



## The City of Los Angeles

# Final Implementation Plan for Exclusive Commercial and Multifamily Franchise Hauling System



Prepared by  
Bureau of Sanitation

CITY OF LOS ANGELES



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DEPARTMENT OF  
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# FINAL REPORT

## Exclusive Commercial and Multifamily Solid Waste Franchise Hauling System Implementation Plan

### Executive Summary

The City's Bureau of Sanitation was directed by the City Council on November 14, 2012, to proceed with the development of an implementation plan for the Exclusive Commercial and Multifamily Solid Waste Franchise system, including the consideration of 23 items in the adopted Energy and Environment/Ad Hoc on Waste Reduction and Recycling joint committee report. Sanitation prepared a series of preliminary reports, which were discussed at length in additional joint EE/Ad Hoc WRR Committee meetings. Information was gathered and refined through research, information requests, and public meetings.

A critical element for the Final Report is consideration of Goals for the Exclusive Franchise system. These goals mirror many of the needs expressed by the stakeholders, including the waste haulers, environmental organizations, business groups, labor groups, and community groups. These 10 goals encompass the major elements of the program, and frame the recommendations that Sanitation is presenting for consideration of the City Council.

#### Recommendations for City Council Action

Sanitation recommends that the following goals and actions be adopted for the Exclusive Commercial Franchise System, and direction be given to proceed with the development of a Request for Proposals:

##### 1. **Meet the City's Zero Waste Goals:**

- a. Blue Bin recycling, at minimum, at every customer site (also supports Goal 2);
- b. Preserve existing organic waste separation and recycling programs;
- c. Offer green waste collection to all Multifamily customers;
- d. Include Landfill disposal reduction targets in Franchise agreements with accountability for performance including liquidated damages.

##### 2. **Meet and Exceed State requirements for waste diversion and mandatory recycling:**

- a. Phase in Citywide organics diversion programs (also supports Goal 1);
- b. Encourage, through RFP evaluation criteria, proposers to exceed required targets in their proposals by including innovative programs and new technologies (also supports Goal 1).

##### 3. **Improve Health and Safety for Solid Waste Workers** enforced by provisions in Franchise Agreements:

- a. City certification and inspection of all facilities;
- b. Right to inspect facilities for compliance with appropriate rules and regulation;

- c. Require compliance with Living Wage Ordinance (LWO) provisions;
- d. Require compliance with Service Contract Workers Retention Ordinance (SCWRO) and First Source Hiring Ordinance (FSHO);
- e. Establish a City hotline for employee complaints, and protection from retaliation for reporting problems.

4. **Improve Efficiency of the City's solid waste system:**

- a. Adopt the Exclusive Commercial Franchise Zone Map with 11 zones;
- b. Require routing efficiencies in proposals, and monitor Vehicle Miles Traveled (VMT) in franchise agreements.

5. **Improve the City's air quality**

- a. Require late model low emission clean fuel vehicles.

6. **Provide the highest level of Customer Service**

- a. Require contractors to use all forms of communication with their customers (call center, online, etc);
- b. Require extensive, ongoing outreach programs;
- c. Include Customer needs, such as Hospitals, and specialized services in RFP and franchise agreements, and through continuing stakeholder involvement;
- d. Provide access to customer service data by Sanitation in order to evaluate performance and customer satisfaction;
- e. Establish an alternative for studios, with requirements that they 1) Use of one of the franchise haulers; 2) Meet all franchise requirements including waste diversion, accurate reporting, payment of fees, and clean air vehicles, among others; and 3) Require third party auditing of all standards.

7. **Create a consistent, clearly defined system, fair and equitable rates, and contingency plans to ensure reliable service including:**

- a. Include only a capped cost of living increase in franchise agreements;
- b. Designate the uniform rate model as the preferred alternative, and allow Sanitation to negotiate the best practical and achievable model;
- c. Require detailed contingency plans in each franchise agreement, and requirements that they be updated annually. Contingency plans shall include, at minimum 1) Backup provisions in franchise agreements for each service zone, and 2) Monetary penalties for a lapse in service in franchise agreements, such as performance bonds and liquidated damages provisions.
- d. Exempt material types from the Exclusive Commercial Franchise System, including Medical waste, Hazardous waste, Radioactive waste, Pharmaceutical waste, and Construction and Demolition Debris

8. **Create a system that ensures Long Term Competition:**

- a. Require compliance with City's Business Inclusion Program (MBE/WBE/OBE/DVE/EB Subcontracting);
- b. Designate three small Exclusive Franchise Zones geared towards smaller waste haulers;
- c. Designate that no more than 49% of service may be performed by one company.

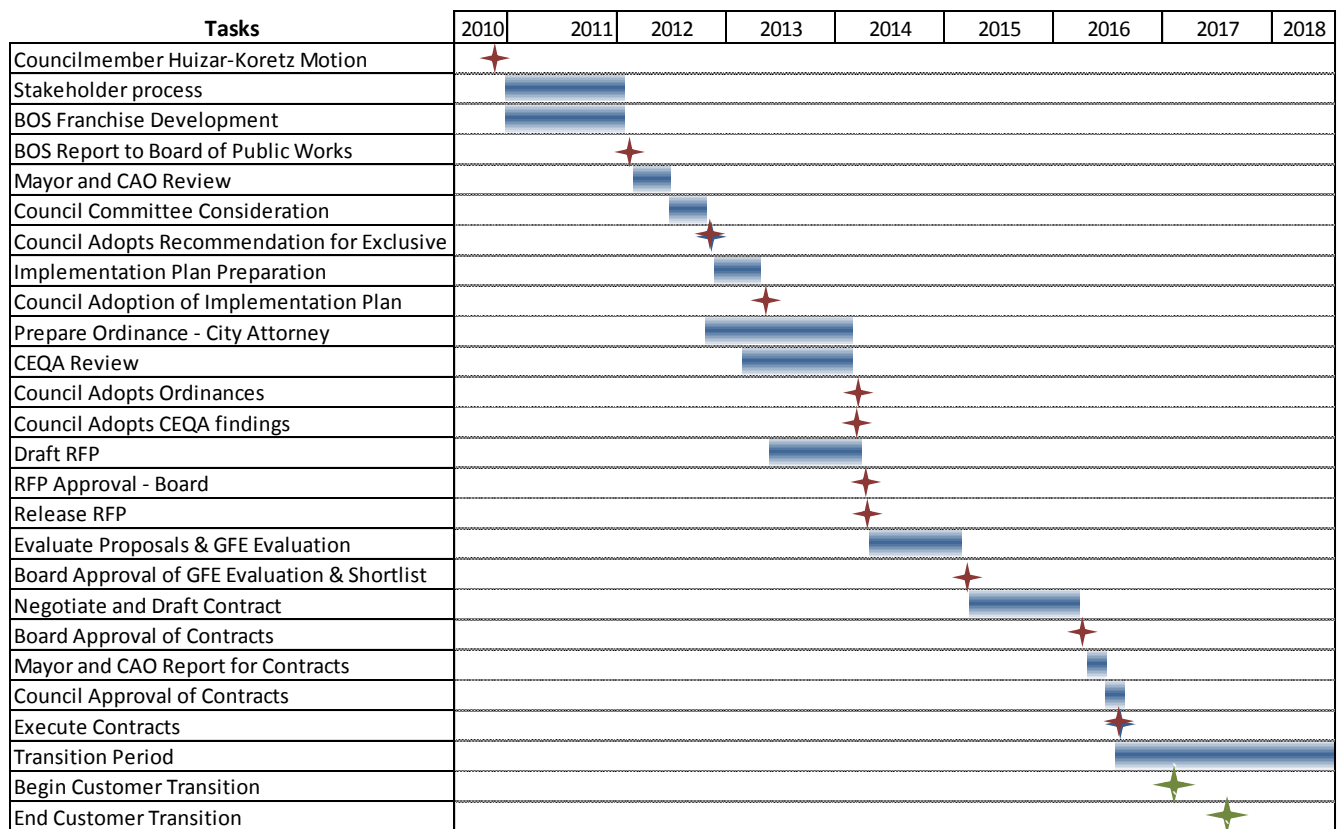
**9. Ensure Sufficient Staffing to meet Program Goals**

- a. Continue AB939 fee as currently adopted;
- b. Designate a City Franchise fee to achieve the City's fiscal goals.

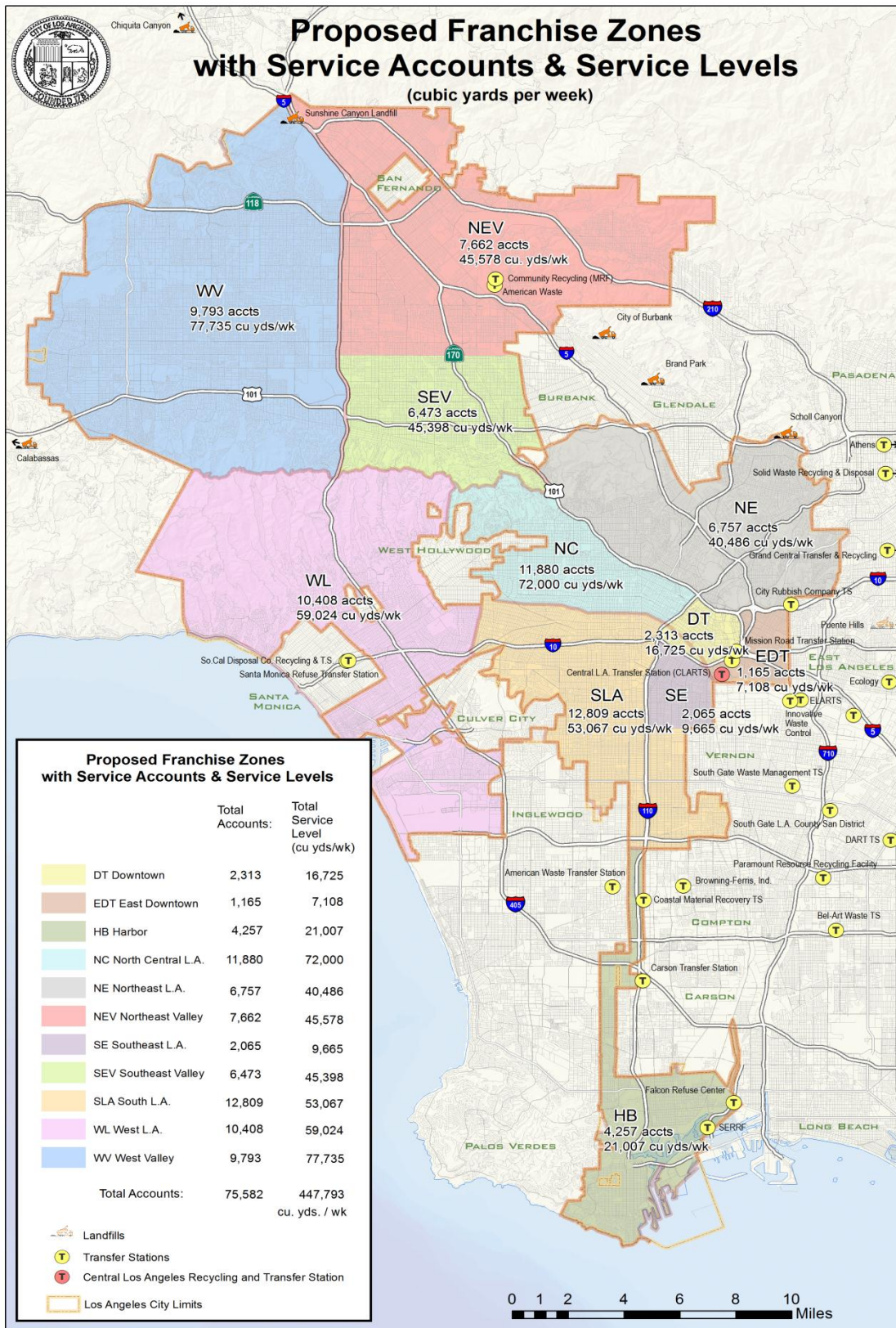
**10. Ensure reliable system infrastructure to provide uninterrupted service to Customers**

- a. Provide for infrastructure development sufficient for management of solid waste

## Franchise Implementation Timeline







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## Attachments

A	CH2MHILL Compiled Notes from Interviews of 12 Cities and Counties (document provided separately)
B	Comments received on the Franchise



# Acronyms and Definitions

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## ACRONYMS

CAO:	City Administrative Officer
CDD:	City Community Development Department's Workforce Development System
CEQA:	California Environmental Quality Act
CLA:	Chief Legislative Analyst
C&D:	Construction and Demolition Debris
DTSC:	California Department of Toxic Substances Control
EIR:	Environmental Impact Report
FSHO:	First Source Hiring Ordinance
IWMA:	Integrated Waste Management Act
LWO:	Living Wage Ordinance
OSHA:	Occupational Safety and Health Administration
RFP:	Request for Proposals
SCAQMD:	South Coast Air Quality Management District
SCWRO:	Service Contract Workers Retention Ordinance
SRCRD:	Solid Resources Citywide Recycling Division of the City of Los Angeles Bureau of Sanitation
SWIRP:	Solid Waste Integrated Resources Plan
USDOT:	United States Department of Transportation
VMT:	Vehicle Miles Traveled

## DEFINITIONS

AB 939:	Assembly Bill 939 (Chapter 1095, Statutes of 1989) is also known as the Integrated Waste Management Act. The Integrated Waste Management Act created the Board now known as CalRecycle and also required each jurisdiction in the state to submit detailed solid waste planning documents for CalRecycle approval, set diversion requirements of 25 percent in 1995 and 50 percent in 2000, established a comprehensive statewide system of permitting, inspections, enforcement, and maintenance for solid waste facilities, and authorized local jurisdictions to impose fees based on the types or amounts of solid waste generated. A more detailed description of the Integrated Waste Management Act is found at CalRecycle's Website ( <a href="http://www.calrecycle.ca.gov/Laws/Legislation/CalHist/1985to1989.htm">http://www.calrecycle.ca.gov/Laws/Legislation/CalHist/1985to1989.htm</a> ).
AB 341:	Assembly Bill 341 ( <a href="#">Chapter 476, Statutes of 2011 [Chesbro, AB 341]</a> ) directed CalRecycle, among other actions to 1) develop and adopt regulations for mandatory commercial recycling, with compliance beginning July 1, 2012; and 2) submit a report to the Legislature with a plan for reaching 75% diversion Statewide by 2020.
Board:	The City of Los Angeles Board of Public Works.
Blue Bin:	Blue recycling containers for the collection of commingled recyclables (single stream).
CalRecycle:	The Department of Resources Recycling and Recovery of the State of California. CalRecycle is the state's regulatory agency on solid waste management.
City:	The City of Los Angeles

## Commingled

**Recyclables:** Material that has been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing the material for recycling or reuse in order to return the material to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Co-Mingled recyclables shall not consist of Construction and Demolition Waste.

## Commercial

**Establishment:** All industrial, retail, wholesale, services, restaurant, hotel, motel, institutional and other premises, which are subject to the existing City of Los Angeles AB939 Compliance Permit system regulating the collection of solid waste. Commercial premises do not include those single family and multi-unit residential facilities and governmental institutions for which solid waste management services are provided by the City.

## Commercial

**Organics:** Organic Waste that is segregated from commercial waste for recycling or other beneficial uses.

## Commercial

**Waste:** Solid Waste generated at Commercial Establishments/Premises.

## Construction

### And Demolition

**Waste:** Solid waste that results directly from construction, remodeling, repair, demolition, or deconstruction of buildings and other structures, does not contain hazardous waste (as defined in California Code of Regulations, Title 22, Section 66621.3, *et seq.*), and contains no more than one percent (1%) putrescible wastes by volume, calculated on a monthly basis. Construction and Demolition Waste includes, but is not limited to, asphalt, concrete, Portland cement, brick, lumber, wallboard, roofing material, ceramic tile, pipe, glass, carpet or associated packing.

**Diversion:** As defined in California statute, the combined efforts of waste prevention, reuse, and recycling practices.

**Gross receipts:** Those receipts defined as Gross Receipts in Los Angeles Municipal Code Section 21.00 (a) generated by the collection of Solid Waste including, but not limited to, service, container rental, disposal and processing charges. For purposes of this Section and Sections 66.32.1 through 66.32.5, Gross Receipts shall not be applicable to receipts generated by the collection and sale of Source-Separated Materials or Co-Mingled Recyclables.

## Multi-Family

**Establishment:** For purposes of the Exclusive Commercial Franchise system, a Commercial Establishment.

**Permittee:** A Person issued an AB 939 Compliance Permit pursuant to the provisions of Subsection (a) of Section 66.32.1.

## Permitted

**Hauler:** Any Person engaged in the business of providing or responsible for the collection, removal or transportation of Solid Waste, Construction and Demolition Waste, Source-Separated Materials, or Co-Mingled Recyclables generated within the City.

**Sanitation:** The City of Los Angeles Bureau of Sanitation

**Solid Waste:** Waste that CalRecycle has deemed acceptable for disposal at a Class III Landfill, and shall include Source-Separated Material and Co-Mingled Recyclables under specified conditions. Solid Waste for the purpose of the Exclusive Commercial Franchise system does not include Construction and demolition waste.

## Source Separated

**Material:** Material that has been separated or kept separate from the solid waste stream at the point of generation and has not been commingled with other solid waste or recyclable materials.

**Zero Waste:** a philosophy and a design principle for the 21st Century. It includes 'recycling' but goes beyond recycling by taking a 'whole system' approach to the vast flow of resources and waste through human society. Zero Waste maximizes recycling, minimizes waste, reduces consumption and ensures that products are made to be reused, repaired or recycled back into nature or the marketplace.

# Limitations of the Existing System

## 1.1 Background

Waste collection and disposal in the City of Los Angeles (City) is handled by public and private solid 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. 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. Private solid waste haulers collect from all multifamily and commercial sites not collected by City crews.

