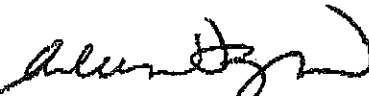


DEPARTMENT OF PUBLIC WORKS

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

CD: ALL

AS AMENDED\*\*  
ADOPTED BY THE BOARD  
PUBLIC WORKS OF THE CITY  
of Los Angeles California  
AND REFERRED TO THE MAYOR  
FEB 13 2012

  
Executive Officer

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 **with mandatory mid-term assessment**.
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.
- \*\* 12. Direct Sanitation to further examine the implications of the proposed franchise system on the filming industry and to develop recommendations specific to that industry.
- \*\* 13. Direct Sanitation to develop and make further recommendations on a regular community input process.

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### FISCAL IMPACT STATEMENT

There is no General Fund impact from the development of this program. Staff requests are budgeted existing positions, fully funded by the Citywide Recycling Trust Fund (CRTF).

### TRANSMITTALS

1. 5-year Notification Letter to Permitted Private Waste Haulers.
2. CF#10-1797 - motion by Huizar/Koretz directing Sanitation to 1) assess the City of San Jose's solid waste system redesign, and 2) 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.
3. Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San Jose And Allied Waste Services of North America, LLC, DBS Allied Waste Services of Santa Clara County.
4. HF&H Consultants Final Report.
5. Stakeholder meeting attendees.
6. Stakeholder comments.
7. Proposed Mandatory Commercial Recycling Regulations Frequently Asked Questions, prepared by CalRecycle in January 2012.
8. Bureau of Sanitation Franchise Cities Survey.

### DISCUSSION

The City of Los Angeles (City) has made considerable strides over the last decade to become a Zero Waste City. In 1994, the City adopted an integrated solid waste management plan to reach a 70 percent diversion goal by the year 2020. Mayor Antonio Villaraigosa raised the bar higher, challenging Sanitation to divert 70 percent of the City's waste by 2013. In addition, the Mayor and City Council directed Sanitation to reach a Zero Waste goal of 90 percent diversion by 2025. Major diversion programs have been implemented, including curbside automated recycling and green waste diversion programs for Sanitation serviced single and multifamily customers. This single program caused the overall City landfill disposal to fall by 6,000 tons per day, or over 1.5 million tons per year. Under the direction of Mayor Villaraigosa, recycling services were offered to all multifamily properties. Sanitation also commenced the Solid Waste Integrated Resources Plan (SWIRP) process, which included extensive stakeholder outreach, to provide a platform to launch the programs necessary to reach Zero Waste.

Waste collection and disposal in the City is handled by public and private waste haulers. Public collection of refuse, recycling, and green waste is primarily provided by Sanitation to single family properties and multifamily properties with four (4) units or less. This is due to the moratorium approved by the City Council in 1991, which prevents most apartment buildings of five (5) or more units from participating in the City's automated waste collection program.

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Since this moratorium was adopted, multifamily dwellings of five (5) or more units have been primarily serviced by private waste haulers, although some larger buildings (with five (5) units or more), that had continually received City service before the moratorium, were "grandfathered" in to public collection and will continue to receive curbside services from Sanitation.

Under the current waste hauler permit system, businesses are allowed to select and negotiate waste disposal and/or recycling contracts with any of the City's permitted private waste haulers. There are now 740 permitted private waste haulers providing some kind of waste hauling (as of February 1, 2012). Almost 81% (600) of these permitted haulers are construction related contractors who have taken out permits to haul construction and demolition debris, under the new City ordinance described below. Of the remaining 140 permitted haulers, only 68 collect enough waste to report receipts (required of those hauling more than 1,000 tons per year), the ten (10) top grossing waste haulers control 94% of the business, and the top four (4) control 85%. An estimated 100,000 service accounts exist in the City, including sites such as large office buildings, malls, and hotels, while in contrast the City of San Jose has 8,000 service accounts in its new exclusive commercial franchise.

The City has modified how commercial waste hauling is conducted over the years largely in response to both State and local diversion requirements. Assembly Bill 939 (AB939) established minimum diversion rates for jurisdictions, with substantial penalties for non-compliance. In 2002, to help the City address the requirements of AB939, and to fund large scale new recycling programs, the City Council approved an open-market permit system for the collection and management of waste and recovered materials from large multifamily, commercial, industrial, and institutional customers. The permit system is managed by Sanitation's Solid Resources Citywide Recycling Division (SRCRD). Prior to the current permit system, private waste haulers operated in the City without any regulatory oversight. As part of the permit process, private waste haulers are required to submit an annual report and application and pay a 10% AB939 Compliance fee based on gross receipts to operate in the City. In 2010 the City Council approved modifying the waste hauler permit system to require waste haulers deliver all construction and demolition (C&D) debris to a City certified processor. Other than the requirement to divert all C&D debris, there is no other diversion or operational requirements placed on the permitted waste haulers.

Sanitation has implemented a number of significant new waste diversion programs over the past nine years. The multifamily residential recycling program has expanded blue bin recycling to 430,000 households since citywide expansion in 2007. The partnership to expand recycling at LAUSD has resulted in 658 schools being provided weekly service, and over 120,000 students educated on waste reduction and recycling. Over 38,000 tons of food waste each year through Sanitation's Restaurant Food Waste Recycling Program. Also, all construction and demolition material must be recycled, which is estimated to reduce City disposal by over 100,000 tons per year.

Although the existing waste hauler permit system and AB939 Compliance Fee has been an effective tool used by Sanitation in establishing significant recycling programs, it limits the City's ability to address many of the current challenges it faces. These challenges include compliance with new State mandates, City diversion goals, and the environmental and health impacts of waste hauling.

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AB 341, signed into law in October 2011, creates green jobs by mandating recycling to every multifamily dwelling over five units and businesses which dispose of a certain level of trash each week. Upon adoption, the regulations for this measure will take effect in July 2012. CalRecycle is also charged with adopting a plan to bring the entire state to 75% waste diversion by 2020. The City has adopted the RENEW plan, which establishes a Zero Waste goal of 90% diversion by 2025, and the Mayor established a goal of 70% diversion by 2013. Due to the existing permit structure, waste haulers are not required by the State to operate clean alternative fuel vehicles, which negatively impacts local air quality. Multiple haulers operating in a given area translate to more refuse trucks on the road, traffic impacts, and more localized emissions. The current permit system also does not require waste haulers abide by state law regarding employee health and safety requirements for their employees collecting and processing commercial waste.

To address the limitations of the current waste hauler permit system, Sanitation recommends establishing exclusive franchise agreements for the collection of waste from both multifamily and commercial properties. An exclusive franchise system will allow the City to: minimize the impact of private refuse collection vehicles by maximizing routing efficiencies; require clean fuel vehicles; maximize waste diversion; and promote safe working conditions for employees collecting or handling solid waste. Sanitation recommends that construction and demolition waste, medical waste, hazardous waste, radioactive waste, pharmaceutical waste, recyclables that have value to the generator which have been sold or donated, and green waste removed from a site as incidental to a landscaping business, be exempted from the waste franchise. These exemptions are necessary to align with City policies, State definitions of solid waste, and case law. Sanitation further recommends that multiple franchise areas be established within the City. The exclusive franchise system may contain elements such as maximum disposal amounts per zone, aggressive diversion programs, including outreach and education, clean fuel requirements, and worker health and safety requirements, to be administered by Sanitation.

