (*People v. Comingore* (1977) 20 Cal.3d 142, 146-147 [141 Cal.Rptr. 542, 570 P.2d 723]), and sections relating to the same subject must be read together and harmonized (*Kotler v. Alma Lodge, supra*, at p. 1394). When construing a statute, we may consider its legislative history, including committee and bill reports, and other legislative records. (*In re John S.* (2001) 88 Cal.App.4th 1140, 1142, fn. 2 [106 Cal.Rptr.2d 476].) These rules also apply when interpreting local ordinances. (*Big Creek Lumber, supra*, 115 Cal.App.4th at p. 967.)

The predecessor to section 49520 was the virtually identical former Health and Safety Code section 4272 (section 4272), which was repealed when the Waste Management Act was enacted. (*City of Alhambra, supra*, 61 Cal.App.4th at pp. 143-144, and fn. 9.) Its purpose was to provide trash haulers who were supplanted by a competitor's exclusive franchise time to amortize their capital investments in the locales where they had been providing disposal services. (*Id.* at pp. 146-147; *City of Santa Rosa v. Industrial Waste & Debris Box Rentals, Inc.* (1985) 168 Cal.App.3d 1132, 1136 [214 Cal.Rptr. 737] (*City of Santa Rosa*)). The phase-out period for trash haulers with existing exclusive franchises was (and still is) limited to the lesser of five years or the termination date of their franchise because they are assumed to have anticipated and planned for their amortization needs when they first entered their franchises. Trash haulers with nonexclusive arrangements needed the guaranteed five-year period because their "existence is more precarious. In order to encourage such companies to capitalize sufficiently, the Legislature granted them this five-year right. *Of course, competition could put these companies out of business at any time*, but trash collection service would still be available and that is all that the public interest demands." (*City of Santa Rosa, supra*, at p. 1136, italics added.)⁵

As the italicized language from *City of Santa Rosa* suggests, section 4272 did not come with a guarantee of full amortization. While this carries some

⁵ The *City of Santa Rosa* and *City of Alhambra* courts held that the purpose behind sections 49520 and 4272 was to protect the availability of waste disposal services in general, with a particular trash hauler protected only when necessary to achieve that goal. (*City of Alhambra, supra*, 61 Cal.App.4th at p. 146; *City of Santa Rosa, supra*, 168 Cal.App.3d at p. 1136.) We do not believe this means that a trash hauler is not entitled to the statute's phase-out period even though other trash haulers are available to take over its customers.

weight in our analysis, we do not believe the answer lies in the legislative intent behind section 49520's predecessor. Whatever its original intent, the statute also obtained a new one when it became part of the Waste Management Act, and section 49520 must therefore be interpreted in light of that legislative scheme. (*People v. Comingore, supra*, 20 Cal.3d at pp. 146-147.)

As noted earlier, the Act requires local agencies to divert half of their trash from landfills through integrated waste management plans that rely on recycling and other means. Regulation of trash haulers has traditionally been left to local agencies and, even though the Act envisions a state-local agency partnership, the Act leaves local agencies with most of the authority and discretion when deciding how to comply with its terms. (§ 40059; *Waste Resource Technologies v. Dept. of Public Health, supra*, 23 Cal.App.4th at pp. 306-307.) This includes the right to determine all "[a]spects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services." (§ 40059, subd. (a)(1), italics added.) It also includes the right to determine whether services are provided by means of exclusive or nonexclusive franchise or contract, with or without competitive bidding. (§ 40059, subd. (b)(1).)

When amending section 49520 in 1998, a legislative committee commented on this power.⁶ A bill analysis noted that the Legislature allowed local agencies to accomplish the Act's waste diversion goals by awarding exclusive franchises. "With this authority, the local agencies can choose those companies that have the means and have made the commitment to divert waste from the landfill, helping the local agencies meet the diversion requirement." (Natural Resources Com., Assem. Republican Bill Analysis of Sen. Bill No. 2241 (1997-1998 Reg. Sess.)) Implicit in this, we believe, is the notion that a trash hauler awarded an exclusive franchise under the Act will commit a large portion of its resources to fulfilling its obligations. For instance, as city staff reports in this case show, Athens agreed to many service upgrades, including use of a materials recovery facility, automated collection containers, and higher customer service standards. Athens' sales and marketing director stated in a declaration that Valley Vista was actively competing with Athens, had approached many of Athens's customers, told them of the pending legal actions, and claimed Valley Vista would soon be able to take on many new accounts. Allowing Valley Vista to compete with Athens and peck away at its

⁶ The amendment, Statutes 1998, chapter 811, was designed to overturn part of the holding in *City of Alhambra*, which limited the five-year phase-out period to trash haulers who held trash disposal permits or licenses, not to those operating under a general business license. (*City of Alhambra, supra*, 61 Cal.App.4th at p. 146.) The Legislature amended section 49520 to state that it applied to trash haulers who had "lawfully" provided those services for the previous three years.

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newly awarded customer base could undermine Athens's ability to recoup its costs and could discourage other disposal companies from seeking exclusive franchises.⁷

Also implicit in this analysis, and the Act itself, is the notion that a local agency may determine that it can best comply with the Act by choosing the one waste disposal company with the means and commitment to carry out its integrated disposal plan. Valley Vista does not contend that its collection methods complied with the Act's landfill diversion goals. Allowing trash haulers who do not conform to the city's new disposal system to expand their operations during the phase-out period could undermine the city's ability to comply with the Act, and therefore the Act itself.

(8) In short, restricting trash haulers with nonexclusive franchises to their existing accounts during the section 49520 phase-out period is not inimical to the Waste Management Act. It does not “prohibit what the statute commands or command what it prohibits” (*Sherwin-Williams, supra*, 4 Cal.4th at p. 902), and is not “irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation.” (*Big Creek Lumber, supra*, 115 Cal.App.4th at pp. 989-990.)

Because the ordinance neither duplicates, contradicts nor is preempted by the Act, Valley Vista's constitutional challenge fails.⁸

⁷ During oral argument, counsel for Valley Vista asked us to consider as part of our analysis a local newspaper article contained within the legislative history of the 1998 amendment to section 49520, which supposedly mentioned an instance where a city complained that during a trash hauler's phase-out period, it began competing with the new holder of an exclusive franchise. We have reviewed that news story, which accompanies numerous letters from trash haulers and other members of the public expressing their opinions about the proposed legislation. There is no indication the incident or the article was ever considered by the Legislature. Regardless, such articles are generally not considered part of a statute's legislative history. (*Tibbets v. Van de Kamp* (1990) 222 Cal.App.3d 389, 395, fn. 5 [271 Cal.Rptr. 792].)

⁸ The decisions relied on by Valley Vista do not alter our analysis. *City of Alhambra, supra*, 61 Cal.App.4th 136, concerned whether section 49520 applied to trash haulers who operated with a general business license as opposed to a specific trash hauling permit and was later legislatively overruled. *Rodeo Sanitary Dist. v. Board of Supervisors* (1999) 71 Cal.App.4th 1443 [84 Cal.Rptr.2d 601], concerned whether a county ordinance assuming control of waste disposal from local sanitation districts conflicted with the Act. Neither considered the issue before this court. Valley Vista also points to section 40059, subdivision (b)(2), which states that nothing in the Act modifies or abrogates in any manner any contract, license or permit to collect solid waste that was previously granted. We believe that the more particular provisions of section 49520, which specifically deal with the rights of existing trash haulers when an exclusive franchise is granted under the Act, govern over these general terms. (Code Civ. Proc., § 1859; *Garcia v. County of Sacramento* (2002) 103 Cal.App.4th 67, 77 [126 Cal.Rptr.2d 465].)

DISPOSITION

For the reasons set forth above, the judgment is affirmed. Respondents to recover their costs on appeal.

Cooper, P. J., and Flier, J., concurred.

EXHIBIT C

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION
BOARD REPORT NO. 1
FEBRUARY 13, 2012

CD: ALL

AUTHORITY TO IMPLEMENT AN EXCLUSIVE FRANCHISE WASTE HAULING
SYSTEM IN THE CITY OF LOS ANGELES

RECOMMENDATIONS

Authorize the Bureau of Sanitation (Sanitation) to:

1. Approve and forward this report with transmittals to the Mayor and City Council with the recommendation that Sanitation be authorized to draft a Request for Proposals (RFP) to enter into exclusive (one hauler per franchise area) franchise agreements for the collection of solid waste from commercial, industrial, institutional, and multifamily (privately serviced) properties.
2. Combine the commercial and multifamily franchising processes to generate a higher diversion rate, promote more efficient routing, and reduce truck traffic, vehicle emissions, and noise.
3. Set the term of the franchise agreement to ten years with two five (5) year renewal options.
4. Designate eleven (11) franchise collection areas as subdivisions of the City's current six (6) wastesheds.
5. Exempt 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 from the Franchise system, and other specialty waste as designated by Sanitation.
6. Retain the current AB939 Fee and establish an administrative/AB939 fee to provide sufficient funds to implement and manage the franchise system and diversion programs.
7. Request the City Attorney evaluate the ability to establish a solid waste hauler franchise fee(s) for general City purpose.
8. Direct Sanitation to begin the California Environmental Quality Act (CEQA) environmental review process.
9. Request the City Attorney to prepare a final draft ordinance for an exclusive waste hauler franchise for commercial and multifamily waste hauling within the City of Los Angeles.
10. Approve the immediate unfreeze from managed hiring of six positions in Sanitation for development of the franchise system.
11. Direct Sanitation to return with a Franchise Implementation Plan including timeline, staffing requirements, and funding needs for the franchise system; proposed franchise area boundaries; and a Franchise Transition Plan.

A ten year contract will allow franchised waste haulers to fully amortize their investment while accounting for the transition period. A less than ten year term may increase rates since waste haulers will need to amortize equipment over a shorter period.

As stated in the HF&H Consultants report, most exclusive franchises are for a term of five to ten years. Sanitation staff also surveyed cities in Los Angeles County and larger cities nationwide. Of the 22 cities that reported having an exclusive franchise, 14 reported having franchises in excess of 6 years. Some larger cities, such as San Jose and Seattle, reported having franchise agreements in excess of 11 years.

Sanitation further recommends a two year transition and implementation period for the franchise. Sanitation will develop a Transition Plan as a component of the franchise agreements. The transition period will begin on the award of the franchise. Service will begin within the transition period as detailed in the Transition Plan.

An estimated 100,000 service locations (accounts), serviced by over 44 waste haulers will need to be transitioned to the franchised waste haulers. The franchised waste haulers will need to secure bins, purchase vehicles and develop the necessary supporting infrastructure. The franchised waste haulers will be responsible for public education, outreach and training to businesses on the transition and implementation of new recycling programs. The city of San Jose, with only 8,000 service locations, included a two year transition and implementation period when they recently moved from a non-exclusive to an exclusive franchise. San Jose included the following components in their transition and implementation plan:

- Contract Execution
- CNG Fueling Station
- Customer Database Development and Management
- Routing / Mapping
- Incremental Personnel Hiring and Training
- Driver Hiring and Training
- Public Education and Outreach
- Communication Plan
- Truck Procurement

Franchise Areas

Sanitation recommends the City be divided into multiple franchise collection areas. A franchise system for the City, due to its size, geography, and demographics, will be the largest and most challenging to develop in the nation. Approximately 1.8 million tons of waste is disposed annually from commercial businesses. The City is spread over 460 square miles. Sanitation estimates that there are about 100,000 commercial and multifamily service locations within the City. By comparison San Jose has 8,000 (commercial only) service accounts; Austin, Texas (downtown only) has 400; Portland Oregon has 18,100; San Francisco has 20,243; Stockton has 5,000; and Seattle, Washington has 10,000.

PAGE 24

- All recyclable materials source separated from solid waste by the owner and/or operator of the premises from which the solid waste was generated, whereby the generator of the waste sells or is otherwise compensated by a collector of the recyclable materials in a manner resulting in a net payment to the owner and/or operator.
- Recyclable materials and green waste source separated at the premises by the owner and/or operator of the premises and donated to a youth, civic or charitable organization.
- Green waste removed from premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service rather than as a hauling service.

Administration of the Franchise System

There are several phases to implementing a Franchise System in the City. First is the development and adoption of a policy by the Mayor and City Council directing the Board and Sanitation to move forward with a RFP and ordinance changes needed for the franchise.

The policy decision begins the process of environmental review concurrent with the development of the draft RFP and required ordinance changes. Upon completion of these efforts, the Mayor and City Council will consider directing Sanitation to release the final RFP, adopt ordinances defining the program, and certify any environmental review documents.

The next phase is the receipt of proposals, any clarification or short-list process, and the evaluation of the proposers. Sanitation would then return to the Board of Public Works for permission to negotiate with the selected proposer in each service area. Contracts are negotiated and processed for the award of the franchises; these contracts would be presented at the Board of Public Works and be forwarded to the Mayor and Council for final approval.

Following the contract award would be the transition phase, which may last for approximately two years as service changes take place in the private sector. Accounts cannot be transitioned to the franchise haulers until the end of the five-year notification period, but notification of City businesses and education about the changes in the hauling system will begin well in advance of December 2016.

At each step and level of the process, City staff will be needed to accomplish the implementation of the program. Private sector expertise will be sought as well to provide specific assistance with contract development and negotiations with the selected franchisees.

Staffing Requirements

The implementation of a new franchise system in the City of Los Angeles is a significant administrative undertaking and will require the creation of a Franchise Section within the Solid Resources Citywide Recycling Division in Sanitation.

It is anticipated that the new section's workload will include the following tasks to be completed by City Personnel:



Proposition 26

Implementation Guide

April 2011



Ballot arguments are of course an extrinsic aid courts consider to determine the intent of voters in adopting an initiative. (*Calif. for Political Reform Foundation v. Fair Political Practices Comm'n* (1998) 61 Cal.App.4th 472.)

V. Exception No. 4: Section 1(e)(4)'s Exception for Use of Government Property

Section 1(e)(4) excludes from the new definition of "tax:"

A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property. (Emphasis added.)

Notably, this exception does not include the "reasonable costs" limitation found in the first three exceptions. Nor is this exception limited to real property. If a local government makes personal property available for purchase or rental, it can charge whatever the market will bear. Among the fees that will be protected by this exception are:

- Franchise fees for which rights to use rights-of-way or other government property are provided, like cable, gas, electric, and pipeline franchises;
- Park and recreation entrance fees and equipment rental fees (but not fees for park and recreation services, like classes, which are discussed above in Part III.A regarding § 1(e)(2)); and
- Leases of government property such as museum operated by a non-profit organization). It might be used to defend trench cut fees and protect such fees from the cost-recovery limit of the first three exceptions discussed above.

A. How does this exception affect franchise fees?

The court in *Howard Jarvis Taxpayers Ass'n v. City of Roseville* (2002) 97 Cal.App.4th 637 noted that "private utilities pay public authorities franchise fees to use government land such as streets, or for rights-of-way to provide utility services." This characterization supports the exception found in Section 1(e)(4) for fees imposed for "entrance to or use of local government property." The court specifically stated that Roseville was free to impose franchise fees on private utilities on the basis of contractual negotiation rather than costs.

Similarly, the court in *Santa Barbara County Taxpayer Ass'n v. Board of Supervisors* (1989) 209 Cal.App.3d 940³⁹ described a "franchise agreement" as granted by a governmental agency to

³⁹ The case considered whether franchise fees are "proceeds of taxes" for purposes of the Gann Appropriation limit or Article XIII B.

enable an entity to provide vital public services with some degree of permanence and stability. A "franchise" is:

- A grant of a possessory interest in public real property, similar to an easement⁴⁰ and
- "A negotiated contract between a private enterprise and a governmental entity for the long term possession of land."⁴⁰

A "franchise fee" is:

- "paid as compensation for the grant of a right of way, not for a license or tax nor for a regulatory program of supervision or inspection;" or
- Paid for the governmental grant of a relatively long possessory right to use land, similar to an easement or a leasehold, to provide essential services to the general public.⁴¹

Accordingly, fees collected pursuant to a contractual agreement with a private entity that utilizes local government right-of-way or other real property are exempt from Proposition 26 either:

- Because they are imposed by the state; or
- They are imposed locally for "entrance to or use of local government property" (Art. XIII C, § 1(e)(4)).

Franchise fees in the first category – i.e., fees are not imposed by the state rather than a local agency – include cable television franchise fees, oil and gas pipeline franchise fees, and telephone and electricity franchise fees. Franchise fees in the second category – i.e., fees imposed by a local agency, but exempt from Proposition 26 under the exception for "entrance to or use of local government property" – include solid waste franchise fees, and towing franchise fees.

1. Cable television franchises

Since 2008, cable television franchises have been regulated under state law (Public Utility Code 5800 et seq.), known as the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA") Cable television is also regulated by federal law.⁴² Several provisions of the state law are worthy of note:

⁴⁰ 209 Cal.App.3d at 949.

⁴¹ *Id.*

⁴² The Communications Act of 1934 (47 U.S.C. §151 et seq., (1934)), as amended by the Cable Communications Policy Act of 1984 (P.L.98-549, 98th Cong., 2d Sess. (1984)); 47 U.S.C. §521 et seq., as further amended by the Cable Television Consumer and Protection Act of 1992 (P.L.102-385, 102nd Cong., 2d Sess. (1992)); and the Telecommunications Act of 1996 (104 P.L. 104, 104th Cong., 2^d Sess. (1996)).

- *Definition of “franchise:”* “an initial authorization, or renewal of an authorization ... whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, **that authorizes the construction and operation of any network in the right-of-way** capable of providing video service to subscribers.” (emphasis added) (PUC § 5830(f)).
- *Characterization of franchise fee:* The state law adopts a “state franchise fee” payable as “rent or a toll for the use of the public rights-of-way by holders of the state franchise...” (PUC § 5840(q)(1)).
- *Requirement to pay franchise fee:* The state law requires the holder of a state franchise to pay to the local entity a “state franchise fee” (PUC §§ 5860(a); 5840(q)).

Under Proposition 26, franchise fees paid to local entities for cable television franchises pursuant to DIVCA⁴³ are not local “taxes” for the purposes of Proposition 26 because the fees are imposed by the state not by local government.

2. Oil and gas pipeline franchises

There are two types of oil and gas pipelines that might be subject to franchise agreements: public utility and nonpublic utility pipelines.

- *Public utility pipelines:* Public Utility Code § 6231.5(a)(3) establishes the amount of the fee that an applicant to build and operate a pipeline system transmitting oil or products thereof pays to the local government entity. The statute utilizes “franchise” interchangeably with “permit, license, or other privilege.” An annual inflationary adjustment is included (§ 6231.5(b)).
- *Nonpublic utility pipeline:* The franchise fee is the amount “agreed to” with the applicant (§ 6231.5(e)).

Under Proposition 26 the authors of this Guide conclude that franchise fees collected for public utility pipelines are imposed by the state, not the local government entity, and therefore are not local “taxes” within the meaning of Proposition 26 even though the local government has discretion in the grant or denial of a franchise – once the franchise is granted, the fee is determined by state, not local, law. Franchise fees collected for nonpublic utility pipelines are not “imposed” by local governments because they are, by definition, “agreed to” by the local government and the applicant. This reasoning, of course, will not apply to franchise fees authorized by charter city legislation independently of state law. Such fees will require justification under the “use of property” exception of art. XIII C, § 1(e)(4) or another exception from Proposition 26’s definition of “tax.”

⁴³ Franchise fees imposed under a local franchising ordinance are analytically distinct from those imposed under DIVCA and should be analyzed as are other local franchise fees as discussed in the balance of this section.

3. Telephone and electricity franchises

Two statutory schemes control this area:

- *Broughton Act* (PUC § 6001): State statute limits franchise fee to 2% of the value of the goods transmitted via the franchised facility and interchangeably refers to “franchise” or “privilege” to erect or lay telegraph or telephone wires, construct or operate railroads, or lay gas pipes for the purpose of carrying gas for light, heat, or power, etc. (Emphasis added.) Section 6006 describes the franchise fee as arising from the “use, operation or possession of the franchise.”
- *1937 Act* (PUC § 6231): State statute limits franchise fee to 2% of the value of the goods transmitted via the franchised facility.

The franchise fees for these purposes are not “imposed” by local governments but rather by state statute and therefore do not appear to be affected by Proposition 26.⁴⁴

4. Solid waste franchises

4 Solid waste services are provided by some local governments through a contract or “franchise” with a solid waste hauler:

- *City contract*: “A city may contract for the collection or disposal of garbage, waste, refuse...under the terms and conditions that are prescribed by the legislative body” (emphasis added) (Public Resources § 49300).
- *County franchise*: County authority to franchise or “permit” solid waste services (Public Resources 49200). A bidder for such a franchise or permit may set forth any terms and conditions that the bidder may desire to offer (§ 49204).
- *Franchise, contract, license, or permit*: A local agency may provide for exclusive solid waste handling services by franchise, contract, license, permit or otherwise (Public Resources Code § 49501).

⁴⁴ Note that this statutory scheme, wherein the State imposes a tax that is directly payable to a local government entity would require $\frac{2}{3}$ vote of the Legislature (in the future) under Proposition 26 because it would “result in any taxpayer paying a higher tax.” Art. XIII A, § 3(a). This, of course, assumes the measure is a tax and not a fee justified by one or another of Proposition 26’s exceptions such as those for fees imposed on uses of government property. Art. XIII A, § 3(b)(4); art. XIII C, § 1(e)(4). Note that the latter exception is for fees for use of local government property imposed by local government. State imposition of a fee for use of local government property might not be within this exception unless viewed as a statute authorizing a local action to impose the fee.

 The statutory context does not provide direction on the application of Proposition 26 to solid waste “franchises” except to the extent that (1) a city franchise is referred to as a “contract,” and (2) a county franchise is an acknowledged arms-length negotiation. Neither appears to “impose” a fee. Further discussion of these distinctions appears in this section, below.

5. Removal of abandoned vehicles – towing franchises

Removal of abandoned vehicles is often accomplished through a franchise or contract entered into under the authority Vehicle Code § 22671. The statutory context does not provide direction on the application of Proposition 26 to towing franchises/contracts. If the towing contractor agrees to a franchise fee under such a contract or franchise as a result of an arms-length negotiation, then an argument can be made that either the fee is not a “tax” because it is a charge for entrance to government property; or it is not “imposed.”

B. How does this exception affect fees on cable franchisees to fund public, educational and government access channels on cable systems (“PEG fees”)?

In 2006, the Legislature enacted the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”), which usurped local authority to issue and renew video services franchises. In addition to the state franchise fee, DIVCA provides that a local agency “may, by ordinance, establish a fee to support PEG [public, educational, and governmental access] channel facilities consistent with federal law that would become effective” after the expiration of any fee arising from a cable franchise that existed prior to the enactment of DIVCA. (See Pub. Util. Code, § 5870(n).) The amount of this fee is limited to 1% of the franchisee’s gross revenues. (*Id.*) The PEG fee ordinance expires, and must be reauthorized, once a state franchise expires. (*Id.*)

Although there is some uncertainty, the authors of this Guide believe that PEG fees are covered by the use-of-property exception. Federal law specifically provides that capital costs that a franchise agreement requires to be incurred by a cable operator are not franchise fees. However, since that definition is only for the purposes of the 5% cap on franchise fees; and since the basis for local regulation of cable franchisees has always been the provider’s use of rights of way, nothing in federal law prevents local agencies from arguing that PEG fees are imposed for the use of local government property. While DIVCA does not refer directly to the fact that the ability to impose this fee arises from the fact that the franchisee is using the rights of way, viewed from a historical and practical perspective, the use of the right of way is the basis for imposing such a fee. For these reasons, a strong case can be made that PEG fees are covered by the use-of-property exception. And, thus, such PEG fee ordinances can be adopted, renewed, and increased without voter approval, notwithstanding Proposition 26.

1 **AD HOC COMMITTEE ON WASTE REDUCTION AND RECYCLING**

2 **TUESDAY, APRIL 10, 2012**

3
4 **PUBLIC COMMENT**

5
6 Chairman Alarcon: Is Mae Lee present? Okay, Anh Nguyen from Central City
7 Association. After Anh, we have Scott Schmidt. And after
8 Scott, we have Sarah Walsh. Please step forward so they can
9 move quickly. Anh?

10
11 Anh Nguyen: Good afternoon, council members. My name is Anh Nguyen
12 representing the 2000 members of Central City Association as
13 well as the Los Angeles Area Chamber of Commerce. We
14 strongly oppose moving to an exclusive franchise system. An
15 exclusive franchise system lets the city pick winners and losers
16 by favoring a few very large businesses at the expense of
17 smaller, locally based haulers. It will kill small family owned
18 businesses and eliminate grass roots jobs, further damaging
19 our slow economy. The city has made tremendous strides
20 toward nurturing and promoting small businesses in Los
21 Angeles. The mayor has always said that job creation and job
22 growth at small business is going to be the engine that drives
23 our economy. Whatever progress we've made will be reversed
24 with this proposal. Consumers across the board will end up
25 paying more. And almost 1200 high-paying jobs could be
26 eliminated. This is a bad idea. And the city's legitimate policy
27 objectives can be met without going down this road. Thank
28 you.

1 Scott Schmidt: Good afternoon, Chairman Alarcon and members of the
2 committee. Scott Schmidt, Founder of RecycleEverything.org.
3 What I haven't heard in today's discussion of the San Jose
4 model is related to the recycling requirement for sewer
5 separation in the City of Los Angeles. San Jose had an
6 innovative approach that we haven't really discussed, which
7 was to have a certain franchise fee for landfilled waste and
8 another franchise fee for recycled waste which would be much
9 lower. That led to the final result in San Jose being that
10 everything is going to be processed for recycling. They have
11 wet pick-up, and they have dry pick-up. What is mandated by
12 the staff report and the BPW report is to continue what we've
13 been doing for 20 years. We've done well with that, but we can
14 do better. And if you're going to get to zero waste, we have to
15 be processing everything as recyclables. And requiring sewer
16 separation adds that route duplication by having separate
17 trucks to pick up trash and separate trucks to pick up
18 recyclables. I say treat everything as recyclables. Thank you.

19
20 Chairman Alarcon: Thank you. Sarah Walsh.

21
22 Sarah Walsh: Thank you, Chairman, members of the committee. My name is
23 Sarah Walsh. I'm here with the Motion Picture Association of
24 America. As you know, the studios have long been a driving
25 force in the Los Angeles economy. And we've also led the way
26 for many industries on environmental issues as well. When
27 AB 939 was enacted in 1989, MPAA companies committed to
28 assisting government in achieving progress on recycling and

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diverting waste from landfills. Our companies have outstanding records in this area, collectively diverting over 73 percent from landfills now. Haulers are chosen specifically for their ability to accomplish these extraordinary levels of recycling. And we have developed very sophisticated operations to divert as much waste as possible. MPAA companies will be unable to choose the hauler who can achieve these goals for them under the new system. We certainly appreciate the direction to staff regarding our on-location filming. And we look forward to working with the City and the bureau, and the department, to find ways to meet the needs of our industry as well as accomplish the goals of the City. Thanks so much.

Chairman Alarcon: Okay. Doug Arsenault, Alex Comisas, and Jane Williams.

Doug Arsenault: Thank you. My name is Doug Arsenault of the Valley Industry and Commerce Association representing more than 370 businesses, 300 of which are native Angeleno small, medium-sized businesses that employ more than 75,000 Angelenos. There are two issues before this committee that have been forced into bed together; air quality and worker safety. The original, first, and primary issue has been strenuously debated over the last year, and an agreeable solution has been found. A non-exclusive franchise system that accomplishes the City's environmental goals without interfering with your constituents' employment needs. But LAANE, the highly paid lobbyists of big labor, found the solution to be unacceptable for their private goal of increasing paycheck deductions to fund their lobbying

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and campaign contributions. They are represented here predominantly by college students paid to be human billboards. They have attended this discussion – have altered this discussion – to include worker safety, a very important issue without a solid connection to air quality. We encourage you to address this issue through its own well-deserved motion. Thank you.

Chairman Alarcon: Alex Comisas?

Alex Comisar: Good afternoon, Mr. Chair and members of the committee. My name is Alex Comisar with the Apartment Associations of Greater Los Angeles. Our organization represents more than 20 thousand multi-family housing providers across the area. Many of these folks are small owner with an average of 8 to 12 units. I'm here today to express our members' strong opposition to an exclusive franchise system. Our members depend on their ability to negotiate their own contracts and rates with private haulers. Our needs, like the needs of many small business owners, can be diverse and unpredictable. And an exclusive franchise would preclude us from working with our haulers individually to meet the needs of our tenants. In addition, all indications are that an exclusive franchise system would come with increased hauling costs. These increases would be hugely detrimental to many of our rent-controlled owners who are unable to recoup these costs. These owners are struggling as it is. Many of them on fixed incomes. And lastly, I would emphasize what has already been said many

1 times, which is that you can achieve many of these policy goals
2 with a non-exclusive franchise as well as an exclusive
3 franchise. Thank you very much.

4

5 Chairman Alarcon: Thank you. Jane Williams. After Jane, we have Wayde
6 Hunter.

7

8 Jane Williams: Thank you. Good afternoon. Councilman Huizar, I apologize
9 to you because I've never had the opportunity to work with you.
10 However, in the assembly and in the senate, I've worked with
11 Mr. Alarcon, Mr. Koretz, and Mr. Krekorian. And interestingly
12 enough, about half a decade ago many of the environmental
13 justice groups in the City of Los Angeles set out to change
14 energy policy. And we have been very successful. And so, the
15 thing that strikes me from sitting and listening to all the
16 testimony today is that for the first time, really, in the City of Los
17 Angeles' history, you have the unique opportunity to actually
18 look at creating a waste infrastructure. Now, I am not for or
19 against this exclusive franchise issue. But looking at the
20 environmental impacts and the footprint that the City of Los
21 Angeles in its waste-sheds, in its hauling, and where its trash
22 comes and where its trash goes, and how it's handled, this is
23 the opportunity. And that's really why you must do, at the
24 earliest opportunity, a CEQA document. Thank you.

25

26 Chairman Alarcon: CEQA, okay. Wayde Hunter.

27

28 Wayde Hunter: Thank you very much for the opportunity to speak. My name is

1 Wayde Hunter. I'm the President of the North Valley Coalition
2 of Concerned Citizens, Inc. We believe the consideration of the
3 exclusive franchise is a mistake and we oppose such a plan.
4 Believe it would contravene the intent of the Renew LA
5 Program, which would establish alternative technologies in
6 each of the six waste sheds, including a seventh in the City of
7 Glendale. Sanitation was given the job of reducing LA's trash
8 down to 500 tons a day which they have not done. And now
9 we're talking about potentially thousands of tons of new trash
10 being dumped on us if Republic, for instance, is awarded one of
11 the huge waste sheds proposed. And then they will bring the
12 trash to Sunshine Canyon. Even with a 5-year contract in
13 hand, sanitation has been unwilling or incapable of insuring the
14 public and surrounding communities are protected. And in
15 2012, 20 percent of all the complaints to the South Coast Air
16 Quality Management District were about Sunshine Canyon
17 Landfill. Indeed, the complaints at Sunshine Canyon Landfill
18 are ten times higher than all the other 15 landfills combined. I'd
19 like to submit this to you, please.

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21 Chairman Alarcon: Thank you. Linda Delp.

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23 Wayde Hunter: Thank you. And we would like a full EIR.

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25 Chairman Alarcon: Thank you. Andrea Nicholls, and Ed Gutierrez.

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27 Linda Delp: Thank you for the opportunity to testify here today. I'm Linda
28 Delp. I'm the Director of the UCLA Labor Occupational Safety

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and Health Program. And we are a nationally recognized center that has focused for many years on promoting worker health and safety through teaching, education, research, and policy change and for promoting, more recently, good green and safe jobs. We are a member of the Don't Waste LA Coalition, and support the exclusive franchise system for LA's commercial multi-family waste collection. An exclusive franchise system will create greater accountability to the city, to workers, to the public, and to the environment. It's not that there aren't regulations already. There are regulations regarding the safety of trucks. There are regulations regarding workers who sort recycling. And it is employers' responsibility, whether they're waste haulers or other employers, to comply with those regulations. But we don't have a good system to ensure that employers, including haulers, are complying until it's too late. My time is up?

Chairman Alarcon: Finish your sentence, please.

Linda Delp: Until it's too late as we've seen by workers already getting injured on the job, becoming ill, and in certain cases, even dying on the job. Thank you.

Chairman Alarcon: Thank you. Andrea Nicholls.

Andrea Nicholls: Hi. I'm Andrea Nicholls. I'm the Health and Safety Coordinator at the LA County Federation of Labor and UCLA LOSH. And my job is to prevent work-related illnesses, injuries, and

1 fatalities among workers. I've interviewed dozens of
2 commercial and multi-family waste workers in LA, and I'm here
3 to ask for a system of accountability. The proposal before you
4 for an exclusive franchise is the only way to bring accountability
5 to our multi-family and commercial system. Recently, I've
6 interviewed the workers at American Reclamation where I
7 found serious safety violations that are now the basis of a
8 formal Cal/OSHA complaint. And the conditions that I found at
9 American Reclamation are actually very similar to the
10 conditions that ended up killing the Ramirez brothers, Armando
11 and Eladio. And those conditions are not isolated to just these
12 two facilities. There are facilities here in LA where employers
13 take similar shortcuts that could cost even more lives. And too
14 many of these facilities exist. A system that allows these things
15 to happen is one that lacks accountability no matter how many
16 rules are on the book. Thank you.

17
18 Chairman Alarcon: Thank you. Ed Gutierrez. After Ed, we have Eric DeSobe.

19
20 Ed Gutierrez: Hello. My name is Ed Gutierrez and I'm an LA resident
21 currently living in a multi-unit apartment building in the Pico-
22 Robertson area. And although it's been some time since I've
23 been a college student, I am here today to express my strong
24 support for Don't Waste LA's exclusive franchise system.
25 When I moved here almost four years ago from the Bay area, I
26 was shocked. I was shocked to realize that despite the amount
27 of recyclables generated by my neighbors and the fellow
28 residents in my apartment building, the landlord was able to opt

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out of ensuring that recycling services were available to us tenants. I'm a firm believer that recycling is a basic duty of each of us toward helping ensure a healthier environment. And to this day, I'm dumbfounded how it is that my neighbors in nearby buildings are able to take advantage of recycling services while I have essentially been given no choice but to act as a scofflaw in order to fulfill what I believe is a moral obligation as a waste producer. Twice a week I gather my recyclables, take them out to my neighbors' empty bins, right? Something's gotta happen. Thanks.

Chairman Alarcon: Thank you. Eric DeSobe, Sobay, or---

Eric DeSobe: You were right the first time. I'm Eric DeSobe, President of the Del Rey Neighborhood Council in CD 11. The Del Rey Neighborhood Council voted earlier this spring overwhelmingly to support the proposal before you for an exclusive franchise because our community wanted a system that minimizes the impacts of waste hauling on our neighborhoods and our streets, while maximizing the environmental and health benefits we all get by recycling. It's absurd and unacceptable that so many of our residents and business owners don't have recycling service. Del Rey is home to many small businesses and multi-family dwellings where there's no option to recycle because recycling is only offered as an auxiliary to basic waste services, and frankly it costs too much. Del Rey wants a system that uses the fewest trucks to service the most people, and that can only happen with an exclusive franchise system. We want fair

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rates and better recycling service and this exclusive franchise service is the one that will ensure both. Thank you.

Chairman Alarcon: Thank you. Gopi Shah, John Guevara, and Candice Kim.

Gopi Shah: Good afternoon. My name is Gopi Shah and I'm here on behalf of Natural Resources Defense Council. NRDC is a member of the Don't Waste LA Coalition that's fully supportive of moving forward with an exclusive franchise waste system, as the Bureau of Sanitation and HF&H reports recommend. An exclusive franchise system has been shown to have the most aggressive diversion rates, highest standards for accountability, and the smallest overall environmental footprint. We can reduce our dependence on space-hogging landfills that are expensive to maintain, and reduce pollution from greenhouse gases and toxic emissions. As one of the most polluted air basins in the country, Los Angeles depends on stricter standards, oversight and enforcement, and transparency in the waste industry to ensure a better future for all. The current system perpetuates environmental injustices against disadvantaged communities of color in San Fernando Valley. A myriad of negative public health impacts, such as respiratory illness, cancer, noise, and blight also plague these communities. A new system is needed now. NRDC believes an exclusive franchise system is best for the residents of Los Angeles, and is the best system to achieve the city's tremendous goal of zero waste. Thank you.

1 Chairman Alarcon: Thank you. John Guevara.

2

3 John Guevara: Hi, Honorable Chair and committee. My name is John Edward
4 Guevara. I'm a UCLA graduate student, and more than just a
5 human billboard. I support Don't Waste LA. And I support the
6 exclusive franchise system because recycling should be
7 available for everyone and not just the few. And here's my
8 recycling story. My first apartment didn't have a recycling bin
9 because, as I was told by my landlord, there was not enough
10 space. So my roommate and I collected our recyclables in our
11 living room. We reused as much as we could, but by the end of
12 the week, we would have several bins filled with stuff that
13 needed to be disposed. Most of the times we would mix our
14 recyclables with our trash, or dump them in a neighbor's bins,
15 offer them to the people with shopping carts that came by on
16 trash day, or worse, take my recyclables to my friend's place
17 down the street. See, at my apartment, I had a lack of choice.
18 And I was doing everything I could to try to recycle or reuse, but
19 as a working student, the cycle was stressful. You see, the
20 demand is there, but sometimes the recycling infrastructure is
21 not always. In my current apartment, I have opportunity to
22 recycle. So, I'm here today to speak for my fellow classmates
23 and to support an exclusive franchise system that every tenant,
24 student or not, will have the option to recycle. Thank you.

25

26 Chairman Alarcon: Candice Kim. After Candice, we have Walt, and I cannot read
27 the last name, from the Home Room Art Gallery. And then
28 Molly Greenwood.

1 Candice Kim: Good afternoon. My name is Candice Kim, and I am here on
2 behalf of the Coalition for Clean Air and its many members that
3 reside in the City of Los Angeles. We strongly support the
4 proposal for an exclusive franchise system because it's what's
5 best for our environment, for our air, and for our city. As HF&H
6 found, an exclusive system would result in the fewest number
7 of commercial refuse vehicles and minimize the environmental
8 footprint of solid waste operations by decreasing truck traffic,
9 vehicle emissions, pavement impacts, and noise. Exclusive
10 franchising will guarantee that all trucks are subject to South
11 Coast AQMD Fleet Rule 1193. And will ensure that companies
12 are held accountable for meeting those standards. We must
13 adopt a new system that will result in fewer trucks, decreased
14 emissions, and greater overall accountability, most importantly
15 for the benefit of public health and for the environment.

16
17 Walter Grecki: Hello, I'm Walter Grecki speaking on behalf of Home Room in
18 favor of the exclusive franchise system. We're a mixed use,
19 creative space and gallery. We share a building with
20 residences and several other commercial buildings, a
21 convenience store. We currently don't have the option to
22 recycle. We don't have the resources to afford the recycling
23 system, and all of the residences who are in section 8 housing
24 don't either. Unfortunately, most of our recycling that isn't
25 redeemable, such as cans and bottles, ends up going to
26 straight to landfills. It's really unfortunate. At home, I'm a pretty
27 big stickler for recyclable materials, but in my business
28 practices I'm unable to be. So, we're supporting the proposal

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for an exclusive franchise system because we need a system that will ensure the businesses and residents in our neighborhood can have access to recycling, and that there is fair accountability for everyone. Thank you for your time.

Chairman Alarcon: Thank you.

Ben Kovalchik: Good afternoon. My name is Ben Kovalchik – I believe that’s the name you couldn’t read. I am a resident of Los Angeles and a student organizer based out of Occidental College in Eagle Rock. I spend the bulk of my time outside the classroom volunteering, not paid, working with various community based organizations on economic and environmental justice issues. I have seen first-hand the incredible breadth of the problems that are present in the current commercial waste management system. I have mapped out business districts where five different trash haulers are serving the same commercial block, with truck that clog the roads and foul the air. I have talked to small business owners who do not have access to recycling or cannot afford it, and do not want to continue to subsidize the cost of waste for big business. I have marched with the workers in this industry who have been denied the right to safe working conditions. We cannot be selective in addressing these problems. Only a strong exclusive franchise system will allow us to ensure standards necessary to make this industry work for all Angelenos. I am here with students from Occidental, and I work with students down in LA. We will constantly mobilize around this issue free of charge because

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we care about economic and environmental quality, unlike these folks that seem really well-dressed and I think are paid. Thank you.

Chairman Alarcon: Holly?

Molly Greenwood: Hello. I'm Molly Greenwood and I'm a founder and co-owner of the Secret Goldfish Baking Company. We strongly support the proposal for an exclusive franchise in our commercial waste system because it's the system that will allow for the greatest protection of people and the environment. And it will provide the best service to businesses like ours who want to do the right thing. Two of our core values as a business are that we are environmentally sustainable, and that the ingredients we put into our food are not coming by way of businesses practices that are harmful to our planet or to the people who produce them. We are Fair Trade Certified. So, when we recently moved our business to the kitchen we're in now, and we were told that everything we threw away would go into one bin, we were unhappy. We can't know whether our recyclables are going where they need to go, or whether they're in fact going to a landfill. We're also appalled by some of the conditions in which waste workers and drivers are forced to work. But frankly, at this point in the life of our business, we can't afford to go anyplace else. As far as we're concerned, the companies who don't care for their workers and for the environment are harming all of us, and we must have a system that holds them accountable. Thank you.

1 Chairman Alarcon: Molly, I just had one question. You don't bake goldfish, do
2 you?

3
4 Molly Greenwood: No goldfish are harmed [overlap].

5
6 Chairman Alarcon: What is the Secret Goldfish Baking Company?

7
8 Molly Greenwood: It's named after the Catcher in the Rye. I'm an English major
9 nerd.

10
11 Chairman Alarcon: I still don't have a clue what you're doing over there, but
12 congratulations [laughter]. Okay, Terry Jackson, Kabira
13 Stokes, and Jeremy Drake.

14
15 Terry Jackson: Good afternoon. I'd like to get the record straight. I haven't
16 been in college since 1985 when I got up out of there. So, I'm
17 not getting paid for this. But I am a landlord, and I have a
18 commercial building that's located in Leimert Park area. And I
19 do strongly support all the franchise that's there before us
20 because as I went out to try to get – you know, a landlord,
21 we're always concerned about pricing. My pricing was so bad
22 that I had to not recycle. I had to get rid of it. And I started
23 using my neighbor's. My other neighbor is only paying \$72.00
24 and I'm paying \$102.00. So, there was a big difference there
25 because my other neighbor, he has a lot of property and I had
26 to pick up the slack for what he didn't pay, I pay for it. I strongly
27 support what's going on here today, is one that is very well
28 needed. And I don't have the negotiating power like the big

1 boys do over here. I'm just a very small, small man here. So,
2 thank you very much.

3
4 Chairman Alarcon: Thank you. Kabira?

5
6 Kabira Stokes: Good afternoon. My name is Kabira Stokes. I'm the owner of
7 Isidore Electronics Recycling. We're located just east of
8 downtown. We recycle electronic equipment in an
9 environmentally correct, socially conscious and secure manner.
10 And we're today to support an exclusive franchise system
11 because it's the only kind of system that will facilitate the kinds
12 of innovative solutions we need to deal with the stuff that we all
13 throw away. Right now, for us, there is no clear and consistent
14 stream of e-waste that we can access. We scramble all over
15 town. It is not ideal. The HF&H study and the Bureau report
16 make it clear that the most aggressive, efficient, state of the art
17 system for diversion is an exclusive franchise. It'll lead to long-
18 term planning, comprehensive public education which we need
19 in this city. Clear and more consistent commodity streams, and
20 the incentives and accountability needed to get away from the
21 blue bin addresses everything myth. It is not that simple. In a
22 non-exclusive system, we won't be able to do any of these
23 things, and we'll have bare minimum standards. Isidore
24 Recycling, we exist because we believe we can't sustain
25 ourselves by settling for less, and we can't do better without
26 real change in our approach to waste management. Thank
27 you.

28

1 Chairman Alarcon: Thank you. Jeremy Drake, Jim Smith, and Ben Kovalchik.

2

3 Jeremy Drake: Good afternoon. My name is Jeremy Drake. I'm a member of
4 the Sierra Club Zero Waste Committee, and I'm also the club's
5 lead on organics issues in the state. Sierra Club believes that
6 to get zero waste, we will need to figure out how to stop
7 throwing compostable organics into the landfills. According to
8 the EPA, food scraps and food-soiled paper represent the
9 single largest category of waste we send to landfills. Even
10 considering the Bureau of Sanitation's current programs to
11 divert that material, close to one million tons of food scraps
12 from the City of LA is being burned and buried in incinerators
13 and landfills every year. The good news is that we can manage
14 this waste in a responsible and even innovative way. We have
15 four of the most productive agricultural counties here in
16 Southern California. And we're throwing away a real
17 opportunity to turn our food scraps and other organics into rich
18 soil for local farmers. There are challenges to processing these
19 food scraps at the level we need, but the only way to get there
20 is if we take the most aggressive approach. An exclusive
21 franchise system is the best way to get us there. Thank you
22 very much.

23

24 Chairman Alarcon: Thank you. Jim Smith.

25

26 Jim Smith: Good afternoon. My name is Jim Smith, Political Coordinator
27 for Teamsters Local 396, representing workers in the waste
28 and recycling industry throughout the Los Angeles region. We

1 have heard a lot of incredibly informative discussion and
2 dialogue today concerning the critical need for higher standards
3 and accountability in this industry. But what often gets lost in
4 this discussion is the crucial watchdog and whistleblower roles
5 played by those who are on the front lines of this industry, the
6 men and women who spend their entire working day picking up,
7 transporting, processing, and sorting our waste and
8 recyclables. The workers you have heard from today, Alex and
9 Carla, are just two courageous examples of this. But
10 unfortunately, for every Alex and Carla there are scores of
11 other workers in the industry who want to come forward but are
12 afraid for their livelihoods if they do speak out. If higher
13 standards and accountability are indeed our goals, then
14 alongside an exclusive franchise system which we support, it is
15 equally imperative that we create a system where workers in
16 the industry can speak out, free from intimidation or fear of
17 retaliation, any time they experience or witness something that
18 breaches those standards. Thank you.

19

20 Chairman Alarcon: Thank you. Ben Kowalchik.

21

22 Ben Kowalchik: I spoke out of turn. I apologize.

23

24 Chairman Alarcon: Okay. Now I figured out who that other guy was. I'm sorry.
25 Okay, Kurt Veer. Maybe I'm not reading right. No, it's still Kurt.
26 Wayde Hunter? You spoke already, didn't you?

27

28 Wayde Hunter: [Inaudible]

1 Chairman Alarcon: Thank you, Wayde. One minute is enough. Sabrina Bornstein,
2 our final speaker. Can I commend everybody for your brevity
3 and staying on time? It's highly unusual, but you all came
4 prepared, and I want to thank you on behalf of the committee.
5 Now, don't mess it all up.

6
7 Sabrina Bornstein: Good afternoon. My name is Sabrina Bornstein. I'm a policy
8 analyst with Don't Waste LA, and the LA Alliance for a New
9 Economy. And I'm actually not a highly paid policy analyst,
10 unfortunately. Now, I think it's important to make a distinction
11 between standards and the type of system. I was happy to
12 hear today a clear consensus about the need to raise the bar
13 and to raise standards, standards for clean fleets, more
14 diversion, and good jobs. But raising the bar will require
15 investment, investment in new trucks and high quality cleanest
16 and greenest equipment. So that brings us to the choice of the
17 type of system, non-exclusive or exclusive. And contrary to a
18 comment made earlier today by ACE, there are unique benefits
19 to an exclusive system. And exclusive system can help
20 mitigate and control costs of new standards, not raise them.
21 They can make sure that there are opportunities for investment
22 and financing of new equipment. And finally, and very
23 importantly, it allows for the highest level of accountability and
24 partnership. Thank you.

25
26 Chairman Alarcon: Well, thank you very much. Could I ask the department to step
27 forward once more? Mr. Huizar, you have some questions?
28

1 Mr. Huizar: I just have one final question, and that is, you know, we heard
2 some testimony today with respect to the rates that may be
3 charged, and whether some of the customers will be paying
4 more or less. And I just was thinking how – and I know this can
5 still be worked out, and perhaps get more detail as we develop
6 a policy if we move in that direction. But what will the
7 department do to set rates and how will those rates be set if we
8 would set them at all?
9

10 Enrique Zaldivar: Enrique Zaldivar, Director of Sanitation, councilman. In the
11 event of setting the rates, they would be set after following a
12 competitive process which would be the RFP, by which
13 companies will propose a service level in response to the
14 requirements and the parameters set forth in RFP. And then
15 they will place a cost in their proposal from which we would not
16 only evaluate, but eventually also negotiate. And so, it'll be a
17 negotiated price that will lead us to a set of rates that would
18 apply to certain pre-determined and pre-specified service
19 levels.
20

21 Chairman Alarcon: Would it be possible that, let's say some companies can charge
22 less than a certain amount even after we've evaluated? What's
23 the average cost for a customer? And would it be possible to
24 go to a model where we have a cap as opposed to us getting in
25 the business of setting pricing so that we allow some flexibility
26 for the industry to set those costs amongst themselves and the
27 customer, but all we are concerned is a cap about not to go
28 above a certain amount? Would that work?

1 Enrique Zaldivar: I think it would. I'm just thinking it through because that's a
2 very interesting concept. I think it could work, councilman.
3

4 Andrea Alarcon: I think a proposal of that nature is possible, but before we move
5 forward with any additional recommendations on the terms of
6 the RFP, we are initiating internal to the department our own
7 assessment on the potential impact on rates. HF&H is going to
8 move forward with their evaluation of other jurisdictions and
9 what the proposed franchise systems in those jurisdictions
10 have meant on rates. And based on their findings, we will work
11 on developing a rate structure which may or may not include a
12 cap.
13

14 Chairman Alarcon: Okay, if we could get a report back if this moves forward, in
15 whatever process, so that we get a report back on if we could
16 have a cap in the rate structure rather than us just setting a
17 direct rate. And what are the pros and cons of doing that, and if
18 that meets the goals of the objectives of this policy, should we
19 move forward, and what that may look like. I think it would be
20 interesting to see. And one thing that I find it difficult as well as
21 a legislative body at times, is at setting rates or – I mean, I
22 certainly wouldn't want – even if we move forward and we do
23 set rates, it might be a good idea that we do that
24 administratively. You know, when it gets at the legislative level,
25 it gets political. It gets politicized. And, you know, if we do
26 move toward a structure where we are setting rates, that's
27 another question that I would have. If that could be made
28 administratively rather than having it go through council, or if

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sense of whether this accusation is true? And if it's true, how can we improve then? I mean, it's good to have a high diversion rate in theory, but if in reality some of our recyclables are actually being landfilled at the end of the day, we ideally would want to have more control over the waste stream until we actually know that it is place where it belongs.

[Male]: Well, in response to that, there is no tracking system in place for whether a waste hauler has a recycling program or not. Also, the permit systems as it stands right now does not require recycling. So, the notion that potential recyclable materials are being landfilled is one of the main things we want to address through this system. So, we do get reports on an annual basis. It's simply telling us where they take the material and what that material type is. That's the only information we have from the haulers at this time.

Mr. Koretz: So, even haulers who set up some sort of bins for recyclables, if they were then taking some of them or all of them and landfilling them, would we have any knowledge of that?

[Male]: No.

Mr. Koretz: And is there any way we could track that short of setting up this system?

Dan Meyers: Well, short of setting up the system, one of the intrinsic difficulties of the system now is waste haulers' businesses

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change in a fairly regular basis. So, it becomes difficult to track waste haulers, who they're associated with as far as business, what programs they have. It's one of the difficulties that we face right now is actual gathering that data, tracking that data. It changes quite often.

Mr. Koretz: Now, if we created this kind of a system then how would we actually track them and hold them to the commitment to actually recycle recyclables that they pick up?

Enrique Zaldivar: Councilman, you know, when we speak of standards, we of course would hold the haulers to the same standards that we hold ourselves, and that is that, you know, all of the recyclable loads – and that's true of sanitation – we treat them exactly as that, recyclables that, at any cost, we always make sure that they get recycled. So, that would be one of the requirements and one of the requirements with penalties associated, I am sure, for anyone who purports to be collecting recyclables and landfilling them. So that, in our world, is a crime.

Andrea Alarcon: Sir, just as a follow up. In light of the chair's motion to certify the processing facilities to ensure that they are meeting our diversion rates. That would be under the proposed exclusive franchise system, the contractual mechanism by which we would be able to hold these processing facilities accountable to those diversion standards.

Chairman Alarcon: Okay, Mr. Krekorian. Oh, you know what? I think you're going

1 to have to use one of these mic's. We are on autopilot, and
2 apparently your mic is not included in that mix.

3
4 Mr. Krekorian: Thank you. Is that some kind of a hint?

5
6 Chairman Alarcon: We're short-staffed, and they had to run to go do something, so
7 we're on our own [overlap].

8
9 Mr. Krekorian: The accountability comes primarily from having the waste
10 directed to particular facilities where you can do the monitoring,
11 I trust then, right, so that – right now, you don't know where it's
12 going. If somebody pick up on a corner, it could be going to
13 well outside the city and being dumped in a landfill or
14 something else. But when you have a franchising system,
15 you're able to mandate that they take it to a particular sorting or
16 transfer facility, right?

17
18 Enrique Zaldivar: That's correct.

19
20 Andrea Alarcon: By virtue of the franchise agreement, they would have
21 designated sub-contractors which we would then, by virtue of
22 the council member's motion, certify to be complying with
23 certain diversion standards. And that's really how the line of
24 accountability exists.

25
26 Mr. Krekorian: Right. And so if there is ever found to be a violation of that, that
27 they're diverting it to some place in El Monte or something, that
28 they run the risk of losing their franchise, potentially.

1 Andrea Alarcon: Right. There would be liquidated damages and other penalty
2 schemes, and ultimately potential termination of their franchise
3 agreement with the city.
4

5 Mr. Krekorian: Okay, so wouldn't that accountability mechanism be precisely
6 the same and precisely as effective if there were one or two or
7 four franchisees in a given zone?
8

9 Enrique Zaldivar: The degree of accountability of the difficulty of ensuring
10 compliance, of course, is proportional to the number of haulers
11 that we would have to monitor. It's true what you said,
12 councilman---
13

14 Mr. Krekorian: No, not if they're going to the same facilities. You have to
15 monitor the facility. You know when the haulers are coming in
16 if it's a set number of transfer facilities. You know when the
17 haulers are coming in, that's where you're doing your
18 monitoring [overlap] not on the street.
19

20 Enrique Zaldivar: They're all going to that facility. The question, though, is
21 whether they're not going to the facility.
22

23 Mr. Krekorian: Right, but what I'm saying is -- and [overlap] as the
24 commissioner just point out the accountability is on the
25 existence of the franchise which you have the power then to
26 revoke and destroy their business, right? [Inaudible] So, that's
27 true whether it's an exclusive franchise agreement or a not
28 quite so exclusive franchise agreement. If it's two haulers

1 rather than one hauler, but they are franchisees of the city, you
2 still have the same authority, don't you?

3
4 Enrique Zaldivar: Correct.

5
6 Andrea Alarcon: Yes.

7
8 Mr. Krekorian: Okay. Thank you.

9
10 Chairman Alarcon: Thank you. Are there any more questions of the committee
11 members? Yes, Mr. Koretz.

12
13 Mr. Koretz: It's been suggested a few times here and elsewhere that we
14 could accomplish the same goals by implementing some of the
15 pieces of this but not making it an exclusive franchise. What do
16 we lose by making it an exclusive franchise – by making it a
17 non-exclusive franchise in addressing some of the things we're
18 trying to address?

19
20 Dan Meyers: One of the things that, through our research, that we do believe
21 that we'll be able to lose is potential for diversion and real
22 diversion from landfills. One of the things we talked about in
23 our staff report, which we think is a key component, is actually
24 holding waste haulers to not just a diversion rate – even though
25 we're going to be certifying facilities – but actually hold them to
26 disposal. So, we would cap and set what's able to be disposed
27 out of any given area, and truly reducing the amount of waste
28 going to landfills. In a system where you have multiple haulers

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operating, businesses are coming and going under those waste haulers. There is no way to set any standards on the amount of material that would be disposed of. That's one item we would see. There is some concepts of routing and routing efficiencies. When it comes to routing, such as the San Jose model, you can start looking at things as wet and dry routing where your primary paper is separated from other type of organic matter. That becomes an easier task when you can maximize your routing. When waste haulers are spread all over the city, that type of routing, first of all, becomes very inefficient, and through those inefficiencies, we don't anticipate being able to get the same level of diversion. So, from a diversion point of view, we definitely see that from a non-exclusive franchise, we do not get to the same diversion levels that we could under an exclusive franchise, from a diversion point of view.

Chairman Alarcon: Okay. Thank you. I think at this time, it would be appropriate to entertain a motion to either support or not support the department's direction. Mr. Koretz, are you---

Mr. Koretz: I'd like to introduce such a motion, which I have here. And I would like to move that, pursuant to state mandates and the city's own goals to achieve zero waste, the Bureau of Sanitation is developing a report on implementing an exclusive franchise commercial and multi-family waste program to address the issue. We reviewed the bureau's report as summarized at the hearing today, at the Ad Hoc Committee on

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Waste Reduction, and recommend that the council support the completion of the bureau's report on implementing an exclusive franchise commercial and multi-family waste program for submittal to the council.

Chairman Alarcon: I do have a second.

Mr. Krekorian: To follow up on the chairman's initial comments, what was before today [overlap].

Chairman Alarcon: You should see it from this view [overlap].

Mr. Krekorian: The initial agendized item was the report on the San Jose program, but this is requesting that we complete the work that the department has done to simply report to council. And I think, pursuant to some of the comments that we've had about the need for an EIR, the number of alternative proposals that might be considered in an EIR, I'm fine with moving forward with this report [overlap].

Chairman Alarcon: Do you want to second that motion?

Mr. Krekorian: But I think, as part of that report, we should also have the department report back on the issues that were raised today in this hearing. And the issues that would need to reasonably be raised in order to complete an EIR as well, including alternative proposals to the exclusivity of this franchise agreement.

1 Chairman Alarcon: Yes, by virtue of the responsibilities of this ad hoc committee,
2 all steps in the process would include passing through this
3 committee. So, that would be part of the process.
4

5 Mr. Huizar: Mr. Chair, so you're moving this to council. Are you moving it
6 directly to council [overlap].
7

8 Chairman Alarcon: No, the motion merely recommends to the council, but it would
9 go to the E&E committee first.
10

11 Mr. Huizar: And if I may also request that we get a CAO-CLA joint report on
12 this for the committee as well, please.
13

14 [Male]: That's in the works, but we're waiting for that, so [overlap].
15

16 Andrea Alarcon: Yeah, the Board of Public Works report was transmitted to the
17 mayor. He has transmitted it to the CAO's office for a full
18 reporting, but---
19

20 Charles Modica: Charles Modica for the CLA's office. The actual board report is
21 not before the council at this time or this committee. As I
22 understand it, this committee's actions is recommending that
23 the CAO continue its review, transmit that review to council,
24 have sanitation issue reports that respond to all the motions
25 that were raised in this committee that will then be considered
26 concurrently with the actual board report and CAO analysis of
27 that. Those reports will come to this committee, and then they
28 will go to the Energy Environment Committee before they go to

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city council.

Chairman Alarcon: Those reports come to this committee and then to E&E?

Charles Modica: That's correct.

Chairman Alarcon: And so that's why I'm asking, with the motion today, moving those items, are they – report-backs to this committee, or are they being referred to E&E?

Charles Modica: Everything that goes to this committee, by virtue of the purview of the E&E Committee, also goes to Energy Environment.

Chairman Alarcon: [Overlap] Let me ask that one more time.

Mr. Koretz: Does it go to E&E after this?

Andrea Alarcon: Yes.

Mr. Huizar: Yeah, the CAO and CLA report still has to come to this committee, correct?

Charles Modica: That's correct.

Mr. Huizar: Okay. Now, the motion that was proposed today, my question is – and maybe you're not the correct person to ask but let me ask to make either the motion or the chair – you're moving this item and questions to come back to this committee or to E&E?

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Chairman Alarcon: It will go to E&E, but the recommendation is directed at the council.

Mr. Huizar: Okay.

Chairman Alarcon: Which is the standard practice when it goes to multiple committees.

Andrea Alarcon: Right, so during our report-back, it will be inclusive of all of the various motions that have been introduced today, but also our vision is that they will be simultaneous with the CAO report, as well as the economic study and some other additional recommendations by the bureau.

Chairman Alarcon: Yes, actually, I haven't introduced the other motion, so let me go about doing that. They have been designed for co-presentation as well as seconds, so I would like to introduce those. But first, I am seconding Mr. Koretz's motion. So, let me go through this process. Mr. Koretz and I are co-presenting the motion to – I'm not going to go through all of the intent language, but instructing the Bureau of Sanitation to include in its report to the council on the proposed new system for commercial and multi-family property waste to have a requirement that future LA City commercial and family waste franchise holders take the city's non-source separated commercial and multi-family waste only to certified processing facilities and that those facilities be certified by the Board of

1 Public Works to ensure maximum diversion in service pursuant
2 to AB 939 and AB 41. Now, I don't have a second. Do I need
3 a second when it's co-presented? Is there a city attorney
4 around? Do I need a second when we have co-presenters?
5

6 City Attorney: You can, although it'll just be the action of this committee. So,
7 if it is on the unanimous consent of this committee, then that
8 would go forward as the committee's recommendation.
9

10 Chairman Alarcon: That's an assumption. Okay. The second motion – and I'll
11 move forward before we take the votes on these motions.
12 Again, I am just reading the actual motion. We, therefore,
13 instruct the Bureau of Sanitation to include in its report to
14 council on the proposed new system for commercial and multi-
15 family property waste, the proposal to designate a certain
16 number of the city's proposed exclusive zones as small
17 enterprise zones designed and targeted to provide competitive
18 opportunity for small hauling companies. We also instruct the
19 bureau to include in its report a proposal to assist and facilitate
20 small companies selected for small enterprise zones in
21 securing loans or other capital assistance to facilitate and make
22 realistic their participation in the exclusive franchise system.
23 The assistance must come at no financial cost to the city. That
24 motion was introduced by myself and Mr. Krekorian, and
25 seconded by Paul Koretz. The third one is, we therefore
26 instruct the Bureau of Sanitation to include its report to the
27 council on the proposed new system for commercial and multi-
28 family waste program incentives and similar programs to

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businesses that meet or exceed the goals of the proposed program. That is introduced by myself and Mr. Krekorian, and seconded by Mr. Koretz. This one is related to the film industry. We therefore instruct the Bureau of Sanitation to seek input from the filming industry, and include it its report to the council one specific direction in the request for proposals 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 studio's work toward the exemption of temporary filming locations from the proposal due to the temporary nature of the worksites. That was co-presented by Mr. Koretz and myself, and seconded by Mr. Huizar. And finally, a motion introduced by myself and seconded by Mr. Huizar that says we therefore instruct the Bureau of Sanitation to seek input from the hospitals and the hospital industry to include in its report to the council specific directions in the request for proposals 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. Indeed, I believe those discussions have been ongoing between the department and those industries, and there may be others that emerged. But for the time being, these are the motions before us. So, on the general motion to recommend that the council support the completion of the bureau's report on implementing an exclusive franchise, commercial and multi-family waste program for submittal to the council, all in favor say aye.

1 Chairman Alarcon: Aye. Any opposed? [Crosstalk] Okay, so that is unanimous.
2 On the motion regarding the certification of the processing
3 facilities, all in favor say aye.
4

5 Committee: Aye.
6

7 Chairman Alarcon: That motion is unanimous. I didn't say aye, but I certainly
8 meant it. On the motion with regard to small enterprise zones
9 to allow small haulers to be competitive in this system that is
10 proposed, all in favor say aye.
11

12 Committee: Aye.
13

14 Chairman Alarcon: Thank you. That is unanimous. With regard to the department
15 in investigating incentives and similar programs to help
16 businesses meet or exceed the goals of the proposed program,
17 all in favor say aye.
18

19 Committee: Aye.
20

21 Chairman Alarcon: That is unanimous. And with regard to the filming industry as
22 read, all in favor say aye.
23

24 Committee: Aye.
25

26 Chairman Alarcon: That is unanimous. And finally, with regard to hospitals, all in
27 favor say aye.
28

1 Committee: Aye.

2

3 Chairman Alarcon: That motion is unanimous as well. I want to thank everybody
4 for their participation, and I would encourage you to continue to
5 participate. This is a dynamic process. We are certainly not
6 declaring an exclusive franchise. We have a lot more work to
7 do, and your input is valuable to us in the process. I also want
8 to personally thank all the organizations that contacted my
9 office and presented directly to me. This was very helpful in
10 allowing me to clarify my positions on this. Yes?