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. With the adoption of the construction and demolition debris ordinance a significant number of construction contractors that haul their own waste became permitted waste haulers. Because of this new requirement a significant number of waste haulers have been added to the permit system. The number of contractors, permitted as waste haulers, entering and leaving the permit system varies greatly. There are at any given time between 500 and 750 permitted private waste haulers providing some kind of waste hauling. Most of these permitted haulers are construction related contractors who have taken out permits to haul construction and demolition debris. Of the haulers operating in the City, approximately 140 are traditional haulers where waste hauling is their primary business. Only 68, of the 140 traditional haulers, collect enough waste to report receipts (required of those hauling more than 1,000 tons per year), the fifteen (15) top grossing waste haulers control 97% of the business, and the top four (4) control 85% (Table 1-1). Service is provided to at least 75,000 service accounts, 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.

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. 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. CalRecycle is also charged with adopting a plan to bring the entire state to 75% waste diversion by 2020. In 2006, the City signaled its intent to divert more waste from landfill by the adoption of the RENEW LA plan, which establishes a Zero Waste goal of 90% diversion by 2025, with Mayor Villaraigosa establishing an interim goal of 75% waste 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. In addition, multiple haulers operating in a given area translate to more refuse trucks on the road, traffic impacts, and more localized

TABLE 1-1  
Market Share Existing Haulers

Market Share of Existing Haulers	
Company Name	Market Share
Consolidated Disposal Service, LLC	35.47%
Arakelian Enterprises, Inc.	22.55%
USA Waste of California (SV)	19.41%
Crown Disposal Co. Inc	9.72%
Commercial Waste Services	1.81%
Universal Waste Systems, Inc	1.78%
NASA Services, Inc.	1.45%
AAA Rubbish, Inc	1.27%
American Reclamation, Inc.	1.14%
Southern California Disposal Co., Inc.	0.82%
Local Rubbish, Co. Inc.	0.50%
Haul-Away-Rubbish Service, Inc.	0.41%
Waste Resources Inc.	0.39%
United Pacific Waste	0.37%
Apex Waste Systems, Inc.	0.33%
All Other	2.58%

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emissions. The current permit system also does not monitor compliance by private waste haulers with state laws regarding employee health and safety requirements for their employees collecting and processing commercial waste.

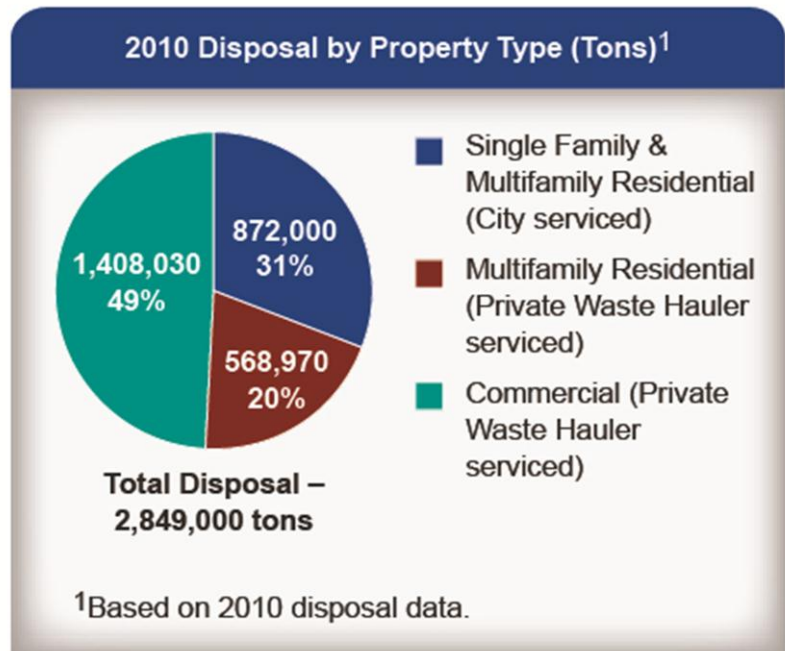
## 1.2 Limited City Ability to Drive Zero Waste Progress

The 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 75 percent diversion goal by the year 2020. Mayor Antonio Villaraigosa raised the bar higher, challenging Sanitation to divert 75 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. Under the direction of Mayor Villaraigosa, recycling services were offered to all multifamily properties and restaurants. 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.

Approximately thirty-one percent of the annual disposal is generated by single and small multifamily residential properties collected by Sanitation. The remaining sixty-nine percent is generated by larger multifamily and commercial properties collected by the City permitted private waste haulers (see Figure 1-1).

Since 2002, Sanitation has implemented a number of significant new waste diversion programs. 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 has been recycled through Sanitation's Restaurant Food Waste Recycling Program. Also, since 2010 all construction and demolition material must be recycled, which is estimated to reduce City disposal by over 100,000 tons per year.



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FIGURE 1-1  
Disposal by Property Type (tons)

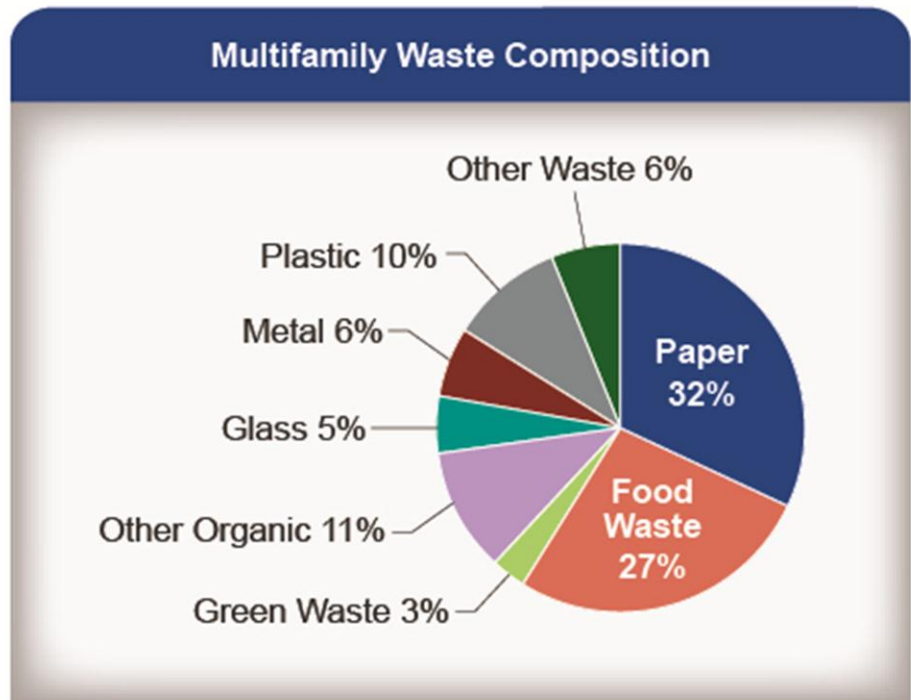


The City has achieved a 72% diversion rate; however, there is still nearly 3 million tons of solid waste disposed annually. Much of the material remaining in the commercial waste stream is recyclable. Sanitation has performed a series of waste characterizations to assist in the development of new recycling programs (see Figures 1-2 and 1-3). These waste characterizations show that a substantial amount of recyclable material remains in the multifamily and commercial waste streams. Recycling programs are needed to divert this material before they reach the landfill.

To meet the City's Zero Waste goals, the City will need to expand services and program offerings in the commercial and multifamily sectors. An exclusive franchising system would greatly enhance the City's ability to do so, by allowing it to efficiently and effectively introduce new program and service offerings in these sectors by creating a simple, uniform recycling system provided by franchise holders that will become partners with the City to move more material from landfill disposal to beneficial reuse.

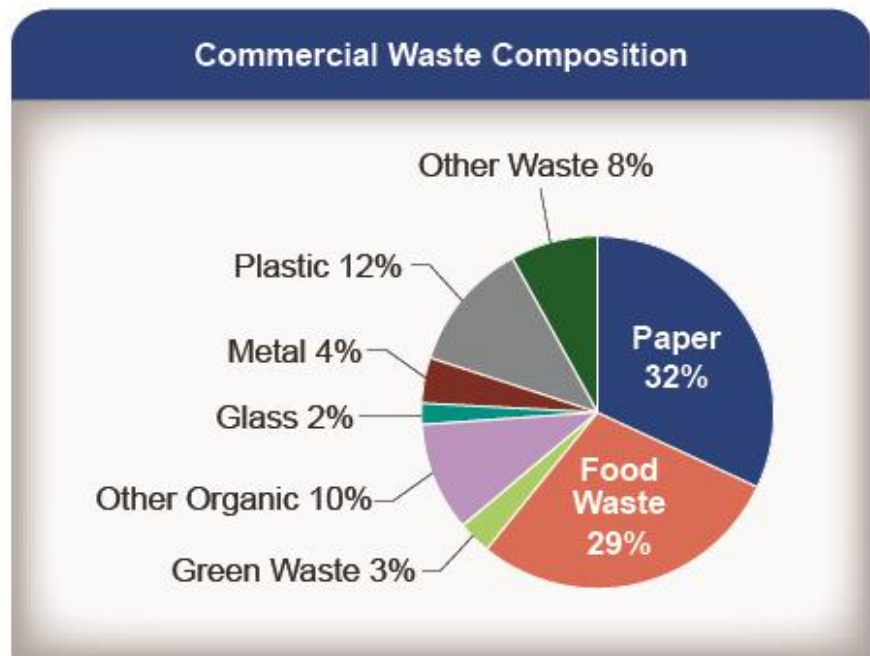
### 1.3 Limited City Ability to Measure Recycling Performance

The City must have accurate, consistent, and reliable data to comply with State requirements and meet its diversion goal. 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. The City is required to monitor compliance and notify businesses if



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FIGURE 1-2  
Multifamily Waste Composition



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FIGURE 1-3  
Commercial Waste Composition

they are out of compliance with this measure. In order to reach the zero waste goals the City needs the capabilities to monitor and track a waste hauler's compliance with required diversion programs, participation and program effectiveness.

The current waste hauler permit system does not allow the City to effectively monitor or track recycling in the multifamily and commercial sectors. There are limited reporting requirements under the current permit system and additional information is difficult to obtain. Waste haulers must compete for customers in the City and closely guard their customer lists. In addition, as customers can select and change their waste haulers at will, an individual waste hauler's customers list is in a constant state of change. Material flow is also very difficult to track. Waste haulers report delivering material to over 200 different facilities, based on 2010 annual waste hauler reports. These facilities are located both inside and outside of the City boundaries.

Sanitation has made a number of information requests from permitted waste haulers and receiving the data has been problematic. Waste haulers have sited confidentiality concerns with transmitting data to the City, as they believe that the information received could be used by other waste haulers to gain a competitive advantage or poach accounts. The issue of gathering information from waste hauler is compounded by the fact that there are no standards for what information is gathered by permitted haulers or how it is maintained. Basic information, such as the definition of a service account or how recycling is tracked, varies by waste hauler. This variation in data was highlighted with Sanitation's recent request for information from waste haulers in an attempt to meet the requirements of AB341. Some waste haulers did not differentiate between recycling and waste accounts, while others listed every waste bin as a separate account.

An exclusive franchise system would allow the City to establish and enforce consistent and timely reporting requirements for haulers under franchise, thereby allowing Sanitation to more effectively measure the City's performance relative to its Zero Waste goals, introduce new programs, and pilot new innovative strategies.

## **1.4 Open System That Creates Inefficiencies and Negative Environmental Impacts**

The existing open competitive collection system promotes an overall ineffective system. Waste haulers must base on their collection routes on their individual customer list that can be distributed throughout the entire City. This results in the collection vehicles of multiple firms crossing paths on City streets to serve customers in the same areas every day. Vehicles may need to travel longer distances between stops and serve fewer accounts during the day than if the collection system was an "exclusive zone." This results in more collection vehicles on the street each day than necessary, resulting in an inefficient system, and negative impacts on air quality.

This inefficiency is compounded by the need to provide recycling services to all customers. Businesses impacted by AB341 must subscribe to a recycling service, and many may work with their current waste hauler. Recycling routes must also be as efficient as possible to minimize the number of trucks as well as vehicle miles traveled in the City's solid resources collection system.

## **1.5 Customers Pay Different Rates for the Same Services**

Unit rates for waste service are known to vary in the City from business to business for the same or similar service. Under the current permit system individual businesses negotiate their own prices with permitted waste haulers. The City has no oversight on the rates charged to customers, or the structure of rates (how rates vary by level of service). The rates negotiated by each business vary depending on:

- The size of a business. Large businesses with multiple accounts can often use their size to negotiate lower rates;
- The negotiating skill of the customer;
- The pricing structure of the particular waste hauler with whom the customer is negotiating;
- The unique service characteristics of the customer's location, such as the push-out distance of the container from the storage location to the point of collection;

- Unique container access conditions, such as underground parking garages where containers may be stored requiring a special collection vehicle to position the container for the refuse truck
- Special services required, such as locking containers.

As stated by large businesses in the City during the stakeholder process, they can often use their larger waste needs to negotiate lower rates. Conversely, small businesses with lower waste quantities do not have the same bargaining power to negotiate lower rates, and often pay more for the same level of service provided to a larger business. Some small businesses indicated during the stakeholder process that they often find that other businesses are paying a different rate for the same level of service.

Recycling programs are typically provided at additional cost to businesses. In addition to the varied rates for service, a business that wishes to recycle must negotiate a separate rate for that service. The cost effectiveness for a business to recycle not only depends on the negotiation skills of the business but also the structure of a haulers business. Waste haulers that have not integrated recycling fully into their business model may not be able to offer cost effective recycling programs. If a business remains under contract with a hauler who does not offer recycling under the current system, then there are limited options available to the business to establish a cost effective recycling program.

An exclusive franchise system would give the City the ability to establish uniform rates throughout the City for the same level of service, and establish rates structures and “bundles” of service offerings that create incentives to recycle and reduce waste. And, an exclusive franchise system would eliminate the need for customers to shop for and negotiate rates with different service providers.

## **1.6 Limited City Ability to Achieve Broader Policy Goals**

The City requires its contractors to comply with requirements that include meeting certain health and safety standards for its workforce, and to abide by the City’s living wage ordinance. Under the current open market permit based system, the City cannot require the collection companies operating in the City to meet these standards. An exclusive franchise system would allow the City to require collectors to meet these standards via terms included in franchise agreements. The City would also be able to require that these standards be met at any transfer station, material recovery facility, or waste processing facility utilized by a franchise hauler as a subcontractor.

## SECTION 2

# Franchise Program Goals

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Following the adoption of the policy by City Council of the Exclusive Franchise Model (one waste hauler per service area), the proposed goals of the City's Exclusive Commercial and Multifamily Franchise system include:

1. Meet the City's Zero Waste goals by establishing the maximum disposal for each zone, and implementing waste diversion programs that are consistent with the SWIRP Guiding Principles.
2. Meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling.
3. Improve health and safety for solid waste workers under City contract provisions.
4. Improve efficiency of the City's solid waste system by maximizing system routing.
5. Improve the City's air quality by requiring late model low emission clean fuel vehicles.
6. Provide the highest level of Customer Service through communication and delivery of services.
7. Create a consistent, clearly defined system with uniform unit rates and contingency plans to ensure reliable service.
8. Create an environment that ensures long-term competition by utilizing a Request for Proposal (RFP) process that yields the best value service template for customers.
9. Ensure sufficient staffing to meet Program Goals.
10. Ensure reliable system infrastructure to provide uninterrupted service to City customers.

## 2.1 Meet the City's Zero Waste Goals

The City adopted the RENEW LA plan, which calls for a series of actions to move Los Angeles to Zero Waste by 2025, or 90% diversion with only a small inert residual left for disposal. Many of the RENEW actions have been adopted by the City, including the mandatory Construction and Demolition Debris recycling program, Solid Waste Alternative Technologies (SWAT) ordinance to establish zones where these facilities can be sited with a Conditional Use Permit, implementation of the multifamily recycling program, development of a Green Business Certification program, and restaurant food waste program.

Sanitation also provides business technical assistance on waste diversion through the Business Waste Assessment program. These programs, while very successful, are implemented by City staff on a limited basis due to limited funding and reduced staffing. The Exclusive Franchise system will bring a comprehensive recycling program to all businesses and residents in the City through the requirements in the Franchise agreements.

To align commercial collection services with the City's Zero Waste goals, new exclusive commercial franchise agreements will require that the disposal of solid waste at landfills from each zone decreases during the term of the agreement. In the Request for Proposals (RFP) responses, proposers could be required to provide a specific plan for how they would accomplish this, or support this goal, in their proposed collection zones.

### 2.1.1 SWIRP Guiding Principles

In 2007, Sanitation commenced a stakeholder-driven solid waste integrated resources plan process (SWIRP) to establish a 20-year blueprint to move the City to Zero Waste by 2025. A set of Guiding Principles were approved by the stakeholders, as follows:

- Education to decrease consumption
- City leadership as a model for Zero Waste practices
- Education to increase recycling
- City leadership to increase recycling

- Manufacturer responsibility
- Consumer responsibility
- Convenience
- Incentives
- New safe technology
- Protect public health and the environment
- Equity (Environmental Justice)
- Economic Efficiency

Many of the programs and policies contemplated through the SWIRP process can be satisfied by the implementation of an Exclusive Commercial Waste franchise system in Los Angeles. These programs include:

- Recycling at all homes and businesses in Los Angeles.
- Management of green and organic materials from the commercial and multifamily sectors, which will include food waste recycling from restaurants.
- Disposal reduction targets for Franchised Haulers in their zones.
- Implementing a commercial rate structure that encourages diversion, such as free recycling services.
- Increased outreach and education.
- Increased business technical assistance, through Franchise Hauler requirements and minimum standards.

## 2.2 Meet and Exceed California Environmental Laws

California is on the forefront of states in waste diversion policies and requirements. In 1989, AB939 was adopted by the State Legislature, and requires that all jurisdictions in California divert 50% of their generated solid waste materials from landfill disposal by 2020. In 2011, California adopted AB341, which requires that CalRecycle present a plan to bring the state to 75% by 2020, and mandates that most business and multifamily complexes have a recycling program. CalRecycle has also adopted a Strategic Directive 6.1, with a goal to reduce the amount of organics in the waste stream by 50% by 2020, or, they estimate, about 10 million tons of material each year.