SRCRD, within Sanitation, will be responsible for the development of the Solid Waste Franchise Request for Proposals (RFP), coordination with the City Attorney's office on associated ordinances, franchise/contract negotiation and development, and franchise implementation and compliance. 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 SRCRD.

It is recommended that a Franchise Administrative Fee be developed and approved as part of the proposed exclusive franchise system. Sanitation will prepare a Franchise Implementation Plan detailing the necessary staffing levels to complete the stages of development. The Franchise Administrative Fee will provide ongoing funding for the resources needed to implement and manage this program. Until program adoption takes place, Sanitation does require that six existing positions be unfrozen within SRCRD to assist in program development. New positions will be requested through the development of the Franchise Implementation Plan.

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## **Background**

The City has the right and responsibility to manage all solid waste collection within its boundaries. As set forth in California Public Resources Code (PRC) Section 49300, et seq, cities may contract for the collection and disposal of waste. Waste hauling in the City is performed by both private waste haulers and Sanitation. The City's policy on waste collection and hauling is addressed in the Los Angeles Municipal Code, commencing at Section 66.00. Section 66.00.1(a)(10), states the City's policy of providing City services to collect household refuse, but not to provide such services for commercial garbage, refuse, food plant waste, or building material rubbish. The City has and may, at its discretion, collect solid waste from multifamily properties with five or more units. For the purposes of this report, commercial garbage, commercial refuse, and food plant waste shall mean solid waste collected from commercial premises. As used herein, "Commercial premises" would include, but not be limited to, all industrial, retail, wholesale, services, restaurant, hotel, motel, institutional and other premises, which are subject to the existing City of Los Angeles permit system regulating the collection of solid waste, whether or not such premises are used for profit or non-profit purposes. Commercial premises does not include those single family and multi-unit residential facilities and governmental institutions for which solid waste hauling is provided directly by Sanitation.

Sanitation operates one of the largest municipal solid resources collection systems in the nation. All 540,000 single family homes, and 220,000 small multifamily households are provided weekly recycling, green waste, and waste disposal services by Sanitation. Sanitation will remain the designated provider for bulky item service collection in the residential sector of the City (single family and multifamily dwellings). Special collection services include on-call bulky item collection for all City residents, bulky brush, white goods (appliances), electronics, and move-in/move-out services. Sanitation has the largest municipal clean fuel collection fleet in the United States, with six collection districts located throughout the City, and operates an extensive customer service center which receives over 60,000 incoming calls each month.

Sanitation currently administers the private sector permit system for the collection and management of waste and recovered materials from large multifamily, commercial, industrial, and institutional customers within our borders. This permit system was established in September 2002. All private waste haulers operating in the City are required to obtain an annual permit, and if they collect more than 1,000 tons of waste annually, pay quarterly AB939 Compliance Fees. Funds collected through the fee system are to be used only for administration of the permit systems and for recycling programs that benefit the large multifamily, commercial, industrial, and institutional customers of private waste haulers. Through an auditing program Sanitation conducts on-site evaluations of the AB939 fees collected and the City aggressively pursues those that do not comply through an enforcement program. Auditing and enforcement have resulted in judgments against past due haulers, revocation of permits, and the identification and recovery of hundreds of thousands of dollars in AB939 fees. Annual AB939 revenue in 2010 was \$21.3 million.

These AB939 Compliance fees have funded the establishment of many major recycling programs for commercial and multifamily participants. These programs include the multifamily recycling program, with over 430,000 units now participating; food waste collection and recycling at over 1,060 restaurants; blue bin recycling at 658 LAUSD schools; the adoption of

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the Citywide Construction and Demolition recycling program; a technical assistance and waste assessment program that has reached over 800 businesses; and a rebate program that creates an incentive for private waste haulers to recycle. Sanitation also provides all non-proprietary City Departments with recycling services as well as recycling education.

Under the current permit system, businesses are allowed to select and negotiate a collection and disposal and/or recycling contract with any of the currently permitted private waste haulers operating within the City. Based on self reporting, businesses within the City have demonstrated a relatively high recycling rate with voluntary programs. Many large businesses within the City recycle a wide variety of material, both to help the environment and to save money on their collection and disposal fees. These voluntary efforts have assisted greatly in the City achieving a high diversion rate. City staff have been working with businesses to provide voluntary waste assessments and technical assistance to help begin and expand recycling programs for commercial and industrial customers, including those in the City's large industrial sector.

Prior to the adoption of the Construction and Demolition (C&D) Debris Recycling Ordinance, approved by City Council in December 2010, there were approximately 140 permitted waste haulers operating in the City. Of the 140 permitted waste haulers, Sanitation estimates that approximately 44 waste haulers collected non-C&D waste from commercial and multifamily properties. However, by removing the permit exemption for contractors that self haul C&D debris, an additional 600 permitted waste haulers have been added (as of February 1, 2012) that collect just C&D waste. The additional permitted haulers are contractors that typically haul smaller amounts, less than 1,000 tons per year, of C&D waste in their own trucks. Collection and recycling of C&D debris is not included in the proposed franchise system recommendations and will continue to be administered through the existing permit process.

As set forth in California Public Resource Code (PRC), Section 49520 provides some protection to certain private haulers to continue providing solid waste handling services for a period of five years following mailing of a notice. PRC Section 49520 states that "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 to the solid waste enterprise 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."

On July 7, 2006, the City issued notice to all permitted waste haulers of the City's intent with respect to the implementation of a franchise system for waste handling services provided to multifamily residential properties. Although the PRC states that a waste hauler may continue to provide service for up to five (5) years after the notice, this City notice advised haulers the City intended to implement a solid waste handling franchise in seven (7) years, or as early as 2013.

On December 6, 2011, the City Council directed Sanitation to send a five-year notice to permitted private waste haulers (CF #11-1006)(Transmittal #1), regarding solid waste handling services for Commercial premises (other than certain construction and demolition services). This notice reserves the City's rights with respect to the implementation of a franchise system in the City, but does not bind the City to any specific action.

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In accordance with the five (5) year notice for Commercial premises described above, Sanitation is not recommending that the proposed franchise cover the handling of construction and demolition debris, as defined in Los Angeles Municipal Code Sections 66.32 et seq. Such non-recurring services are distinct from commercial waste collection. On December 17, 2010, the City Council approved an ordinance, Council File number 09-3029, that effectively addresses the collection and recycling of construction and demolition debris.

### **Waste Hauling System Evaluations**

On November 16, 2010, a motion (Huizar/Koretz CF#10-1797) was introduced in City Council which directed Sanitation to 1) assess the City of San Jose's solid waste system redesign, and 2) 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 (Transmittal #2). The City of San Jose is transitioning from the current non-exclusive franchise system, to an exclusive franchise system for its commercial business sector.

In response to this motion, Sanitation analyzed various franchise options available for commercial and multifamily waste collection. Sanitation contracted with a consultant specializing in waste collection franchising, and began a stakeholder process. On December 29, 2010 Sanitation contracted with Parsons Water and Infrastructure Inc., with HF&H Consultants as a sub-contractor, to prepare a report addressing the questions raised by the City Council and analyze potential franchise systems. In January 2012, HF&H Consultants completed its final report to Sanitation (Transmittal #4).