11

12 Andrea Alarcon: Mr. Chair, just as a matter of a process, there was a request
13 from council member Huizar for a report back on the cap of the
14 rates as opposed to a flat rate structure. Does that need to be
15 a motion or do we just accept that as a direction to the bureau?

16

17 Chairman Alarcon: Direction.

18

19 Andrea Alarcon: I just want clarity.

20

21 Chairman Alarcon: Either way you're going to have to go through Huizar [laughter].
22 Okay, with that, this meeting is adjourned. Thank you.

23

24

25

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27

28

1 [End of Transcript]

2

3

CERTIFICATION OF TRANSCRIPT

4

5 I, ANGIE R. PULIDO, do hereby certify:

6

7 That I am a subcontractor performing work for Perfect Pages LLC, a professional
8 transcription firm based in Oakland, California;

9

10 That I frequently transcribe audio and video recordings and have worked in the field
11 for 8 years and am qualified by experience to transcribe audio files;

12

13 That the Ad Hoc Committee on Waste and Recycling provided this recording
14 pertaining to the Ad Hoc Committee on Waste and Recycling Meeting dated
15 Tuesday, April 10, 2012;

16

17 That, to the best of my ability, and to the best of my knowledge and skill, this
18 transcript constitutes a full, true, and correct report of the requested recording;

19

20 And, that I am a disinterested person to the said action who is providing this
21 transcript as a commercial service.

22

23 I declare under penalty of perjury under the laws of the United States that the
24 foregoing is true and correct and that this declaration was executed by me:

25

26 Signature: _____ dated 8/15/2012 at Atwater, California.



MILES LAW GROUP

3151 Airway Avenue, Suite R-1 • Costa Mesa, CA 92626
Phone: 714.384.0173 • Fax 714.556.3905

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LAND USE • ENVIRONMENT • ENTITLEMENT

smiles@mileslawgroup.com

February 13, 2012

VIA HAND DELIVERY

Honorable Andrea Alarcón
All Commissioners
City of Los Angeles
Department of Public Works
200 N. Spring St.
Los Angeles, CA 90012

Re: Department of Public Works – Bureau of Sanitation Board Report No. 1,
February 13, 2012

Honorable Board President Alarcón:

This Office respectfully writes on behalf of several stakeholders – including environmental interests and environmentally-minded businesses, community activists, and several medium to small waste haulers and recyclers (“Stakeholders”) with regard to the Bureau of Sanitation Board Report referenced above (the “Board Report”). These Stakeholders, many small businesses that have provided generations of quality service to Los Angeles residents, will be directly impacted should the recommendations of the Board Report be approved without a hard look at the mandatory requirements of the California Environmental Quality Act (Cal. Pub. Res. Code § 21000 et seq.; “CEQA”) that apply to the City of Los Angeles before committing to a “project” under CEQA. Moreover, Stakeholders have several legal concerns with regard to the Board of Public Works’ authority concerning waste franchises, including potential violations of the City of Los Angeles Municipal Code.

The Board Report asks that the Board of Public Works (“Board”) take action to direct the Bureau of Sanitation to draft exclusive franchise agreements for the collection of solid waste from commercial, industrial, institutional, and multifamily properties in eleven collection areas. The Board Report chooses an exclusive franchise design with only one hauler per collection area. The proposed exclusive franchise will involve over 100,000 commercial accounts, 660,000 apartment units, and total approximately two million tons of waste. The Board Report selects this specific franchise design and forecloses alternatives including a non-exclusive franchise at this early stage with no competent environmental analysis whatsoever.



Department of Public Works
February 13, 2012
Page 2

This action violates CEQA. Before approving the Board Report, the Board must study this chosen alternative under CEQA, and an Environmental Impact Report (“EIR”) is necessary.

Submitted herewith to be included in the record are expert comments of Matt Hagemann, P.G., C.Hg. that demonstrate a fair argument of significant, unanalyzed environmental impacts of the proposed franchise in the Staff Report. Attached to Mr. Hagemann’s letter for the record are the January 23, 2012 HF&H Consultants LLC “City of Los Angeles Solid Waste Franchise Assessment Final Report” (the “HF&H Report”), the AECOM January 2012 Report titled “Economic Impact Analysis Waste Hauling Policy Framework in the City of Los Angeles” (the “AECOM Report”), the Los Angeles County Disposal Association February 2012 Report titled “An Open Franchise System for Waste Collection and Recycling in Los Angeles: The Key to Cost Control and Quality Service” (the “LACDA Report”), as well as the City of San Jose CEQA Initial Study dated May 2011 for “Commercial Collection System Redesign.”

I. The Board Selects and Precommits to an Exclusive Waste Hauling Franchise Of Specific Design Without Conducting Environmental Analysis

Stakeholders believe that the Board Report, and the actions set forth therein, constitute a precommitment to an exclusive waste hauling arrangement prior to conducting any environmental analysis that is required by CEQA. CEQA requires the City of Los Angeles (the “City”) to prepare and “certify the completion of, an environmental impact report on any project which they *propose to carry out or approve* that may have a significant effect on the environment.” (Cal. Pub. Res. Code § 21100(a); *see also* Pub. Res. Code § 21151.” “Approval’ means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person.” (CEQA Guidelines § 15352(a).)

Postponing the preparation of an EIR until after the City has committed to an exclusive waste hauling arrangement undermines CEQA’s goal of transparency in environmental decisionmaking. Besides informing the decision makers themselves, the EIR is intended “to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its action.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86.)



Department of Public Works
February 13, 2012
Page 3

Oddly enough, while many years have transpired as the City investigated options available to its solid waste operations (See, e.g., HF&H Report at pp. 7, 8), the City has neglected its obligations under CEQA to conduct timely and meaningful environmental analysis. Although the HF&H Report claims to address both environmental and financial objectives, the Report is devoid of any true environmental analysis that could possibly justify the continued deferral of environmental analysis that is reflected in the Board Report. For example, of the seventeen (17) Findings set forth in the HF&H Report at pp. 1 and 2, only Finding 9 addresses potential environmental impacts by stating, in a conclusory fashion, that: "An exclusive franchise system would result in the fewest number of commercial refuse vehicles, and minimize the environmental footprint of solid waste operations by decreasing truck traffic, vehicle emissions, pavement impacts, and noise."

Finding 9 concludes that an exclusive franchise system would minimize the environmental footprint of solid waste operations without conducting any analysis of how vehicular miles would be reduced. This is the type of analysis that is required at the earliest feasible time for a public project and well before that analysis is conducted merely as a foregone conclusion that an exclusive franchise system is the only option. For example, why eleven collection areas and one exclusive hauler, as described in the Board Report? For example, why not more collection areas and multiple haulers per area, or a non-exclusive franchise? The exclusive franchise must be studied in an EIR, along with the possible alternatives, before it is selected over the others.

Simply put, an initial study must be conducted for the five options analyzed in the HF&H Report (and other possible options not addressed by the HF&H Report). (HF&H Report, p. 11.) To select one specific franchise alternative while continuing to defer environmental analysis, as depicted in the Board Report, is a patent violation of CEQA.

In the seminal decision of *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, the California Supreme Court addressed the proper timing for CEQA compliance within the context of a private project approval by a lead agency. Addressing an "earliest commitment" standard for approval of a private project, the Supreme Court "emphasized the practical over the formal in deciding whether CEQA review can be postponed, insisting it be done early enough to serve, realistically, as a meaningful contribution to public decisions."

The Supreme Court also looked to the CEQA Guidelines governing the time for



Department of Public Works
February 13, 2012
Page 4

CEQA compliance, which provides:

“Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment. (1) With public projects, at the **earliest feasible time**, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project. (2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not: ... (B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.”

(CEQA Guidelines § 15004(b), Emphasis added; See, also, *Cedar Fair LLP v. City of Santa Clara* (2011) 194 Cal. App. 4th 1150, 1162-63.)

The facts reflected in the Board Report are clear – the City committed to an exclusive waste hauling operation on a City-wide basis prior to conducting environmental analysis for this project. The Board Report asks that the City foreclose four of the five alternatives set forth in the HF&H Report – alternatives that would ordinarily be part of CEQA review of a public project. Before the City has considered the preparation of an initial study to determine what potential environmental impacts may be associated with the reformation of waste hauling operations on a City-wide basis or even held as much as a scoping meeting, the Board Report asks the City to commit to an exclusive waste hauling operation and engage in *post hoc* environmental analysis for that commitment. This out-of-sequence decision-making process, conducted without a scintilla of environmental analysis, is an egregious violation of CEQA where public projects require the incorporation of environmental considerations at the **earliest feasible time**—not after-the-fact. (CEQA Guidelines § 15004(b).)



Department of Public Works
February 13, 2012
Page 5

“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved.” (*Save Tara*, 45 Cal.4th at 134; emphasis in original.) No information has been provided to the decision makers (or the public) that can be used to decide whether to approve any option to the City’s waste hauling operations, let alone an exclusive option. The HF&H Report and Board Report do nothing more than show the City’s commitment to a preordained outcome and fail to address potential environmental effects associated with an exclusive waste hauling franchise.

II. A Fair Argument of Significant Impacts Exists From an Exclusive Franchise

“The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.)

The EIR is the “heart” of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report (“EIR”) except in certain very limited circumstances. A negative declaration may be prepared instead of an EIR only when a lead agency determines that a project “would not have a significant effect on the environment.” (*Id.*, § 21080(c).) Such a determination may be made only if “[t]here is no substantial evidence in light of the whole record before the lead agency” that such an impact may occur. (*Id.*, § 21080(c)(1).)

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a “fair argument” that significant impacts may occur, even if other substantial evidence supports the opposite conclusion. (*Mejia v. Los Angeles* (2005) 130 Cal.App.4th 322; *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) “Substantial evidence includes ... expert opinion.” (Pub. Res. Code § 21080(e)(1); CEQA Guidelines § 15064(f)(5).)

As discussed below, expert Matt Hagemann P.G., C.Hg. has submitted evidence herewith that establishes a fair argument that the exclusive franchise selected in the



Department of Public Works
February 13, 2012
Page 6

Board Report may have significant adverse environmental impacts. An EIR is therefore required.

Mr. Hagemann opines:

“We have concluded that there is a fair argument that this selected franchise design will negatively impact air quality, odorous emissions and traffic in the Northeast San Fernando Valley neighborhoods of Los Angeles, particularly Sun Valley, where truck trips will be concentrated . . .

The issue of waste destination (ie., where is the waste transferred to and disposed of) is significant. The Board Report does not meaningfully address the fact that disposal and transfer locations obviously will not exist within each of the proposed eleven collection areas, no matter how delineated. To the contrary, within the City of Los Angeles these disposal and transfer facilities are concentrated in the Northeast San Fernando Valley, as noted above . . .

We acknowledge that the Board Report states that truck trips will be reduced but there are absolutely no specifics provided in the Board Report that substantiate this claim. For example, the Board Report cites to and relies upon the new commercial collection program that is starting in San Jose (a City with approximately only 10% of the waste volume of Los Angeles). However, the San Jose CEQA Initial Study and Appendix A dated May 2011 (see attached Exhibit E) found that there would be an increase in both truck trips and vehicle miles under the proposed program there as a result of consolidating waste haulers . . .

Yet, none of this has been studied for the City of Los Angeles in the Board Report, even as the Board takes action to precommit and select a specific exclusive franchise design . . .

We have concluded based on the data in the Board Report, the



Department of Public Works
February 13, 2012
Page 7

HF&H Report (pp. 4-11), the AECOM Report (pp. 11-25) and LACDA Report (pp. 4-6), the potential excess waste transfer and disposal flow to destinations in the Northeast San Fernando Valley could approach about 268,000 tons. Each refuse collection truck typically hauls 20 tons; as a result this amounts to approximately 13,400 trucks, or 26,800 truck trips, annually. There is a fair argument that this will have significant, unmitigated and unstudied impacts, particularly since the proposed action is foreclosing a non-exclusive approach including smaller haulers that leads to a more equitable pattern of disposal destination. The increase in truck trips to these facilities will result in an increase in traffic, air emissions and other impacts, particularly in the Northeast San Fernando Valley

...

All this must be studied in the case of the City of Los Angeles before any decision on the eleven exclusive collection areas is made and before foreclosing a non-exclusive franchise option. In this circumstance, the Board Report selects a specific franchise design and forecloses alternatives including a non-exclusive franchise at this early stage with no competent environmental analysis. . . .

An EIR should be prepared that addresses these issues. Before action on any specific franchise design is selected, the EIR should study all alternatives, properly disclose these impacts and provide mitigation measures that can reduce these impacts to less than significant levels.”

See Hagemann letter dated February 10, 2012 with emphasis in original.

III. The City’s Municipal Code Precludes the Action in the Board Report

The exclusive franchise to be selected violates the plain language of the Los Angeles Municipal Code. It violates Municipal Code sections 66.08.04, 66.32 and 66.32.4 set forth with emphasis below. We attach hereto the relevant legislative history for these Code sections as Exhibit A. As such, the proposed action is contrary to law:



Department of Public Works
February 13, 2012
Page 8

L.A.M.C. § 66.08.4. FRANCHISE TERMS AND CONDITIONS.

(a) All franchises granted to persons pursuant to this division shall be non-exclusive.

L.A.M.C. § 66.32. PURPOSE AND DEFINITIONS.

In order to meet AB 939 diversion goals and the City of Los Angeles' diversion goal of 70 percent by the year 2020, private solid waste haulers and recyclers shall register with the City and display a permit decal and number issued by the City through the Department of Public Works, Bureau of Sanitation. Waste haulers shall pay an AB 939 compliance fee as set forth in this section and in sections 66.32.1 through 66.32.8 based on gross receipts of solid waste collected. Among the various purposes of this program is the goal of maintaining an open and competitive market for all companies providing solid waste and disposal services in the City.

L.A.M.C. § 66.32.4. COMPLIANCE PERMIT TERMS AND CONDITIONS.

(a) The City shall not limit the number of AB 939 Compliance Permits issued.

When interpreting this language, the court will give these words "their plain, usual, ordinary and commonsense meaning." *Tucker v. Grossmont Union High School District* (2008) 168 Cal.App.4th 640, 645. "[A]dministrative regulations that alter or amend the statute or enlarge or impair its scope are void." *Ocean Park Assn. v. Santa Monica Rent Control Bd.* (2004) 114 Cal.App.4th 1050, 1064. Here, the terms "non-exclusive," "open and competitive" and "shall not limit" in the Los Angeles Municipal Code do not and cannot mean "exclusive." This Staff Report selects an exclusive franchise. This inconsistency with the Los Angeles Municipal Code cannot be ignored or merely explained away. As such, the proposed action is contrary to law.



Department of Public Works
February 13, 2012
Page 9

IV. All Franchise Decisions Must be Approved by the City Council

Pursuant to the Los Angeles City Charter Section 390, this Board Report and all subsequent decisions on any franchise must be approved by the City Council. The Board does not have authority to make franchise decisions on its own. As Charter Section 390 provides:

“(a) Granting of Franchises. The City may grant franchises for fixed terms, permits or privileges (Franchises) for the construction and operation of plants or works necessary or convenient for furnishing the City and its inhabitants with transportation, communication, terminal facilities, water, light, heat, power, refrigeration, storage, or any other public utility or service (Public Utility Service). The Council may prescribe the terms and conditions of the grant, and shall prescribe by ordinance the procedure for making these grants, subject to the limitations provided in the Charter and applicable law.”

V. The Board Report Must Be Reviewed by the City Council’s Budget and Finance Committee

As noted above, the AECOM Report is replete with data on the economic and budgetary impacts on the City of Los Angeles of the proposed action in the Staff Report to select an exclusive franchise. This proposed action must be reviewed by the City Council’s Budget and Finance Committee. Pursuant to City Admin. Code Section 2.8, “It shall be the duty of each such committee to be fully informed of the business of the City included within the division to which it is assigned, and to report to the Council such information or recommendations concerning the business of such divisions as shall be necessary to enable the Council properly to legislate for such division.”

Here, as set forth in City Resolution 11-1529-S3 dated January 27, 2012, these matters are the purview of the Budget and Finance Committee of the City Council whose duty is “overseeing the functions of government” including:

“The City Budget in its entirety; expenditure of City funds; levying of taxes and fees, except City business taxes; receipt of City funds; City Attorney



Department of Public Works
February 13, 2012
Page 10

liability report; refunds; claims; approval of City bond issues and other financing mechanisms which have a direct impact on the City's General Fund . . .”

Accordingly, the Board Report must be reviewed by the City Council's Budget and Finance Committee.

VI. Mailing List Request

This Office hereby respectfully requests that the City send by mail and electronic mail to the address below notice of any and all actions or hearings or related to activities undertaken, authorized, approved, permitted, licensed, or certified by the Board, Bureau of Sanitation or City concerning the Board Report or a solid waste collection franchise, including but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code § 65091.
- Any and all notices prepared pursuant to the California Environmental Quality Act including, but not limited to:
- Notices of any public hearing.
- Notice of approval and/or determination to carry out a project, prepared pursuant to Pub. Res. Code § 21152 or any other provision of law.
- Notice of exemption from CEQA prepared pursuant to Pub. Res. Code § 21152 or any other provision of law.

This Office is requesting notices of CEQA actions and notices of any approvals or public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law, as well as the City of Los Angeles Municipal Code. This request is filed pursuant to Pub. Res. Code §§ 21092.2, and 21167(f) and Government Code § 65092, which require local agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

In sum, for all these reasons, if the Board of Public Works acts to precommit and select the proposed exclusive franchise design, my clients will have no choice but to pursue all available legal remedies.



MILES LAW GROUP

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Phone: 714.384.0173 • Fax 714.556.3905

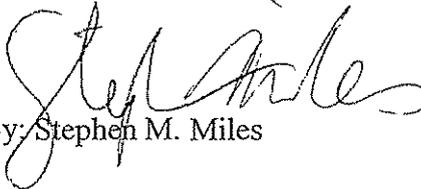
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Department of Public Works
February 13, 2012
Page 11

Thank you for consideration of this letter. Please do not hesitate to contact us if you have any questions.

Very truly yours,

MILES • LAW GROUP, P.C.



By: Stephen M. Miles

Attachs:

Legislative History Los Angeles Municipal Code sections 66.08.04, 66.32 and 66.32.4

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CITY OF LOS ANGELES
CALIFORNIA

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

J. MICHAEL CAREY
City Clerk



RICHARD J. RIORDAN
MAYOR

When making inquiries
relative to this matter
refer to File No.

99-1119-S2

CD 12

December 1, 1999

PLACE IN FILES
DEC 06 1999

DEPUTY

Board of Environmental Affairs
City Administrative Officer
Bureau of Sanitation
Controller, Room 1200
Accounting Division, F & A
Disbursement Division

City Attorney
Council Member Feuer
Council Member Ridley-Thomas
Council Member Walters
Council Member Bernson

RE: AMENDING EXISTING ORDINANCES AND FUNDING FOR GARBAGE REFUSE COLLECTION
AND DISPOSAL, AND IMPOSING FRANCHISE REQUIREMENTS FOR THE OPERATION OF
SOLID WASTE FACILITIES

At the meeting of the Council held November 17, 1999, the following
action was taken:

Attached report adopted	_____	X
Attached motion () adopted	_____	
Attached resolution adopted ()	_____	
Mayor concurred.....	_____	
FORTHWITH.....	_____	X
(3) Ordinances adopted.....	_____	
Motion adopted to approve attached report.....	_____	
Motion adopted to approve communication.....	_____	X
To the Mayor FORTHWITH.....	_____	
Ordinance Numbers.....	172905 thru 172907	
Publication date.....	12-7-99	
Effective date.....	1-7-00	
Mayor vetoed.....	_____	
Mayor approved.....	_____	11-23-99
Mayor failed to act - deemed approved.....	_____	
Findings adopted.....	_____	

J. Michael Carey

City Clerk
bs

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE
AND
BUDGET AND FINANCE COMMITTEE

reports as follows:

Yes No
Public Comments: XX —

ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT AND BUDGET AND FINANCE COMMITTEE'S REPORT and ORDINANCES relative to amending existing Ordinances and funding for garbage refuse collection and disposal, and imposing franchise requirements for the operation of solid waste facilities.

Recommendations for Council action:

1. PRESENT and ADOPT accompanying ORDINANCE amending the Los Angeles Municipal Code Chapter VI, Article 6, to retitle the existing ordinance for garbage refuse collection and disposal, and to impose franchise requirements for the operation of solid waste facilities.
2. PRESENT and ADOPT accompanying ORDINANCE amending Sec. 5.496 of the Los Angeles Administrative Code (LAAC) to amend the purpose of the Sunshine Canyon Community Amenities Trust Fund and to specify that appropriations to the fund will come from a portion of the franchise fee for Sunshine Canyon.
3. PRESENT and ADOPT accompanying ORDINANCE amending Sec. 5.429 of the LAAC to amend the purpose of the Integrated Solid Waste Management Trust Fund and to specify that appropriations to the fund will come from a portion of the franchise fee for Sunshine Canyon.

Fiscal Impact Statement: None submitted by the Department of Public Works. Neither the City Administrative Officer (CAO) nor the Chief Legislative Officer has completed a financial analysis of this report.

Summary:

On October 28, 1999, the Environmental Quality and Waste Management Committee and the Budget and Finance Committee met at a joint meeting to discuss the franchise fee ordinance transmitted by the City Attorney for landfill operators. The Chief Legislative Analyst presented a memorandum with three options for the use of the funds to be derived from the franchise fee for Sunshine Canyon. In Option 1, 100% of the franchise fee would be deposited into the Sunshine Canyon Community Amenities Trust Fund and the monies would be used within a certain number of miles of Sunshine Canyon. Option 2 would place 50% of the franchise fee into the Sunshine Canyon Community Amenities Trust Fund and 50% into the General Fund. Option 3 would

place the portion of the franchise fee from non-City-hauled trash

3, the portion of the franchise fee from City trash would remain in the General Fund.

During the Committee discussion, a representative from Councilmember Bernson's Office recommended that Option 3 be adopted and that the ordinance specify that the funds in the Sunshine Canyon Community Amenities Trust Fund must be used within five miles of Sunshine Canyon. The Chief Legislative Analyst reported that Option 3 would place approximately \$2.5 million to \$3 million in the Sunshine Canyon Community Amenities Trust Fund, which is about 50% of the revenue anticipated from the proposed franchise fee.

The Committee members agreed with Councilmember Bernson's recommendations relative to the Sunshine Canyon Community Amenities Trust Fund but suggested that the remaining funds from the franchise fee go into another special fund as opposed to the General Fund. Councilmember Feuer moved that the portion of the franchise fee from City-hauled trash be placed in the Integrated Solid Waste Management Trust Fund, to be used to develop technology and infrastructure for alternative fuel refuse collection and transfer vehicles and to fund the acquisition of such vehicles. The Chief Legislative Analyst advised that the portion of the franchise fee attributed to City-hauled trash will be indirectly paid by the City and therefore does not constitute new revenue. The Chief Legislative Analyst also stated that the amount of the franchise fee attributed to City-hauled trash could grow in the future. Councilmember Galanter therefore recommended that a sunset provision be added to the portion of the franchise fee going into the Integrated Solid Waste Management Trust Fund.

The Committee recommended that the franchise fee Ordinance be adopted and that the City Attorney prepare and present two additional ordinances to Council, one amending the Sunshine Canyon Community Amenities Trust Fund ordinance as described above and the other amending the Integrated Solid Waste Management Trust Fund ordinance as described above. Councilmember Galanter, of the Environmental Quality and Waste Management Committee stated that she would support a franchise ordinance for private trucks in addition to franchise ordinance for landfill operators.

Respectfully submitted,

ENVIRONMENTAL QUALITY AND
WASTE MANAGEMENT COMMITTEE

Mark Galanter

BUDGET AND FINANCE COMMITTEE

Mark Feuer
Rita Walters

NOV 09 1999 - CONTINUED TO NOV 17 1999

REPT 1 ORDS
ADOPTED

BG:bg
11/1/99
#991119.2a

NOV 17 1999

LOS ANGELES CITY COUNCIL

28

28



WRITER'S DIRECT DIAL:

FAX:
TTY: (213) 485-5637

(213) 847-0399

Office of the City Attorney
Los Angeles, California

JAMES K. HAHN
CITY ATTORNEY

REPORT NO. R99-0336
October 25, 1999

REPORT RE:

REFUSE DISPOSAL FACILITY FRANCHISE
AN ORDINANCE AMENDING LOS ANGELES MUNICIPAL
CODE, CHAPTER VI, ARTICLE 6

The Honorable City Council
of the City of Los Angeles
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

Honorable Members:

Pursuant to the request of the Chief Legislative Analyst, this Office has prepared and transmits herewith, approved as to form and legality, an Ordinance amending Los Angeles Municipal Code, Chapter VI, Article 6. This ordinance would require a franchise of refuse disposal facilities operated in the City. Affected City agencies have received copies of the ordinance and have been directed to bring their comments directly to Council when the matter is heard. A representative of the City Attorney's Office will be available to answer any questions you may have when the Council considers the matter for adoption.

APPROVED

[Signature]

Very truly yours,

JAMES K. HAHN, City Attorney

By *[Signature]*
KEITH W. PRITSKER
Deputy City Attorney

KWP:gz\48995

cc: Karen Coca, Bureau of Sanitation
Wayne Tsuda, Environmental Affairs Department

FOR PLACEMENT ON NEXT
CITY COUNCIL AGENDA TO BE VOTED

99-1119-51

#61

for Council

OCT 22 1999

Tuesday 10-26-99

MOTION

I MOVE that the attached ordinance be adopted to amend Chapter VI, Article 6 of the Los Angeles Municipal Code to allow the City to award a non-exclusive franchise or contract for the collection and/or disposal of waste materials.

This motion is to be considered with item No. 10 (C.F. 99-1119) on the October 26, 1999 City Council agenda concerning the expansion of Sunshine Canyon Landfill.

PRESENTED BY Cody Mischaikin

SECONDED BY John Ferraro

OCT 26 1999 - Ref to EQ & WM and B&F Comtee

CLA MEMORANDUM

October 28, 1999

TO: Honorable Members of the Environmental Quality and Waste Management
Committee and the Budget and Finance Committee

FROM: Ronald F. Deaton *RFD*
Chief Legislative Analyst

Assignment No. 99-10-1326

Options for Sunshine Canyon Trust Fund

The City Attorney has prepared an ordinance which would require that landfill operators enter into a franchise agreement with the City to collect or dispose rubbish in the City of Los Angeles. During the discussion in Council on Sunshine Canyon on October 26, 1999, Councilmembers asked for options on how the Franchise Fees could be used.

We would recommend that the Franchise Fee ordinance drafted by the City Attorney remain as written. This will allow the ordinance to be used in the future for other potential landfills. The uses of the Franchise Fee for Sunshine Canyon could be specified in a separate ordinance.

Attached are three options for creating a Sunshine Canyon Community Amenities Trust Fund which would specify how the funds from the Franchise Fee for Sunshine Canyon would be used. All options of the ordinance would be modeled after the ordinance that created the Lopez Canyon Community Amenities Trust Fund. The options are summarized below:

- Option 1:** 100% of the Franchise Fee would be deposited into the Trust Fund. The funds could be used within a certain number of miles of Sunshine Canyon.
- Option 2:** 50% of the Franchise Fee would be deposited into the Trust Fund. The funds could be used within a certain number of miles of Sunshine Canyon.
- Option 3:** The portion of the Franchise Fee from non-City trash would be deposited into the Trust Fund. The portion of the Franchise Fee from City trash would remain in the General Fund. The Trust Fund could be used within a certain number of miles of Sunshine Canyon.

In options 2 and 3, the remaining funds would be placed in the General Fund and could be used as designated by the Council and Mayor on an annual basis.

ATTACHMENTS

Options 1, 2, and 3
Lopez Canyon Community Amenities Trust Fund

Mayor's Time Stamp

TIME LIMIT FILES
ORDINANCES

RECEIVED
CITY CLERK'S OFFICE
CITY Clerk's Time Stamp

99 NOV 19 PM 4:08

RECEIVED

FORTHWITH

BY CITY CLERK

DEPUTY

99 NOV 19 P4:16

COUNCIL FILE NUMBER 99-1119-S2

COUNCIL DISTRICT 12

NOV 29 1999

DEPUTY MAYOR
COUNCIL APPROVAL DATE November 17, 1999

LAST DAY FOR MAYOR TO ACT _____

ORDINANCE TYPE: Ord of Intent Zoning Personnel General

Improvement LAMC LAAC CU or Var Appeals - CPC No _____

3 ORDINANCES

SUBJECT MATTER:

172905 Amending Chapter VI, Article 6, to retitle the existing ordinance for garbage refuse collection and disposal, and to impose franchise requirements for the operation of solid waste facilities.

172906 Amending Sec. 5.496 to amend the purpose of the Sunshine Canyon Community Amenities Trust Fund and to specify that appropriations to the fund will come from a portion of the franchise fee for Sunshine Canyon.

172907 Amending Sec. 5.429 to amend the purpose of the Integrated Solid Waste Management Trust Fund and to specify that appropriations to the fund will come from a portion of the franchise fee for Sunshine Canyon.

RECOMMENDATIONS:

APPROVED

DISAPPROVED

PLANNING COMMISSION _____

DIRECTOR OF PLANNING _____

CITY ATTORNEY X _____

CHIEF LEGISLATIVE ANALYST X _____

BUDGET AND FINANCE COMMITTEE X _____

ENVIRONMENTAL QUALITY AND
WASTE MANAGEMENT COMMITTEE X _____

BY CITY CLERK

RECEIVED
CITY CLERK'S OFFICE
99 NOV 23 PM 2:46

DATE OF MAYOR APPROVAL, DEEMED APPROVED OR *VETO: NOV 23 1999

*VETOED ORDINANCES MUST BE ACCOMPANIED WITH OBJECTIONS IN WRITING PURSUANT TO CHARTER SEC. 29

(CITY CLERK USE ONLY PLEASE DO NOT WRITE BELOW THIS LINE)

DATE RECEIVED FROM MAYOR 11-23-99

ORDINANCE NO. 172905, 172906, 172907

DATE PUBLISHED 12-7-99

DATE POSTED _____

EFFECTIVE DATE 1-7-2000

ORD OF INTENT: HEARING DATE _____

ASSESSMENT CONFIRMATION _____

ORDINANCE FOR DISTRIBUTION: Yes [] No []

J. MICHAEL CAREY
City Clerk

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1188
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

02-1005

PLACE IN FILES

JUN 25 2003

DEPUTY *W*

June 19, 2003

City Administrative Officer
Chief Legislative Analyst
City Attorney
Controller: Room 300
Accounting Division F&A
Disbursement Division
Bureau of Sanitation
Board of Public Works

Claudia Gutierrez
Allen Matkins
515 S. Figueroa
Los Angeles, CA 90071

Ron Saldana
L.A. County Disposal Association
5753-G Santa Ana Cyn Rd., #2000
Anaheim Hills, CA 92807

Mike Hammer
Looney Bins Inc.
11616 Sheldon Street
Sun Valley, CA 91352

RE: PRIVATE WASTE HAULER PERMIT PROGRAM

At the meeting of the Council held June 3, 2003, the following action was taken:

Attached resolution adopted.....
Mayor approved.....
FORTHWITH.....
Mayor concurred.....
To the Mayor FORTHWITH.....
Motion adopted to approve committee report
and communication recommendation(s)..... X
Motion adopted to approve communication recommendation(s).....
Ordinance adopted.....
Ordinance number.....
Publication date.....
Effective date.....
Findings adopted.....

J. Michael Carey

City Clerk
CRM

02 6-25-03

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your PERSONNEL COMMITTEE

AND

COMMUNICATION, CHAIR ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT
COMMITTEE

report as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u> </u>

PERSONNEL COMMITTEE REPORT and COMMUNICATION FROM CHAIR,
ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE relative to
private waste hauler permit program.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE
MAYOR:

1. APPROVE continuation of the AB 939 fee system on the basis of gross receipts.
2. APPROVE the proposed Rebate/Incentive Program designed to increase the use of material recovery facilities for additional waste diversion, effective retroactively to April 7, 2003. Twenty percent, estimated \$2.4 million each year, of the total revenue generated by the AB 939 compliance fee is allocated to the proposed Rebate/Incentive Program. The Rebate/Incentive Program is Attachment No. 2 to the "Waste Hauler Ordinance Supplemental Staff Report, CF 02-1005," Transmittal No. 3 in the Board of Public Works report, dated April 7, 2003, attached to the Council file.
3. APPROVE an exemption from the hiring freeze for all positions funded by the Citywide Recycling Trust Fund 46D for the purpose of executing the AB 939 Compliance Fee programs.

Fiscal Impact Statement: The Board of Public Works reports that the above recommendations have no fiscal impact on the General Fund as the Citywide Recycling Trust Fund funds this program.

Summary:

The City Administrative Officer (CAO) states in its report dated May 12, 2003, attached to the Council file, that the Board of Public Works (BPW) report dated April 15, 2003, attached to the Council file, states that the BPW has adopted and transmits a Bureau of Sanitation (BOS) report, dated April 7, 2003, attached to the Council file, concerning the Waste Hauler Permit Program adopted by the Council for Fiscal Year 2002-03. The report provides a discussion of the gross receipts fee versus a tonnage disposed based fee and administrative funding adjustments for the remainder of Fiscal Year 2002-03. The BPW report recommends continuation of the gross receipts fee and establishment of a Rebate/Incentive Program. Additionally, staffing, expense and funding adjustments are itemized to further promote the Waste Hauler Permit Program.

The CAO states that the Mayor's Proposed Budget includes the staffing and funding adjustments requested in the BPW report, but authority to hire the employees is requested now in order to expedite Waste Hauler Permit Program delivery. Also, requested now is establishment of the Rebate/Incentive Program, retroactive to April 7, 2003, to encourage waste haulers to implement recycling programs.

The CAO states that the Council has an adopted landfill diversion goal of 70 percent by 2020, more than the State mandated 50 percent that the City was required by AB 939 to meet by December 2000. To meet this higher goal, inclusion of the multiple family/commercial/industrial buildings is needed. This was the purpose behind the Waste Hauler Permit Program included in the 2002-03 Adopted Budget. A gross receipts fee of 10 percent, effective September 2002, was enacted to promote recycling programs for the customers of these waste haulers.

The CAO states that during Council hearings on the new ordinance, a proposal was made to collect the fees based on tonnage disposed. The Council adopted the gross receipts approach, but requested a report on a tonnage disposed based system for comparison. In its transmittal dated April 15, 2003, the BPW is recommending retention of the gross receipts fee structure based on an analysis of the major issues in the Waste Hauler Permit Program. Attached to this report is the CAO's chart listing the major issues in the Waste Hauler Permit Program and a comparison of these issues between the two fee structures.

The CAO states that a review of the practices of other jurisdictions shows that a great majority in the Los Angeles County Region use a gross receipts system. Others collect fees on tonnage collected. Only Santa Monica uses a tonnage disposed fee system and this city does not audit the haulers which the CAO and BPW believe will be necessary because of the size and number of haulers.

The CAO states that the BPW proposes a rebate/incentive plan that will rebate fees for recycled materials delivered to fully permitted processing facilities. The rebate will be based on the diversion rate of the facility and credited against a hauler's future quarterly payment of the fee, not to exceed the amount of the fee. Only haulers who wish to receive the rebates would have to provide additional documentation. Twenty percent of the total revenue collected annually will be allocated for this program.

The CAO and BPW believe continuation of the gross receipts fee is appropriate for the Waste Hauler Permit Program. Continuation of this fee will ensure reduced administrative costs; improved chances for customers of the private waste haulers to realize and track cost savings from their waste haulers; and, avoidance of conflicts of interest for those waste haulers operating disposal sites as well as collecting waste from non-City customers. The gross receipts fee structure will also provide a stable revenue source to develop and maintain funding for diversion programs. It has more potential for achieving the 70 percent diversion goal with a minimum of intrusion into the daily work of the businesses and customers involved.

The CAO states that the BPW/BOS agrees that its funding requests and adjustments have been addressed in the Mayor's Proposed Budget for 2003-04. In addition to retention of the gross receipts fee and establishment of the rebate/incentive program, at this time, the BPW/BOS request only an exemption from the hiring freeze for all positions funded by AB 939 (through the Citywide Recycling Trust Fund).

On May 12, 2003, the Chair of the Environmental Quality and Waste Management Committee discussed the Waste Hauler Permit Program with representatives from the CAO, BOS, and waste hauler representatives. The attorney for Crown Disposal stated that Crown Disposal is opposed to Recommendation Nos. 1 and 2, above. Crown disposal wants the fee based on tonnage disposed. The representative from the Los Angeles County Disposal Association stated that this trade association, representing solid waste

haulers throughout Los Angeles City and County, has determined that the majority support Recommendation Nos. 1 and 2, above. The representative from Looney Bins, Inc., stated that his company hauls and recycles construction debris, supports the gross receipts fee system with the inclusion of the rebate program, and requests that the rebate be retroactive to January 1, 2003.

The Chair of the Environmental Quality and Waste Management Committee approved the CAO's recommendations. On May 27, 2003, the Personnel Committee concurred with the recommendation of the Chair of the Environmental Quality and Waste Management Committee. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,

PERSONNEL COMMITTEE



City Manager



Councilmember Nate Holden, Chair
Environmental Quality and Waste
Management Committee

IS
5/27/03
#021005b.wpd

Attachment

MOTION ADOPTED TO APPROVE COMMITTEE REPORT RECOMMENDATIONS
AND COMMUNICATION
ADOPTED

JUN 03 2003

LOS ANGELES CITY COUNCIL

REPORT FROM

CITY CLERK'S OFFICE

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

CITY CLERK

Date: May 12, 2003

BY _____ DEPUTY

CAO File No. 0610-01876-0298
Council File No. 02-1005
Council District: All

To: Environmental Quality and Waste Management Committee

From: William T Fujioka, City Administrative Officer *WTF
WMT*

Reference: Request for Report from the Environmental Quality and Waste Management Committee dated April 18, 2003

Subject: Waste Hauler Permit Program

SUMMARY

The Board of Public Works has forwarded a Bureau of Sanitation report concerning the Waste Hauler Program adopted by the Council for the 2002-03 fiscal year. It provides a discussion of the gross receipts fee versus a tonnage-based fee and administrative funding adjustments for the remainder of the 2002-03 fiscal year. The report recommends continuation of the gross receipts fee and establishment of a Rebate/Incentive Program. Additionally, staffing, expense and funding adjustments are itemized to further promote the Program.

The Mayor's Proposed Budget includes the staffing and funding adjustments requested in the report, but authority to hire the employees is requested now in order to expedite Program delivery. Also requested now is establishment of the Rebate/Incentive Program, retroactive to April 7, 2003, to encourage waste haulers to implement recycling programs.

Background

The City Council has an adopted landfill diversion goal of 70 percent by 2020, more than the state mandated 50 percent that the City was required by AB 939 to meet by December 2000. To meet this higher goal, inclusion of the multiple family/commercial/industrial buildings is needed. This was the purpose behind the Waste Hauler Permit Program included in the 2002-03 Adopted Budget. A gross receipts fee of 10 percent, effective September 2002, was enacted to promote recycling programs for the customers of these waste haulers.

During Council hearings on the new ordinance, a proposal was made to collect the fees based on tonnage. The Council adopted the gross receipts approach but requested a report on a tonnage-based system for comparison. The Bureau of Sanitation has prepared a report recommending retention of the gross receipts fee structure based on an analysis of the major issues in the Program. These are as follows:

MAY 13 2003

ENV QUAL & WASTE MGT

- Administrative Costs
- Audit and Verification Requirements
- Rebates/Incentives
- Impacts to Fee Paying Customers
- Accuracy of Data Used to Calculate Fees
- Conflicts of Interest
- Program Purpose and Funding

A comparison of these issues between the two fee structures is well developed in the Bureau's report but a summary of the points is attached for reference. A review of the practices of other jurisdictions shows that a great majority in the Los Angeles County Region uses a gross receipts system. Others collect fees on tonnage collected. Only Santa Monica uses a different process and they do not audit the haulers which we believe will be necessary due to the size and number of haulers. Another concern under a tonnage-based fee is that all haulers would have to provide detailed reports whereas under the rebate/incentive program, only haulers claiming these rebates would have to provide the documentation.

The Bureau of Sanitation proposes a rebate/incentive plan that will rebate fees for recycled materials delivered to fully permitted processing facilities. The rebate will be based on the diversion rate of the facility and credited against a hauler's future quarterly payment of the fee, not to exceed the amount of the fee. Only haulers who wish to receive the rebates would have to provide additional documentation.

The proposal to use a tonnage-based fee would entail significant increases in City staff time to audit and verify information on tonnage sent to landfill, tonnage recycled, etc. The information to obtain this data, tonnage collected and then, tonnage diverted from landfills, is not readily available from haulers and the disposal facilities. This makes verification of tonnage brought to a facility and its ultimate disposal (landfill or recycling) problematic.

Finally, a tonnage-based fee would not provide as stable a revenue source as the current gross receipts and thus would jeopardize the Bureau's ability to develop additional incentives and educational programs to promote recycling.

This Office believes continuation of the gross receipts fee is appropriate for this Program. Continuation of this fee will ensure reduced administrative costs; improved chances for customers of the private haulers to realize and track cost savings from their waste haulers; and, avoidance of conflicts of interest for those haulers operating disposal sites as well as collecting waste from non-City customers. The gross receipts fee structure will also provide a stable revenue source to develop and maintain funding for diversion programs. It has more potential for achieving the 70 percent diversion goal with a minimum of intrusion into the daily work of the businesses and customers involved.

The Bureau agrees that its funding requests and adjustments have been addressed in the Mayor's Proposed Budget for 2003-04. In addition to retention of the gross receipts fee and establishment of the rebate/incentive program, at this time it requests only an exemption from the Hiring Freeze for all positions funded by AB 939 (through the Citywide Recycling Trust Fund).

RECOMMENDATIONS

That the Council:

1. Approve continuation of the AB 939 fee system on the basis of gross receipts;
2. Approve the proposed Rebate/Incentive Program set forth in the Bureau of Sanitation report of April 7, 2003, effective retroactively to April 7, 2003; and,
3. Approve an exemption from the Hiring Freeze for all positions funded by the Citywide Recycling Trust Fund 46D for the purpose of executing the AB 939 Compliance Fee programs.

WTF:BDC:emt:41814

Attachment

COMPARISON OF A GROSS RECEIPTS FEE v. A TONNAGE BASED FEE

	Gross Receipts Fee	Tonnage Based Fee
<p>1. Overall Administrative Costs</p> <p>(Size of staff depends on complexity & number of reports to review)</p>	<ul style="list-style-type: none"> • Quarterly payment • Checking receipts very straightforward 	<ul style="list-style-type: none"> • All haulers must submit detailed reports on tons disposed, diverted, source-separated, type of material & destination • Reports reflect all facilities used • Potential for errors rises with amount of information collected
2. Rebate/ Incentives	<ul style="list-style-type: none"> • Only those requesting rebates need to fill out more detailed reports 	<ul style="list-style-type: none"> • Incentive inherent as fee paid only on tonnage to landfill
3. Audit & Verification	<ul style="list-style-type: none"> • 25% of haulers per year • Financial records at a single location • Standard accounting 	<ul style="list-style-type: none"> • Potential for errors rises with amount of information collected • Need to visit haulers at place of business • Have to verify tonnage disposed, tonnage diverted at transfer stations, processing facilities and landfills. • Potential of 100 different facilities • Some facilities outside City jurisdiction
<p>4. Impact on Fee Paying Customers</p> <p>(The buildings receiving the services from the waste hauler)</p>	<ul style="list-style-type: none"> • Easily verified – 10% of charges • All customers pay by the same method 	<ul style="list-style-type: none"> • Haulers don't track tonnages by addresses • Haulers' customers will have difficulty verifying appropriate fees • Multiple family buildings will pay more than commercial as recycling services not as readily available • Questionable uniformity of fees

COMPARISON OF A GROSS RECEIPTS FEE v. A TONNAGE BASED FEE

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CITY OF LOS ANGELES

BOARD OF
PUBLIC WORKS

CALIFORNIA

DEPARTMENT OF
PUBLIC WORKS

COMMISSIONERS



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TTY: (213) 473-7978JANICE WOOD
COMMISSIONER
(213) 978-0254

April 11, 2003

City Council
c/o City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012**SUBJECT: WASTE HAULER ORDINANCE SUPPLEMENTAL STAFF REPORT, CF 02-1005**

In response to amending City Council motions, approved June 26, 2002, staff recommends the following:

RECOMMENDATIONS

1. Approve the Rebate/Incentive Program designed to increase the use of material recovery facilities for additional waste diversion (Attachment 3);
2. Allocate 20%, estimated \$2.4 million, of the revenue for the purpose of the Rebate/Incentive Program;
3. Approve Staff Report recommending retaining the AB939 fee system on the basis of gross receipts.
4. Reduce the Citywide Recycling Trust Fund, Fund No. 46D source of funding to the Bureau of Sanitation, Fund No. 100/82 by \$3,700,000 and increase the General Fund source of funding to the Bureau of Sanitation, Fund No. 100/82, with \$3,700,000 from the Unappropriated Balance, Reserve for Economic Uncertainties, Fund No. 100/58.
5. Transfer \$40,000 of appropriation within the Citywide Recycling Trust Fund No. 46D/50 from Account T182, Bureau of Sanitation to Account T282, Expense and Equipment for Bureau of Sanitation to cover expense and equipment charges. Reduce appropriation in Fund 100/82 Account 7340, Transportation Equipment by \$40,000.
6. Transfer \$10,190 of appropriation within the Citywide Recycling Trust Fund No. 46D/50 from Account T182, Bureau of Sanitation to T172, Bureau of Financial Management and Personnel Services and transfer appropriations accordingly from Fund 100/82, Account 1010, Salaries General to Fund 100/72, Account 1010, Salaries General to cover two months of the salary for Senior Accountant II.



7. Authorize resolution authority through June 30, 2003 and authorize a one-time exemption from the hiring freeze for a position in the Bureau of Financial Management and Personnel Services which is proposed in the Mayor's FY 2003-04 budget that will be fully funded by the Citywide Recycling Trust Fund 46D for the purpose of executing the AB939 Compliance Fee programs:

#	Class Code	Position
1	1523-2	Senior Accountant II

8. Authorize resolution authority through June 30, 2003 and authorize a one-time exemption from the hiring freeze for the following positions in the Bureau of Sanitation, which are proposed in the Mayor's FY 2003-04 budget and will be fully funded by the Citywide Recycling Trust Fund 46D for the purpose of executing the AB939 Compliance Fee programs:

#	Class Code	Position
1	7310-2	Environmental Specialist II
2	9184-2	Management Analyst II
1	1517	Auditor

9. Authorize a one-time exemption from the current hiring freeze for the following positions in the Bureau of Sanitation, which are fully funded by the Citywide Recycling Trust Fund 46D for the purpose of executing the AB939 Compliance Fee programs.

#	Class Code	Position
1	9171-2	Senior Management Analyst II
2	9171-1	Senior Management Analyst I
1	7304-2	Environmental Supervisor II
1	7871-3	Sanitation Engineering Associate III
1	1502	Student Professional Worker

BACKGROUND

The City of Los Angeles' Waste Hauler Permit System, adopted by the City Council in July 2002 requires any business that collect and transport solid waste or any source-separated materials in the City to obtain a waste hauler permit. In addition, solid waste haulers and construction and demolition contractors that haul their own waste and that collect and transport more than 1,000 tons of materials per year are required to pay an AB939 Compliance Fee equivalent to ten percent (10%) of gross receipts. Receipts from services rendered from the collection of source-separated materials are not subject to the fee.

In adopting the ordinance, the City Council directed staff to develop a rebate program, based on a gross receipts system, which would give waste haulers incentives for utilizing material recovery facilities. Staff was also directed to prepare a tonnage-based fee system as an alternative to the gross receipts based system. Staff has prepared both a rebate/incentive program and an alternative tonnage based system for your consideration. Additional support positions are needed to ensure the fair and proper implementation of the permit and fee system. Staff is needed to provide enforcement, program development, financial audit and systems support for new recycling programs. The Bureau, is, therefore requesting resolution authority and unfreezes to expedite enforcement and new program implementation.

Rebate/Incentive Program

The rebate incentive program, as detailed in Attachment 2, allows credits against future fee payments to waste haulers for material that is documented to be recycled from solid waste

loads. For the purpose of this report solid waste does not include source-separated material.

Staff has collected both financial and disposal data from the annual reports submitted by the permitted haulers. From these reports staff determined that, on average, waste haulers are paying \$7.85/ton in fees. The rebate/incentive program would rebate the waste hauler \$7/ton for every ton of municipal solid waste that is diverted from the landfill. This program would also rebate waste haulers \$7/ton for every ton of mixed construction and demolition debris diverted from the landfill. The rebate per ton for either municipal solid waste or mixed C&D waste can be adjusted as necessary to increase new diversion. The burden of proof of waste diverted would be that of the waste hauler requesting the rebates. Waste Haulers wishing to participate would need to submit a detailed rebate request report with their quarterly payment. Rebates would be issued for material diverted by certified processors. The City would certify processors wishing to become part of the program on the basis of set criteria and assign each facility a diversion rate to be used by the waste haulers. Solid waste delivered to non-certified facilities would count as disposal. Only waste haulers wishing to participate in the rebate program would need to complete rebate request reports. Two stakeholder meetings were held while the program was being developed and the proposed program incorporates their input, where feasible. It should be emphasized that this is a new program that can be changed as needed. The dollar per ton rebate for example may be increased or decreased to maximize diversion through mixed waste processing. In addition, the administrative procedures can be changed and improved as necessary to further increase diversion.

The current ordinance requires approval of the allocation set aside for this purpose. Based on annual tonnage reports provided by permitted haulers, we recommend that 20% of the revenue collected be allocated for this program.

Tonnage-Based Fee System

The proposed tonnage based fee system (see Attachment 3 and 4 for detailed program description and tonnage based motion respectively) was designed similarly to the rebate/incentive program in that waste haulers would need to document that waste was taken to a certified processor if it is to be considered diverted and not subject to the fee. Report documentation related to tonnage, type of material, and its destination would increase for all haulers under this system. Waste haulers under the tonnage based system would need to complete detailed disposal reports with every quarterly payment. Waste haulers would deduct the fees on material diverted by certified processors prior to submitting their quarterly payments.

FINDINGS

Administrative Costs

To ensure proper reporting, staff is needed to review reports, compile data, collect fees, and track delinquent accounts. The staff needed and the associated administrative cost depends on the complexity, frequency, and number of reports submitted. The annual tonnage reports haulers submitted for the year 2001 contained many errors and inconsistencies that staff needed to correct, see Accuracy of Data Section. Under a tonnage based system, the information required from each hauler will be more detailed and more frequent than the current annual reports, drastically increasing the administrative review.

The annual report under the gross receipts system and the quarterly reports under the tonnage based system will be similar. However, the quarterly payment reports for a tonnage based system require monthly tonnage and destination information for audit purposes. The differences in the quarterly reports and the associated administrative costs are shown below (see Attachments 5 and 6 for a detailed comparison):

Gross Receipts System

- Quarterly payment forms are relatively simple.
- Information required is limited to total gross receipts
- Those requesting rebates would need to submit more detailed quarterly reports.
- **Cost to administer: \$600,172**

Tonnage Based System

- All waste haulers must submit detailed quarterly reports on tonnage disposed, tonnage diverted, tonnage source-separated, type of material, and destination.
- Reports must reflect all facilities used and how much material was disposed or diverted by each facility.
- It is very common for mixed waste processing facilities and transfer stations to use multiple disposal/landfill sites making the tracking process extremely difficult and prone to errors and inconsistencies.
- Given the level of detail needed on the tonnage report, the likelihood of errors will increase which will, in turn, increase the staff time needed to review reports.
- **Cost to administer: \$1,006,355**

Audit Cost

Staff will be auditing 25% of the more than 100 waste haulers currently permitted annually. The cost of performing these audits will depend on the complexity of the company and books being reviewed and the number and types of locations where information is stored. The level of effort needed to audit based on a gross receipts system and tonnage based system is shown below (see Attachment 5 and 6 for a detailed comparison):

Gross Receipts System

- Financial records are at a single location.
- Audits based on standard accounting practices.
- **Cost to Audit: \$200,000**

Tonnage Based System

- Need to visit the haulers place of business to verify tonnages and gross receipts.
- Also would have to verify tonnages disposed and diverted at transfer stations, certified and non-certified processors, and landfills for each hauler.
- The City's right to audit non-certified processors, transfer stations and landfills will be limited.
- In 2002 haulers reported using over 100 different facilities.
- Large waste haulers used on average 12 different facilities and several used an excess of 20 facilities.
- Small waste haulers use an average of 5 different facilities.
- **Cost to audit: \$1,316,697**

Impact to Fee Paying Customers

The adopted City ordinance regulates private waste haulers and contractors and not their customers. The ordinance does not mandate how associated AB 939 compliance fees are assessed. However, waste haulers have stated they are passing the fees on to their customers as a separate line item on their bill. In determining how fees are assessed, staff has found the following (see attachment 7 for detailed discussion):

Gross Receipts System

- Customers' individual fees can be easily verified, i.e. 10% of charges.
- Both multi-family and commercial businesses pay the same 10% fee.

Tonnage Based System.

- Haulers do not track tonnages by individual accounts.
- Difficult for customers to verify if appropriate fees are charged.
- Multi-family residents will pay a disproportionately higher fee than commercial businesses, since they have less recycling services available.
- Fees may not be assessed uniformly, based on actual tonnage disposed.

Accuracy of Data

The accuracy of data used to calculate the fee, and the City's ability to audit and verify, is paramount in ensuring that waste haulers are paying the correct fees. As stated earlier the annual reports submitted by haulers contained many errors and inconsistencies. The most frequent reasons for the inaccuracies are:

- Haulers don't currently keep tonnage records in the level of detail required;
- Confusion over terms which differ from jurisdiction to jurisdiction;
- Lack of oversight of clerical staff completing forms;
- Lack of familiarity with forms.

The number one concern voiced by waste haulers is that other waste haulers may not be paying their fair share. Waste haulers not paying the correct fee have an unfair competitive advantage over those that are, and decreases the revenue available for new diversion programs. To date, seven permitted waste haulers have not paid all or a portion of fees due, resulting in a loss of \$650,000 in revenue for the past two quarters. Staff has initiated enforcement actions for those noncompliant waste haulers. The problem of uncollected or under reported fees would be compounded if the City's ability to verify data were limited. The accuracy of the data reported and the City's ability to verify is highlighted below (see Attachment 8 for detailed discussion):

Gross Receipts System

- Haulers typically keep financial records by jurisdiction.
- Receipts can be assigned to specific jurisdictions using customers' address.
- City is given the right, through the ordinance, to view waste haulers' financial records.
- Receipts can be verified using standard accounting practices.
- City can verify data reported prior to giving rebate back to haulers

Tonnage Based System

- Tonnages are not tracked by customer addresses.
- Complexity of data needed increases the likelihood of errors in reporting.
- Tonnages for jurisdictions are self-reported by the hauler.
- The Disposal Reporting System (DRS) kept by the State at disposal facilities does not track tonnages by individual hauler, just by jurisdiction.
- The City's right to audit facilities is limited.

Conflict of Interest

As mentioned above, one of the key components to fairly implement a fee system is the reliability of data used to calculate the fee. If a conflict of interest arises when verifying data, the potential for misreporting also increases. It is important to note that of the 17 major disposal sites used by private haulers operating in the City, 6 are owned by permitted haulers that are subject to the AB939 compliance fee. Also, the three major solid waste recycling facilities are owned and operated by permitted waste haulers collecting waste from within the City. The

potential conflict of interest for both fee systems is as follows (see Attachment 9 for detailed discussion):

Gross Receipts System

- Receipts can be verified against actual customer billings.
- Does not require audits of transfer stations, processing facilities or landfills for basis or accuracy of fees.

Tonnage Based System

- Records must be verified against the records held by transfer stations, processing facilities, and landfills.
- The hauler being audited may own the facility its records will be audited against.
- The primary users of the mixed solid waste processing facilities are the haulers that own and operate them.
- Other cities in Los Angeles and Orange Counties have experienced many discrepancies in information reported by hauler/processors.
- Cities that have encountered discrepancies with hauler/processors have been given only limited access to processors.

Program Funding

The purpose of this permit system is to capture diversion and disposal data from haulers and to provide funding for new diversion programs. With emphasis on new diversion programs, such as multi-family recycling, it is essential that the City not only maximize funding for this purpose but that it be a stable revenue stream so that programs don't get disrupted from year to year.

The money available for new programs is directly related to the revenue generated minus the administrative, auditing, program development and support costs. Although solid waste diverted through processors will decrease funds available for new programs, the decrease will be the same for both gross receipts and tonnage based systems, if balanced against the mandated rebate program.

Misreported or uncollected fees affect the actual revenue generated. Based on annual tonnage reports submitted by waste haulers it is estimated that a significant portion of the fees due remain uncollected. It's key that the City be able to verify the correct fees due by each hauler and enforce that determination in order to maximize funding for new programs. As the complexity to administer and audit the fees increases, the funds available for programs decreases. The impacts to new program funding are as follows (see Attachments 6 and 10 for comparisons):

Gross Receipts System

- Maximizes funds available for new programs.
- Minimizes the administrative and auditing costs.
- Provides a stable revenue source.
- Misreported data can be easily verified and appropriate actions can be taken against non-compliant waste haulers.
- **Funds available for new programs: \$6,305,791**

Tonnage Based System

- Decreases funds available for new programs by 25%.
- Diversion programs will need to be scaled back
- Administrative and auditing costs increase by almost 300%.
- Higher likelihood of misreporting due to the complexity of data and the City's inability to accurately verify will further decrease funding for programs and make enforcement more difficult.
- **Funds available for new programs: \$4,782,880**

Conclusion

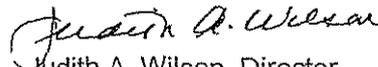
Staff recommends the following:

- That the current fee system based on gross receipts be retained;
- That the rebate/incentive program be adopted to further promote mixed processor recycling in the City and that 20% of the revenue collected be set aside for that purpose.

Staff believes a gross receipts system will provide a fair, stable revenue stream that will provide special fund support for City staff working on private sector diversion activities and it will provide dedicated funding for new private sector diversion programs. There is an incentive to use material recovery facilities in either system. However, the ability to track and verify the data used to calculate the fee is far more fair, direct, and auditable for both the hauler and the City under a gross receipts system. A gross receipts based system:

- Ensures a fair and competitive marketplace for haulers conducting business within the City;
- Provide a stable revenue source for long term private sector diversion programs, that will reduce waste currently going to landfills;
- Allows for program planning that targets those materials that represent the largest components of current landfilled waste.

Sincerely,



Judith A. Wilson, Director
Bureau of Sanitation

JAW:MAM:dkm
Attachments

cc: Michele McManus
Jorge Santiesteban
Karen Coca
Rafael Prieto

Attachment 1

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Attachment 2

AB939 Compliance Fee – Rebate/Incentive Program Proposal

On July 3rd, 2002, the City Council approved an ordinance establishing an AB 939 compliance fee program through which private recyclers and waste haulers must obtain a permit, pay a gross receipts tax on collected mixed materials, and report to the City on the materials collected and their destinations. The revenue generated through the fee is for use only on fee administration, AB 939 compliance reporting, commercial, industrial, and multi-family waste diversion programs, and for public education and technical assistance for these programs. The fee may also be used for recycling incentives, such as a rebate system to provide a financial incentive to private haulers to increase the use of recycling processing facilities.

An amending motion was adopted which directed the Bureau of Sanitation to review and/or propose a fee discount/incentive program. This program will be based on the hauler's gross receipts showing evidence that a certain percentage of the collected materials have been taken to a recycling facility. The recycling facility must also document the amount of recycled materials versus the amount of trash going into landfills by jurisdiction. In response to this motion, the Bureau is allocating 20% of the total revenue generated by the AB939 Compliance Fee on a rebate/incentive program. Based on the anticipated annual revenue, the rebate/incentive program will total over \$2.5 million each year. This program is intended to target those materials currently reaching landfill disposal that can be recycled. Materials that are source-separated at the point of generation, such as a construction site having separate bins for clean concrete, wood, and metals, are not subject to the AB 939 fee and will not be eligible for the rebate. Point of generation is defined as the customer site and not the hauler's site where loads may be separated.

REBATE/INCENTIVE PROGRAM GOAL – To provide opportunities to increase diversion in the commercial/industrial sectors throughout the City and reduce the amount of waste entering landfills from private haulers.

In developing the Rebate/Incentive Program, suggestions and comments from the August 13, 2002 and October 22, 2002 Stakeholders Meetings were considered. A certification system will be established for fully permitted processing facilities that are utilized by the private sector haulers. This would also include haulers that collect material from City facilities, but not material directly collected by City crews. To become certified, a processor must meet certain requirements. Once certified, haulers that deliver loads to their facilities will be eligible for the rebate. The rebate will be based on the diversion rate of the processing facility. As an example, if the processing facility has a collective diversion rate of 25% for commercial/industrial loads from City of Los Angeles customers, 25% of each hauler's commercial/industrial load collected from City of Angeles customers that were delivered to that facility will qualify for the rebate. A

corresponding dollar per ton rebate rate will then be applied to that qualified load. The rebate will be paid as a credit on a future quarterly payment of the AB 939 fee and shall not be higher than the amount collected from each hauler.

The Bureau is proposing to establish a two-tier rebate rate, one for C&D and one for commercial/industrial/multifamily diversion. The two-tier system will give the City the flexibility needed to increase diversion. This system allows the City to independently raise or lower the rebate given for either mixed C&D or municipal solid waste based on data reported by the waste haulers. For example, if an exorbitant amount of the allotted rebate is being spent on C&D diversion that is currently taking place and is not increasing or promoting new diversion the rebate may be decreased. The initial rebate per ton will be the same for both types of waste streams.

Spot audits shall be conducted by BOS to ensure reports received from processors and haulers are accurate. Conducting spot audits are important, especially since some of the private haulers are also processors.

Processor Requirements

1. Processor must be certified by the City of Los Angeles, Bureau of Sanitation (BOS).
2. Processor must submit a Processor Certification Application Form.
3. Processor must provide a Quarterly Tonnage Report to the hauler that identifies the total tonnage delivered for processing and the processors quarterly diversion rate. C&D and commercial/industrial loads must be reported separately.
4. ~~Processor must submit a~~ Quarterly Tonnage Report to BOS. This shall confirm the claim by the haulers. C&D and commercial/industrial loads must be reported separately.
5. ~~Processor must conduct~~ daily origin surveys.
6. Processor must have a separate tipping area for source separated materials and must not commingle them with mixed materials.
7. Processor must have certified scales to weigh trucks.
8. Processor must cooperate in the periodic audits conducted by BOS.
9. Processor must have weight tickets on site to support reported tonnages.

The haulers currently paying the AB939 Compliance Fee will be notified of the program and given information on the facilities currently certified under this program. A hauler wishing to obtain a rebate will fill out a specific form listing their deliveries to the recycling facility. A list of requirements for haulers is as follows:

Hauler Requirements

1. Hauler must submit a Rebate Application Form.
-

-
2. Hauler must submit the Quarterly Tonnage Report from the Processor.
 3. Hauler must submit hauler's own tonnage report.
 4. Hauler must have waste hauler permit.
 5. Hauler must be current in their compliance fee payments.
 6. Hauler must only use processors certified by the Bureau of Sanitation.
 7. Hauler must cooperate in the periodic audits conducted by BOS.
 8. Hauler must have weight tickets on site to support reported tonnages.

NOTE: NO REBATE SHALL BE GRANTED TO HAULERS FOR TONNAGES DELIVERED TO UNCERTIFIED/DECERTIFIED PROCESSORS.

Rebates to Haulers

As previously mentioned, the hauler will submit an application for rebate and the supporting documentation. The rebate application from the private haulers will be reviewed and approved first by Bureau staff before it can be credited in future AB 939 compliance fee payments. Once approved, staff will send the private haulers a document such as a voucher or a determination letter, which should be attached to future quarterly payments. Only then can a rebate be credited to their payments.

Diversion Programs - AB 939 Compliance Fee

In addition to the rebate/incentive program which allocates 2.4 million or 20% of the total revenue generated by the AB 939 Compliance Fee, the Bureau is allotting an additional \$6.3 million or 53% of the annual revenue collected on additional new diversion programs. The planned new diversion programs are ~~Multi-family Recycling, Commercial Recycling, Re-use Programs, Commodity Price Support, Public Education/Outreach, School Programs, and Food Waste Diversion.~~ These new programs will provide significant opportunities to the haulers to receive funding to provide increased recycling to their customers.

The Bureau is recommending that the rebate/incentive program be approved by the Mayor and City Council. Implementation can begin within 60 days.

Attachment 3

STRUCTURE OF DISPOSAL-BASED (TONNAGE) WASTE HAULING PERMIT SYSTEM

BACKGROUND

The City of Los Angeles' Waste Hauler Permit System that was adopted by the City Council in July 2002 requires any business or persons that collect and transport solid waste or any source-separated materials in the City to obtain a waste hauler permit. In addition, solid waste haulers and construction and demolition contractors that haul their own waste, and collect and transport more than 1,000 tons of materials per year are required to pay an AB939 Compliance Fee equivalent to ten percent (10%) of gross receipts. Receipts from services rendered from the collection of source-separated materials are not subject to the fee.