The City continues to meet and exceed the requirements of the State of California. The City's diversion rate for the 2010 reporting year is 72%. Also, the City has a program that creates an incentive for permitted private waste haulers to provide collection and recycling of organics at restaurants. This voluntary program reaches about 10% of all food service establishments, in order to assist California in meeting its organics diversion goals, and to bring the City to Zero Waste, our Exclusive Franchise agreements must address the diversion of organics from the landfill. Targeting organics is important to our diversion goals since food waste is estimated by the United States Environmental Protection Agency to comprise approximately 25 percent of the waste stream.

Sanitation believes the Exclusive Franchise will improve environmental performance well beyond what state law requires, toward the City's Zero Waste goals. Not only will the City set diversion goals to reduce landfilling, it will also encourage competition for franchises, innovation and partnerships that can exceed those goals and build long-term capacity for recycling and diversion.

## 2.3 Improve Health and Safety for Solid Waste Workers Enforced by Provisions in Franchise Agreements

During the discussion and throughout the public hearings regarding the Franchise, a clear message was that the City's standard contract requirements such as the Living Wage and Worker retention programs would assist solid waste workers in improving their working conditions. These improvements will be implemented through the contract and subcontract provisions in the Franchise agreements. In addition, Sanitation is proposing an expansion of the current Certification process to include inspection of all facilities utilized under the Franchise agreements to enforce compliance with current laws and regulations, as well as enforce City compliance provisions. Violations will be enforced through liquidated damages and other means.



## **2.4 Improve Efficiency of the City's solid waste system by maximizing system routing**

Through the Request for Proposals and evaluation process, Sanitation will strive to minimize vehicle miles traveled (VMT) to provide the services required under the franchise agreements. Franchise haulers will be required to monitor and report on their VMT per route under the Exclusive Franchise system to allow the City to monitor and enforce those provisions relating to air quality. Franchise agreements could require haulers to provide an annual assessment of opportunities to reduce VMTs in their collection areas, and to establish VMT reduction goals for each hauler.

## **2.5 Improve Air Quality by Requiring Clean Fuel Vehicles**

The City will require that vehicles operating within the City under the Exclusive Franchise system be low emission clean fuel, and require that the Franchise haulers utilize late model vehicles to take advantage of new technologies, to reduce greenhouse gas (GHG) production by the City, and localized impacts to neighborhoods. Diesel-fueled solid waste collection vehicles emit many air pollutants, including particulate matter (PM) and oxides of nitrogen (NOx) that cause adverse health impacts. According to the California Air Resources Board, exposure to diesel PM may result in both cancer and noncancerous health effects. NOx, a contributor to ozone or smog, has also been found to have adverse health effects in humans, including respiratory irritation, suppression of the immune system, and asthma exacerbation.

## **2.6 Provide the highest level of Customer Service**

The Exclusive Franchise system must maintain and improve the level of service provided to customers. Specialized customer needs will be met by the haulers under the Franchise agreements. To provide an incentive, liquidated damages for poor service will be included in all agreements, and an annual review will be conducted on Franchise performance measures. Under the franchise, it will be easy for customers to access and use a broad range of services, and franchise haulers will be required to provide on-site customer assistance to support customer recycling efforts. Further, processes and systems will be put in place to ensure the timely resolution and response to customer requests and complaints.

## **2.7 Create a consistent, clearly defined system with uniform unit rates and contingency plans to ensure reliable service.**

Customers that are in the City's system would benefit from a consistent program which does not depend on service location. Service locations throughout the City should have access to the same programs, with similar rates, for the same types of services. Sanitation recommends that the City seek to create a uniform unit rate system to aid in customer service and transparency, and to eliminate variations that would create confusion. Rates should be predictable throughout the term of the franchise agreements, with limited increases based on a clear measure. Simplicity of rate calculations and changes should also be coupled with contingency plans which provide clear guidance to franchise holders and their customers as to what options are available if service is interrupted. Sanitation recommends that this be a stated goal in the system design. This target would be pursued through the proposals for the Exclusive Franchise System, negotiation, bundling, and other methods. Should any variation in the rate schedule remain, it will be transparent and disclosed at the time awards are recommended to the Board and Council.

## **2.8 Create an environment that ensures long-term competition by utilizing an RFP process that yields the best value service template for customers**

Ensuring that the Exclusive Franchise system remains competitive over the long term is a critical goal during the development of the new system. Putting measures into place such that the City receives wide participation in the Request For Proposals (RFP) process, making sure that a diversity of haulers are well represented through the design of the Franchise zones, and creating incentives for local solid waste haulers to remain part of the system, will ensure that ongoing competition remains. Exclusive Franchise zones include three that are sized for potential participation by smaller haulers, and Sanitation will welcome proposals which utilize small and niche haulers to perform some of the hauling of materials under the franchise agreements. These measures are tempered by the need to develop sufficient facilities for large scale waste diversion programs, which will also be considered during evaluation of franchise zone proposals.

## **2.9 Ensure sufficient staffing to meet Program Goals**

The development of an Exclusive Franchise system will require sufficient staff to implement program goals. One source is the current AB939 permit fee charged to private waste haulers for the right to collect and manage solid waste from commercial and multifamily properties. This fee was approved and implemented before Proposition 26 was approved by the State's voters, therefore it is not subject to review. This fee must continue to fund staff for the administration and management of private waste haulers, as well as compliance with environmental laws and implementation of Zero waste programs.

The action by the City Council in November approved the unfreeze of six positions for the development of the Franchise Implementation Plan and system. Staff needs beyond the program development phase must be analyzed after further design elements are designed. Additional resources will be needed for contract development and management, customer service and enforcement. These resources will be identified as the franchise system is further developed.

## **2.10 Ensure reliable system infrastructure to provide uninterrupted service to City customers.**

An essential component of the Solid Waste Integrated Resources Plan (SWIRP) is the identification and development of future facilities to meet the City's recycling and solid waste needs. SWIRP analyzes and identifies facilities for a 20-year planning period, to meet the City's Zero Waste goal by 2025. During Phase I of the SWIRP, stakeholders discussed facility options and toured example facilities. In Phase II, stakeholders identified specific facility needs with a goal of maximizing diversion before reaching landfill disposal. Management of materials for the Exclusive Commercial Franchise system will require additional facilities for processing of blue bin recyclables, green materials and organics like discarded food, and solid waste such as mixed materials processing and alternative technologies. Facilities to be contemplated include small, neighborhood facilities, as well as large, regional facilities to manage the materials currently. As yet, Sanitation has not identified the specific facility needs for the Exclusive Commercial Franchise system, but will continue to plan the City's needs in conjunction with the SWIRP.

## SECTION 3

# What We Envision for 2017: Recommended Strategies

This section provides specific information about how the exclusive franchise system will be designed and implemented to meet the goals outlined in Section 2.

The City's consultant, CH2M HILL, interviewed and gathered documents from other jurisdictions to inform the City's development of its franchise implementation plan. CH2M HILL's survey sample was targeted to jurisdictions with multiple, exclusive collection zones. Thus, it is a targeted sample (12 jurisdictions) and not necessarily representative of how jurisdictions have addressed all of the policy issues the City wishes to address with an exclusive franchise system. Where CH2M HILL's interviews and/or review of other jurisdictions' documents can help inform the City's direction, information obtained has been provided.

## 3.1 Collection Zones

The development of an Exclusive Commercial Franchise system in the City of Los Angeles requires that collection zones be established for the purpose of developing an RFP and awarding franchises. Sanitation has an established wasteshed system, with six separate collection areas, and proposes using these wastesheds as the starting point for developing exclusive franchise collection zones.

In order to gain insight into the experiences of other jurisdictions with multiple exclusive franchise zones, Sanitation commissioned a survey by CH2M HILL. After some initial online research and consultation with industry contacts, twelve jurisdictions were identified that were of interest to Sanitation. A summary of relevant information about the jurisdictions surveyed is shown in Table 3-1.

TABLE 3-1  
Summary Statistics for Surveyed Jurisdictions

Jurisdiction	Exclusive Collection Areas	Estimated Population	Square Miles <sup>a</sup>	No. of Firms	Services Franchised <sup>b</sup>
Collier County, FL. <sup>c</sup>	2	285,000	2,305	2	R/MF/C
Fresno, CA.	4 <sup>d</sup>	501,000	105	2 <sup>d</sup>	R/MF/C
Fresno County, CA. <sup>c</sup>	14	342,000	6,017	12	R/MF/C
Lee County, FL.	5	423,000	1,212	5	R/MF/C
Norwalk, CA.	2	106,000	9	2	R/MF/C
Palm Beach County Solid Waste Authority (SWA), FL. <sup>c</sup>	11 <sup>e</sup>	558,000	2,386	4	R/MF/C
Phoenix, AZ.	10	1,470,000	517	3 <sup>f</sup>	R
Portland, OR.	19	584,000	145	19	R
Reno, NV.	2	422,000	69	2	R/MF/C
Seattle, WA.	4	621,000	143	2	R/MF/C
Stockton, CA.	2	292,000	62	2	R/MF/C
Vancouver, WA.	2	165,000	46	1	R/MF/C

<sup>a</sup> County data include area for cities and towns.

<sup>b</sup> R = single-family residential; M = multi-family residential; C = commercial.

<sup>c</sup> Applies mainly in unincorporated areas of County.

<sup>d</sup> Data shown are for commercial and multi-family; residential RFP included two zones that were awarded to one firm.

<sup>e</sup> In process of changing to four collection areas.

<sup>f</sup> Managed competition process: Currently, the City and two private firms provide collection services.

### 3.1.1 Methodology of Establishing Collection Zone Boundaries

Sanitation recommends eleven (11) exclusive franchise zones for the City of Los Angeles. Eleven franchise zones of varying size and density will allow private waste haulers to design proposals that bring the maximum flexibility into the system, and result in a number of haulers being awarded exclusive franchise zones, while containing administrative costs. Having a number of haulers operating under the Exclusive Franchise system in the City will provide 1) backup in case of service interruptions, 2) options in case of emergency, and 3) sufficient competition for future RFPs for the system. Based on compiled information received from the waste haulers, these areas should vary from approximately 1,000 to 13,000 service locations.

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 over 460 square miles in area. 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. Based on the responses to the information request, Sanitation estimates that there are about 75,000 commercial service locations (accounts) within the City. The exact number of accounts, their locations, and service levels will change as staff receives additional information, because of data recording variations amongst hauling companies. However, since the respondents included the top ten waste hauling companies who make up nearly 95% of the City's commercial waste system, 75,000 locations is assumed to be fairly accurate.

As shown in Table 3.1, the number of franchise areas in the communities surveyed ranged from two to nineteen. A number of reasons were provided as the basis for the number of areas, and the number of areas that could be awarded to one company:

- Collier County established its areas around the two main population centers in the County, and the initial agreements were negotiated with its two main service providers (rather than an RFP process). It has two firms operating in its two areas.
- Fresno divided the City into four quadrants around major arterials that resulted in relatively similar numbers of accounts per zone. It allowed firms to propose on multiple zones: after reviewing responses, it awarded its four zones to two firms.
- Fresno County issued an RFP and any firm that could meet its bonding, performance, and insurance requirements was guaranteed a franchise area. Without an RFP, Portland took the same approach and negotiated franchise agreements with approximately 100 firms.
- The Palm Beach County SWA's new four zone system will have franchise areas that match the outer boundaries of their original 11-zone system, with each area being served by a transfer station or waste-to-energy facility. With the 11-zone system, no firm was allowed more than 55 percent of the residential accounts. With the four-zone system, a single firm can serve no more than three zones.
- Phoenix targets their zones to be approximately 40,000 living units. In 2006-07 they commissioned consultant research into the optimal size of collection zones. That research concluded that 30-60,000 living units per zone would be optimal. It uses a managed competition process where a new zone is bid every two years for a six-year term. No private firm may serve a particular zone for consecutive contracts, which the City requires to ensure their municipal collection services don't lose touch with residents in a particular area of the City.

- *Franchise boundaries typically are drawn around major geographic dividers such as main roads, water bodies, or mountains.*
- *No jurisdiction used political districts as the basis for franchise area boundaries.*
- *To ensure competition for future contracts, most jurisdictions limit the number of customers served by one firm to 40-55 percent of all customers.*
- *Some jurisdictions decided on the number of contracts to award after reviewing RFP responses.*

- Portland's system has evolved through consolidation from 69 exclusive franchises to 19 today. The City established a maximum of 50,000 accounts served by any one firm, but recently changed that to a 40 percent of all account maximum because one firm was nearing that 50,000 account limit.
- Reno had a single exclusive franchise and expanded to include a second firm that had taken advantage of the initial franchise covering wet waste only, and it had secured significant business by offering lower rates for dry waste service.
- Seattle used research by a consultant that indicated economies of scale are reached at approximately 5 to 10 trucks, or 20-40,000 living units per zone. Based on that research, Seattle thought they could have up to seven zones economically, but settled on four to reduce the administrative burden associated with multiple zones. After evaluating proposals, it awarded its four zones to two firms.

It should be noted that some jurisdictions (e.g., Fresno, Seattle) decided on the number of contracts to award after evaluating RFP responses. They awarded multiple zones to the highest rated proposers.

Most of the jurisdictions that have evaluated the optimum number of zones expressed concern about allowing any one firm to have too great of a market share. One person interviewed (from Fresno) responded that it would prefer one zone rather than two because the administrative challenges of multiple zones is high, and in his opinion the risk is low that a single firm would automatically win a new bid at relatively high prices because other firms would not be willing or able to provide competitive proposals.

In designing service area boundaries, the main criteria cited for establishing boundaries follow.

- Key geographic features (rivers, mountains)
- Major roadways
- Prior patterns of service for collection firms
- Proximity to unloading facilities (processing, transfer, disposal)

For example, Phoenix has mountains to work around and has one area that can be accessed by only one road going in and out, and Fresno County has four rate service areas that reflect differing building densities and mountain areas. Multiple jurisdictions pointed out the importance of clear delineation of boundaries to minimize confusion for collection firms and customers. Many considered expected future growth as well when establishing boundaries.

No jurisdiction has boundaries that are influenced by Council or Commissioner districts. That was considered during early deliberations in Fresno, but it was not acted on because it would have resulted in more zones than they felt was necessary (seven), the Council boundaries are less clearly delineated than what they have now, and Council districts change with each census which would require redrawing boundaries.

Some lessons learned offered by survey respondents follow:

- Clarity in boundary delineation simplifies management and administration.
- Having different rates in different areas leads to confusion and is not desirable.
- Administrative complexity increases substantially with multiple franchise areas, and economic efficiency can suffer if zones are too small: many survey respondents think fewer areas would be better than what they have now.
- Better, more proactive communication with customers prior to implementation of the new system would have reduced confusion and complaints during startup.

- *No jurisdiction has boundaries that are influenced by political districts.*
- *Administrative complexity increases dramatically as the number of franchise areas increase.*
- *Differing rates in different areas leads to confusion and is not desirable.*



- Franchise agreements can evolve and improve through time.
- Vancouver wished it had included commercial recycling in its initial commercial franchise. Its provider offers this service now and participation is growing, but it could have been farther along.

Sanitation's current wastesheds are used to track the flow of waste and recyclables of material collected by the City's curbside collection program. For future planning purposes the boundaries of the City wastesheds and franchise zones should align. This allows Sanitation to look at both public and private waste flow as a whole for the first time. This ability will assist Sanitation in siting future facilities to meet the needs of both waste streams. In addition, 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 wastesheds. The San Pedro wasteshed 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 goal of establishing the franchise zones is to provide cost effective collection opportunities for both small and large waste haulers. Staff has evaluated the challenges that smaller waste haulers might face in preparing a proposal and providing service to their customers. Many small to medium size waste haulers currently service less than 1,000 accounts. These haulers may not have the resources to provide service to large service areas that could exceed 10,000 accounts and may not have the capital to secure additional resources. Additionally, the need to match the size of the zone to available resources was a concern voiced by smaller haulers that did not own their own solid waste facilities. Smaller haulers feel that larger haulers that own their own facilities may use their leverage over tipping fees to place smaller haulers at a competitive disadvantage.

Taking the factors that could affect small haulers into consideration, staff believes that developing zones with smaller numbers of service accounts, smaller geographical areas, and in close proximity to public owned waste facilities will allow smaller haulers to successfully propose for an area and continue to service and increase business. Small zones with 1,000 to 3,000 accounts should provide small haulers with the ability to propose while provide them with the opportunity to grow. To address the concern of competitive tipping fees, smaller zones should be created adjacent to the City owned and operated Central Los Angeles Recycling and Transfer Station (CLARTS). This proximity will provide small haulers with direct access to publically owned facility and stable and transparent rates.

The top four waste haulers in the City service 10,000 to 40,000 accounts. Sizing the larger franchise zones between 4,000 to 15,000 accounts will allow haulers to propose on one or multiple zones. The larger zones will allow larger haulers to utilize their existing infrastructure and capital to provide competitive proposals.

#### **Recommendations:**

- **Zones sized with a range of 1,000 to 13,000 accounts.**
- **Existing Sanitation Wasteshed boundaries be used as a basis for developing zones.**
- **Use major geographical features such as roads or mountains to delineate boundaries.**

### **3.1.2 Franchise Zone Boundaries and Cap on Zones Awarded**

Building from the stated goals above, Sanitation developed eleven zones that range from 1,000 to nearly 13,000 accounts, utilizing existing Sanitation Wasteshed boundaries, and utilizing major geographical features to delineate boundaries, see Figure 3-1 and Table 3-3 below. These zones were developed to promote competition, help promote level rates, allow for competition from smaller waste haulers, while balancing the cost of administering multiple contracts.