### Franchise Definitions

The terms "exclusive franchise" and "non-exclusive franchise," are defined and used differently in this report, which is focused on policy choices, than they are in the California Public Resources Code (PRC), which is concerned with the applicable statutory notice. In the PRC, an "exclusive franchise" is one that is limited in some fashion, and may include one or more haulers operating in a given area of the City. This definition is useful in adoption, and understanding the affect of, the statutory notice. It is not helpful in assessing the advantages and disadvantages of the principal policy alternatives here.

For the purpose of the policy discussion and recommendations in this report, an "exclusive franchise" is one in which only one waste hauler has the right to provide solid waste handling services in a given area of the City, and a "non-exclusive franchise" is one in which more than one waste hauler has the right to provide such services in a given area of the City.

### Stakeholder Process

The Board of Public Works directed Sanitation to gather input from all concerned stakeholders. Sanitation identified the following stakeholders: Waste Haulers and Recyclers, Waste Industry Workers, Environmental Organizations, Chambers of Commerce, Business Associations and Business Improvement Districts (BIDs), Neighborhood Councils, Renters, Apartment Owners and Associations, Community Members and Labor Organizations. Stakeholders were asked to provide input on the structure and potential impacts of waste hauling franchise options.

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From July 16 to September 6, 2011, Sanitation held eight stakeholder meetings. Both morning and evening meetings were held in the downtown area. Two evening meetings were held at the Marvin Braude Building in the San Fernando Valley, and the Expo Center in South Los Angeles. Sanitation mailed over 1,700 stakeholder meeting notices and e-mailed over 2,000 notices. Notice of the meetings was also posted on Sanitation's web site. The meetings were attended by over 240 stakeholders (see Transmittal 5 for a list of attendees). Representatives from the Board of Public Works, Sanitation and HF&H Consultants attended all eight stakeholder meetings.

All stakeholder comments received are attached to this report (Transmittal 6). Comments received from the stakeholders can be grouped into five major categories. The categories include impacts or benefits to businesses, diversion, environmental issues, health and safety impacts to residents and sanitation workers, and exclusive versus non-exclusive franchise systems. Overwhelmingly most stakeholders recognized the need to modify the existing permit system to address State diversion mandates, City diversion goals, and environmental and health and safety issues. However, the stakeholders were divided on how the new franchise system should be established. The key issue was whether the system would be "exclusive" or "non-exclusive".

A summary of stakeholder comments received is shown below, and copies of all comments are shown in Transmittal 6. For ease of tracking, Table 1 presents the stated advantages of an exclusive or non-exclusive system as it relates to the various issues presented through the stakeholder process. Please note the table below is intended as an overall summary and does not denote the view of all stakeholders.

**Table 1**

<b>Issue</b>	<b>Stated Advantages of an Exclusive System</b>
Diversion	<ul style="list-style-type: none"><li>• Request for Proposals "bidding process" will let haulers propose higher diversion rates</li><li>• Diversion programs will be easier to monitor</li><li>• All business and residents will have the opportunity to recycle</li></ul>
Environmental	<ul style="list-style-type: none"><li>• Will ensure alternative fuel vehicles through the California Air Resource Board (CARB)</li><li>• Will result in the least amount of vehicles on City streets</li><li>• Will reduce impacts on City streets</li><li>• Will improve air quality</li></ul>
Health	<ul style="list-style-type: none"><li>• Will improve overall air quality, particularly for those residents living in high density areas, by reducing truck traffic</li><li>• Will improve working conditions for truck drivers</li><li>• Will improve working conditions at material sorting facilities</li></ul>
Business	<ul style="list-style-type: none"><li>• Will normalize rates so small businesses don't pay higher cost</li><li>• Businesses will get the advantage of the City's large bargaining power to negotiate lower rates</li></ul>
<b>Issue</b>	<b>Stated Advantages of an Non-Exclusive System</b>



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Diversion	<ul style="list-style-type: none"><li>• The small to medium size haulers that have traditionally developed and offered recycling and diversion programs will continue to operate</li><li>• Ongoing competition will allow hauler to compete for business through customized diversion programs</li><li>• All business and residents will have the opportunity to recycle</li></ul>
Environmental	<ul style="list-style-type: none"><li>• Will ensure alternative fuel vehicles through the California Air Resource Board (CARB), if haulers are limited or the City requires</li></ul>
Business	<ul style="list-style-type: none"><li>• Businesses will continue to work with multiple haulers to negotiate the lowest rate</li><li>• Businesses will continue to use their volume to negotiate the lowest rate</li><li>• Will provide the highest level of customer service to businesses</li><li>• Will allow businesses to utilize a different hauler if their needs are not being met</li><li>• Businesses will not have to rely on the City to monitor their hauler for customer service</li><li>• Will allow businesses with multiple locations throughout the City to maintain a single hauler</li><li>• Will allow small waste haulers the ability to continue to operate</li></ul>

While the comments from each interest group were non-uniform, in general the majority of Environmental Organizations, Neighborhood Councils, Community Members, Renters, and Labor Organizations supported an exclusive franchise system. The majority of Waste Haulers, Businesses, Business Associations, Chamber of Commerce, Apartment Owners and Associations supported a non-exclusive system.

City of San Jose

As directed in the Huizar/Koretz motion on November 16, 2010, HF&H Consultants and City staff reviewed the City of San Jose's commercial waste hauling franchising efforts. San Jose has a population of approximately 1 million and disposes approximately 253,000 tons of commercial waste per year. Multifamily collection is serviced under a separate exclusive franchise. The commercial sector is currently serviced by approximately 20 haulers under non-exclusive franchise agreements with a three-year term to service San Jose's 8,000 commercial, industrial, and institutional waste generators.

As detailed in the attached HF&H Consultants report, there were similarities in challenges faced by San Jose and the City that prompted the need to analyze the redesign of the commercial waste hauling system. These challenges include the inability to achieve the zero waste, a green vision goal of diverting 100% of waste from landfills and limited controls available to ensure hauler performance. San Jose also noted challenges the City does not currently face that include declining city revenue from waste haulers due to fees based on disposal and limited infrastructure investment by haulers for recycling. The City of San Jose's commercial waste hauler system redesign spanned a 10 year period from the initial 5 year notice issued in 2001 to the contract award in 2011.

Upon a detailed analysis, the City of San Jose determined that an exclusive franchise would best address the city's challenges and issued an RFP in October 2009.

Details of their RFP included: a minimum diversion rate of 75%; ten to fifteen year term; option to award two franchises based on separate service areas; living wage and employee retention; consistent customer rates; fixed annual franchise fee; an AB939 Fee; and the exclusion of construction and demolition waste collection. Also, San Jose did not include residential, mixed use, or City facilities as part of its commercial franchise process, as there are already exclusive franchise agreements for the hauling of residential materials from single and multifamily housing.

On April 5, 2011, the City of San Jose approved the award of a single city-wide exclusive franchise with Allied Waste Services (Transmittal 3). San Jose also awarded a processing agreement for organic waste. The term of the franchise agreement is fifteen years, from July 1, 2012 to June 30, 2027. The commercial franchisee must remit an annual franchise fee of \$11 million and an estimated \$4.2 million in AB939 fees. The 15-year contract includes requirements such as:

- Living Wages;
- Alternative Fuel Vehicle requirements;
- 75% Diversion by January 2013; 80% by January 2014;
- Outreach, Education and Customer Service, with an extensive list of liquidated damages if service requirements are not met;
- The ability to modify the entire rate structure after 6 months if businesses with certain levels of service are experiencing a disproportional increase in rates over those with different levels of service (Rate Balancing).