In adopting the ordinance, the City Council directed staff to develop a disposal tonnage-based fee system, as was promulgated by a vocal group of local waste haulers and recyclers, as an alternative to the gross receipts based system. In preparing the gross-receipts based system, City staff was able to review many gross receipts based private waste hauler permit systems from local cities and other metropolitan cities throughout California and around the country. However, in preparation of the disposal-based system, the only private waste hauler system that was available for review was the city of Santa Monica. This is because private waste hauler systems that utilize tonnage or container size as a basis for collecting fees are based on the amount of materials collected and not by the amount that is disposed. The cities of San Diego and San Jose collect AB939 fees based on tons collected and based on cubic yard of waste collected, respectively, and in the case of the city of San Diego, it owns and operates landfills in its jurisdiction.

APPLICABILITY

The proposed disposal-based system shares similarities to the current gross-receipts based system. In the disposal-based system, self-haulers who collect and transport less than 1,000 tons per year of solid waste are exempt from the permitting system. Waste haulers, recyclers, and self-haulers that transport more than 1,000 tons per year (including construction and demolition contractors) will continue to be required to obtain a waste hauler permit.

AB 939 COMPLIANCE FEE

Permitted haulers that collect and transport more than 1,000 tons per year will be required to pay a fixed AB939 Compliance Fee based on the amount of solid waste that is disposed. The amount per ton disposed would be initially set at eight dollars (\$8) per ton, which is equivalent to the cost per ton calculated from information provided by the haulers on their initial permit applications. The cost per ton disposed will be the same for all waste streams. That is, the cost per ton disposed of solid waste is the same as the cost per ton disposed of construction and demolition debris material.

DISPOSAL TONNAGE

Waste collected will be assumed "disposed" unless a hauler can document that the material has been recycled or recovered at a City-certified processor. The burden of proof will rest on the

hauler. The disposal tonnage charged to a permitted hauler can come from material taken directly to landfills, material taken to transfer stations, material taken to uncertified processors, that percentage of material disposed by a certified processor, or a percentage of waste taken to an energy recovery facility or transformation facility. For materials delivered to a transformation facility, the City will count 10% of the waste as recovered. Currently, the State allows ten percent (10%) of materials delivered to a transformation facility to be counted as diversion.

For tonnages taken to a certified processor or materials recovery facility, the hauler shall use the City assigned diversion rate to calculate tons recycled and disposed. The City will have different rates for solid waste and construction and demolition (C&D) debris. Source-separated materials will not be factored when determining the processor's recycling rate.

REPORTING REQUIREMENTS

In the current gross receipts-based system, haulers are required to submit an annual tonnage report (calendar year) together with a new or renewal permit application. Haulers are also required to submit quarterly receipts payment forms together with the quarterly compliance fee payments. The existing quarterly forms do not contain weight information but only receipts information. For the disposal-based system, the fee will be tonnage-dependent. Therefore, haulers will be required to submit tonnage reports quarterly together with the compliance fee payments. A new report form will need to be created for more precise accountability of tonnages disposed and recycled. At minimum, the report shall contain the following:

1. Hauler information
2. Tonnage summary categorized by material collected and shall contain:
 - a. Amount of source-separated collected and transported
 - b. Total amount of solid waste collected
 - c. Amount of solid waste disposed (will determine the fee amount)
 - d. Total mixed construction and demolition (C&D) debris collected
 - e. Amount of C&D material that is disposed (will determine the fee amount)
3. Tonnage summary categorized by destination facilities of the materials collected and shall contain:
 - a. Name of facility material was delivered
 - b. If City-certified, the facility identification number
 - c. Tonnage disposed by type
 - d. Tonnage recycled by type
4. Gross receipts, which the City can use as verification for audit purposes

Quarterly hauler reports shall also be accompanied with certified processors reports that the processors will provide to the haulers on a monthly basis.

CERTIFIED PROCESSORS

Certification of processors or material recovery facilities is paramount for proper auditing and monitoring of the accuracy of tonnages reported by haulers. A majority of processors are located outside City limits, and certification is probably the only way the City can verify the tonnages reported by the haulers.

A certification process is being used by the city of Santa Monica with their C&D recycling program. Santa Monica's C&D ordinance only credits C&D tonnages recycled by haulers and contractors if the material is taken to certified C&D processors. For the City's disposal-based program, any solid waste taken to facilities not certified or solid waste that was delivered to a facility prior to certification will be considered as tonnage disposed.

For processors to be certified by the City, the following requirements must be met:

1. Processor will need to submit monthly reports to the City which contain total tonnage received, amount disposed by type and destination, and amount recycled by destination.
2. The processor will need to utilize a certified scale in their facility.
3. The processor must keep records of incoming material by hauler and jurisdiction.
4. The processor must agree to allow the City to audit facility records.
5. The City will assign separate recycling rates for MSW and C&D material, which will be valid for one year.
6. The processor must provide haulers with a monthly report that includes material delivered by the hauler to the facility and tonnages diverted and disposed based on the City assigned recycling/recovery rate.
7. Processor will need to be in compliance of any applicable regulations and ordinances.

AUDITING

The auditing process for a disposal-based system is crucial to ensure that haulers and contractors are reporting the correct disposal tonnages and the fees associated with them. The auditing task for such a system will be burdensome. For a disposal-based system, City staff or a designated auditor will need to visit not only the haulers' administrative offices, but also all processing, transfer and disposal sites utilized, many of which are not within City limits; therefore, the City's rights for inspection may be more difficult to assert. Currently, permitted haulers and contractors disposed of waste in more than 17 landfills, utilized over 18 transfer stations, and utilized over 70 permitted and non-permitted commercial recycling facilities. Certification of processors and recyclers, and only admitting tonnages delivered to those facilities as eligible to be counted as recycled, may reduce some of the auditing obstacles; however, none of these facilities are required by the State to maintain information by hauler and by jurisdiction, so verifiable data may be difficult to obtain.

LANDFILL REPORTING

The existing Disposal Reporting System (DRS) set up by the State Integrated Waste Management Board requires landfills to report to the State the amount of disposed material received by jurisdiction, so that total disposal tonnage can be distributed to each jurisdiction annually. Landfills are not currently mandated to report materials received by hauler or by processor in each jurisdiction. For landfills located in the City, the City will be able to require them to report materials received, categorized by haulers or by processors. However, for landfills located outside City boundaries, the City does not have jurisdiction over reporting requirements. The City will have to rely on voluntary disposal reports from each facility.

RECYCLING INCENTIVES

The incentive to recycle mixed waste is built into the disposal-based system, while the gross-receipts based system utilizes a rebate program to accomplish the goal. Since waste haulers pay

Attachment 4

MOTION – Tonnage

WHEREAS, the City Council voted to modify the ordinance establishing an AB 939 compliance fee program based on gross receipts by requiring waste haulers to pay fees based on the tons of solid waste disposed; and

WHEREAS, the City Attorney needs to revise Ordinance No. 174706 to reflect the tonnage disposed fee structure outlined by the Bureau of Sanitation Staff report; and

WHEREAS, additional support positions are essential to provide enforcement, financial, audit, and systems support for the disposal based fee. These positions are eligible to be fully funded by the Citywide Recycling Trust Fund 46D. Approval of this request will have no impact on the General Fund.

I THEREFORE MOVE, that the City Council, subject to the review and approval of the Mayor:

1. Direct the City Attorney to draft revisions to Ordinance No. 174706 to reflect the disposal tonnage base fee structure outlined in the Bureau of Sanitation Staff Report and presented the it to Council for approval;
2. Direct the Bureau of Sanitation to prepare a motion requesting additional resolution authorities and appropriations from the Citywide Recycling Trust Fund to support the new fee structure through June 30, 2003;
3. Direct the City Administration Officer to work with Bureau of Sanitation staff to incorporate additional positions and appropriations funded by the Citywide Recycling Trust fund into Sanitation's budget for FY 03-04 to implement the revised ordinance.

PRESENTED BY _____

Nate Holden
Council Member, Tenth District

SECONDED BY _____

Attachment 5

COMPARATIVE ANALYSIS OF A TONNAGE-BASE SYSTEM AND A GROSS RECEIPTS-BASED PRIVATE WASTE HAULER SYSTEM

ADMINISTRATIVE COSTS

Staff has determined that the cost of fee collection administration for a gross receipts system is \$600,000, while the cost of fee collection administration for a tonnage system is \$1,000,000. The cost differential of 167% is due to the increase in staffing needed to review and monitor additional tonnage reports submitted by the waste haulers and certified processors, on a regular basis

Fee Administration

The administrative process for both gross receipts based and tonnage based systems varies greatly in scope and complexity. With the existing gross receipts system, tonnage reports from haulers are required on an annual basis while fee payments are required quarterly. The payments are accompanied with quarterly payment forms containing only gross receipts information. It is estimated that seven (7) staff are needed to track fee collection and review reports for the existing gross receipts system.

With the disposal-based system, the quarterly payments will need to be accompanied by detailed tonnage reports. The quarterly reports will require detailed information on all solid waste, construction and demolition (C&D) debris and recyclables collected. The reports will also need to indicate all facilities utilized and the quantity and type of waste taken there. If the hauler wishes to claim solid waste or mixed C&D debris as recycled they must also submit a report from each certified processor utilized. It is estimated that eleven (11) staff are needed to track fee collection and review reports for a tonnage system. There will also be monthly tonnage reports from certified processors to review.

The annual tonnage reports haulers submitted for the year 2001 under the current gross receipts system contained many errors and inconsistencies either because of lack of record keeping by the haulers or because of misunderstanding on how to fill out the tonnage report. In both cases, staff needed to work extensively with the haulers to verify, confirm, and correct the tonnages that were reported. Under the disposal base system, the tonnage reports will need to be similarly scrutinized since they will be the basis for fees assessed. The reports will also have to document tonnages by month rather than annually.

Audit Process

Staff is proposing to audit 25% of all haulers on a random and targeted basis each year. To date, the City has received 111 applications and has issued 102 permits to private waste haulers and contractors. This translates to between 25 to 30 haulers that the City will need to audit annually.

Gross Receipts

Financial audits such as those for gross receipts are similar for various applications and trained financial auditors can handle the necessary activities without special training. Fees assessed on receipts are fairly straightforward and can be audited using standard accounting practices.

Receipts are nearly always part of a hauler's internal accounting and reporting system, and the hauler's employees are usually able to sort receipts by customer addresses, making it possible to segregate the portion of receipts that come from a particular city. Most financial audit records are kept in one location, minimizing vehicle and travel costs. The City's Department of Finance has most of the permitted haulers in their Tax and Permit System. Sanitation can work with these same auditors and reimburse them for auditing specific hauler books that are common to both systems.

To audit gross receipts requires, on average, 4 to 6 full time days by an auditor at the hauler's place of business. The approximate cost to audit a small hauler is estimated at \$6,000 and the cost for a large hauler is estimated at \$9,000. An annual contract for auditing a gross-receipts system is estimated from \$200,000 to \$300,000.

Tonnage Based System

For a tonnage based system, the auditors will need to review the waste collection and disposal records, such as weigh tickets and also the financial records. Since the only data actually tied to a physical address is receipts, a financial audit will be used as a cross check for tonnages reported for the City. Staff performing tonnage-based audits would need to receive special training.

Disposal based audits would require multiple site visits for every hauler. Staff will not be able to rely solely on the Disposal Reporting System (DRS) data kept by landfills. Not only are landfills not required to keep tonnages by individual haulers for each jurisdiction, but only a fraction of the waste is actually taken directly to landfills, as indicated on the 2001 tonnage reports from the waste haulers. Waste haulers utilize transfer stations to cut down on transportation costs. This will necessitate that City staff and its agents not only visit the haulers' business headquarters to verify tonnages, but also will have to verify tonnages disposed and diverted at transfer stations, certified and non-certified processors, and landfills used by that hauler. According to the haulers' reports submitted for 2001, waste was disposed in 17 landfills, 18 transfer stations and 70 permitted and non-permitted commercial recycling facilities. Large waste haulers used on average 12 different facilities and in one case material was taken to 40 different facilities by a single hauler. Small waste haulers use an average of 5 facilities.

The City access to audit the facilities used by the waste hauler are limited. Most of the facilities utilized are not within City limits and are either owned by private firms or other municipalities. The proposed tonnage system requires a processor who wishes to become certified to allow the City to review its books. However, the City has no authority to review the records of uncertified processors. Although landfills must keep records and report the tonnage assigned to all jurisdiction they are not required to report tonnages by hauler, by jurisdiction, to cities such as Los Angeles.

Tonnage by city is often not tracked in haulers' accounting and reporting systems unless required by a franchise agreement. Hauler routes often cross over city boundaries, making it difficult to identify how much waste was collected in each jurisdiction. Reporting on the basis of tonnage involves some degree of estimation and allocation of amounts disposed by jurisdiction.

The approximate cost to audit a small hauler is estimated at \$35,000 and the cost for a large hauler is estimated to be \$150,000 to \$250,000. The estimated amount for an annual contract to

audit a tonnage system is \$2,800,000. If the auditing is to be performed by City staff, the estimated cost is reduced to \$1,350,000, or 14 full-time additional positions.

Tonnage Based Audit Scenario

Shown below are the top ten haulers, by solid waste collected, that submitted the 2001 Annual Waste Hauler/Contractor Reporting Form. Numbers of disposal sites indicate direct hauled material; number of other facilities indicates both processors and transfer stations where material was taken; material taken to those other facilities was either recovered or transferred to a variety of additional recycling and/or disposal sites.

Hauler #1 – 11 Disposal & 29 Other Facilities
Hauler #2 – 6 Disposal & 20 Other Facilities
Hauler #3 – 3 Disposal & 3 Other Facilities
Hauler #4 – 5 Disposal & 5 Other Facilities
Hauler #5 – 5 Disposal & 11 Other Facilities
Hauler #6 – 0 Disposal & 3 Other Facilities
Hauler #7 – 2 Disposal & 1 Other Facilities
Hauler #8 – 5 Disposal & 8 Other Facilities
Hauler #9 – 2 Disposal & 6 Other Facilities
Hauler #10 – 5 Disposal & 10 Other Facilities

In a gross receipts system, an audit of the above 10 haulers would involve visiting 10 facilities. To verify proper compliance of fee payments, the auditor would need to analyze accounting books and receipts. Receipts are nearly always part of a hauler's accounting and reporting system, and can be sorted so that customer addresses can be separated by City.

In a tonnage system, an audit would not only involve visiting the 10 hauler facilities, plus 5 to 40 additional sites per hauler including disposal sites, processors, and transfer stations. To audit 25 haulers it is estimated that more than 140 site visits would be required. The auditor would not only need standard financial accounting knowledge but also knowledge of solid waste practices, statistics and diversion. They would also need to ensure that total receipts divided by tonnage claimed, correspond to an acceptable industry collection fee average.

Attachment 6

Attachment 6
PROGRAM COST COMPARISON FY 03-04

Cost Component	Gross Receipts Based Program		Disposal Based Program	
	Amount	Description	Amount	Description
Revenue	\$ 12,000,000	Net revenue based on reported revenue minus uncollected or under reported debt	\$ 9,600,000	Net revenue equal to projected revenue minus uncollected or under reported debt. The reduction in revenue from Gross Receipts to Disposal based equates to the materials recycled from mixed loads (Mandate rebate).
Mandated Rebate	\$ 2,400,000	Mandated incentive program.	-	Incentive built into program
Fee Administration	\$600,172	7 staff - to track and review reports	\$ 1,006,355	11 staff - to track and review reports and support database
Auditing	\$200,000	Contracts for financial audit of 20 large haulers and 20 small haulers	\$1,316,697	14 staff - to track multiple facilities and includes related support and equipment expense.
Program Development and Support	\$ 2,494,037	25 Program development and support staff	\$ 2,494,037	25 Program development and support staff
Program Funding	\$ 6,305,791	Funds are allocated for various recycling programs.	\$ 4,782,911	Funds are allocated for various recycling programs.

Notes:

1. Program Funding Reduction under Disposal Based Program due to increased staffing needs and decreased revenue: (\$1,522,880)

Attachment 7

COMPARATIVE ANALYSIS OF A TONNAGE-BASE SYSTEM AND A GROSS RECEIPTS-BASED PRIVATE WASTE HAULER SYSTEM

IMPACTS TO FEE PAYING CUSTOMERS

The gross receipts system is simple and verifiable by customers. While a disposal-based system fee is difficult to fairly assess by haulers and is not verifiable by City staff.

Existing Gross Receipts System

The adopted City ordinance regulates private waste haulers and contractors and not their customers and does not mandate how any associated AB 939 compliance fees are assessed. Permitted haulers, however, are generally passing on the cost to their customers as a line item charge on their service bill. Charges for services rendered for trash and mixed solid waste collection are subject to a 10% fee while source-separated recycling service charges are not.

Beginning in September 2002, customers saw a 10% increase in their trash collection bills. Most haulers were able to include the AB 939 fee in their invoices immediately, since this is common billing practice among all the permitted and franchised haulers in the Los Angeles County area with the exception of private haulers in Santa Monica. Haulers under franchises and permit in L.A. County have their accounting systems set up for gross receipts; therefore there were no major billing reconfigurations necessary to implement the City's AB939 compliance fee when the Council adopted the ordinance.

The compliance fee is a flat 10% for all private waste hauler customers: multi-family residents, businesses, organizations, and government agencies.

Tonnage System

In a tonnage-based system, the AB 939 compliance fees will depend on how much material was disposed. Haulers would again likely pass the cost to their customers as a line charge item on their service bill. However, pass-through fees based on disposal amount (tons or yards) are neither straightforward nor simple.

In concept, with a tonnage system, customers will not be charged a flat fee as in the gross receipts system. Instead, the customers will be charged fees based on the amount of material disposed from the customers' containers. Tonnages generated and tonnages disposed by individual accounts are not tracked in haulers' accounting and reporting systems. Haulers do keep track of the container sizes and the frequency of pick-ups for their customers. However, conversion factors will need to be used to translate container sizes (i.e. 1-yard bin or a 3-yard bin) into equivalent average tonnages. Calculation of these conversion factors for each customer is a lengthy exercise and involves a large degree of estimation. For example a 1-yard container picked up from a multi-family complex will not have the same weight as 1-yard container picked up from a business facility. In addition, most containers are often not filled to capacity at the time of pick-up. Medium to large businesses and institutions also utilize a compactor to compress as much waste material as possible into containers. Small businesses and residential complexes do not utilize compactors. This results in vastly different weights for similar

Attachment 8

COMPARATIVE ANALYSIS OF A TONNAGE-BASE SYSTEM AND A GROSS RECEIPTS-BASED PRIVATE WASTE HAULER SYSTEM

ACCURACY OF DATA USED TO CALCULATE FEE

Existing Gross Receipts System

The fee is based on 10% of a hauler's gross receipts. Receipts are nearly always part of a hauler's internal accounting and reporting system. Haulers are able to sort their receipts by customer addresses, making it possible to segregate portion of receipts that come from a particular city.

The fees paid by the haulers are completely based on gross receipts very much like tax forms. Haulers report to the City how much they bill and give the City 10% of those reported receipts. Receipts reported by haulers are the same amounts that are reported to the City's Department of Finance and other government agencies for business tax payments. Should the City need to perform an audit of a hauler, auditors can readily check the hauler's accounts books and reconcile the fees paid and the gross receipts from customers.

Tonnage System

The fee is based on the amount of material that is disposed, and this disposal amount is based solely on self-reported figures. Tonnage is assigned to each jurisdiction at a landfill by the driver, and is not tied to a verifiable physical address. With the tonnage system, there are more variables to the disposal fee calculation than the gross receipts system: tonnages delivered to landfills, transfer stations, certified processors, uncertified processors and transformation facilities. Materials that are directly taken to landfill, uncertified processors, and transfer stations are automatically considered as disposed. For materials delivered to a certified processor, the disposed amount will depend on the diversion rate of the certified processor.

The annual tonnage reports haulers submitted for the year 2001 contained many errors and inconsistencies either because of lack of record keeping on the haulers behalf or because of a misunderstanding regarding how to fill out the tonnage report. City staff needed to work extensively with the haulers to verify, confirm, and correct the tonnages that were reported. However, inaccuracy and errors are common occurrences in tonnage reporting because haulers often do not track tonnages by city. Hauler routes often cross over city boundaries making it difficult to identify how much waste was actually collected in each jurisdiction.

Most of the cities in the Los Angeles County area require haulers to turn in monthly or quarterly reports on tons disposed and diverted, but each city's reporting form is different, and this contributes to the confusion among the haulers. Cities have had problems with forms being filled out incorrectly, forms not being returned to the city at all, and the disposal tonnages on reporting forms not matching disposal tonnages reported by the County's Disposal Reporting System (DRS). It should be noted, however, that these cities do not base their fees on tonnages but on gross receipts. Tonnage disposed is used only to calculate a city's diversion rate by the State.

The Disposal Reporting System was setup by the California Integrated Waste Management Board (CIWMB), to assist municipalities in determining how much of the material taken to

disposal sites comes from within their jurisdiction. In the DRS, each disposal site reports the amount of disposal material received, by jurisdiction, to the State so that a compiled total disposal tonnage can be given to each jurisdiction each year. Landfills are not required to segregate or track tonnages by haulers. There is no reporting by hauler tonnage or processing facility tonnage to Los Angeles County or the CIWMB at this time. So therefore, no verifiable source exists to crosscheck reports.

Certification of processors would alleviate some of the problems of tonnage misreporting because they will be required to keep detailed reports by hauler. With the certification, the City will have more knowledge of diversion that takes place in material recovery facilities. In addition, the City will have the right to audit certified processors to verify data reported. Haulers will also be aware of the amount of recycling is from the material they are delivering to the processors. However, transfer stations and uncertified processors will not be required to track tons disposed by each hauler. This problem is again compounded given the City has no right to audit these facilities if they are not located in the City of Los Angeles.

Attachment 9

COMPARATIVE ANALYSIS OF A TONNAGE-BASE SYSTEM AND A GROSS RECEIPTS-BASED PRIVATE WASTE HAULER SYSTEM

CONFLICTS OF INTEREST

There are conflicts of interest for haulers that also own mixed solid waste processing and/or disposal facilities. The waste tonnage reports from such haulers have been questioned by cities in both L.A. and Orange Counties. To assess fees based on inaccurate tonnages makes for a very complicated and problematic system.

Ownership of Facilities

Of the 17 major disposal sites used by private haulers operating in Los Angeles, 6 are owned by permitted haulers that are subject to the AB 939 Compliance Fee.

At the Bradley Landfill, for instance, the site is owned and operated by Waste Management, Inc. Waste Management is one of the largest haulers operating in the City. Outside the City, Waste Management disposes of City material at the Simi Valley Landfill. Also outside the City, Chiquita Canyon Landfill is owned and operated by Republic Industries, and the Sunshine Canyon Landfill is owned and operated by Browning-Ferris Industries (BFI). These three companies are not only the largest in the country, but also hold the largest combined market share in the City.

In addition, several of the medium to large permitted haulers in the City also own mixed processing facilities for construction & demolition (C&D) and non-C&D wastes. These locally operated hauler-processor companies include Community Recycling/Crown Disposal, Athens Services, American Waste, Looney-Bins, and California Waste Services. The majority of the mixed waste tonnages handled by these processing facilities are delivered by their own trucks. These hauler-processor companies hold the second largest combined market share in the City.

Existing Gross Receipts System

With the gross receipts system, the information provided by the hauler is based on the actual billing that the haulers charged to their customers. Landfill owners and processors that also perform hauling services have separate accounting books for landfill customers, processor customers, and the waste collection customers. Likewise, mixed processing facility owners that perform their hauling also keep separate books for outside private haulers that utilize their facilities.

The reporting for a gross-receipts system generally follows accepted accounting standards. Any disputes about revenue reporting are easily verifiable by auditing waste collection accounts books and billing receipts, very much like the Department of Finance audits of businesses for taxes. Accounting books contain verifiable physical addresses of customers.

Tonnage System

There are two major conflict of interest issues associated with a tonnage-based fee. First, the owners and operators of mixed processing facilities and major disposal sites, on whom we would rely for information, are also the same haulers subject to fees. Second, there is no other source of data by hauler for disposal; only estimates by the individual refuse collection truck operators.

As far as City Controller audit standards, it is an unacceptable accounting practice to allow statistics controlled solely by a regulated hauler to act as the basis for their fee. The City Controller would require that the City verify these self-reported figures.

As an example, the Office of the Controller during fiscal year 1999/2000 audited the payment practices of the City's disposal of refuse and greenwaste. Controller's staff findings required that the following be instituted by Sanitation to validate disposal billings:

- Assurance of accurate truck weight measurements every 6 months;
- Audit of individual weigh tickets for each load at each landfill/transfer station/material recovery facility (MRF)/mixed processing facility; and
- Accounting of all contaminated refuse rejected by MRFs and mixed processors, and disposed at landfills.

If these measures were used to properly verify revenue based on disposal tonnage, with disposal tonnage subject to this fee totaling approximately 2.5 million tons per year, the number of weigh tickets supporting disposal tonnage would be at a minimum, 250,000. The costs to undertake this annually would be astronomical.

In addition, for loads brought in from a route that crosses jurisdictions, the truck driver estimates the load allocation subject to the fee. Self-reported estimate is a flawed method to measure tonnage at processing stations. There are no true accurate methods used, at most processing operations.

Accuracy of records submitted by certified processors have been called into question in Southern California. Staff from Orange County Sanitation District has raised concerns about the varying diversion rates for several Orange County cities that have the same hauler-processor franchise. These questions have also been raised by several cities in Los Angeles County who utilize the same hauler-processor and are receiving reports with significantly different diversion rates for the same services. It has been reported to staff that only limited access to processors records and data have been allowed to this point, even in exclusive franchise situations.

Due to the substantial amount of tonnage handled by companies who either own or operate regional processor sites, the City would have to arrange for auditors to frequently monitor all major processor sites on a permanent basis to monitor weigh tickets and to update truck tare weights. The City Attorney has advised staff that since facilities are not covered by the ordinance, legal right to access these facilities for the audit of records is limited, compounding the audit process.

Attachment 10

AB939 Fee Distribution Gross Receipts System

Rebate/Incentive Program
(\$2,400,000)

20%

27%

53%

Program Development and Support/
Fee Administration
(\$3,294,000)

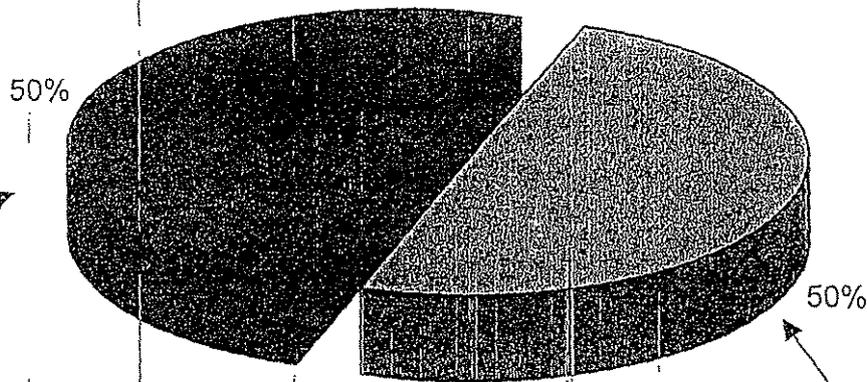
- (1) Permit Implementation
- (2) Billing
- (3) Monitoring
- (4) Audits
- (5) Contractual Services
- (6) Equipment
- (7) City Overhead
- (8) Commercial/Multi-Family/Residential Public Education
- (9) Technical Assistance to Private Businesses
- (10) AB939 Compliance
- (11) Market Development
- (12) Backyard Composting Program
- (13) Strategic Planning for 70% Diversion
- (14) Legislative Review
- (15) Commercial/Multi-Family/Residential Publications
- (16) Environmental Documentation for Solid Resources Programs

Program Funding
(\$6,306,000)

- (1) Multi-family Recycling
- (2) Commercial Recycling
- (3) Re-use Programs
- (4) Commodity Price Support
- (5) Public Education/Outreach
- (6) School Programs
- (7) Food Waste Diversion

**Permit Fee Based on 10%
of Gross Receipts: \$12 million**

AB939 Fee Distribution Disposal Based System



Program Development and Support/ Fee Administration (\$4,817,000)

- (1) Permit Implementation
- (2) Billing
- (3) Monitoring
- (4) Audits
- (5) Contractual Services
- (6) Equipment
- (7) City Overhead
- (8) Commercial/Multi-Family/Residential Public Education
- (9) Technical Assistance to Private Businesses
- (10) AB939 Compliance
- (11) Market Development
- (12) Backyard Composting Program
- (13) Strategic Planning for 70% Diversion
- (14) Legislative Review
- (15) Commercial/Multi-Family/Residential Publications
- (16) Environmental Documentation for solid Resources Programs

Program Funding (\$4,783,000)

- (1) Multi-family Recycling
- (2) Commercial Recycling
- (3) Re-use Programs
- (4) Commodity Price Support
- (5) Public Education/Outreach
- (6) School Programs
- (7) Food Waste Diversion

Permit Fee Based on \$8/ton
Disposed: \$9.6 million

MICHAEL CAREY
City Clerk

CITY OF LOS ANGELES
CALIFORNIA

Office of the
CITY CLERK
Council and Public Services

FRANK T. MARTINEZ
Executive Officer



JAMES K. HAHN
MAYOR

Room 996, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1188
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

When making inquiries
relative to this matter
refer to File No.

02-1005

PLACE IN FILES

JUL 31 2002

DEPUTY

July 29, 2002

City Administrative Officer
Chief Legislative Analyst
City Attorney
Department of Environmental Affairs

Controller, Room 1200
Accounting Division, F&A
Disbursement Division
Bureau of Sanitation

ADDITIONAL NOTIFICATIONS ON ATTACHED LIST

RE: IMPOSING PRIVATE SOLID WASTE HAULER AB 939 COMPLIANCE FEES AND
CREATING THE CITYWIDE RECYCLING TRUST FUND

At the meeting of the Council held JUNE 26, 2002, the following action was
taken:

Motion adopted to approve communication recommendation(s) as amended	<u>X</u>
Attached amending motion (Holden - Garcetti) adopted.....		<u>X</u>
Attached amending motion (Miscikowski - Holden) adopted		<u>X</u>
Attached amending motion (Reyes - Holden) adopted.....		<u>X</u>
Attached amending motion (Bernson - Holden) adopted.....		<u>X</u>
2 Ordinances adopted		<u>07/03/02</u>
Ordinance numbers	<u>174706 & 174707</u>	
Publication date.....		<u>08/01/02</u>
Effective date.....		<u>09/01/02</u>
Mayor approved.....		<u>07/16/02</u>
To the Mayor FORTHWITH.....		<u>X</u>

City Clerk
vdw

steno\021005
7/31/02

Tuesday
6-25-02

COMMUNICATION

File No. 02-1005

TO: LOS ANGELES CITY COUNCIL

FROM: COUNCILMEMBER NATE HOLDEN, CHAIR
ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE

Public Comments Yes No
XX

COMMUNICATION FROM CHAIR, ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE and ORDINANCES FIRST CONSIDERATION relative to imposing private solid waste hauler AB 939 compliance fees and creating the Citywide Recycling Trust Fund.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. PRESENT and ADOPT the accompanying ORDINANCE to add Sections 66.32 through 66.32.8 to the Los Angeles Municipal Code (LAMC), relating to the collection of solid waste and imposing certain private solid waste hauler AB 939 compliance fees. (This version of the Ordinance bases the fees on gross receipts from fees and charges from the collection of solid waste.)

2. PRESENT and ADOPT the accompanying ORDINANCE to add Chapter 97 to Division 5 of the Los Angeles Administrative Code, to create the Citywide Recycling Trust Fund to be funded from the AB 939 private solid waste haulers compliance program fees provided for in LAMC Sections 66.32 through 66.32.8.

3. INSTRUCT the Bureau of Sanitation to report to the Council in six months on the implementation of the Ordinances.

Fiscal Impact Statement: None submitted by the City Attorney and Bureau of Sanitation. Neither the City Administrative Officer nor the Chief Legislative Analyst has prepared a financial analysis of this report.

Summary:

On May 24, 2002, the Council considered the following as an action related to the Proposed City Budget for Fiscal Year 2002-03:

1. An Ordinance amending the LAMC relating to the collection of solid waste and imposing certain private solid waste hauler AB 939 compliance fees.

*ADOPTED as AMENDED by Council action on 6-26-02.

2. An Ordinance amending the Los Angeles Administrative Code (LAAC) to create the Citywide Recycling Trust Fund to be funded from the AB 939 private solid waste haulers compliance program fees provided for in the LAMC.

The Council continued its consideration to June 25, 2002, and in the interim, referred these Ordinances to the Environmental Quality and Waste Management and Public Works Committees.

In its Ordinances' transmittal report dated May 24, 2002, the City Attorney notes that the revised, draft Ordinances provide that the permissible uses for the funds include only those to which the relevant provisions of AB 939 pertain, those related to commercial and multi-family recycling programs. The Ordinances do not provide for use of those funds to support the City's residential curbside recycling programs because use of the funds for that purpose would change the character of the fee and require compliance with Proposition 218 for its adoption.

The revisions of these Ordinances are technical in nature and were made at the suggestions of the City Administrative Officer and the Bureau of Sanitation. Because of the lack of time, the City Attorney has not submitted the final draft of the revised Ordinances to the Department of Public Works, Bureau of Sanitation (BOS), for review and comment pursuant to Council Rule 38. However, these draft Ordinances were prepared with significant input from the Bureau of Sanitation.

In its report dated June 10, 2002, the BOS states that it is proposing to implement two Ordinances which require all waste haulers collecting solid waste within the City to obtain a permit and pay an AB 939 compliance fee. The Ordinances would create an AB 939 compliance fee that would be used to establish multi-family and other non-residential recycling programs. The permit system would also require haulers to report to the Bureau on tonnages of materials collected and their disposition. These reports will assist with AB 939 compliance and reporting.

As proposed to the Council, the fees generated would be placed in a special fund. The fees would be restricted for use only for fee administration, AB 939 compliance reporting, and commercial, industrial, and multi-family waste diversion programs. Public education and technical assistance for these programs would be included. The fees could also be used for recycling incentives, such as a rebate system to provide a financial incentive to use recycling processing facilities.

The BOS has held a series of stakeholder meetings to allow for input into the Ordinances. The stakeholders group is composed of waste haulers, processors, recycling companies, environmental consultants, and community representatives. The BOS has already incorporated many of the stakeholders' comments and changes into the Ordinances presented at Council on May 24, 2002. However,

~~additional comments were received after the May 24th meeting. The~~
~~BOS has revised the Ordinance establishing the AB 939 compliance~~
~~fee (attached to the BOS' report), and recommends that the~~
~~Ordinance be adopted as amended. The following are the recommended~~
modifications:

1. Add the definition of "Gross Receipts" and "Material Recovery Facility."
2. Reword Section 66.32.3(a) for clarification
3. Eliminate the prepayment of a prorated fee in Section 66.32.3(b). First payments will be collected within 30 days of the end of the calendar quarter after the effective date of the Ordinance.
4. Add language to emphasize that gross receipts do not include revenues generated from the collection and sale of source-separated material and are not subject to the AB 939 compliance fee in Section 66.32.3(e).
5. Add language to state that a portion of the fees collected will be set aside for recycling incentives for the hauler in Section 66.32.3(g).

At the Joint Environmental Quality and Waste Management and Public Works Committees' special meeting on June 10, 2002, this matter was discussed with the representatives from the BOS, the City Attorney, and the public. Public speakers included: Karen Higgins, a City employee speaking for herself; Chip Clements, representing Clements Environmental; Mike Hammer, representing Looney Bins, Inc.; John Richardson, representing Community Recycling; Kelly Ingalls, representing the Construction Materials Recycling Association; Gilbert Canizales, representing the California Grocers Association; Andrew Casania, representing the California Restaurant Association; Wayne Hunter and Mary Edwards representing the North Valley Coalition; Jerry Neuman, representing Crown Disposal; Ron Saldana, representing the Los Angeles County Disposal Association; Judith Ware of Ware Disposal/Mudeson Materials; Dan Agajanian, representing Direct Disposal; Doug Corcoran, representing Waste Management; Judi Gregory, representing Solid Waste Recycling and Disposal; and Mike Greenspan, an apartment tenant.

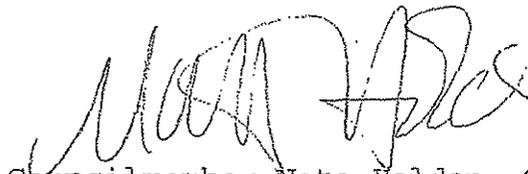
Of the companies/entities listed above, only Waste Management supported basing the AB 939 compliance fees on gross receipts as opposed to tonnage dumped in landfills. However, the Bureau of Sanitation's representative stated that other waste haulers, not speaking before the Committees' today, have agreed with the BOS's recommendation to base the fees on gross receipts. Those waste haulers supportive of basing the fees on gross receipts state that implementation would be easier because the accounting system is already in place. Landfill owners collect tonnage statistics by jurisdiction, not necessarily by hauler by jurisdiction. Landfill owners are not obligated to give information about the tonnage dumped in the landfill by a particular waste hauler to the City.

The City Attorney's representative orally recommended three changes to the Ordinance imposing the AB-939 compliance fees

1. The definition of "gross receipts" should reference the definition already contained in the LAMC.
2. Fee payment should be based on the gross receipts received in the prior quarter.
3. Regarding the provision in the Ordinance for having a percentage of the fees collected allocated for incentives designed to increase recycling activities: Some criteria should be established for what the percentage should be. Council may want to establish a policy for the Bureau of Sanitation to set the percentage, subject to Council approval.

The Chair of the Environmental Quality and Waste Management Committee approved the Ordinances as attached to the BOS's June 10, 2002, report, with the City Attorney's suggested corrections to the Ordinance for the imposition of private solid waste hauler AB 939 compliance fees. He also recommended that the BOS report to the Council in six months on the implementation of the Ordinances. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,



Councilmember Nate Holden, Chair
Environmental Quality and Waste Management Committee

IS
06/18/02
#021005.wpd

JUN 25 2002 - CONTINUED TO June 26, 2002

MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATIONS & ORDS

ADOPTED
AS AMENDED
JUN 26 2002

* ORBS OVER 1 WEEK TO 7-3-02

* SEE ATTACHED MOTIONS
LOS ANGELES CITY COUNCIL
FORTHWITH

ORDS
ADOPTED

JUL 03 2002

LOS ANGELES CITY COUNCIL

MOTION

In connection with item 43, A,1; on today's Council agenda the City Attorney has prepared and presented an ordinance to impose an AB 939 compliance fee. The ordinance does not address the need to monitor the collection and disposal of source-separated materials. There is a need to monitor and gather such information for purposes of AB 939.

I THEREFORE MOVE that the ordinance prepared and presented by the City Attorney in connection with item 43,A,1 on today's Council agenda **BE AMENDED** to include the requirement that haulers of source-separated materials also obtain an AB 939 compliance permit, but that the charges received from the collection and disposal of source-separated materials be excluded from the computation of the AB 939 compliance fees.

Amending Motion
ADOPTED

JUN 26 2002

**LOS ANGELES CITY COUNCIL
FORTHWITH**

PRESENTED BY:

Nate Holden

NATE HOLDEN
Councilmember, 10th District

SECONDED BY:

E.G.

AD

AMENDING MOTION

I HEREBY MOVE that Council AMEND the recommendations as submitted by the Chair, Environmental Quality and Waste Management Committee on today's Council agenda (Item No. 43; CF 02-1005) - relative to imposing private solid waste hauler AB 939 compliance fees and creating the Citywide Recycling Trust Fund, and ADOPT the following:

DIRECT the Bureau of Sanitation to review and/or propose a fee discount incentive program based on the hauler's gross receipt evidence showing that a certain percentage of their trash had been taken to a recycling facility, as confirmed by a recycling facility receipt showing the amount of recycled materials versus the amount of trash going into landfills.

Amending Motion
ADOPTED

JUN 26 2002

LOS ANGELES CITY COUNCIL

FORTHWITH

PRESENTED BY _____

CINDY MISCIKOWSKI
Councilmember, 11th District

SECONDED BY _____

NATE HOLDEN
Councilmember, 10th District

June 26, 2002
CF 02-1005
021005.mot

AMENDING MOTION

I HEREBY MOVE that Council-AMEND the recommendations as submitted by the Chair, Environmental Quality and Waste Management Committee on today's Council agenda (Item No. 43; CF 02-1005) relative to imposing private solid waste hauler AB 939 compliance fees and creating the Citywide Recycling Trust Fund, and ADOPT the following:

REQUEST the Mayor and DIRECT the Bureau of Sanitation to report back in six months with a comparative analysis of the gross receipts and tonnage programs, including a tonnage program that can be enacted and that will show the amount of diversion that is being taken out of the landfill solid waste stream and, further, describe the proposed uses for the compliance fees.

Amending Motion
ADOPTED

JUN 26 2002

PRESENTED BY _____

HAL BERNSON
Councilmember, 12th District

LOS ANGELES CITY COUNCIL
FORTHWITH

SECONDED BY _____

NATE HOLDEN
Councilmember, 10th District

June 26, 2002
CF 02-1005
021005.bmot

COMMUNICATION

File No. 02-1005

TO: LOS ANGELES CITY COUNCIL

FROM: COUNCILMEMBER TOM LABONGE, VICE-CHAIR
PUBLIC WORKS COMMITTEE

Public Comments Yes No
XX

COMMUNICATION FROM VICE-CHAIR, PUBLIC WORKS COMMITTEE and ORDINANCE FIRST CONSIDERATION relative to imposing private solid waste hauler AB 939 compliance fees and creating the Citywide Recycling Trust Fund.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. REQUEST the City Attorney to prepare an Ordinance to add Sections 66.32 through 66.32.8 to the Los Angeles Municipal Code (LAMC), relating to the collection of solid waste and imposing certain private solid waste hauler AB 939 compliance fees. (This version of the Ordinance bases the fees on tonnage dumped in landfills.)
2. PRESENT and ADOPT the accompanying ORDINANCE to add Chapter 97 to Division 5 of the Los Angeles Administrative Code, to create the Citywide Recycling Trust Fund to be funded from the AB 939 private solid waste haulers compliance program fees provided for in LAMC Sections 66.32 through 66.32.8.
3. INSTRUCT the Bureau of Sanitation to report to the Council in six months to one year on the implementation of the Ordinances.

Fiscal Impact Statement: None submitted by the City Attorney and Bureau of Sanitation. Neither the City Administrative Officer nor the Chief Legislative Analyst has prepared a financial analysis of this report.

Summary:

On May 24, 2002, the Council considered the following as an action related to the Proposed City Budget for Fiscal Year 2002-03:

1. An Ordinance amending the LAMC relating to the collection of solid waste and imposing certain private solid waste hauler AB 939 compliance fees.
2. An Ordinance amending the Los Angeles Administrative Code (LAAC) to create the Citywide Recycling Trust Fund to be funded from the AB 939 private solid waste haulers compliance program fees provided for in the LAMC.

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At the Joint Environmental Quality and Waste Management and Public Works Committees' special meeting on June 10, 2002, this matter was discussed with representatives from the BOS, the City Attorney, and the public. Public speakers included: Karen Higgins, a City employee speaking for herself; Chip Clements, representing Clements Environmental; Mike Hammer, representing Looney Bins, Inc.; John Richardson, representing Community Recycling; Kelly Ingalls, representing the Construction Materials Recycling Association; Gilbert Canizales, representing the California Grocers Association; Andrew Casania, representing the California Restaurant Association; Wayde Hunter and Mary Edwards representing the North Valley Coalition; Jerry Neuman, representing Crown Disposal; Ron Saldana, representing the Los Angeles County Disposal Association; Judith Ware of Ware Disposal/Mudeson Materials; Dan Agajanian, representing Direct Disposal; Doug Corcoran, representing Waste Management; Judi Gregory, representing Solid Waste Recycling and Disposal; and Mike Greenspan, an apartment tenant.

Of the companies/entities listed above, only Waste Management supported basing the AB 939 compliance fees on "gross receipts" as opposed to tonnage dumped in landfills. However, the Bureau of Sanitation's representative stated that other waste haulers, not speaking before the Committees' today, have agreed with the BOS's recommendation to base the fees on gross receipts. Those waste haulers supportive of basing the fees on gross receipts state that implementation would be easier because the accounting system is already in place. Landfill owners collect tonnage statistics by jurisdiction, not necessarily by hauler by jurisdiction. Landfill owners are not obligated to give information about the tonnage dumped in the landfill by a particular waste hauler to the City.

The City Attorney's representative orally recommended three changes to the Ordinance imposing the AB 939 compliance fee:

1. The definition of "gross receipts" should reference the definition already contained in the LAMC.

2. ~~Fee payment should be based on the gross receipts received in the prior quarter.~~

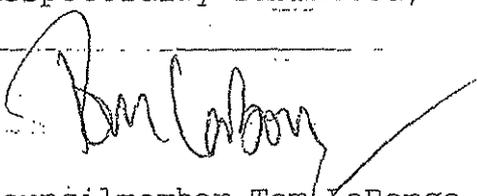
3. ~~Regarding the provision in the Ordinance for having a percentage of the fees collected allocated for incentives designed to increase recycling activities: Some criteria should be established for what the percentage should be. Council may want to establish a policy for the Bureau of Sanitation to set the percentage, subject to Council approval.~~

~~The Vice-Chair of the Public Works Committee stated that he wants to work with industry that wants to base the fee on tonnage dumped in landfills and wants a fair fee. The Vice-Chair also wants more information about what other State entities are doing to recover costs from AB 939 compliance.~~

~~The Director of the Bureau of Sanitation stated that the City's budget goal of obtaining \$10,000,000 per year from AB 939 compliance fees would be impacted by basing the fee on tonnage dumped in landfills. If the fee is based on tonnage dumped in landfills, then the BOS would need to revisit its staffing plan. The five positions in the Fiscal Year 2002-03 proposed budget for the Bureau of Sanitation were based upon the relatively simpler gross receipts method of fee determination. If tonnage is selected, administering the fee will be much more staff intensive, and the BOS will need additional positions to implement the program.~~

~~The Vice-Chair of the Public Works Committee recommended that the Ordinance attached to the BOS's June 10, 2002, report relative to imposing private solid waste hauler AB 939 fees be amended to state that the fees should be based on tonnage dumped into landfills. The Vice-Chair approved the City Attorney's recommended changes to this ordinance and approved the Ordinance amending the Los Angeles Administrative Code. He also recommended that the BOS report to the Council in six months to one year on the implementation of the Ordinances. This matter is now forwarded to the Council for its consideration.~~

~~Respectfully submitted,~~


Councilmember Tom LaBonge, Vice-Chair
Public Works Committee

IS
06/18/02
#021005a.wpd

JUN 25 2002 - CONTINUED TO June 26, 2002

JUN 26 2002 - Received and Filed

AMENDING MOTION

I HEREBY MOVE that Council AMEND the recommendations as submitted by the Chair, Environmental Quality and Waste Management Committee on today's Council agenda (Item No. 43; CF 02-1005) relative to imposing private solid waste hauler AB 939 compliance fees and creating the Citywide Recycling Trust Fund, and ADOPT the following:

DIRECT the Bureau of Sanitation (BOS) to mandate and implement a baseline tonnage and diversion goal for each year, to the satisfaction of the Mayor and the Council Office, in order to reach the 70 percent goal that is set for 2020 and, further, DIRECT the BOS to report back in 30 days relative to providing baseline tonnage and specific diversion goals for each year.

Amending Motion

ADOPTED

JUN 26 2002

LOS ANGELES CITY COUNCIL

FORTHWITH

PRESENTED BY

ED P. REYES
Councilmember, 1st District

SECONDED BY

NATE HOLDEN
Councilmember, 10th District

June 26, 2002
CF 02-1005
021005.amot

COUNCIL VOTE

Jun 26, 2002 12:43:47 PM, #9

ITEM NO. (43)

Voting on Item(s): 43 AS AMENDED

Roll Call

BERNSON	Yes
GALANTER	Absent
GARCETTI	Yes
GREUEL	Yes
HAHN	Absent
HOLDEN	Yes
LABONGE	Yes
MISCIKOWSKI	Yes
*PACHECO	Yes
PERRY	Yes
REYES	Yes
RIDLEY-THOMAS	Absent
WEISS	Absent
ZINE	Yes
PADILLA	Yes

Present: 11, Yes: 11 No: 0

CITY OF LOS ANGELES
CALIFORNIA

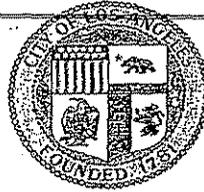
BOARD OF
PUBLIC WORKS

DEPARTMENT OF
PUBLIC WORKS

COMMISSIONERS

BUREAU OF SANITATION

VALERIE LYNNE SHAW
PRESIDENT
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JUDITH A. WILSON
DIRECTOR

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June 21, 2002

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RECEIVED
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JUN 21 AM 9:09
CITY CLERK OFFICE

City Council
200 N. Spring Street, Room 455
Los Angeles, CA 90012

SUBJECT: WASTE HAULER ORDINANCE SUPPLEMENTAL STAFF REPORT, CF 02-1005

In response to public comments staff recommends the following:

Recommendations

1. Approve the waste hauler AB939 compliance based fee ordinance, assessed on gross receipts as submitted and forwarded to Council by the chairperson of the Environmental Quality and Waste Management Committee.
2. Approve a program designating a portion of the fees collected, not to exceed 20% or \$2 million per year, be utilized for incentives to increase the use of material recovery facilities located within the City for additional diversion.

Background

The Bureau of Sanitation has received numerous comments from our stakeholders that the AB939 compliance fee should be assessed on tons of waste disposed and not gross receipts, as proposed. The stakeholders argue that a gross receipts based fee creates a disincentive for recycling and that a disposal based fee system would be easier to track and audit. Staff strongly disagrees with both of these statements.

A disposal-based fee system would be more difficult and extremely costly to audit, which would result in reduced funds for new recycling programs (see Attachment 7). It is estimated that a disposal-based fee would result in additional auditing costs of \$2.1 million per year over a gross receipts based fee (see Attachment 1). A total of 15 additional employees would be required to accurately perform auditing of a disposal based fee system. Auditors would not only need to review the financial records of the hauler, but also disposal records at all disposal sites, transfer stations, and material recovery facilities where waste was delivered by permitted haulers. A comparison of the administrative structure of gross receipts and disposal-based fee audit requirements are contained in Attachment 2.

A disposal-based system is not only more costly to audit; it would produce less accurate results. A disposal-based system relies on self-reporting by the hauler and the record keeping of disposal or processing sites. Currently the Disposal Reporting System (DRS) is used by the State of California to track disposal tonnages by jurisdiction at disposal sites, but does not



require delineation of disposal by jurisdiction and hauler. Additionally the DRS is not considered accurate.

There is also a potential for conflict of interest since many of the landfills, transfer stations, and processing facilities that the City would be required to audit are actually owned and operated by the same waste hauling companies subject to the fee. A detailed discussion of the potential for a conflict of interest in a disposal based system, and the reliability of the landfill tracking system is given in Attachments 3, and 4, respectively.

Staff also maintains that the ordinances, as proposed, do not discourage recycling. The gross receipts based system does not create advantages for those who do not recycle. The proposed ordinances exempt from the fee the revenue generated through the collection of source separated material. The ordinance creates new financial incentives for other recycling programs. The revenue generated through the fees would be used to help establish new diversion programs for the multi-family, commercial and food waste sectors, while enhancing existing recycling programs to provide for additional diversion opportunities.

The stakeholders have also suggested that a sliding scale be created for those who take their mixed waste to a material recovery facility (MRF). They proposed that a lower gross receipts percentage be applied if material is taken to a MRF. The sliding scale assessment would also be more costly to audit. The gross receipts would still need to be audited but, in addition, the disposal records would need to be verified and somehow correlated to gross receipts. Instead of a sliding scale, staff recommends dedicating funds for incentive programs to provide financial incentives for haulers to utilize material recovery facilities.

Staff have researched many other jurisdictions to determine how waste haulers are permitted. Staff found that all cities, both inside and outside Los Angeles County, large or small, have some form of permitting system in place, including a fee system. Within Los Angeles County, all but one city, Santa Monica, bases the fees on gross receipts. Santa Monica charges \$11 per ton and does very limited auditing. Some cities, in addition to the gross receipts fee, also charge a supplemental fee on tons disposed, but auditing is only done on the gross receipts portion. A survey of major cities throughout the country and within Los Angeles County was conducted and the results of this survey are shown in Attachments 5 and 6.

Conclusion

Staff recommends that the AB939 compliance fee is adopted and the fee is based on gross receipts format. Staff further recommends that in lieu of the additional staffing costs required to audit a disposal-based ordinance, an incentive program to increase recycling efforts at the material recovery facilities located in the City be established. It is recommended a portion of the fees collected, not to exceed 20 percent or \$2 million, be utilized for incentives to increase the use of material recovery facilities located within the City for additional diversion. This would provide opportunities to increase diversion throughout the City and reduce the amount of waste entering the landfills. It would also maximize revenues for new diversion programs.

Sincerely,


Judith A. Wilson, Director
Bureau of Sanitation

JAW:MAM:dkm
Attachments

cc: Michele McManus
Jorge Santiesteban
Karen Coca
Rafael Prieto

Cost Comparison Chart for Fee Administration

Fee Structure	Cost Components	
Gross Receipts	Collection Administration	\$ 420,000
	Contract Audits	\$ 300,000
	Total	\$ 720,000
Disposal Based	100% Use of City Staff	
	Collection Administration	\$ 420,000
	Monitoring and Audit of Haulers	2,370,000
	Vehicles	100,000
	Total	\$2,890,000
	<i>or</i>	
	<i>Contracting of Audits</i>	
	Collection Administration	\$ 420,000
	Contract Audits	2,880,000
	Total	\$3,300,000
Sliding Scale Gross Receipts	Collection Administration	\$ 420,000
	Monitoring and Audit of Haulers	1,899,000
	Contract Audits	300,000
	Vehicles	80,000
	Total	\$2,699,000

DISCUSSION OF GROSS RECEIPTS VS. DISPOSAL BASED FEE ADMINISTRATIVE STRUCTURE

BACKGROUND

Waste permit/franchise fees are levied by all cities in Los Angeles County except the City of Los Angeles. In L.A. County, gross receipts based fees are used by all jurisdictions except one – Santa Monica; a few have a combination of gross receipts and disposal based fees. Gross receipts fees ranged from 7.75% to 16%; Santa Monica's disposal based fee is \$11 per ton. Haulers under the franchises in L.A. County have their accounting systems set up for gross receipts, so there would be no billing reconfiguration costs to them to implement a fee in the City. City staff estimate over 150 waste haulers and large contractors who haul materials to landfills from the City will be involved in the permit system.

AUDIT

Other cities in Los Angeles County perform a limited number of audits each year; some perform no audits at all. City staff is proposing to audit approximately 25% of all haulers on a random and targeted basis each year. Financial audits such as those for gross receipts are similar for various applications and trained financial auditors can handle the necessary activities without special training. Most financial audit records are kept in one location, minimizing vehicle and travel costs. The City's Department of Finance has most haulers listed in their Tax & Permit System. Sanitation can work with these same auditors and reimburse them for auditing specific hauler books that are common to both systems.

In contrast, a disposal-based fee requires that City staff or their designated auditor visit processing, transfer, and disposal sites that are not City owned, but owned by different private companies and other jurisdictions. Most are not within City limits, therefore our rights – with no authority - will be more difficult to assert. Jurisdictions having disposal based fees, such as Orange County, take waste to their own County operated sites, where they control disposal records, and quality control can be monitored. Haulers servicing the City of Los Angeles disposed waste in over 13 landfills during the year 2000, and waste haulers utilized over 18 different transfer stations, and utilized over 40 permitted and non-permitted commercial recycling facilities. This would only increase the complexity of the auditing process.

COST

To audit gross receipts requires, on average, 4 to 6 full time days by an auditor at the hauler's place of business. The approximate cost to audit a small hauler is estimated at \$6,000 and the cost for a large hauler is estimated \$9,000.

To audit a disposal based fee, not only would City staff and agents have to visit the hauler's place of business, but would have to verify tonnages received, diverted, and disposed at the transfer stations, recycling processing facilities, and disposal sites used by each hauler.

Example:

These are the top eight haulers that responded to the 2000 Hauler Survey. Numbers of disposal sites indicate direct hauled material, number of transfer stations indicates material was transferred, but not necessarily to the same disposal sites.

- #1 – 6 Disposal & 3 transfer site(s)
- #2 – 0 Disposal & 3 transfer site(s)
- #3 – 3 Disposal & 4 transfer site(s)
- #4 – 3 Disposal & 2 transfer site(s)
- #5 – 9 Disposal & 6 transfer site(s)

#6 - 4 Disposal & 1 transfer site(s)

#7 - 4 Disposal & 0 transfer site(s)

#8 - 7 Disposal & 4 transfer site(s)

To audit any of these haulers we have to monitor and/or visit all of these sites and most likely several others. This list it does not include any processing facilities such as Material Recovery Facilities (MRF's). Due to the complexity of auditing a disposal based fee system the administrative costs would increase over \$2 million per year as compared to a gross receipts based fee system.

CONCLUSION

A gross receipts based fee system would result in a net savings of over \$2 million, which can be utilized for recycling programs designed to increase waste diversion and reduce the amount of waste entering our landfills.

Attachment 3

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Conflict of Interest Issues Disposal Only Based Fee

Of the 13 major disposal sites used by private haulers operating in LA City, 6 are owned by companies who are haulers in the City and would be subject to the AB939 compliance fee.

At Bradley Landfill, for example, the site is owned and operated by Waste Management, Inc. Waste Management, Inc. is one of the largest haulers operating in the City. Outside the City, Waste Management disposes of City material at the Simi Valley Landfill. Also outside the City, Chiquita Canyon Landfill is owned and operated by Republic Industries, and Sunshine Canyon Landfill is owned and operated by BFI. These three companies are not only the largest in the country, but also hold the largest combined market share in the City.

There are two major conflict of interest issues associated with a disposal-based fee. First, the owners and operators of major disposal, on whom we would rely for information, are also the same haulers subject to fees. Second, there is no other source of data by hauler for disposal; only estimates by the individual refuse collection truck operators. The discussion of these two items is as follows:

CONTROLLER STANDARDS

It is unacceptable accounting practice to allow statistics controlled solely by a regulated hauler to act as the basis for their fee. The Controller would require that the City verify these self reported figures.

In regard to Controller's Office fiscal year 1999/2000 audit findings of the City's disposal of refuse and greenwaste, Controller's staff required that the following be instituted to validate disposal billings:

- Assurance of accurate truck weight measurements every 6 months;
- Audit of individual weight tickets for each load at each landfill/transfer station/MRF; and
- Accounting of all contaminated refuse rejected by MRF's and disposed at landfills.

These measures would similarly be required to verify revenue based on disposal tonnage.

With disposal tonnage subject to this fee totaling approximately 2.5 million tons per year, the number of weight tickets supporting disposal tonnage would be at a minimum 250,000 (assuming all trucks are full at the time of weigh-in and they all can carry 10 tons per load).

In the event a load is brought in from a route that crosses jurisdictions, the load allocation subject to the fee is estimated by the hauler. There are no true accurate methods used, at most processing operations.

Due to the substantial amount of tonnage handled by companies who either own or operate regional processor sites, the City would have to arrange for auditors to frequently monitor all major processor sites on a permanent basis to monitor weight tickets and to update truck tare weights. City Attorney has advised staff that since facilities are not covered by the ordinance, legal right to access these facilities for the audit of records is limited, compounding the audit process.

Attachment 4

RELIABILITY OF THE LANDFILL REPORTING SYSTEM

DSR SYSTEM

There have been statements made that a regular accounting is made to the City and State regarding disposal tonnages and that the information is available to easily audit a disposal-only based fee. That is not accurate.

The information being referred to in these comments is the **Disposal Reporting System** set up by the State Integrated Waste Management Board. Each disposal site reports the amount of disposal material received, by jurisdiction, to the State so that a compiled total disposal tonnage can be given to each jurisdiction each year. There is no reporting by hauler tonnage or processing facility (MRF) tonnage to the City or the State.

In addition, the **Disposal Reporting System** has been plagued with repeated reporting errors. Some jurisdictions fluctuate over 50% in disposal each year because of reporting changes and confusing jurisdictional boundaries. The State Legislature passed a bill in late 2000 requiring the Waste Board to examine and come up with recommendations for reducing the errors in this system.

LA TONNAGE ADJUSTMENTS

While locally the County of Los Angeles has attempted to mitigate some of the problems, the County only reports what the disposal facilities report to them...only the State has sole auditing authority over the disposal figures reported to them. Jurisdictional errors are still occurring. In trying to establish the total disposal for the City of Los Angeles for the year 2000, the total disposal number has been adjusted six times since the beginning of 2001 with over 200,000 tons of the City's totals being adjusted which would result in over \$1 million in potential revenue adjustments. The last adjustment to the City's disposal for 2000 was less than one month ago, in the middle of 2002! Since these adjustments are only reported by jurisdiction, not by hauler, staff has to research adjustments to tonnage for all local haulers impacted, creating a substantial number of fee adjustments. While the City must use this data for AB939 reporting, using this data as the basis for a fee structure is flawed, by statistical and accounting standards.

NON-EXCLUSIVE PRIVATE HAULER PERMIT/LICENSING/FRANCHISE SYSTEMS SURVEYS (SAMPLING)

City	Type of System	No. of Haulers	Fee Assessment Method	Fee Amount	Average Annual Revenues from Fees	Term & Renewal	Exemptions	Annual Tonnage Disposed Reported by Haulers	Audits
CITIES IN THE LOS ANGELES COUNTY									
Long Beach ¹	Permit	20 (cap of 40)	Gross receipts	8% to 12%	\$1.2 million	1 year	Haulers hauling < 900 tons/year	216,000	Random, rotating audits
Burbank ¹	Permit	24	Gross receipts	16%	\$700,000 to \$900,000	1 year	Not addressed	65,000	Random, rotating audits
Glendale ¹	Permit	72	Gross receipts	11%	\$550,000	1 year	Self-haul, C&D, etc.	62540	No audits since beginning
Pomona ²	Permit	7	Gross receipts + several fees per ton disposed	11% (not pass through); \$0.50/ton AB939 fee; \$0.50/ton Community clean-up fee		2 years	Not addressed	107,500	No audits since beginning
Torrance ²	License	30	Gross receipts + CERCLA fee/ton disposed	7.5%; CERCLA \$0.70 per ton disposed	\$600,000 to \$650,000	1 year	Self-haulers	100,000	Random, rotating audits on gross receipts (7 to 8 haulers/year)
El Monte ¹	Franchise	11	Gross receipts + fee per cubic yard	10%; \$0.30 per cubic yard; \$0.89 per rolloff yard;	\$900,000 to \$1 million	1 year	Not addressed, but C&D and other big self-haul are assessed \$6.76/ton AB 939 fee		No audits since beginning
Santa Monica ¹	Permit	40	Per Ton Disposed	\$300 annual permit fee; \$11 per ton	\$400,000	1 year	Separate C&D ordinance	41,000	4 to 5 per year. Audit not based on weigh tickets only from disposal facility reports.
CALIFORNIA CITIES OUTSIDE LA COUNTY									
San Diego	Franchise	21	Per Ton Hauled/Collected	\$10/ton collected for Class I franchises (>75K tons/yr); \$9/ton for Class II franchises (< 75K tons/yr); AB 939 recycling fee of \$7/ton for all other haulers, including self-haul.	\$7 million (from franchises not including AB 939 fee)	Originally 7 years, but now just renew every year.	Self-haul exempt from franchise fees but not from AB939 recycling fee.	700,000 tons hauled	Has a full time auditor. Has only audited the largest "3" companies. Audits dump ticket: the landfill is owned by the City and one of the franchised haulers. Also audits route sheets for mixed route collections and apply a % for tons.
San Jose ²	Franchise	26	Per Cubic Yard of Container	\$2.84 per cubic yard franchise fee; \$1 per cubic yard AB9393 fee; \$11.52 per cubic yard franchise fee for compacted garbage; \$13 per ton disposal fee at landfills in the city.	\$9m to \$13m franchise fees; \$3.5 to \$4m AB939 fees;	2 years	Source-separated recyclables exempt from fees; First 24,600 cubic yards per year exempt from fees	4.5m cubic yards or 1.5m tons	Large companies are audited once per year; the smaller companies are audited every two years
Costa Mesa ¹	Permit	13	Per Ton Hauled/Collected	\$480 annual permit fee; \$0.55/ton	\$100,000	1 year	Self-hauler, C&D	180,00 tons hauled	Audits all hauler based on disposal facility reports

¹ Franchise, license or permit fees all go the municipal general funds.