As noted above, Sanitation issued a request to all permitted waste haulers to gather detailed information on the number of service locations in the City, based on zip codes. As part of that request, Sanitation also requested the level of service for the corresponding zip codes. This service was captured as the number of cubic yards of service

per week. For example if a business had a three cubic yard bin collected once per week, that would equate to three cubic yards of service, where as if business had two – four cubic yard bins collected twice per week that would equate to sixteen cubic yards of service. Staff took both the number of service locations and service level into consideration when drafting the zone boundaries. Table 3-3 below notes the service locations and service levels for each proposed Franchise Zone. The exact number of accounts, their locations, and service levels will change as staff receives additional information, because of data recording variations amongst hauling companies.

TABLE 3-2  
Franchise Zones Service Levels

Proposed Zone		Total Service Locations <sup>1</sup>	Percent of total based on Service Locations	Total Cubic Yards of Service per week <sup>1</sup>	Percent of total based on Cubic Yards
1	WV	9,793	13%	77,735	17%
2	NEV	7,662	10%	45,578	10%
3	SEV	6,473	9%	45,398	10%
4	WL	10,408	14%	59,024	13%
5	NC	11,880	16%	72,000	16%
6	NE	6,757	9%	40,486	9%
7	SLA	12,809	17%	53,067	12%
8	HB	4,257	6%	21,007	5%
9	DT	2,313	3%	16,725	4%
10	EDT	1,165	2%	7,108	2%
11	SE	2,065	3%	9,665	2%
<b>TOTAL:</b>		<b>75,582</b>		<b>447,793</b>	

**Note:**

**1 – Based on Waste Hauler Self-Reported Data**

The larger zones will vary in size, ranging from over 4,000 accounts to zones with nearly 13,000 accounts. The larger zones will allow larger haulers to utilize their existing infrastructure and capital to provide competitive proposals. Also, varying the size of the zones allows the City to bundle (combine) zones in the contracting process. The bundling process provides the City with a means to:

- Combine zones that may have disproportional rates to help level rates across the City. This is discussed in more detail in Section 3.3.
- Ensure all zones receive competitive proposals. If a hauler wants larger market share they will have to propose on areas that may appear to be less profitable.
- Protect small zones
- Limit any single haulers market share.

Sanitation proposes that the franchise zones in the Valley area be divided east-west using the 405 freeway. This provides a clear and distinguishable boundary and mirrors the existing wastesheds. To provide additional franchise opportunities, the east valley area will be divided along major east–west thoroughfares. The east valley area will be divided along Vanowen Street. North of Vanowen the type customers serviced begin to change from retail to industrial. By grouping customer types, waste haulers will be able to maximize their diversion efforts.

The West LA and Harbor wastesheds were kept as single franchise zones. Although large, the west Los Angeles wasteshed presents a number of service related issues. There are a limited number of solid waste facilities located near West LA. In addition, a large area of this wasteshed consists of difficult to access, and hilly terrain.

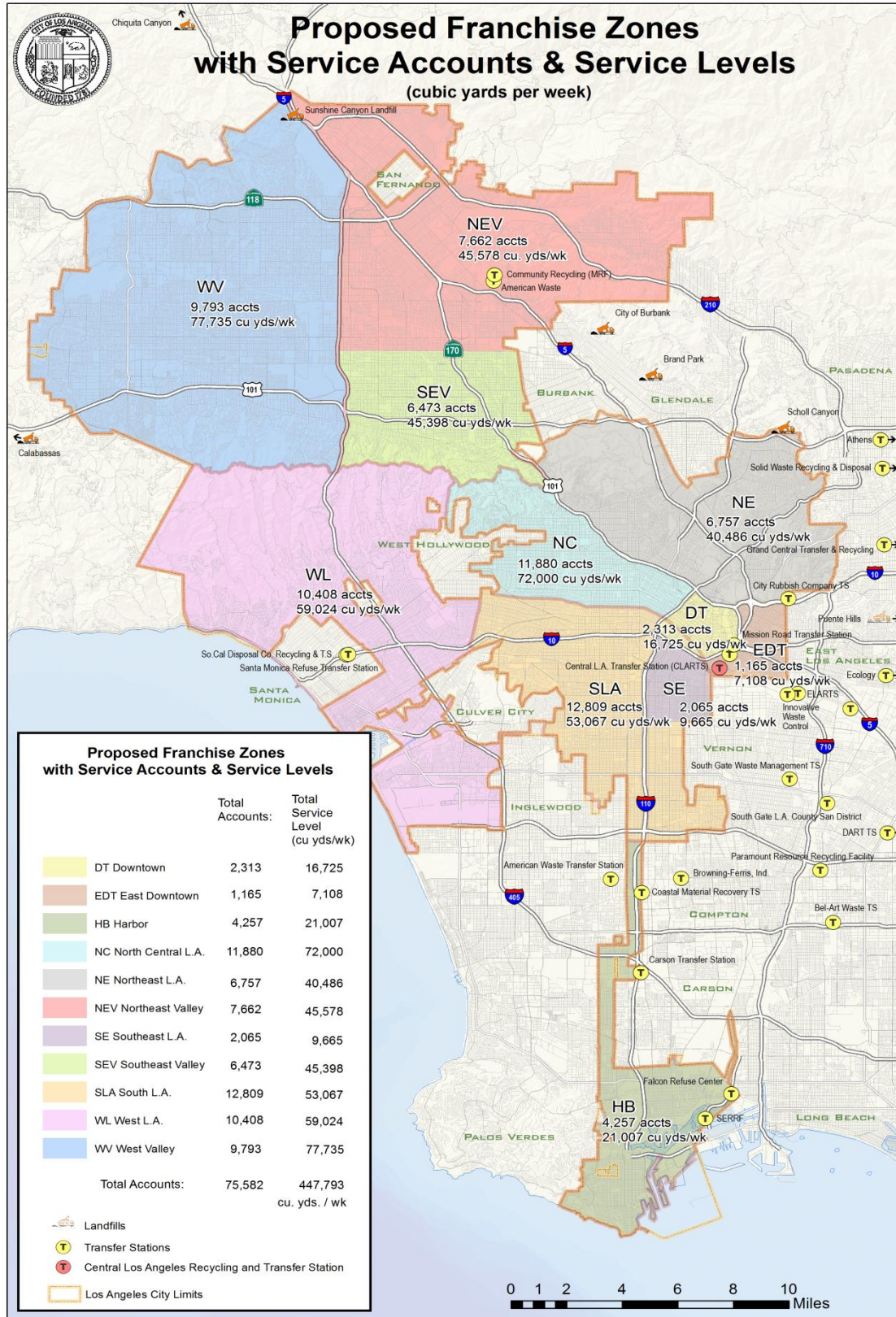
However, there is also a portion of this wasteshed with a high concentration of businesses. Sanitation believes that the assumed difficult and more costly portion should remain with the portion with a high concentration of business. This will provide the waste hauler with an overall economical area to service and promote level rates. Given the geographically isolated nature of the Harbor wasteshed, as compared to the rest of the City, the Harbor wasteshed should not be further divided. As shown in Figure 3-3, although distant from the center of the City there are a number of transfer stations located near the Harbor franchise zone.

As stated previously many small to medium size waste haulers currently service less than 1,000 accounts and may not have the resources to provide service to large service areas. When surveyed, these haulers indicated that small zones should be sized in the 2,000 account range. Sanitation designated three smaller zones that will provide opportunities for small to medium size waste haulers. These franchise zones are South–East with 2,100 service locations, Downtown with 2,300 locations and East-Downtown 1,100 service locations. To address the concern of competitive tipping fees, the smaller zones were created adjacent to City owned and operated Central Los Angeles Recycling and Transfer Station (CLARTS). This proximity will provide small haulers with direct access to a publically owned facility and stable and transparent rates. To protect the intention of the smaller zones, these zones will not be included in the bundling process. This means that these zones are to be awarded to three separate waste haulers and cannot be combined with other zones.

Sanitation recommends the maximum market share any single could be awarded should range from 40 to 49 percent. Under the current permit system no single hauler has more than 40 percent of the waste hauling market share in the City. This cap will ensure that no single hauler dominates and that there will be a sufficient pool of qualified waste haulers to meet current and future collection and diversion needs, foster growth and maintain competition. Limiting the share any single hauler is awarded will also allow the City to effectively arrange for backup waste hauler(s) if the franchised hauler is unable to fulfill its contractual obligations. The exact size, as it relates to market share, of the proposed zones will be determined during the RFP and contracting process. Minor modifications to the maximum allowed percentage of market share may need to be modified during the RFP and contract process.

### **Recommendations**

- **Designate 11 Franchise Zones**
- **Adopt the Exclusive Commercial Franchise Zone Map**



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Figure 3-1 – Franchise Zone Map

### 3.1.3 Create Opportunities for Local Private Waste Haulers

Sanitation is recommending several methods to ensure that local permitted private waste haulers have the opportunity to compete in the new exclusive commercial waste franchise system. First, Sanitation recommends that experience in the City of Los Angeles be considered for the award of franchise zones. Sanitation also recommends that three collection zones be sized so that they are available for proposing by smaller waste hauling companies through the RFP process (see the Sanitation's map of proposed collection zones), and that all franchisees (prime contractors) adhere to the Business Inclusion Program, including subcontracting requirements. These measures will help to ensure that small local haulers remain viable and competitive in the local collection services industry.

Local private waste haulers have expressed a concern that the number of years needed to understand the structure and neighborhoods in the City will be lost during the RFP process. The City has an opportunity to retain waste haulers that are located in the local area, know the areas that they may be awarded, and have relationships with major customers. The evaluation of the proposals will include a significant experience requirement, and additional points will be awarded for long term experience within the City of Los Angeles. This experience is bolstered by providing the types of services for varying customer needs, as commercial accounts are not a one size fits all collection activity.

Three smaller collection zones should be located near the City's Central Los Angeles Recycling and Transfer Station (CLARTS), which charges the same rates to all customers. Haulers who service these three smaller exclusive franchise zones will be directed to CLARTS in their franchise agreements. In addition, there are several privately held recycling facilities in the same area which are not controlled by large waste hauling companies. These actions will ensure that small haulers have access to competitively priced transfer and processing facilities, and address concerns voiced in stakeholder meetings and in public hearings that waste haulers who do not own facilities may be 'shut out' of the franchise proposal and selection process.

Regarding subcontracting, Sanitation believes that the City's Business Inclusion Plan provides additional opportunities for small haulers. Each prime proposer will be required to meet the City's minimum percentage subcontracting goal, with the subcontracting consisting of all activities that can meet City requirements. No additional minimum subcontracting minimum will be imposed on franchisees, although they will be permitted to voluntarily subcontract a portion of their work required to be performed. In some cases, subcontracting may be viewed as adding value to a proposal, as indicated in Section 3.7.6. Both the prime and its subcontractor(s) will be required to abide by all of the requirements set forth for the prime contractor, including but not limited to the City's living wage requirements, as well as any health and safety standards, which the City establishes through the contract.

Two jurisdictions – Lee County Florida and Seattle – have versions of living wage in their agreements, with Seattle's being quite comprehensive. One jurisdiction - The Solid Waste Authority of Palm Beach County, FL – has a small business minimum participation requirement in its agreements. Specifically, in the current solicitation they have a fifteen (15) percent goal for Small Business Enterprise (SBE) participation in contracts and purchases. The participation is calculated by dividing the proposed annual payments to be made to certified SBEs providing good and/or services necessary to support the required services under the agreement by 60 percent of the total annual residential and commercial bid. Seattle, in its last RFP process (2007), created a fourth collection zone (it previously had three), with the hope it would attract one or more small haulers (or new companies) to propose. Seattle, in fact, ended up choosing CleanScapes, a newly formed local collection company, to serve two collection areas.

#### **Recommendations:**

- **Three collection zones geared to smaller waste haulers.**
- **Compliance with the City's Business Inclusion Plan (MBE/WBE/OBE/DVE/EB Subcontracting).**



## 3.2 Fees and Funding Requirements

### 3.2.1 Franchise Fee Level

Sanitation is recommending that proposals include a gross receipts franchise fee paid quarterly, as well as an upfront payment submitted through the Request For Proposals (RFP) process. The minimum franchise fees will be set to meet the fiscal needs of the City. As shown in the data gathered by CH2M Hill and HFH, franchise fees for other jurisdictions range from 2% to 27%. Sanitation expects a reasonable minimum franchise fee to be in the range of 10%.

CH2MHILL's survey of other jurisdictions indicates that all have some form of fee included in collection rates that provides funding to the local jurisdiction's General Fund. Jurisdictions in Florida and California have franchise systems fee rates ranging from a few percentage points to over 20%. In Seattle and Vancouver, rates include a Utility Business and Occupation Tax, with proceeds going to each city's General Fund. Seattle's rate is 15.54%, while Vancouver's is 20%. Stockton required its franchisees to pay an upfront amount, at the beginning of the terms of the two franchises, which is paid over the first four years of each contract for a purchase of street sweeping equipment, a service that the City chose to outsource to its contractors. Portland dedicates a portion of its 8% franchise fee to support solid waste programs. The cities in California that CH2M HILL surveyed also included AB939 fees in customer rates (except Norwalk).

Current AB939 hauler fees are paid quarterly, and are based on 10% of gross receipts. Basing the additional franchise fee on gross receipts creates a revenue source that is, to a large extent, stable even during tough economic times. Creating either a flat fee, or a fee based on some other factor, such as disposal tonnage, would not guarantee a stable revenue each year and may not properly adjust to reflect adjustments in contract terms throughout the franchise. In addition, many jurisdictions have taken advantage of the competitive process by allowing proposers to submit up-front payments, in addition to ongoing franchise fees, to be considered in the evaluation of proposals. These upfront payments can be considerable.

Sanitation recommends that a minimum franchise fee be specified in the RFP. Proposers may also include an additional value for the franchise, either as an additional percentage franchise fee, or an upfront payment, or both. Proposers should consider that it is the City's intent to normalize rates across the City during the negotiation stage of the process.

#### Recommendations:

- **Establish a minimum annual franchise fee in the RFP.**
- **Existing AB939 Fee to continue in place**

### 3.2.2 Staffing Plan

In its original report to Council in February 2012 Sanitation requested the unfreeze approval of six (6) staff positions to provide adequate staffing for the Franchise Initiative thru its early stages of development. Council approved the unfreeze of these positions and just recently, in March 2013, the City's Managed Hiring committee approved the position for hiring. Sanitation believes that this level of staffing is adequate to support the Initiative up to the point of drafting the RFP. A subsequent assessment will be made once it is better known the extent of Sanitation's enforcement needs and contract responsibilities.

- *Fees range from a few % to over 20%*
- *Fee revenues usually dedicate to the jurisdiction's general fund*
- *Fees are included in franchise agreement*
- *Jurisdictions often build an additional fee into rates to cover solid waste program costs (including AB939 fee)*

### 3.3 Uniform Unit Rates that Change Predictably

Sanitation will seek fair and equitable rates for all customers, however, the feasibility of establishing a uniform rate schedule can only be determined after evaluation of the proposals for the Exclusive Franchise System. It's important to note that one of the goals of the exclusive franchise system is to drive diversion from landfills. An exclusive franchise system must provide and promote recycling options to businesses and provide the impetus to implement the RENEW LA plan adopted by the Los Angeles City Council. RENEW LA calls for the implementation of multiple recycling and diversion programs and alternative technologies to significantly reduce and eventually eliminate the reliance on landfills. Currently, each business or property owner negotiates rates with a hauler, as well as their level of service. There are no set amounts or rate schedules available that customers can use to determine if they are paying a fair rate for the service they are provided. In particular, this affects small businesses, many of which do not have the time to research, bid, and negotiate for recycling and waste services. Small businesses also have less negotiating power than larger businesses which can lead to them paying higher rates for the same service. A uniform rate structure has many advantages. Total customer costs will vary due to the type and amount of services they require, but adjacent businesses will be billed the same base rates for collection of recyclables and waste. Depending on the cost variations in the proposals, it cannot be predicted with certainty that this can be achieved at this time. It is Sanitation's recommendation that Council deem the Uniform Unit Rate Model as the preferred model but give Sanitation the authority to negotiate the best achievable and practical rate model.

#### 3.3.1 The Advantages of a Uniform Unit Rate Schedule City-Wide

A single, uniform rate schedule Citywide will ensure equity so that all of the City's business, institutional, and multifamily customers pay the same rates for the same service. The service will be much simpler to understand and more transparent: a rate matrix of services will be posted on the Sanitation website and communicated freely to all customers. Commercial customers with businesses in several zones, and Council Districts that have more than one zone, will not have starkly different costs for the same services.

A uniform city-wide rate structure does not mean a one size fits all approach. Business will have a suite of solid waste and recycling options to choose from that promote diversion and can be customized to fit their needs. Once customers know what choices are available to them, it will be much easier for them to tailor their mix of recycling, organics, and solid waste service so that their needs are met at the lowest possible cost. Further, a uniform rate schedule will make it much easier for Sanitation staff to work with customers to identify billing issues and quickly resolve them.

In CH2M HILL's survey, jurisdictions were split about evenly between those that have a single jurisdiction-wide rate schedule, and those that have different rates in different franchise areas. In jurisdictions where rates are different in different areas, complaints have been received from businesses with rates that were higher than from others in the City. For example, with multiple, exclusive zones there will be situations where businesses on either side of a main arterial, or different outlets of a business with multiple locations, will pay different rates for the same service. One jurisdiction surveyed, the Palm Beach County SWA, is in the process of changing to a system with different rates in different areas, to a system where commercial rates are consistent county-wide.

##### Advantages of Uniform, City-Wide Rate Schedule

- **Fairness** – all businesses, institutions, and multifamily customers pay the same rate for the same service.
- **Simplicity and Transparency** – rates and choices are clear; less confusion and fewer disputes about billing
- **Predictability** – easier for customers to budget for the cost of collection services
- **Driver for Waste Diversion** – Sanitation will set the rate to ensure that businesses have an incentive to divert waste from landfill.