San Jose included an extensive outreach and media program through the selected franchisee, to begin in advance of the July 2012 implementation date. The transition period for the exclusive franchise is anticipated to last through December 2014, with specific requirements on the contractor to implement recycling and provide rate balancing for some selected businesses.

#### Other City Franchise Models

For the purpose of this report, staff evaluated the City's taxi cab franchise system as a potential model for the waste hauler franchise system. The City of Los Angeles taxi franchise is managed by Los Angeles Department of Transportation (LADOT). Franchise agreements are awarded through an RFP process and evaluation is based on historical performance, experience, service response in under serviced areas, complaints under prior franchise agreements, health insurance for drivers, life insurance for drivers, and monitoring capabilities, including availability of computerized service monitoring. There are currently nine franchisees/taxi companies. For the purpose of the taxi franchise, the City approved the establishment of five franchise zones. The franchisee may only advertise in its zone assignments. However, the licensed/permitted taxis can operate in any zone within the City. The number of franchisees per zone range from one to seven. Based on the needs of the zone, LADOT establishes the number of vehicles allowed to operate within each zone by the

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franchisee. The franchisee usually does not have its own fleet of vehicles, rather it is made up of a "consortium" of taxi cab owners.

Taxi cab owners who are part of the franchise "consortium" may own multiple vehicles and may lease those vehicles out. LADOT maintains 16 positions to administer the taxi cab franchise.

The City taxi cab franchise is a unique system that works for taxi cab operation. Many components of this system are not typical to any waste franchise system evaluated as part of this report. Staff does not recommend using the taxi cab franchise system as a model for the waste hauling franchise.

### **Challenges To Be Addressed In the Franchise System**

The proposed franchise system must address the many challenges the City currently faces. These challenges include new State mandates, City diversion goals, and the environmental and health impacts of waste hauling. The proposed system must also address health and safety requirements for employees collecting and processing commercial waste. While meeting the challenges the City faces, the proposed franchise system must also address the impacts on local businesses.

### **Diversion Goals and a Franchise System**

A City franchise system must address the diversion goals, and program requirements and goals of the City and State. Mayor Villaraigosa has directed Sanitation to achieve a 70 percent diversion rate by 2013. In addition, the Mayor and City Council have adopted the RENEW plan, which directs Sanitation to reach a Zero Waste goal of 90% diversion by 2025. In 2006, the State's Global Warming Solutions Act (AB32) was adopted. One of the measures identified to reduce greenhouse gas emissions within the State was the adoption of mandatory recycling for multifamily, commercial, industrial, and institutional locations. In 2011, the Governor signed into law two other bills, AB818 and AB341. With the passage of AB818 and AB341, recycling is required at every multifamily dwelling over five units, and all commercial businesses that generate more than four cubic yards of trash per week (see Transmittal 7 for a list of Frequently Asked Questions). AB341 also requires CalRecycle to provide a report to the Legislature by January 1, 2014, that provides strategies and recommendations to achieve at least 75% diversion by 2020 for all waste generated in California. The City is also required to monitor compliance and notify businesses if they are out of compliance with this measure.

An exclusive franchise system allows for the most aggressive diversion goal to effectively meet the State mandates and City Zero Waste diversion goals. The HF&H Consultants report states that an attribute of an Exclusive Franchise is the potential for higher waste diversion as a result of increased recycling requirements in the franchise agreements that may not be cost-effective or accessible to all haulers in a non-exclusive system. The exclusive franchise system can contain mandatory diversion programs, maximum disposal rates, and reporting requirements. Franchised hauler(s) will be required to establish recycling programs at all multifamily properties and businesses. The City can set diversion program requirements for certain waste types through the franchise. For example, organic recycling programs can be required for businesses that generate large percentages of organic waste, such as restaurants.

As with many other jurisdictions with exclusive franchise agreements, the City would have the ability to set waste and recycling rates that incentivize recycling participation, including requiring no additional charges for recycling programs that include the collection and hauling of source separated recyclables.

With an exclusive franchise system, the City can hold a single hauler in each franchise area to a maximum disposal rate per franchise area versus a minimum diversion rate. Many jurisdictions with franchise systems set minimum diversion rates. However, minimum diversion rates do not address State requirements that set maximum disposal, may not meet the goal of zero waste, and can be easily manipulated by waste haulers. By setting maximum disposal rates, waste haulers would be required under the terms of the franchise agreement to not only establish mandatory diversion programs, but to also work closely with businesses to minimize disposal. The City would not be able to set maximum disposal rates under a non-exclusive franchise system. By the fundamental nature of a non-exclusive system, waste haulers' customer lists continually change, therefore a maximum disposal rate cannot be established.

Combining multifamily and commercial waste collection in an exclusive franchise system should produce the highest diversion levels. Waste haulers will be able to use the higher concentration of service accounts to develop efficient diversion programs. These programs could include establishing separate collection routes for recycling that include a combination of both multifamily and commercial accounts.

Although diversion requirements can also be set in a non-exclusive franchise, the City would most likely not realize the same level of participation from businesses as with an exclusive system. In a non-exclusive franchise system, such as the current system in San Jose, each waste hauler establishes and offers varied solid waste and recycling programs. In San Jose's current non-exclusive franchise system, only 51% of businesses participate in diversion programs. As detailed in the Commercial Redesign White Paper on the Current system Performance and Alternative System Arrangements, prepared for San Jose by HF&H Consultants, dated November 14, 2007 (see Appendix 9 of Transmittal 4), customer participation may be improved by offering a wide range of services to all customers on a consistent basis and educating the customers about their choices. The new franchise agreement in San Jose requires that the hauler reach 75% diversion from all commercial accounts by 2013, and 80% by 2014, through the application of a wet/dry system to capture and recycle organic waste as well as commingled recyclables, and an extensive outreach program with a minimum required staffing level of four full time employees to conduct the program. If a similar requirement were placed on City franchise haulers, over 50 full-time employees would be hired by the franchised haulers to conduct outreach and education programs for recycling.

The City has adopted a policy to provide a consistent type of recycling for the multifamily complexes within its borders. When the policy decision was made to begin a citywide multifamily recycling program, the source separated blue bin system was approved to provide the greatest consistency with existing single-family and LAUSD recycling services. The materials collected through these efforts have been consistent and outreach and education is combined, creating a simpler system to recycle in homes and schools.

The City should consider a policy implementing the same system Citywide for businesses as well, allowing all commercial establishments and multifamily residences consistency in the recycling services provided. Franchise agreements, while allowing for some flexibility depending on the type of waste collected, should require 'blue' recycling in the City of Los Angeles for all.

#### Environmental Impacts

Environmental impacts of the collection and management of solid waste in the City can be significant. Sanitation is recommending an exclusive franchise system to address some of the more significant impacts that are generated by these activities. A number of the most significant environmental impacts of waste hauling operations within the City are those caused by collection vehicles, through transportation impacts as well as vehicle emissions. Waste collection trucks have a direct adverse affect on air quality. Due to the necessity of waste collection in every corner of the City, the impacts are felt by all residents and businesses.

The impact of waste collection vehicles is compounded when there are more trucks in a small geographical area. Under the current unlimited open permit system there are inefficiencies in routing. These inefficiencies are due to the fact that there are often multiple haulers servicing properties in close proximity to each other on the same day. Due to these inefficiencies, there are more collection trucks operating on City streets than necessary.