² Franchise fees go towards the municipal general funds, while other fees such as AB939 or CERCLA fees go towards direct recycling program funds.

NON-EXCLUSIVE PRIVATE HAULER PERMIT/LICENSING/FRANCHISE SYSTEMS SURVEYS (SAMPLING)

City	Type of System	No. of Haulers	Fee Assessment Method	Fee Amount	Average Annual Revenues from Fees	Term & Renewal	Exemptions	Annual Tonnage Disposed Reported by Haulers	Comments
OTHER METROPOLITAN CITIES OUT OF CALIFORNIA (in order of population)									
New York ^{3,5}	Carter License	242 putrescible carters, 182 C&D carters, 165 self-haulers.	Per vehicle	For putrescibles: \$1000 company license, \$500 per each vehicle. For C&D: \$650 company license, \$350 per vehicle. For self-hauls: \$350 per vehicle. For new licenses, \$350 investigation fee plus \$350 investigation fee for each principal of the company.	\$800,000 to \$900,000	2 years	None		All commercial businesses in NY City are required to recycle through arrangements with their private carters or recyclers. NY has a cadre of recycling/garbage cops. NY will be revising their fee system, soon.
Chicago ⁵	Scavenger License	40	Per vehicle	\$200 per vehicle		1 year	None		Chicago does not have a recycling mandate. Fees collected go into general funded programs, i.e. street repairs and do not need to support recycling or diversion programs.
Houston ^{4,5}	Franchise	< 100	Gross receipts	4%	Revenue estimated at \$9.6m	1 year	None		Ordinance was just passed on 6/19/02. The fees are revenue source for general funds and need not support diversion programs.
Philadelphia ^{5,6}	License	15 to 20	Per vehicle	\$60/vehicle		1 year	None		Recycling mandate is 35% by 2000. Dumpster license paid directly by users not by haulers.
Dallas ^{4,5}	License	1200	Per vehicle; Per container; City owns the landfill and requires every vehicle that takes material to the landfill to have a permit including self-haul.	\$50/vehicle; \$75/container		1 year	None		No recycling mandates.
San Antonio ^{4,5}	License	15	Per vehicle	\$150 for vehicles < 7000 gross vehicle weight; \$2,250 for vehicles = or > 7000 gross vehicle weight	\$250,000	1 year	None		No recycling mandates.
Detroit ⁶	License	30	Per vehicle	\$100 per vehicle		1 year	None		No recycling mandates.
Austin ^{4,5}	License		Per vehicle; Per container each day it is used;			1 year			Recycling is required of businesses with 100 or more employees and multi-family dwelling units of 100 or more through arrangements with licensed haulers or recyclers.
Portland ⁵	Permit	67	Annual Permit; Per Ton Collected	\$60 annual permit; \$3.80 per ton	\$900,000	1 year	Recyclers exempt.	320,000 tons collected	All businesses and multi-family complexes are required to recycle through arrangements with city permitted waste hauler or recycler.

³ New York Trade Waste Commission will be revising their ordinance to increase the required fees because administration of the licensing program is very underfunded. Investigation fee is for checking company or principal affiliation with organized crime.

⁴ With the exception of Dallas and San Antonio, all of the major cities in Texas base their private hauler licenses on percentage of gross receipts. Fort Worth's fee is 7% and Beaumont's fee is 5%.

⁵ Franchise, license, or permit fees all go to municipal general funds and not necessarily used for solid waste activities. Fees are often used for street maintenance and repairs.

⁶ Philadelphia, requires that the dumpster USERS NOT THE HAULERS obtain a dumpster license (dumpsters >= 1 cubic yard). For dumpster located in private property, fee is \$50 one-time. For dumpster located in public-right-of-way, annual fee is \$300.

Proposed Permit System Comparison Chart
(Top 15 Cities by Population)

City	Fee Assessment Method	Fee Amount	Term & Renewal Provisions	Landscapers/Gardeners Exempt?	Contractors Exempt?	Self-Haulers Exempt?	Exclusive or Non-Exclusive
1 Los Angeles	Gross receipts	10.0%	1 year	Yes	Yes	Yes	Non-Exclusive
2 Long Beach	Gross receipts	7.75%	1 year	No	Exempt from portions of ordinance	No, but exemption if <900 tons/yr	Non-Exclusive
3 Glendale	Gross receipts from ALL services, including recycling	11%	1 year	Yes	Yes	Yes	Non-exclusive
4 Torrance	Gross receipts from ALL services for franchise fee; per ton for CERCLA	7.5% Franchise fee; \$0.70/ton CERCLA fee	1 year	Yes	Yes	No	Non-Exclusive
5 Pomona	Gross receipts on ALL services for franchise fee; per ton DISPOSED for AB 939 and Community Clean-up fee.	15% franchise fee; \$0.50 per ton AB 939 Program fee and \$0.50 per ton Community Clean-up fee	2 years	Not addressed	Not addressed	Not addressed	
6 Pasadena	Gross receipts	11%	3 years is standard; ordinance is flexible up to 20 years	No	Yes	Yes	Non-Exclusive
7 Santa Clarita	Gross revenues	10%	3, year evergreen (initial period was 7 years, which will end 7/2000)	No	No	No	Exclusive
8 El Monte	Gross receipts for franchise fee; per cubic yard for AB 939 fee	10%; \$0.30 per cu. yd. for commercial AB 939 fee, \$0.89 per yd. for roll-off	At City's discretion	Now exempt, but City reserves the right to require reporting.	Not addressed	Now exempt, but City reserves the right to require reporting.	Exclusive
9 Burbank	Gross receipts	16%	1 year	Not addressed	Not addressed	Yes, by implication ("waste collector" must operate one or more waste collection vehicles)	Non-Exclusive
10 Santa Monica	Per ton disposed	\$9.85/ton	1 year		No		Non-Exclusive
11 Monterey Park	Gross receipts	13% on Gross Receipts plus \$4/ton	1 year	Yes	Yes		Non-Exclusive
12 Montebello	Gross revenues	10%	1 year	Yes	Must use pool of haulers in program or use own truck.	Yes	Exclusive
13 Gardena	Annual franchise fee of \$5,000, PLUS Gross Revenue Franchise fees.	8%	5 years	Not addressed	Not addressed	Not addressed	Commercial Non-Exclusive, Residential Exclusive
14 Diamond Bar	No franchise fee.	\$0.35 City fee		Limited permit required	Limited permit required	Limited permit required	Exclusive
15 Arcadia	Gross receipts	9.5%		Yes	Yes	Not addressed	Exclusive
16 Beverly Hills	Base annual franchise fee of \$375,000 to be split among all haulers; incremental franchise fee of 10% of gross receipts for commercial, 11% for roll-off; environmental liability fee of \$5 per ton; recycling fees of \$34.50 per ton, and recycling rebates of up to \$250 per ton.	see previous column	Initial term of 4 years, with 5, 1-year renewals.	Not addressed	Not addressed	Not addressed	Non-Exclusive

Attachment 7



Gross Receipts vs. Disposed Tons Assessment Advantages and Disadvantages

ISSUES	Gross Receipts Based Fee		Disposal Based Fee	
	Advantages	Disadvantages	Advantages	Disadvantages
Waste Diversion	<p>Does not decrease recycling. The relative cost of disposal and recycling remains the same. However, it does provide an incentive for source separated recycling.</p> <p>Eliminates financial benefits for a hauler who under reports the amount of waste collected or disposed from the City. Instead only haulers or MRF's who fully comply with reporting requirements will receive financial incentives. These financial incentives will be provided to increase the use of MRF's.</p>	<p>Does not provide an upfront financial incentive for haulers who use MRF's.</p>	<p>Provides an upfront financial incentive for haulers who use MRF's.</p> <p>Subsidizes existing recycling activities</p>	<p>Reduces the amount of funding available for developing increased diversion opportunities due to increased auditing costs.</p> <p>Upfront financial incentives may encourage a hauler to under report the amount of waste collected and disposed.</p>
Program funding	<p>Maximizes funding for new diversion programs through lower administrative costs.</p>	None	None	<p>Decreases the funding for new diversion programs by expending an additional 25% of the anticipated revenue on audit costs.</p>
Revenue generation	<p>Maximizes potential revenue through fiscal auditing.</p>	None	None	<p>Revenue may be reduced due to reliance on self-reporting.</p>
Collection rates	<p>The collection rate will be higher due to accuracy of the financial records and ease of auditing.</p>	None	None	<p>The collection rate will be lower due to potential disputes in reporting.</p>
Audits	<p>Financial records are kept at one location, reducing the cost and staff time to perform audits. Records can be tracked by jurisdiction and are more accurate.</p>	None	None	<p>Will cost an additional \$2 million per year to audit. Need to audit hauler's records and the records of the disposal, transfer and processing facilities used by the hauler, where accessibility is limited.</p>
Auditors	<p>Can use CPA's and generally accepted accounting practices to perform audits.</p>	None	None	<p>Need specially trained auditors to review disposal records.</p>
Access to records	<p>Permitted haulers must provide access to their financial records through the ordinance.</p>	None	None	<p>Access may be denied or limited by non-permitted disposal and processing facilities.</p>
Conflict of interest	None	None	None	<p>The tonnages reported by the hauler must be checked against the records at the disposal or processing facility. However major haulers being audited may also own the facilities.</p>
Reporting	<p>Haulers doing business in L.A. County already have their accounting systems set up for gross receipts.</p>	None	None	<p>Although haulers will be required to report disposal rate, the accuracy cannot be readily verified.</p>

ACCURACY	The gross revenue generated can be validated against the collection addresses within the City. - The financial records are also subject to audits by Local, State, and Federal agencies, reducing the likelihood of errors.	None	None	Disposal by jurisdiction is self reported by the haulers and cannot be verified against collection addresses.
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February 10, 2012

Stephen Miles
Miles Law Group PC
3151 Airway Ave Suite R1
Costa Mesa, CA 92626

Subject: Amended Comments on the City of Los Angeles Bureau of Sanitation Board Report for February 13, 2012 Meeting re: "Authority to Implement an Exclusive Franchise Waste Hauling System in the City of Los Angeles"

Dear Mr. Miles:

I am a California Professional Geologist and Certified Hydrogeologist with over 15 years of consulting experience in environmental assessment. My practice focuses on providing assistance to communities on environmental compliance matters and as a consulting expert and expert witness for environmental litigation. I have extensive experience in the interpretation of data and the application of environmental regulations and regulatory guidance. I formerly served as the Senior Science Policy Advisor with U.S. EPA Region 9 in San Francisco where I advised the senior management on emerging water quality and waste issues. My CV is attached as Exhibit A hereto.

Our Office has reviewed the February 13, 2012 Bureau of Sanitation Board Report "Authority to Implement an Exclusive Franchise Waste Hauling System in the City of Los Angeles" (Board Report), the January 23, 2012 HF&H Consultants LLC "City of Los Angeles Solid Waste Franchise Assessment Final Report" (HF&H Report Exhibit B attached hereto), the AECOM January 2012 Report titled " Economic Impact Analysis

Waste Hauling Policy Framework in the City of Los Angeles” (AECOM Report Exhibit C attached hereto) and the Los Angeles County Disposal Association February 2012 Report titled “An Open Franchise System for Waste Collection and Recycling in Los Angeles: The Key to Cost Control and Quality Service” (LACDA Report Exhibit D attached hereto).

The Board Report precommits and selects an exclusive franchise in eleven collection areas for the collection of solid waste from commercial, industrial, institutional, and multifamily properties in the City of Los Angeles. Each exclusive franchise would be serviced by only one hauler. The proposed exclusive franchise will involve over 100,000 commercial accounts, 660,000 apartment units, and totals approximately two million tons of waste. The Board Report appears, at this early stage and with no competent environmental analysis, to be foreclosing other alternatives including a non-exclusive franchise.

We have concluded that there is a fair argument that this selected franchise design will negatively impact air quality, odorous emissions and traffic in the Northeast San Fernando Valley neighborhoods of Los Angeles, particularly Sun Valley, where truck trips will be concentrated.

The Board Report, the HF&H Report (pp. 4-11), the AECOM Report (pp. 11-25) and LACDA Report (pp. 4-6) illustrate the baseline current market share and destination of the solid waste collected in the City of Los Angeles. There is some diversity of waste destination countywide, but the disposal and transfer facilities in the City of Los Angeles primarily include:

- Waste Management (Sun Valley Bradley Transfer);
- Crown (Sun Valley Community Recycling Facility);
- Athens (Sun Valley American Waste); and
- Republic/Allied (Granada Hills Sunshine Canyon, Sun Valley and Wilmington Falcon).

The issue of waste destination (ie., where waste is transferred to and disposed of) is significant. The Board Report does not meaningfully address the fact that disposal and transfer locations will not exist within each of the proposed eleven collection areas, no matter how delineated. The City of Los Angeles does not have this Citywide waste infrastructure. To the contrary, within the City of Los Angeles these disposal and

transfer facilities are concentrated in the Northeast San Fernando Valley, as noted above.

In the exclusive franchise selected in the Board Report, the eleven exclusive collection areas will be huge in scope and tonnage collected – approximately 10,000 commercial accounts and 60,000 apartment units per collection area on average. More recycling and source separation as proposed in the Board Report will lead to more truck trips because each truck will be handling segregated sources. Currently, many trucks carry commingled sources. If a rigorous mandatory commercial recycling program is implemented, one truck cannot pick up multiple streams (*i.e.* greenwaste, trash, and recyclables). A separate truck will be needed for each of these streams and therefore more truck trips will result. Increased truck trips will result in increased emissions in and around the facilities that will transfer and dispose of this waste. Despite this, the Staff Report provides no valid analysis of truck trips, traffic impacts or vehicle emissions related to its selected exclusive franchise design or any other alternative. Staff Reports usually include a discussion of alternatives to inform officials before the agency takes action to foreclose any alternatives. But the Bureau of Sanitation fails to do that here.

We acknowledge that the Board Report states that truck trips will be reduced but there are absolutely no specifics provided in the Board Report that substantiate this claim. For example, the Board Report cites to and relies upon the new commercial collection program that is starting in San Jose (a City with approximately only 10% of the waste volume of Los Angeles). However, the San Jose CEQA Initial Study and Appendix A dated May 2011 (see attached Exhibit E) found that there would be an increase in both truck trips and vehicle miles under the proposed program there as a result of source separation and consolidating waste haulers. The San Jose Initial Study found that there will be an increase of more than 15,000 truck trips annually, citywide. It also found an increase of up to 444,407 vehicle miles traveled per year.¹ It concluded that the increase in vehicle miles traveled would likely result in an increase in CO₂e emissions.²

¹San Jose Initial Study p. 44, Appendix A p 6.

²San Jose Initial Study p. 44 and Appendix A pp 6-8.

Yet, none of this has been studied for the City of Los Angeles in the Board Report, even as the Board takes action to precommit and select a specific exclusive franchise design.

In particular, we estimate that an average of 60-80 solid waste collection vehicles (trucks) minimum will be required for each exclusive collection area. Only larger firms have truck fleets of this size. As noted in the Board Report, the HF&H Report, the AECOM Report and LACDA Report, smaller haulers who lack large truck fleets are at a competitive disadvantage. In this case, even if a few collection areas are small in size, the others necessarily must be bigger – this is a matter of common sense. Thus, there is a fair argument that the exclusive franchise will route more waste to the larger firms with sufficient truck fleets and transfer/disposal infrastructure capacity to exclusively haul the enormous amount of solid waste generated from an eleven area exclusive franchise.

This will significantly impact the destination of the City's waste transfer and disposal. Under the selected exclusive franchise for the eleven collections areas, increased waste shipments to the large firm facilities (particularly in the Northeast San Fernando Valley as identified above) will be made while shipments to other facilities more frequently used by the smaller haulers (including Sanitation District facilities in Los Angeles County, City of Los Angeles Transfer Station in Downtown Los Angeles, So. Cal Disposal in Gardena, Southland Disposal in East Los Angeles and Waste Connections in Antelope Valley) will be reduced.

We have concluded based on the data in the Board Report, the HF&H Report (pp. 4-11), the AECOM Report (pp. 11-25) and LACDA Report (pp. 4-6), the potential excess waste transfer and disposal flow to destinations in the Northeast San Fernando Valley could approach about 268,000 tons. Each refuse collection truck typically hauls 20 tons; as a result this amount to approximately 13,400 trucks, or 26,800 truck trips, annually. There is a fair argument that this will have significant and unstudied impacts, particularly since the proposed action is foreclosing a non-exclusive approach including smaller haulers that leads to a more equitable pattern of disposal destination. The increase in truck trips to these facilities will result in an increase in traffic, air emissions and other impacts, particularly in the Northeast San Fernando Valley. For example, odors will likely increase in and adjacent to the facilities because of the additional amount of solid waste that will be delivered and handled. Consistent with other

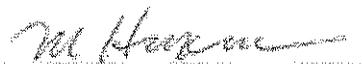
California Air District CEQA Guidance, land uses which include transfer stations should conduct an odor impact analysis using a screening distance of one mile around the facility.³ Yet, the Board Report completely disregards this issue of waste flow and disposal destination/infrastructure.

All this must be studied in the case of the City of Los Angeles before any decision on the eleven exclusive collection areas is made and before foreclosing a non-exclusive franchise option. In this circumstance, the Board Report selects a specific franchise design and forecloses alternatives including a non-exclusive franchise at this early stage with no competent environmental analysis. The Board Report does so even though there is a fair argument that an exclusive franchise for eleven collection areas will create increased truck trips in the Northeast San Fernando Valley while at the same time foreclosing a non-exclusive approach including smaller haulers that leads to a more equitable pattern of disposal destination.

This action is inconsistent with the dictates of CEQA. Before taking any such action, the Board must study this specific alternative under CEQA, in an EIR.

We believe that there is a fair argument that the proposed project would result in significant impacts in the City of Los Angeles including air quality, odor, and traffic. An EIR should be prepared that addresses these issues. Before action on any specific franchise design is selected, the EIR should study all alternatives, properly disclose these impacts and provide mitigation measures that can reduce these impacts to less than significant levels.

Sincerely,



Matt Hagemann, P.G., C.Hg.

Attachments.

³ Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines. pp. 3-4.

EXHIBIT

A



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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**Geologic and Hydrogeologic Characterization
Industrial Stormwater Compliance
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certification:

California Professional Geologist

California Certified Hydrogeologist

Qualified SSWPP Developer and Practitioner

Professional Experience:

Matt has 25 years of experience in environmental policy, assessment and remediation. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
 - Geology Instructor, Golden West College, 2010 – present;
 - Senior Environmental Analyst, Komex H2O Science, Inc (2000 -- 2003);
-

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of numerous environmental impact reports under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions and geologic hazards.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Stormwater analysis, sampling and best management practice evaluation at industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- Technical assistance and litigation support for vapor intrusion concerns.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.
- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nationwide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt currently teaches Physical Geology (lecture and lab) to students at Golden West College in Huntington Beach, California.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

- Brown, A., Farrow, J., Gray, A. and Hagemann, M., 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.
- Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).
- Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.
- Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.
- Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.
- Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.
- Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.
- Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.
- Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.
- Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.
- Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.
- Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.
- Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.
- Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and Hagemann, M.F. 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examination, 2009-2011.

EXHIBIT

B

City of Los Angeles:
Solid Waste Franchise Assessment

FINAL REPORT

January 23, 2012

Prepared by:
HF&H Consultants, LLC
under Subcontract to
Parsons Water and Infrastructure



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EXECUTIVE SUMMARY

The study objective and findings are described below. Each finding is discussed in more detail in Section III: Findings, of this report.

STUDY OBJECTIVE
Identify and evaluate multi-family and commercial franchising options in order to assist the City in reaching its environmental and financial goals, while maintaining regulatory and legislative compliance.
STUDY FINDINGS
1. Approximately two-thirds of Los Angeles County cities have an exclusive commercial solid waste franchise system. However, the larger cities within the County tend to have non-exclusive systems (permit system, business license, or non-exclusive franchise). (Page 12)
2. Five of the ten largest cities in California have or are transitioning to exclusive commercial franchise systems. (Page 15)
3. Most exclusive franchises are for a term of five to ten years, and contain a variety of performance standards, diversion requirements, rate adjustment methods, and other requirements. (Page 15)
4. Cities with non-exclusive franchises have a broad array of contract terms, number of haulers, diversion requirements, fee assessments, and rate regulation procedures. (Page 17)
5. The County of Los Angeles' (County) is planning to transition multi-family and commercial bin customers in the unincorporated areas (excluding the Garbage Disposal Districts) from an open market system to a non-exclusive franchise system. (Page 19)
6. The City of San Jose's commercial sector is currently serviced by approximately 20 haulers under a non-exclusive system. After a competitive RFP process, managed by HF&H Consultants, City Council approved one hauler to provide exclusive citywide refuse, recycling and green waste collection, and recyclables processing service, and another contractor to provide exclusive organics processing service. Both franchises are anticipated to begin in July 2012. (page 20)
7. Exclusive and non-exclusive franchise systems offer different advantages. (Page 23)
8. An exclusive franchise system may reduce commercial customer solid waste rates for some customers and increase rates for other customers. (Page 24)
9. An exclusive franchise system would result in the fewest number of commercial refuse vehicles, and minimize the environmental footprint of solid waste operations by decreasing truck traffic, vehicle emissions, pavement impacts, and noise. (Page 25)
10. The City could require early implementation of clean fuel vehicles under either an exclusive or non-exclusive franchise. (Page 26)
11. City fees to achieve the City's financial goals may be contractually established using a non-exclusive or exclusive franchise system. Establishment of franchise fees will need to be reviewed by the City Attorney's office. (Page 27)
12. The City's ability to reach zero waste goals may be increased through a non-exclusive or exclusive franchise system, and will depend on the specific franchise requirements. An exclusive franchise with one or more exclusive areas each serviced by one hauler, with rates approved by the City, may allow the most aggressive overall diversion goal due to routing and processing efficiencies. (Page 28)
13. According to CalRecycle, recycling activities create more jobs than landfilling. (Page 29)

- | |
|---|
| 14. Current State policies will need to be supported by the City's multi-family and commercial service arrangements. (Page 29) |
| 15. Certain large businesses and large multi-family communities could be exempted from an exclusive service franchise. (Page 30) |
| 16. There are five main franchise timing options for the City to consider (Page 30): <ol style="list-style-type: none">1) Move forward with franchising process for multi-family services; delay implementation of commercial franchising process;2) Delay franchising process of both multi-family and commercial services subsequent to submittal and completion of minimum 5-year notice period for commercial haulers;3) Move forward with RFP for both multi-family and commercial franchising process; implement multi-family first, and implement commercial franchise after submittal and completion of minimum 5-year notice period;4) Develop voluntary franchising process for multi-family and commercial haulers without limiting the number of haulers (this option would allow for the earliest implementation); and,5) Move forward with both multi-family and commercial franchising processes; implement multi-family first, and phase-in commercial. |
| 17. The City's Rent Stabilization Ordinance (RSO) allows landlords and property managers to submit an application to pass-through solid waste collection cost increases to tenants for buildings built before 1979. There would be no restriction on landlords passing on increased solid waste costs for all buildings built after 1978. (Page 35) |

SECTION I: BACKGROUND

Existing Commercial and Multi-Family Solid Waste Collection Services

The City of Los Angeles' (City) commercial and multi-family (five or more dwelling units) sectors currently receive solid waste collection services from permitted haulers that compete for customers based on price and service. Multi-family residences with fewer than five dwelling units are serviced by the City's Bureau of Sanitation (Bureau). While over 120 haulers have permits to provide services, based on data provided by the City for 2009 (the most recent year available), 68 of the permitted haulers reported gross receipts. Haulers that collect less than 1,000 tons of waste per year are not subject to AB 939 fees, and do not report gross receipts. Of the haulers that reported gross receipts, 17 haulers reported providing refuse bin service only, 24 haulers reported providing rolloff services only, and 27 reported providing refuse bin and rolloff services. To ensure compliance, Bureau of Sanitation staff perform periodic audits of all haulers, including those reporting less than 1,000 tons per year. Many haulers that report less than 1,000 tons per year collect construction and demolition debris. As shown in Exhibit 1, based on 2009 gross receipts reported to the Bureau by the 68 permitted haulers reporting gross receipts, four haulers account for approximately 85% of the commercial and multi-family market share, and ten haulers account for approximately 94% of the commercial and multi-family market share. A breakdown of market share by hauler is shown in Exhibit 2.

Exhibit 1
City of Los Angeles' Multi-Family/Commercial Market Share (2009 data)
(including bin and rolloff services)

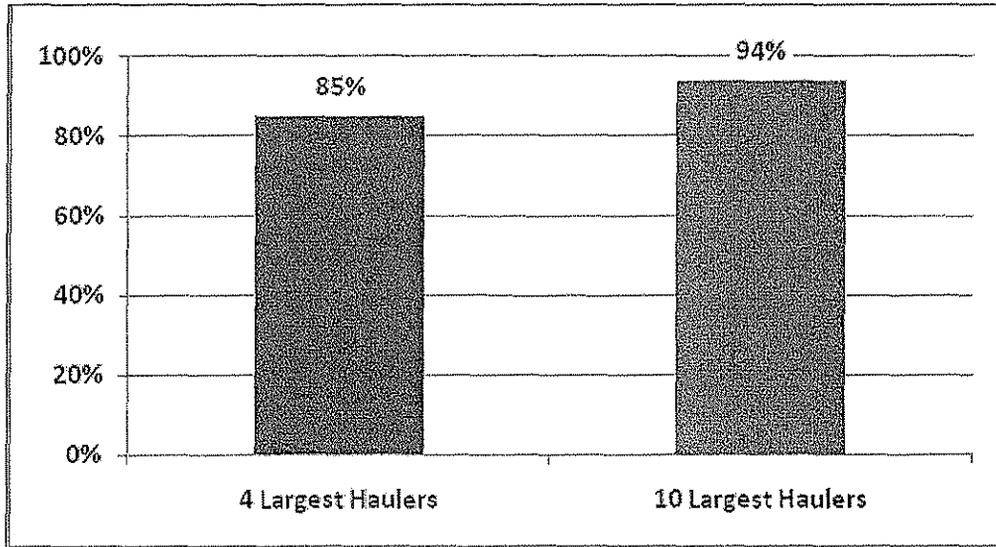
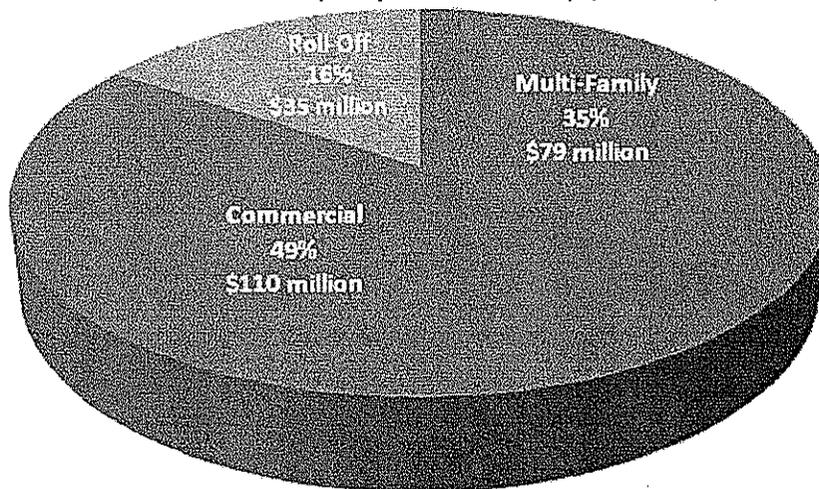


Exhibit 2
10 Haulers Account for 94% of City of Los Angeles' Multi-Family/Commercial Market Share (2009 data)
(including bin and rolloff services)

Hauler	2009 Reported Gross Receipts	Percent of Market Share
1. CDS (Republic)	\$ 76,838,062	34.4%
2. USA (Waste Management)	\$ 45,120,200	20.2%
3. Arakalian (Athens)	\$ 44,674,952	20.0%
4. Crown	\$ 23,648,743	10.6%
5. Universal Waste Systems	\$ 5,294,259	2.4%
6. NASA Services, Inc.	\$ 3,137,981	1.4%
7. American Reclamation, Inc.	\$ 3,060,867	1.4%
8. AAA Rubbish, Inc	\$ 2,716,200	1.2%
9. BMAKK Corporation	\$ 2,579,299	1.2%
10. California Waste Services	\$ 2,341,977	1.0%
Subtotal: Top 10 Haulers	\$ 209,412,541	93.6%
Other Haulers Serving City of Los Angeles	\$ 14,237,906	6.4%
Total 2009 Reported Gross Receipts	\$ 223,650,447	N/A

As shown in Exhibit 3, approximately 49% of permitted hauler reported receipts are from commercial customers, 35% from multi-family customers, and 16% from roll-off customers based on total gross receipts of \$224 million reported for 2009.

Exhibit 3
Estimated Gross Receipts by Customer Group (2009 data)*



* Based on gross receipts reported by permitted waste haulers on their annual report for calendar year 2009.

The City's permit system does not require haulers to offer recycling or green waste services to the commercial and multi-family sectors. However, permitted haulers are required to submit AB 939 Compliance Fees equal to 10% of their annual gross receipts. These receipts are deposited in the Citywide Recycling Trust Fund which funds recycling programs sponsored or contracted for by the City. Calendar Year 2009 AB 939 Compliance Fees equaled approximately \$22.4 million based on reported gross receipts of \$223,650,447 as shown in Exhibit 2.

In 2004, the City initiated a pilot multi-family recycling program, which provided recycling services to over 70,000 multi-family units. In 2007, the City executed service contracts with private haulers to offer recycling services to all multi-family units. Currently, the City contracts with three private haulers to provide these services at an annual budgeted cost to the City of approximately \$12 million. Multi-family units participating in this program are offered the same "blue-barrel" recycling service as single-family residences. The City estimates that 65% (430,000 units) of the City's 660,000 multi-family dwelling units participate in this program.

Diversion Plans

The goal of zero waste as defined in the RENEW LA plan is to reduce, reuse, recycle, or convert the resources now going to disposal so as to achieve an overall diversion level of 90% or more by 2025, and to dispose of only inert residual.

RENEW LA Blue Print – 2005

The City of Los Angeles was one of the earliest adopters of high-diversion/zero waste goals. In 1994, the City Council adopted a 70% diversion goal to be achieved by 2020. In 2005 the City adopted the RENEW LA Blueprint and Zero Waste Policy; and in 2007 the City developed the Solid Waste Integrated Resources Plan (SWIRP). The SWIRP document is a twenty year master plan to guide the City toward its goal of being a zero waste city. Through a series of stakeholder workshops and public outreach, the City developed the following 12 guiding principles to help the City achieve zero waste by 2030:

-
- Protect Public Health and the Environment
- City Leadership as a Model for Zero Waste Practices
- Manufacturer Responsibility
- Incentives
- City Leadership to Increase Recycling
- Convenience
- Economic Efficiency
- Education and Outreach to Decrease Wasteful Consumption
- New, Safe Technology
- Equity
- Education and Outreach to Increase Recycling
- Consumer Responsibility

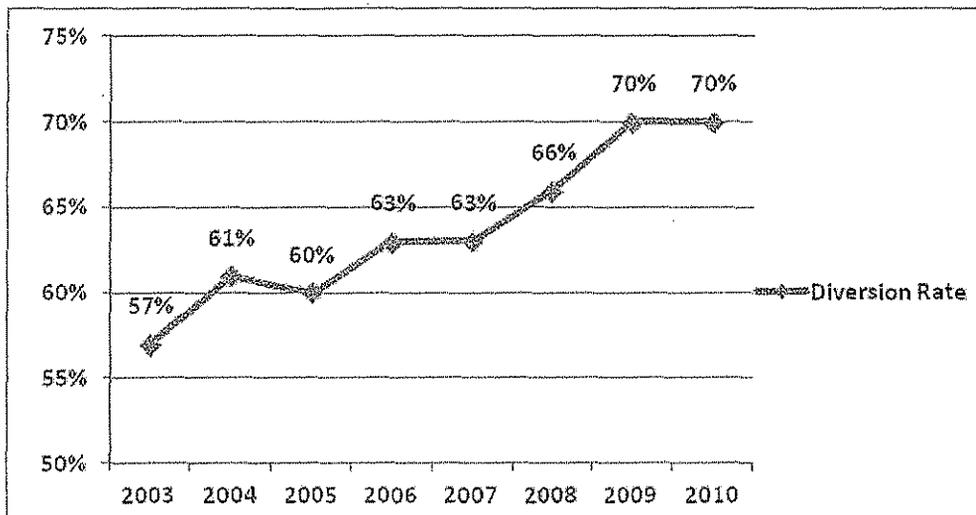
LARA Solid Waste Diversion

The Los Angeles Regional Agency (LARA) is comprised of 16 member cities (Exhibit 4) in Los Angeles County including the City of Los Angeles. LARA was formed in 2004 to encourage environmental stewardship and to assist its member cities in achieving individual and combined environmental goals. As illustrated in Exhibit 5, LARA has consistently exceeded the diversion goal of 50% set by the California Integrated Waste Management Act of 1989 (AB 939) since becoming recognized as the reporting agency for its member cities by CalRecycle (formerly the California Integrated Waste Management Board).

**Exhibit 4
Los Angeles Regional Agency Member Cities**

- Artesia
- Beverly Hills
- Duarte
- Hermosa Beach
- Hidden Hills
- Los Angeles
- Lynwood
- Manhattan Beach
- Palos Verdes Estates
- Pomona
- Rancho Palos Verdes
- Redondo Beach
- Rosemead
- Sierra Madre
- South Gate
- Torrance

**Exhibit 5
LARA Diversion Rates***



* Subsequent to the passage of SB 1016, CalRecycle no longer reports a jurisdiction's diversion by percentage, and instead calculates a per capita disposal target represented by pounds per day. Therefore, diversion percentages represented in Exhibit 5 were calculated based on the reported per capita data.

Diversion by City of Los Angeles' Permitted Commercial Haulers

Based on calendar year 2010 tonnage reports compiled by the Bureau, permitted commercial haulers delivered 19% of total waste collected to diversion facilities. Exhibit 6 does not illustrate the other commercial diversion activities occurring in the City outside of the permitted collection services such as:

- Commercial recycling performed by businesses using their own employees to transport materials;
- Construction and demolition recycling performed by contractors;
- Source reduction; and,
- Other 3rd party diversion performed by parties other than the permitted haulers.

Those other diversion efforts would not likely be affected by an exclusive or non-exclusive franchise.

Exhibit 6
Tonnage Directed to Diversion Facilities by Permitted Haulers

Material Type	2010 Reported Tonnage	Percent of Total Waste
Municipal Solid Waste	1,604,242	80.7%
Recyclable Material		
Source-Separated Recyclables	1,572	0.1%
Commingled Recyclables	56,751	2.9%
Green Waste	17,828	0.9%
Mixed Construction and Demolition	206,210	10.4%
Inerts	100,816	5.1%
Subtotal: Recyclable Material	383,177	19.3%
Total Material Collected	1,987,419	100.0%

Multi-Family Franchising Process

On July 7, 2006, the Bureau issued a seven-year notice to the permitted haulers operating in the City stating the City's intent to consider the modification of the current multi-family waste hauling system (Appendix 1). Under the California Integrated Waste Management Act of 1989 (Public Resources Code, § 40000, et seq.), local agencies are allowed to grant exclusive operating rights to solid waste disposal companies (Pub. Res. Code, § 40059, subd. (a)(1)). If other disposal companies have been authorized by the agency to operate within the municipality's boundaries for more than three years, the municipality must notify them that, as a result of the exclusive franchise, their operating rights will expire within five years (§ 49520.) For more information on PRC 49520 and related case law, see Appendix 2.

In the adopted fiscal year 2010-11 budget, the Bureau was directed to proceed with establishing a multi-family franchise system that would provide a franchise fee to the City and expand recycling to all multi-family residents.

The Bureau initiated planning for the multi-family sector franchising system by holding stakeholder meetings with interest groups, current recycling program contractors, permitted haulers, and apartment associations.

Based on the multi-family program findings and input from stakeholders, the Bureau began developing a draft Request for Proposals (RFP) to provide solid waste, recycling, and green waste diversion services to multi-family complexes (the RFP was not finalized and has not yet been released).

Work on the RFP is currently being held until a more thorough analysis of certain franchise issues is completed, such as:

- Whether to include both multi-family and commercial service in the scope of the franchise;
- Implementation timing;
- Franchise term; and,
- Whether exclusive or non-exclusive franchises are desired.

Commercial Franchise Assessment

In a Council Motion executed on November 16, 2010, the Chief Administrative Officer and Bureau were directed to report to the Council with an assessment of the Commercial Solid Waste System Redesign program developed by the City of San Jose and a review of the report developed by HF&H Consultants, LLC, "The City of San Jose: Commercial Redesign White Paper" (Appendix 9). Additionally, the motion requested the Bureau to "explore whether including the commercial sector in the proposed multi-family franchise would help the City reach their Zero Waste, environmental and financial goals more expediently and efficiently."

On December 29, 2010, the City of Los Angeles Bureau of Sanitation executed a contract for On-Call Consultant Services with Parsons Water and Infrastructure, Inc. (with HF&H Consultants, LLC acting as a subconsultant to Parsons), to determine if including the commercial sector in the proposed multifamily franchise would assist the City in reaching the goals outlined in the November 16, 2010 Council Motion.

On May 16, 2011 (and revised May 17, 2011), the Bureau of Sanitation issued a report to the Board of Public Works requesting permission from the Board of Public Works to issue a five-year notice to private waste haulers regarding solid waste handling services for commercial premises (see Appendix 3). The request was approved by the Board of Public Works and Council Motion 10-1797 was subsequently forwarded to the City Council. On December 6, 2011, the City Council approved the issuance of the five-year notice, and at the time of this report the notice is awaiting the Mayor's approval and signature.

About HF&H Consultants

HF&H Consultants, LLC (HF&H) has served more than 350 municipal agencies in California since 1989. HF&H has assisted more than 100 jurisdictions with the development of RFPs and agreements, evaluation of proposals, and negotiation of solid waste services agreements for refuse, recycling and green waste collection, material processing services, and disposal.

SECTION II: STUDY OBJECTIVE, PROCESS, AND ACTIVITIES

Study Objective

The study objective was to identify and evaluate multi-family and commercial franchising options in order to assist the City in reaching its environmental and financial goals, while maintaining regulatory and legislative compliance.

Study Process/Activities

In order to achieve the study objectives, the Consultant performed the following tasks:

- Reviewed documents provided by the City;
- Researched and documented exclusive and non-exclusive commercial franchise systems in other jurisdictions;
- Reviewed the City of San Jose's Redesign of its commercial solid waste contracting arrangements;
- Documented franchise timing options for the City of Los Angeles;
- Evaluated commercial hauling system options;
- Developed a list of key franchising issues;
- Reviewed key terms included in the City's Draft Request for Proposals for Multi-Family Solid Waste Services dated December 29, 2010;
- Prepared for and conducted meetings with representatives from the Bureau on January 12, 2011, February 10, 2011 and March 22, 2011, and with representatives from the Mayor's office and the Bureau on April 7, 2011 to discuss franchising options;
- Attended eight stakeholder meetings with business, industry, environmental and community groups (see Appendix 4 for stakeholder meeting and participant comments); and,
- Prepared this report.

SECTION III: FINDINGS

Alternative Service Arrangements

There are five different commercial/multi-family solid waste service arrangements described in this report:

- Fully open non-regulated system
- Non-exclusive permit system
- Non-exclusive franchise system
- Single exclusive franchise system
- Multiple exclusive franchise system

Provided below are definitions of each of these systems as they are used in the context of this report.

A. Fully Open Non-Regulated System (City of Los Angeles system prior to 2002)

Private waste haulers obtain a city business license to provide solid waste handling services under an open market system. Customers arrange for solid waste services and negotiate rates with the hauler. Frequently, customers pay significantly different rates for the same level of service.

B. Non-Exclusive Permit System – Current System

In permit systems there is no contract or franchise agreement between the city and haulers; permits are established and regulated in accordance with the municipal code. In a non-exclusive permit system, customers arrange for solid waste services and negotiate rates with the hauler. Frequently, customers pay significantly different rates for the same level of service. Reporting requirements, remittance of city fees, and other performance standards are contained in the permit requirements.

C. Non-Exclusive Franchise System

A non-exclusive franchise system allows solid waste collection services to be provided by haulers competing for customers throughout the city. The municipal code provides general requirements related to the system but the details of franchisees' obligations are defined in a franchise agreement between the city and each hauler. Often the number of haulers is limited. Cities may require non-exclusive franchised haulers to pay a franchise fee. In a non-exclusive franchise system, customers arrange for solid waste services and negotiate rates with the hauler. Frequently, customers pay significantly different rates for the same level of service.

D. Single Exclusive Franchise System

An exclusive franchise system shares many of the characteristics of a non-exclusive franchise system. The key distinction is that under a single exclusive franchise system, there is only one hauler providing

service citywide. Customer rates are approved by the city, and all customers pay the same rate for similar services.

E. Multiple Exclusive Franchise System

A multiple exclusive franchise system shares many of the characteristics of a single exclusive franchise system. The key distinction is that under a multiple exclusive franchises, there are multiple designated geographic areas or zones each served by a single contractor, so there may be more than one hauler operating in the city. Customer rates are approved by the city, and all customers pay the same rate for similar services.

Possible Exemptions to Franchise

Typically, all five of the solid waste system options described above would not include the collection of hazardous or medical waste as collection of these materials is regulated by the Department of Toxic Substances and the California Department of Health and Safety, and includes additional registration and licensing requirements. Additionally, the solid waste system options would not limit the ability of independent recyclers to continue to collect source-separated recyclables that are sold or donated by the waste generator. Discussion of these exemptions is included in Appendix 5.

Findings

- 1. Approximately two-thirds of Los Angeles County cities have an exclusive commercial solid waste franchise system. However, the larger cities within the County tend to have non-exclusive systems (permit system, business license, or non-exclusive franchise).**

The City of Los Angeles, with a population of 3.8 million¹, is many times larger than the next largest city in Los Angeles County, Long Beach, with a population of just under 500,000. The largest city in Los Angeles County with exclusive commercial service is the City of Santa Clarita with a population of 178,000.

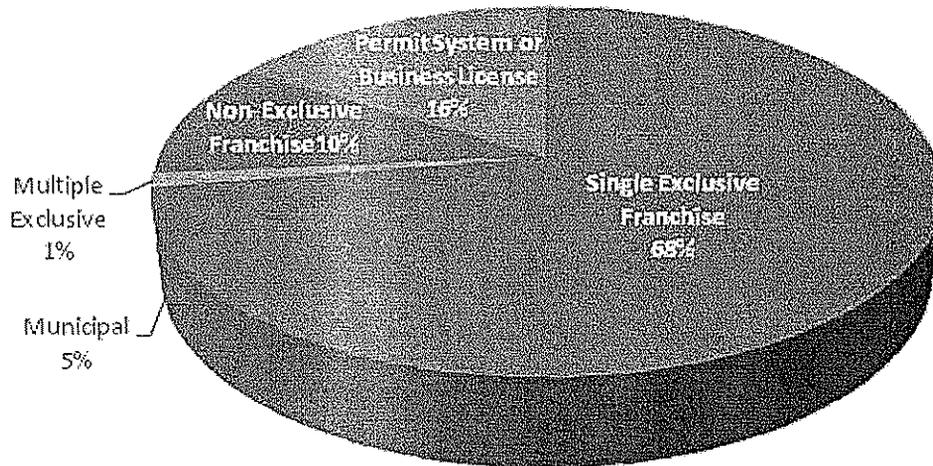
The majority of cities in Los Angeles County have exclusive franchise systems (Exhibit 7). There are approximately ten different hauling companies that provide services under exclusive franchise systems for cities in Los Angeles County. However, those cities with the largest populations are often served under non-exclusive systems (permit system, business license, or non-exclusive franchise), and the majority of the region's commercial customers are served under non-exclusive arrangements (Exhibit 8). A listing of the commercial service arrangements in each city in Los Angeles County is included in Appendix 6.

¹ According to the California Department of Finance Report E-1 Population Estimates for Cities, Counties and the State — January 1, 2010 and 2011.

Exhibit 7
Los Angeles County Cities with Exclusive Commercial Solid Waste Franchises²

City	Population	City	Population	City	Population
Santa Clarita	176,971	Huntington Park	58,280	Maywood	27,481
Lancaster	157,795	Diamond Bar	55,766	South Pasadena	25,692
Palmdale	153,334	Paramount	54,252	Cudahy	23,874
El Monte	113,785	Rosemead	54,034	San Fernando	23,712
Downey	112,103	Glendora	50,260	Duarte	21,380
Inglewood	110,028	Cerritos	49,181	Lomita	20,319
West Covina	106,400	La Mirada	48,659	South El Monte	20,174
Norwalk	105,808	Covina	47,931	Hermosa Beach	19,557
Compton	96,925	Azusa	46,399	Artesia	16,579
South Gate	94,666	La Puente	39,930	Hawaiian Gardens	14,290
Hawthorne	84,854	San Gabriel	39,839	San Marino	13,185
Alhambra	83,450	Temple City	35,673	Signal Hill	11,072
Lakewood	80,260	Bell	35,577	Sierra Madre	10,948
Bellflower	76,840	Manhattan Beach	35,248	Rolling Hills Estates	8,093
Baldwin Park	75,664	West Hollywood	34,636	Avalon	3,771
Lynwood	69,970	Beverly Hills	34,210	Hidden Hills	1,870
Redondo Beach	66,970	San Dimas	33,465	Bradbury	1,059
Pico Rivera	63,121	Lawndale	32,860	Industry	451
Monterey Park	60,435	La Verne	31,153		
Gardena	59,009	Walnut	29,439		

Exhibit 8
Los Angeles County Commercial Service Arrangements Based on Number of Cities



^{2,2} According to the California Department of Finance Report E-1 Population Estimates for Cities, Counties and the State — January 1, 2010 and 2011.

Exhibit 9
Los Angeles County Commercial Service Arrangements Weighted by Population
(Including the City of Los Angeles)

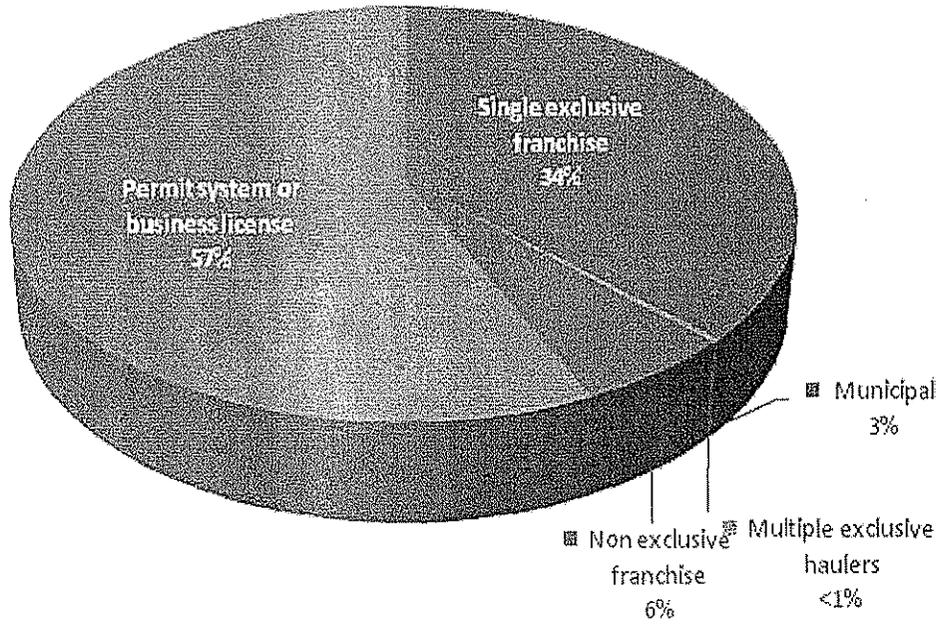
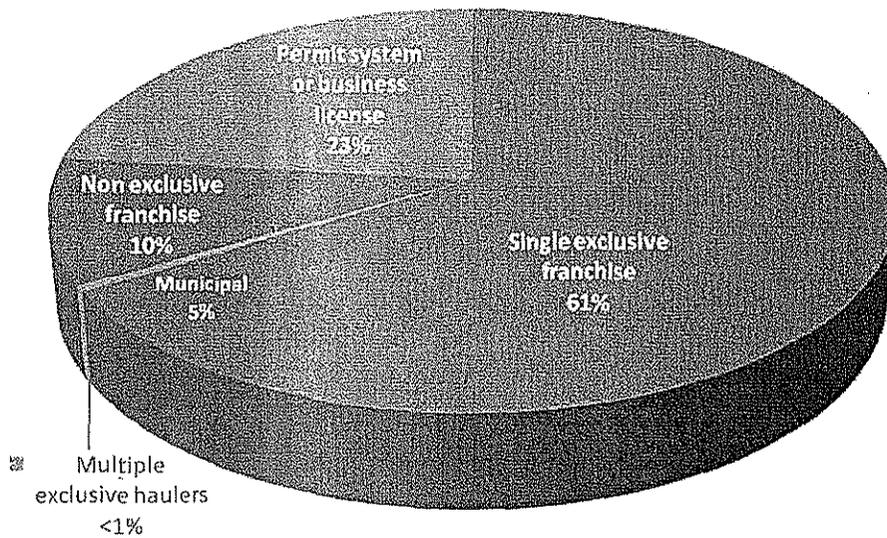


Exhibit 10
Los Angeles County Commercial Service Arrangements Weighted by Population
(Excluding the City of Los Angeles)



2. Five of the ten largest cities in California have or are transitioning to exclusive commercial franchise systems.

Exhibit 11 summarizes commercial service arrangements in the 10 largest cities in California based on population.

Exhibit 11
California's 10 Largest Cities (based on population) Commercial Service Arrangements

City	Population*	Commercial Service Arrangement
1. Los Angeles	3,810,000	Non-Exclusive
2. San Diego	1,312,000	Non-Exclusive
3. San Jose	959,000	Transitioning to Exclusive
4. San Francisco	813,000	Exclusive
5. Fresno	500,000	Exclusive
6. Sacramento	470,000	Non-Exclusive
7. Long Beach	464,000	Non-Exclusive
8. Oakland	393,000	Exclusive
9. Bakersfield	351,000	Municipal/Non-Exclusive
10. Anaheim	341,000	Exclusive

* As reported by the California Department of Finance

3. Most exclusive franchises are for a term of five to ten years, and contain a variety of performance standards, diversion requirements, rate adjustment methods, and other requirements.

A well written exclusive franchise agreement may be over 100 pages long and contain detailed descriptions of services provided, performance standards, and other contract requirements. The service descriptions and contract requirements are typically more comprehensive, and described in greater detail, in an exclusive franchise agreement compared to a non-exclusive franchise agreement because customers do not have a choice of service providers in an exclusive franchise and therefore must rely on the performance of the exclusive franchise holder.

Examples of some of the key terms included in exclusive franchise agreements are provided in Exhibit 12. (This is not meant to be an exhaustive list, but rather a summary of some of the key items for demonstration purposes).

Exhibit 12
Examples of Key Exclusive Franchise Agreement Terms

Key Exclusive Franchise Agreement Term	Description of Term
Contract Term	Typically five to ten years, although some agreements contain terms of up to 20 years.
Contract Renewal	Frequently a city option to extend the agreement, in its sole discretion, from one to three years at the end of the base term. Some agreements contain "evergreen" automatic renewal terms that renew annually unless the city takes specific action to terminate the evergreen provision.
Diversion Requirements	Some agreements contain specific quantifiable diversion requirements, such as recycling or diverting a specific percentage of the total solid waste collected. Other agreements require general compliance with State diversion goals (such as AB 939).
Performance Standards	Specific service standards with liquidated damages for failure to perform.
Vehicle Requirements	In addition to complying with applicable vehicle and emissions laws, some agreements require new trucks at the start of the agreement, and/or require that vehicles be replaced before a vehicle reaches a certain age, sometimes 10 years. Other agreements require implementation of alternative fuel vehicles, such as those powered by natural gas, in advance of regulatory requirements.
Container Specifications	Standards for container cleaning and maintenance, graffiti removal, and container size options offered to customers.
Rate Adjustment Method	Rates are adjusted using a variety of methods. Most common is an annual adjustment based on published price indices (such as the Consumer Price Index and others) for the service component, plus a pass through of disposal costs. Some agreements provide a maximum cap on annual increases. Less common in Southern California is an annual rate review where rate adjustments are based on the contractor's actual cost of operation plus an agreed upon profit level.
City Services	Many agreements provide for collection of abandoned items in the public right-of-way, and solid waste collection service at city facilities and/or city-sponsored events at no additional charge.
City Fees	Franchise fees, AB 939 fees, vehicle impact fees, contract administration fees, and audit fees are examples of fees remitted by the hauler to the city in some agreements.
Reporting	Monthly, quarterly, and annual reports are usually required documenting tonnage collected and diverted, fees remitted to the City, public outreach efforts, customer complaints, contaminated recycling containers, and other information.

Audits	Provisions to audit the contractor's reports and records, and contract compliance.
Billing	Frequency of customer billing, payment due dates, and provisions related to non-payment and suspension of service.
Public Education	Specific requirements for public education and outreach related to the provision of services, particularly recycling services.
Indemnifications	The public agency is indemnified by the contractor against liability for physical or financial injuries related to hauler misconduct or performance, fines or penalties related to compliance with State diversion requirements such as AB 939, and environmental fines or damages associated with contaminated landfills under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
Insurance and Bonds	Insurance limits in most agreements range from \$3 million to \$20 million, plus contractor provides a performance bond and/or letter of credit.
Assignment and Transitions	Requirements for approval of an assignment of the agreement to another hauler, or a transition at the end of the term to a new service provider.

4. Cities with non-exclusive franchises have a broad array of contract terms, number of haulers, diversion requirements, fee assessments, and rate regulation procedures.

HF&H surveyed ten cities which have implemented non-exclusive solid waste franchises (as opposed to non-exclusive permit systems or business license systems). Exhibit 13 includes seven Los Angeles County cities which have non-exclusive franchise systems. Exhibit 14 includes three large California cities outside Los Angeles County that have non-exclusive franchise systems. The information was gathered during telephone interviews performed by HF&H.

Included as Appendix 7 is an excerpt from the Commercial Redesign White Paper prepared by HF&H for the City of San Jose, which includes information on commercial collection strategies in other major cities.

Observations from the data included in Exhibits 13 and 14 are as follows:

- The cities surveyed do not regulate rates. All of the cities surveyed assessed city fees (franchise fee, AB 939 fee, etc.). AB 939 fees are used specifically to fund programs outlined in a jurisdiction's Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE).
- The number of non-exclusive permitted haulers per city surveyed ranges from two in La Habra Heights to 20 and above for the larger cities. The number of haulers serving these cities may have been greater at the time the non-exclusive franchises were granted and may have decreased due to non-renewal of franchises, or company acquisitions and mergers.
- Four of the ten cities surveyed include numeric solid waste diversion requirements in their non-exclusive franchise agreements.
- The solid waste contract terms of the cities surveyed range from 1 year to 10 years.

Exhibit 13
Non-Exclusive Franchises in Other Los Angeles County Cities

Agency	# of Haulers	Numeric Diversion Rqmt?	City Fees	Open or Closed to New Haulers	Process to Award Franchises	Rates Regulated	Term
Los Angeles County Jurisdictions							
Bell Gardens	7	50%	Franchise Fee	Open	Open	No	5 yrs
Irwindale	3	50%	Franchise and AB 939 Fees	Closed	Unknown	No	7 yrs
La Habra Heights	2	50%	AB 939 Fee	Open	Open	No	2 yrs
Pasadena	27	60%	Franchise Fee	Closed	All existing haulers	No	1 yr
Pomona	5	No	Franchise and AB 939 Fees, plus a fixed annual fee of \$5,000	Open	Open	No	2 yrs
Rancho Palos Verdes	10	No	5% Collector Fee	Closed	Unknown	No	1 yr
Vernon	19	No	Franchise Fee	Closed	Notice to apply	No	5 yr Evergreen

Exhibit 14
Non-Exclusive Franchises in California Jurisdictions Outside Los Angeles County

Agency	# of Haulers	Numeric Diversion Rqmt?	City Fees	Open or Closed to New Haulers	Process to Award Franchises	Rates Regulated	Term
Cities Outside Los Angeles County							
San Diego	24	No	Franchise and AB 939 Fees	Closed	Granted to existing haulers and other haulers that initially applied	No	10 Year
San Jose – Current (transitioning to exclusive 2012)	20	No	Franchise Fee	Was Open – transitioning to exclusive	Granted to all applicants that could provide proof of insurance	No	3 years
Irvine	22	No	Franchise Fee	Open – Annual application period for new haulers	Granted to existing haulers and other haulers that applied	No	10 years

As illustrated in Exhibits 13 and 14, eight of the ten cities surveyed either granted non-exclusive franchises to all existing permitted haulers, or to all existing permitted haulers and others that chose to apply, and did not originally limit the number of haulers to fewer than those existing at the time. Fifty percent of the cities surveyed subsequently closed the application process and do not currently allow additional haulers to apply.

5. The County of Los Angeles (County) is planning to transition multi-family and commercial bin customers in the unincorporated areas (excluding the Garbage Disposal Districts) from an open market system to a non-exclusive franchise system.

Based on the findings of the County's Solid Waste Collection System Option Analysis (Appendix 8), the County is in the process of developing a non-exclusive commercial franchise system that will replace the open market system. The proposed non-exclusive commercial franchise system would provide for refuse collection in bins and roll-off boxes, separate collection of recyclable materials and green waste, and establish minimum service levels and performance standards. It also will provide the County with oversight authority, and accountability and enforcement tools to ensure each customer receives quality trash collection service. The commercial franchise system is scheduled to be implemented by the Summer of 2012.

Background

The Los Angeles Department of Public Works is responsible for waste services in the unincorporated areas of the County. These areas are comprised of 80 non-contiguous communities. On June 23, 1998, the Los Angeles County Department of Public Works issued a 5-year notice to all permitted haulers that the County was considering whether to provide or authorize exclusive refuse collection services after June 23, 2003.

The County formed a working group to evaluate the impacts of the system change on the solid waste industry and to assist in evaluating, developing, and selecting alternatives for consideration for implementation. The working group consisted of representatives from the Department of Public Works, County Counsel, Department of Health Services, and members of the solid waste industry.

County Objectives

- Provide solid waste handling services through the private sector in an environment which fosters private enterprise to the greatest extent possible and provides for equitable competition between small and large solid waste enterprises/haulers.
- Protect the health, welfare, and safety of all citizens by addressing the solid waste management needs of all unincorporated communities in Los Angeles County through an environmentally safe and technically feasible solid waste handling and disposal system.
- Provide County residents and businesses with efficient, high quality solid waste handling services at reasonable costs.
- Comply with Federal and State laws and regulations governing solid waste management, including the mandates of the California Integrated Waste Management Act of 1989, as amended, including achievement of the State waste disposal reduction mandates.
- Provide the County with sufficient flexibility and adequate control over solid waste handling services to ensure compliance with established standards and codes.
- Update the current Los Angeles County Code to reflect the changing needs of the County and solid waste industry.

- If feasible, develop one or more alternatives which can be implemented on an interim basis, rather than at the termination of the five-year notice in 2003, and based on the results of the selected interim program(s) (pilot program(s)), formulate the new system's alternatives for implementation beyond the year 2003.
- Develop a funding mechanism to provide for the County's administrative costs and resource needs in achieving the objectives.

Key FindingAs described on page 6-2 of the Los Angeles County's Solid Waste Collection System Option Analysis dated February 2001:

"A non-exclusive, exclusive, or GDD (Garbage Disposal District) system will maintain the free enterprise system. However, while an exclusive franchise system or GDD will best accomplish the County's objectives, it may have a significant impact on small waste haulers. It has a potential to favor large solid waste enterprises/haulers to the detriment of small haulers since it may impair small haulers' ability to thrive in a dynamic, ever changing solid waste industry."

Next Steps

The County is in the process of developing a draft non-exclusive solid waste franchise agreement. All permitted waste haulers that can comply with the requirements included in the franchise agreement may apply. The franchise agreement will include a franchise fee, requirements to comply with all State-mandated diversion programs, and a requirement to provide a plan for the diversion of manure and foodwaste. The franchise agreement will also require that multi-family and commercial customers that meet the threshold requirements of the Mandatory Commercial Recycling Regulations (AB 32) be offered 1 cubic yard of recycling service at no additional charge.

6. The City of San Jose's commercial sector is currently serviced by approximately 20 haulers under a non-exclusive system. After a competitive request for proposals (RFP) process, managed by HF&H Consultants, City Council approved one hauler to provide exclusive citywide refuse, recycling and organics collection, and recyclables processing service, and another contractor to provide exclusive organics processing service. Both franchises are anticipated to begin in July 2012.

Background

The City of San Jose's commercial solid waste sector is currently serviced by approximately 20 waste haulers, providing services under non-exclusive franchise agreements with San Jose to more than 8,000 commercial, industrial, and institutional waste generators. The multi-family sector is serviced under an exclusive franchise. Upon implementation of the non-exclusive franchise in 1995, franchises were granted to all applicants. Approximately 85% of the commercial solid waste collection in San Jose is provided by 4 of the 20 haulers. Services and prices are determined by the competitive market. Under this system, the commercial solid waste diversion rate is currently 22%.

According to San Jose city staff, the non-exclusive system presented the following challenges:

- Wide variations in service offerings and service quality;

- Inability to achieve San Jose's zero waste and green vision goals of diverting 100% of municipal waste from landfills;
- Declining city fee revenues due to fee calculations based on volume of solid waste disposed;
- Limited infrastructure investment by haulers for recycling; and,
- Limited controls available to San Jose to ensure hauler performance.

Commercial Redesign Process

In May of 2001, the non-exclusive franchisees received 5-year notices of San Jose's intent to award an exclusive franchise. The notice was reaffirmed in December 2007. In November of 2007, HF&H Consultants presented the Commercial Redesign Whitepaper to San Jose (Appendix 9), which analyzed and identified options for redesigning the commercial solid waste management system. In 2009, the City Council directed staff to conduct separate procurements for organics processing services and solid waste collection and diversion franchise services in order to achieve the increased diversion goal, stabilize revenues to San Jose's general fund, and provide expanded and more efficient collection service.

Through the RFP process, San Jose anticipated procuring one to two exclusive collection franchises to provide solid waste collection services. Solid waste collection and diversion RFP respondents were required to propose an annual revenue requirement to be generated from customer rates to fund solid waste collection, disposal, recyclables processing, organics processing, and city fees. Fees retained by San Jose would include a franchise fee and AB 939 fee.

Components of the solid waste collection RFP included:

- 75% diversion rate;
- Ten to fifteen year term;
- Options to award two franchises based on separate service districts or one citywide franchise;
- Exclusion of construction and demolition waste collection;
- Living wage and employee retention requirements;
- Consistent customer rates; and,
- Fixed annual franchise fee of \$10 million per year, with no annual adjustment.

Results

San Jose developed two RFPs:

- Organics processing (composting and/or anaerobic digestion).
- Refuse, recycling and organics collection, and recycling processing services. May include wet/dry routing or a 3-container system. The wet/dry collection system involves organizing commercial collection routes by waste material; for example, dry loads of highly recyclable material (e.g., office paper) are collected separately from wet waste (e.g., restaurant waste). This separation is intended

to increase recycling rates by avoiding contamination. The 3-container system provides separate containers for trash, recyclables, and organics.

On April 5, 2011 the San Jose City Council unanimously approved staff’s recommendations to negotiate a city-wide commercial collection franchise with Allied Waste Services and to negotiate an organics processing agreement with Zero Waste Energy Development. The term of the each agreement is 15 years, July 1, 2012 through June 30, 2027.