### 3.3.2 Potential Methods for Implementing a Uniform Unit Rate Schedule City-Wide

Sanitation believes that the potential revenue for a long term exclusive franchise in the City of Los Angeles will result in extremely competitive rates through the RFP and contractual process. The size of the franchise contracts, and the ability to monetize their value will drive rates for commercial customers downward. The franchise effort and subsequent contracts will be among the largest in the Nation Although some zones may appear to be more expensive to collect from, proposals may not reflect that contrast, due to the large number of service accounts in each zone. Many of the proposed zones to be established have more service accounts, with more service needs, than entire franchise service contracts in most other cities. Waste contracts are fiercely competitive in even relatively small cities. Recently, Lawndale saw rates drop by 25% after going through a competitive bid process. Sanitation also believes that bundled zones, combining those zones perceived to be more costly with more desirable areas, may result in lower overall rates due to the larger combined value to the hauler.

In the responses the City will receive to its RFP, the proposed costs for services will differ by hauler and by franchise area. If the cost proposals by area are substantial because of differences in route density (driving time between stops) and differences in off-route travel time (driving from base yards to and from routes, and from routes to and from processing or disposal facilities), then implementing a uniform rate structure will be more problematic. Methods the City could utilize include the negotiation process, pairing high- and low-cost service areas (bundling), a compensation adjustment factor, and using an off-route mileage fee. These examples are described below, followed by a brief discussion of activities the City will need to do in order to establish a uniform rate schedule city-wide.

#### 3.3.2.1 Negotiation

City staff will be prepared to negotiate the cost proposals to seek uniform rates. It is expected that proposals will vary in price depending on a number of factors. After a review of the technical proposal to ensure that the proposers are capable and willing to provide the services expected of them by their customers through the franchise system, Sanitation will develop and use a rate model to seek a uniform system wide rate structure. Identification and analysis of all the potential proposers for each zone will be modeled to provide a first look at the variations in cost of service.

Sanitation will also conduct a survey of willing businesses to gather current contract costs for services throughout the City. These current costs will be used for comparison to the cost proposals submitted by the haulers. At that time and after full evaluation, decisions can be made to negotiate with the top proposers in each zone.

#### 3.3.2.2 Bundling Service Areas

A uniform City-wide rate schedule could be developed without a compensation adjustment by structuring Sanitation's RFP with options for pairing high cost service areas with low cost service areas. This method uses a negotiated process and pairing high- and low-cost franchise areas resulting in rates that are close to the initial proposal averaged over the entire bundle. Cost proposals may also be negotiated due to the potential award of a larger area. This option would avoid the complexities of implementing a compensation adjustment mechanism.

Fresno County and the cities of Reno and Stockton used a negotiated process to establish uniform county-wide rates after viewing proposals from multiple collection firms in multiple franchise areas.

#### 3.3.2.3 Using an Off-Route Mileage Fee

Another method is to use an off-route mileage fee. This could be used to eliminate or reduce substantially the difference between revenues and costs. In this approach, Sanitation would review responses to its RFP and establish an off-route mileage fee that would be added to the base rates charged customers in high cost zones. Thus, the base rates for service (e.g., a 4 cy bin 2 times per week) would be the same throughout the City, but customers in higher-cost zones would have a small mileage fee added to those rates..

Like bundling, this approach would require a similar level of expertise and negotiating skill during the implementation period, but would eliminate the ongoing complexity of a compensation adjustment process.

### 3.3.2.4 Compensation Adjustment Factor

The term “compensation adjustment factor” refers to the difference between revenues collected by each hauler and the amount owed each hauler for providing services. This requires franchisees to pay the City for revenue collected in excess of their cost of service, as determined in contract, and in turn the City reimburses franchisees for revenue collected that is below their cost of service. The challenge with this method is the inherent uncertainty in the amount of service that will be requested by customers in each franchise area each month and what information is available to design a uniform city-wide rate structure that results in a net compensation adjustment near zero each month. It would also add Administrative responsibilities. Sanitation would also need to establish and set aside money into a compensation adjustment fund that could be used if rates were not set high enough to cover required compensation adjustment payments. It would also need a mechanism to adjust rates at some point during the first year should rates be set too high or too low.

This method has similarities to the approaches used by the cities of Seattle, Phoenix and Lee County to set uniform rates City-wide.

Further data and cost of service modeling can augment efforts to set appropriate uniform city-wide rate for residential service. Portland’s Bureau of Planning and Sustainability conducts an annual rate review process, assisted by an independent economist who performs the rate analysis, a Certified Public Accountant who reviews hauler financial records, staff from Portland State University (PSU) to sample the weight of the various sizes of solid waste containers set out for collection, and a consulting firm that specializes in forecasting the market price of recyclable paper products. Rates are based on weighted average hauler cost including 9.5 percent hauler operating margin (profit plus state and federal taxes). The proposed rates are reviewed by the Portland Utility Review Board (PURB), a citizen panel with no hauling industry representation, and then forwarded to City Council for consideration and final adoption.

### 3.3.2.5 Actions Required to Establish City-Wide Rate Schedules

The City will need to conduct a series of activities prior to implementation. Many of those apply regardless of whether rates vary by franchise area or are uniform. A high-level list of the most important activities it must conduct follow.

#### Prior to Issuing an RFP

1. Establish franchise zone boundaries.
2. Estimate the number of accounts and the amount of service required by each account in each franchise area.
3. Evaluate the methods described above and other ideas that may be used to establish uniform rates and contractor compensation.
4. Evaluate and decide on what financial and productivity information will be requested from proposers, in what format.
5. Evaluate and decide on the structure of rates for garbage and recycling (i.e., establish how much more a two cubic yard bin should cost than to a one cubic yard bin), and decide on the minimum service level for recycling.
6. Estimate the average cost per cubic yard of collection in each franchise area and evaluate and decide upon strategic groupings of franchise areas that will be included in the RFP.

### 3.3.3 Implement Rate Adjustment Provisions that Eliminate Sudden Increases

Along with a uniform rate schedule, the Exclusive Franchise system will include clear and specific limitations for how rates will be adjusted over time. Businesses will be assured that rates will increase in a fair and orderly manner with annual increases capped and tied to a standard measure such as official published Consumer Price Indexes (CPI). This will help customers plan for and budget the cost of collection services more accurately and eliminate any sudden or sharp increases.

The CH2M HILL survey found that all jurisdictions surveyed allowed for annual adjustments to contractor compensation, and rate adjustments were considered annually. A variety of different price escalation methods are used. Most are tied to one of the consumer price indexes and contractor compensation is typically adjusted annually using a percent of the increase of that index and a cap on the total increase each year. Rate changes typically were tied to changes in contractor compensation plus any adjustments required for franchise fees, program administration, or state requirements.

#### **Recommendations:**

- **Set limitations on annual rate adjustments, such as using the Consumer Price Index (CPI).**

### **3.3.4 Implement Rates Structured to Drive Diversion from Landfills**

The rate schedule will be structured to help encourage additional diversion of material from landfills. Sanitation recommends that rates include a basic level of recycling service. Franchised waste haulers will be required to include, in their standard rates, one cubic yard of recycling service for every three cubic yards of solid waste, with a minimum collection frequency of once per week. Customers looking to save money and divert more material from landfill could request a larger bin and/or more frequent recycling, green waste, or organics service, and the unit cost of that service would be priced lower than a comparable service for solid waste. This would provide a powerful incentive for driving additional material away from landfills and toward more beneficial uses. Proposers will be asked to include a reduced recycling rate for materials not intended for disposal, and will be evaluated on the reduction below their waste hauling rates. The rates will also be structured to address the City's phased approach to organic recycling. The "bundled" rates established through the RFP will include the continued collection of organics from all participating restaurants and a reduced rate for green bin recycling at all multi-family properties that generate green waste.

In the CH2M HILL survey, most jurisdictions have a competitive market for commercial recycling, or businesses pay for recycling at a rate ranging from 50-80 percent of the rate for comparable garbage service. We did find the following examples where recycling is included with garbage service:

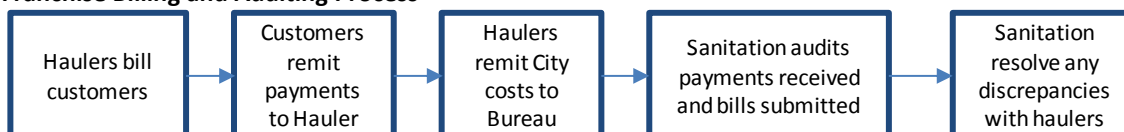
- In Fresno County, all customers that elect to subscribe to enhanced service receive a consistent recycling service throughout the county (although residential green waste services differ in different zones).
- In Lee County, contractors must offer recycling of up to two cubic yards weekly to all commercial customers at no additional cost. Commercial customers are not required to recycle, and recycling services are not exclusive to the franchisee: if customers want a larger recycling container, they are charged for that service on a negotiated basis.
- In Stockton, contractors must offer recycling of up to four cubic yards weekly to all commercial customers at no additional cost. Franchisees are entitled to added compensation for customers requesting service of more than four cubic yards of recycling per week. The recycling service is not exclusive.

### **3.3.5 Implement a Transparent Process for Ensuring that Franchise Billing and Compensation Terms are Met**

Once franchise agreements have been executed, Sanitation will implement a process to ensure that compensation paid to haulers, and fees received by the City, meet the terms of the agreements and are accurate. Sanitation anticipates that this "auditing" process will flow as shown in Figure 3-2 below.

FIGURE 3-2

#### **Franchise Billing and Auditing Process**



## 3.4 Efficiency in the System

### 3.4.1 Require Efficient Collection Routing

Reducing collection truck traffic on City streets and improving air quality are high priorities and selected franchisees must demonstrate how they support these goals over the life of the franchise.

To that end, Sanitation recommends that in their RFP responses, haulers be required to describe and explain how they plan to implement best operational practices, including routing efficiencies. Each proposer will be required to provide detail information on the number and types of vehicles they will use for collection, expected vehicle miles (VMTs) for the routes they plan to follow. Information provided by proposers will be used to compare the efficiency and costs effectiveness of each proposal (and against best practices) which will be considered in the final selection process.

In addition, Sanitation recommends that franchise agreements require haulers to establish vehicle tracking methods and processes to ensure maximum routing efficiencies. Auditing capability by the City should also be considered, which can also serve to track collection service lapses. Each franchisee will be required to report total VMTs (at least annually), compare actuals versus what the franchisee originally proposed, explain deviations, and explain how any needed improvements can/will be made. Collection vehicles may be required, for example, to have GPS tracking to ensure accurate VMT tracking and to support other goals related to customer service (for example, real time dispatch to respond to missed collections). The City may include VMT performance, versus plan, as a performance metric for each franchisee (and potentially apply liquidated damages for non-performance).

The recommendations described above will put the City on the cutting edge of driving efficiencies in solid waste collection and reducing collection vehicle emissions. CH2M HILL's survey of twelve jurisdictions did not find one that has addressed the issues of collection efficiencies via the RFP (or franchise agreements) as thoroughly LA is proposing to do. One jurisdiction, Seattle, required each RFP responder to explain how its collection vehicles will ensure efficiency, safety, mitigate noise, but did not request an explanation of how route efficiencies would be ensured. Seattle's contracts also include detailed requirements related to CNG vehicle use, and other vehicle standards. Seattle's contract requires regular detailed reporting of data on each collection route served and data for cycle time by vehicle at transfer facilities. Seattle does not receive, review or analyze contractor VMT data. Other jurisdictions that had conducted recent RFPs did not address the efficiency of vehicles, routing or clean vehicles at all, only in a very general way.

Although CH2M HILL did not interview San Jose, it obtained a copy of the City's franchise agreement and found innovative terms related to promoting efficient routing.

#### Recommendations:

- **Require routing efficiencies in proposals and contracts.**
- **Monitor VMT to ensure continued routing efficiency.**

#### Seattle 2007 RFP Question for Proposers: Chapter VII, Section B, Question 15

*"The City is interested in ensuring that contractors use collection trucks and equipment that are efficient and reduce emissions. The contract requires that all vehicles used in collection shall have either emission that are no greater than 2007 federal diesel engine requirements and use of 20% biodiesel or operate on CNG. Please discuss features of your proposed truck fleet that would save fuel, increase efficiency, and reduce impacts i.e. trucks with operate-in-gear-at-idle systems, trucks that do not allow extended idling, safer brake pads and hydraulic fluids, etc"*

### 3.4.2 Implement Efficiencies in the Provision of Customer Service

Sanitation's recommendation to establish an exclusive commercial franchise system will result in more efficient, customer focused service.

- First, the franchise requirements will result in franchised waste haulers refocusing their resources to customer service and eliminate the need for haulers to market and sell to potential new customers. Currently, haulers have staff to draft and process agreements with each customers, and to renegotiate as agreements expire. The focus of the franchise haulers will now be on providing outstanding customer service, and increasing diversion from landfills.
- Second, because it will be working with a smaller number of haulers, the City will be able to develop and implement new customer service offerings efficiently. As an example, development of multi-family and commercial customer service web portal will be much easier in the future. Such a portal could provide a "one stop shop" for service offerings information, educational material, account and billing information, pay online functions, and much more.

It is recommended that the RFP for exclusive commercial franchise collection request specific customer service focused proposals that capitalize on the efficiencies that the new system will generate. The RFP should, at a minimum, require the following:

- on-line billing and payment
- on-line account management including service management options
- 24/7 customer support
- on- line tracking of service requests

Franchise agreements should include specific provisions to provide innovative customer service offerings that result from the RFP process. Franchise agreements must also provide the City, with support of the haulers, the ability to implement new customer service options throughout the term of the agreements.

The proposed approach to capitalizing on efficiencies that will result from implementing exclusive commercial franchises will put the City on the cutting edge of customer service. CH2M HILL's survey of other jurisdictions RFPs and franchise agreements usually have requirements that haulers provide live "call center" capabilities (though hours of operation requirements vary), that haulers participate with the jurisdiction in customer education efforts, and that haulers commit to periodic customer information/education mailings at no expense to the jurisdiction. But, only one agreement reviewed (Fresno City) has explicit requirements regarding a franchisee's web site capabilities, how the hauler's web site is expected to be integrated with the jurisdiction's website, or other technology based customer services to be provided.

#### Recommendations:

- **Require contractors to use all forms of communication with their customers (call center, online, etc).**
- **Franchise agreements will allow changes if new technologies are developed.**
- **Service complaints, response times, and complaint resolution will be transparent/reported to Sanitation**

#### Examples of Opportunities for Efficiencies

- *On-line billing and payment through one web portal*
- *On-line account management through one web portal including service management options through one web portal*
- *24/7 customer support*
- *On- line tracking of service requests*
- *Collection day push messages to customers (text, email, and phone)*



## 3.5 Consistent Customer Service Standards

Customer service, including consistent delivery, prompt correction of issues, and convenience, will be a cornerstone of the new exclusive commercial franchise collection system. Under the current free market commercial collection system, customer service is inconsistently provided to businesses. Businesses have described the need to change hauling companies, sometimes more than once, to get the service that they require and expect. Exceptional customer service will be a requirement for all franchise haulers. The City will provide tools for communication that match customer needs, from live call center operators, to online communication through e-mail or text message, to providing a free smart phone application so that customers can send and receive timely information. Franchise agreements will include specific requirements for systems that can interface with the City, as well as liquidated damages for failure to provide the excellent service required by the customers.

### 3.5.1 Provide Consistent, Innovative Customer Service Offerings

The new franchise system will allow businesses to customize their waste and recycling services to meet their needs. Franchise agreements will allow businesses to mix and match a variety of collection services, including special collections or other specialized on-site needs. Franchisees will be required to perform on-site assessments to determine how much waste capacity is needed after blue bin recycling. Customers will be able to schedule their collection times for the days and times that meet their business needs, as long as the hauler is also able to efficiently move their collection vehicles through the City.

Sanitation is recommending, at a minimum, a Blue Bin recycling system that provides a consistent customer experience throughout the City, regardless of whether the customer is a business, a single family or multifamily household, or school. A key advantage of this approach is consistency and a service type that is familiar to those who already live in the City and receive residential service. Customer information and educational material will have consistent messages and common formats. Franchised haulers will be required to provide blue containers of the size needed by the business, and 'valet' type of collection if necessary, similar to that provided by the Private Hauler Multifamily Residential Recycling Program

Sanitation will include in the franchise agreements a model and list of unique waste services that customers can use to build collection programs that meet their specific needs. Customers will be able to receive service at non-peak hours, short turnaround, on-call, and other special circumstances when necessary. Franchise waste haulers will be required to meet customer needs through the customer service standards included in contracts with the City. Through the City's agreements with the Franchisees, the various customer service needs will be identified, required, and provided.

In its survey of other jurisdictions, CH2M HILL found that it is common to specify the level and quality of service in terms of base level and enhanced service level at no additional or for a specified cost. For example, Collier County, FL requires the followings additional services to be provided to commercial customers at no additional cost:

- Opening and closing doors and gates
- Unlocking and locking gates
- Changing containers for increases and decreases in service
- Exchanging the container for a different size, if requested more than two times in one year
- Rolling out the container from an outside enclosure and returning it to its original location

Similarly, the following services are often provided at a cost established in the franchise agreement:

- Privacy lock bar set-up
- Locks for containers
- Re-instatement fee (i.e., returning container (s) after service stopped)
- Loading container (i.e., bagged MSW outside container)
- Pressure washing 2, 4, 6 and 8 yard container
- Pressure washing roll-off compactor container (s) at the time of service
- Re-locating 2, 4, 6 and 8 yard Customer-owned containers, upon the Customer's request

- Maintenance of Customer-owned container (s)
- Collection of Bulky Waste and White Goods

Such services are typically specified in franchise agreements, as evidenced in the surveys performed by CH2M HILL.

CH2M HILL also found that some jurisdictions have negotiated terms in their franchise agreements that require franchise holders to provide various free services to the City (the costs of which are recovered in base collection rates). Included in Stockton's franchise agreement is free collection for City facilities, street sweeping, a certain number of neighborhood cleanups each year, collection of public litter containers, and several other services.