In areas with a high concentration of multifamily properties these effects are typically worse than those with high concentrations of single family properties. For single-family homes, Sanitation's collection fleet moves from home to home in a regular pattern. Currently adjacent multifamily properties often have different waste haulers resulting in multiple waste haulers accessing neighborhoods each day. The resultant impacts include increased traffic, solid waste vehicles blocking street access, additional truck traffic and collection noise, and decreased air quality.

The SCAQMD adopted Fleet Rule 1193 for public and private solid waste collection fleets. This rule requires fleet operators to acquire alternative-fuel refuse collection heavy-duty vehicles when procuring these vehicles for use within the AQMD's jurisdiction. The rule applies to government agencies that operate solid waste collection fleets with 15 or more solid waste collection vehicles, and private entities that operate solid waste collection fleets with 15 or more solid waste collection vehicles. This rule also applies to private waste haulers that contract or franchise with a governmental agency that limits waste haulers allowed to operate. If the City provides refuse collection services by business permit or franchise and does not limit the number of waste haulers, then refuse vehicles operated by private waste haulers are not subject to these rules.

As detailed in the HF&H Consultants study, the franchising method selected by the City may determine whether waste haulers are required by the South Coast Air Quality Management District (SCAQMD) to replace existing refuse collection vehicles with alternative fuel vehicles. If the City enters into a franchise agreement that restricts the number of waste haulers that are allowed to provide service, the haulers operating under the new agreements will be required to use 100% alternative fuel solid waste collection vehicles(such as natural gas), or ultra low sulfur

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diesel fuel for pilot ignition, to be phased-in within 5 years of the start of service under the agreement, 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 by January 1, 2020, whichever is first.

The proposed exclusive franchise system will ensure that private haulers operate alternative fuel vehicles within the City. In accordance with State regulations, an exclusive franchise will automatically trigger SCAQMD Fleet Rule 1193 compliance for all franchised waste haulers.

A non-exclusive franchise system does not necessarily trigger SCAQMD Fleet Rule 1193 compliance. However, a non-exclusive franchise where the number of waste haulers is limited would trigger the same clean fuel vehicle requirements. The City could require private waste haulers to operate alternative fuel vehicles under a system where the number of waste haulers is not limited, but then the requirement to monitor and enforce those requirements would fall on the City. Under an exclusive system, the SCAQMD monitors and enforces the fleet rule requirements.

Sanitation recommends that the franchised waste haulers be required to operate 100% clean fuel vehicles within twelve (12) months of award of the franchise. However, this requirement may inhibit small waste haulers, those operating a fleet with less than 15 vehicles, from submitting a proposal. Small waste hauling companies may not have the capital to transition their fleet within the 12 month period. To ensure small haulers are not adversely impacted due to lack of capital resources, the phase in period for small haulers to operate alternative fuel vehicles can be extended. These haulers may phase in vehicles when they add or replace alternative fuel vehicles in their fleet or 100% of their fleet by 2020, in accordance with Fleet Rule 1193. To further assist smaller waste hauling companies, Sanitation will work with haulers to identify State grants designed to assist in the purchase of alternative fuel vehicles. Sanitation has received a total of \$20 million in grants to assist in converting its fleet to clean fuel, and these grants are also available to private waste haulers.

Under the proposed exclusive franchise system the City anticipates the largest reduction in the number of trucks and the greatest reduction in negative environmental impacts. As stated in the HF&H Consultants study, "An exclusive franchise system will result in the fewest number of commercial refuse vehicles, and minimize the environmental footprint of solid waste operations by decreasing truck traffic, vehicle emissions, and pavement damage." This finding is further supported in the Los Angeles County report titled Solid Waste Collection Systems, Option Analysis, dated February 2001 (Appendix 8, Table 4-1 of Transmittal 4), which states a benefit of an exclusive franchise is "Efficiency is high because the routes and schedules are organized and overlapping collection routes are minimized." These efficiencies are maximized with a franchised system where multifamily and commercial collection is combined. A combined franchise system allows a waste hauler to consolidate collection from multifamily and commercial, where feasible, reducing the need to run separate trucks. An exclusive franchise system with combined multifamily and commercial services provides increased efficiencies, and when combined with the requirement of alternative fuel vehicles, provides the lowest air quality impacts possible.

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San Jose's franchise redesign is intended to increase efficiency of the collection system and thus cut truck traffic, fuel consumption, air emissions, noise, and wear on City streets; while expanding recycling from 3,800 of the commercial businesses to all 8,000 commercial businesses, through the implementation of a wet/dry collection system. San Jose conducted an Initial Study and has adopted a Negative Declaration for the implementation of their exclusive commercial franchise system redesign.

#### Health Impacts and Working Conditions

Waste hauling and waste processing have an impact on residents and workers alike. Waste collection trucks on City streets have a direct impact on air quality affecting all those that live and work in the City and drive the collection trucks. Working conditions at waste processing facilities have been brought into question. This point is unfortunately highlighted with the recent tragedy at a facility when two workers lost their lives. Although this tragedy is still under investigation, it emphasizes the need to ensure that waste generated in the City is not only diverted, but is handled in a responsible and safe manner.

In other jurisdictions, franchise agreements in general do not address workplace safety requirements. Some require their franchise haulers to submit compliance and inspection reports from State regulatory agencies. San Jose, in its agreement, requires an Employee Work Environment Evaluation (Third Tier Review). This evaluation looks into a proposer's history as an employer and work condition commitments. Each proposer is required to complete an Employee Work Environment Questionnaire and return it with the proposal. If the Questionnaire is not returned, the proposal will be deemed nonresponsive. San Jose required proposers to address: employee health benefits; compensated days off; employee complaint procedures; compliance with state and federal workplace standards; and Employee Retention requirements, if applicable. It does not, however, appear to include inspections or other ongoing facility/site workplace safety evaluations.

The exclusive franchise will be developed to address labor concerns and worker safety. The City will have extended oversight and enforcement capabilities of facilities used to handle City waste under an exclusive franchise. These facilities become subcontractors under the franchise agreements and subject to City policies. The franchise contracts would include standard City labor language such as living wages requirements and first source hiring. The franchise contract will contain specific language granting the City authority to inspect the waste haulers' facilities and approve and inspect all waste and recycling facilities utilized. Through the establishment of administrative franchise fees, a franchise inspection section will be established within Sanitation. The inspection staff will inspect, on a regular basis, all facilities for compliance with City labor requirement such as living wages and workplace safety. Violations of labor requirements or workplace safety could result in the termination of the franchise.

The franchised waste haulers, as well as all facilities they utilize, will be required to maintain documentation on the handling of all material collected or received and maintain inspection records from other compliance agencies, such as the Cal-OSHA or the State Lead Enforcement Agency. City staff will have the right to audit the records at all facilities. Failure to maintain accurate documentation could result in the termination of the franchise.

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### Business Impacts

A City franchise will affect local businesses and apartment owners. Many local businesses, business associations, apartment owners, and apartment owner associations have voiced concern over the potential cost impacts and level of service that an exclusive franchise might have. The majority of businesses that attended the stakeholder meetings stated that an exclusive franchise would affect their ability to manage their waste hauling contracts.

These stakeholders were concerned that an exclusive franchise would reduce price competition, resulting in higher rates. There was also concern with potential poor customer service, and with a franchised waste haulers' ability to accommodate special collection needs. Apartment owners expressed concern that due to the City's Rent Stabilization Ordinance (RSO) they would not be able to pass through higher costs of waste collection that may result under an exclusive system. Other stakeholders, however, have highlighted the disparity of rates for similar levels of service and limited access to recycling programs.