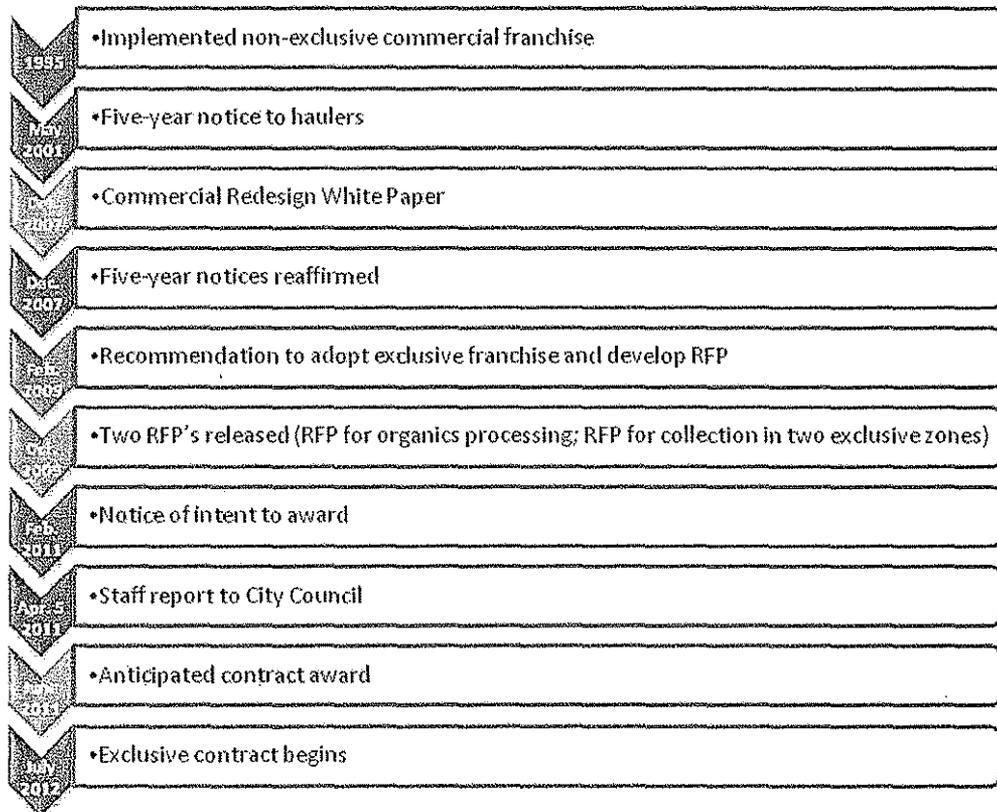
San Jose City Fees

The commercial solid waste and recyclables collection franchisee must remit annual fees to San Jose: \$11 million in Commercial Solid Waste Franchise Fees, an estimated \$4.2 million in AB 939 Fees, and approximately \$6 million for organics processing costs. (Note: Total gross receipts are estimated at \$55 million annually.)

Commercial Redesign Timeline

As described above, and illustrated in Exhibit 15, the City of San Jose’s Commercial Redesign spanned a 10-year period from the 5-year notice to haulers in 2001, through contract award in 2011.

**Exhibit 15
City of San Jose Commercial Redesign Timeline**



7. Exclusive and non-exclusive franchise systems offer different advantages.

There are unique advantages to an exclusive franchise system and a non-exclusive franchise system. In an exclusive system, one or more exclusive service areas are each served by one contractor, and the city approves the rates, service offerings, and other conditions through an exclusive franchise. In a non-exclusive system, haulers usually compete for customers based on price and service, typically with less control by the city than in an exclusive franchise. Key attributes are described in Exhibit 16.

Exhibit 16
Exclusive vs. Non-Exclusive Service Arrangements

Impact Category	Attributes of an Exclusive Franchise	Attributes of a Non-Exclusive Franchise
Diversion	<ul style="list-style-type: none"> • Potential for higher waste diversion as a result of increased recycling requirements in the franchise agreement that may not be cost effective or accessible to all haulers in a non-exclusive system. 	<ul style="list-style-type: none"> • Ability to offer specialized diversion programs tailored to specific customers with unique recycling requirements.
Environmental	<ul style="list-style-type: none"> • Increased routing efficiency reduces operations costs and minimizes adverse environmental impacts of solid waste vehicles from overlapping truck routes (such as traffic, noise, pavement damage and vehicle emissions). • Improved aesthetics (control of graffiti and litter; container specifications, quality and placement). 	
Enforcement/ Administration	<ul style="list-style-type: none"> • Fewer haulers to monitor (performance and reports), resulting in a lower cost to the City to administer the franchise. • Ability to set and monitor higher minimum performance standards and reduce the risk of rogue operators. 	<ul style="list-style-type: none"> • Avoids RFP process, which can be contentious and time consuming. • Typically fewer contract requirements to monitor • City may be able to implement non-exclusive commercial franchise without an RFP or phase-in requirements prior to expiration of a 5-year notice period.
Business	<ul style="list-style-type: none"> • Competition occurs through the RFP process every five to ten years. • All customers pay the same price for the same service (city approves or regulates rates). • Favorable for haulers to invest in new or existing infrastructure. • Routing efficiencies could result in an overall reduction in the contractor's cost of providing service. 	<ul style="list-style-type: none"> • Promotes competition for individual customers based on price and service (City does not set rates). • Customers have choice of service providers and may change haulers if not satisfied. • Avoids temporary transition issues to an exclusive system (and recurring periodic transition issues when contractors are changed). • Smaller haulers (and new companies)

Impact Category	Attributes of an Exclusive Franchise	Attributes of a Non-Exclusive Franchise
		have the ability to enter the market and grow into significant competitors. ³ <ul style="list-style-type: none"> • Ability to offer unique services tailored to specific customers. • Other service providers may be available to customers during a work stoppage.

See Appendix 10 for a discussion of the impacts of open market, non-exclusive franchise, and exclusive franchise systems on city fees, diversion, rates, number of trucks, and system administration.

8. An exclusive franchise system may reduce commercial customer solid waste rates for some customers and increase rates for other customers.

Most cities in Los Angeles County have combined residential and commercial franchises, and there could be different allocations of costs between residential and commercial customers in those cities. Only four cities in Los Angeles County reported having separate commercial franchises (Beverly Hills, Diamond Bar, Huntington Park, and Santa Clarita), and three of those cities provided cost data to compare to the City of Los Angeles. The calculated Net Receipts Per Ton Collected (gross receipts, less city fees, divided by total tons collected) ranged from \$84 per ton to \$136 per ton, with a median of \$98 per ton. Based on gross receipts data reported by haulers in the City of Los Angeles to the Bureau, the City of Los Angeles' Net Receipts Per Ton Collected is \$108⁴, which falls within the middle of the range of the other cities surveyed. Of course, the geographic conditions, distance to solid waste facilities, solid waste characterization and service requirements, vary in each city and these factors affect the cost of service. City fees can vary significantly by jurisdiction and would be added to the above range of hauler costs.

Under an exclusive franchise, all customers pay the same rate for similar services. The results of a rate survey conducted for the City of San Jose by the San Jose State University Research Foundation's Survey and Policy Research Institute, and a rate survey conducted by city staff, concluded that under the city's non-exclusive franchise system where customers negotiated rates with haulers, there was a large range of rates charged for the same services and larger businesses could leverage their size to negotiate lower rates⁵.

³ Many of the cities surrounding the City of Los Angeles have exclusive solid waste collection systems that preclude smaller haulers from competing or providing services, and discourage the establishment of new hauling companies. Some of the non-exclusive systems have frozen the number of haulers, and therefore limit new market entrants. The City of Los Angeles' current open competitive solid waste collection system has provided smaller haulers an environment to establish and grow their services, and thereby enhance their ability to become competitive in the region. Locally-grown hauling companies may also invest their profits locally.

⁴ Based on 10 largest permitted haulers' gross receipts and tonnage reported to the City.

⁵ Memorandum to City Council dated 3/17/11

The cost effectiveness of the franchise system would depend, in part, on the competitiveness of the franchise process used to award the franchises, and the effectiveness of rate adjustment provisions to limit subsequent rate adjustments.

9. **An exclusive franchise system would result in the fewest number of commercial refuse vehicles, and minimize the environmental footprint of solid waste operations by decreasing truck traffic, vehicle emissions, pavement impacts, and noise.**

Vehicle Impact Issues

In a report developed by the Metropolitan Transportation Commission (MTC) (which plans, finances and coordinates transportation for the nine-county San Francisco Bay Area), the MTC states that "Heavy vehicles such as trucks and buses put far more stress on pavement than does a passenger car. A bus exerts more than 7,000 times the stress on pavement than does a typical sports utility vehicle. And a garbage truck exerts more than 9,000 times as much stress as an SUV."⁶

City streets are designed to handle a certain amount of vehicle traffic (loading) over their design life. That loading is a function of both the number and weight of vehicles. The lifetime "vehicle loading" that a street can accommodate can be expressed as the total number of Equivalent Single Axle Loadings (ESALs). Each vehicle type (e.g., cars, Refuse Vehicles, Construction Vehicles, and other trucks) can also be converted into an associated ESAL, based on the vehicle weight, and its distribution among the vehicle's axles.

Most of the deterioration of streets is caused by vehicle size and weight. A single, large truck can cause as much damage as thousands of automobiles. Solid waste, recycling, and yard waste vehicles (Refuse Vehicles) are the heaviest vehicles regularly operating on residential streets.

The multi-family sector of the City would gain the greatest benefit from reduced street maintenance impacts associated with the reduction of refuse and recycling vehicles under a non-exclusive or exclusive franchise system, because residential streets are not designed to the same standards as commercial streets where heavier vehicle traffic is anticipated. During the City's stakeholder meetings, multi-family dwelling unit residents voiced concerns regarding the negative impacts caused by the number of trucks currently collecting refuse and recyclables in their neighborhoods. Under the current competitive system, different multi-family complexes on one street are served by different collection companies resulting in multiple refuse trucks accessing the neighborhoods per day. The resultant impacts include:

- Increased street deterioration;
- Increased traffic;
- Solid waste vehicles blocking resident vehicle street access;
- Additional truck traffic and collection noise; and,
- Decreased air quality.

⁶ The Pothole Report: Can the Bay Area Have Better Roads? – Metropolitan Transportation Commission, June 2011

Number of Trucks

The City would realize a reduction in the number of solid waste trucks under both the exclusive and non-exclusive franchise systems (assuming a reduced number of service providers in the non-exclusive system), with the largest reduction in trucks and associated impacts under an exclusive franchise system.

10. The City could require early implementation of clean fuel vehicles under either an exclusive or non-exclusive franchise.

All haulers need to comply with vehicle requirements established by the California Air Resources Board and the South Coast Air Quality Management District (SCAQMD). However, the City, by contract, can establish additional vehicle requirements under the terms of an exclusive or non-exclusive franchise agreement. The City of Los Angeles requirements could include early implementation of clean fuel requirements established by the regulatory agencies, or other requirements that exceed the minimum standards of the regulating agencies.

Rule 1193

SCAQMD, Rule 1193 (Appendix 11) regulates the types of solid waste collection vehicles haulers are able to use under municipal collection agreements. The impact will depend on the contracting format used by the City, and the number of vehicles included in the hauler's fleet. To meet air quality vehicle requirements, the City may include permit or franchise requirements to ensure all hauler vehicles used to service City customers are fully compliant with SCAQMD Rule 1193 and all other SCAQMD and Air Resource Board regulations in effect, or that may go into effect during the term of the permit or franchise.

The contracting method selected by the City may determine whether the City's haulers will need to replace vehicles used in the City. South Coast Air Quality Management District Rule 1193 provides for the reduction of refuse fleet vehicle emissions to reduce public exposure to vehicle pollution, including toxics, particulate, and ozone precursor emissions. If the City enters into franchise agreements that restrict the number of haulers eligible to provide service, the haulers operating under the new franchises will be required to use 100% alternative fuel (such as natural gas) solid waste collection vehicles, or ultra low sulfur diesel fuel for pilot ignition, to be phased-in within 5 years of the start of service under the franchise agreements, but no later than January 1, 2020. If a hauler operates fewer than 15 solid waste collection vehicles in its entire fleet, it may be permitted to wait to purchase alternative fuel vehicles until its existing vehicles need replacement, or January 1, 2020, whichever is first. If the City chooses to issue franchise agreements, but does not limit the number of haulers that may receive a franchise, then the SCAQMD may determine that the open non-exclusive franchise system is similar to a permit system, in which case the haulers may not need to purchase alternative fuel vehicles. Many larger haulers that hold exclusive franchises in other cities have already transitioned part of their fleets to alternative fuel vehicles.

Exhibit 17 summarizes the requirements of Rule 1193 on different solid waste systems.

Exhibit 17

Rule 1193 – Requirements by System Type

Solid Waste System	Rule 1193 Requirements
Open Permit System	<ul style="list-style-type: none"> • SCAQMD Rule 1193 does not apply.
Exclusive Franchise	<ul style="list-style-type: none"> • Alternative fuel vehicles required within five years of the start of service, but no later than January 1, 2020.
Non-Exclusive Franchise (City does not limit the number of haulers)	<ul style="list-style-type: none"> • SCAQMD may determine that Rule 1193 does not apply.
Non-Exclusive Franchise (City limits the number of haulers)	<ul style="list-style-type: none"> • Alternative fuel vehicles required within five years of the start of service, but no later than January 1, 2020.

11. City fees to achieve the City's financial goals may be contractually established using a non-exclusive or exclusive franchise system. Establishment of franchise fees will need to be reviewed by the City Attorney's office.

The City currently requires its permitted commercial haulers to pay a 10% AB 939 fee on gross receipts received for providing solid waste collection services in the City (excluding receipts for providing recycling services).

The City Attorney is in the process of determining the implications of Proposition 26 on the City's ability to charge a franchise fee under a future exclusive or non-exclusive commercial solid waste franchise system.

Franchise fee revenue could be generated for the City under an exclusive or non-exclusive franchise system (upon approval by City Attorney). Forty-four of the 88 Los Angeles County cities require commercial haulers to remit franchise fees ranging from 2% to 27% of receipts, and one city requires a monthly lump sum payment of a fixed amount. Of the 45 cities collecting commercial franchise fees, 37 have commercial solid waste collection services provided by one hauler, and 8 of the cities have multiple commercial haulers. Based on the \$224 million in gross receipts reported to the City in 2009 from multi-family, commercial, and rolloff service providers, a 10% franchise fee is estimated to generate approximately \$22 million annually. This amount could increase or decrease based on upturns or downturns in the economy and other factors. A breakdown by sector is shown below:

Estimated annual franchise fees based on 2009 receipts:

- Commercial \$11.0 million
- Multi-Family \$7.9 million
- Roll-Off \$3.5 million
- Total \$22.4 Million

Some cities have also implemented administrative fees to recover their costs of administering the franchise. Additionally, some cities have negotiated larger upfront contracting fee or franchise fee

payments either as an advance against future franchise fees, or as a lump sum payment in addition to the on-going payments.

- 12. The City's ability to reach zero waste goals may be increased through a non-exclusive or exclusive franchise system, and will depend on the specific franchise requirements. An exclusive franchise with one or more exclusive areas each serviced by one hauler, with rates approved by the City, may allow the most aggressive overall diversion goal due to routing and processing efficiencies.**

The City's current open permit system does not include a numeric solid waste diversion requirement for the haulers, and under the current system it may be difficult for some of the haulers, who have a smaller market share, to cost-effectively achieve aggressive diversion goals due to limited economies of scale and lack of access to processing facilities at reasonable costs.

An exclusive franchise, with one or more exclusive areas each served by one hauler with rates approved by the City, may allow for the most aggressive overall diversion goals due to routing and processing efficiencies. For example, in a non-exclusive system, individual haulers might not have sufficient customers in geographic proximity to efficiently perform a recycling collection route or a restaurant food waste route. Some haulers may own material recovery facilities that allow them to cost effectively process mixed waste, while others may not. The diversion goals can be set as a contractual requirement in the solid waste franchise agreement. For example, the City of Redondo Beach included a 75% diversion requirement of hauler collected solid waste in its recently executed exclusive franchise agreement, and the City of Manhattan Beach's exclusive franchise agreement includes a 57% diversion requirement of hauler collected solid waste for the first calendar year of the franchise agreement and 62% by the last year of the franchise agreement (June 30, 2018). Both of these franchise agreements impose liquidated damages of \$25 for each ton below the tonnage level necessary to meet diversion goals.

There are certain challenges to verifying haulers' reported diversion rates. One approach is to confirm reported disposed tonnage using landfill records. Landfills are required to submit their reports to CalRecycle to be included in the Disposal Reporting System. However, if the hauler's tonnage is delivered to a transfer station prior to disposal at a landfill, tonnage would need to be confirmed at the transfer station, and these records are not as readily available. Some haulers will include "third-party" diversion in the reported diversion rates. Third-party diversion is diversion achieved by parties other than the hauler, and can include source reduction and recycling efforts performed by customers, as well as recycling performed by independent recycling companies not affiliated with the contracted hauler. Some haulers will also count recyclables scavenging as part of their overall reported diversion. Third-party diversion is very difficult to verify as this information may have been provided verbally to the hauler, estimated by the hauler, or the documentation is located at the customer's place of business and not readily available during an audit of a hauler's diversion records. This can be a significant issue for jurisdictions whose hauler fees are based on diversion percentages achieved by their hauler.

13. According to CalRecycle, recycling activities create more jobs than landfilling.

Increasing diversion in the multi-family and commercial sectors of the City will create more recycling-related jobs. According to CalRecycle, only 2.5 jobs are created per 1,000 tons landfilled, while almost five jobs (direct and indirect) are created per 1,000 tons recycled.⁷

In addition, the City's franchising process would provide several opportunities for proposers to partner with small, minority, and other business enterprises (SBE, MBE, and OBE). Some of the potential subcontracting opportunities could include recycling technical assistance; communications, marketing, and outreach to customers; garbage and recycling container delivery/distribution; and tire and equipment repair services.

14. Current State policies will need to be supported by the City's multi-family and commercial service arrangements.**Mandatory Commercial Recycling**

An example of an existing regulation that can be supported by the City's service arrangements is the Mandatory Commercial Recycling Regulation described below.

In December 2008, the California Air Resources Board adopted the AB 32 Scoping Plan, which includes regulations for implementing the California Global Warming Solutions Act of 2006 (AB 32). The adopted AB 32 Scoping Plan includes mandatory commercial recycling at all businesses and multi-family complexes that generate four or more cubic yards of refuse per week ("covered businesses"). The Mandatory Commercial Recycling Regulation requires that jurisdictions offer a recycling program to all covered businesses in the city, monitor the program's progress, and enforce the program. The City can include a commercial recycling program in its exclusive or non-exclusive franchise and reporting requirements, that include the number of covered businesses (based on trash service), and the number of business/multi-family complexes receiving recycling services.

Assembly Bill 341

Assembly Bill 341 was signed into law on October 6, 2011. This bill makes a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020, and requires CalRecycle to provide a report by January 1, 2014 to the Legislature that provides strategies to achieve the policy goals. Section 41780.01 of the bill states:

"(a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter.

(b) Notwithstanding subdivision (a), the department shall not establish or enforce a diversion rate on a city or county that is greater than the 50 percent diversion rate established pursuant to Section 41780."

⁷ CalRecycle (formerly California Integrated Waste Management Board) publication #410-03-013: "Is Recycling Good for California's Economy?"

Note that although items "(a)" and "(b)" above may appear contrary to each other, it was the legislature's intent to encourage 75% diversion by 2020 at the State level without mandating penalties at this time on individual jurisdictions that do not exceed the existing 50% diversion requirement under AB 939.

Additionally, this bill requires a business, defined to include a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more to arrange for recycling services, on and after July 1, 2012. Under this bill, agencies are authorized to charge and collect a fee from commercial waste generators to recover the agency's costs incurred in complying with the commercial solid waste recycling program. Jurisdictions are required to report the progress achieved in implementing its commercial recycling program, including education, outreach, identification, and monitoring, and if applicable, enforcement efforts, via the AB 939 Annual Reports submitted to CalRecycle.

This bill changes the due date of the AB 939 Annual Reports from September 1 of each year, to May 1 of each year.

15. Certain large businesses and large multi-family communities could be exempted from an exclusive service franchise arrangement.

Some large businesses develop competitive bid processes for the procurement of solid waste and recycling services. In some instances, these businesses may contract with several different companies to provide specialized services. The City could exempt certain large businesses from the exclusive franchise system. For example, the City of Redondo Beach provided such an exemption to a large aeronautic company located within the city.

During the stakeholder meetings, representatives from a local movie studio noted the unique requirements of their operations, including multiple daily solid waste pickups and irregular collection required by movie production schedules.

If certain businesses are exempted, the City may want to establish recycling requirements or other regulations for such special circumstances.

16. There are five main franchise timing options for the City to consider:

1. Move forward with franchising process for multi-family services; delay implementation of commercial franchising process
2. Delay franchising process of both multi-family and commercial services subsequent to submittal and completion of minimum 5-year notice period for commercial haulers
3. Move forward with RFP for both multi-family and commercial franchising process; implement multi-family first, and implement commercial franchise after submittal and completion of minimum 5-year notice period
4. Develop voluntary franchising process for multi-family and commercial haulers without limiting the number of haulers (this option would allow for the earliest implementation)
5. Move forward with both multi-family and commercial franchising processes; implement multi-family first, and phase-in commercial.

Options 1, 2, 3 and 5 can be implemented with either exclusive or non-exclusive franchises, as shown in Exhibit 14. Option 4 requires non-exclusive franchises.

Exhibit 18 describes the advantages and disadvantages of each timing option, and Exhibit 19 illustrates the timing schedule for each option.

Exhibit 18
Franchise Options for the City of Los Angeles

Option	Advantages	Disadvantages
1. Move forward with franchising process for multi-family services; delay implementation of commercial franchising process	<ul style="list-style-type: none"> • Earlier implementation of multi-family franchise requirements (such as diversion requirements and clean fuel vehicles) • Earlier implementation of multi-family franchise fee • Transition of service providers and implementation of new programs may be more successful (fewer complaints) if focused on multi-family rather than trying to do both multi-family and commercial simultaneously 	<ul style="list-style-type: none"> • Multi-family and commercial franchise terms may not end at the same time unless a shorter term is used for commercial • Different multi-family and commercial service providers may be selected, increasing contract administration costs, and reducing routing efficiencies • Procurement costs would increase because the procurement of multi-family and commercial would not occur at the same time
2. Delay franchising process of both multi-family and commercial services subsequent to submittal and completion of minimum 5-year notice period for commercial haulers	<ul style="list-style-type: none"> • One combined multi-family/commercial franchise process instead of two separate processes would reduce procurement costs • Additional time to research key RFP requirements • Multi-family and commercial contract periods may be aligned making administrative tasks easier • Same hauler(s) for multi-family and commercial service will increase routing efficiency 	<ul style="list-style-type: none"> • Delay in implementing new multi-family requirements • Franchise fee implementation deferred to 2016 • City would continue to incur cost of multi-family recycling programs (\$12 million/year) until franchise is implemented • Best proposal (technical and cost) for one customer type may not be the best proposal for both

Option	Advantages	Disadvantages
<p>3. Move forward with RFP for both multi-family and commercial franchising process; implement multi-family first, and implement commercial franchise after submittal and completion of minimum 5-year notice period</p>	<ul style="list-style-type: none"> • One combined competitive process instead of separate multi-family and commercial processes • One group of service providers may be selected at the same time, allowing routing efficiencies for the same multi-family and commercial haulers • Transition and implementation challenges would be spread over two periods and not all at once, minimizing customer complaints 	<ul style="list-style-type: none"> • Developing the additional commercial RFP requirements to add to the existing multi-family draft RFP requirements will delay the multi-family implementation • Rushing to develop the commercial portion of the RFP may result in less thoughtful decisions • Commercial stakeholders' concerns may slow down implementation • Long delay between selection of commercial haulers and start of service may create challenges with enforcement for haulers not selected • The same contractor may not submit the best proposal for both multi-family and commercial services
<p>4. Develop voluntary franchising process for existing multi-family and commercial haulers. For example, offer all current haulers a 10-year franchise agreement (recycling requirements may be phased in)</p>	<ul style="list-style-type: none"> • Implement multi-family and commercial franchise fee now without waiting for commercial 5-year notice period • Avoid potentially contentious RFP contractor selection process • All haulers that execute a franchise may continue to service their customers • Would achieve the City's revenue goals more quickly due to full implementation of franchise fee in multi-family and commercial sectors at earliest possible date 	<ul style="list-style-type: none"> • No reduction in the number of trucks operating in the City and corresponding health, environmental, and truck impacts • Continued monitoring by City of a large number of haulers • Does not address current differences in rates customers pay for the same service • May be more challenging to increase diversion from current levels because some small haulers may be unable to finance or cost effectively operate diversion programs and facilities • May delay earlier implementation of clean-fuel trucks

Option	Advantages	Disadvantages
5. Move forward with both multi-family and commercial franchising processes; implement multi-family first, and phase-in commercial prior to completion of minimum 5-year noticing period	<ul style="list-style-type: none"> One combined process for multi-family and commercial One group of service providers may be selected at same time, ultimately allowing for routing efficiencies after the phase-in period is complete If franchises are awarded to the existing haulers with largest market shares, commercial franchise requirements may be implemented for most customers prior to expiration of 5-year notice Haulers not awarded franchises may choose to negotiate a sale of their operations to the franchisee prior to expiration of the 5-year notice 	<ul style="list-style-type: none"> May be difficult to monitor compliance by commercial haulers not awarded franchises prior to expiration of 5-year notice Exclusive commercial option difficult to implement prior to expiration of 5-year notice Customers served by haulers not awarded franchises would potentially receive different services with different rates and terms than franchise customers until expiration of 5-year notice (unless existing permit system requirements are revised to match franchise system requirements, although could not implement franchise fee for permit system)

Exhibit 19
Franchise Timing Options

Service Arrangements	Sector	1. Proceed with multi-family RFP; delay commercial RFP*		2. Delay both sectors pending conclusion of commercial 5-year noticing period*		3. Proceed with RFP for both sectors; implement multi-family; delay comm'l pending conclusion of 5-year noticing period*		4. Voluntary non-exclusive franchise		5. Move forward with both franchising processes; implement multi-family first, and phase-in commercial	
		Non-Excl.	Exclusive	Non-Excl.	Exclusive	Non-Excl.	Exclusive	Non-Exclusive	Non-Exclusive	Exclusive	
1. Issue 5-year notice to commercial haulers	Commercial	2011	2011	2011	2011	2011	2011	2011	2011	2011	2011
2. Develop exclusive service requirements and area boundaries ⁽¹⁾	Multi-Family and Commercial		2012		2012		2012				2012
3. Release RFP	Multi-Family	2012	2013	2013	2013	2012	2013	Develop Agreement 2012	2012	2012	2013
	Commercial	2013	2014								
4. Award	Multi-Family	2012-13	2013-14	2015	2015	2013	2014	2012	2013	2013	2014
	Commercial	2015	2015								
5. Start of service ⁽²⁾	Multi-Family	2013	2014	2016	2016	2014	2014-15	2012-13	2014	2014-15	
	Commercial	2016	2016			2016	2016		Phase-in beginning 2014	2016	

* Assumes commercial franchise is not implemented prior to expiration date of a 5-year notice

- (1) Time has been included in Task 2 to determine service area boundaries.
- (2) Time has been included in Task 5 to allow for the procurement of equipment by the successful proposer(s) which is normally 6 to 12 months and could be longer for a city the size of Los Angeles. Implementation dates could be staggered to facilitate a smoother transition.

Options 1, 2 and 3 assume that commercial franchise services would not commence prior to expiration of a 5-year notice of intent to modify commercial service arrangements. Option 4 is a "voluntary" agreement to a franchise and therefore would not require waiting for expiration of a 5-year notice period. Option 5 assumes that the City proceeds with a commercial franchise prior to expiration of a 5-year notice period, and therefore existing haulers not awarded a franchise could continue serving their customers until expiration of the 5-year notice, resulting in franchise requirements only being implemented for those customers served by franchisees for a period of time.

The City can require the remittance of franchise fees under each of the franchising options described in this section (subject to any Proposition 26 limitations). If the City were to choose option #4, the voluntary non-exclusive franchising process, the City could start receiving franchise fees for the multi-family and commercial sectors via the franchise agreements in 2012 or 2013. All of the other options would take longer to implement, as shown in Exhibit 14, and therefore, would delay full implementation of the franchise fee.

To encourage haulers to participate in a voluntary non-exclusive system, the term of the franchise agreements offered should be longer than the 5-year notice period required by the Public Resources Code. A term of seven to ten years may be appropriate. While this option would best achieve the City's revenue goals in the short-run, it might delay the achievement of the highest diversion levels.

An exclusive franchising process would take longer to implement than a non-exclusive system for the following reasons:

1. The haulers in an exclusive system need to propose specific rates and the City approves the rates.
2. In order to reasonably propose rates, it would be helpful for the City to provide all proposers service level and operating data in the RFP for each exclusive zone, and the City does not currently have such data available (we understand the City plans to request hauler receipts by zip code). However, companies have proposed in cases where such data has not been available and, in any event, most companies do their own analysis to determine the reasonableness of the data provided in RFPs. Without providing a container matrix in the RFP for exclusive service, it will be more difficult to evaluate rates because of the many different service levels. In such case, we recommend defining the rate relationships so that all service rates are proportional to a basic level of service in order to be able to evaluate the relative rates on a consistent basis from multiple proposers.
3. To eliminate all but one service provider to award exclusive zones would require a more complex and time consuming evaluation process.
4. A longer transition period would be required to implement exclusive service, as more customers would be impacted and significant quantities of equipment would need to be ordered by the successful proposer.

5. Exclusive service franchises would likely require exclusive zones whose boundaries may be different than the waste districts, and determining reasonable boundaries will take time.

17. The City's Rent Stabilization Ordinance (RSO) allows landlords and property managers to submit an application to pass-through solid waste collection cost increases to tenants for buildings built before 1979. There would be no restriction on landlords passing on increased solid waste costs for all buildings built after 1978.

In 1979, the City of Los Angeles' City Council enacted the RSO (Appendix 12) to allow landlords a reasonable return on their investments while protecting tenants from excessive rent increases. The RSO applies to buildings built during or before 1978.

During the Apartment Owners and Associations stakeholder workshop on July 28, 2011, apartment owners voiced concerns regarding the potential of higher refuse rates under an exclusive franchise system and the corresponding effect on their rental income given the restrictions of the City's Rent Stabilization Ordinance.

According to the City's Housing Department, approximately 638,000 rental units are covered by the RSO. According to City staff, under the RSO, landlords can increase rents by at least 3% annually, and up to 8% depending on the change in the Consumer Price Index.

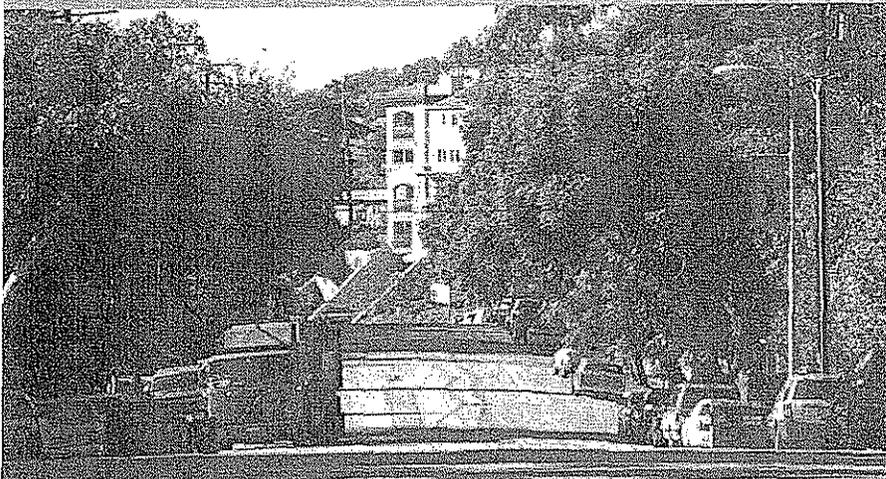
In addition, Section V. Allowable Rent Increases, subsection 4. Just and Reasonable, of the RSO, allows landlords the ability to apply for additional rent increases for operating expenses which include rubbish removal (RAC Regulations 241.13A) under certain conditions specified in the RSO.

EXHIBIT

C

ECONOMIC IMPACT ANALYSIS

Waste Hauling Policy Framework
in the City of Los Angeles





EXECUTIVE SUMMARY

In this report, AECOM has assessed the economic impact of a proposed change in the City of Los Angeles' waste hauling policy framework from an Open Market Permit system to an Exclusive Franchise or Non-Exclusive Franchise policy. While there appear to be minimal impacts if the system moves to a Non-Exclusive Franchise policy, the change to an Exclusive Franchise policy would appear to generate multiple negative impacts to the City of Los Angeles. Impacts include higher costs for service, reduced levels of service for customers, and the loss of local small- to medium-sized businesses that provide stable, high-wage jobs. Other concerns include the potential risk of labor disputes disrupting waste collection, which would present widespread public health risks and could also negatively impact the tourism industry, adversely affect the business climate, and also stimulate increases in illegal dumping.

Key findings of the proposed change from an Open Market Permit system to an Exclusive Franchise system include the following economic implications:

- Based on our research, Exclusive Franchise cities had prices that were more than 33 percent higher than Open Market Permit and Non-Exclusive Franchise cities surveyed within Los Angeles County.
- A policy change to an Exclusive Franchise system could cost property owners, businesses, and multifamily residents in the City of Los Angeles over \$67.1 million annually, based upon the City's reported 2010 gross receipts from permitted waste haulers.
- Any increase in service rates for waste hauling in the City of Los Angeles will affect:
 - More than 21,600 Commercial property owners and their tenants (estimated to exceed 85,000 businesses, nonprofits, and public agencies)
 - Property owners of the 1.7 million local residents living in rental units subject to the rent stabilization ordinance
 - Over 591,000 residents living in other multifamily units throughout the City of Los Angeles
- The Exclusive Franchise system is likely to create additional hardships on local property owners, businesses, and residents by:
 - Increasing operating costs for business
 - Increasing multifamily rental rates or monthly garbage fees
 - Limiting flexibility in waste hauling services. Many local industries require individualized waste service contracts that are tailored to their individual operations and location, including accommodations (hotel), food and beverage (restaurants and bars), entertainment, and real estate rental and leasing, among others.
- The economic impact of the Exclusive Franchise system could effectively eliminate:
 - 242 to 1,283 existing jobs, each paying an average annual wage of \$47,500
 - \$19.2 to \$101.7 million in existing annual revenue to local waste haul operators

- This direct loss in output, jobs, and wages would create an additional loss (indirect and induced) of:
 - 70 to 370 jobs in the City of Los Angeles
 - \$13.9 to \$73.6 million in business-to-business and household expenditures
- Employment and wages vary widely among sectors involved in Los Angeles' solid waste industry:
 - Waste collection: 2,050 employees with average annual wages of \$50,850 per employee
 - Waste treatment and disposal: 250 employees with average annual wages of \$59,000/employee
 - Materials recovery facilities: 190 employees with average annual wages of \$37,900/employee
 - Non-administrative waste hauling employees: Average annual wage \$57,800/employee
- The total gross economic impacts of a change to an Exclusive Franchise can be summarized as follows:
 - For every \$1 dollar of lost waste hauling revenue, the City of Los Angeles will lose an additional \$1.72 in economic output and \$0.78 in local wages.
 - For every million dollars of lost waste hauling revenue, the City of Los Angeles will lose an additional 16 jobs through indirect and induced spending.
- Under an Exclusive Franchise system, the City risks labor disruptions that present public health risks and could negatively impact tourism and related industries.
 - Other potential impacts include creating a less competitive business environment and increasing illegal dumping in the City of Los Angeles.

The report is divided into several sections:

- First, an overview of common terms and a brief look at the industry.
- Second, a summary of the proposed ordinance to require solid waste collection franchises (Exclusive Franchise or Non-Exclusive Franchise) is provided.
- Next, a review of local jurisdiction solid waste collection policies illustrates the different options available to manage and operate solid waste: Open Market Permits, Non-Exclusive Franchise, and Exclusive Franchise.
- The report then provides a brief discussion of the solid waste supply chain.
- The report concludes with a discussion of the potential economic impact of the proposed ordinance.

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POLICY OVERVIEW

Municipalities are required to provide waste services to their residents and businesses. These services typically involve garbage and recycling and cover the sectors of residential, commercial and industrial. Some cities may provide waste services on their own or contract between private waste haulers for waste services. In general, either the city or the firm is required to provide recycling services upon request by the customer.

Currently, many cities are setting diversion goals for their waste management practices. Cities set diversion percentages to aim to reduce or eliminate the specified amount of solid waste from solid waste disposal.

In some regions, residents are required to separate trash into designated bins: one for regular trash and another for recycling, and sometimes additional bins for organic waste. In other regions, waste does not get separated before it is picked up. In these regions, waste haulers will take the waste to a materials recycling facility (MRF), where all of the recyclable materials are removed before the trash is sent to the landfills.

Definitions

- AB 939 Compliance Fee Program – On July 3, 2002, the Los Angeles City Council adopted an ordinance (AB 939) requiring all private waste haulers collecting solid waste within the City, to obtain a waste hauling permit and pay a Compliance Fee of ten percent (10 percent) of gross receipts (billings or invoices). The fee is to be used to establish recycling programs for multi-family residences (such as apartments, condominiums, townhouses) and commercial businesses, and manufacturers.¹
- Commercial – In this report, the terms “Commercial” and “Commercial businesses” refer to small and large businesses, institutional and industrial facilities, and public venues, all of which generate waste that is collected by a permitted private waste-hauling company.²
- Multifamily – Residential dwelling units such as apartments, condominiums, and townhouses that consist of more than four (4) units each.³
- Exclusive Franchise – A right or privilege issued by a public agency to a single waste collection and recycling company to provide services in a defined area. The agency and the company (franchisee) execute a franchise agreement that defines the services to be provided, specifies performance standards, and establishes the prices that are to be charged to customers.
- MRF – Materials Recycling Facility. The process of separating recyclables from waste after pickup from the customer may be called “MRFing.”

¹ City of Los Angeles Department of Sanitation. August 7, 2002. Solid Waste Hauler Permit / AB939 Compliance Fee FAQs. Available online: http://www.ci.la.ca.us/SAN/solid_resources/pdfs/AB939_Compliance_Fee_FAQs.pdf.

² City of Los Angeles Department of Sanitation. FACT SHEET: Waste Generation and Disposal Projections. Available online: <http://www.zerowaste.lacity.org>.

³ *ibid.*

- Non-Exclusive Franchise – A right or privilege issued by a public agency to multiple waste collection and recycling companies to provide services in a defined area. The agency executes a franchise agreement with each of the companies (franchisees) that typically defines the services to be provided and specifies performance standards. Franchisees often set the prices they charge to their customers and compete with each other for market share.
- Open Market Permit – A permit issued by a public agency to multiple waste collection and recycling companies to provide services within the agency’s jurisdictional area. Performance standards are usually specified in ordinances adopted by the agency. The permit recipients set the prices they charge to customers and compete with each other for market share.
- Wastesheds – The City of Los Angeles Bureau of Sanitation’s (BOS) geographically designated municipal solid waste operation areas. The six collection districts are in effect for residential solid waste pick-up.⁴

The Solid Waste Industry Now

The waste management industry as a whole is in its mature phase. The industry is very sensitive to the effects of the national economy and consumer spending. As the overall economy has slowed, the total volume of waste generated has decreased, leading to slowing growth in the industry. The greatest loss in revenues has been in the Construction and Demolition Debris sector caused by the decline in new residential development. Housing starts picked up slightly in 2010, and are expected to grow substantially in 2011 and 2012. Furthermore, strengthening commercial construction in 2011 is anticipated to further raise this segment’s revenue share.

Increasing environmental regulations have limited industry growth in waste disposal. Concerns about how landfills affect the environment have pushed state and federal governments to impose restrictions on how landfills are managed and the effects they pose to the greater public. In response, cities across California have set aggressive diversion rate goals to help conserve existing landfill capacity and preserve the environment. As a result, there are increased investments in recycling businesses or biomass conversion facilities. These segments often benefit from other regulations that provide incentives for recycling or producing energy from waste.⁵

Additional growth in the private waste management industry is expected to occur as more municipal agencies outsource their trash and recycling services. Historically, many California cities provide Commercial solid waste collection utilizing municipal labor. Other cities in California opt to outsource solid waste collection to private vendors. While some cities use a combination of municipal labor and private waste haulers, a large share of local governments choose to go completely private.⁶

Franchising solid waste collection removes the burden for managing the waste cycle from cities. Options for franchising include Exclusive and Non-Exclusive agreements.

⁴ City of Los Angeles Department of Planning Recommendation Report. August 23, 2007. Case No. CPC 2007-0455-CA.

⁵ Bueno Brian. “Waste Collection Services in the US”. IBISWorld Industry Report 56211. June 2011. www.ibisworld.com.

⁶ City of Fresno. City Council Memorandum, December 3, 2010. “Additional Information Regarding Solid Waste Franchise RFP”.

- An Exclusive Franchise is an agreement to provide waste services exclusively in a designated service area under a specific set of conditions. The hauler is typically required to charge a standard rate to all customers for the same size container and same frequency of service. Exclusive Franchises are limited to haulers that qualify for and win a franchise contract with a specific agency or municipality.
- A Non-Exclusive Franchise occurs when multiple haulers are granted permission from a local agency to provide services to a designated service area under a specific set of conditions. All haulers who qualify for and win a franchise contract with a specific agency or municipality may compete for business within the specified franchise area.

Types of Agreements

Solid waste management practices differ from city to city, but typically, municipalities in southern California operate an in-house collection service, or else they outsource refuse collection services via franchise (Exclusive Franchise or Non-Exclusive Franchise) or permit systems. Some cities may provide in-house collection primarily for residential customers (i.e. City of Long Beach and City of Pasadena) while others may provide services for all sectors (residential, commercial and industrial) such as the City of Santa Monica.

In the cases of Long Beach and Pasadena, where the Cities are collecting waste for residential uses, waste services for Commercial customers are contracted between the City and haulers as Non-Exclusive Franchise agreements. Non-Exclusive Franchise agreements allow haulers to charge market rates to their customers, yet allows for a more competitive environment among the waste haulers in the particular city. While Non-Exclusive Franchise agreements can allow for multiple haulers in one specific area, cities tend to allow them to work anywhere in the municipality, which adds to overall competition among providers, and typically a broader range of service offerings to customers.

In an Exclusive Franchise agreement, cities designate certain haulers for waste services and they are the only ones that can work within the city. Cities with this type of agreement include Huntington Beach, Palm Desert and West Hollywood.

City of Los Angeles Proposed Program Changes

The City of Los Angeles currently operates under an Open Market Permit system for the collection and management of waste and recovered materials from Multifamily, Commercial, industrial, and institutional customers within its borders. The City is considering moving to an Exclusive Franchise or Non-Exclusive Franchise system. The franchisees would arrange to provide solid waste management service to Multifamily and Commercial customers, subject to the terms set forth in franchise agreements.⁷

⁷ City of Los Angeles Department of Public Works, Bureau of Sanitation Board Report No.1. "Authority to issue 5-year notification to permitted private waste haulers of the city's intent to modify existing private waste hauling system. May 16, 2011.

Currently, businesses are allowed to select the hauler of their choice and negotiate the collection and disposal and/or recycling contract with any of the 134 permitted private waste haulers that operate with the City. Private waste haulers are required to submit a 10 percent AB939 Compliance fee. Private waste haulers are also required to file an annual report to the Los Angeles Bureau of Sanitation (BOS) to be in compliance with, and retain, a Business Tax Registration Certificate (BTRC). There is no fee to obtain the BTRC.

Residents and Commercial establishments in Los Angeles County generate 23 million tons of waste and recyclable materials each year, sending over 10 million tons of waste to landfills annually. Residents and Commercial establishments in the City of Los Angeles produce more than a third of that volume, or 10 million annual tons of waste and recyclable materials. The City of Los Angeles currently diverts more than 65 percent of this waste from landfills through various recycling and diversion programs,⁸ however, the City has a goal of 70 percent waste diversion by 2013 for its entire waste stream and a draft goal of 90 percent by 2025 is being developed. Businesses and large apartment complexes are responsible for nearly 70 percent, or 2.5 million tons (note: 2010 disposal by permitted haulers was 1.6 million tons), of the City's waste that is actually going to landfills.⁹ To meet the City's diversion goals, the BOS is compelled to significantly expand existing and new diversion programs for all sectors. Under the California Public Resources Code (sections 40057-40059), the City may elect to provide services to large multifamily complexes, Commercial businesses, and industrial complexes through a franchise system (Exclusive Franchise or Non-Exclusive Franchise). In addition, Section 66.08 of the Los Angeles Municipal Code (LAMC) allows the City to grant an Exclusive Franchise or Non-Exclusive Franchise for the collection of solid waste.

The BOS is considering a plan that would change the current waste collection environment for multi-family and potentially Commercial properties within the City of Los Angeles. The proposed ordinance would eliminate the Open Market Permit system and award Exclusive Franchise or Non-Exclusive Franchise agreements within the City's geographically defined Wastesheds. Franchise winners (franchisees) would then be required to pay some additional fee to the City in order to maintain their franchise status. In other California cities, that fee ranges from 0.5 to 31.7 percent of revenues, with an average of 9.6 percent.¹⁰

Pricing

AECOM surveyed numerous cities regarding Exclusive Franchise agreements.

It is important to make a distinction between prices and fees. Prices refer to the costs paid by a business or building owner for solid waste services. Under an Exclusive Franchise System, the price (also referred to as "rate") is set by the terms of the franchise agreement. The method by which prices are adjusted is also usually defined in the franchise agreement and is subject to approval by the local governing body (city council).

⁸ 2011. Municipal Recycling Survey (Waste Recycling News).

⁹ LAANE Website. <http://www.laane.org/projects/current-projects/dont-waste-la/project-background>. Accessed June 13, 2011.

¹⁰ City of Fresno. City Council Memorandum, December 3, 2010. "Additional Information Regarding Solid Waste Franchise RFP".

Fees are imposed on the franchisee by the jurisdiction to raise revenues for the jurisdiction, such as for program administration, street maintenance, recycling education, etc. Fees can be flat rates (e.g., \$ per ton, \$ per household, etc.) or based on percentages of the franchisee's gross revenue from waste management services. Franchisees generally incorporate their fees into the prices they charge to their customers.

The majority of cities surveyed for this report have Exclusive Franchise agreements with private waste haulers for Commercial and Multifamily solid waste collection. The agreements are generally 10 years in length, but vary between one year and forty years.

The prices and fees for the Exclusive Franchise agreements are set according to flat rates, percentage of total revenues, or a combination of both. However, slightly more complex and innovative pricing structures exist. The City of Irvine collects fees according to a tiered-fee approach that provides financial incentives for waste haulers to divert solid waste from landfills. Private waste haulers are regularly audited by the municipalities' finance department to assure that the correct fees are paid.

For the majority of cities, both in Open Market Permit systems or Non-Exclusive Franchise systems, private waste haulers negotiate directly with the customers without oversight from the municipal jurisdiction. As a result, the waste hauler can provide customized solid waste service solutions based upon client needs. However, rates for some Exclusive Franchise agreements are more closely regulated by the municipality. In those circumstances, prices are capped by the municipality, and haulers have the flexibility to negotiate lower rates with their customers if need arises. Price increases must be approved by the regulating municipal authority (usually the city council). Such price increases typically reflect cost increases incurred by the waste hauler (landfill fees, fuel, etc.). Most annual price increases are less than five percent or linked to a commonly accepted index, such as the CPI, as the basis for making price adjustments.

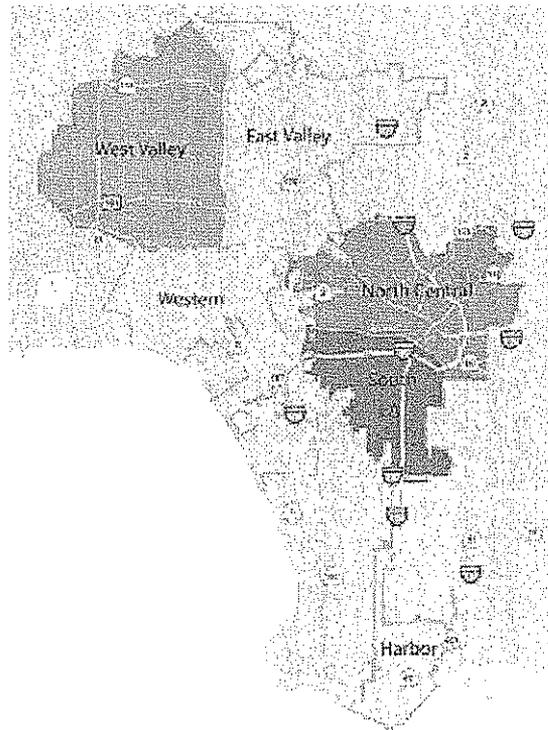
Case studies: Permit Cities

Los Angeles

The BOS provides waste collection services to single-family residential customers and multifamily residential properties containing up to four dwelling units from six existing Wastesheds within the City.¹¹

- West Valley
- East Valley
- Western
- North Central/East Side
- South LA
- Harbor

The BOS does not provide waste collection services to non-residential customers. Commercial waste is collected by permitted waste haulers serving Commercial customers and Multifamily complexes.¹²



Existing Wastesheds in City of Los Angeles
Source: <http://www.zerowaste.lacity.org/>

Case Studies: Non-Exclusive Franchise Cities

Pasadena

Within the City of Pasadena, there are approximately 26 Non-Exclusive Franchise agreements between the city and waste haulers for Commercial waste services. City employees provide residential services for solid waste removal. There are no limitations on where waste haulers can work within the City of Pasadena.

Waste hauling firms in Pasadena pay the city approximately 19.5 percent of their monthly revenues. The city receives approximately \$3.5 million in annual revenues. Because the waste haulers have Non-Exclusive Franchise agreements they may negotiate rates and prices directly with their customers. The franchise agreements are renewed and renegotiated on an annual basis.

Although the city does not provide incentives to franchise firms or customers to recycle, franchise firms are required to provide recycling receptacles upon customer request.

Irvine

The City of Irvine has 27 Non-Exclusive Franchise agreements with waste haulers to provide Commercial waste collections services in all other parts of the city not deemed "Village Commercial". The city has an Exclusive Franchise agreement with Waste Management to provide Commercial services to the areas

¹¹ City of Los Angeles Department of Sanitation. FACT SHEET: Waste Generation and Disposal Projections. Available online: <http://www.zerowaste.lacity.org>.

¹² *ibid.*

identified as “Village Commercial”. The City of Irvine has one Exclusive Franchise residential agreement with Waste Management, Inc. to provide solid waste removal for residents, including all multifamily regardless of complex size. In addition, the price provision of the Exclusive Franchise agreement states that the service-providing firm must offer the lowest price. On an annual basis, the franchisee must show it is providing the lowest rates as compared to similar cities in the region. In contrast, the firms in Non-Exclusive Franchise agreements negotiate fees on a competitive basis with customers. Contracts between the City of Irvine and its franchisees are renewed on an annual basis.

The goal of the City of Irvine is to increase diversion rates for solid waste. The city provides incentives to franchise firms to recycle through a “tiered rate” fee system. Franchisees pay higher tipping fees when they have a low sort and diversion rate. The more the franchisee sorts, diverts, and recycles, the lower their fees. While the system is intended to reduce franchise revenue for the city, the city considers the gains in operational efficiency and capacity preservation at local landfills to be a more than sufficient offset over the long term.¹³

Long Beach

The City of Long Beach maintains approximately 14 to 16 Non-Exclusive Franchise agreements between various private waste haulers. Only Commercial uses are covered by these agreements and the franchisees can work anywhere within city limits. Waste services for residential uses (residential properties with fewer than 10 dwelling units) are provided by the City of Long Beach.

In Long Beach, the franchise fee is based on a percent of revenues. In 2010, the franchise fee accounted for approximately 16 percent of gross sales receipts. The city earned approximately \$2.4 million annually from franchise payments. Because the waste haulers have Non-Exclusive Franchise agreements they may negotiate rates and prices directly with their customers.

Agreements between the city and the private haulers run for approximately seven years. After the seven years are up, each firm has the option to extend three more years if they meet certain requirements. Waste haulers are required to offer recycling services in Long Beach.

Case Studies: Exclusive Franchise Cities

Huntington Beach

The City of Huntington Beach has one Exclusive Franchise agreement with a hauler that provides both residential and Commercial waste services. This hauler pays five percent of sales revenues to the City and a 1.25 percent transfer station user fee. Overall, the city earns approximately \$60,000 per month from the revenue-based fee and approximately \$24,000 per month from the percent transfer station user fee.

¹³ Mike Byrne. City of Irvine Environmental Programs. Telephone call with AECOM staff. June 22, 2011. The Irvine Environmental Programs is focused on providing sustainable tips, resources, and other information to promote eco-living in the City.

Customer pricing in Huntington Beach is set in the franchise contract and is based on a number of factors including the consumer price index, Orange County tipping fees, and fuel prices. The franchise contract is a 15-year agreement and was renewed in 2006.

The franchisee is required to recycle. In 2007, the waste hauler implemented separate bins for green waste and regular waste. Although Huntington Beach does not provide incentives to increase the level of recycling, the franchise contract requires recycling services.

Palm Desert

Palm Desert has an Exclusive Franchise agreement with one waste hauler who provides both residential and Commercial services. The franchisee provides regular trash, recycling and green waste pickup services. Although there is one contracted hauler, additional construction and debris-only waste haulers can compete anywhere in the city (with some limited exceptions).

Under the Exclusive Franchise agreement, the franchisee is allowed to request a rate increase annually. This request must be approved through City Council, but is dependent on current landfill disposal charges. The city's contract with the franchisee went into effect in 2009 and will expire in 2015.

West Hollywood

West Hollywood has issued an exclusive franchise to a single hauler for waste collection and recycling services to single and Multifamily residents, and Commercial businesses. It has also issued permits to four companies to provide recycling and disposal services for construction and demolition debris and to three companies for business recycling services. West Hollywood's waste hauling firms are mandated to recycle; the city and haulers are currently trying to achieve an 80 percent diversion rate.

Case Study: City in Transition

San Jose

In 1995, The City of San Jose implemented a Non-Exclusive Franchise system for collection of Commercial solid waste (garbage and recyclables). In this system, hauling companies apply for a Commercial Solid Waste and Recyclables Collection Franchise and compete with each other on a customer-by-customer basis to provide solid waste services. The city provides no compensation to the franchised haulers as the haulers bill their customers directly. Service rates are agreed upon between the hauler and the customer. The city does not regulate these rates. Franchised haulers pay a franchise fee to the city based on the volume of garbage collected.

The city initially defined two collection districts, but has selected a single firm (Allied Waste) to be the exclusive franchisee for all commercial accounts in the city beginning in July 2012. Temporary bin service for construction and demolition waste is excluded from the scope of the franchise. The term of the franchise agreement is 15 years. The agreement between the city and franchisee does not include specific rates/prices that will be charged to businesses for solid waste collection and recycling services.

Rather, the agreement defines a detailed rate-setting process based on the franchisee's annual revenue requirement (revenue requirement is defined to include monies to fund the cost of providing services, profit, pass-through fees, disposal fees, government fees, recyclable and organic materials processing costs, taxes, insurance bonds, overhead, and other specified costs).

The City of San Jose and franchisee are now negotiating to determine the initial prices/rates that will be in effect for the first year of the new program. For subsequent years, the franchisee can use the process to apply to the city for annual adjustments to its prices. Since the program is in its infancy, there are no statistics to measure the impacts of San Jose's transition to the new, Exclusive Franchise program.

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INDUSTRY OVERVIEW

There are approximately 350 firms directly engaged in solid waste collection and processing in the greater Los Angeles region.¹⁴ These firms employ roughly 29,000 workers and with annual payrolls of \$570 million. Combined, these firms produce over \$2.7 billion in gross receipts annually. In addition, there are numerous businesses that provide support services to the solid waste collection industry ranging from insurance and financial support to truck body manufacturing. Many of these companies provide services to firms working in or for the City of Los Angeles.¹⁵

It is important to note that, in this analysis, the number of firms in the City of Los Angeles are only those headquartered within the municipal boundaries; many more firms (those in the region) provide services directly or indirectly to the City of Los Angeles, even if they are based elsewhere in the region.

Figure 1: Solid Waste Collection and Processing (Los Angeles MSA)

		Firms	Receipts (\$1,000)	Annual payroll (\$1,000)	Employees	Earnings/ Employee 2009
56211	Waste collection	250	2,129,094	469,110	9,600	50,851
56221	Waste treatment and disposal	64	392,724	78,714	19,651	59,078
56292	Materials recovery facilities	42	141,274	12,559	374	37,914

Source: U.S. Census Bureau, Economic Census, 2007; Quarterly Census of Employment and Wages (2009)

For the City of Los Angeles, there are approximately 84 firms located within the city limits involved in solid waste collection and processing. These firms employ roughly 2,500 workers and with annual payrolls of \$120 million. Combined, these firms produce over \$530 million in gross receipts annually. In addition, there are numerous businesses that provide support services to the solid waste collection industry ranging from insurance and financial support to truck body manufacturing. Many of these companies provide services to firms working in or for the City of Los Angeles.¹⁶

¹⁴ Defined as the Los Angeles-Long-Beach-Santa Ana metropolitan statistical area.

¹⁵ U.S. Census Bureau. Economic Census 2007. Available online: <http://www.census.gov/econ/census07>. Accessed June 13, 2011.

¹⁶ *ibid.*

Figure 2: Solid Waste Collection and Processing (City of Los Angeles)

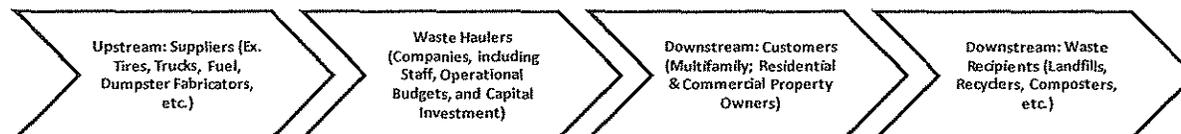
		Firms	Receipts (\$1,000)	Annual payroll (\$1,000)	Employees
56211	Waste collection	55	410,942	103,316	2,045
56221	Waste treatment and disposal	16	72,272	11,430	254
56292	Materials recovery facilities	13	48,047	5,379	189

Source: U.S. Census Bureau, Economic Census, 2007

Supply Chain

Solid waste management is the collection, transport, processing, recycling or disposal, and monitoring of waste materials. The process consists of waste haulers that receive waste or recycling from customers and deliver and deposit the waste at recycling facilities or landfills. The waste haulers rely on upstream suppliers to maintain their businesses. These suppliers include trucks manufacturers and retailers, repair shops, automotive goods, and professional services such as finance, insurance, and real estate. The figure below illustrates the relationship and interdependence of waste haulers to the upstream and downstream components of the supply chain.

Figure 3: Supply Chain



Source: AECOM

Upstream: Suppliers

In the Los Angeles MSA, upstream suppliers for trucks and truck bodies include, but are not limited to, Amrep, Inc., Carmelita Truck Center, LA Freightliner, Spartan Truck Co., and TEC of California, Inc. For professional services, the waste haulers procure services from SpotTrak-GPS Solutions, American Computer Services, Alliant Insurance Services, and Heffernan Broker Services.¹⁷ Many of these companies provide services to firms working in or for the City of Los Angeles.

Waste Haulers

In the Los Angeles MSA, waste haulers include large national firms as well as small and medium-sized local firms. There are a total of 222 firms with approximately 7,200 employees and \$827 million in annual sales. Over half of the waste collection firms in the Los Angeles MSA are made of firms with less

¹⁷ Los Angeles County Disposal Association. Associate Members. Available online: <http://lacountydisposalassn.com/associates.html>. Accessed June 13, 2011.

than 10 employees. Less than one quarter of all firms have more than 50 employees.¹⁸ Waste haulers servicing the region include, for example:

- AAA Rubbish, Inc.;
- NASA Services, Inc.; and
- Universal Waste Systems.

Many of these companies provide services to firms in the City of Los Angeles and the region. In the City of Los Angeles, there are a total of 55 waste haulers firms with 2,045 employees and \$411 million in annual sales.¹⁹ In 2009, the average wage for non-administrative waste hauling employees (e.g., truck drivers, mechanics, etc.) in the Los Angeles region was \$57,800.²⁰ In the City of Los Angeles' solid waste permit system, there are a total of 134 permitted waste hauling firms.²¹

Figure 4: Waste Collection for Los Angeles MSA: 2011 Estimates

Number of Employees	1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	>1000	Unknown	Total
Number of Firms	85	35	32	27	18	21	3	1	0	2	222
Industry Sales (\$ millions)	13.0	18.2	43.5	88.4	127.0	324.4	125.6	81.8	0	5.2	827.0
Employees	250	210	450	877	1095	2766	865	573	0	128	7213

Source: BARNES 2011, NAICS code: 56211

Downstream: Customers

Customers for solid waste services include single and multi-family residences, commercial businesses, government institutions, and industrial facilities. In the City of Los Angeles, the residential waste market is defined as single family, multifamily 2-4 units, and some multifamily 5+ units that were grandfathered into the current system. Residents within the City of LA must use the municipal service provider and cannot opt out of the city program and hire a private hauler.

Multifamily is defined as residential properties with five or more units (MFR 5+). Multifamily is distinguished from multifamily (4 units or less) in that the former can select solid waste collection services on the private market. Approximately 25 private haulers service this client group. There are approximately 1.2 million Multifamily units in Los Angeles County and 650,000 in the City of Los Angeles.²²

¹⁸ Barnes Reports, Edition 2011. "Waste Collection Industry (NAICS 56211).

¹⁹ U.S. Census Bureau. Economic Census 2007. Available online: <http://www.census.gov/econ/census07>. Accessed June 13, 2011.

²⁰ Bureau of Labor Statistics. 2009. Quarterly Census of Employment & Wages -- QCEW. Available online: <http://www.bls.gov/data/#wages>. Accessed June 1, 2011.

²¹ City of Los Angeles Department of Public Works, Bureau of Sanitation Board Report No.1. "Authority to issue 5-year notification to permitted private waste haulers of the city's intent to modify existing private waste hauling system. May 16, 2011.

²² California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates. 1/1/2010 Available online: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>. Accessed June 10, 2011. Note:

Commercial customers include schools, hospitals and businesses (office, retail, industrial, institutional, and food service). These customers are normally supplied, by their contracted waste hauler, with containers of various size and type, depending on the type of waste they generate. Customers store their waste in these containers between pick-up dates. Commercial contract fees are normally based on the frequency of collection, cost of disposal, equipment or containers provided. There are approximately 21,000 Commercial office properties, 48,000 industrial or flex properties, and 44,000 retail properties in the greater Los Angeles region.²³ Details of the number of properties (many of which are owned or managed by the same group) in the City of Los Angeles are provided in the table below.

City of Los Angeles: Residential and Commercial Property Count

- Residential Customers: 754,000 units in City of Los Angeles²⁴
 - 754,000 units x 4.65 percent vacancy = 719,000 occupied units
 - including single family, detached and attached, 2-4 unit multifamily properties
 - SFR detached: 532,000 units
 - SFR attached: 89,000 units
 - MFR, 2-4 units 134,000 units
- Multifamily Customers: 663,000 units in City of LA²⁵
 - 663,000 units x 4.65 percent vacancy = 632,000 occupied units
 - including multifamily 5+ units and mobile homes
 - MFR 5+ units: 654,000
 - Mobile home units: 9,000
- Commercial Customers: 21,100 properties in City of LA²⁶
 - Office: 3,700 properties
 - Flex & Industrial: 7,300 properties
 - Retail: 9,200 properties
 - Specialty/Health/Hotel/Sports/Entertainment: 1,000 properties

Downstream: Waste Recipients

The final stop in the solid waste collection cycle is the waste recipient. This category includes transfer stations, recycling centers, and landfills. Transfer stations are facilities where municipal solid waste is received from collection vehicles and reloaded onto larger, long-distance transport vehicles for shipment to landfills or other treatment or disposal facilities. Recycling centers are locations used to collect and process recyclable materials to prepare them to be sold on the market. They use a

While previous discussions are at the MSA geography, housing data is only available at the County level. For this analysis, the MSA and County can be considered roughly equivalent.

²³ Los Angeles Market Statistics. CoStar Group. June 2011. The Region is defined as the Los Angeles – Long Beach – Santa Ana Metropolitan Statistical Area.

²⁴ A small percentage of multifamily 5+ units are also serviced by the City of LA residential waste collection group. However, the City is unable to provide an estimate of the number of units affected. California Department of Finance E-5 estimate as of January 1, 2010.

²⁵ *ibid.*

²⁶ Los Angeles Market Statistics. CoStar Group. June 2011. The Region is defined as the City of Los Angeles.

systematic method to sort and prepare residential and Commercial recycling materials. Landfills are sites for the disposal of solid waste where the materials are buried underground.

There are approximately 65 firms that manage or operate waste facilities in the Los Angeles region. These firms employ approximately 1,782 total workers and generate \$356.2 million in annual sales. Over half of the waste recipient businesses consist of smaller firms with less than 20 employees. Only eight firms employ more than 50 workers.²⁷ In the Los Angeles region, waste intake facilities include:

- Allied Waste/BFI Sunshine Canyon landfill
- American Reclamation, Inc.
- Grand Central Recycling
- Madison Materials

Many of these companies provide services to firms working in or for the City of Los Angeles. In the City of Los Angeles, there are a total of 16 waste disposal firms with 254 employees generating approximately \$72.3 million in annual sales.²⁸ In 2009, employees working at regional (Los Angeles MSA) landfills or waste disposal facilities earned between \$56,500 and \$59,000 annually. This is compared to an average annual wage of \$51,000 in Los Angeles County for the same time period. Workers at recycling facilities earned substantially less than their counterparts at landfills. In 2009, the average annual wage for recyclers was approximately \$38,000.²⁹

Figure 5: Waste Treatment and Disposal for Los Angeles MSA: 2011 Estimates

Number of Employees	1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	>1000	Unknown	Total
Number of Firms	16	11	11	15	5	2	1	0	0	3	65
Industry Sales (\$ millions)	4.1	7.4	23.4	67.9	84.0	67.2	77.0	0	0	25.2	356.2
Employees	48	68	159	485	289	252	289	0	0	192	1,782

Source: Barnes 2011

²⁷ Barnes Reports, Edition 2011. "Waste Treatment & Disposal Industry (NAICS 56221).