### 3.5.2 Establish Accountability for Performance

The City will require a high level of customer service through contract requirements, inspections, audits, and enforcement. Businesses will have the ability to utilize the City to ensure all contractual obligations are met. Sanitation will maintain the necessary staffing to respond to customer service issues and ensure compliance with contract requirements. The franchise contract will detail service requirements and specify financial penalties for poor customer service. These will range from failure or neglect to resolve any complaint within the requested time to the unauthorized disposal of recyclables. For example, the table to the right presents examples of liquidated damages or penalties associated with service lapses. Other measures may include the requirement to credit back to the customer for multiple missed pickups or other significant service lapses.

CH2M HILL found that some (Stockton is an example) jurisdictions apply liquidated damages for failure to meet certain diversion requirements, and one jurisdiction (Seattle) offers incentives for exceeding certain service related targets. Franchise agreements will be structured to allow the City to terminate a franchise for significant repeat failure to perform. Collier County includes in its franchise agreement a provision to address repeated violations, which is provided below:

*"If the Contractor's record of performance shows that the Contractor has frequently, regularly, or repetitively defaulted in the performance of any of the covenants, conditions, or requirements contained in this Agreement, and regardless of whether the Contractor has corrected each individual condition of default or paid liquidated damages, the Contractor shall be deemed a "habitual violator" and shall forfeit the right to any further notice or grace period to correct, and all of the prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. Under such circumstances, the Board shall issue the*

*Contractor a final warning, citing the grounds therefore, and any single default by Contractor of whatever nature, subsequent to the issuance of the Board's notice, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, the County may terminate this Agreement upon giving written notice to the Contractor, and termination shall be effective three (3) Days after the notice is delivered. All fees due to the Contractor hereunder, plus any and all charges and interest, shall be payable to the date of termination, and the Contractor shall have no further rights hereunder. Immediately upon receipt of the Board's final notice, the Contractor shall cease any further performance under this Agreement."*

TABLE 3-3  
Sample Penalties

1	Failure to comply with the provisions of the Contract	\$1,000 first incident; \$2,500 each subsequent incident.
2	Failure to meet transition timeline milestones	\$5,000 per milestone per Work Day, subject to a maximum of \$25,000 per milestone.
3	Failure to maintain customer service during office hours.	\$300 per incident.
4	Failure to maintain call center or telephone system performance	\$300 per incident.
5	Failure or neglect to reasonably resolve any complaint within the requisite time.	\$100 per incident per Work Day.
6	Failure to clean up spillage or litter during the course of FRANCHISEE's Collection operation.	\$500 per incident.
7	Failure to remove graffiti from any Container.	\$100 per incident.
8	Failure to properly cover material in Collection vehicles.	\$500 per incident.
9	Failure to maintain or timely submit to CITY all documents and reports.	\$300 per incident.
10	Failure to submit report corrections within CITY-approved timeframe.	\$300 per incident.
11	Failure to meet Annual Diversion Requirement.	\$25,000 per each one (1) percent diversion not reached

Fresno's franchise agreement provides for a performance review of the franchisee's performance in the 4<sup>th</sup> and 7<sup>th</sup> year of the agreement.

**Recommendations:**

- **Accountability for performance including liquidated damages for failure to meet performance standards**

### 3.5.3 Plan for Contingencies

The franchise system must include strategies and plans to respond to events that may interrupt collection, transfer, disposal and processing of solid waste and recyclables. These may include service interruptions, including but not limited to business failure, loss of insurance, labor disputes, natural disaster, franchise contract revocation or cancellation due to default, or other factors. During the stakeholder process and through the hearings on this matter, concerns were expressed regarding how the City would plan for these events. Making sure that customers receive reliable, uninterrupted service of their choosing is the key to contingency planning.

Sanitation recommends the following strategies:

**Inclusion of detailed contingency plans in each franchise agreement, and requirements that these be updated annually:** The contingency plan describes the Contractor's plan of action in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable. The Contingency Plan describes the steps that the Contractor will take to avoid interruptions in collection service.

**Inclusion of backup provisions in franchise agreements:** The ability of the City to trigger a response by franchise haulers in contiguous zones will allow an immediate response in case of service interruptions, emergencies, or in case of default by the current franchise holder. Other franchise holders in the City will, with the City's sole discretion, be asked to take over service if necessary.

**Performance bonds and liquidated damage provisions to allow Sanitation or another franchise hauler to provide services:** Another safeguard that will be included in the Exclusive Franchise agreements are performance bonds and a provision that will allow Sanitation, or a contractor of its choosing, to perform services when a franchise hauler fails to perform services under specified conditions. These provisions will require the non-performing franchise hauler to reimburse the City for all direct and indirect costs incurred while obtaining interim collection service, a financial guarantee backed by a performance bond.

Sanitation staff have had experience utilizing backup provisions in current hauler collection contracts to allow another contractor to move into an area of the City that was not receiving the appropriate service level. These provisions allowed the City to reduce its expenditures as well. Franchise holders will be required to assist in covering another zone, if they are notified, and the City can identify the appropriate party, taking into account their performance under their current franchise contract.

**Recommendations:**

- **Inclusion of detailed contingency plans in each franchise agreement, and requirements that these be updated annually.**
- **Inclusion of backup provisions in franchise agreements for each service zone.**
- **Inclusion of performance bonds.**
- **Inclusion liquidated damage provisions.**
- **Review other best practices employed by other jurisdictions to limit loss of service.**

### 3.5.4 Recognize and Reward Customer Successes

Just as penalties are strong incentives to perform, so are award programs to recognize exceptional service. Sanitation is proposing a program to recognize and reward businesses, financed and executed through the franchise agreements, which will identify and develop a pool of peer mentors to work with other businesses that need assistance in developing robust recycling and waste reduction programs of their own. Peer mentors will be those who have gone beyond the minimum requirements to embrace practices that minimize waste production, control purchasing, and maximize collection of recyclables to create as little residual waste as possible. The City's Green Lodging and Green Business Certification programs provide a model on how local businesses can receive certification that is recognized throughout California. Our franchise haulers will be able to nominate and assist businesses with the waste reduction portion of the certification. In addition, businesses should receive rewards for their efforts. A recognition program, including awards before the Mayor and City Council, networking opportunities, case studies and media outreach, can be part of the final franchise system approved by the City.

Sanitation proposes that the franchise haulers be required to have a minimum number of dedicated staff to assist businesses with waste assessments, recycling programs, and rewards. Permitted private waste haulers may also propose programs to subsidize equipment for businesses to reduce collected waste.

### 3.5.5 Provide Responsive Customer Service Supported by Technology

When customers have service questions or issues, such as inquiries about available services or to seek resolution to a complaint, it is important to address their need promptly and to provide different options for obtaining service, including by phone, through the web and other methods. These services can be provided by the City, by the franchisee, or a combination of the two. Properly administered customer service is a critically important success factor if the City is to meet its service excellence goals and State mandated recycling goals. The City plans to make digital communication a major part of its strategy for interfacing with customers.

Currently, many exclusive franchise agreements reviewed in Los Angeles County have very similar requirements for customer service. They require an office with a live operator and staff during daytime hours Monday through Friday, and some on Saturday, and also require the phone or pager number to a contact available 24 hours a day. Some local agreements require bilingual operators (English and Spanish), and have a specific requirement for taking messages and attempting to contact the customer to resolve their issue. These requirements are backed up by liquidated damages. The City believes that these requirements are a sound foundation for customer service, but need to reach further, requiring that the franchise hauler be reachable by phone, internet, text, and other methods. A robust system will be required that can interface with the City's systems to track customer service metrics and provide resolution assistance to customers in real time.

In its survey of other jurisdictions, CH2M HILL found that there are many methods employed for interfacing with customers, although most of the jurisdictions place most of the direct interface responsibility on the hauler, and agreements tend not to have many, if any, requirements related to web sites, on-line payment or account management, etc. Fresno City is the only jurisdiction surveyed that has specific language requiring the contractor to have a web site that provides information and educational information and electronic payment options for the customer. Some firms provide poor customer service, which led on jurisdiction (Phoenix) to have a City-operated call center for all zones. It also conducts quarterly customer satisfaction surveys and reports this information along with other contractual performance criteria in a quarterly customer service report card for service in all of its collection areas.

## 3.6 New Programs and Services to Customers

In 2011, the State Legislature adopted AB341, which requires all businesses over a certain level of waste disposal to subscribe to recycling services. Specifically, businesses including public entities that generate four cubic yards or more of commercial solid waste per week or multifamily residential establishments of five units or more shall arrange for recycling services. CalRecycle identifies many benefits associated with this law including:

- Opportunities for businesses or multifamily complexes to save money.
- Creating jobs in California by providing materials for recycling manufacturing facilities.

- Reducing greenhouse gas emissions.
- Keeping valuable materials out of landfills.
- Creating a healthy environment for the community and future generations by recovering natural resources.

Accordingly, the City should make sure that all businesses in the City, large and small, have access to convenient, standard waste reduction and recycling services. Through the use of exclusive commercial franchise agreements the City can establish the framework to achieve compliance with mandatory measures that have been adopted by California, and those being contemplated for future action through legislative and regulatory processes.

Sanitation believes the Exclusive Franchise will improve environmental performance well beyond what state law requires, toward the City's Zero Waste goals. Not only will the City set diversion goals to reduce landfilling, it will also encourage competition for franchises, innovation and partnerships that can exceed those goals and build long-term capacity for recycling and diversion.

In its survey of other jurisdictions CH2M HILL found that many have incorporated innovative recycling programs into their exclusive franchise agreements, as well as established a process to incorporate new programs over the term of the agreements. These programs include collection of bulky waste, white goods, electronic waste and organics. Stockton offers organics recycling to all customers – residential, multifamily and commercial – with the cost bundled in the solid waste rate along with recycling. In addition, jurisdictions in Florida that are subjected to natural disasters such as hurricanes have included provisions to engage their franchise service providers in the event of a declared natural emergency.

To support future innovation, Collier County has established a procedure to engage its franchise service providers to conduct pilot studies to evaluate strategies that may increase recycling, waste reduction, Collection efficiency, or reduce the County's costs. The franchise service providers are required to cooperate with the County in conducting such pilot studies, and subsequently are required to enter into good faith negotiations with the County if additional services are necessary from the Contractor to carry out the pilot studies. Similar provisions are found in other franchise agreements reviewed.

### **3.6.1 Offer Blue Bin Recycling City Wide**

Sanitation is recommending, as a standard, a Blue Bin recycling system that provides a consistent customer experience throughout the City, regardless of whether the customer is a business, a single family or multifamily household, or school. Customer information and educational material will have consistent messages and common formats. 1.2 million single and multifamily households currently receive Blue Bin recycling and education services through current Sanitation programs. All LAUSD schools in the City have blue bin recycling programs and education that mirror the Sanitation recycling program. Businesses should be able to recycle the wide variety of material types accepted in the Blue Bin through their recycling programs as well.

Franchised haulers will be required to provide, at a minimum, blue containers of the size needed by the business, and 'valet' type of collection if necessary, similar to that in the Private Hauler Multifamily Residential Recycling Program. The Blue Bin recycling system will be the standard operating in all parts of the City. Other types of diversion programs will be allowed as haulers reach for the higher goals of Zero Waste, but 100% rollout of the Blue Bin recycling program to all businesses is critical to Zero Waste achievement. Businesses will be able to continue successful programs with source separated paper or cardboard or other commodities that are not currently collected for a fee.

In CH2M HILL's surveys, commercial recycling typically is a competitive market, or businesses pay for recycling at a rate ranging from 50-80 percent of the rate for comparable garbage service. We did find the following examples where recycling is included with garbage service:

- In Fresno County, all customers that elect to subscribe to enhanced service receive a consistent recycling service throughout the county (although residential green waste services differ in different zones).
- In Lee County, contractors must offer recycling of up to two cubic yards weekly to all commercial customers at no additional cost. Commercial customers are not required to recycle, and recycling services are not exclusive to the franchisee: if customers want a larger recycling container, they are charged for that service on a

negotiated basis.

- In Stockton, contractors must offer recycling of up to four cubic yards weekly to all commercial customers at no additional cost. Franchisees are entitled to added compensation for customers requesting service of more than four cubic yards of recycling per week. The recycling service is not exclusive.

Many jurisdictions surveyed make contractors responsible for providing education and promotion.

One jurisdiction, Fresno County, established diversion targets for service areas made up of multiple franchise areas, and required that its contractors collectively meet a diversion target. This is the only jurisdiction surveyed that makes contractors responsible for meeting particular diversion targets. One jurisdiction surveyed, Stockton, levies liquidated damages on contractors that do not meet diversion targets. Fresno's contract holds its contractors liable for a proportionate share of any fines the State levies on the City for failing to implement agreed upon programs/services necessary to meet A.B. 939 and A.B. 341 requirements.



#### Recommendations:

- **Blue Bin recycling, at minimum, required at every customer site.**

### 3.6.2 Expanded Organics Programs

Sanitation is recommending that proposers of the Commercial Waste Franchise System include a description and plan for diverting organics, including food waste, from landfill disposal. After recyclables are separated from the rest of commercial waste, a large percentage of waste disposed in landfills is compostable organics.

To reach Zero Waste, the City must move forward with programs and processes to capture and recycle organic material. CalRecycle has adopted a Strategic Direction to reduce organics going to landfill by 50% by 2020, or about 10 million tons of material annually. Public meetings and discussion with CalRecycle staff indicate that the plan to move the State of California to 75% waste diversion will focus on organics diversion as one of the critical measures.

The City has already made great strides in promoting commercial organic recycling. In April 2004, Sanitation began a pilot program to evaluate the collection of food waste and other organic waste from restaurants. Restaurants that volunteered to participate in the pilot were asked to separate their organic waste for recycling into compost. Due to the success of the pilot, the program was expanded Citywide. There are now over 1,200 restaurants participating in the voluntary program. Although this commercial food waste recycling program is one of the largest in the nation, it is still only the beginning of the massive effort to divert at least 50% of the organics generated in the City from landfills. There are over 8,000 food service establishments alone in the City. To further complicate the effort necessary to divert organic waste, there is limited existing organics processing capacity. The organic processing infrastructure needs to be increased to handle organics currently being disposed.

In northern California, separated organics collection is well established in most of the heavily populated areas. In Los Angeles County, more of the exclusive franchise agreements over time have had requirements for the separation and recycling of organic materials. Some examples of mandatory



commercial organic recycling program include:

- West Hollywood - Requires that organic waste collected from restaurants be recycled
- San Francisco - mandates that all residents, plus businesses, restaurants and multifamily complexes compost organic waste.
- Redondo Beach – Requires that locations that generate food scraps recycle them.

Many jurisdictions are beginning their organic recycling programs through voluntary effort. These include:

- San Diego – Allows food waste generated at pre-approved commercial venues be accepted at their landfill/composting facility at a discounted tipping fee. Participants in their program include large venues such as Petco Park and Sea World, universities, hotels, and local restaurants.
- Berkeley – Encourages restaurant to participate in organic recycling. The city supplies carts or bins for organics and offers up to six days/week collection. Participants receive a discount of 20% off the current refuse rate for the food waste portion of their service.
- Dana Point – Offers organic recycling to all businesses.

In CH2M HILL's survey, most jurisdictions' franchise agreements cover the services that will be provided, and any new services or adjustments are covered as amendments to the agreements. But some agreements anticipated future organics service:

- Reno's agreement states that the franchisee may offer a food waste recycling service on a subscription basis. If so, the rate charged for the service will be negotiated with the City.
- Seattle negotiated a price that set forth the compensation should it elect to change residential garbage service from weekly to every other week.
- Collier County, FL used an innovative approach to future organics recycling in its franchise agreements. That approach is presented below:

*"If the County decides to collect and process Commercial Organics, the County shall give the Contractor an opportunity to submit a proposal for providing these services. If the County and Contractor are unable to negotiate a mutually acceptable agreement for the provision of these services, the County may issue a request for proposals or take such other action as it deems appropriate.*

*If the County executes a contract with a Person other than the Contractor for the Collection of Commercial Organics, the County shall give notice to the Contractor at least ninety (90) calendar days before the Person begins to collect Commercial Organics pursuant to its contract with the County. In such case, the County shall reimburse the Contractor for the lost profits the Contractor would have earned under this Agreement from the Collection of Commercial Organics during the remaining portion of the term of this Agreement, prior to any renewals of the Agreement, but only if and only to the extent that: (a) the County's Collection of Commercial Organics directly causes a reduction in the amount of Solid Waste collected annually by the Contractor; and (b) the reduction is greater than five percent (5%).*

*Lost profit is defined as a reduction in the Contractor's net revenue that was directly caused by a reduction in the amount of Commercial Organics collected by the Contractor under this Agreement. Lost profit does not include a reduction in net revenue that was caused by increased capital or operating expenses.*

*The parties shall determine whether there has been a reduction in the amount of Solid Waste collected under this Agreement by comparing (a) the amount of Solid Waste collected during the first twelve months after the County begins to collect Commercial Organics and (b) the amount of Solid Waste collected during the prior twelve months.*



*To calculate lost profits, the parties shall: (a) determine the net revenue the Contractor earned for the Collection of one ton of Commercial Organics during the twelve (12) months before the County began to collect Commercial Organics; (b) determine the extent to which the reduction in the Contractor's Collection of Solid Waste exceeded five percent (5%); (c) convert the value identified in subsection (b) into tons; and (d) multiply the Contractor's net revenue per ton, as determined pursuant to subsection (a), by the appropriate number of tons, as determined pursuant to subsection (c), and by the remaining number of years (or fractions thereof) in the term of the Agreement. This calculation may be expressed by the following formula:*

$$LP = NRPT \times ET \times T$$

*Where: LP is the amount of the Contractor's lost profit; NRPT is the Contractor's net revenue per ton; ET is the excess tonnage (i.e., the amount greater than a 5% reduction in the Contractor's Collections); and T is the time (years) remaining under the Agreement."*

**Resource Ventures, Seattle  
Partially Funded by Seattle Public  
Utilities Provides Businesses with:**

- *Recycling and waste reduction technical assistance*
- *Stormwater management technical assistance*
- *Water conservation technical assistance*
- *Other advice relating to reducing a business's environmental footprint*

Considering the many complexities and unknowns surrounding commercial organic recycling, staff recommends a phased set of goals and requirements be established in the RFP and Exclusive Franchise agreements. The immediate requirement will be to ensure that all current organic recycling is preserved. There are over 1,200 restaurants participating in Sanitation's existing commercial food waste diversion program. This requirement will also include the collection of green waste from multi-family properties where applicable. The "bundled" rates established through the RFP will include the continued collection of organics from all participating restaurants and green bin recycling at all multi-family properties that generate green waste.