Businesses have stated that an exclusive franchise would eliminate their ability to negotiate for their own waste services on a regular basis which in turn will increase waste collection rates. Under the current system waste haulers compete for waste collection services at each business. In turn business can negotiate collection rates with any of the City's permitted waste haulers. Although individual competition will be eliminated in an exclusive franchise system, waste haulers will still compete through the RFP process. The City will have the largest franchise system in the nation. Waste haulers will be competing for substantial franchise contracts that are recommended to extend for a long term. The City's goal is to leverage its large collection needs through long term franchise contracts and to negotiate low rates through the competitive bidding process.

Through the RFP and contract development process, staff will work to minimize the impacts to rates. Proposers will be asked to submit detailed information on their existing rate structure and levels of service as part of the RFP process. Sanitation will use this information along with proposed rates to help determine the impact on rates through the franchise contracts. If necessary, staff will evaluate the option of gradually increasing rates during the early years of the franchise to mitigate any significant increases. In the draft franchise contract for San Jose, the entire rate structure is evaluated after six months whereby the franchised hauler is required to identify if their rate structure resulted in disproportional increases to businesses with different levels of service. Under this model the rates would be adjusted, with some rates for specific levels of service going down, while others go up. This model may work in San Jose with only 8,000 commercial service accounts, but may not be practical in the City with an estimated 100,000 service accounts.

As recognized in the HFH Consultants report, an exclusive franchise may reduce commercial customer solid waste rates for some customers and increase rates for other customers. The City must comply with new State regulations requiring recycling at certain businesses and multifamily properties. In addition, the City has a goal of achieving zero waste. Also, in order to improve air quality, the City must move to require that waste haulers operate alternative fuel vehicles. It is important to note that in order to meet these diversion goals and requirements the cost of collecting and recycling materials in the City will most likely increase.



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Benefits of an exclusive franchise system include potential reduced operating cost to the franchised waste hauler and consistent rates to business. As noted in the HF&H Consultants report, the routing efficiencies of an exclusive system could result in an overall reduction in the contractor's cost of providing service. These reductions in cost typically include fewer miles traveled, less driver hours, less vehicle wear and tear, and less fuel, per vehicle load. An exclusive franchise system will necessarily involve a consistent rate structure for similar levels of service. As it will be included in the rates, all City businesses will have access to recycling programs at no additional cost.

The City will be able to establish baseline rates for all businesses in the franchise contracts. Any increases to these rates will also be set in the franchise agreements. This will allow City businesses the ability to plan for the current and future cost of collection.

The City will require a high level of customer service through contract requirements, inspections and enforcement. Businesses will have the ability to utilize the City to ensure all contractual obligations are met. Sanitation will maintain the necessary staffing, as will be detailed in the Franchise Implementation Plan, to respond to customer service issues and ensure compliance with contract requirements. The franchise contract will detail service requirements and contain penalties and fines for poor customer service. The San Jose draft contract, for example, identifies twenty-two separate service components where liquidated damages (fines) can be applied for failure to comply. These range from failure or neglect to resolve any complaint within the requested time to dispose recyclables. The liquidated damages range varies for each service component and range from \$100 to \$5,000 per incident. Poor customer service could result in a hauler losing its franchise and affect future waste hauling franchise opportunities. Backup waste hauler(s) will be established through the franchise RFP process. The purpose of the backup waste hauler(s) will be to ensure there is no lapse in service if the franchised hauler is unable to fulfill its contractual obligations.

As stated above, apartment owners expressed concern that due to the City's Rent Stabilization Ordinance (RSO) they would not be able to pass through higher costs of waste collection that may result under an exclusive system. The RSO affects units for which a certificate of occupancy had been issued as of 10/1/78 and does not affect units with certificates of occupancy after that date. The RSO covers approximately 66 percent of the City's rental housing inventory. This represents approximately 638,000 units. For RSO covered units, property owners are entitled to increase rent based on CPI. The CPI increases are a minimum of 3 percent and up to 8 percent, as approved by City Council. Property owners can also apply under a separate process for extraordinary increases to maintain their NOI, or net operating income, in order to offset increased costs, which could include waste collection. For units not covered by the RSO, there are no City restrictions on the property owners' ability to pass through increases in cost. The full effect of the exclusive franchise system on properties that fall under the RSO is difficult to ascertain. As stated above, consistent overall rates may result in an increase in rates for some customers and decrease in rates for others.

### Combining Multifamily and Commercial Franchises

Combining multifamily and commercial waste collection in an exclusive franchise system will result in the highest diversion rate, highest routing efficiency, and lowest vehicle emissions possible. Waste haulers will be able to use the higher concentration of collection points to develop efficient diversion programs for different types of generators. A combined franchise will allow the hauler to implement recycling programs that promote consistent recycling messages to all commercial establishments and multifamily residences. An exclusive franchise system will result in the largest reduction in the number of trucks and the greatest reduction in negative environmental impacts. These efficiencies are maximized with a franchised system where multifamily and commercial collection is combined. This combined franchise system allows a waste hauler to consolidate collection from multifamily and commercial, where feasible, reducing the need to run separate trucks.

Fewer trucks will mean less traffic, and less noise. An exclusive franchise system with combined multifamily and commercial services provides the greatest relief to congestion of City streets. Increased routing efficiencies combined with the requirement of alternative fuel vehicles will achieve the lowest air quality impacts possible.

### **Proposed System**

Sanitation recommends that a combined multifamily and commercial exclusive franchise with waste collection zones be established as it will allow the City to better deal with the challenges it faces. Under an exclusive franchise, waste collection services for multifamily and commercial properties will be combined into a single Request for Proposals (RFP) and all services will begin after the expiration of the five-year notice to permitted waste haulers for commercial waste collection, December 2016. As pointed out in the HFH Consultants study, approximately two-thirds of Los Angeles County cities have an exclusive commercial solid waste franchise system, and five of the ten largest cities in California have or are transitioning to exclusive commercial franchise systems. Sanitation recommends that a total of eleven collection zones be established. Sanitation further recommends that franchise agreements be ten years and that certain exemptions to the franchise system be granted based on material type. A Franchise Administrative Fee is required as part of the proposed exclusive franchise system to provide full funding for the administration and operation of the new system. The SRCRD, within Sanitation, will be responsible for the development of the Solid Waste Franchise RFP and associated ordinances, franchise/contract negotiation and development, and franchise implementation and compliance.

### Franchise Terms

Sanitation recommends that the term of the franchise agreement be ten years with two five (5) year renewal options. The successful franchisee will be required to invest substantial capital necessary to operate within a franchise area. The franchised waste hauler will need to invest in clean fuel vehicles, new waste and recycling containers, perform outreach, and hire additional employees for reporting and customer service. Franchised haulers may also need to perform facility/collection yard upgrades and invest in fuel infrastructure. Waste hauling companies typically amortize their equipment over a seven year period. As detailed below, there will be a two year transition period.

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.