²⁸ U.S. Census Bureau. Economic Census 2007. Available online: <http://www.census.gov/econ/census07>. Accessed June 13, 2011.

²⁹ Bureau of Labor Statistics. 2009. Quarterly Census of Employment & Wages – QCEW. Available online: <http://www.bls.gov/data/#wages>. Accessed June 1, 2011.

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ECONOMIC IMPACT

AECOM assessed the quantitative and qualitative economic impacts of a potential change in City of Los Angeles waste management practices. The impacts examined herein concentrate on those user groups most likely to be affected by a change from the current Open Market Permit system to the proposed Exclusive Franchise or Non-Exclusive Franchise system. It is important to note that the majority of this analysis is illustrative to demonstrate order of magnitude impacts if the BOS changes its policy direction. AECOM has focused this analysis on the effect of the proposed policy on Multifamily and Commercial property owners, Commercial businesses, multifamily residents, waste hauling businesses, and the City of Los Angeles.

Before presenting our analysis, AECOM has created the following table to summarize the various economic advantages and disadvantages of the various solid waste collection systems under consideration. This summary provides a basic orientation to various key factors that will influence the potential impacts on the aforementioned groups.

Figure 6: General Advantages and Disadvantages of Policies Governing Solid Waste Collection

		Open Market Permit System	Non-Exclusive Franchise	Exclusive Franchise
Economics and Efficiencies	Pro	<p>Fosters private sector competition.</p> <p>Specialized services with flexible options for customers provided by multiple service providers.</p> <p>Allows small hauler entry into and participation in the market.</p> <p>Waste haulers use internal systems to maximize route efficiency.</p>	<p>Fosters private sector competition.</p> <p>Specialized services with flexible options for customers provided by multiple service providers.</p> <p>Allows small hauler entry into and participation in the market.</p> <p>Waste haulers use internal systems to maximize route efficiency.</p>	<p>Collection route efficiency can be high because schedules are organized by one operator and overlapping collection routes are minimized.</p> <p>In the Commercial collection context these benefits are less prevalent than in the residential collection context.</p>
	Con	<p>Collection route efficiency may be lower because schedules are determined by many waste haulers, resulting in overlapping collection routes.</p> <p>In the Commercial collection context these cons are less prevalent than in the residential collection context.</p>	<p>Collection route efficiency may be lower because the schedules are determined by many waste haulers, resulting in overlapping collection routes.</p> <p>In the Commercial collection context these impacts are less prevalent than in the residential collection context.</p>	<p>Eliminates competition among haulers.</p> <p>Limits entry into the market.</p> <p>Particularly impactful on small hauler businesses; the significant resources needed to bid on the franchise and to service an entire Wastashed may be beyond their capacity.</p>
Service Rates	Pro	<p>Service rates in an Open Market Permit system are determined by competition and are dependent upon many factors including geographic region, number of customers in a particular area, and population density.</p> <p>Specialized service and rate options tailored to individual customers.</p>	<p>The City of Los Angeles would have the ability to establish and review service rates for customers; or</p> <p>Service fees can be determined by competition creating specialized service and tailored rate options for customers.</p>	<p>The City of Los Angeles would establish and review service rates for customers.</p>
	Con	<p>The City of Los Angeles is unable to establish service rates for customers.</p>		<p>No competition.</p> <p>Evidence of higher rates.</p>
Administrative Costs	Pro	<p>Costs include administering and enforcing the statutes/regulations governing solid waste collector's permits.</p>	<p>Administration costs may be partially or fully recovered via a higher franchise fee (usually a portion of the hauler's gross revenues).</p>	<p>Administration costs may be partially or fully recovered via a higher franchise fee (usually a portion of the hauler's gross revenues).</p>
	Con	<p>City must provide staff to administer and monitor the permit system (Lower cost to the City than franchise system).</p>	<p>City must provide staff to administer and enforce the franchise contracts (Higher cost to the City than Open Market Permit system).</p>	<p>City of Los Angeles must provide staff to administer and enforce the franchise/agreements (Higher costs to the City than Open Market Permit system).</p>

Rate Analysis

AECOM examined comparable current gross rates for cities operating in Open Market Permit systems, Non-Exclusive Franchise systems, and Exclusive Franchise systems in Los Angeles County to draw some comparison regarding the rate variability between the different solid waste hauling policies under consideration. In a confidential survey, AECOM collected blind rate sheets mailed to permitted haulers within Open Market Permit and Non-Exclusive Franchise cities. The survey responses were consolidated in Figure 7 below. Rates were also collected for cities with Exclusive Franchise policies within Los Angeles County. In all instances the quoted rates were for waste service of three-yard bins that were collected once per week.

Based on this analysis, Exclusive Franchise cities had rates over 33 percent higher than those cities with an Open Market Permit or Non-Exclusive Franchise system. In 2010, the City of Los Angeles reported that total gross receipts collected by permitted haulers were \$223.7 million. Assuming a 30% increase in collection rates,³⁰ property owners, businesses, and multifamily residents in the City of Los Angeles would experience an annual rate hike of \$67.1 million under an Exclusive Franchise system.

**Figure 7: Monthly Gross Rate Comparison
(Commercial 3-yard bin, once/week pickup)**

	Gross Rate
Open Market Permit/Non-Exclusive Franchise ¹	
City of Los Angeles	\$ 87.33
City of Pasadena	102.65
City of Glendale	79.63
City of Long Beach	83.91
City of Vernon	84.33
City of Torrance	<u>93.60</u>
Average (Los Angeles County)	\$ 88.57
Exclusive Franchise Cities	
City of Hawthorne	\$ 124.74
City of Hermosa Beach	90.79
City of La Mirada	143.21
City of Manhattan Beach	119.19
City of South El Monte	170.08
City of Temple City	180.25
City of West Covina	<u>161.46</u>
Average (Los Angeles County)	\$ 118.31

¹ Average based on Service Rate Survey

Source: Individual Cities and AECOM

³⁰ 30% increase determined by rounding 33% (finding from previous paragraph) to nearest ten percent.

Multifamily and Commercial Property Owners/Residents

A potential increase in solid waste collection fees in the City of Los Angeles could adversely affect owners of Multifamily properties (specifically as it relates to the Rent Stabilization Ordinance or RSO), commercial properties, and those residents who live in for-rent or condominium buildings with 5 or more units. The following quantifies the number of properties and individuals potentially impacted by a policy shift to an Exclusive Franchise policy and the associated expenses.

Rent Stabilization Ordinance (RSO) Units

Based on 2010 census data, there are approximately 619,000 RSO units³¹ in the City of Los Angeles. According to research³² conducted by the City of Los Angeles Housing Department (LAHD), the total number of RSO units has declined since 2006 due to condominium conversion. This has resulted in a net loss of for-rent units in the City of Los Angeles creating more demand for rental product and subsequently placing pressures on asking rent. Other findings from LAHD research include:

- 75 percent of RSO owners have small holdings (4 or fewer units) usually on a single property, with long-term property management experience (10 or more years). This scale of ownership accounts for 25 percent of total RSO units.
- 25 percent of RSO owners have medium or large holdings (four or more units), long-term property management ownership experience, and often own multiple properties. This scale of ownership accounts for 75 percent of total RSO units.
- Almost two-thirds of RSO units produced a profit or broke even in 2008, and slightly more than a third reported a loss.
- The likelihood of reporting a profit increased along with ownership size. Owners of small holdings are more likely to report a loss than owners of medium or large holdings.
- Owners representing 70 percent of the RSO inventory report that they do not earn a reasonable return on their investment.
- Owners representing over 75 percent of the RSO inventory say that rent increases do not keep up with operating costs.

As part of the existing RSO legislation, it is illegal for property owners to pass along operating cost increases to residents. As such, any increase to property owners' non-transferable costs may adversely affect the viability of RSO properties in the City of Los Angeles. The owners at the highest risk of loss are those with smaller properties of 1 to 4 units, representing an estimated 88,700 RSO properties with approximately 159,500 units. The table below uses a combination of data sources to estimate a current count of RSO units distributed by their unit holdings.

³¹ RSO Units: Units subject to the rent stabilization ordinance.

³² Economic Study of the Rent Stabilization Ordinance (RSO) and the Los Angeles Housing Market (2009)

Figure 8: RSO Units in the City of Los Angeles by Holding Size

	Small Holdings	Medium or Large Holdings	Total
Renter Occupied (RSO) Units	154,700	464,200	618,900
RSO Properties	86,000	28,700	114,700
Residents ¹	417,700	1,253,300	1,671,000

¹ Assumes average household size of 2.7 people per occupied unit.

(All numbers rounded to the nearest hundred)

Source: 2010 American Community Survey, LAHD, and AECOM

Multifamily Units

According to the U.S. Census Bureau's 2010 American Community Survey, the City of Los Angeles has 493,000 owner-occupied housing units and 817,200 renter-occupied units. The two groups that would be affected by a BOS policy change would be renter-occupied properties with five or more units (not including RSO units) and owner-occupied properties with five or more units. Based on our previous estimates regarding the number of RSO units, we estimate that a policy change would affect approximately 208,000 units occupied by an estimated 591,000 City residents.

Figure 9: Multifamily Units and Residents Impacted

Type	Occupied Units	Residents ¹
Renter Occupied 5+ Units (Non-RSO)	159,123	451,909
Owner Occupied 5+ Units	48,979	139,100
Total Units	208,102	591,010

¹ Assumes average household size of 2.84 people per occupied unit. Numbers may not add due to rounding.

Source: 2010 American Community Survey and AECOM

Unlike RSO units, owners of Multifamily units can pass along any additional charges associated with the proposed policy change. Currently, the U.S. Census estimates that 90 percent of for-rent units pay extra for one or more utilities. Furthermore, as a percentage of gross income, over half of Multifamily households in the City of Los Angeles pay over 35 percent of their income in rent. The City of Los Angeles median gross rent as a percentage of household income is 36 percent. Both figures compare unfavorably with the state and the nation.

Figure 10: Household Income in Comparison to Gross Rent

	City of Los Angeles	California	U.S.
Median Gross Rent as a Percentage of Household Income			
Median Gross Rent as % of Household Income, Total Population	36%	34%	32%
Share of Households Less than 35 percent	48%	52%	56%
Share of Households More than 35 percent	52%	48%	44%

Source: 2010 American Community Survey and AECOM

Commercial Properties

According to CoStar there are 21,687 Commercial properties located within the City of Los Angeles. CoStar does not track public facilities or owner-occupied Commercial buildings. Private business has expressed concern about the potential shift from an Open Market Permit system to an Exclusive Franchise system for many reasons. Currently, Commercial properties contract with a waste hauler of their choice based on price, service, and experience. Business has voiced opposition to a proposed scenario in which trash haulers would have to win a request for proposal issued by the BOS in order to operate in newly created Wastesheds or defined territories, essentially eliminating the current pluralistic market of competitive bidding.

In the April 18, 2011 issue of the *Los Angeles Business Journal*, John Jones, chief executive of Greystone Management Group, an L.A.-based apartment operator, noted that "If this [exclusive] franchise system goes into effect, I'm looking at an increase of up to 30 percent in my total trash fees." Greystone owns and operates about 1,000 units in 15 buildings in the City of Los Angeles. Jones said he saw trash fees jump 20 percent or more on his company's buildings in Inglewood and Hawthorne when those cities went to Exclusive Franchise systems.

Beyond potential price increases created by an Exclusive Franchise system, businesses most commonly expressed concern about the required flexibility in waste hauling services. For example, Sunset-Gower Studios has more than 50 trash pick-ups a day. Seven day pick-up and trash management services are crucial for many businesses such as restaurants, hospitals, hotels, and apartments. Having a trash provider with workforce available 7 days a week is an important component of business operations for many businesses throughout the City of Los Angeles. Many local firms believe that any change in BOS policy must result in a program that is flexible enough to allow for the negotiation of individualized contracts that can be tailored to the needs of business, large and small. The sum effect of the policy change could be an increase in costs for building owners and tenants and a reduction in service quality.

Impact on Waste Hauling Businesses

Economic impacts can be described as the sum of economic activity within a defined geographic region resulting from an initial change in the economy. This initial change spurs a series of subsequent indirect and induced activities as a result of interconnected economic relationships.

Specifically, economic impact is composed of:

- Direct Impact: Direct Impact is the initial change in the economy attributed to the policy change under consideration. Direct impact is measured in terms of direct output, earnings, and employment.
- Indirect & Induced Impacts, commonly referred to as the "multiplier effect":
 - Indirect Impacts: Additional output, earnings, and employment generated as a result of the purchases of the industries which supply goods and services.
 - Induced Impacts: Additional output, earnings, and employment generated as a result of household purchases by employees.
- Total Impacts: The cumulative impact of the above components.

As mentioned above, impacts are often expressed in terms of three variables - Output, Earnings, and Employment, which are defined as:

- Output: The total value of goods and services produced across all industry sectors within a defined geographic region.
- Earnings: The component of Output that is attributed to labor income. Earnings include both wages and income received by self-employed workers.
- Employment: The total number of new jobs created in the economy.³³

Economic multipliers measure the re-spending of dollars in an economy and are used to calculate direct and induced impacts. Economic multipliers are developed using input-output tables that provide information on all production activities and transactions between producers and consumers in an economy. AECOM has utilized IMPLAN's³⁴ input-output tables to derive economic multipliers and total economic impacts (Direct, Indirect & Induced). The IMPLAN model is widely used across the United States by government and private entities to prepare location-specific economic impact analysis.

Model Assumptions

Due to the size of the City of Los Angeles, an Exclusive Franchise system would favor larger, national firms and place smaller/medium sized waste haulers at a competitive disadvantage that could push them out of business.³⁵ At the very least, haulers not selected as franchisees would not be able to conduct business in the City of Los Angeles. It is important to recognize this assumption and the following assumptions that are at the basis of this economic impact analysis. The broad methodological issues include the following:

- All dollars values are presented in 2011 constant dollars;
- All impacts presented in this analysis represent gross economic impacts³⁶ rather than net impacts;
- The region of analysis used in this study is the City of Los Angeles;
- AECOM used the IMPLAN multiplier associated with waste hauling activities to estimate the relative impact of the loss of in economic activities;

To estimate the relative economic impact of the policy change on local waste hauling businesses, AECOM used information previously presented regarding the number and size of firms currently engaged in waste hauling operations in Los Angeles County along with input-output tables for the City of

³³ It should be noted that the IMPLAN program, used to derive multipliers in this analysis, requires the input of total jobs (part-time and full-time), rather than full-time equivalent jobs.

³⁴ IMPLAN is an economic impact assessment software system. The IMPLAN program assembles economic accounts following the conventions used in the "Input-Output Study of the US Economy" by the Bureau of Economic Analysis (1980) and the US National Income and Product Accounts. The program provides users substantial flexibility in terms of assumptions and methods.

³⁵ Waldman, Stuart. "Waste plan would trash businesses" The Daily News of Los Angeles. March 31, 2011.

³⁶ This analysis represents the potential gross impacts on those businesses that would be excluded from continuing waste hauling in the region.

Los Angeles provided by IMPLAN. The impact methodology, however, is problematic for several reasons.

- First, a change in BOS policy will not reduce the amount of waste generated by firms, employees, and residents. Consequently, any firms winning an Exclusive Franchise contract would likely have to increase their operations to service the designated area.
- Second, Exclusive Franchise systems allow an individual operator to gain some efficiency in its operations from a system perspective. As such, the net gain in jobs will not match the number of jobs lost by moving to an Exclusive Franchise system.
- Finally, depending on where the selected firms are located (their base of operations) and where their employees reside, the total effect could be close to the gross impacts if the selected firms are not located within the City of Los Angeles and their employees live outside the municipal boundaries.

These factors make the net impact difficult to determine. As a result, we utilized the gross impact approach to illustrate maximum impacts of the proposed policy change.

Exclusive Franchise Scenario

At this stage the BOS has not indicated how many Exclusive Franchises would be allocated if the City of Los Angeles changed the current waste hauling policy. As noted, the BOS provides waste collection services to single-family residential customers and multifamily residential properties containing up to four dwelling units. Based on our discussions with the solid waste industry and comparative research on other cities that have moved to Exclusive Franchise agreements, it seems likely that the City could select one or two franchisees for the entire municipal area or one or two franchises per Wasteshed.

AECOM has modeled an illustrative example of the City of Los Angeles allowing 2 to 8 Exclusive Franchise contracts/haulers. In a lower-impact scenario that would allow 8 Exclusive Franchise agreements (and hence more haulers), approximately 60 firms will stop conducting business in the City.³⁷ The loss of these firms would equate with the gross loss of 311 jobs with \$14.9 million in annual wages in the City of Los Angeles. In a higher-impact scenario that would allow only 2 Exclusive Franchise agreements (hence fewer haulers), approximately 66 firms will stop conducting business in the City. The loss of these firms would equate with the gross loss of 1,652 jobs with \$78.8 million in annual wages in the City of Los Angeles.

Figure 11: Economic Impacts of Exclusive Franchises (Low Impact Scenario)

	Direct	Indirect	Induced	Total
Output (Millions)	\$ (19.16)	\$ (8.28)	\$ (5.60)	\$ (33.0)
Wages (Millions)	\$ (11.50)	\$ (1.71)	\$ (1.65)	\$ (14.9)
Jobs	(242)	(32)	(38)	(311)

Source: AECOM and IMPLAN

³⁷ There are over 140 firms that are permitted to conduct business with the City of Los Angeles. However, only 68 reported gross revenue receipts based on last year's data.

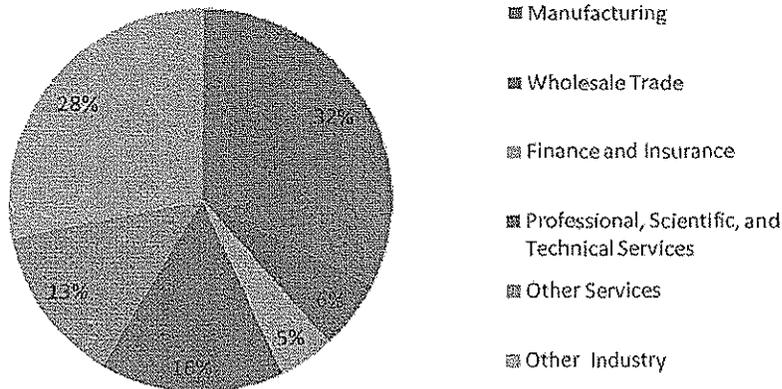
Figure 12: Economic Impacts of Exclusive Franchises (High Impact Scenario)

	Direct	Indirect	Induced	Total
Output (Millions)	\$ (101.7)	\$ (43.9)	\$ (29.7)	\$ (175.3)
Wages (Millions)	\$ (61.0)	\$ (9.1)	\$ (8.7)	\$ (78.8)
Jobs	(1,283)	(168)	(202)	(1,652)

Source: AECOM and IMPLAN

As shown in Figure 11 and Figure 12 above, the indirect impact of Exclusive Franchises would be the additional gross loss of between 32 to 168 jobs with \$1.7 to \$9.1 million in wages (with an average annual wage of \$54,000) in the City of Los Angeles. The loss of purchases from industries which supply goods and services to waste haulers will have a negative effect on the City of Los Angeles. To better understand the existing industry linkages AECOM evaluated the top industries that would be negatively affected by an Exclusive Franchise system. The following chart presents the policy change based on output in the City of Los Angeles, which in our analysis would range from a loss of \$8.3 to \$43.9 million in gross annual business-to-business spending per year. The loss of those employees' wages would create an induced impact of an additional loss of \$5.6 to \$29.7 million in spending in the City of Los Angeles. This would negatively impact other industries resulting in the loss of 38 to 202 jobs.

Figure 13: Business to Business Impacts of Exclusive Franchises (indirect impacts)



Source: AECOM and IMPLAN

Additional Impacts – City of Los Angeles

A proposed change in waste management policy could have various fiscal and civil impacts on the City of Los Angeles. The fiscal impact of the policy change would likely benefit the General Fund. The franchise fee, which as noted is typically a percentage of gross receipts, could bring additional revenue to the City of Los Angeles above and beyond what is currently being collected through AB939.

AECOM examined the rate structure of 35 Exclusive Franchise cities located in Los Angeles, Orange, Riverside, and Santa Barbara counties. The fees imposed on franchisees include the franchise fee, AB 939 fee, and administration or billing fee, and other fees as appropriate. The summary table of those findings is presented below.

Figure 14: Total Fees as a Percent of Amount Charged to Customer

Averages based on Exclusive Franchise Cities in Individual Counties (Commercial 3-yard bin, once/week pickup)

Exclusive Franchise Cities in:	Fees as % Total Charge (Avg.)
Los Angeles County	20.5%
Orange County	9.7%
Riverside County	15.8%
Santa Barbara County	11.2%
Average	14.0%

Source: Individual Cities, and AECOM

Fees, as a percent of total charged in Exclusive Franchise cities surveyed, averaged 14 percent in all surveyed cities. In Los Angeles County, the average fee as a percent of the amount charged to customers was approximately 20 percent. Assuming that the Exclusive Franchise system increases current rates by 30 percent and the franchise fee is set at 15 percent of gross revenue, the policy change would create an additional \$21.2 million in revenue based on last year's gross receipts³⁸. This total does not include the additional administrative costs to the City of Los Angeles, which include staff to administer and enforce the Exclusive Franchise agreements.

While the increase in fees would increase General Fund revenue, it would also add to the already high cost of doing business in the City of Los Angeles. The rate increase would be one of many regulatory policies that already impact the competitiveness of the City of Los Angeles and its ability to retain and attract business. As previously noted, a number of local businesses (including those property owners of RSO units) will feel a disproportional impact of the policy change. As such, a policy change might be beneficial from the fiscal revenue perspective but negatively impact the City of Los Angeles in other ways.

Figure 15: Fiscal Benefit to City of Los Angeles

Total Gross Receipts (2010)	\$ 223,650,000
Illustrative Price Increase	30%
Total Gross Receipts (Exclusive Franchise)	\$ 290,745,000
Illustrative Franchise Fee	15%
City of Los Angeles Revenue (Exclusive Franchise)	\$ 43,612,000
Compliance Fee @ 10% (2010)	\$ 22,365,000
Net Difference	\$ 21,247,000

Source: Individual Cities, and AECOM

Civic impacts, beyond those economic issues previously identified, include the risk of work stoppages. Waste management strikes in the Seattle (2010), Oakland (2007), and Chicago (2003) metro areas impacted residents and Commercial businesses. In each of these instances, disputes over wages, health benefits, and pensions caused waste collection stoppages ranging from 2 to 26 days.³⁹ The temporary work stoppages caused great concern as uncollected trash could create a public health crisis to area

³⁸ Based on City of Los Angeles 2010 Gross Hauler Receipts.

³⁹ *Seattle Times*, *Los Angeles Times*, and *Chicago Tribune*

businesses and residents. Furthermore, such a solid waste hauling disruption could be particularly concerning for the City of Los Angeles. National publicity due to such a labor dispute could negatively impact the tourism industry, which is a critical driver of economic growth and activity. These types of dynamics warrant serious consideration as they could present significant problems if the City of Los Angeles moves to an Exclusive Franchise system.

As previously noted, a potential increase in fees would also place an increased burden on the City of Los Angeles's residential renter community. The high cost of housing in the region already places a significant burden on local residents. With gross rent currently representing 36 percent of all household income, any increase in waste fees would add to the already high cost of living. Another potential unintended consequence of a BOS policy change is that increased rates could lead to increases in illegal dumping. Illegal dumping is a problem in many California communities, especially as it relates to materials such as large appliances, furniture, waste tires, computers, and household refuse. A rise in illegal dumping in the City of Los Angeles would have additional environmental and economic ramifications not quantified in this report.

GENERAL & LIMITING CONDITIONS

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EXHIBIT

D

An Open Franchise System for Waste Collection and Recycling in Los Angeles

The Key to Cost Control and Quality Service

A Report by the Los Angeles County Disposal Association
Prepared in Response to the City of Los Angeles Solid Waste Franchise
Assessment—Final Report

February 2012



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The Los Angeles County Disposal Association (LACDA) was founded in September 2003 as a nonprofit, mutual benefit corporation representing solid waste industry haulers and associated service and product companies. The following year, it merged with the Greater Los Angeles Solid Waste Management Association (GLASWMA).

As a trade association, LACDA is committed to improving business conditions in the solid waste industry on behalf of its membership. It works with elected public officials, state and local municipal representatives, and various regulatory agencies to advance the industry in response to changing social dictates. The association also focuses on working to maintain equally fair marketing conditions for all industry companies regardless of size. LACDA provides a variety of services to solid waste industry businesses, including the monitoring of legislative and regulatory activities as well as the advocacy of industry positions.

Written by
Joseph Reisdorf, Maxcom Data Management, Inc.

Printed on recycled paper



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EXECUTIVE SUMMARY

The City of Los Angeles is considering the options for addressing the short comings of its current open-market system for the collection and recycling of solid waste from businesses and larger multifamily buildings. The primary alternatives to be considered are:

- A non-exclusive system in which customers can choose from a list of qualified service providers that have executed non-exclusive franchise agreements with the city. With such a system, customers negotiate with the service providers for the best possible prices for their collection and recycling services
- An exclusive system in which the city selects a single service provider for designated areas of the city and sets the rates that customers pay for the services

Most of the largest municipalities in California, such as the Cities of San Diego, Sacramento, Long Beach, Pasadena, Glendale, and Torrance have adopted non-exclusive franchise systems as a means of implementing their environmental goals and providing their businesses with quality refuse collection and recycling services at the lowest possible cost. Los Angeles County is in the process of converting its business waste collection and recycling system for the unincorporated areas from a permit system to a non-exclusive franchise system.

The costs, implementation time, and complexity of a non-exclusive franchise system for the City of Los Angeles would all be considerably less than those for an exclusive franchise system. A non-exclusive franchise system could be implemented by the city at a relatively low cost and before the end of 2012. If the city were to adopt an exclusive franchise system, it would be required to create a new staff division, incur consultant costs of \$750,000 to \$1,000,000, and undertake an annual rate setting process.

An exclusive franchise system for the collection and recycling of commercial waste in the City of Los Angeles would be the largest franchise system in the United States. Before deciding to create such a system, the city should clearly identify the features, costs, and impacts of the system, in particular:

1. The design, procurement, implementation, and annual management costs
2. The fees that would have to be assessed to generate the revenue to cover these costs and the amount by which these fees would increase the prices paid by businesses
3. The number, size, and configuration of the franchise areas that would be designated
4. The impact on existing truck trips, routing, and emissions of both an exclusive and non-exclusive franchise system

I. INTRODUCTION

Choice—individuals and businesses in the U.S. exercise it every day to acquire the goods and services that they need, at a price they are willing to pay. In most areas of the country there is a choice of at least four cell phone carriers, each offering a variety of plans and prices. There are numerous smart phone apps that allow for comparison shopping, often by scanning a barcode on a product to receive a list of stores and Web sites where the product can be purchased. The options for watching a movie or television show include a growing list devices (televisions, desktop computers, smart phones, tablets) and services (movie theaters, broadcast TV, cable, satellite, Web sites). And when a business wants to ship a package, it can choose from UPS, FedEx, DHL, and OnTrac, among others.

Choice is an integral part of our daily lives and a key component of a successful business strategy. All businesses and government agencies maintain vendor lists and have implemented competitive purchasing policies to control the cost and quality of the supplies, services, and products that are vital to their operations. Competition among vendors and choice for purchasers are the keys to minimizing costs while maximizing quality. And so it is with the selection of the company that will provide a business with waste collection and recycling services.

In the Greater Los Angeles region, there will be continued upward pressure on the costs of delivering waste collection and recycling services for the foreseeable future due to factors such as:

- The closure of the Puente Hills Landfill in October 2013, which will decrease the amount of landfill disposal capacity available in the region
- Increased costs for labor and vehicle fuel
- The requirement to provide new recycling services, particularly as cities implement programs to comply with the state's mandatory commercial recycling regulations

The key to controlling the costs paid by a business for waste collection and recycling services is to create competition among service providers (refuse collectors) and to provide businesses with the opportunity to select the refuse collector that can provide the best service at the most competitive price. A business owner should be allowed the same opportunity to select who will meet its waste management needs as he/she has when selecting the company that will provide its communication services, production supplies, and delivery and shipping services. When given this opportunity, the business owner can consider a waste collector's prices, programs, and reputation to select a service provider that:

- Can provide the most reliable service

- Will customize a collection and recycling program to meet its particular needs
- Can collect refuse and recyclable materials on a schedule that meets the demands of the businesses' daily operations
- Offers the business the opportunity to reduce its cost by increasing the amount of material that it recycles

And if a refuse collector fails to deliver as promised or attempts to raise prices without justification, the business owner should have the ability to select another company.

Successful waste collection companies structure their businesses to be competitive on both price and service, and recognize the value of quality customer service to sustaining and building their businesses. In a competitive environment, waste collection companies are constantly striving to meet the needs of their customers and to improve the efficiency of their operations. They cannot rely on customers being delivered to them through an exclusive franchise. In a recent article of *Waste Age*, Lynn Merrill stated:

"An open competition system allows a community's businesses to secure a service arrangement at the lowest possible price, but relies on each individual entity to shop for those rates." (Going Commercial, *Waste 360*, 9-1-06)

Also writing in *Waste Age*, Kim A. O'Connell quoted the operator of a private waste collection company in Massachusetts as follows:

"You have to change with the times. We offer many different services, such as security shredding. We're big on recycling... No matter what, we cater to our customers." (Commercial Appeal, *Waste 360*, 9-1-05)

Because of the market competition that exists under the City of Los Angeles' current permit system, businesses in the city pay some of the lowest rates for regular refuse collection in the county. The results of a recent survey of LACDA members indicated that in the City of Los Angeles, the average price for a commercial three yard bin serviced once per week, ranged between \$79 and \$90 per month. Prices in this range are considerably less than those charged for a similar service in cities with exclusive commercial waste franchises.

The design, implementation, and management of an exclusive franchise system for the collection and recycling of commercial solid waste is an expensive and complicated undertaking. Such a system for the City of Los Angeles would be the largest and most complex in the United States. A decision to proceed with such a system should be preceded by a thorough and quantitative analysis of the costs, impacts, and benefits, and a valid comparison of alternatives.

II. OBJECTIVES OF THIS REPORT

The City of Los Angeles has initiated a process to identify and evaluate the franchising options for the collection of refuse and recyclable materials from multifamily and commercial accounts in the city. In January 2012, the city's consultant released a report which evaluated these options (City of Los Angeles: Solid Waste Franchise Assessment—Final Report, January 23, 2012). While the report included a number of findings, including the fact that both exclusive and non-exclusive franchise systems offer certain advantages to the city, it did not provide any specific recommendations to the city. The report also did not include or reference any quantitative analyses that would support the transition of the city's current program to an exclusive franchise system. However, the report did caution against hasty decision making regarding the issuance of a request for proposals by the city for a combined multifamily and commercial exclusive franchise system.

As the city considers its options for moving forward, it is essential that it consider not just which franchising system will best enable it to meet its goals, but also which system will provide the greatest long-term benefits to the businesses and commercial property owners in the city.

The purpose of this report is to:

1. Highlight the advantages of an open, non-exclusive franchise system for the collection of refuse and recyclable materials from businesses, commercial properties, and multifamily residences
2. Demonstrate how the city can achieve all of its waste reduction objectives and successfully implement its Solid Waste Integrated Resources Plan (SWIRP) with a non-exclusive franchise system
3. Indicate how the city can create the conditions that will empower businesses and apartment building owners to secure competitive prices for waste management services without the city having to engage in an annual rate-setting process
4. Give the city a road map for implementing such a system in a cost-effective and timely manner

III. BACKGROUND

A. Existing Service System

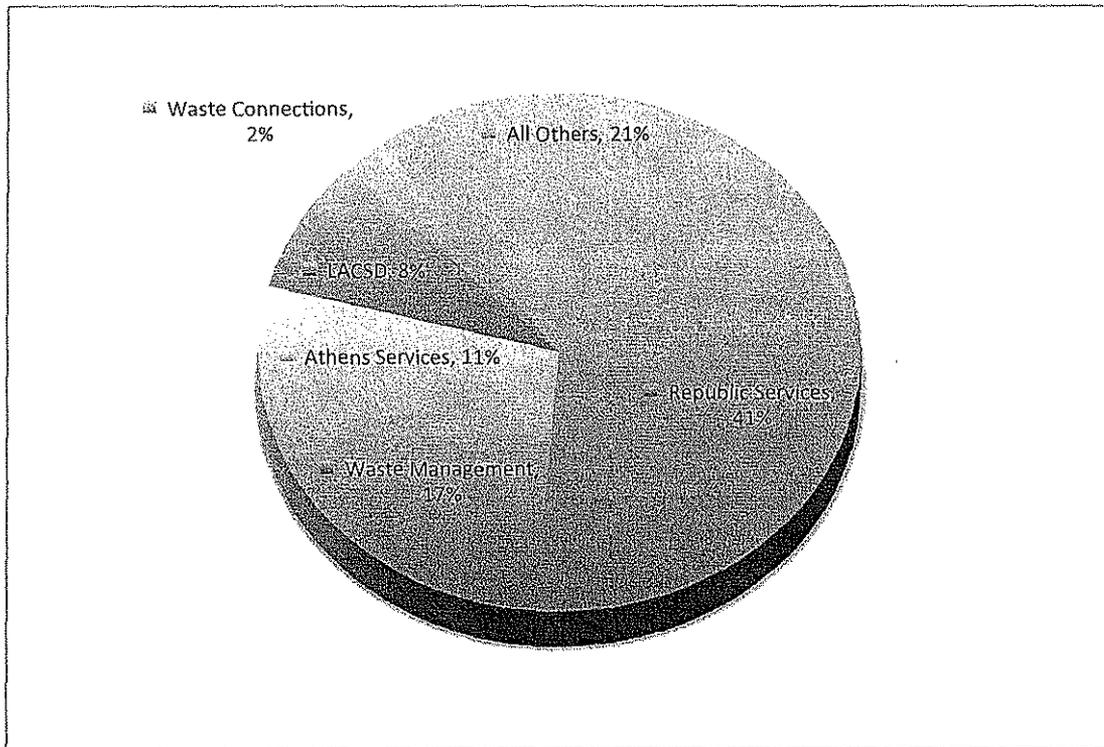
While the city has issued refuse collection permits to more than 140 private companies, only approximately 45 of those companies are providing daily refuse

collection service in the city. An additional 25 companies provide temporary bin and construction and demolition debris removal services.

As reported in the city's franchise assessment report, ten companies accounted for 93.6% of the gross revenues received by all permitted waste collectors in 2010. Eight companies collected approximately 84% of all tons of refuse, recyclable materials, and inert materials generated by the businesses and multifamily buildings served by private haulers.

The refuse collected by the permitted haulers was transported to a number of landfills, transfer stations, and processing facilities located in and around the city. Figure 1 identifies the owners and/or operators of the initial destination facilities of the refuse collected by the permitted haulers in 2010. It should be noted that refuse transported to a transfer station or processing facility is subsequently transported in larger capacity trucks from the transfer station or processing facility to either a disposal facility or a location where recovered materials are either re-processed or exported.

Figure 1: Owners/operators of the facilities that were the initial destination of refuse collected by permitted haulers in the city during 2010

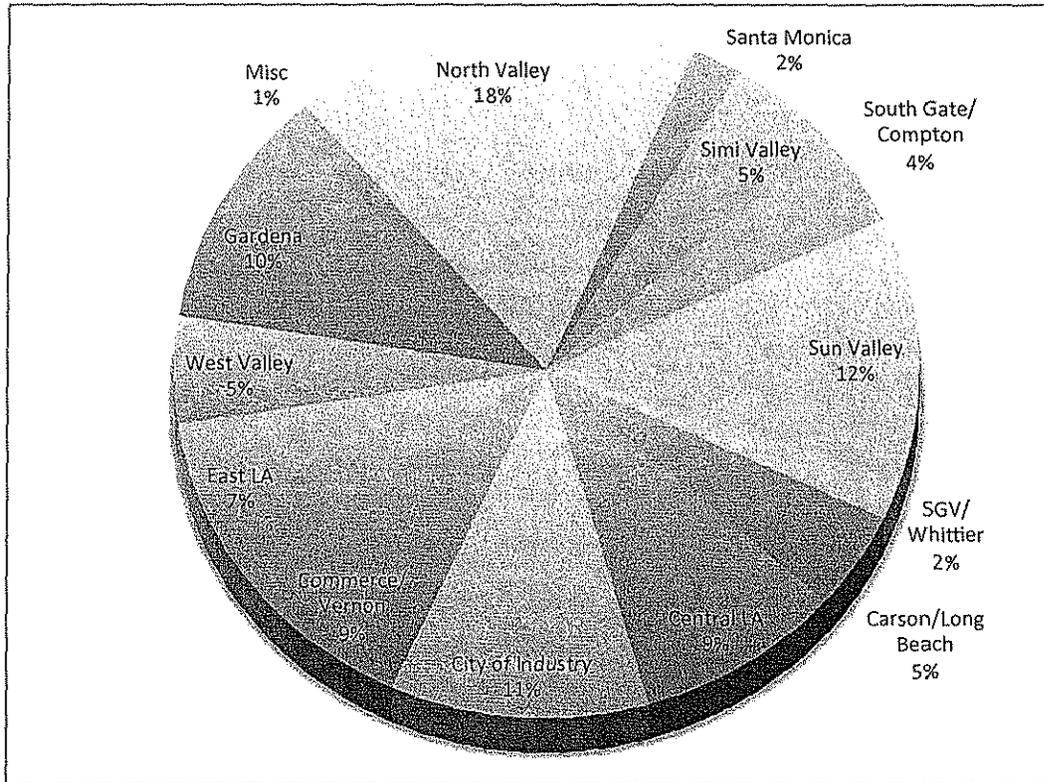


Note: LACSD refers to the Los Angeles County Sanitation Districts

The facilities to which collected refuse was initially transported were widely distributed throughout the Greater Los Angeles area. Approximately 26% of the refuse collected by the permitted haulers was initially transported to a facility located in the City of Los Angeles.

Figure 2 illustrates the distribution of the collected refuse tons by city or area. Refuse shown as being transported to the "North Valley" includes refuse transported to the Sunshine Canyon Landfill, a portion of which is in the City of Los Angeles. The 26% referenced in the previous paragraph does not include refuse received at the Sunshine Canyon Landfill.

Figure 2: Location of facilities that were the initial destination of refuse collected by permitted haulers in the city during 2010



B. California Cities and Counties with Open or Non-Exclusive Systems

Most of the larger cities and unincorporated county areas in California utilize open market or non-exclusive franchise systems to provide waste collection and recycling services to their commercial generators. The solid waste program managers of several of these cities and counties were interviewed recently and asked why their jurisdictions have retained non-exclusive franchise systems, and if

their elected officials had ever considered changing to an exclusive system. The unanimous response from all those interviewed was that their elected officials wanted to use the competitive forces of the marketplace to provide the businesses in their cities or counties with the lowest possible prices for refuse collection and recycling services. Each of these jurisdictions indicated a conviction that a non-exclusive franchise system was the most appropriate system and that they had no plans to transition to an exclusive system.

Some of the comments received are as follows:

“We want to have a non-exclusive system because it gives businesses a choice.” Sam Merrill, Environmental Services Department, City of San Diego

“By using a non-exclusive system for businesses, we can maintain a competitive edge. We also avoid a cookie-cutter approach—using different haulers means that businesses can get the specific type of services they require. This also helps with diversion rates.

The advantage to businesses is that services from multiple haulers can be precisely customized to their needs. Competition also drives down costs to businesses” Mike Bryne, Senior Management Analyst, City of Irvine

The advantage to businesses is that a non-exclusive system gives them more choices. The competition helps keep prices down.” Doug Kobold, Waste Management Planner, Sacramento County

Table 1 presents a partial listing of the cities and county unincorporated areas in California that have non-exclusive or open-market systems for the collection of commercial waste and recyclable materials. The list includes most of the largest jurisdictions in the state.

Table 1: Jurisdictions With Open-Market or Non-Exclusive Franchise Systems

Jurisdiction	Population
City of Los Angeles	4,066,000
City of San Diego	1,307,402
County of Los Angeles	1,095,276
Sacramento County	529,731
City of Sacramento	466,488
City of Long Beach	462,257
City of Irvine	212,375
City of Glendale	191,719
City of Pomona	149,058

City of Torrance	145,438
City of Pasadena	137,122
Contra Costa County*	111,923
City of Costa Mesa	109,960
City of Burbank	103,340
City of Carson	91,714
City of Newport Beach	85,186
City of Montebello	62,500
City of Arcadia	56,364
City of Bell Gardens	42,072

* Recycling Services only

C. Waste Diversion Requirements in Non-Exclusive Systems

It is not uncommon for cities and counties in California to require their non-exclusive haulers to achieve waste diversion rates of 50% or greater as a condition of retaining their franchises. The City of Pasadena requires its 27 franchised haulers to achieve a waste diversion rate of at least 60% for regular commercial refuse and a 75% waste diversion rate for construction and demolition debris. In other cities, such as Newport Beach, Costa Mesa, Arcadia, and Monrovia, franchisees must achieve at least a 50% waste diversion rate.

In all of these jurisdictions, the refuse collection companies have implemented a variety of waste diversion programs, utilized the available material sorting and recovery facilities, and provided customer education to meet their waste diversion requirements. These companies recognize that being successful is about more than collecting refuse and hauling it to a disposal facility. Recycling is an integral part of their businesses.

IV. THE CITY'S SOLID WASTE FRANCHISE ASSESSMENT REPORT

The city's consultant report (Solid Waste Franchise Assessment – Final Report, January 23, 2012, by HF&H Consultants, LLC) was intended to help the city determine what type of franchise system would best enable the city to reach its environmental goals. The report included much useful information and presented a number of findings. However, the report did not provide any quantitative information that could be used as the basis for the city to make a decision regarding the most appropriate type of franchise system that should be adopted. Lacking was any relevant information on:

1. The cost (for city staff and consultants) to design, implement, and manage a new franchise system
2. The size, number, and configuration of the franchise areas that would be designated for an exclusive franchise system

3. The franchise fees that would be required to support a new franchise system and how much these fees would increase the service rates paid by businesses and commercial property owners
4. How the city would set and adjust service rates
5. The environmental impacts that would result from changes in collection truck routes and total truck trips, and the application of SCAQMD truck emission standards

The following table provides an expansion of those findings and includes additional context for evaluating the advantages of a non-exclusive franchise system compared to an exclusive system.

Table 2: Review and Comment on HF&F Report Findings

HF&F Report Finding	Comment
1. Approximately two-thirds of Los Angeles County cities have an exclusive commercial solid waste franchise system. However, the larger cities within the county tend to have non-exclusive systems.	Most of the major metropolitan areas in California have non-exclusive or open systems. These systems provide businesses with choice and require haulers to compete on price and service.
2. Five of the largest cities in California have or are transitioning to exclusive commercial franchise systems.	The cities of San Diego, Sacramento, Long Beach, Torrance, and Pasadena are among the large cities in California and are all maintaining their non-exclusive franchise systems. Los Angeles County is converting from a permit system to a non-exclusive franchise system.
3. Most exclusive franchises are for a term of five to ten years, and contain a variety of performance standards, diversion requirements, rate adjustment methods, and other requirements.	Non-exclusive franchise agreements contain similar terms and conditions.
4. Cities with non-exclusive franchises have a broad array of contract terms, number of haulers, diversion requirements, fee assessments, and rate regulation procedures.	As with exclusive franchise agreements, cities typically set terms and conditions to meet their particular needs and service requirements.
5. The County of Los Angeles is planning to transition multi-family and commercial bin customers in the unincorporated areas from an open market system to a non-exclusive system.	The county devoted considerable time and resources to the design of its non-exclusive franchise system. Its process and program provide an excellent model for the city.

6. The City of San Jose's commercial sector is currently serviced by approximately 20 haulers under a non-exclusive system. After a competitive RPF process, managed by HF&H Consultants, City Council approved one hauler to provide exclusive citywide refuse, recycling and green waste collection and processing services, and another contractor to provide exclusive processing service.

The city originally had an exclusive franchise system for commercial waste collection. In 1995 it converted to a non-exclusive system with 20 haulers.

With its current program, the city originally intended to award exclusive franchises to 2 – 3 haulers, but instead elected to award an exclusive citywide franchise to a single hauler. The program adopted by the city includes a complicated rate setting and adjustment method that will be costly for the city to implement.

The city's costs for consultants to develop the new program and manage the procurement process are approaching \$1 million.

7. Exclusive and non-exclusive franchise systems offer different advantages.

A non-exclusive system will provide the City of Los Angeles with all of the benefits of an exclusive system without the need for the city to undertake an annual rate-setting process.

8. An exclusive franchise system may reduce commercial customer solid waste rates for some customers and increase rates for other customers.

With a non-exclusive franchise system, haulers propose service rates that are determined by the character and quantity of the waste generated by each individual customer.

9. An exclusive franchise system would result in the fewest number of commercial refuse vehicles, and minimize the environmental footprint of solid waste operations by decreasing truck traffic, vehicle emissions, pavement impacts, and noise.

The same number of collection vehicles will be required under an exclusive and non-exclusive franchise system. Under a non-exclusive system, haulers always organize their collection routes to maximize collection efficiency and minimize truck trips.

The HF&H report did not provide any quantitative data to compare the environmental impacts of exclusive and non-exclusive franchise systems.

10. The City could require early implementation of clean fuel vehicles under either an exclusive or non-exclusive franchise.

Non-exclusive franchise agreements typically require that all collection vehicles meet SCAQMD Rule 1193 emission standards.

11. The City fees to achieve the City's financial goals may be contractually

franchise fees for franchise systems vary, and are determined by the costs for

<p>established using a non-exclusive or exclusive franchise system. Establishment of franchise fees will need to be reviewed by the City Attorney's office.</p>	<p>administering the program and the financial impacts of the system on the city. It should be noted that fees assessed to refuse collectors are passed on to their customers in the form of higher prices for service. The fees required to fund an exclusive franchise system will be much greater than those required for a non-exclusive system.</p>
<p>12. The City's ability to reach zero waste goals may be increased through a non-exclusive or exclusive franchise system, and will depend on the specific franchise requirements. An exclusive franchise with one or more exclusive areas each served by one hauler, with rates approved by the City, may allow the most aggressive overall diversion goal due to routing and processing efficiencies.</p>	<p>The city will face a number of challenges as it pursues its zero waste goals. The haulers now providing commercial waste collection and recycling services in the city have demonstrated their willingness and ability to create and implement innovative waste diversion programs and be true partners with the city. There is no evidence to support the suggestion that exclusive franchise systems help a city achieve a goal of zero waste better than a non-exclusive system.</p>
<p>13. According to CalRecycle, recycling activities create more jobs than landfilling.</p>	<p>Deference is given to CalRecycle regarding this finding.</p>
<p>14. Current State policies will need to be supported by the City's multi-family and commercial service arrangements.</p>	<p>Many California jurisdictions have found that the state's mandatory commercial recycling regulations can be met successfully under non-exclusive franchise systems.</p>
<p>15. Certain large businesses and large multi-family communities could be exempted from an exclusive service franchise.</p>	<p>With an non-exclusive franchise system, no exemptions would be required.</p>
<p>16. There are five main franchise timing options for the City to consider... <i>4) Develop voluntary franchising process for multi-family and commercial haulers without limiting the number of haulers...</i></p>	<p>Option #4 could be fully implemented in the shortest amount of time and at the least cost to the city.</p>
<p>17. The City's Rent Stabilization Ordinance (RSO) allows landlords and property managers to submit an application to pass-through solid waste collection cost increases to tenants for buildings built before 1979. There would be no restriction on landlords passing on increased solid waste costs for all buildings built after 1978.</p>	<p>This finding is based on the assumption that solid waste collection costs would increase under an exclusive franchise system. If that is the case, owners of approximately 619,000 RSO units would be affected.</p>

V. IS THE CITY OF SAN JOSE A GOOD MODEL FOR LOS ANGELES?

Prior to 1995, the City of San Jose regulated the collection of commercial (business) refuse with an exclusive franchise system. In 1995, the city adopted its current non-exclusive system, which as of January 2012, included 20 private hauling companies.

The city began considering alternatives to its non-exclusive system in 2007, and in 2010 concluded a procurement process that awarded an exclusive city-wide franchise to Allied Waste. The city is now finalizing the transition plans with Allied and set July 1, 2012 as the start date for the new franchise.

As the City of Los Angeles has considered the options for changing its current permit system, the City of San Jose has often been mentioned as a possible model. However, upon comparison of the differences between the two cities, and examination of the features of the program being adopted by the City of San Jose, it is clear that the San Jose model is not one to be followed by the City of Los Angeles.

While San Jose is a major metropolitan area, its scale, size, and diversity are much different from Los Angeles. There are many features of the program being adopted by San Jose that the City of Los Angeles should avoid.

Table 3 presents a comparison of the size, demographics, and the refuse service systems in both cities. Table 4 is a list of the reasons why the San Jose model is not applicable to the City of Los Angeles.

Table 3: San Jose — Los Angeles Comparison

Characteristic	Comments
1. Size	San Jose: 180 sq. miles, Los Angeles: 468 sq. miles
2. Population Density	Los Angeles is more densely populated than San Jose, making the conditions for servicing business accounts more challenging. San Jose: 5,256 persons/sq. mile, Los Angeles: 7,545 persons/sq. mile
3. Topography	The City of Los Angeles is characterized by diverse geographic regions and commercial districts, which present challenges for refuse collection that are not present in San Jose.
4. Commercial Accounts	San Jose: 8,000, Los Angeles: 100,000
5. Annual Tons of refuse and other materials collected by private haulers	San Jose: 401,000 tons, Los Angeles: 1,960,000

Table 4: Features of the New San Jose Exclusive Franchise System

Feature	Comments
1. Service Rates	San Jose has adopted a "one rate for all" schedule, which means for example, that all businesses using a 3-yard bin that is serviced once per week will pay the same amount. This approach, particularly for a city-wide program, penalizes small retail establishments and offices that generate refuse with low density.
2. Rate Adjustment Methodology	San Jose has adopted a complex rate adjustment methodology that will be costly to implement and will likely produce service rates that are higher than would be available with a non-exclusive system or with a simpler approach. The methodology allows for "cost plus" rate adjustments, which always disadvantage the rate payers, and relies on indices that are based on the cost of providing services in other parts of the country, and not in the San Jose region.
3. Number of Franchisees	The city originally intended to create two franchise areas, but ultimately decided to issue a city-wide franchise to a single company.

VI. FEATURES AND BENEFITS OF A NON-EXCLUSIVE FRANCHISE SYSTEM

One of the reasons often cited by cities for transitioning from an open-market or non-exclusive franchise system to an exclusive system is that the city cannot effectively manage or monitor the open-market or non-exclusive system. Lack of effective monitoring tools or poor system design should not be reasons for abandoning a system that is based on choice and competition in favor of one that requires businesses to use a single refuse collector and pay service rates over which they have no control. Such a drastic change is unnecessary when there are numerous examples of how non-exclusive franchise systems can be designed and effectively managed.

Improvements in routing efficiency is also frequently cited as a benefit of exclusive franchise systems. To correctly evaluate this issue, it is essential to understand two important facts:

1. The type of franchise system employed does not change the amount of refuse and recyclable materials that must be collected. Hence, the same number of trucks will be required with a non-exclusive franchise system as with an exclusive system.

2. In an open-market or non-exclusive franchise system, the refuse collection companies pay as much attention to routing efficiency as collection companies operating with exclusive franchises. Collection companies operating in non-exclusive environments select their customers and organize their routes so that truck trips and vehicle-miles are minimized.

It should also be noted that exclusive franchise systems for commercial waste collection are not like exclusive franchise systems for residential waste collection, where a truck makes a collection at each service address on a street. Commercial waste collection systems must accommodate the service needs and waste generation rates of a variety of businesses. On any given street or collection zone, some businesses may require collection one day a week, others three days a week, and some every day of the week. Therefore the routing efficiencies that are often imagined for exclusive franchise system seldom occur.

With exclusive franchise systems, such as the system proposed for the City of San Jose, a single service rate is set for each service level. For example, all customers that use a 3-yard bin that is serviced once per week, will pay the same price. This approach creates great inequities between service requirements and service costs, and frequently disadvantages small business owners and those that generate refuse with low densities, such as retail stores and offices.

A small office or retail facility will generate refuse that weighs 80 – 85 pounds per cubic yard. Refuse from a restaurant will weigh 250 pounds per cubic yard or more. Because refuse collection rates are priced by the cubic yard, under a “single rate for all” system, the small office or retail shop is subsidizing the cost paid by the restaurant.

Example: A clothing store and a restaurant each use a 3-yard bin that is serviced twice per week. Under the rate schedule established as part of an exclusive franchise system, both customers pay \$185 per month. However, the refuse collector's cost to service each customer is different. The collector's cost for the truck and driver are the same for each customer, but its cost to dispose of the collected refuse is different, since landfill disposal fees or those charged at a processing facility, are based on weight. To cover its costs, the refuse collector must therefore present the city with a rate schedule that is based on the average cost of service. In this example, the clothing store would be over-paying, while the restaurant would be subsidized.

With a non-exclusive franchise system, rates are quoted based on the customer's service conditions and refuse characteristics. A customer can solicit rate proposals from several refuse collectors, and then select the one that it finds most attractive.

There are many examples of non-exclusive franchise systems that would be proper models for the City of Los Angeles. Table 5 provides a summary of the features that should be included in the city's system so that it can be managed effectively.

Table 5: Characteristics of a Properly Designed Non-Exclusive Franchise System

Characteristic	Comments
1. Reporting	Franchisees should be required to provide the city with quarterly or monthly reports which identify the quantity (tons) of refuse or recyclable materials collected and transported to each disposal, processing, or transformation facility. Each facility should be identified by name so that the city can reconcile franchisee reports with those received from the disposal reporting system. Electronic reporting systems, such as FacilityStats, offer a free or inexpensive method for franchisees to submit their disposal and diversion data.
2. Service Standards	A non-exclusive franchise agreement provides a city with the ability to specify performance and service standards for its franchisees, and to impose fees and liquidated damages for violations or failures to perform.
3. Emission Standards	Through the franchise agreements, the city can require compliance with SCAQMD rule 1193 or impose other vehicle emission or performance requirements.
4. Franchise Fees	It is important for the city to have adequate resources to effectively manage the program. Non-exclusive franchise agreements provide the opportunity for the city to require payment of franchise fees sufficient to cover its costs to monitor and manage the program.
5. Service Rates	Service rates should be set by the market, and businesses informed that they have a choice of service providers and the opportunity to negotiate for the best price.
6. Service Rate Adjustments	The city should specify the frequency with which rates can be adjusted by franchisees and a cap on the amount of the rate adjustment (usually expressed as a percent).
7. Waste Diversion Incentives	Several innovative cities such as Irvine and Monrovia, have adopted franchise fee structures that encourage waste diversion and discourage disposal.
8. Relationships with Customers	To provide additional protection for business customers, the city may elect to include provisions in the franchise agreement that address the service agreements between franchisees and their customers (see Section 7.C of the draft Los Angeles County Non-Exclusive Franchise Agreement).
9. Waste Diversion	Waste diversion requirements of 50% are common in many of the non-exclusive franchise systems in Southern California cities. In the non-exclusive franchise agreements, the city can specify a minimum waste

diversion rate that the franchisees must achieve as a condition of retaining their franchises, and define the method by which this rate is to be calculated.

Table 6: Benefits of a Non-Exclusive Franchise System in Los Angeles

Benefit	Comment
1. Service Delivery	<p>Businesses can work with the service provider of their choice to design collection and recycling programs that meets their specific needs and enables them to lower their costs.</p> <p>If a customer becomes dissatisfied with the quality of the services it is receiving, it can solicit proposals from other franchisees.</p>
2. Service Rates	<p>Service rates are negotiated by the business owner or apartment building owner or manager. There is ample evidence to substantiate the fact customers pay less when market forces determine service rates rather than a city and its consultants.</p> <p>Service rates are more equitable because they are determined by the service needs and refuse characteristics of the customer, not by a standard rate sheet approved by the city.</p>
3. Choice of Service Provider	<p>Businesses have a choice of programs and prices.</p>
4. Rate Setting	<p>Rates are set by the competitive market. The city is not required to engage in an annual rate setting process. For the City of Los Angeles, the annual rate setting process is likely to be complicated and expensive, particularly if it is modeled on the system adopted by the City of San Jose.</p>
5. Implementation	<p>As noted in the HF&F report, an non-exclusive franchise system could be implemented by the city before the end of this year. Design and implementation of an exclusive franchise system, which may include the definition of franchise zones and multiple procurements, will be time-consuming, complex, and costly. The city's cost to design and implement an exclusive franchise system will likely exceed \$750,000.</p>
6. Customer Satisfaction	<p>Even if the city creates multiple franchise areas for an exclusive system, it is unlikely that it can deliver the level of customer satisfaction that can be achieved with a non-exclusive system. Customer choice will be gone, as will individual service rates and customized collection and recycling programs.</p>

VII. DISADVANTAGES OF EXCLUSIVE FRANCHISE SYSTEMS

The disadvantages of an exclusive franchise system, particularly for the City of Los Angeles, are many. The primary disadvantages are listed in Table 7.

Table 7: Disadvantages of an Exclusive Franchise System

Disadvantage	Reason
1. Service Rates	The HF&H report indicated that “an exclusive franchise system may reduce commercial customer solid waste rates for some customers and increase rates for other customers” (Finding #8). Over time, all customers will pay more. Comparisons of rates between cities with exclusive and non-exclusive systems support this projection.
2. Rate Setting	Creation of multiple franchise areas will not be able to eliminate the inequity that will result from the imposition of standard rate schedules. The variation in the service conditions throughout the City of Los Angeles requires service rates to be customized.
3. Rate Adjustments	The city will have to involve itself in an annual rate adjustment process. If the process is modeled on the method adopted by the City of San Jose, and the city designates multiple franchise areas, the city’s annual cost for consultants to process the rate adjustments will exceed \$150,000 to \$200,000.
4. System Design	Section 16 of the HF&H report identified some of the complexities associated with designing a workable exclusive franchise system for the city. The task of designing multiple franchise areas and specifying the service requirements for each will further add to the cost and difficulty of designing an exclusive franchise system.
	The city should expect to incur consultant costs of \$750,000 to \$1,000,000 to support the design, procurement, and implementation of an exclusive franchise system.
5. Implementation	<p>The HF&H report identified five disadvantages associated with moving forward now with development of a multifamily and commercial franchise system:</p> <ol style="list-style-type: none"> <li data-bbox="690 1578 1366 1634">1. Delay due to the need to develop new program requirements <li data-bbox="690 1655 1366 1685">2. Less thoughtful decision making <li data-bbox="690 1706 1366 1761">3. Intervention by stakeholders who are unhappy with the process <li data-bbox="690 1783 1366 1885">4. Complications with the transition from the current permit system since permittees have the right to continue providing service in the city for five more years.

6. Start-up	As noted in the HF&H report, a non-exclusive franchise system could be implemented in 2012, while full implementation of an exclusive system would require four years.
7. Customer Satisfaction	There was significant stakeholder opposition to an exclusive franchise system expressed during the city's planning process (see Appendix 1). That opposition will likely continue through program design, implementation, and transition. The "one-rate for all" approach characteristic of an exclusive franchise system is unlikely to be well received.

VIII. ACHIEVING THE CITY'S OBJECTIVES WITH A NON-EXCLUSIVE FRANCHISE SYSTEM

The city's Solid Waste Integrated Waste Resources Plan is an ambitious undertaking, yet one that can be implemented successfully with a non-exclusive franchise system. Many of the refuse collection companies now providing services in the city have demonstrated their ability to achieve waste diversion rates of 50% or more in other jurisdictions. If a properly designed non-exclusive franchise system, with specific waste diversion requirements and incentives, was implemented in the City of Los Angeles, similar results could be achieved.

A non-exclusive system allows the refuse collectors to be creative and offer customized programs to their customers. Competition for customers raises service standards and performance, while keeping prices in check. In an exclusive franchise system, new program requirements lead to increased costs to customers.

An improved reporting system will enable the city to closely monitor franchisee performance, and take corrective action or terminate the franchises of those collectors who cannot meet the terms of their agreements.

The city should consider the use of a two-tier franchise fee system to provide a financial incentive for refuse collectors to increase their recycling activities. Such a system would base franchise fee payments on tons disposed and recycled, rather than on gross receipts, and assess a higher fee on tons taken to a landfill and a lower fee on tons taken to a recycling or composting facility.

Franchise fee systems based on reported tons rather than gross receipts are also more transparent and easier for a city to monitor and audit.

IX. THE WAY FORWARD—IMPLEMENTATION AND ACHIEVEMENT

Transition to a non-exclusive franchise system for multi-family and commercial accounts provides the City of Los Angeles with the most feasible and least costly method of addressing the shortcomings of the current permit system and implementing its environmental goals. The HF&F report identified a “voluntary” franchise system that would enable the city to convert the existing collection permits to non-exclusive franchises before the end of 2012. This approach would not require the city to create a new Franchise Section within the Bureau of Sanitation, would eliminate the costs associated with the creation and implementation of an exclusive franchise system, and would provide a long-term cost control mechanism for city businesses and commercial property owners.

APPENDIX 1

Selection of Stakeholder Comments





July 19, 2011

Mr. Enrique C. Zaldivar
Director
Bureau of Sanitation
City of Los Angeles
1149 S. Broadway St., 10th Floor
Los Angeles, CA 90015-2213

Dear Mr. Zaldivar:

On behalf of the Hollywood Chamber of Commerce, I am writing to voice our strong opposition to a proposal to expand the proposed multifamily solid waste franchise to include commercial businesses.

As the second largest chamber of commerce in the City, we represent a broad cross section of businesses, both large and small. The input we are receiving is that this contemplated action would limit their bargaining power and would likely lead to substantial increases in the cost of their waste services. Businesses already are penalized compared to other cities by L.A.'s gross receipts tax, which places them at a competitive disadvantage. If this were not enough, we understand that substantial rate increases are being contemplated by LADWP for both water and power, as well as additional fees to repair the City's aging sewer system. Please recognize that many businesses have not yet recovered from the deepest recession since the Great Depression. This will only add to their struggle for survival.

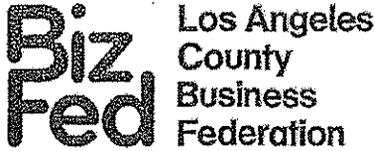
The City is preaching how important it is to retain the entertainment industry. The studios within the City tell us that the recent rate restructuring by LADWP based on peak usage has been a tremendous burden on their ability to compete for tenants. Regarding solid waste services, Sunset-Gower Studios, as just one example, has as many as 50 waste pick-ups a day. To restrict their ability to select their vendors and to create a monopoly results in poor service and higher rates. This does not send the message that L.A. cares about its businesses – including the studios.

If there is to be any type of franchise system, it should be non-exclusive in order to allow for competition.

Sincerely,

D. Leron Gubler
President & CEO

Since 1921...
Promoting and enhancing the business, cultural and
civic well-being of the greater Hollywood community.



Strengthening the Voice of Business

Chambers of Commerce
Agoura-Oak Park-Conejo Valley
Alhambra
Amenian American
Beverly Hills
Burbank
Canoja Park/West Hills
Century City
El Monte
Filipino American
Glendale
Greater Lakewood
Greater Los Angeles African American
Harbor City / Harbor Gateway
Hollywood
Korean American
Los Angeles Area
LAX Coastal Area
La Canada Flintridge
Long Beach Area
Los Angeles Metropolitan Hispanic
Manhattan Beach
Montebello
Pacific Palisades
Pasadena
Redondo Beach
Regional Black
Regional Hispanic
Regional San Gabriel Valley
San Pedro
Santa Clarita Valley
Santa Monica
South Bay Association
Temple City
Toluca Lake
Torrance Area
Unifed
Universal City North Hollywood
West Hollywood
Wilmington
Woodland Hills-Tarzana

Trade Associations and Minority Business Groups
AIA, Los Angeles
Apartment Association, CA Southern Cities
Apartment Association of Greater Los Angeles
Asian American Business Women Association
Asian Business Association
Beverly Hills / Greater LA Association of Realtors
Building Industry Association, LA / Ventura
Building Owners & Managers Association, LA
California Apartment Association, LA
California Independent Bankers
California Restaurant Association, LA
Central City Association
Employers' Group
Entrepreneurs' Organization LA
FuturePorts
Gateway to LA
Harbor Association of Industry & Commerce
Hospital Association of Southern CA
Hotel Association of Los Angeles
Industry Manufacturers Council
LA Shores
League of California Cities
National Association of Women Business Owners, LA
National Latina Business Women Association
New Car Dealers Association, LA
San Gabriel Valley Economic Partnership
So Cal Minority Business Development Council
South Bay Association of Realtors
South Park Stakeholders Group
Southeast Regional Association of Realtors
Valley Economic Alliance
Valley Economic Development Center

June 29, 2011

The Honorable Eric Garcetti
President, LA City Council
Los Angeles City Hall
200 N Spring Street, Room 470
Los Angeles, California 90012

Re: Proposed LA City Multifamily Waste Program

Dear Council President Garcetti,

On behalf of BizFed (Los Angeles County Business Federation) - a broad and diverse grassroots alliance of 85 top business organizations with 150,000 companies across this region - we are writing to express our strong concern and opposition to the City's proposed Multifamily Waste Program and any potential expansion of this program to commercial buildings in Los Angeles.