The second phase will be to require organics recycling at all restaurants, and finally, mandatory diversion of organic waste. However, there is insufficient process capacity to handle all the potential organic material, therefore the proposer will not be expected to propose a price for the final phase of the diversion program. Existing facilities will need to be expanded or new facilities developed. As the location and cost of recycling at the facilities are unknown a bundled or all inclusive price cannot be developed for the final phase of the program. In lieu of a bundled rate proposal for the second phase, proposers will be asked to submit a separate rate with assumptions that can be bundled at a later date. Proposers will be asked to break this rate into three components; collection, hauling, and transfer/disposal. Proposers will be required give details on the assumptions used such as distance to facilities, \$/mile hauling cost, and tip fees. As part of the evaluation criteria, Sanitation will assess the reasonableness of the pricing provided by proposers for organics collection services, and use the cost and assumptions to establish future rates as new processing capacity becomes available.

**Recommendations:**

- **Preserve existing organic waste collection.**
- **Offer green waste collection to all Multifamily customers.**
- **Phase in organics diversion programs.**

### 3.6.3 Provide Waste Assessments Tailored to Business Needs

Sanitation recommends that the Exclusive Franchise Haulers conduct a minimum number of business waste assessments each year. A Business Waste Assistance program is a necessary tool in reaching Zero Waste. To comply with AB341, those cities with exclusive franchise arrangements are being encouraged by CalRecycle to perform waste assessments at their largest businesses to ensure compliance and gather recycling data.

Sanitation has performed on-site assessments of over 800 businesses over the last six years to help them recycle more material. One challenge in providing this assistance is the number of options and haulers that businesses have to work with to achieve high waste diversion goals. Businesses in the City will need continued assistance in setting up and understanding waste diversion programs, but for them, this job will become very convenient.

With a stable hauler base and minimum standards delivered through the franchise agreements, there will be increased customer service and focus on individual business needs for waste diversion. Franchise agreements will specify the number and type of waste assessments and on-site visits to be delivered to business customers in their franchise zones. The cost of these services will be included in rates and not offered as “extras” that the customer must pay more for.

In addition to waste assessment, it is common to require franchise service providers to provide directly, or to provide a financial contribution towards customer education. CH2M HILL found, for example, that Collier County, FL requires its franchise service providers to provide information to all Commercial Customers regarding the County’s Recycling Program, waste reduction program, Hazardous Waste collection program, and related matters. This information is distributed in March and November of each Agreement Year and the form and content of this information shall be subject to the Director’s approval. In addition, the franchise service providers are required to expend \$50,000 per Agreement Year assisting the County with educational, promotional, and public awareness activities. Most other agreements reviewed by CH2M HILL include similar provisions.

### 3.6.4 Further Expand Zero Waste Programs

To reach its zero waste goals, the City will need to go beyond the diversion standards and program offerings of other cities in California with franchise collection systems. Sanitation recommends that franchise agreements establish maximum disposal amounts for each collection area, and that franchisees be required to implement City diversion programs that are needed to meet zero waste goals.

Many jurisdiction in California set minimum diversion targets for their franchised waste haulers that align with State goals, and include general language in franchise agreements requiring haulers to make “best efforts” or “good faith efforts” to implement programs and services to meet these targets. This approach to achieving diversion targets is unlikely to result in high diversion rates; because the standards for haulers are not specific and the bar is not set very high.

Examples of programs and strategies to be considered in the franchise agreements include:

- Recycling services for all multi-family properties, businesses, and institutions.
- Organics programs, potentially mandatory, for businesses that large amounts of food waste such as restaurants.
- A hands-on assistance program to help businesses implement recycling and waste reduction services that meet their unique needs and save money.
- Rate structures that incentivize multifamily property managers and business to recycle more, including bundled services rates that include the cost of garbage, blue bin recycling, and organics.

CH2M HILL’s survey of other jurisdictions outside of California generally found that recycling services were part of every franchise agreement or contract. In most jurisdictions, multi-family residents and business are charged for recycling services and that rate is set between 50 and 80 percent of the rate for similarly-sized garbage service.. There were a few jurisdictions that offer limited free recycling service as part of garbage collection rate:

- In Fresno County, all customers that elect to subscribe to enhanced service receive a consistent recycling

service throughout the county (although residential green waste services differ in different zones).

- In Lee County, contractors must offer recycling of up to two cubic yards weekly to all commercial customers at no additional cost. Commercial customers are not required to recycle, and recycling services are not exclusive to the franchisee: if customers want a larger recycling container, they are charged for that service on a negotiated basis.
- In Stockton, contractors must offer recycling of up to four cubic yards weekly to all commercial customers at no additional cost. Franchisees are entitled to added compensation for customers requesting service of more than four cubic yards of recycling per week. The recycling service is not exclusive.

For organics, Vancouver (Wa.) has had in place, since 2006, an organics collection program that is fee for service, but the participation is low. Seattle has a fee for service yard/food waste collection program that is available to multifamily properties and commercial customers: the participation is low. In California, Stockton has an organics collection program that is available to all multifamily and commercial customers, the cost of which is bundled with garbage and recycling.

Most jurisdiction surveyed include requirements that haulers do some degree of recycling and waste reduction education (usually by mail), and participate with City in public events promoting recycling and waste reduction, and some agreements require the hauler to assist with pilot programs at no additional cost to the jurisdiction.

#### **Recommendations:**

- **Franchise agreements to have landfill disposal targets, including penalties for not meeting targets.**
- **Franchise agreements to include ability to implement new programs to reach Zero Waste.**
- **Proposers will be encouraged to exceed minimum targets in their proposals by including innovative programs.**

## **3.7 Special Service Requirements**

### **3.7.1 Exempt Hazardous and Certain Other Materials**

Certain types of special waste are regulated under a different sets of legal frameworks than municipal solid waste (MSW). Based largely on this Sanitation recommends the following exemptions be included in the exclusive franchise system:

- Medical waste
- Hazardous waste
- Radioactive waste
- Pharmaceutical waste
- Construction and Demolition Debris (C&D)
- 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, fats, oils, and grease, etc.)

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 (USDOT). 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. 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. Including hazardous material in the franchise will not help the City reach its zero waste and environmental goals and should be exempted.

From the standpoint of meeting the City's and State's recycling goals, and to maintain the healthy local market for C&D collections services, it makes sense to exclude C&D from the franchise system at this juncture. 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. 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.

Case law requires that source-separated recyclables that are sold by the owner (business) 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 must be exempt from the exclusive franchise system:

- 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.

CH2M HILL's survey of other jurisdictions indicates that Sanitation's recommended waste exemptions are consistent with other jurisdiction's practices. No jurisdiction surveyed included any form of hazardous waste in its franchise agreement, all exclude source separated recycling (based on case law), and all exclude C&D. In Seattle's case, C&D service is provided under a separate contract with the City, and is provided by two haulers who compete to provide service city wide. Because C&D is generated irregularly, and not at a uniform rate throughout a jurisdiction, there are no real collection efficiencies to be gained by implementing an exclusive franchise system.

### **Recommendation**

- **Exempt the following material types**
  - **Medical waste**
  - **Hazardous waste (including E-waste)**
  - **Radioactive waste**
  - **Pharmaceutical waste**
  - **Construction and Demolition Debris (C&D)**
  - **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, fats, oils, and grease, etc.)**

### **3.7.2 Hospitals**

Sanitation carefully examined the solid waste hauling needs of the hospital industry. In addition to numerous meetings and ongoing communications, City staff visited three hospitals within the City limits with assistance from the Hospital Associations of Southern California, including White Memorial Hospital in Boyle Heights, Keck-USC Hospital in Lincoln Heights, and Northridge Hospital Medical Center in Northridge. Staff also visited Kaiser Permanente in Anaheim. Kaiser Permanente was chosen because it is serviced by an exclusive solid waste hauler under franchise with the City of Anaheim. The hospitals visited were medium size hospitals with beds ranging

from 250 to 450 and represents varying methods of waste management. The waste generated by hospitals includes medical waste (often referred to as “red bag” waste due to the color of the container this waste need to be contained in), pharmaceutical waste, hazardous and toxic wastes, and regular commercial waste. Other waste includes electronic waste, construction and demolition debris, and food waste.

Although each hospital was unique in how they managed waste within their facilities and the level of waste diversion and recycling, they shared many similarities. Hospitals visited typically used multiple companies to assist in the management of the various waste streams, however the collection of mixed waste was performed by City permitted waste haulers. Bins containing mixed waste were kept separate from other waste streams and were typically collected on a regular schedule.

A number of meetings have been held with the Greater Los Angeles Area Hospital Association and representatives from the associated hospitals. Hospitals voiced a number of concerns about being included in the franchise system. The underlying concern centered on the waste hauler’s responsiveness and timely pick up of waste. Because there are different waste streams generated at hospitals that all need to be serviced, there are often small windows of time that companies are allotted to access the facility. Some hospitals have automated their waste collection. Such is the case with White Memorial, which has an auto-dialer connected to their waste compactor that calls the hauler when the compactor is full. Hospitals were also concerned with health and safety impacts that might arise if waste is not collected in a timely manner and the possibility of increased costs.

The Greater Los Angeles Area Hospital Association provided a list of challenges that should to be addressed in the franchise RFP and contract. The challenges included service needs such as ability to perform urgent unscheduled collection of waste, increased costs, preservation of revenue from the sale of recyclables, reporting and customer service. In addition, the contracts should contain liquidated damages and penalties.

The concerns of the hospitals can and will be addressed through the franchise process. The RFP and final franchise contracts will be structured to specifically address the needs of the hospitals. The franchise agreements will include at minimum requirements such as:

- Prescribed response time
- Collection windows (often hospitals need waste picked up within a predetermined window)
- Response procedures for emergency situations (such as hazardous waste commingled with solid waste)
- Prioritize provision of alternative haulers for hospitals in the event of any interruption in operations of the franchisee, for any reason, including but not limited to business failure, natural disaster, or a labor dispute.
- Customer service procedures
- Reporting requirements
- Technology support (such as auto-dialers)

Sanitation will continue to hold stakeholder meetings throughout the franchise initiative process, including the development of the RFP and contracts, and implementation. Hospitals will have the opportunity to continue to participate in the City’s ongoing stakeholder and outreach process. Other RFP and franchise contracts requirements will be developed through the stakeholder process, as the franchise process continues.

It is also important to note that much of the material generated at hospitals is exempt from the proposed franchise structure, as currently recommended. The collection of electronic waste and C&D debris is not included under the proposed franchise system. Hospitals will continue to secure vendors to collect exempted material, not necessarily the franchisee in their zone.

CH2MHILL’s survey of other jurisdictions indicates that Sanitation’s recommended inclusion of hospitals is consistent with other jurisdiction’s practices. No jurisdiction surveyed excluded hospitals from its franchise agreements, although medical waste is commonly excluded. In addition, Sanitation visited the new Kaiser Permanente Hospital in Anaheim. Staff found that the new hospital, serviced under an exclusive franchise agreement, established a good working relationship with the franchise hauler and all their service needs were being met.

**Recommendations:**

- **Hospital needs to be addressed in the Franchise Service requirements,**
- **Hospitals to be included in the franchise service model.**

**3.7.3 LEED Buildings**

Franchise agreements will include service requirements to support Leadership in Energy and Environmental Design (LEED) certification by City businesses. Many businesses have made significant efforts to protect the environment. This is highlighted when a business goes through the extra effort to become LEED Certified. Although many recognize LEED certification during the building construction process, the ideologies and requirements for resource management and conservation carry over to the operation and maintenance of a building. Resource management components necessary for LEED certification in existing buildings include:

- Establish and implement solid waste management policy.
- Perform a waste audit
- Divert ongoing consumables waste from landfills and incineration. Provide data for most recent 25% of recertification performance period.
- Divert durable goods waste from landfills and incineration. Provide data for most recent 25% of recertification performance period.

Sanitation will work with local business and the franchise waste haulers to ensure that the resource management components of LEEDs can be met. Franchise haulers will be required to conduct a minimum number of business waste assessments each year. Priority for these assessments or audits can be given to business seeking LEED certification. The cost of performing waste assessments will be included in rates and that the business will not need to pay extra for this service. Franchise haulers will be required to provide all businesses with recycling services. Business will be able to subscribe to a level of recycling that meet their needs. In addition, as the organics recycling program is developed businesses will have access to diversion programs that may not currently be available.

**3.7.4 Studios**

Recognizing the highly unique, and geographically fluid, circumstances under which major multinational motion picture studios operate, Sanitation recommends that they be covered by an alternative program in which they will be subject to the same standards and rigor of the exclusive franchise system, while also being afforded the additional operational flexibility demanded by their unique circumstances presented by the interrelationship in studio work and on-location filming.

City staff met with representatives from the studios and their association and conducted site visits to a number of studios located within the City, including Fox Studios on Avenue of the Stars, and Paramount Studios on Melrose Ave. These are two of the largest studios operating in Los Angeles. Both studios have implemented significant recycling programs.

Perhaps the most unique and demanding characteristic of their core operations is the dependence on the City of Los Angeles as their back drop for “on-location” shooting. On-location shooting includes filming for feature films, television shows, commercials, still photography, videos, documentaries, and other miscellaneous filming activities. On-location filming can occur at an endless number of locations throughout the City. Shooting can range from a few hours to several days. On-location filming involving the closure or use of City streets, bridges, or other infrastructure requires City permits, processed by Film LA, and approved each day by a Commissioner of the Board of Public Works. These permits strictly limit the time period during which such restrictions on the right-of-way can be imposed for filming purposes. Waste generated from on- location filming typically results from the demolition of temporary sets. Often sets are erected on site for filming and then immediately torn down. Waste must be removed from the temporary location as soon as the filming ends. This often occurs in the late evening or early morning hours so the site can return to its normal operation. Filming of a single movie may involve the set up and tear down at multiple locations throughout the City, crossing over proposed franchise boundaries,

sometimes on a day-to-day basis, without necessarily knowing, until close to the end of the shooting, how long the set may remain in place at any one location.

Additionally, though each studio visited was unique in how they managed waste within their facilities, they shared many similarities. Studios operate twenty-four hours a day and need the flexibility of having their waste service twenty-four hours per day and in a continuum between in studio and on-location shoots. Their operations produce a wide variety of waste such as hazardous waste, electronic waste, medical waste, construction and demolition debris, food waste and office waste, in a constantly changing quantity and mix. Due to the nature of the filming activity, as noted above, waste streams are irregular and collection needs and frequency vary on a daily basis, making it difficult to plan.

Studios have expressed to Sanitation specific additional challenges and needs that must be met for effective operations. These challenges include the need for specialized vehicles, such as small waste collection vehicles to navigate the narrow streets at studios, fast response time (typically within two hours of a request for pick up), and unique security challenges.

It is not uncommon for the City to work collaboratively with the filming industry. As noted in the CAO response to Council File 12-0002-S27, Impact of Waving Fees for TV Pilots Productions, the City has adopted various incentives to assist the film and television production industry including:

- Reduced business tax rates for entertainment productions
- Adjusted film production tax base
- Implemented tax breaks for entertainment creative talent
- Eliminated fees to film at most City facilities
- Created marketing program for FilmLA
- Prepared guide to Downtown Los Angeles parking lots
- Allowed film parking at DWP facilities
- Reduced or waived parking fees at City parking lots
- Installed film power nodes at City Hall, John Ferro Building and Griffith Park Old Zoo

Given the highly particular operational needs of the industry, the significant risk of production being shifted outside the City, an alternative program will be crafted for the studios, one that will ensure that these studios achieve the same environmental benefits that would have been gained through the franchise system, while also taking into account the unique circumstances of “on-location” and other unique “on-lot” production and operational challenges.

#### **Recommendations:**

- **Require major studios to employ a franchise hauler—one awarded one of the City service zones.**
- **Require that major studios be subject to the same collection system requirements as under the franchise system, including diversion standards, accurate reporting, AB939 Fees, Franchise Fees, and the employment of clean fuel vehicle fleets.**
- **Periodically, each studio will be subject to an independent third-party audit, at their own expense, of their satisfaction of the environmental and other requirements imposed by the general franchise system. The Bureau will report periodically on the results of the audit, and the City will retain the discretion to bring a studio under the general franchise system in the zone in which they are located, where the studio fails to achieve the environmental benefits achieved in the zone in which they are located.**
- **City staff will further define which studios will be covered by this alternative program, during the RFP development process, in consultation with the industry and through the ongoing stakeholder process.**

### **3.7.5 Special Multi-jurisdictional Boundary Areas**

In recognition of the fact that there exists areas along the City boundaries where a single business enterprise or multi-family complex may geographically straddle two or more political jurisdiction where the applicability of the



franchise system would prove impractical and it would serve all interested parties, a different service arrangement should be developed. One such example would be Universal City where the majority of the complex is within the County and a portion is within the City.

**Recommendation:**

- **Authorize the Director of Sanitation to negotiate MOU's with the appropriate jurisdictions**

### **3.7.6 Special Services**

It is the intent of the Bureau of Sanitation to address unique special services, such as those at Park La Brea, by encouraging proposers to partner with waste haulers, as subcontractors, that are geared to meet the special needs. Subcontractor(s) will be required to abide by the City's living wage requirements, as well as any health and safety standards the City establishes through the contractual process.

## **3.8 Other Programs and Actions Needed to Achieve City Goals**

### **3.8.1 Ongoing Community Input**

Sanitation is committed to the successful implementation of the Exclusive Franchise system for customers in Los Angeles through an ongoing stakeholder input process. As shown in Figure 3-3 below, the Stakeholder Input and Outreach Process, which began in Franchise Policy Development phase, will continue throughout the entire Solid Waste Franchise Process. During the Policy Development phase Sanitation reached out to over 2,000 entities, held seven stakeholder meetings, met with representatives from the hospital association and studios, and toured their facilities. During the Implementation plan phase staff has met with various business groups and waste hauler associations, held an open house geared at gaining input on franchise area boundaries, and posted all versions of the Preliminary Implementation Plan on Sanitation's website.