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Multiple franchise areas will allow the City to ensure there is a sufficient pool of qualified waste haulers to meet current and future collection and diversion needs. As stated in the HF&H Consultants report, the City's current open permit system has allowed waste haulers to grow into larger companies. Most jurisdictions in and around the County of Los Angeles have exclusive franchise systems, limiting the number of haulers from outside the City that could propose on future franchise contracts. Multiple franchise areas, potentially awarded to multiple haulers, should foster growth and maintain stability of multiple haulers that could meet the current and future needs of the City. Conversely, if a single waste hauler was awarded the waste franchise, given the limited contracting opportunities for haulers outside the City, there would be fewer haulers in the future with the resources to compete for a City franchise. Sanitation recommends that back-up waste hauler(s) be established, within the awarded franchisees, through the franchise RFP process. The purpose of the backup waste hauler(s) will be to ensure that there is no lapse in service if the franchised hauler is unable to fulfill its contractual obligations.

Franchise boundaries must foster the City's ability to reach its environmental and financial goals. When establishing franchise areas many factors must be considered, including geographical boundaries, number of service locations or amount of waste generated, and proximity to infrastructure. The City has natural topography, such as the Santa Monica Mountains, which must be taken into consideration. Utilizing natural breaks in the boundaries will help improve routing efficiencies within the franchise areas. For clarity to businesses and for ease of administration, the boundaries should be easily recognizable, such as utilizing major thoroughfares as boundary lines.

Staff recommends the development of eleven franchise areas. The franchise areas would be established by dividing five of Sanitation's current six waste sheds into two franchise zones for a total of eleven franchise areas. These areas make the best use of the natural and manmade topography and work well with existing infrastructure. Mirroring the franchise boundaries with Sanitation's wasteshed boundaries allows Sanitation to easily track both Sanitation collected material and commercial material together, for the first time. This ability will assist Sanitation in siting future facilities to meet the needs of both waste streams.

Sanitation's current wastesheds already make use of obvious boundary delineations. The Santa Monica range that establishes the valley area is used as the southern boundary of two of Sanitation's existing zones. The San Pedro wasteshed, which staff does not propose dividing into additional waste franchise areas, was established considering the geographic nature of its location. The 405 freeway, the unofficial dividing line between the east and west valley, divides the valley in two equal sections. The current boundary between two of Sanitation's wastesheds closely tracks the 405 freeway.

The franchise areas should be varied in size to allow both small and large waste haulers the opportunity to compete. There are many smaller sized waste haulers providing service throughout the City. These smaller haulers currently service between 500 and 1,000 locations each. The largest haulers service over 20,000 locations each. Smaller haulers may not currently possess the infrastructure or capital to propose on large franchise areas. However, if given the opportunity, smaller haulers may be more competitive than larger haulers. A system with varied sized franchised areas will allow small and large haulers to compete and provide the greatest benefit to the City.

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Smaller haulers can compete by utilizing their unique and innovative approach that small business often brings with it, while larger haulers can utilize their robust infrastructure and economies of scale to compete for the larger or multiple franchise areas.

Sanitation issued a request in October 2011 to all permitted waste haulers in order to gather detailed information on the number of service locations throughout the City. This data has undergone preliminary analysis by the Bureau, for the purpose of developing plans for the division of the City into franchise areas. One such plan under review involves eleven (11) franchise areas, based on the number estimated number of service account, preserving the existing Harbor area waste shed as a separate franchise area and dividing the remaining five (5) existing waste sheds to create ten (10) more franchise areas. As set forth in Recommendation #11 above, Sanitation would return with a Franchise Implementation Plan, which includes a map with proposed franchise area boundaries, using the approach and criteria discussed in this Report.

Customer service and public education

In order to ensure consistent service and address public questions and concerns, the Sanitation hotline will be the focal point for customer interaction. Sanitation anticipates that customer service demands will increase upon the execution of the franchise agreements, both during the notification phase, the transition phase, and then for ongoing service and billing concerns. While each franchise zone agreement will require that the hauler provide on-site, hands on education and assistance, the first call if there is an issue will be the City. Additional staffing will be necessary and the development of live tracking of container and bin collection, notification, and monitoring for service issues, resolutions, and questions for the commercial sector will require modifications to Sanitation's Solid Resources Call Center. These needs will be detailed in the Franchise Implementation Plan.

One of the benefits of having the blue recycling system in both residential and schools is that a simple, consistent message can be given to all participants. The City should consider a minimum requirement for all source separated recycling to be a 'Blue' system. There will be a need for an extensive public education and information campaign, beginning in advance of the selection of the franchisee for each collection zone. Sanitation anticipates that a public outreach plan will begin upon release of the RFP, with information disseminated to the City's business and multifamily sectors. With approximately 100,000 commercial collection accounts in Los Angeles, making sure that outreach materials in several languages describing the coming changes to the waste collection system reach and are understood by the recipients will require both staffing and education funds for the first phase of the project.

Sanitation recommends that requirements similar to those in the San Jose model be included in the franchise agreements approved by the City. These requirements for a minimum staffing level of education and outreach experts per zone, as well as the requirements to disseminate educational materials, and having dedicated staff to answer service concerns, will result in at least 50 new full time private sector jobs.

Exemptions and specialized services

Exemptions from the City's proposed franchise system should be granted for certain material types, as follows:

- Medical waste
- Hazardous waste
- Construction and Demolition waste
- Radioactive waste
- Pharmaceutical waste
- Recyclables that have value to the generator, and are sold or donated
- Green waste removed from a site as incidental to a landscaping business, provided that the landscaping business documents the locations where green waste is recycled.
- Other specialty waste as designated by Sanitation (e.g. biosolids, oils and grease, etc.)

Sanitation recommends that solid waste that is kept separate from exempted waste be included in the exclusive franchise system. Sanitation does not recommend that exemptions be granted based on business type.

As stated in the HF&H Consultants report, hazardous waste and medical waste transportation are regulated by the California Department of Toxic Substances Control (DTSC), the California Health and Safety Code, and the United States Department of Transportation. The majority of solid waste haulers do not hold the necessary registrations and licenses to haul hazardous and medical waste as defined by the California Health and Safety Code. These services are typically exempted from exclusive solid waste franchises. In addition, medical and hazardous waste is not tracked as part of the State diversion requirements and does not affect the City's Zero Waste goal.

Staff found similar exemption language in the City of San Jose's agreement: "Exempt Waste: Sludge, stable matter, used oil or used oil filters, automobiles, automobile parts except those which fall within the definition of Recyclable Material, boats, boat parts, boat trailers, internal combustion engines, waste under the control of the Nuclear Regulatory Commission, biohazardous or biomedical waste that may cause disease or reasonably be suspected of harboring pathogenic organisms including human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves from the operation of medical clinics, hospitals, and other facilities that process this waste; Hazardous Waste as identified in California Code of Regulations, Title 22, Division 4.5, Chapter 23, as may be amended; and electronic waste (E-Waste) such as discarded electronics equipment containing cathode ray tubes (CRTs) computers monitors, televisions, stereo equipment, peripherals and other electronic equipment."

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Sanitation staff evaluated the various types of exemptions that could be included in the franchise system as well as mandatory exemptions that must be included by case law. Exemptions can be granted by business type, by specific large businesses, by multifamily complexes, by material type or any combination thereof. Sites under the jurisdiction of another agency, such as County, State, or Federal agencies, do not have to participate in a franchise system. This includes school districts. However, the County of Los Angeles does use the franchised haulers in the jurisdictions where their facilities are located. Other sites will be evaluated on a case by case basis.

Some businesses noted through the stakeholder process that their waste service was unique and could not be serviced under an exclusive franchise model. Hospitals noted that their waste stream, containing medical waste, requires special handling. Others, such as large movie studios and universities, stated that they have a complex system of waste handling that included a combination of mixed waste and source separated recycling, organic recycling and temporary service.