This program would dramatically alter waste management in the City and poses serious ramifications including limiting competition that will result in higher costs for property owners. Under this plan, businesses will lose their choice of waste haulers and their bargaining power. That lack of choice and flexibility clearly presents the real danger of creating monopolies that will only lead to higher costs and reduced services.

This program also will have significant negative economic consequences for property owners that manage multiple sites potentially lying in different waste sheds. Under the proposed plan, property owners could lose their group discounts for multiple properties - discounts that benefit both tenants and property owners. In addition, this program would create an on-site recycling requirement that some properties simply cannot accommodate.

BizFed believes the City should not be picking "winners and losers," and that a non-exclusive citywide franchise area - as opposed to separate waste sheds - would encourage competition among haulers and ultimately be best for residents, for the City, and best for the industry.

BizFed supports the City's efforts to become greener and generate City revenue, but we strongly encourage the City to consider all angles, economic impact and ramifications of this proposal. A thorough economic impact study and analysis of various alternatives is vital to the success of any wastehauling program.

We urge the City to explore all possibilities in developing a multifamily wastehauling program, and work with the business community to develop a responsible program that will well-serve all involved

Handwritten signatures of Mark Wilbur, David W. Fleming, and Tracy Rafter

Mark Wilbur
BizFed Chair
Employers Group

David Fleming
BizFed Founding Chair
Latham & Watkins

Tracy Rafter
BizFed CEO
Rafter Group, Inc.

Cc: Los Angeles City Council Members
Bureau of Sanitation Commissioners



**HOSPITAL
ASSOCIATION**
OF SOUTHERN CALIFORNIA®

H • A • S • C

515 South Figueroa St., Suite 1300
Los Angeles, California 90071-3300
213.538.0700 Fax 213.629.HASC (4272)

August 17, 2011

Daniel Meyers, Civil Engineer
Solid Resources Citywide Recycling Division
Department of Public Works
City of Los Angeles
1149 South Broadway, 10th FL, M/S #944
Los Angeles, CA 90015

Dear Mr. Meyers,

The Hospital Association of Southern California (HASC), representing 170 hospitals of which approximately 45 are located within the City of Los Angeles' jurisdiction, wishes to provide comment on a proposed plan by the City of Los Angeles - Bureau of Sanitation to sell exclusive franchise waste sheds. Although we applaud the City's effort to enhance current recycling efforts, as a means of diverting unnecessary waste to our local landfills, hospitals are concerned about the policy's unintended implication.

HASC believes the exclusive franchise proposal plan is silent on the unique service and need of hospitals as it relates to the handling of regulated medical waste and pharmaceutical disposal. The creation of waste sheds will impair a hospital's ability to contract with a specialized waster hauler which the California Department of Public Health regulates. Health and Safety Code Section 118000, under the Medical Waste Management Act, outlines the manner in which such waste shall be transported, as well as addresses the requirement that such waste be separated from other types of waste. The question of concern is what will happen if a waste hauler who secures an exclusive franchise is unable to fulfill the state and federal requirements as it relates to a medical waste hauler?

A hospital may also contract with multiple companies to handle its various waste streams. Factors taken into consideration include pricing, experience, environmental goals and compliance with state and federal regulations. Under the exclusive franchise proposal, the option and ability for a hospital to select and negotiate with a particular waste hauler would simply be eliminated.

As a result, HASC encourages the Bureau of Sanitation to exempt hospitals from the exclusive waste shed concept based on the regulatory requirements it must adhere to. An attempt to incorporate hospitals into a waste shed proposal can potentially place a local ordinance in conflict with those requirements outlined in the Medical Waste Management Act.

Should you have any questions regarding our position, please contact me at (213) 538-0702.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jaime Garcia", written over a faint, illegible typed name.

Jaime Garcia
Regional Vice President - Greater Los Angeles Area
Hospital Association of Southern California

Cc: Enrique Zaldivar, Director

North Valley Coalition of Concerned Citizens Inc.
Private Hauler Franchise Initiative
September 6, 2011

We believe that consideration of an "exclusive franchise" is a mistake and we oppose such a plan.

We believe that it would contravene the intent of the RENEW LA program which would establish Alternative Technologies in each of the six watersheds including a seventh with the City of Glendale.

How would an "exclusive franchise" prevent the transfer of waste generated by an individual watershed to another watershed if the only entities capable of bidding on these watersheds are the likes of Waste Management and Republic or even Crown Disposal or Athens?

Waste Management and Republic who own the only available landfills would be exporting even more their trash to the San Fernando or Simi Valleys. In the case of Sunshine Canyon Landfill in the San Fernando Valley now owned by BFI/Republic the RENEW LA was specific. It required Los Angeles to reduce its tonnage down to 500 tons per day by 2011. Where is the Bureau of Sanitation on accomplishing that? How do you expect to live up to RENEW LA?

While there is an initial potential to generate savings to some apartments and businesses, all future contracts will leave the City at the mercy of the waste industry giants once the competition from the small waste collection operators has been wiped out.

Does this City think that the big disposers of waste will play fair? We all know that they decide amongst themselves ahead of time, who will get the contract. Case in point. When the City was taking bids for the City's MSW, Waste Management dropped out at the last minute leaving only BFI. I bet if you check the record you will find Waste Management picked up a contested contract over BFI in another part of the country.

We believe that LAANE who is pushing this initiative is blinded by the Teamsters desire to gain an opportunity to employ union or to unionize workers. While LAANE makes a good case in all the glossy information supplied by variously mixing City and County statistics, and using incinerators rather than waste-to-energy when describing the facilities the City uses... the fact is that the big waste haulers cannot be trusted.

We would suggest the approach used with great success by the County of Los Angeles which is a "non-exclusive franchise system" be adopted. Your time would be better spent consulting and listening to them, as they too echo our concerns for not being at the mercy of one of the waste industry giants, and for the savings that they feel are being generated by the competition.

Wayde Hunter
President, NVC

APPENDIX 2

Los Angeles Business Journal

Competition Not Regulation Keeps Trash Costs Low

OP-ED By RON SALDANA Monday, June 27, 2011

An editorial published in the May 30 issue of the Business Journal headlined “L.A.’s Current Trash System Is a Big Heap” was so riddled with inaccuracies that it begs a response.

And we can start with the headline. It is disingenuous to trash the city of L.A.’s waste collection and recycling programs when the city is in fact recognized as a national leader.

The standard by which all California municipalities are judged is a state law that requires municipalities divert 50 percent or more of their waste from landfills. The city of Los Angeles far exceeds this – currently diverting more than 65 percent of its waste from landfills, achieved from groundbreaking programs aimed at multifamily apartment recycling (about 750,000 multifamily units are in the city), food waste recycling for restaurants, and specialized commercial recycling developed by industry and our business customers. It’s far from the “Wild West” as claimed in the op-ed. All this is based on comprehensive and highly audited city reporting.

Special interest groups seem to want to stir the L.A. waste collection pot to benefit themselves; however, in reality, the pot is already being stirred and necessary new ingredients are being added. Our city’s stated goal is to reach 70 percent diversion by 2013. Given this rapid progress, this goal appears to be attainable next year. From here, the ultimate goal is “zero waste” by 2020 and city-adopted long-range programs are already bringing results.

For example, the Recovering Energy Natural Resources and Economic Benefit from Waste for L.A. program was adopted several years ago and the Solid Waste Integrated Resources Plan is almost ready to launch after years of grass-roots community meetings. A key part of this long-range planning is alternative technologies to convert waste into clean-burning gases that provide power and reduce landfilling.

Again, state law is changing the waste collection recipe. In 2006, the Global Warming Initiative, AB 32, was passed in California, and all municipalities will have to create a franchise agreement for waste haulers that collect commercial waste. The intent is to require various materials be recycled and set collection standards, many of which are left to each municipality to design and implement. Yes, commercial waste collection franchising is coming to Los Angeles. The question is: How will the franchise agreement be designed?

Special rules

Currently in Los Angeles, 140 waste haulers are permitted, serving one of the largest concentrations of commercial business in the nation. Most haulers are small businesses, many of which have been family operated for generations. Our industry has invested tens of millions of dollars in clean trucks and the use of alternative fuels. Solid-waste industry fleets have special rules and already are the cleanest in the nation. The industry should be commended, not attacked, for its huge investment over the past years in clean technology. Calling the industry “dirty” is a misrepresentation that ignores the facts.

With these haulers competing for customers, the city of Los Angeles has kept waste collection and recycling rates low and service high. Competition is the economic engine that translates into lower rates, better service and innovation in creating markets for new recycled products. For businesses in Los Angeles, the solution under the current competitive waste collection program is simple: If you don't like the service you are receiving, hire another company. If you think you are paying too much, hire one with a lower rate. Take competition away and city businesses, along with their customers, will face another economic hit.

As Los Angeles moves toward a commercial franchise arrangement, the most important factor is to develop a nonexclusive franchise that keeps competition alive.

We support the city of Los Angeles in setting a level playing field with appropriate environmental and recycling standards for all to meet and then letting industry compete on price and service. We always have, to the great benefit of city businesses.

Take away competition, like the author of the aforementioned editorial advocates, and you dismantle a vital waste industry and launch a tidal wave of negative economic impacts that will roll throughout Los Angeles. Under an exclusive franchise system, businesses are trapped, a competitive service mutates into a utility and you are forced to pay the prescribed rate with no other options. The difference is a business will pass higher costs on to you – the consumer. Does anyone believe that a city-created exclusive monopoly will be good news for the consumer and our city? Don't let other people's private agendas, and phony scare tactics, destroy one of the proven best progressive and responsive waste programs in the country.

Ron Saldana is the executive director of the Los Angeles County Disposal Association, which represents solid-waste recyclers, haulers, waste facility owners and operators, and associated companies throughout Southern California.

How does a Non-Exclusive Solid Waste Commercial Franchise work?

A non-exclusive solid waste commercial franchise allows the County to enter into agreements with waste haulers to provide waste collection services to multi-family and commercial properties in the unincorporated areas of the County. Under these agreements, waste haulers would abide by specific service standards and requirements.

When will the new franchise system be implemented?

The new system will begin July 1, 2012.

Can I stay with my current hauler?

Yes, provided your hauler is a franchise waste hauler. Waste haulers will be required to enter into a non-exclusive commercial franchise agreement with the County in order to provide services in bin or dumpsters and roll-off boxes to customers within the unincorporated areas of the County. Customers will be able to arrange for collection services with any of the franchised waste haulers. Prior to the start of the new system, the County will provide all customers a list of permitted franchise waste haulers for them to choose from.

Will my rates increase under the new system?

The franchise agreement will not dictate or set rates. However, you may lower your trash bill by subscribing to recycling services because less trash will be collected resulting in a smaller trash container. By downsizing your trash container you may reduce your costs.

What do the State's mandatory commercial recycling regulations require?

Assembly Bill 341 and Assembly Bill 32 require all businesses that generate 4 cubic yards of commercial solid waste per week and multi-family properties (5 units or more) to arrange for recycling service starting July 1, 2012 through one of the following:

- o Subscribe to service that collects recyclables separately, or
- o Send materials to mixed waste processing facility that diverts recyclables, or
- o Self-haul your own recyclables

What are the recycling service options that the County is offering with the new system?

All customers that are subject to the State's mandatory commercial recycling regulation will receive one of the following at no additional charge:

- o One cubic yard recycling bin;
- o Two 96 gallon recycling carts due to storage constraints;
- o Processing at a mixed waste processing facility to recover recyclables

Additional recycling containers, capacity and frequency will be offered for no more than half the rate for the same type of trash collection service. Also, customers that are not subject to mandatory recycling regulation can request the same recycling services above at no additional charge by contacting their franchise waste hauler.

I am interested in recycling but I don't have the space for additional bins. What can I do?

The franchise agreement requires waste haulers to provide recycling services to customers upon request. The waste hauler will work with you to determine and customize recycling services to meet your needs such as exchanging your current trash bin for smaller bins or providing smaller recycling carts.

I am not sure what can be recycled.

As the franchise system is rolled out, Public Works and your franchise waste hauler will provide customers with a list of the materials that can be placed in the recycling containers.

Under the new system, who can I call if I have a complaint about the trash collection services I receive?

Customers are encouraged to contact their waste hauler first to resolve issues concerning the delivery of service. If the waste hauler fails to resolve the issue to your satisfaction please contact Public Works at the franchise hotline number below.

I don't have trash service. I haul my own trash. Will I be able to continue this under the franchise system?

Yes, you may continue to self-haul under the franchise system.

Do I have to pay extra to have furniture or appliances picked up? How many items are allowed for each pick-up?

Residential and multi-family customers have the choice of having bulky items and electronics collected by selecting one of the following free service options: (1) 5 pickups of bulky items (limit of 5 items per pick-up) and unlimited amounts of certain electronics upon request each year or (2) One annual cleanup event with a collection of unlimited amounts of bulky items and certain electronics on the date agreed to between the customer and the waste hauler.

If you have any questions, please call the franchise hotline at (800) 993-5844, Monday through Thursday, 7 a.m. to 5:30 p.m. or for more information please visit www.CleanLA.com.



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
Environmental Programs Division
900 S. Fremont Avenue, Alhambra, CA 91803
Franchise Hotline: 800-993-5844



FREQUENTLY ASKED QUESTIONS
for
NON-EXCLUSIVE COMMERCIAL SOLID WASTE COLLECTION FRANCHISE
(Customers)

What is the current trash collection system in the unincorporated areas?

Commercial solid waste collection services in bins or dumpsters within the unincorporated County areas are currently provided by private waste haulers through an open-market system where customers directly arrange for services with waste haulers and not with the County.

Why change the current waste collection system in the unincorporated areas?

The open-market system has been unable to meet demands due to changes in Federal and State laws, public attitudes towards protecting the environment, and customers' desire for enhanced recycling and collection services. Pursuant to State law, the County must implement a mandatory commercial recycling and waste reduction program by July 1, 2012 due to diminishing space in landfills and growing environmental concerns. In order to comply with the State's mandate, the County is required to implement a franchise system for the unincorporated areas of the County.

What type of system will the County be implementing?

The County will be implementing a Non-Exclusive Commercial Solid Waste Collection Franchise System (non-exclusive franchise). A non-exclusive franchise is a system in which a jurisdiction allows solid waste collection services to be provided by private waste haulers but requires haulers to enter into a non-exclusive commercial franchise agreement (Agreement) with the jurisdiction, in this case the County. Under this non-exclusive franchise system, customers will have a choice of more than one waste hauler because the system is open to competition to all haulers that enter into an Agreement. The waste haulers deal directly with the public and businesses in competing for customers.

When did the Board of Supervisors authorize the franchise system to move forward on a countywide basis?

On September 28, 2004, the Board adopted an ordinance to authorize franchise agreements for solid waste handling services in all or part of the unincorporated areas.

What is the non-exclusive franchise system intended to do?

The franchise system is intended to:

- o Enhance recycling efforts and participation by providing customers separate collection of trash, recyclables and green waste materials, offering free bulky item and electronic waste collection, and by distributing recycling and waste diversion educational outreach materials.
- o Improve customer service by offering a standardized, high-level of service, based on community input and specific needs. The County will enforce service standards through daily inspection of hauler's performance and assessment of liquidated damages for not meeting the standards prescribed in the agreement.
- o Improve documentation of recycling efforts by requiring the franchise waste hauler to provide collection, disposal, and recycling information. This aids the County's effort to substantiate its compliance with the State's waste reduction mandate.

Overall, the franchise system will assist the County in meeting the State mandate by increasing recycling, requiring better reporting, and providing funding for additional recycling and educational programs.

Who is required to obtain an Agreement?

All waste haulers who provide service or plan to provide service in bins or dumpsters and roll-off boxes to residential, multi-family, commercial, industrial and institutional properties in the unincorporated areas of Los Angeles County will be required to enter into an Agreement. Additionally, this requirement applies to all waste haulers providing roll-off and construction and demolition handling services in the unincorporated areas of the County.

Who will be affected?

All customers that utilize bins or dumpsters and roll-off boxes for the collection of their solid waste will be affected.

APPENDIX 3

Publication by the Los Angeles County Department of Public Works regarding the new non-exclusive commercial waste collection and recycling program that the county is introducing for the unincorporated areas

APPENDIX 4

Excerpted from: Independent Recyclers Council

The Alternatives to Flow Control

By, Joan Edwards, J Edwards & Associates

Every locality is different has unique characteristics which should be taken into account when developing strategies to encourage increased recycling. A number of alternatives to flow control of recyclables and restriction of "fee for service" activities are noted in this section. Many more and variations on each theme are certainly possible. This section is intended to increase the dialogue about these opportunities and to help all stakeholders design approaches that will work best for their locality, while preserving maximum competition for recycling efforts.

As noted earlier, this section does not discuss alternatives to residential recycling collection activities, nor franchising of waste material destined for landfills.

Many of the resources noted in the Appendix can assist in developing more detailed approaches to these recommended alternatives or suggest how they might be tailored to a locality's unique situation.

Most of the alternatives fall into one of two categories: alternatives which work outside of a franchise or flow control situation, and alternatives which can be compatible with some form of franchising or flow control of refuse.

Promote Existing Recyclers - Build on the expertise and investment of existing recyclers to provide reuse, recycling and composting services to generators, rather than having to publicly fund such investments to meet AB939. Develop guides to reuse, recycling and composting businesses in the area and widely distribute them. Place such guides in garbage and other utility bills as inserts. Advertise these lists in local papers. Post on local websites. Be a model and contract for services with existing industries in the area. Include small businesses that cannot get recycling cost effectively otherwise in residential recycling programs. Clarify definitions in ordinances, licenses, taxes, contracts and franchises for "solid waste" and "recyclables." Invite all reuse, recycling and composting businesses in community to be involved in public solid waste policy-making and encourage them to be involved early before there are problems. Establish effective communication between recyclers and local government.

Provide Technical Assistance - Provide training and one-on-one assistance to local businesses on how they can use existing reuse, recycling and composting businesses. Hire staff or consultants to provide waste audit services to identify potential prospects for maximizing recycling. Help geographically contiguous or similar businesses to combine their materials for more cost effective recycling. Develop case studies and highlight local successes in local workshops, speakers at community meetings and with the media.

Economic Incentives - Provide economic benefit of increasing recycling to generators, haulers and landfill operators. For residents, adopt variable rate/unit pricing rate structures. For businesses, allow fee for service transactions and don't require all wastes from businesses to come to a single facility to be sorted there (allows businesses to decrease their waste disposal costs by increasing recycling). For solid waste and recyclables haulers, charge franchise fees only on wastes, not source separated recyclables. For landfill operators, charge business taxes only on materials buried, not those processed and shipped off site for recycling. Maintain solid waste enterprise fund for funding needed for solid waste services only without solid waste funds

being used to fund other City activities. Establish level of fees required to support enterprise fund based on reasonably anticipated amounts of solid waste still going to landfills. Establish fees on landfills under your authority to fund solid waste activities. Join with other communities to establish county-wide fees on landfills within the county to fund solid waste activities. Establish a special use tax (requiring residents to approve) to fund necessary solid waste activities, possibly on a \$/sq.ft. basis for commercial accounts instead of solid waste tonnage. Generally use garbage rates, fees and taxes to provide price signals to the marketplace that are consistent with the public policy goals of AB939.

Reporting - Establish license or reporting requirements for recyclers to provide sufficient data needed for AB939 reporting and monitoring of the system. Recyclers voluntarily provide data through trade associations (to maintain confidentiality).

Health & Safety - Establish by ordinance regulations governing the safe storage, handling and transportation of all reuse, recycled and compost materials. Work with Local Enforcement Agencies and County Health Departments to monitor and enforce.

Open Competition for Refuse and Recycling Services - Los Angeles is one example of a locality which has chosen not to regulate services for either refuse or recycling services, although it does provide municipal collection for single family residences and very small multi-family dwellings. This type of system has allowed the City to achieve high recycling rates with minimal investment or interference in the private sector. Businesses and institutions regularly save large sums of money through competition between various service providers. Single family and small multi-family dwellings are generally agreed to generate too little material at each site to provide cost-effective collection under an open competitive environment. Furthermore, a wide range of additional services (on-call bulky pickup) have long been considered essential by elected officials. Nevertheless, these smaller residential properties were documented to recycle at about 10% diversion in 1990 through access to independent drop-off and collection recycling services.

Again, the services of a single entity (Bureau of Sanitation) was needed to provide the comprehensive refuse, recycling and green waste collection services that allow maximum diversion (over 45% on many routes) and cost savings through route restructuring. However, a series of RFP and Bid procedures clearly demonstrated that the most cost efficient services for processing of residential recyclables resulted from an open competitive system that primarily utilized existing independent recycling companies. Even recent decisions by Los Angeles toward commingled residential recyclables and limiting facilities within large geographic areas, while increasing net costs and reducing competition, resulted in the use of existing independent recycling companies who made private capital investments to increase capacity.

Non-exclusive Franchise Systems - Many localities allow multiple haulers and recyclers to operate, as long as they each operate within some sort of permitting and oversight system. The systems vary and most require a fee. Some localities allow limitless numbers of service providers to do business. Others limit service providers, especially refuse collection services, to a set number. And still others regulate a limited number of refuse hauling services, but allow unlimited recycling services.

In most of these instances, localities have attempted to increase cost-effectiveness and service opportunities through competition, while addressing at least two of the concerns which often lead to franchising: municipal revenue opportunities and some additional regulatory oversight of collection services. Many also use permitting as a way to gather data on diversion activities.

EXHIBIT

E

Initial Study for the

Commercial Collection System Redesign

File Number PP10-157



Prepared by



May 2011

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SECTION 1.0 INTRODUCTION AND PURPOSE

This Initial Study of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations 15000 et. seq.), and the regulations and policies of the City of San José. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from awarding and implementing the City's proposed Commercial Collection System Redesign.¹

Three City policies (Urban Environmental Accords, Zero Waste Policy, and Green Vision) drive the Commercial Collection System Redesign project. In November 2005, the City Council approved support of the Urban Environmental Accords including Action 4 of the Accords, which sets a goal of 75 percent diversion by 2013. In October 2007, the City Council adopted the Zero Waste Policy, which sets goals of 75 percent diversion by 2013 and Zero Waste by 2022, and the Green Vision, which is comprised of 10 goals including diversion of 100 percent of waste from landfill and converting waste to energy.² In addition to the City's diversion goals, the Green Vision introduces a goal of ensuring that 100 percent of the public fleet uses alternative fuels.³

Currently, the City has a non-exclusive commercial collection system with over 20 hauling companies collecting solid waste, mixed recyclables, and organics from commercial customers. All haulers are required to obtain a Commercial Solid Waste and Recyclables Collection Franchise agreement granted by the City Council that allows them to provide hauling services on a "non-exclusive" basis. This non-exclusive collection system allows commercial businesses to choose the hauler that offers the rates and services that meets their needs. The current system does not require franchisees to divert commercial waste from the landfill. The existing commercial franchise hauling agreements expire on June 30, 2012.

The City of San José has approximately 8,000 reported commercial businesses that receive solid waste collection services and approximately 3,800 reported commercial businesses that receive recycling collection services from the franchised haulers. These figures do not include businesses that do not use a franchised hauler because of other collection arrangements, including company-owned vehicles hauling commercial solid waste, recyclables, and/or organics to a disposal facility, central distribution facility, or recycling center. Commercial waste comprises 32 percent of disposed waste City-wide. The commercial diversion rate between July 2009 and June 2010 was approximately 22 percent.

¹ The proposed Commercial Collection System serves businesses (e.g., offices, grocery stores, department stores, restaurants, etc.) in the City. No residential (single-family or multi-family) waste would be collected as part of this proposed system.

² "Zero Waste" is a perception change. It requires rethinking what we have traditionally regarded as garbage and treating all materials as valued resources instead of items to discard. Zero waste entails shifting consumption patterns, more carefully managing purchases, and maximizing the reuse of materials at the end of their useful life.

³ While the City does not own a commercial collection fleet, the size of the commercial collection haul fleet and the City's ability to establish standards make this project an opportunity to help achieve this goal.

An assessment of the City's existing non-exclusive commercial collection system found that, because there are multiple haulers operating in the City, collection vehicles from different hauling companies cross each other's path, each day, to service customers on the same streets.⁴ The assessment found that inefficient routing leads to more truck time on streets, which translates into higher fuel consumption and air pollutant emissions, more traffic, noise, and wear and tear on the streets. In addition, the existing operating haul companies likely use older collection vehicles that emit more air pollutant emissions than newer vehicles that yield better fuel efficiency and may use alternative fuels.

The assessment recommended increasing commercial diversion for recyclables and organics, and minimizing adverse environmental impacts of collection vehicles (e.g., converting fleets to newer equipment with improved emissions technology and using alternative fuels, and having more efficient routes).

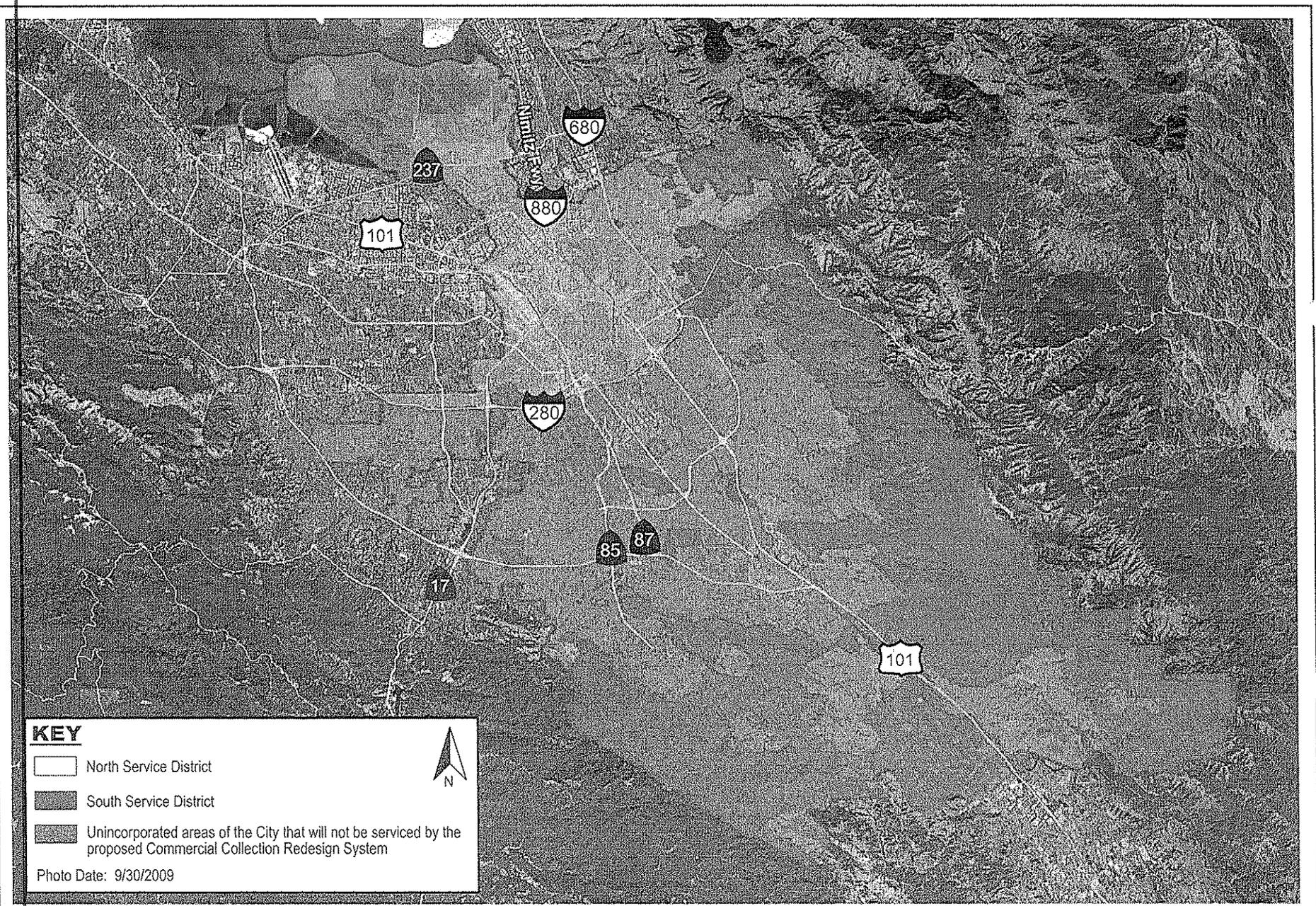
In February and April 2010, the City solicited Requests for Proposal (RFPs) to implement a proposed redesign of the current non-exclusive commercial solid waste collection system. The redesign would result in an exclusive commercial franchise collection system with one or two franchisees providing commercial collection and diversion services for two service districts (North Service District and South Service District) (refer to Figure 1). A two-step RFP process selected providers for Commercial Solid Waste Collection and Diversion Services, including exclusive solid waste collection, materials processing and marketing, and residue disposal services. First, the Commercial Organics Processing Services RFP was released for processing organic materials collected from commercial customers, with the goal of selecting one or more organics processing contractors. The second RFP, the Commercial Solid Waste and Recyclable Material Collection Franchise RFP, was released with the goal of selecting one commercial collection franchisee for each service district, or awarding both service districts to the same franchisee. The commercial collection franchisee will deliver the organic materials collected from commercial customers to the selected organics processing contractor.

In February 2011, the City had evaluated all proposals submitted in response to the RFPs and issued a Notice of Intended Award to *Zero Waste Energy Development Company (ZWED)* to be the sole commercial organic processing contractor and *Allied Waste of Santa Clara County (Allied Waste)* to be the sole commercial collection franchisee for both service districts.

The proposed Commercial Collection System Redesign would result in an exclusive commercial franchise collection system with one franchisee providing collection and diversion services for the entire City. The City's goal for the Commercial Collection System Redesign is diversion of a minimum of 75 percent of commercial solid waste from the landfill.⁵

⁴ HF&H Consultants, LLC. The City of San José Commercial Redesign White Paper, Current System Performance and Alternative System Arrangements. November 14, 2008. Page 19.

⁵ The 75 percent diversion rate does not include diversion of construction and demolition (C&D) debris or metals, which would remain non-exclusive under the proposed system.



COMMERCIAL COLLECTION REDESIGN SYSTEM SERVICE AREA

FIGURE 1

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE AND FILE NUMBER

Commercial Collection System Redesign, File Number PP10-157

2.2 PROJECT LOCATION

The project is to provide commercial collection services to the North and South Service District in the City of San José, as shown in Figure 1.

2.3 LEAD AGENCY CONTACT INFORMATION

John Davidson
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, CA 95113
(408) 535-7895

2.4 PROJECT DESCRIPTION

Under the proposed Commercial Collection System Redesign, one franchised hauler – Allied Waste of Santa Clara County (Allied Waste) – would have an exclusive agreement to collect commercial solid waste, recyclables, and organics generated in San José; and one organics processing contractor – Zero Waste Energy Development Company (ZWED) – would have an exclusive contract to process commercial organics generated in San José.

For the purposes of this document, commercial solid waste, recyclables, and organics are defined as follows:

- *Commercial solid waste* includes materials that are not considered recyclables or organics.
- *Recyclables* (also referred to as “dry” material), excluding organics, includes clean paper and cardboard, glass bottles and jars, rigid plastics, metal cans and scrap metal, clean wood, reusable items, carpet and carpet padding, clean expanded polystyrene block packing materials, polylactic acid (PLA) bioplastic bottles, and all other materials for which a viable market can be found.
- *Organics* (also referred to as “wet” materials) includes yard trimmings, food scraps, compostable paper, and compostable plastics (corn, potato, and other starch). Table 1 below lists examples of different organic materials.

Yard Trimmings	Food Scraps	Compostable Paper	Compostable Plastics (corn, potato, and other starch)
<ul style="list-style-type: none"> • Branches • Flowers • Grass clippings • Christmas trees • Leaves • Lumber • Plants • Sawdust • Shrubs • Stumps • Wood chips • Wood waste 	<ul style="list-style-type: none"> • Bones • Bread • Coffee grounds • Coffee filters • Dairy products • Dough • Fruit • Grains • Meat • Pasta • Tea bags • Vegetables 	<ul style="list-style-type: none"> • Food soiled paper (paper plates, napkins, cups, towels, containers, packaging, wrappers, trays, waxed paper) • Pizza boxes • Tissues and bathroom paper waste • Waxed cardboard • Wet paper towels 	<ul style="list-style-type: none"> • Bags • Clamshell containers • Cups • Cutlery • Lids • Liners • Straws

Studies on the commercial waste stream in San José estimate that nine to 22 percent of the commercial waste stream is solid waste (i.e., material that cannot be recycled or composted).⁶ In accordance with the City's stated objective for the project, it is assumed that the full implementation of the proposed Commercial Collection System Redesign would result in a minimum of 75 percent diversion of the commercial waste stream from the landfill.⁷ The commercial diversion rate between July 2009 and June 2010 (under the existing collection system) was approximately 22 percent.

As part of the Commercial Collection System Redesign, Allied Waste would implement an extensive public outreach and education program that includes contacting every business in San José and offering the resources and assistance necessary to maximize their participation and diversion results. Allied Waste anticipates that with the successful implementation of their public outreach and education program, over time, the minimum diversion percentage would be exceeded and fewer and fewer materials would be landfilled. Under the optimal operation of the Commercial Collection System Redesign, the commercial waste stream would comprise only residual amounts of waste being landfilled.

2.4.1 Commercial Waste Collection and Destination

2.4.1.1 *Solid Waste and Recyclables/Dry Material*

Allied Waste would haul commercial solid waste and recyclables to the Newby Island Resource Recovery Park (NIRRP) located at 1601 Dixon Landing Road in San José.⁸ The NIRRP consists of the Newby Island Sanitary Landfill (NISL) and the Browning Ferris Industries Recyclery (the Recyclery). The solid waste would be collected from commercial businesses and hauled to NISL for landfilling.

The recyclables (or dry materials) would be collected and hauled to the Recyclery where they would be sorted, bundled, and sold to brokers or manufacturers. Solid waste and organics (if any) that have been improperly mixed with the recyclables would be removed. The removed solid waste would be landfilled and the removed organics would be transferred from the Recyclery to the selected organics processor. The processing of organics is described in Section 2.4.1.2, below.

⁶ Sources: 1) Cascadia Consulting Group, Inc. City of San José Waste Characterization Study, Final Report – Draft. May 2008. Page 40. 2) R3 Consulting Group, Inc. Needs Assessment for the Integrated Waste Management Zero Waste Strategic Plan Development. November 3, 2008. Section 5-7.

⁷ There is a six month adjustment period after the proposed system is initiated to achieve the above stated diversion rate.

⁸ The NIRRP is physically located in the City of San José; however, it has a Milpitas mailing address.

2.4.1.2 Organics/Wet Material

Allied Waste would collect and haul organics (or wet materials) from commercial businesses to either the NISL or GreenWaste Materials Recovery Facility (MRF), located at 625 Charles Street in San José, for pre-processing. For the purposes of this document, pre-processing is the removal of contaminants (i.e., solid waste and recyclables) from organic loads. Any solid waste or recyclables extracted during pre-processing would be landfilled or recycled at the NIRRP.

After the organics are pre-processed, the organic material would be processed (i.e., anaerobically digested and/or composted) at one of three facilities: 1) the ZWED Dry-Fermentation Anaerobic Digestion Facility (ZWED AD Facility) located at 2100 Los Esteros Road in San José; 2) Z-Best Composting Facility located at 980 State Highway 25 in Gilroy; or 3) NISL.^{9,10} Any residual solid waste and recyclables found in the finished compost at the ZWED AD Facility, Z-Best Composting Facility, or NISL would be transferred to the NIRRP for landfilling or recycling. Figure 2 illustrates the treatment path of the commercial waste stream and Figure 3 provides a map showing the location of the receiving facilities.

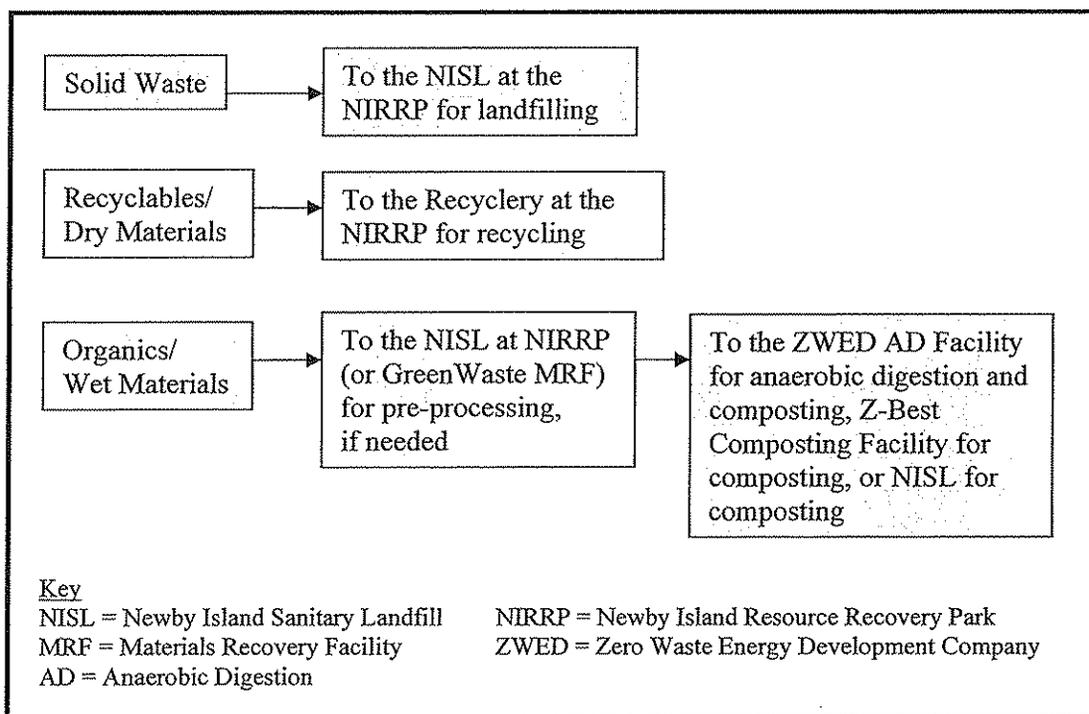
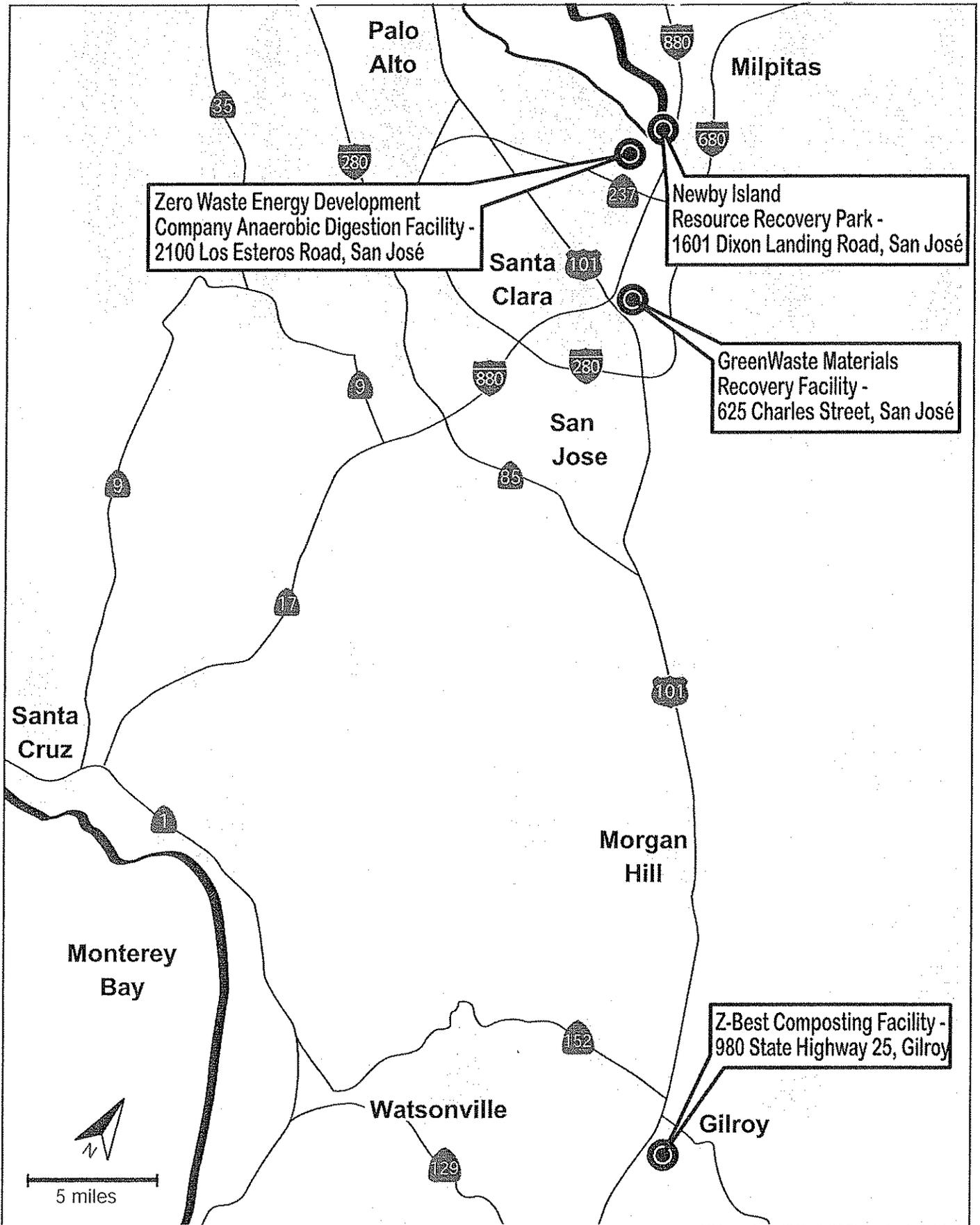


Figure 2: Destination of Commercial Waste Under the Proposed Commercial Collection System Redesign

⁹ The ZWED AD Facility is a proposed project currently on file with the City of San José (File No. SP09-057). The Initial Study for the ZWED AD Facility has been completed and circulated for public review. It is anticipated that the City Council will make a decision on ZWED AD Facility project in June 2011.

¹⁰ The ZWED AD Facility does not have the ability to pre-process organics; therefore, the organics must first be pre-processed (if needed) at the NISL or GreenWaste MRF prior to being delivered to the ZWED AD Facility. It is assumed that if organics are processed at NISL, they would be pre-processed at NIRRP. Pre-processing of organics is only required if the organic loads contain more than 20 percent contaminants. It is anticipated that, over time, as the Commercial Collection System Redesign is implemented, the organic loads would contain less than 20 percent contaminants and, therefore, be hauled directly from the generator to the selected organics processor.



LOCATION OF PROPOSED RECEIVING FACILITIES

FIGURE 3

2.4.1.3 *Pilot Programs*

As part of the Commercial Collection System Redesign project, the City and Allied Waste and/or ZWED could conduct pilot programs that temporarily change the collection method, equipment, or the type of service of up to 10 percent of the total collected commercial waste material. The specifics of these pilot programs are unknown at this time. The pilot programs allowed, however, would: a) have no greater or substantially different environmental impacts than analyzed in this Initial Study or previous environmental review completed for the facility (e.g., NIRRP, GreenWaste MRF, ZWED AD Facility, and Z-Best Composting Facility); b) be limited to activities allowed by existing land use and solid waste facility permits at the facility where the pilot programs are to take place; and c) be subject to approval by the Director of Planning, Building, and Code Enforcement.

2.4.1.4 *Bin Collection Systems*

Under the proposed project, commercial solid waste, recyclables, and organics would be collected in one of the following two systems:¹¹

- **Two-Container System** (i.e., wet/dry collection system) – Commercial businesses would have one or two collection bins. Businesses that sell or process food would have two collection bins: one bin for wet materials (i.e., organics) and a second bin for dry materials (i.e., recyclables).

Businesses that do not sell or process food do not generate substantial amounts of compostable organics and would, therefore, have only one collection bin. The discarded waste would primarily consist of dry materials. The minimal amount of wet materials discarded by these businesses would include paper waste from bathrooms, snack food, and lunch leftovers. These minimal amounts of wet materials would be placed into the collection bin with the dry materials. It is anticipated that many businesses in the City would have only one collection bin under this system. The wet and dry material would be processed as described in Sections 2.4.1.1 and 2.4.1.2.

- **One-Bin Plus System** – Most commercial businesses would have one collection bin where solid waste, recyclables, and small amounts of organics would be placed. The commercial businesses would collect their solid waste, recyclables, and small amounts of organics in clear plastic bags. The janitors at the commercial businesses would then collect the plastic bags and place all of them in a single bin (the *One-Bin*) for collection. If commercial businesses generate large quantities of organics (such as a grocery store or florist), they would be provided with a separate bin (the *Plus*) for their organics.

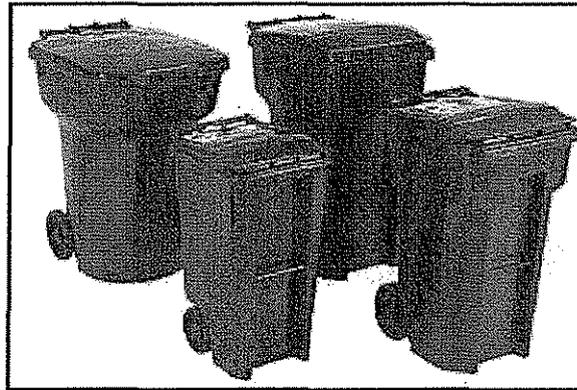
The solid waste, recyclables, and organics collected via the One-Bin Plus system would be hauled to the Recyclery at the NIRRP. At the Recyclery, the bags of solid waste, recyclables,

¹¹ In addition to the Two-Container and the One-Bin Plus systems, a Three-Container System is an option under the proposed Commercial Collection System Redesign project. Under the Three-Container System, commercial businesses would have three collection bins, one for solid waste, a second for recyclables, and a third for organic material. The solid waste, recyclables, and organic material collected under the Three-Container System would be processed as described in Sections 2.4.1.1 and 2.4.1.2. The Three-Container System would have similar impacts (including number of vehicle trips, vehicle miles traveled, air pollutant emissions, greenhouse gas emissions, and noise) as the Two-Container System and is therefore, not discussed in detail in this Initial Study.

and organics would be sorted. The bags of solid waste would be hauled to the NISL and landfilled. The bags of recyclables would be opened and processed as described in Section 2.4.1.1. The bags of organics would be opened and processed as described in Section 2.4.1.2.

Allied Waste would collect the material in front and side load haul trucks that would be fueled by compressed natural gas.

The collection containers for the above systems range in size from one to eight cubic yard plastic or metal bins and 32, 65, or 96 gallon carts for both dry/recyclable material and wet/organic material (see Figure 4). The size of the collection containers for each commercial business will depend on their need. For commercial businesses that have limited space, such as those in the Downtown area, “split containers” may be available. Split containers are the same as the large plastic or metal bins but have a center divider that creates two separate internal sections (e.g., one section for wet materials and the other for dry materials). The split container would have separate lids for each section so that the sections can be secured and dumped independently of each other (see Figure 5).



Source: Allied Waste

Figure 4: 32, 65, and 96 Gallon Carts



Source: Allied Waste.

Figure 5: Split Container

SECTION 3.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

This section describes the existing environmental conditions (i.e., the existing commercial solid waste and recycling system), as well as environmental impacts associated with the proposed Commercial Collection System Redesign project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed Commercial Collection System Redesign project is implemented.

The proposed project would change the process in which City of San José commercial solid waste, recyclables, and organics are collected and hauled to landfill, recycling/processing, and anaerobic digestion/composting facilities.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370).

The analysis in this Initial Study solely focuses on the proposed collection system. The project proposed and analyzed in this Initial Study does not include the receiving facilities and their associated processes. The receiving facilities (NISL, the Recyclery, GreenWaste MRF, ZWED AD Facility, and Z-Best Composting Facility) have the necessary approvals, permits, and CEQA clearance required to receive and/or process the materials anticipated to be collected via the proposed Commercial Collection System Redesign, or will need to have completed such processes prior to (approval of) being a receiving facility for the proposed Commercial Collection Redesign project.¹²

Since the project's impacts are to be measured against a baseline that consists of the existing physical conditions (i.e., operation of the existing commercial solid waste and recycling system), little or no physical impact will occur in many of the resource areas typically evaluated in an Initial Study. There is no development proposed as part of the project. **Section 3.1** of this document is a checklist of those resource areas that will not experience measurable impacts from the proposed project. For example, the project would not have measurable impacts on hazards and hazardous materials because the project does not change how hazardous materials are currently generated, stored, or disposed. It is against the law to dispose of hazardous materials (also referred to as universal waste) in garbage or recycling bins. Hazardous materials are disposed of by alternative means, such as through County of Santa Clara collection programs. The proposed project would not affect existing hazardous material collection programs.

The resource areas within which the proposed project may result in some impacts or changes were identified as air quality, greenhouse gas emissions, land use, noise, transportation, and utilities and service systems. Each of these resources areas are addressed separately and in greater detail in **Sections 3.2 – 3.8** of this Initial Study.

¹² The ZWED AD Facility is a proposed project currently on file with the City of San José (File No. SP09-057). The Initial Study for the ZWED AD Facility has been completed and circulated for public review. It is anticipated that the City Council will make a decision on ZWED AD Facility project in June 2011.

Basis of Impact Analysis

Currently, commercial solid waste, recyclables, and organics are collected by 22 franchised haulers and delivered to 22 landfill, recycling/processing, composting, and/or transfer facilities. Table 2 lists the existing franchised haulers and facilities that collect San José commercial solid waste, recyclables, and organics and receive it.

At the commencement of the environmental review process, the most recent year that City Environmental Services Department (ESD) Staff had complete information regarding existing franchises, tonnage of material collected, and existing receiving facilities (i.e., landfills, recycling/processing, and composting facilities) was July 2009 – June 2010. This 12 month period is used in this document to comprise the baseline conditions for the City's commercial waste collection and handling.

Between July 2009 and June 2010, approximately 193,300 tons of solid waste, 20,100 tons of recyclables (excluding construction and demolition debris and metals), and 34,300 tons of organics were generated from commercial uses in San José and collected by commercial franchisees.

The collection and processing of construction and demolition (C&D) debris and source separated materials that are sold or donated by the generator, such as metals, would continue to remain non-exclusive under the proposed Commercial Collection System Redesign. Therefore, the analysis in this Initial Study does not include analysis of C&D debris and metal collection and processing.

Table 2: Commercial Solid Waste, Recyclables, and Organics Collected in San José By Hauler and Receiving Landfill, Recycling/Processing, and Composting Facilities (July 2009 – June 2010)

Facility Name and Location	Materials Collected/Received: SW = Solid Waste, R = Recyclables, O = Organics											
	SW	SW	SW	SW	SW	SW	SW	SW	SW	SW	SW	SW
Danny's Recycling Center - 1745 Walsh Avenue, Santa Clara												
Del Toro Recycling - 2676 Ferguson Road, Gilroy												
Eagle Recycling - 2400 San Juan Hollister Road, Hollister												
GreenTeam MRF Direct Transfer Facility - 575 Charles Street, San José												
GreenWaste Recovery Facility* - 625 Charles Street, San José												
Guadalupe Sanitary Landfill - 15999 Guadalupe Mines Road, San José												
John Smith Road Class III Landfill - Hollister												
Kirby Canyon Facility - 910 Coyote Creek Golf Drive, Morgan Hill												
Mission Trails Transfer Station* - 1060 Richard Avenue, Santa Clara												
Monterey Regional Waste Management District - 14201 Del Monte Boulevard, Marina												
Newby Island Resource Recovery Park - 1601 Dixon Landing Road, San José												
Ox Mountain - 12310 Highway 92, Half Moon Bay												
Pacheco Pass - 3665 Pacheco Pass Highway, San Felipe												
Pacific Coast Recycling - 5895 Obata Way, Gilroy												
Premier Recycling Facility - 348 Phelan Avenue, San José												
Recycled Fibers - 388 East Alma Avenue, San José												
RH Wood/ETM - 6756 Central Avenue, Newark												
Smurfit-Stone - 205 East Alma Avenue, San José												
SRD Recycling Facility - 475 Seaport Boulevard, Redwood City												
Valley Recycling* - 1615B South Seventh Street, San José												
Zanker Material Processing Facility* - 675 Los Esteros Road, San José												
Zanker Road Class III Landfill - 705 Los Esteros Road, San José												

Table 2: Commercial Solid Waste, Recyclables, and Organics Collected in San José By Hauler and Receiving Landfill, Recycling/Processing, and Composting Facilities (July 2009 – June 2010)

Hauler Name and Location	Facility Name and Location	Materials Collected/Received: SW = Solid Waste, R = Recyclables, O = Organics
Qualified Trucking – 18145 Peet Road, Suite A, Morgan Hill Recology Silicon Valley – 1676 Rogers Avenue, San José Recycle West – 1060 Richard Avenue, Santa Clara San José Conservation Corps & Charter School – 1534 Berger Drive, San José The Flea Market, Inc. – 1590 Berryessa Road, San José Valley Recycling – 1615 South 7 th Street, San José	Danny's Recycling Center – 1745 Walsh Avenue, Santa Clara	O
	Del Toro Recycling – 2676 Ferguson Road, Gilroy	
	Eagle Recycling – 2400 San Juan Hollister Road, Hollister	R
	GreenTeam MRF Direct Transfer Facility – 575 Charles Street, San José	
	GreenWaste Recovery Facility* – 625 Charles Street, San José	SW, R, O
	Guadalupe Sanitary Landfill – 15999 Guadalupe Mines Road, San José	SW, O
	John Smith Road Class III Landfill – 2650 John Smith Road, Hollister	
	Kirby Canyon Facility – 910 Coyote Creek Golf Drive, Morgan Hill	SW, O
	Mission Trails Transfer Station* – 1060 Richard Avenue, Santa Clara	SW, O
	Monterey Regional Waste Management District – 14201 Del Monte Boulevard, Marina	
	Newby Island Resource Recovery Park – 1601 Dixon Landing Road, San José	SW
	Ox Mountain – 12310 Highway 92, Half Moon Bay	
	Pacheco Pass – 3665 Pacheco Pass Highway, San Felipe	
	Pacific Coast Recycling – 5895 Obata Way, Gilroy	
	Premier Recycling Facility – 348 Phelan Avenue, San José	
Recycled Fibers – 388 East Alma Avenue, San José	R	
RH Wood/ETM – 6756 Central Avenue, Newark		
Smurfit-Stone - 205 East Alma Avenue, San José	R	
SRDC Recycling Facility – 475 Seaport Boulevard, Redwood City		
Valley Recycling* – 1615B South Seventh Street, San José		
Zanker Material Processing Facility* – 675 Los Esteros Road, San José	O	
Zanker Road Class III Landfill – 705 Los Esteros Road, San José	O	

Note: *Solid waste delivered to Greenwaste Recovery Facility is transferred to Monterey Regional Waste Management District, solid waste delivered to Missions Trails Transfer Station is transferred to Forward Landfill (999 S. Austin Road, Manteca), solid waste delivered to Valley Recycling is transferred to Guadalupe Sanitary Landfill, and solid waste delivered to Zanker Material Processing Facility is delivered to Zanker Road Class III Landfill.

3.1 AREAS OF NO MEASURABLE IMPACT

Based on the proposed project description, the proposed Commercial Collection System Redesign project would have no perceptible impact for the following subject areas.

AESTHETICS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

AGRICULTURAL AND FOREST RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4

AGRICULTURAL AND FOREST RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4
4) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,4
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

CULTURAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

CULTURAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

GEOLOGY AND SOILS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

GEOLOGY AND SOILS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

MINERAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

POPULATION AND HOUSING						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

POPULATION AND HOUSING						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

PUBLIC SERVICES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
– Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
– Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
– Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
– Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
– Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

RECREATION						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

UTILITIES AND SERVICE SYSTEMS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

UTILITIES AND SERVICE SYSTEMS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	I
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<i>Please refer to Section 3.7 for a discussion of this impact.</i>					
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<i>Please refer to Section 3.7 for a discussion of this impact.</i>					

3.2 AIR QUALITY

The following discussion is based on an air quality analysis completed for the project by *Illingworth & Rodkin, Inc.* in May 2011. A copy of this report is included in Appendix A of this Initial Study.

3.2.1 Existing Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determinants of transport and dilution are wind, atmospheric stability, terrain, and, for photochemical pollutants, sunshine.

The Bay Area typically has moderate ventilation, frequent inversions that restrict vertical dilution, and terrain that restricts horizontal dilution. These factors give the Bay Area, and San José in particular, a relatively high atmospheric potential for pollution. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and state standards for particulate matter (PM₁₀ and PM_{2.5}). The area is considered attainment or unclassified for all other pollutants.

The current commercial collection system consists of 22 franchised haulers that collect commercial solid waste, recyclables, and organics in the City and deliver the materials to 22 different landfill, recycling/processing, composting, and transfer facilities (refer to Table 2). Air pollutant emissions from the commercial collection system are from the combustion of fossil fuel used by haul and transfer trucks (refer to Table 5).¹³ The estimated haul and transfer truck miles traveled, combined with air pollution emission factors for the trucks, were used to calculate the existing commercial collection system's daily air pollutant emissions. It was assumed all existing haul and transfer truck trips are fueled by diesel. Please refer to Appendix A of this Initial Study for additional details about the methodology and assumptions used in the calculation. The existing commercial collection system is estimated to emit 2.2 pounds of reactive organic gases (ROG), 33.1 pounds of nitrogen oxide (NO_x), and 0.8 pounds of PM₁₀ daily.

Average daily emissions of ROG and PM₁₀ exhaust from haul and transfer trucks are low because of the low ROG rates associated with diesel exhaust and the stringent emission standards that solid waste trucks are required to meet. There are also fairly stringent NO_x standards for solid waste trucks, therefore NO_x emissions are considered low (though not as low as ROG and PM₁₀ emissions). Refer to Appendix A for detail regarding air quality regulations for solid waste trucks.

¹³ Besides mobile sources, air pollutant emissions can come from stationary sources. Stationary sources, such as landfills, recycling/processing facilities, and composting facilities that receive commercial solid waste, recyclables, and organics under the existing and proposed commercial collection system already exist (with the exception of the ZWED AD Facility) and their operation will not change with the proposed project. The air pollutant emissions for the ZWED AD Facility have been analyzed in a separate environmental document (City of San José. Dry-Fermentation Anaerobic Digestion Facility Project. April 2011.) Air pollutant emissions associated with stationary sources (i.e., the receiving facilities) will remain constant under existing and project conditions. For these reasons, air pollutant emissions from stationary sources were not evaluated in this Initial Study.

3.2.1.1 Regulatory Overview

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Air quality standards are set by the federal government (the 1970 Clean Air Act and its subsequent amendments) and the state (California Clean Air Act of 1988 and its subsequent amendments). Regional air quality management districts such as BAAQMD must prepare air quality plans specifying how state standards would be met. BAAQMD’s most recently adopted Clean Air Plan (CAP) is the *2010 Clean Air Plan* (2010 CAP).

According to the adopted BAAQMD thresholds of significance, a project that generates 54 pounds per day of ROG or NO_x or 82 pounds per day of PM₁₀ would result in significant operational air quality impacts.

3.2.2 Environmental Checklist and Discussion of Impacts

AIR QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,5
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,5
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

The proposed project would change the process by which the commercial waste stream is collected (i.e., one hauler vs. 22 haulers) and processed (i.e., one facility for solid waste/recyclables and one facility for organics vs. 22 different facilities). In addition, Allied Waste proposes to use haul trucks fueled by compressed natural gas (CNG). Transfer trucks, however, would continue to be fueled by diesel. The estimated haul and transfer truck miles traveled (refer to Table 6), combined with air pollutant emission factors for the trucks, were used to calculate the project's daily air pollutant emissions. Please refer to Appendix A of this Initial Study for additional details about the methodology and assumptions used in the calculation. The project's air quality impact is based on the difference between air pollutant emissions of the existing collection system and the proposed collection system.

Each bin collection system has multiple haul scenarios given the options where the organics can be pre-processed and processed (refer to Section 2.4.1.2 for more detail). The project's emissions, therefore, are described within a range in Table 3. Depending on where the organics are pre-processed and processed, the project would result in an approximately 45 percent decrease to 18 percent increase in emissions of ROG, 12-77 percent decrease in emissions of NO_x, and 22 percent decrease to 43 percent increase in emissions of PM₁₀ compared to the emissions under the existing system.¹⁴ Please refer to Appendix A for the emissions for each haul scenario under the bin collection systems.

Although the vehicle miles traveled under project conditions could be greater compared to existing conditions (refer to Tables 5 and 6), air pollutant emissions would generally decrease, because most of the trucks under the proposed system would be fueled by CNG. CNG emission rates are generally lower than diesel emission rates.

As shown in Table 3, project's air pollutant emissions are below the BAAQMD CEQA thresholds of significance. The project, therefore, would not result in a significant air quality impact.

3.2.3 Conclusion

The proposed project would have a less than significant impact on air quality. **(Less Than Significant Impact)**

¹⁴ In general, the pre-processing of organics at the NIRRP results in the fewer miles traveled (which translates into fewer air pollutant emissions) compared to pre-processing the organics at the GreenWaste MRF. The processing of organics at the ZWED AD Facility or NISL in San José would result in the fewer miles traveled compared to processing the organics at the Z-Best Composting Facility in Gilroy.

Table 3: Existing and Project Emissions							
	Daily Emissions			Net Project Emissions (Proposed – Existing)			Project Emissions Exceed BAAQMD Thresholds?
	ROG	NO _x	PM ₁₀	ROG	NO _x	PM ₁₀	
	in pounds per day						
Existing Collection System	2.2	33.1	0.77				
Proposed Collection System							
• Two-Container System	1.2 to 2.5	7.7 to 28.6	0.61 to 1.09	-1.0 to 0.4	-25.4 to -4.5	-0.16 to 0.32	No
• One-Bin Plus System	1.2 to 2.6	7.7 to 29.1	0.60 to 1.10	-1.0 to 0.4	-25.4 to -4.0	-0.17 to 0.33	No
	<i>BAAQMD Thresholds of Significance</i>			54	54	82	
<p>Note: Each bin collection system has multiple haul scenarios given the options where the organics can be pre-processed and processed (refer to Section 2.4.1.2 for more detail). Therefore, the project emissions are described within a range in this table. The emissions for each haul scenario under the bin collection systems is provided in Appendix A of this Initial Study.</p>							

3.3 GREENHOUSE GAS EMISSIONS

The following discussion is based on an air quality analysis completed for the project by *Illingworth & Rodkin, Inc.* in April 2011. A copy of this report is included in Appendix A of this Initial Study.

3.3.1 Existing Setting

3.3.1.1 *Regulatory Overview*

This section provides a general discussion of global climate change and focuses on emissions from human activities that alter the chemical composition of the atmosphere. The discussion on global climate change and greenhouse gas emissions is based upon the California Global Warming Solutions Act of 2006 [Assembly Bill (AB) 32], the 2006 and 2009 Climate Action Team (CAT) reports to Governor Schwarzenegger and the Legislature, and research, information and analysis completed by the International Panel on Climate Change (IPCC), the United States Environmental Protection Agency (EPA), California Air Resources Board (CARB), and the CAT.

Global climate change refers to changes in weather including temperatures, precipitation, and wind patterns. Global temperatures are modulated by naturally occurring and anthropogenic (generated by mankind) atmospheric gases such as carbon dioxide, methane, and nitrous oxide.¹⁵ These gases allow sunlight into the Earth's atmosphere but prevent heat from radiating back out into outer space and escaping from the earth's atmosphere, thus altering the Earth's energy balance. This phenomenon is known as the greenhouse effect.

Naturally occurring greenhouse gases include water vapor,¹⁶ carbon dioxide, methane, nitrous oxide, and ozone. Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but are for the most part solely a product of industrial activities.