Staff does not recommend that exemptions be granted based on business type. Large businesses are not typically exempted in franchise agreements. Staff received comments from the Hospital Association of Southern California requesting an exemption from the franchise system. Sanitation staff contacted other cities with exclusive solid waste franchises with large hospitals located within their jurisdictions. Kaiser Permanente, City of Hope and Loma Linda University hospitals are located in the cities of Downey, Duarte, and Loma Linda, respectively.

Medical waste (often referred to as "red bag" waste) and pharmaceutical waste are regulated by the California Department of Public Health, are not included in the definition of commercial solid waste, and therefore are not included in the solid waste franchises in these cities. However, in each of the cities contacted, there are no franchise exemptions granted to these hospitals with respect to their commercial solid waste. Collection of commercial solid waste, generated by the hospitals, is serviced by the assigned franchised haulers.

It is further recommended that collection and hauling of construction and demolition (C&D) waste be excluded from the proposed exclusive franchise system. On December 17, 2010, the City Council approved a mandatory Citywide C&D Recycling program. The ordinance went into effect on January 1, 2011. Under this new ordinance, all mixed C&D waste generated within the City must be taken to City Certified Processors of C&D waste. There are currently 11 Certified Processors of C&D waste. As such, inclusion of this material in the franchise system is not necessary to meet State and City diversion goals. It should also be noted that the 5-year notice approved by the City Council on December 6, 2011, excluded the collection of C&D waste from a proposed franchise system. Many of the smallest waste hauling companies operating within the City solely collect C&D material. Exclusion of C&D helps protect the smallest of waste hauling businesses operating with the City.

Source-separated recyclables that are sold by the owner (business) would be exempt from the franchise requirements. On March 31, 1994, the Supreme Court of California noted that local governments may award an exclusive franchise for solid waste handling services; however, items with economic value to their owner do not fit the definition of solid waste. As such, the following should be exempt from the exclusive franchise system:

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- 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:



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- Development of Franchise areas, Terms and Conditions, and development of a Commercial Franchise Implementation Plan;
- Preparing and issuing Task Order Solicitations and contracting with vendors providing specialized franchise development services;
- Preparation and processing of multiple RFP;
- Public Hearings and incorporation of comments;
- Response to questions and comments from the general public, potential contractors and subcontractors, and other interested parties;
- Review and assessment of hauler proposals;
- Creation and maintenance of multiple franchise agreements, with hauler performance and reporting standards;
- Assessment of State mandated data reporting requirements;
- Creation and maintenance of a data collection system for meeting State reporting requirements;
- Design and implementation of an outreach program for a smooth transition, including the increase of available staff for call center due to anticipated increase in call volume;
- Enforcement of hauler service levels and citation of haulers in violation of franchise agreements; and,
- Day-to-day operational needs of a Franchise program including addressing vendor concerns, citizen complaints, and field checking program operation.

The new Franchise Section will be needed in addition to the current Private Hauler permitting effort. Sanitation has proposed to exclude the hauling of commercial Construction and Demolition (C&D) debris from the franchise agreements. C&D recycling is mandatory and no additional diversion measures are recommended for this material. Therefore, the majority of the small waste haulers and the contractors that are permitted as waste haulers will continue to receive annual permits and decals for their trucks. Businesses or organizations that are exempted from the franchises may chose a non-franchised hauler to service their site and Sanitation will also have to continue to permit that private hauler as well. Sanitation will also have to monitor the exempted businesses to make sure that their service providers meet clean air and recycling requirements through an enhanced system to be established by ordinance.

Sanitation recognizes the financial difficulties faced by the City. None of the requested position unfreezes will be funded by the General Fund, but by Sanitation's Special Funds. It is recommended that a Franchise Administrative Fee be developed and approved with a Franchise Implementation Plan to provide ongoing funding for the resources needed to implement this program. Until program adoption takes place, Sanitation does require that six positions be unfrozen within the SRCRD to assist in program development. New positions will be requested through the development of the Franchise Implementation Plan.

In Fiscal year 11-12, four positions were transferred to SRCRD from existing vacancies within Sanitation to assist in development of a multifamily franchise, and all positions continue to be vacant. The multifamily segment of the commercial wastestream is only 30% of the total commercial wastestream, and although there are some economies of scale during implementation by combining the efforts to franchise these sectors, the scope of the project now includes tens of thousands more commercial accounts.

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Sanitation requests that the Mayor and City Council direct an immediate unfreeze for the following positions:

- 1 – Environmental Affairs Officer (AB939 Compliance and Franchise Development)
- 1 – Environmental Supervisor I (Franchise Development Manager )
- 1 – Clerk Typist
- 1 – Management Analyst II
- 1 – Environmental Engineering Associate II
- 1 – Senior MAIL (Financial, Data, and Compliance/Administrative Fee Development)

All positions exist and are fully funded by the Citywide Recycling Trust Fund (CRTF).

#### Fees and Revenue

Waste hauling franchise agreements all contain fees levied upon the franchised hauler. These fees typically fall into three main categories; administrative fees, franchise fees, and one time upfront payments for the right to operate. These fees are distinctively different in form and function and must be considered independently.

#### Franchise Administrative fee

Sanitation recommends that an administrative/AB939 fee be adopted that will provide sufficient funds to implement and manage the franchise system and diversion programs. It is recommended that a Franchise Administrative Fee be developed and approved as part of the proposed exclusive franchise system. Sanitation will prepare a Franchise Implementation Plan detailing the necessary staffing levels to complete each of the stages of development and implementation of the franchise system. The Franchise Administrative Fee will provide ongoing funding for the resources needed to implement this program, and to provide for City diversion programs. Until program adoption takes place, Sanitation does require that the six positions listed above be unfrozen within SRCRD to assist in program development. New positions will be requested through the development of the Franchise Implementation Plan.

#### Franchise fees

Franchise fees are implemented through the majority of franchise agreements. These franchise fees can be based either on gross receipts, as the AB939 Compliance fee is collected, or as a flat annual fee. Sanitation recommends City Attorney's Office review of the applicability of fees for general City purpose use from a waste hauler franchise system.

#### Onetime payment

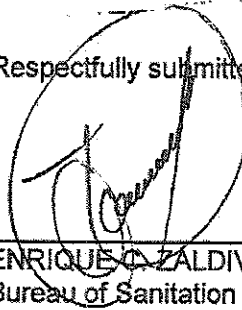
Many jurisdictions receive an upfront payment for the right to operate under a franchise system. These payments are in addition to any administrative or other ongoing fees, and are generally included in the evaluation of the proposals received for the franchise.

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**Recommendations**

Sanitation recommends direction and authorization to draft a Request for Proposals for an exclusive franchise system for the collection of solid waste from commercial and multifamily properties and to establish franchise collection zones. Sanitation recommends authorization to begin the CEQA process necessary to establish an exclusive franchise system for the collection of commercial waste. This would also include a request to the City Attorney to prepare a final draft ordinance for an exclusive waste hauler franchise for commercial waste hauling within the City of Los Angeles. Sanitation further recommends the immediate unfreeze from managed hiring of six positions in Sanitation for development of the franchise system

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Enrique C. Zaldivar", is written over a circular stamp. The signature is fluid and cursive.

ENRIQUE C. ZALDIVAR, Director  
Bureau of Sanitation

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