Agencies at the international, national, state, and local levels are considering strategies to control emissions of gases that contribute to global warming. There is no comprehensive strategy that is being implemented on a global scale that addresses climate change; however, in California a multi-agency "Climate Action Team," has identified a range of strategies and the Air Resources Board, under AB 32, has approved the *Climate Change Scoping Plan*. The *Scoping Plan* includes a mandatory commercial recycling measure designed to achieve a reduction of five million metric tons of carbon dioxide equivalents (CO₂e). AB 32 requires achievement by 2020 of a statewide greenhouse gas emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions. The ARB and other state agencies are currently working on regulations and other initiatives to implement the *Scoping Plan*. By 2050, the state plans to reduce emissions to 80 percent below 1990 levels.

¹⁵ IPCC, 2007: Summary for Policymakers. In: *Climate Change 2007: The Physical Science Bases*. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor, and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: <http://ipcc.ch/>.

¹⁶ Concentrations of water are highly variable in the atmosphere over time, with water occurring as vapor, cloud droplets and ice crystals. Changes in its concentration are also considered to be a result of climate feedbacks rather than a direct result of industrialization or other human activities. For this reason, water vapor is not discussed further as a greenhouse gas.

BAAQMD Air Quality CEQA Thresholds of Significance

According to the BAAQMD, if a project would result in operational-related greenhouse gas emissions of 1,100 metric tons of carbon dioxide equivalents (CO₂e) a year, it would make a cumulatively considerable contribution to greenhouse gas emissions and result in a cumulatively significant impact to global climate change.

3.3.1.2 Existing GHG Emissions

The current commercial collection system consists of 22 franchised haulers that collect commercial solid waste, recyclables, and organics in the City and deliver the materials to 22 different landfill, recycling/processing, composting, and transfer facilities (refer to Table 2). Greenhouse gas (GHG) emissions from the commercial collection system are from the combustion of fossil fuels by haul and transfer trucks.¹⁷ It is assumed all haul and transfer trucks are fueled by diesel. The estimated haul and transfer truck miles traveled (refer to Table 5), combined with emission factors for the trucks, were used to calculate the existing commercial collection system’s annual GHG emissions. Please refer to Appendix A of this Initial Study for additional details about the methodology and assumptions used in the calculation. The existing commercial collection system is estimated to generate approximately 1,693 metric tons of CO₂e annually.

3.3.2 Environmental Checklist and Discussion of Impacts

GREENHOUSE GAS EMISSIONS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

¹⁷ Besides mobile sources, greenhouse gas emissions can come from stationary sources. Stationary sources, such as landfills, recycling/processing facilities, and composting facilities that receive commercial solid waste, recyclables, and organics under the existing and proposed commercial collection system already exist (with the exception of the ZWED AD Facility) and their operation will not change with the proposed project. The greenhouse gas emissions for the ZWED AD Facility have been analyzed in a separate environmental document (City of San José. Dry-Fermentation Anaerobic Digestion Facility Project. April 2011.) Greenhouse gas emissions associated with stationary sources (i.e., the receiving facilities) will remain constant under existing and project conditions. For these reasons, greenhouse gas emissions from stationary sources were not evaluated in this Initial Study.

The proposed project would change the process by which the commercial waste stream is collected (i.e., one hauler vs. 22 haulers) and processed (i.e., one facility for solid waste/recyclables and one facility for organics vs. 22 different facilities). In addition, Allied Waste proposes to use haul trucks fueled by compressed natural gas (CNG). Transfer trucks, however, would continue to be fueled by diesel fuel. The estimated haul and transfer truck miles traveled (refer to Table 6), combined with air pollutant emission factors for the trucks, were used to calculate the project’s annual GHG emissions. Please refer to Appendix A of this Initial Study for additional details about the methodology and assumptions used in the calculation. The project’s GHG impact is based on the difference between the GHG emissions under the existing system and the GHG emissions under the proposed system. The project’s GHG emissions are summarized in Table 4.

Each bin collection system has multiple haul scenarios given the options where the organics can be pre-processed and processed (refer to Section 2.4.1.2 for more detail). The project’s GHG emissions, therefore, are described within a range in Table 4. Depending on where the organics are pre-processed and processed, the project would result in up to a 33 percent decrease (560 tons) or up to a 32 percent increase (534 tons) of GHG emissions per year compared to the existing system.¹⁸

In general, the bin collection system and organics pre-processing and processing facility scenarios that result in an increase in vehicle miles traveled compared to the existing vehicle miles traveled (refer to Tables 5 and 6, and Appendix A) would result in an increase in GHG emissions. However, some of that increase is offset by the lower overall emissions resulting from the use of CNG haul trucks. CNG trucks are estimated to have emissions that are about 25 percent lower than diesel trucks. Please refer to Appendix A for the GHG emissions for each haul scenario under the bin collection systems.

As shown in Table 4, project’s GHG emissions (see Net Project Emissions column) are below the BAAQMD CEQA thresholds of significance. The project, therefore, would not result in a significant greenhouse gas emissions impact.

	Annual GHG Emissions	Net Project Emissions (Proposed – Existing)	Project Emissions Exceed BAAQMD Thresholds?
	(in metric tons of CO ₂ e)		
Existing Collection System	1,693		
Proposed Collection System			
• Two-Container System	1,136 to 2,202	-557 to 509	No
• One-Bin Plus System	1,133 to 2,227	-560 to 534	No
	<i>BAAQMD Threshold</i>		<i>1,100</i>
Note: Each bin collection system has multiple haul scenarios given the options where the organics can be pre-processed and processed (refer to Section 2.4.1.2 for more detail). Therefore, the project’s GHG emissions are described within a range in this table. The GHG emissions for each haul scenario under the bin collection systems is provided in Appendix A of this Initial Study.			

¹⁸ In general, the pre-processing of organics at the NIRRP results in the fewer miles traveled (which translates into fewer GHG emissions) compared to pre-processing the organics at the GreenWaste MRF. The processing of organics at the ZWED AD Facility or NISL in San José would result in the fewer miles traveled compared to processing the organics at the Z-Best Composting Facility in Gilroy.

3.3.3 Conclusion

Implementation of the proposed project would not result in a significant greenhouse gas emissions impact. **(Less Than Significant Impact)**

3.4 LAND USE

3.4.1 Existing Setting

Currently, the City of San José has approximately 8,000 reported commercial businesses that receive solid waste collection services and approximately 3,800 reported commercial businesses that receive recycling collection services from the franchised haulers. These figures do not include businesses that do not use a franchised hauler because of other collection arrangements, including company-owned vehicles hauling the material to a disposal facility, central distribution facility, or recycling center.

Solid waste, recyclables, and organics from commercial businesses collected under the existing franchise system are hauled to existing, permitted disposal and processing facilities (refer to Table 2). The existing commercial diversion rate is approximately 22 percent.

3.4.2 Environmental Checklist and Discussion of Impacts

LAND USE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Under the proposed project, commercial solid waste, recyclables, and organics would continue to be collected, processed, and disposed. The ongoing physical collection of commercial solid waste, recyclables, and organics would not result in land use impacts.

As discussed previously, the City has three policies that include goals for increased solid waste diversion and increased use of alternative fuels: the Urban Environmental Accords (specifically Action 4), Zero Waste Policy, and Green Vision. The proposed Commercial Collection System Redesign project would increase the commercial diversion rate from approximately 22 percent to at least 75 percent. In addition, the proposed haul trucks would all be fueled by an alternative fuel, compressed natural gas. For these reasons, the project would be consistent with the City’s policies to increase solid waste diversion and increase alternative fuel use.

Under the proposed collection system, commercial waste would be separated or combined in one to two containers for collection, depending on the commercial businesses' needs and the collection bin system the City Council ultimately approves. The size of the collection bins would be tailored to the needs of the commercial business. It is anticipated that the new collection bins would be accommodated within the commercial businesses' existing trash enclosures. The proposed collection system, either with a Two-Container or One-Bin Plus system, would not result in any substantial physical changes related to the size of bin storage areas or frequency of collection that would result in an environmental impact related to land use.

The project does not propose any new physical development¹⁹ and therefore, would not physically divide an established community. The project does not conflict with an applicable habitat conservation plan or natural community conservation plan.

3.4.3 Conclusion

Implementation of the proposed project would not result in significant land use impacts. **(No Impact)**

¹⁹ All receiving facilities, except ZWED AD Facility, can currently accommodate the Commercial Collection System Redesign project. The ZWED AD Facility was recently approved by the City Council and will be developed and operating by July 1, 2012 (which is date of commencement for the Commercial Collection System Redesign).

3.5 NOISE

3.5.1 Existing Setting

Several factors influence sound as it is perceived by the human ear, including the actual level of sound, the period of exposure to the sound, the frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a “decibel” scale which serves as an index of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the “A-weighted” decibel or dBA. Further, sound is averaged over time and penalties are added to the average for noise that is generated during times that may be more disturbing to sensitive uses such as early morning, or late evening.

Since excessive noise levels can adversely affect human activities (such as conversation and sleeping) and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. The noise guidelines are almost always expressed using one of several noise averaging methods, such as L_{eq} , DNL, or CNEL.²⁰ Using one of these descriptors is a way for a location’s overall noise exposure to be measured, realizing of course that there are specific moments when noise levels are higher (e.g., when a jet is taking off from the Airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on a freeway or in the middle of the night).

3.5.2 Environmental Checklist and Discussion of Impacts

NOISE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project result in:						
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

²⁰ L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time such as the noisiest hour. DNL stands for Day-Night Level and is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. As a general rule of thumb where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq} .

NOISE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project result in:						
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

A human-perceptible increase in ambient noise level is three dBA. Typically, if a project would cause ambient noise levels to increase by three or more dBA at noise-sensitive receptors, the impact is considered significant. For roadway traffic noise to increase by three or more dBA, traffic trips would need to double on the roadway.

Under the proposed commercial collection system redesign, one hauler (Allied Waste) would collect all of the commercial solid waste, recyclables, and organics in the City. As discussed in Section 3.6 **Transportation**, the proposed commercial collection system could generate up to approximately 56 more daily truck trips than the existing system.²¹ The increase of 56 daily truck trips Citywide would not double traffic on roadways in the City. The project, therefore, would not cause roadway noise to increase by three or more dBA. In addition, the crossing of paths of multiple haulers that can occur under existing conditions would not occur under the proposed project and therefore, the number of truck trips and truck noise in most commercial areas of the City should decrease.

In addition, CNG fueled haul trucks (which would be used under the proposed project) are quieter than diesel fueled haul trucks (which are primarily used under the existing system).

The project would not result in a temporary or periodic increase in ambient noise levels, or expose people residing or working in the project area to excessive noise levels. For these reasons, the proposed project would have a less than significant impact on noise.

²¹ Under either bin collection system, if organics are pre-processed at NIRRP and processed at NISL, the number of truck trips would be less than the existing system. Other project haul scenarios would result in approximately 23 – 56 more daily truck trips than the existing system. Refer to Appendix B for the number of truck trips and miles traveled by the trucks for each haul scenario.

3.5.3 Conclusion

Implementation of the proposed project would not result in significant noise impacts. **(Less Than Significant Impact)**

3.6 TRANSPORTATION

3.6.1 Existing Setting

The current commercial collection system consists of 22 franchised haulers that collect commercial solid waste, recyclables, and organics in the City and deliver the materials to 22 different landfill, recycling/processing, composting, and transfer facilities (refer to Table 2).

In general, haulers leave the corporation yard and collect materials on their assigned route. Once the haul truck is at or near capacity, or the driver has completed the assigned route, the materials are delivered to the contracted facility. If the haul truck reaches capacity and the driver has not yet completed the route, the driver will deliver the materials to the appropriate receiving facility and return to complete the route. When the driver has completed the route and delivered the materials to the contracted facility, the driver returns to the corporation yard.

3.6.1.1 *Number of Truck Trips and Miles Traveled Under Existing Conditions*

While the City has collected hauler data for several years and has a good understanding of the commercial waste collection process, the City does not know the exact number of haul truck trips, the specific haul routes for each hauler, or the total mileage traveled under existing conditions to collect solid waste, recyclables, and organics from commercial businesses in the City. The City does have the following data:

- existing franchised haulers and the location of their corporation yards,
- location of the facilities to which each hauler delivers the materials
- approximate capacity of each haul truck (approximately 10 tons per truck of solid waste and organics, and approximately 7.5 tons per truck of recyclables), and
- total tonnage of commercial solid waste, recyclables, and organics collected under the existing system in a recent one year period (July 2009 through June 2010).

The following text describes how the haul truck trips, haul route, and mileage traveled were calculated.

The total number of truck trips by existing franchisees was estimated by dividing the tonnage of each collected material (solid waste, recyclables, organics) by the assumed capacity of the collection/haul vehicle.²²

To estimate the total vehicle miles traveled by the franchised haulers under the existing commercial collection system, a centroid was established to represent a single, central collection location within the City's urban service area. This centroid is located at the intersection of Monterey Road and Alma Avenue. It is assumed that a haul truck trip would originate at the hauler's corporation yard, travel to the centroid, then to the hauler's contracted facility, and return to the hauler's corporation yard (corporation yards and receiving facilities are noted in Table 2). If the contracted facility is a transfer station, the material would be loaded into a transfer vehicle (approximately 22 tons capacity) and

²² While it is acknowledged that not every truck will be loaded to capacity, using the tonnage capacity per truck to estimate trips is reasonable and provides a consistent method that can be used in making comparisons to the proposed project.

hailed to the receiving facility. Figure 6 illustrates the assumed haul and transfer truck routing under the existing system.

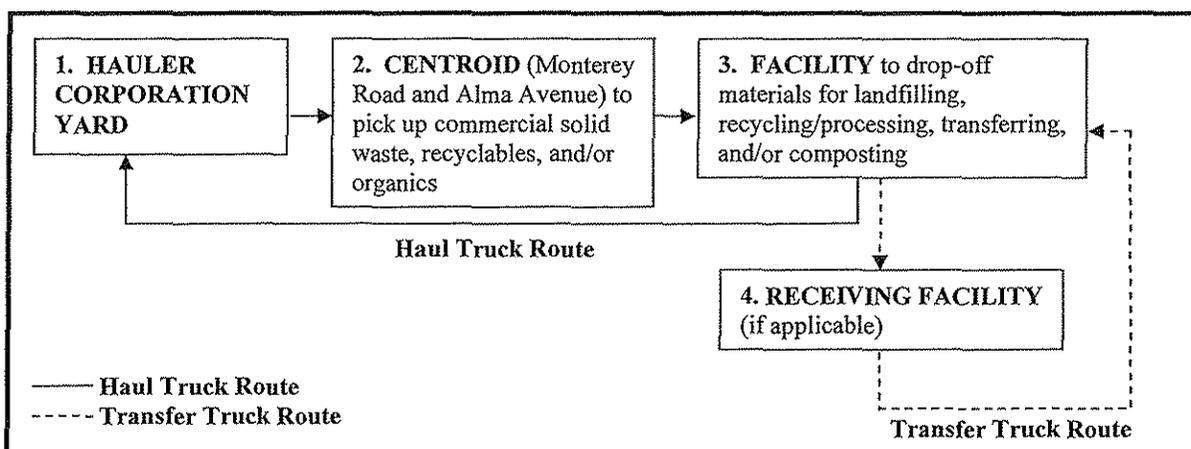


Figure 6: Assumed Truck Routes Under the Existing System

Using the above-described methodology, and the hauler corporation yard and receiving facilities noted in Table 2, it is estimated that the existing commercial collection system generates approximately 26,400 truck trips that traveled a total of approximately 817,500 miles a year. It is estimated that approximately 20,300 truck trips a year were generated collecting solid waste (total of approximately 616,100 miles traveled), 2,700 truck trips a year were generated collecting recyclables (total of approximately 92,000 miles traveled), and 3,400 truck trips a year were generated collecting organics (total of approximately 109,400 miles traveled) (refer to Table 5).

Table 5: Tons of Material Collected, Number of Haul Truck Trips, and Miles Traveled by Haul Trucks Under Existing Conditions

Material Collected Via the Existing Commercial Collection System	Approximate Tons of Material Collected (July 2009-June 2010)	Estimated	
		Number of Haul and Transfer Truck Trips	Miles Traveled by Haul and Transfer Trucks
Solid Waste	193,300	20,300	616,100
Recyclables	20,100	2,700	92,000
Organics	34,300	3,400	109,400
TOTAL	247,700	26,400	817,500

3.6.2 Environmental Checklist and Discussion of Impacts

TRANSPORTATION/TRAFFIC						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Currently, 22 franchised haulers collect commercial solid waste, recyclables, and organics in San José and deliver the material to 22 landfill, recycling, and composting facilities (refer to Table 2). An assessment of the City's existing non-exclusive commercial collection system found that because there are multiple haulers operating in the City collection vehicles from different hauling companies cross each other's paths each day to service customers on the same streets.²³ The assessment found that inefficient routing lead to more truck time on streets.

Under the proposed system, only one franchised hauler (Allied Waste) would collect commercial solid waste, recyclables, and organics in San José. Allied Waste would collect solid waste and recyclables from commercial businesses and haul the material to the NIRRP for landfilling and/or processing. Allied Waste would collect organics from commercial businesses and haul the organic material to the NIRRP (or GreenWaste MRF) for pre-processing. After pre-processing, the organics would be transferred from the NIRRP (or GreenWaste MRF) to the ZWED AD Facility, Z-Best Composting Facility, or NISL for processing (e.g., anaerobic digestion and/or composting).

3.6.2.1 *Number of Truck Trips and Miles Traveled under Project Conditions*

The proposed project focuses on a change in the process by which commercial waste is collected (i.e., one hauler vs. 22 haulers) and processed (one facility for solid waste/recyclables and one facility for organics), with increased diversion and other enhancements. In order to provide an accurate comparison to evaluate the proposed process change, the same methodology used to calculate existing conditions haul truck trips and miles traveled was used to calculate project conditions haul truck trips and miles traveled. The same centroid used to estimate the existing haul truck route was used to estimate the haul truck trip route under the proposed project. The centroid, therefore, is a constant in the calculations rather than a variable.

Haul and Transfer Truck Routing

Two-Container Collection System

Under the Two-Container Collection System, one haul truck would pick up the dry material at a business and another haul truck would pick up the wet material. The total vehicle miles traveled under this system was estimated by assuming all haul trucks would originate at the corporation yard at NIRRP located at 1601 Dixon Landing Road in San José and travel to the centroid located at the intersection of Monterey Road and Alma Avenue. Haul trucks that pick up dry material would then return to NIRRP to drop off the dry material for landfilling and recycling and end at the corporation yard at NIRRP. Haul trucks that pick up wet material would travel to NIRRP or GreenWaste MRF located at 625 Charles Street in San José to drop off the organics for pre-processing, then return to the corporation yard at NIRRP. After the organics are pre-processed, the organics would be loaded into a transfer truck and hauled to the ZWED AD Facility located at 2100 Los Esteros Road in San José, Z-Best Composting Facility located at 980 State Highway 25 in Gilroy, or NISL for processing.²⁴ After dropping off the pre-processed organics, the transfer truck would return to its origin (either NIRRP or GreenWaste MRF).

²³ HF&H Consultants, LLC. The City of San José Commercial Redesign White Paper, Current System Performance and Alternative System Arrangements. November 14, 2008. Page 19.

²⁴ It is assumed that if organics are processed at NISL, they would be pre-processed at NIRRP.

One-Bin Plus Collection System

Under the One-Bin Plus Collection System, one haul truck would pick up the “One-Bin” and another haul truck would pick up the “Plus” bin. The total vehicle miles traveled under this system was estimated by assuming all haul trucks would originate at the corporation yard at NIRRP located at 1601 Dixon Landing Road in San José and travel to the centroid located at the intersection of Monterey Road and Alma Avenue. Haul trucks that pick up the One-Bin would then return to NIRRP to drop off the material for landfilling and recycling and end at the corporation yard at NIRRP. Haul trucks that pick up the Plus bin would travel to NIRRP or GreenWaste MRF to drop off the organics for pre-processing then return to the corporation yard at NIRRP. After the organics are pre-processed, the organics would be loaded into transfer trucks and hauled to the ZWED AD Facility, Z-Best Composting Facility, or NISL for processing.²⁵ After dropping off the pre-processed organics, the transfer truck would return to its origin (either NIRRP or GreenWaste MRF).

Number of Truck Trips and Miles Traveled

While the amount of commercial solid waste, recyclables, and organics would likely increase incrementally between existing conditions (collected data for July 2009 – June 2010) and project implementation (July 1, 2012), it would be similar; therefore, the total tons of materials collected in July 2009 – June 2010 was also assumed under project conditions. Since an objective of the project is to increase diversion to a minimum 75 percent diversion, this diversion rate was used to calculate the percentages of solid waste, recyclables, and organics that comprise the total tonnage.²⁶

Based upon the above assumptions, it is estimated that the proposed system, depending on the bin collection system selected and where the organics would be pre-processed and processed, would generate approximately 28,300 – 41,500 truck trips and the trucks would travel approximately 734,800 – 1,261,900 miles per year (refer to Table 6).

Collection System	Number of Haul and Transfer Truck Trips	Miles Traveled by Haul and Transfer Trucks
2-Container	28,300 – 41,100	734,800 – 1,250,200
One-Bin Plus	28,200 – 41,500	732,800 – 1,261,900

Notes: Each bin collection system has multiple haul scenarios given the options where the organics can be pre-processed and processed (refer to Section 2.4.1.2 for more detail). Therefore, the number of truck trips and miles traveled are described within a range in this table. In general, the pre-processing of organics at the NIRRP results in the fewer miles traveled compared to pre-processing the organics at the GreenWaste MRF. The processing of organics at the ZWED AD Facility or NISL in San José would result in the fewer miles traveled compared to processing the organics at the Z-Best Composting Facility in Gilroy. The number of truck trips and miles traveled by the trucks for each haul scenario under the bin collection systems is provided in Appendix B of this Initial Study.

²⁵ It is assumed that if organics are processed at NISL, they would be pre-processed at NIRRP.

²⁶ The breakdown of commercial solid waste, recyclables, and organics tonnage for under the proposed system was derived from Allied Waste’s proposal.

The proposed system would result in up to 15,100 more truck trips annually, which equates to 56 more haul trips per day Citywide, than the existing system. Note that if the organics are pre-processed at the NIRRP and processed at either the ZWED AD Facility or NISL, the project would result in 35,500 – 84,700 fewer miles traveled than the existing system. Please refer to Appendix B for the number of truck trips and miles traveled by the truck for each haul scenario under the bin collection systems.



As discussed in **Section 2.4 Project Description**, over time, it is anticipated that organic loads will not need to be pre-processed. If pre-processing is not required, collected organics would be hauled directly to the processing facility.²⁷ Therefore, the estimated number of truck trips and miles traveled under project conditions (Table 6 above) could be up to nine percent less and the impacts would be less than described above.²⁸

3.6.2.2 *Other Transportation Impacts*

The proposed system would not result in a change in air traffic patterns, hazards due to design features or incompatible land uses, inadequate emergency service, inadequate parking capacity, or conflict with adopted policies, plans, or programs supporting alternative transportation.

3.6.3 Conclusion

The proposed project would not result in significant transportation impacts. (**Less Than Significant Impact**)

²⁷ If the organics are to be processed at the ZWED AD Facility or NISL, they would be hauled directly there. If the organics are to be processed at the Z-Best Composting Facility, it is assumed that the organics would be hauled to Zanker Landfill first, then loaded into transfer trucks and hauled to Z-Best Composting Facility.

²⁸ If pre-processing is not required, the reductions in truck miles traveled are for haul scenarios assuming pre-processing at the GreenWaste MRF only.

3.7 UTILITIES AND SERVICE SYSTEMS

3.7.1 Existing Setting

According to the operator of NISL, as of December 31, 2007, the landfill has approximately 10.7 million cubic yards of capacity remaining.²⁹ The City of San José has a contract with Newby Island for 320,000 tons of residential and commercial solid waste per year through December 31, 2020, with a provision for the City to extend the contract as long as capacity exists.

In recent years, the City has generated approximately 200,000 tons of residential solid waste per year and 85,000 tons of commercial solid waste a year that is landfilled at Newby Island. Residential and commercial disposal tonnage is expected to decrease as new pilot programs and zero waste strategies are implemented.

3.7.2 Environmental Checklist and Discussion of Impacts

UTILITIES AND SERVICE SYSTEMS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

It is anticipated that, with the implementation of the Commercial Collection System Redesign project, approximately 52,500 tons of commercial solid waste would need to be landfilled per year.

Given Newby Island Landfill's existing capacity, the City's contract with NISL, the existing amount of waste the City disposes at the landfill, and the estimated amount of commercial solid waste that would need to be landfilled at NISL under the proposed project, there is sufficient capacity within the City's contract with NISL to serve the proposed Commercial Collection System Redesign project.

Note that an application is on file (file no. PDC07-071) at the City for a height expansion at Newby Island Sanitary Landfill, which would add approximately 15 million cubic yards to the capacity of the landfill.

The receiving, pre-processing, and processing facilities (i.e., NIRRP, GreenWaste MRF, ZWED AD Facility, Z-Best Composting Facility) are required to comply with federal, state, and local statutes and regulations related to solid waste.

²⁹ Allied Waste Services of North America, LLC. Personal communications. April 2008.

Based on the above discussion, the project would not result in significant impacts to utilities and service systems.

3.7.3 Conclusion

The project would not result in a significant utilities and service systems impact. (**Less Than Significant Impact**)

3.8 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, pgs. 11-47
2) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, pgs. 11-47
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, pgs. 11-47

As discussed in the respective sections, implementation of the proposed project would have a less than significant impact on the environment. Therefore, the proposed project would not result in significant unavoidable impacts, impacts that are cumulatively considerable (i.e., air quality and greenhouse gas emissions), or cause substantial adverse effects on human beings either directly or indirectly.

Checklist Sources

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the project service area and surrounding conditions.
2. City of San José. Focus on the Future San José 2020 General Plan. Amended through December 1, 2009.
3. California Department of Conservation. Santa Clara County Important Farmland 2008. Map. July 2009.
4. City of San José. Zoning Ordinance. Amended through December 10, 2010.
5. Illingworth & Rodkin, Inc. Commercial Collection Redesign Air Quality Analysis San José, California. May 2011.

SECTION 4.0 REFERENCES

- Allied Waste Services of North America, LLC. Personal communications. April 2008.
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- Cascadia Consulting Group, Inc. City of San José Waste Characterization Study, Final Report – Draft. May 2008.
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- Gambelin, Don. Personal communications with Allied Waste Director, Infrastructure Development. May 22, 2009.
- HF&H Consultants, LLC. The City of San José Commercial Redesign White Paper, Current System Performance and Alternative System Arrangements. November 14, 2008.
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- IPCC, 2007. Summary for Policymakers. In: *Climate Change 2007: The Physical Science Bases*. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor, and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: <http://ipcc.ch/>
- R3 Consulting Group, Inc. Needs Assessment for the Integrated Waste Management Zero Waste Strategic Plan Development. November 3, 2008.

SECTION 5.0 LEAD AGENCY AND CONSULTANTS

5.1 LEAD AGENCY

City of San José

Planning, Building, and Code Enforcement Department

Joseph Horwedal, Director

John Davidson, Senior Planner

5.2 CONSULTANTS

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Environmental Consultants and Planners

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Stephanie Francis, Graphic Artist

Illingworth & Rodkin, Inc.

Air Quality Consultants

James Reyff, Senior Consultant

Appendix A

Air Quality and Greenhouse Gas Analysis

**COMMERCIAL COLLECTION
REDESIGN AIR QUALITY ANALYSIS
SAN JOSÉ, CALIFORNIA**

*April 22, 2011
Revised May 20, 2011*



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Job No.: 11-047

Introduction

This report presents the results of an environmental air quality emissions analysis associated with proposed changes to commercial waste collection in San José. Proposed changes to commercial waste collection are described below. While the proposed project is not anticipated to result in localized impacts, there could be emissions changes that could effect regional air quality or result in increased emissions of greenhouse gases. Therefore, this analysis computes changes in air pollutant and greenhouse gases. Changes in emissions of ozone precursor pollutants (i.e., reactive organic gases [ROG] and nitrogen oxides [NO_x]), particulate matter exhaust (PM₁₀ and PM_{2.5}), and greenhouse gases (GHG) were computed as a result of proposed changes and alternatives or options.

Regulatory Overview

CEQA Air Quality Guidelines prepared by BAAQMD are used to establish the significance criteria to judge the impacts caused by the project¹. The recently adopted BAAQMD CEQA Air Quality Thresholds for projects were used to evaluate air quality impacts from the project². The following are the significance criteria that are used to judge project impacts:

- A cumulatively considerable net increase of any criteria pollutant or a precursor to that pollutant for which the project region is non-attainment under an applicable national or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors). This is judged by comparing direct and indirect project emissions to the BAAQMD significance thresholds of 54 pounds per day for ROG, NO_x, or PM_{2.5}, and 82 pounds per day for PM₁₀. Annual significance thresholds are 10 tons per year for ROG, NO_x, or PM_{2.5}, and 15 tons per year for PM₁₀. *Changes to emissions associated with the proposed project are computed and compared against these thresholds.*
- A substantial contribution to an existing or projected violation of an ambient air quality standard would result if the project would cause an exceedance of an ambient air quality standard. *Changes to emissions associated with the proposed project are computed and compared against these thresholds. The proposed project would not affect local air quality, so localized violations of ambient air quality standards (i.e., carbon monoxide) are not anticipated.*
- Expose sensitive receptors or the general public to substantial pollutant concentrations. This is evaluated by assessing the health risk in terms of cancer risk or hazards posed by the placement of new sources of air pollutant emissions near existing sensitive receptors or placement of new sensitive receptors near existing sources. *The proposed project would not affect local air quality, so no impact under this criteria is anticipated.*
- Create or expose a substantial number of people to objectionable odors. This is evaluated based on the potential for the project to generate odors that could affect nearby sensitive receptors in a manner that would cause frequent complaints. The project is not anticipated to be a source of objectionable odors that would affect sensitive receptors. *The proposed project would not affect local air quality, so no impact under this criterion is anticipated.*
- Conflict with or obstruct implementation of the applicable air quality plan. *The proposed project would not interfere with projections used in the latest Clean Air Plan or the prescribed control measures.*
- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. *Changes to emissions associated with the proposed project are computed and compared against these thresholds.*
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. *The City does not have an applicable plan, therefore, the proposed project would not have an impact.*

¹ BAAQMD. 2010. California Environmental Quality Act, Air Quality Guidelines. June.

² The BAAQMD thresholds of significance were adopted June 2, 2010.

Emission associated with the proposed project would come from changes in operations of trucks hauling commercial waste in San José. In 2003, the California Air Resources Board (CARB) adopted California's solid waste collection vehicle rule intended to reduce the harmful health impacts of exhaust from diesel-fueled waste collection trucks. The solid waste collection vehicle regulation (SWCV) reduces particulate matter and smog-forming nitrogen oxide emissions from these trucks, by requiring fleet owners to use CARB verified control technology that best reduces emissions. The rule includes a phased-in schedule from 2004 through 2010. The deadline for 100-percent compliance was December 31, 2010; therefore, SWCVs used to collect commercial waste are assumed to be fully compliant with this regulation. New diesel trucks sold starting in 2007 meet requirements of the SWCV rule. In addition, SWCVs powered by compressed natural gas (CNG) also meet the rule.

Project Description

Existing Commercial Collection System

Currently, the City of San José has a non-exclusive commercial collection system with over 20 hauling companies collecting solid waste, recyclables, and organic from commercial customers. All haulers are required to obtain a Commercial Solid Waste and Recyclables Collection Franchise agreement granted by the City Council that allows them to provide hauling services on a “non-exclusive” basis. This non-exclusive collection system allows commercial businesses to choose the hauler that offers the rates and services that meets their needs. The current system does not require franchisees to divert commercial waste from the landfill. The commercial diversion rate between July 2009 and June 2010 was approximately 22 percent. The existing commercial franchise hauling agreements expire on June 30, 2012.

Proposed Commercial Collection System Redesign

Under the proposed Commercial Collection System Redesign, one franchised hauler – Allied Waste of Santa Clara County (Allied Waste) – would have an exclusive contract to collect commercial solid waste, recyclables, and organics generated in San José. Allied Waste would haul commercial solid waste and recyclables to Newby Island Resource Recovery Park (NIRRP) at 1601 Dixon Landing Road, San José. NIRRP consists of Newby Island Sanitary Landfill (NISL) and the BFI Recyclery (the Recyclery). Allied Waste would haul collected organics from commercial businesses to either NIRRP or GreenWaste Materials Recovery Facility (MRF) at 625 Charles Street, San José for pre-processing. After the organics are pre-processed, the organics would be processed at one of three facilities: a) the Zero Waste Energy Development Company (ZWED) Anaerobic Digestion (AD) Facility at 2100 Los Esteros Road, Alviso for anaerobic digestion and composting; b) Z-Best Composting Facility located at 980 State Highway 25, Gilroy for composting; or c) NISL for composting.

It is assumed that the full implementation of the proposed Commercial Collection System Redesign would result in a minimum of 75 percent diversion. Allied Waste would collect the material in front and side load haul trucks that would be fueled by compressed natural gas.

Bin Collection System

Under the proposed system, commercial solid waste, recyclables, and organics would be collected in one of the two systems: 1) Two-Container System (i.e., wet/dry collection system) or 2) One-Bin Plus System. The type of collection system would affect the number of haul trips and distances, since sorting may not be required at a centralized facility.

1. Under the Two-Container System, commercial businesses would have one or two collection bins. Businesses that sell or process food would have two collection bins: one bin for “wet” materials and a second bin for “dry” materials.
2. Under the One-Bin Plus System, most commercial businesses would have one collection bin where solid waste, recyclables, and small amounts of organics would be placed in. The commercial businesses would collect their solid waste, recyclables, and small amounts of organics in clear plastic bags. The janitors at the commercial businesses would then collect the plastic bags and place all of them in a single bin (the One-Bin) for collection. If the commercial business generates large quantities of organics (such as a grocery store or florist), the organics would be collected separated in another bin (the Plus).

Study Methodology

This analysis computes the expected changes in emissions resulting from changes in haul truck travel. The first step of the analysis involves computing the change in haul truck traveled, which is computed in terms of vehicles miles traveled (VMT). The VMT for existing conditions and project conditions were computed, including changes associated with the two different Bin Collection options.

Haul Truck Trip and VMT Estimates

Existing Conditions – (i.e., July 2009 – June 2010)

While the City has collected hauler data for several years and has a good understanding of the commercial waste collection process, the City does not know the exact number of haul truck trips, the specific haul routes for each hauler, or the total mileage traveled under existing conditions to collect materials from commercial businesses in the City. The City does have the following data:

- existing operating haulers and the location of their corporation yards,
- location of the facilities to which each hauler delivers the materials
- the approximate capacity of each haul truck (approximately 10 tons per truck of solid waste and organics, and approximately 7.5 tons per truck of organics), and
- total tonnage of commercial solid waste, recyclables, and organics collected under the existing system in a recent one year period (July 2009 through June 2010).

The following discussion describes how the haul truck trips, haul route, and mileage traveled were computed. The number of truck trips was estimated by dividing the tonnage of each collected material (solid waste, recyclables, organics) by the capacity of the collection/haul vehicle.³

The annual VMT for each of the franchised haulers under the existing commercial collection system was estimated by establishing a centroid to represent a single, central collection location within the City. This centroid was located at the intersection of Monterey Road and Alma Avenue. A haul truck trip was assumed to originate at the hauler’s corporation yard, travel to the centroid, then to the hauler’s contracted facility, and return to the hauler’s corporation yard. If the contracted facility is a transfer station, the material would be loaded into a transfer vehicle (approximately 22 tons capacity) and hauled to the receiving facility. Figure 1 illustrates the assumed haul and transfer truck routes. The estimated number of haul trips and VMT, along with the approximate tons of waste hauled are shown in Table 1 for existing conditions. These estimates are broken down by the three different waste streams (i.e., solid, recyclables and organics).

³ While it is acknowledged that not every truck will be loaded to capacity, using the capacity of truck to estimate trips is reasonable and provides a consistent method that can be compared to the proposed project.

Figure 1: Assumed Hauler and Transfer Truck Routes

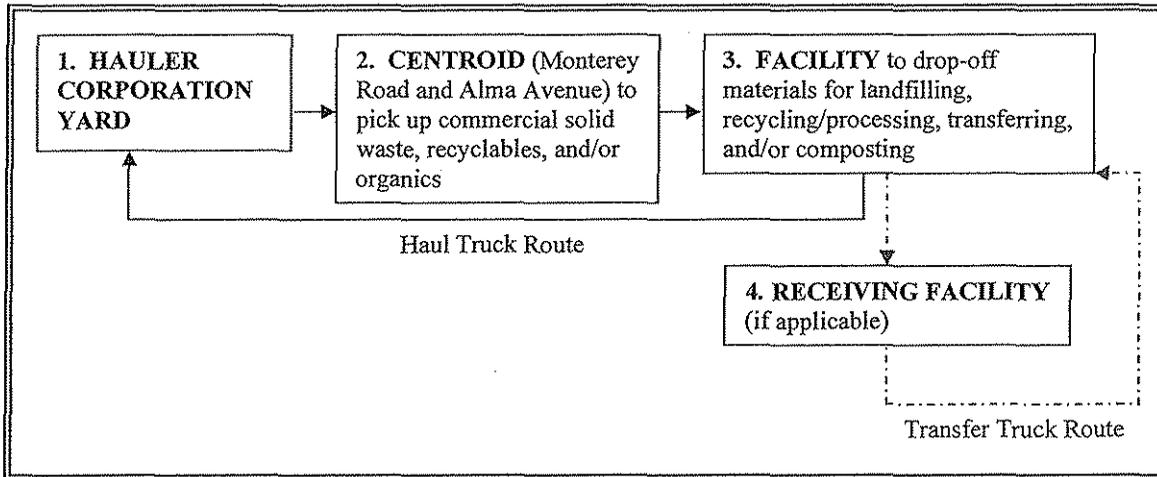


Table 1: Tons of Material Collected, Number of Haul Truck Trips, and Miles Traveled by Haul Trucks Under Existing Conditions

Material Collected Via the Existing Commercial Collection System	Approximate Tons of Material Collected (July 2009-June 2010)	Estimated	
		Number of Haul and Transfer Truck Trips	Miles Traveled by Haul and Transfer Trucks
Solid Waste	194,260	20,282	616,009
Recyclables	20,130	2,683	92,018
Organics	34,296	3,427	109,345
TOTAL	248,686	26,392	817,472

Project Conditions

Under the proposed system, only one franchised hauler (Allied Waste) would collect commercial solid waste, recyclables, and organics in San José. Solid waste and recyclables from commercial businesses would be collected and hauled to NIRRP for processing and/or landfilling. Allied Waste would also collect organics from commercial businesses and haul that material to NIRRP (or GreenWaste MRF) for pre-processing. After pre-processing, the organics would be taken to the ZWED AD Facility for anaerobic digestion and composting, Z-Best Composting Facility for composting, or NISL for composting.

The proposed project focuses on a change in the process by which commercial waste is collected (i.e., one hauler vs. 22 different haulers) and processed (one facility for solid waste/recyclables and one facility for organics vs. 22 different receiving facilities), with increased diversion and other enhancements. In order to provide an accurate comparison to evaluate the proposed process change, the same methodology used to calculate haul truck trips and miles traveled under existing conditions was used to calculate haul truck trips and miles traveled under project conditions. While the amount of commercial solid waste, recyclables, and organics would likely increase incrementally between existing conditions (collected data for July 2009 – June 2010) and project implementation (July 1, 2012), it would be similar; therefore, the total tons of materials collected in July 2009 – June 2010 was also assumed under project conditions. Since an objective of the project is to increase diversion, a minimum 75% diversion was used to calculate the percentages of solid waste, recyclables, and organics that comprise the total tonnage. Based upon the above assumptions, it is estimated that the proposed system, depending on the bin collection system

selected, would generate approximately 28,184 – 41,447 haul truck trips and the haul trucks would travel approximately 732,799 – 1,261,879 miles per year. Table 2 provides the estimates of haul truck trips and associated VMI.

Collection System	Haul Scenario	Number of Haul and Transfer Truck Trips	Miles Traveled by Haul and Transfer Trucks
2-Container	1. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for anaerobic digestion and composting	32,556	782,025
	2. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	32,556	1,112,775
	3. Solid waste and recyclables hauled to NIRRP, organics hauled to GreenWaste MRF to be pre-processed then transferred to ZWED for anaerobic digestion and composting	36,851	855,047
	4. Solid waste and recyclables hauled to NIRRP, organics hauled to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	36,851	1,121,366
	5. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	36,850	1,164,275
	6. Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	41,145	1,250,175
	7. Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	28,260	734,775
One-Bin Plus	1. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for anaerobic digestion and composting	32,593	781,285
	2. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	32,593	1,120,740
	3. Solid waste and recyclables hauled to NIRRP, organics hauled to GreenWaste MRF to be pre-processed then transferred to ZWED for anaerobic digestion and composting	37,001	869,455
	4. Solid waste and recyclables hauled to NIRRP, organics hauled to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	37,001	1,129,557
	5. Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	37,002	1,173,699
	6. Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	41,447	1,261,879
	7. Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	28,184	732,799

The VMT computation sheets are contained in Attachment A.

Emission Rates

Emission rates in grams per mile of air pollutants and GHG were developed and applied to the haul truck travel data. The proposed project would involve the use of two different types of trucks: diesel-fueled and compressed-natural-gas (CNG) fueled. Currently, diesel-fueled trucks collect and haul commercial waste in San José. Emission factors were developed for 2011 and applied to existing and project conditions.

The EMFAC2007 model developed and used by the California Air Resources Board (CARB) to compute on-road vehicle emission rates was used. Diesel truck air pollutant emission rates were computed for heavy-duty trucks with the earliest model being 2007. These computations are consistent with California Air Resources Board (CARB) regulations for solid waste trucks. For existing conditions, a fleet of trucks that are model 2007 to 2011 were assumed. Haul trucks older than 2007 were assumed to be retrofitted or modified to meet the current CARB standards for solid waste collection vehicles. In other words, they meet model 2007 emission standards or better. The EMFAC2007 model predicts the effect of age deterioration on emission rates. However, the model assumes some newer trucks. The EMFAC2007 model provides gram per mile emission rates of carbon dioxide (CO₂). In order to compute the emissions of the other two common GHGs from truck emissions (nitrous oxides and methane), the California Climate Action Registry (CCAR) protocol method was used. CCAR provides emission rates, based on fuel consumption. Therefore, the average truck fuel efficiency provided by EMFAC2007 was used to compute fuel consumptions and the CCAR factors for nitrous oxide and methane emissions were applied.

The EMFAC2007 model does not compute emission factors for CNG. CNG emissions were based on EMFAC2007, but using the newer stringent 2011 standard that new waste collection trucks will have to meet. GHG emissions for CNG were computed based on CNG usage and factors from CCAR. For CNG use, the CARB average CNG fuel use value of 26.86 MJ/mile. This was based on a county-wide average travel speed. It was assumed that, like for the CARB average diesel fuel use, it was for a slightly higher average travel speed than 25 mph that was estimated for the collection truck travel. Therefore, this average fuel use value was adjusted by the ratio of the EMFAC diesel fuel use at 25 mph to the CARB average diesel fuel use. The fuel use was then calculated in miles per therm since the CCAR CNG CO₂ emission factor is in kilograms per therm. CCAR N₂O and CH₄ emission factors are in grams per mile.

Emission rate computations are provided in Attachment B.

Computed Emissions

Estimated vehicle travel was combined with the emission factors to compute daily emissions of air pollutants and annual emissions of GHGs. Travel fractions by fuel type (CNG or diesel) were applied. All existing trips were assumed to be made by diesel trucks. Table 3 presents provides a summary of the emission computations for existing conditions in 2011, the proposed project with 2-Container option and the proposed project with the One-Bin Plus option. Emissions associated with each of the four scenarios are provided.

Table 3 Proposed Project Emissions

Scenario	Daily Emissions			Annual Emissions	Difference with Project 2011				Percent Change			
	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr
Existing in 2011	2.2	33.1	0.77	1,693								
2-Container Option - 1	1.3	9.6	0.65	1,233	-0.9	-23.5	-0.1	-459.5	-41%	-71%	-15%	-27%
2-Container Option - 2	2.2	23.0	0.96	1,918	0.0	-10.1	0.2	224.8	0%	-30%	25%	13%
2-Container Option - 3	1.5	13.1	0.73	1,411	-0.7	-20.0	0.0	-281.8	-30%	-60%	-5%	-17%
2-Container Option - 4	2.2	23.4	0.97	1,936	0.0	-9.7	0.2	242.6	1%	-29%	26%	14%
2-Container Option - 5	2.3	25.1	1.01	2,024	0.1	-8.0	0.2	331.4	6%	-24%	32%	20%
2-Container Option - 6	2.5	28.6	1.09	2,202	0.4	-4.5	0.3	509.1	16%	-14%	42%	30%
2-Container Option - 7	1.2	7.7	0.61	1,136	-1.0	-25.4	-0.2	-557.3	-47%	-77%	-21%	-33%
One-Bin-Plus Option - 1	1.3	9.7	0.65	1,233	-0.9	-23.4	-0.1	-460.0	-41%	-71%	-15%	-27%
One-Bin-Plus Option - 2	2.2	23.4	0.97	1,935	0.0	-9.7	0.2	242.4	1%	-29%	26%	14%
One-Bin-Plus Option - 3	1.5	13.2	0.73	1,415	-0.7	-19.9	0.0	-277.6	-30%	-60%	-4%	-16%
One-Bin-Plus Option - 4	2.2	23.8	0.98	1,954	0.0	-9.4	0.2	260.6	2%	-28%	27%	15%
One-Bin-Plus Option - 5	2.3	25.5	1.02	2,045	0.2	-7.6	0.3	351.9	7%	-23%	33%	21%
One-Bin-Plus Option - 6	2.6	29.1	1.10	2,227	0.4	-4.0	0.3	534.4	18%	-12%	44%	32%
One-Bin-Plus Option - 7	1.2	7.7	0.60	1,133	-1.0	-25.4	-0.2	-560.4	-47%	-77%	-21%	-33%

BAAQMD Thresholds

54	54	82	1,100*
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* Emissions are compared against efficiency metric if above threshold

Average daily emissions of ROG and PM₁₀ exhaust from trucks collecting commercial waste in San José are quite low, primarily because of the low ROG rates associated with diesel exhaust and the stringent emission standards that solid waste trucks must meet. There are also fairly stringent NOx standards in place on these types of trucks, so emission rates are quite low. On an average daily basis, air pollutant emissions associated with existing or future proposed project conditions are below the BAAQMD CEQA thresholds⁴. Air pollutant emissions with the proposed project will either hardly change or decrease. Although VMT would be greater under most of the scenarios, emissions would be lower because most of the trucks would be powered by CNG. CNG emission rates are generally lower than diesel. PM_{2.5} emissions were not computed. However, they would be less than the insignificant PM₁₀ emissions, since PM_{2.5} are included in the PM₁₀ fraction of particulates.

GHG emissions are computed on an annual basis in terms of metric tons of equivalent CO₂ based on CO₂, nitrous oxide, and methane. Equivalent CO₂ is expressed as CO₂e. For existing conditions, waste collections is estimated to produce about 1,693 metric tons of CO₂e per year. Under the proposed project alternatives, CO₂e emissions could increase by up to 534 metric tons per year or decrease by 560 metric tons per year. The variation is based on the option and scenario. In general, the option with a scenario that increases VMT would likely result in an increase in CO₂e emissions. However, some of that increase would be offset by the lower overall emissions resulting from use of CNG trucks that currently are not used to collect commercial waste. CNG trucks are estimated to have emissions that are about 25-percent lower than diesel truck emissions. In any event, the CO₂e emission changes would be below the BAAQMD's CEQA thresholds.

4 BAAQMD. 2010. BAAQMD CEQA Air Quality Guidelines. June.

Attachment A: VMT Computations

Scenario		Miles Traveled using CNG	Miles Traveled using diesel	Total Miles Traveled
2-Container System	1 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for composting	734,780	47,245	782,025
	2 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	734,815	377,960	1,112,775
	3 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZWED for composting	734,773	133,161	867,934
	4 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	734,770	386,596	1,121,366
	5 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	734,775	429,500	1,164,275
	6 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	734,775	515,400	1,250,175
	7 Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	734,775	0	734,775
One-Bin Plus	1 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for composting	732,786	48,499	781,285
	2 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	732,748	387,992	1,120,740
	3 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZWED for composting	732,791	136,664	869,455
	4 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	732,791	396,766	1,129,557
	5 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	440,900	1,173,699
	6 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	529,080	1,261,879
	7 Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	732,799	0	732,799

EXISTING CONDITIONS

1: Huber Origin	2: Centroid	3: Facility	4: End Location	Total Tons of Organics	Total # of Truck Trips	Total Annual Miles
A.L.A. Recycling	1389 Michi Street, Suite A, San Jose, CA	Zanker Material Processing Facility	1389 Michi Street, Suite A, San Jose, CA	21	6,45	27
A.L.A. Recycling	1389 Michi Street, Suite A, San Jose, CA	Zanker Material Processing Facility	1389 Michi Street, Suite A, San Jose, CA	77	24,51	94
AI Pouch Recycling	2289 Van West Drive, San Jose, CA	Zanker Material Processing Facility	2289 Van West Drive, San Jose, CA	36	1,88	6
Alto Recycling	1601 Owen Landing Road, Morgan Hill, CA	RFI Recycling	1601 Owen Landing Road, Morgan Hill, CA	26	824,48	384
Apple Recycling Inc.	15889 Guadalupe Mines Road, Morgan Hill, CA	Guadalupe Sanitary Landfill	2400 San Juan Avenue, Morgan Hill, CA	108	56,8	648
Bay Area Recycling	2400 San Juan Avenue, Morgan Hill, CA	Guadalupe Sanitary Landfill	2400 San Juan Avenue, Morgan Hill, CA	100	238,34	23
Bay Area Recycling	1150 Walsh Avenue, Santa Clara, CA	Zanker Material Processing Facility	1150 Walsh Avenue, Santa Clara, CA	28	114	388
Bay Area Recycling	1590 Berryessa Road, San Jose, CA	Zanker Material Processing Facility	1590 Berryessa Road, San Jose, CA	31	143,49	14
Bay Area Recycling	6655 Smith Avenue, Newark, CA	SRCC	6655 Smith Avenue, Newark, CA	61	80,81	549
Bay Area Recycling	1500 Burger Drive, San Jose, CA	Greenwirth Recovery Facility	1500 Burger Drive, San Jose, CA	31	2,120,61	6,732
Bay Area Recycling	1500 Burger Drive, San Jose, CA	Kelco Canyon Facility	1500 Burger Drive, San Jose, CA	38	12,71	38
Bay Area Recycling	1500 Burger Drive, San Jose, CA	Zanker Material Processing Facility	1500 Burger Drive, San Jose, CA	27	203,65	540
Bay Area Recycling	1500 Burger Drive, San Jose, CA	Greenwirth Recovery Facility	1500 Burger Drive, San Jose, CA	13	0,75	0
Bay Area Recycling	1333 Oakland Road, San Jose, CA	Greenwirth Recovery Facility	1333 Oakland Road, San Jose, CA	13	0,7	0
Bay Area Recycling	1333 Oakland Road, San Jose, CA	Zanker Material Processing Facility	1333 Oakland Road, San Jose, CA	27	347,77	35
Bay Area Recycling	3333 Phelan Avenue, San Jose, CA	Premier Recycling Facility	3333 Phelan Avenue, San Jose, CA	2	12,14	1
Bay Area Recycling	1028 Bingham Lane, San Jose, CA	Zanker Material Processing Facility	1028 Bingham Lane, San Jose, CA	33	7,4	33
Bay Area Recycling	16885 Jovan Way, Morgan Hill, CA	Willy Clayton Facility	16885 Jovan Way, Morgan Hill, CA	45	1,84	0
Bay Area Recycling	3686 Chisholm Way, Gilroy, CA	Pacific Coast Recycling	3686 Chisholm Way, Gilroy, CA	67	28,16	201
Bay Area Recycling	18145 Peral Road, Suite A, Morgan Hill, CA	Chisholm (has call before re enable)	18145 Peral Road, Suite A, Morgan Hill, CA	74	370,8	2,739
Bay Area Recycling	18145 Peral Road, Suite A, Morgan Hill, CA	Zanker Material Processing Facility	18145 Peral Road, Suite A, Morgan Hill, CA	63	3,61	0
Bay Area Recycling	18145 Peral Road, Suite A, Morgan Hill, CA	Zanker Material Processing Facility	18145 Peral Road, Suite A, Morgan Hill, CA	63	3,61	0
Bay Area Recycling	1676 Rogers Avenue, San Jose, CA	Greenwirth Recovery Facility	1676 Rogers Avenue, San Jose, CA	63	282,73	303
Bay Area Recycling	1676 Rogers Avenue, San Jose, CA	Guadalupe Sanitary Landfill	1676 Rogers Avenue, San Jose, CA	14	2,956,33	226
Bay Area Recycling	1676 Rogers Avenue, San Jose, CA	RFI Recycling	1676 Rogers Avenue, San Jose, CA	33	184,48	627
Bay Area Recycling	1676 Rogers Avenue, San Jose, CA	Zanker Material Processing Facility	1676 Rogers Avenue, San Jose, CA	30	79,19	312
Bay Area Recycling	1676 Rogers Avenue, San Jose, CA	Zanker Material Processing Facility	1676 Rogers Avenue, San Jose, CA	28	49,08	140
Bay Area Recycling	1090 Richard Avenue, Santa Clara, CA	Wishon Tech Transfer Station	1090 Richard Avenue, Santa Clara, CA	16	3,66	0
Bay Area Recycling	1500 Surveys Road, San Jose, CA	Zanker Material Processing Facility	1500 Surveys Road, San Jose, CA	31	147,19	465
Bay Area Recycling	1615 South 7th Street, San Jose, CA	Guadalupe Sanitary Landfill	1615 South 7th Street, San Jose, CA	21	14,67	21
				TOTAL		188,348

Assumption: 1 truck load = 10 tons

Huber	Centroid	Facility	Average Distance
Chisholm	16885 Jovan Way, Morgan Hill, CA	RFI Recycling	50
Chisholm	18145 Peral Road, Suite A, Morgan Hill, CA	RFI Recycling	67

AVERAGE DISTANCE

Scenario	1. Origin	2. Commodity	3. Receiving Facility/Transfer Station	4. Receiving Facility/Transfer Station	5. End Location	6. End Location	Total miles	Total tons of new truckfills	# of transfer truckfills	Total TRF's
2-Container Collection System	A							5,243	0	133,320
	1							10,782	0	263,175
	2							94,500	4,285	232,450
	3							34,500	4,285	873,100
	4							94,500	8,571	278,859
	5							94,500	8,571	233,294
	6							94,500	8,569	675,200
	7							84,500	12,285	261,100
One-Bin Plus	1							52,224	0	133,732
	2							52,224	0	344,443
	3							96,847	4,408	500,650
	4							96,847	4,408	640,114
	5							96,847	8,817	248,830
	6							96,847	8,817	644,931
	7							96,847	8,819	923,074
	8							96,847	8,819	731,254
	9							96,847	8,819	252,714
	10							96,847	8,819	344,443
	11							96,847	8,819	500,650

ATTACHMENT B: Emissions Computations

Scenario	Daily Emissions			Annual Emissions	Difference with Project 2011				Percent Change			
	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr	ROG lbs/day	NOx lbs/day	PM10 lbs/day	CO2e metric tons/yr
Existing in 2011	2.2	33.1	0.77	1,693								
Existing in 2011	2.2	33.1	0.77	1,693								
2-Container Option - 1	1.3	9.6	0.65	1,233	-0.9	-23.5	-0.1	-459.5	-41%	-71%	-15%	-27%
2-Container Option - 2	2.2	23.0	0.96	1,918	0.0	-10.1	0.2	224.8	0%	-30%	25%	13%
2-Container Option - 3	1.5	13.1	0.73	1,411	-0.7	-20.0	0.0	-281.8	-30%	-60%	-5%	-17%
2-Container Option - 4	2.2	23.4	0.97	1,936	0.0	-9.7	0.2	242.6	1%	-29%	26%	14%
2-Container Option - 5	2.3	25.1	1.01	2,024	0.1	-8.0	0.2	331.4	6%	-24%	32%	20%
2-Container Option - 6	2.5	28.6	1.09	2,202	0.4	-4.5	0.3	509.1	16%	-14%	42%	30%
2-Container Option - 7	1.2	7.7	0.61	1,136	-1.0	-25.4	-0.2	-557.3	-47%	-77%	-21%	-33%
One-Bin-Plus Option - 1	1.3	9.7	0.65	1,233	-0.9	-23.4	-0.1	-460.0	-41%	-71%	-15%	-27%
One-Bin-Plus Option - 2	2.2	23.4	0.97	1,935	0.0	-9.7	0.2	242.4	1%	-29%	26%	14%
One-Bin-Plus Option - 3	1.5	13.2	0.73	1,415	-0.7	-19.9	0.0	-277.6	-30%	-60%	-4%	-16%
One-Bin-Plus Option - 4	2.2	23.8	0.98	1,954	0.0	-9.4	0.2	260.6	2%	-28%	27%	15%
One-Bin-Plus Option - 5	2.3	25.5	1.02	2,045	0.2	-7.6	0.3	351.9	7%	-23%	33%	21%
One-Bin-Plus Option - 6	2.6	29.1	1.10	2,227	0.4	-4.0	0.3	534.4	18%	-12%	44%	32%
One-Bin-Plus Option - 7	1.2	7.7	0.60	1,133	-1.0	-25.4	-0.2	-560.4	-47%	-77%	-21%	-33%

BAAQMD Thresholds

54	54	82	1,100*
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* Emissions are compared against efficiency metric if above threshold

Scenario		Annual Emissions in tons (metric tons for CO ₂ e)						Daily Emissions in pounds						Emission Factor (g/mi) ---->
		ROG	CO	NOx	CO ₂	CO ₂ e	Total PM 10	Total PM 2.5	ROG	CO	NOx	Total PM 10	Total PM 2.5	
2-Container System	Alt 1	0.2	0.6	1.2	1316.0	1233.5	0.1	0.1	1.3	4.4	9.6	0.7	0.4	Emission Factor (g/mi) ---->
	2	0.3	1.1	3.0	2065.3	1917.8	0.1	0.1	2.2	8.1	23.0	1.0	0.6	
	3	0.2	0.7	1.7	1510.6	1411.2	0.1	0.1	1.5	5.4	13.1	0.7	0.5	
	4	0.3	1.1	3.0	2084.8	1935.6	0.1	0.1	2.2	8.2	23.4	1.0	0.6	
	5	0.3	1.1	3.3	2182.0	2024.4	0.1	0.1	2.3	8.7	25.1	1.0	0.6	
	6	0.3	1.3	3.7	2376.6	2202.1	0.1	0.1	2.5	9.7	28.6	1.1	0.7	
	7	0.2	0.5	1.0	1209.0	1135.7	0.1	0.1	1.2	3.9	7.7	0.6	0.4	
One-Bin Plus	Alt 1	0.2	0.6	1.3	1315.6	1233.0	0.1	0.1	1.3	4.4	9.7	0.6	0.4	
	2	0.3	1.1	3.0	2084.6	1935.4	0.1	0.1	2.2	8.2	23.4	1.0	0.6	
	3	0.2	0.7	1.7	1515.3	1415.4	0.1	0.1	1.5	5.4	13.2	0.7	0.5	
	4	0.3	1.1	3.1	2104.6	1953.6	0.1	0.1	2.2	8.3	23.8	1.0	0.6	
	5	0.3	1.1	3.3	2204.6	2044.9	0.1	0.1	2.3	8.8	25.5	1.0	0.6	
	6	0.3	1.3	3.8	2404.3	2227.4	0.1	0.1	2.6	9.8	29.1	1.1	0.7	
	7	0.2	0.5	1.0	1205.7	1132.6	0.1	0.1	1.2	3.9	7.7	0.6	0.4	

Year 2011 Diesel Solid Waste Truck Emission Factors (gram/mi)						
ROG	CO	NOx	CO ₂	CO ₂ e	Total PM 10	Total PM 2.5
0.315	1.32	4.759	2057	2071	0.11	0.063
Year 2011 CNG Solid Waste Truck Emission Factors (gram/mile)						
ROG	CO	NOx	CO ₂	CO ₂ e	Total PM 10	Total PM 2.5
0.187	0.624	1.236	1494	1547	0.097	0.063

Version : Emfac2007 V2.3 Nov 1 2006
 Run Date : 2011/04/13 13:28:18
 Scen Year: 2010 -- Model year 2010 selected
 Season : Annual Assume CNG meets 2010 NOx Standard
 Area : San Francisco

Year: 2010 -- Model Years 2010 to 2010 Inclusive -- Annual
 Emfac2007 Emission Factors: V2.3 Nov 1 2006

San Francisco Basin Average Basin Average

Table 1: Running Exhaust Emissions (grams/mile)

Pollutant Name: Reactive Org Gases Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.194 0.000 0.000 0.194

Pollutant Name: Carbon Monoxide Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.896 0.000 0.000 0.896

Pollutant Name: Oxides of Nitrogen Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 1.302 0.000 0.000 1.302

Pollutant Name: Carbon Dioxide Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 2022.465 0.000 0.000 2022.465

Pollutant Name: Sulfur Dioxide Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.019 0.000 0.000 0.019

Pollutant Name: PM10 Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.034 0.000 0.000 0.034

Pollutant Name: PM10 - Tire Wear Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.036 0.000 0.000 0.036

Pollutant Name: PM10 - Break Wear Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 0.028 0.000 0.000 0.028

Pollutant Name: Gasoline - mi/gal Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 12.420 0.000 0.000 12.420

Pollutant Name: Diesel - mi/gal Temperature: 60F Relative Humidity: 60%

Speed
 MPH LDA LDT MDT HDT UBUS MCY ALL
 25 0.000 0.000 0.000 4.935 0.000 0.000 4.935

Title : Solid Waste
 Version : Emfac2007 V2.3 Nov 1 2006
 Run Date : 2011/04/12 11:42:52

Scen Year: **2011** -- All model years in the range 2007 to 2011 selected
 Season : Annual
 Area : San Francisco

Year: 2011 -- Model Years 2007 to 2011 Inclusive -- Annual
 Emfac2007 Emission Factors: V2.3 Nov 1 2006

San Francisco Basin Average Basin Average

Table 1: Running Exhaust Emissions (grams/mile)

Pollutant Name: Reactive Org Gases Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	0.315	0.000	0.000	0.315

Pollutant Name: Carbon Monoxide Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	1.322	0.000	0.000	1.322

Pollutant Name: Oxides of Nitrogen Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	4.759	0.000	0.000	4.759

Pollutant Name: Carbon Dioxide Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	2025.738	0.000	0.000	2025.738

Pollutant Name: Sulfur Dioxide Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	0.019	0.000	0.000	0.019

Pollutant Name: PM2.5 Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	0.042	0.000	0.000	0.042

Pollutant Name: PM2.5 - Tire Wear Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	0.009	0.000	0.000	0.009

Pollutant Name: PM2.5 - Break Wear Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	0.012	0.000	0.000	0.012

Pollutant Name: Gasoline - mi/gal Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	12.262	0.000	0.000	12.262

Pollutant Name: Diesel - mi/gal Temperature: 60F Relative Humidity: 50%

Speed	LDA	LDT	MDT	HDT	UBUS	MCY	ALL
MPH							
25	0.000	0.000	0.000	4.935	0.000	0.000	4.935

Appendix B

Haul and Transfer Truck Trips and Miles Traveled
by Collection System and Haul Scenario

Summary of Bin Collection System Haul Scenarios and Truck Miles Traveled

Scenario		Miles Traveled using CNG	Miles Traveled using diesel	Total Miles Traveled
3-Container System	1 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for composting	732,786	48,499	781,285
	2 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	732,748	387,992	1,120,740
	3 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZWED for composting	732,799	136,672	869,471
	4 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	732,799	396,811	1,129,610
	5 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	1,213,424	1,173,700
	6 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	529,081	1,261,880
	7 Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	732,799	0	732,799
2-Container System	1 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for composting	734,780	47,245	782,025
	2 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	734,815	377,960	1,112,775
	3 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZWED for composting	734,773	133,161	867,934
	4 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	734,770	386,596	1,121,366
	5 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	734,775	429,500	1,164,275
	6 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	734,775	515,400	1,250,175
	7 Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	734,775	0	734,775
One-Bin Plus	1 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZWED for composting	732,786	48,499	781,285
	2 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to ZBEST for composting	732,748	387,992	1,120,740
	3 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZWED for composting	732,791	136,664	869,455
	4 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to ZBEST for composting	732,791	396,766	1,129,557
	5 Solid waste and recyclables hauled to NIRRP, organics hauled to NIRRP to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	440,900	1,173,699
	6 Solid waste, recyclables, and organics hauled to NIRRP, organics transferred to GreenWaste MRF to be pre-processed then transferred to Zanker Road Landfill. The organics would be transferred from Zanker Road Landfill to Z-Best Composting Facility for composting	732,799	529,080	1,261,879
	7 Solid waste, recyclables, and organics hauled to NIRRP, organics pre-processed and composted at NIRRP	732,799	0	732,799