Sanitation believes that stakeholder input and outreach is a continuous process. Sanitation will continue to reach out to stakeholder groups through their representatives including but not limited to: the City, neighborhood councils, commercial waste haulers, multifamily households, chambers of commerce, business improvement districts, hospitals, environmental groups, non-profit organizations, faith based organizations, and labor groups.

As an additional mechanism for stakeholder input, and to receive advice on matters concerning the development of the Exclusive Franchise, Sanitation will establish a Working Group that will meet on a regular schedule with varying target groups invited to address customer service and special collection needs. Sanitation has already begun to identify such needs through meetings with stakeholders, and through this process, it hopes to further enumerate and clarify special customer service and collection needs so that they are properly accounted for in the RFP. Sanitation will consult with the Working Group to ensure a smooth transition from the current open permit system to the Exclusive Franchise system, and quickly address problems that may arise.



The flowchart illustrates the 'Solid Waste Franchise Initiative Process' and the 'Stakeholder Input and Outreach Process'. The first process is a blue arrow pointing right, containing a table with five columns: Franchise Policy Development, Implementation Plan, CEQA, RFP Development, and Implementation and Transition. Each column lists specific activities. Below this is a tan arrow pointing right, labeled 'Stakeholder Input and Outreach Process'.

## Solid Waste Franchise Initiative Process

Franchise Policy Development	Implementation Plan	CEQA	RFP Development	Implementation and Transition
<ul style="list-style-type: none"> <li>• Eight stakeholder meetings</li> <li>• Mailed over 1,700 stakeholder notices</li> <li>• E-mailed over 2,000 notices</li> <li>• Posted on Sanitation's web site</li> <li>• Stakeholder groups: <ul style="list-style-type: none"> <li>• Waste Haulers</li> <li>• Recyclers</li> <li>• Waste Industry Workers</li> <li>• Environmental Organizations</li> <li>• Chambers of Commerce</li> <li>• Business Associations</li> <li>• Business Improvement Districts (BIDs)</li> <li>• Neighborhood Councils</li> <li>• Renters</li> <li>• Apartment Owners and Associations</li> <li>• Community Members</li> <li>• Labor Organizations</li> </ul> </li> <li>• Site Visits</li> </ul>	<ul style="list-style-type: none"> <li>• Meetings with business groups</li> <li>• Business groups: <ul style="list-style-type: none"> <li>• Waste Haulers</li> <li>• Environmental Organizations</li> <li>• Chambers of Commerce</li> <li>• Business Associations</li> <li>• Business Improvement Districts (BIDs)</li> <li>• Apartment Owners and Associations</li> <li>• Community Members</li> </ul> </li> <li>• Site visits</li> <li>• Posting on Sanitation's web site</li> <li>• Open House on Zone boundaries</li> </ul>	<ul style="list-style-type: none"> <li>• Scoping Meetings</li> <li>• Post NOP Sanitation's web site</li> <li>• Review Draft EIR</li> </ul>	<ul style="list-style-type: none"> <li>• Working Group Meetings</li> <li>• Stakeholder outreach</li> <li>• Posting on Sanitation's web site</li> <li>• Site visits to various customers by business type</li> </ul>	<ul style="list-style-type: none"> <li>• Working Group Meetings</li> <li>• Public Education and Outreach</li> <li>• Notice to customers</li> <li>• Training</li> <li>• Implementation of customer service tracking system</li> <li>• Customer Care System</li> </ul>

## Stakeholder Input and Outreach Process

Figure 3-3  
Stakeholder Input and Outreach Process

### 3.8.2 Institute Comprehensive Reporting Requirements

To be able to monitor hauler compliance with the terms of the City's franchise agreement, the agreements will need to include comprehensive reporting requirements. Sanitation recommends that these reporting requirements address, at a minimum, the following general areas:

- Data on accounts served, by service level and address, and services provided to each. Depending on how frequently the City chooses to audit each hauler's billings and collections, this information could be reported monthly, quarterly, or annually;
- Data on tonnages disposed, recycled, and sent to an organics processor should be reported at least quarterly;
- Data needed for monitoring hauler performance (e.g. missed collections, repeat misses, containers not delivered on time, etc.) would need to be reported monthly;
- Data on customer call response times, wait times for incoming calls, dropped call figures, fax and email volumes and response times, and types of calls received (complaints, etc);
- Data on how many customer contacts the hauler made to assist customers with recycling program design, configuration and set up;
- Data regarding facilities receiving material collected under the Franchise.

CH2M HILL's survey of other jurisdictions indicates that those on the West Coast all require tonnage data to be reported by service type (and facilities where material was disposed, transferred or processed), most require regular reporting of number of accounts and certain other service information, all that have specific liquidated damages require regular reporting of data related to performance metrics, but few monitor hauler outreach to customers.

Sanitation also recommends that, at a minimum, periodic audits (quarterly or twice per year) of each service provider's billings to ensure that billings conform to agreement terms and that payment to the City have been computed correctly. Audits would review, as examples, the number of base service units and extra service units billed versus the services that a sample of customers actually received; determine if the service provider has been "nickel and diming" customers for extra services; and whether or not the service provider has been complying with franchise terms to fully implement diversion programs and services. These audits could be conducted by a contract auditor at the service provider's expense, or by qualified City staff.

CH2M HILL found that only two of the jurisdictions surveyed, Portland and Seattle, conduct extensive audits. Portland does so to support its rate setting process, while Seattle conducts monthly audits to ensure that its contractors are complying with the billing and collection terms of their contracts, and to ensure that the City and the contractor are receiving their proper share of rate revenues. Seattle also uses data received on accounts and services provided as inputs into its rate setting process.

### 3.8.3 Require Clean Fuel Vehicles

Sanitation recommends that, under the exclusive Franchise agreement, solid waste haulers will be required to have 100% use of low-emission, clean fuel vehicles equipped with engines that are 8 (eight) model years or newer in the City during the term of the agreement. 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 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

#### **Seattle's Collection Contract Specification for Clean Vehicles:**

*"All collection trucks shall use at least 20% biodiesel (B20) or operate on CNG unless otherwise authorized by the City. If the per-gallon price of B20 is more than 15% above the cost for straight diesel fuel, the Contractor shall notify the City and may reduce the percentage of biodiesel used in the fuel blend to maintain costs at the 15% cost threshold. Alternatively, the City may elect to reimburse the Contractor for the portion of fuel cost above the 15% cost threshold to maintain the use of B20."*

vehicles. SCAQMD monitors and enforces the fleet rule requirements.

Waste haulers will be required to operate 100% clean fuel vehicles within twelve (12) months of award of the franchise. Solid waste collection fleet owners and operators are required to comply with all applicable federal, state, and local regulations, including, but not limited to, the South Coast Air Quality Management District's Fleet Rule 1193 (Clean On-road Residential and Commercial Refuse Collection Vehicles) and the California Air Resources Board's Solid Waste Collection Vehicles Regulation (Diesel Particulate Matter Control Measure for On-road Heavy-duty Diesel-fueled Residential and Commercial Solid Waste Collection Vehicles; Title 13, California Code of Regulations, Sections 2020, 2021.1, 2021.1 and 2021.2).

The proposed clean fuel vehicles 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.

Sanitation plans to move beyond the requirements of the SCAQMD. The Exclusive Franchise haulers will be required to submit a Compliance Report to the City. The Compliance Report must include name of company, address of business, names of owner or contact (if different from owner name), electronic email addresses and phone numbers, and listing of clean vehicle fleet inventory, including vehicle identification number, vehicle manufacturer, vehicle model and model year, engine manufacturer, engine family number, engine serial number, fuel type, and address of fueling location. During the term of the agreement, the owners are required to submit to Sanitation within 7 (seven) calendar days an updated Compliance Report if any changes occur to the clean vehicle fleet inventory.

CH2M HILL was able to obtain RFPs from a few of the cities it surveyed and franchise agreements or contracts from nearly all. Four cities indicated that clean vehicles have been or will be required in RFP processes (Reno, Fresno, Phoenix and Seattle). Nearly all of agreements reviewed include language requiring the franchisee to comply with all regulations related to vehicles (some are fairly specific, like Fresno's), but only one agreement, Seattle's, was specific about what fuel/emission standards vehicles need to meet.

#### **Recommendations:**

- **Encourage proposers to exceed Rule 1193 minimum standards in their proposals.**

### **3.8.4 Ensure Safe and Healthy Working Conditions**

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 the exclusive franchise agreements. These facilities become subcontractors under the franchise agreements and subject to City policies. Proposers will be



required to list all facilities that would be utilized under the franchise, as well as the facility processing methods to be utilized.

### 3.8.4.1 City certification of Facilities through Franchise Agreements

The franchise agreements will contain specific language granting the City authority to inspect the waste haulers' facilities as well as certify and inspect all waste and recycling facilities utilized. These inspections will provide the opportunity to monitor and enforce terms in the franchise agreements regarding compliance with applicable laws including:

- Spread of illness or injury through contamination of air, water, and disease carrying vectors.
- Identification and proper handling of hazardous materials.
- Control of nuisances such as dust, odor, litter, noise, and visual or aesthetic degradation.
- Control of disease causing agents.
- Personnel safety and health.
- Facility emergency contingency planning, preparedness and response.
- City policy measures such as the living wage ordinance.

#### Seattle

**Requires contractor to pay prevailing wage; hourly rates are included in contracts**

#### **Contractors must provide:**

- *Medical, Dental, and Vision services*
- *Retirement benefits*
- *Eight (8) days of paid time off for specified holidays*
- *Paid vacation*
- *Paid sick leave*

**Contracts are very specific about the benefits that must be provided**

A franchise Certification and Inspection team will be established within Sanitation. Facility inspection will be conducted by trained professional staff whose training meets the requirements for technical expertise in the manner of training for the Local Enforcement Agency (LEA) in the City of Los Angeles. Inspectors should be a California certified Registered Environmental Health Specialist (REHS). Franchised waste haulers, as well as all facilities they utilize under subcontract, 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. City staff will have the right to audit the records at all facilities. Repeated violations of workplace safety requirements, or failure to maintain accurate documentation, as two examples, would be enforced through liquidated damages identified in the franchise agreements, and could result in the termination of the franchise agreements. A complaint hotline will be established, and the Certification and Inspection staff will also respond to complaints, therefore time will be budgeted for the meetings, reports, and other actions needed for response. Similar to the protection provided under Labor Code section 6311, the franchisee nor its sub-contractors shall discharge or in any manner discriminate against any employee because the employee has made any oral or written complaint to the City, or other governmental agencies having statutory responsibility, with reference to employee safety or health, his or her employer, or his or her representative.

The City's LEA is the State certified Agency to permit, inspect, and regulate solid waste facilities. However, the LEA manages only those facilities that have a Solid Waste Facilities Permit issued by CalRecycle. Many of the facilities that will be utilized by the franchise haulers are not under the State compliance program, and are located outside of the City, and the City LEA's, jurisdiction. In addition, the LEA does not have the authority to inspect for City contract compliance measures such as living wage, or conducting inspections and analysis to determine a diversion rate for each facility. Having inspection staff in Sanitation will allow direct access to facilities, employees, and records to determine Certification for regulations and compliance with franchise agreements.

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.

CH2M HILL's survey of other jurisdictions found that most have specific franchise agreement or contract language regarding compliance with applicable safety regulations and laws, but, consistent with Sanitation's own research, no specific language relating to safety and health standards at facilities (subcontracted or otherwise).

#### **Recommendations:**

- **City certification and inspection of facilities.**
- **Right to inspect facilities for compliance with appropriate rules and regulation.**

### **3.8.5 Ensure Living Wages for Collection and Facility Workers**

#### **3.8.5.1 Require Adherence to the City's Living Wage Ordinance**

As the City moves to an exclusive franchise system it is incumbent on the City to ensure that workers represented by the waste haulers given the exclusive rights to operate are paid fair wages and are provided safe working conditions. The City holds an interest in the work performed by its franchised waste haulers and their subcontractors. The success of meeting the City's waste diversion and environmental goals hinge on the success of the franchised waste haulers. Inadequate compensation of these employees adversely impacts the performance by the City's franchised waste haulers and thereby does the same for the success of meeting the City's goals.

Inadequate compensation to solid waste workers tends to inhibit the quantity and quality of services rendered by such employees to the businesses they are intended to serve.

Underpaying employees in this way fosters high turnover, absenteeism, and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through Living Wage requirements the City will require its franchised contractors provide a minimum level of compensation that will improve the level of services rendered to and for the City.

The inadequate compensation typically paid today also fails to provide service employees with sufficient resources to afford life in Los Angeles. It is unacceptable that contracting decisions involving the City should foster conditions placing a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this interest is served.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the City. Nothing less than the living wage, in accordance with City policies, should be paid by the franchised haulers. The City does not

#### **Seattle**

**Requires contractor to pay prevailing wage; hourly rates are included in contracts**

#### **Contractors must provide:**

- *Medical, Dental, and Vision services*
- *Retirement benefits*
- *Eight (8) days of paid time off for specified holidays*
- *Paid vacation*
- *Paid sick leave*

**Contracts are very specific about the benefits that must be provided**



wish to foster an economic climate where a lesser wage is all that is offered to workers. The City's Living Wage Ordinance (LWO) contains enforcement mechanisms to ensure compliance with this important obligation. Non-complying employers face the prospect of paying civil penalties. Employees should not fear retaliation, such as by losing their jobs, simply because they claim their right to the living wage, irrespective of the accuracy of the claim.

In addition to living wage, employees will also receive compensated time and health benefits, as required by the LWO. Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request. Employers shall also permit employees to take at least an additional ten (10) days a year of uncompensated time to be used for sick leave for the illness of the employee or a member of his or her immediate family where the employee has exhausted his or her compensated days off for that year. Health benefits would consist of a minimum hourly payment, as required by the LWO, towards the provision of health care benefits for employees and their dependents.

CH2M HILL's survey of other jurisdiction found only one, Seattle that had clear requirements for payment of living wages to all workers employed under the terms of the franchise agreement. Seattle's contract requires payment of prevailing wages and includes tables that display local prevailing wages. Seattle's contracts (Attachment 3 to its collection contracts) also require payment of benefits, including health, dental, vision, retirement, paid sick leave, and 8 specific days of paid time off. Lee County Florida has detailed language in its franchise agreements that spell out requirements to pay benefits, including health and paid vacation.

#### **Recommendations:**

- **Require compliance with Living Wage Ordinance (LWO) provisions.**

### **3.8.5.2 Require Franchise Haulers to Hire Displaced Collection and Facility Workers and Support the Development of a Skilled Local Workforce**

The City can ensure its franchised waste hauler provides a high level of customer service by providing the framework for establishing an experienced local solid waste work force. Including the Service Contract Workers Retention Ordinance (SCWRO) provisions in the franchise agreements ensures that incumbent workers with invaluable knowledge and experience with the solid waste collection and processing will continue to provide a high level service. In addition, including the requirements of the First Source Hiring Ordinance (FSHO) will help to further expand the field of competent service workers to address the problems associated with a significant local unemployed, under-employed and unskilled workforce. These provisions would be applicable to all franchised waste haulers and extend to their subcontractors.

Retaining existing service workers when a change in contractor occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to its residents and businesses who receive services provided by the City franchised waste haulers.

The SCWRO, effective May, 1996, requires a successor contractor and its subcontractors to retain for a 90-day period certain employees who worked for the terminated contractor or its subcontractors for at least 12 months. Under the SCWRO a successor contractor must: Offer employment and retain for a 90-day period the employees who worked for at least 12 months for the terminated contractor or its subcontractors; not discharge the employees retained under the SCWRO without cause during the 90-day period; perform a written performance evaluation of each employee retained under the SCWRO at the end of the 90-day period.

The FSHO helps link contractors with potential service workers. In doing so, the City is able to provide greater opportunities for employment on service contracts. Having the opportunity to work on a City contract affords workers valuable experience that can be used to garner future employment.

Under the terms of the FSHO the Contractor notifies the City Community Development Department's Workforce Development System (CDD) of any new job opportunities available as a result of the contract. Upon receipt of a contractors' job notification, CDD forward the information to selected and approved Referral Resources. In turn the Referral Resources submit a list of job candidates to CDD and then CDD to the requesting contractor.



CH2M HILL's survey of other jurisdictions found two- Fresno and Seattle- that address the issue of "hiring preference" in their franchise agreements or contracts. Fresno required its franchisees to hire City workers that were displaced by the City moving from municipal collection to franchise collection. Seattle required winning proposers in its last RFP process to give a hiring preference to workers from incumbent firms that were not successful in the RFP process. No jurisdiction surveyed included language in an RFP or in franchise agreement that addressed the local work force development issue.

#### **Recommendations:**

- **Require compliance with Service Contract Workers Retention Ordinance (SCWRO) and First Source Hiring Ordinance (FSHO).**

### **3.8.6 Siting, Zoning, Facility Needs**

There are a number of solid waste facilities in and outside the City that currently handle solid waste and recyclables collected by permitted private waste haulers. Permitted haulers have identified over 200 facilities that they deliver materials which are collected from commercial customers. Proposers will be able to identify the facilities that will be used for the management of recyclables and solid waste, and their permitting status, capacity, and location will be used in the evaluation process. The Solid Waste Integrated Resources Plan (SWIRP) process is identifying the additional facilities needed to move to a Zero Waste goal by 2025. SWIRP does not identify specific locations or identify which permitted haulers will be utilizing any potential facilities. Any new solid waste facility, or expansion of existing facility, must move through its own process for permitting and approval. Although Sanitation will consider facility utilization of proposers in the RFP evaluation process, the award of an exclusive franchise zone does not suggest any preapproval for new or expanded facilities within Los Angeles for the successful proposers.

### **3.8.7 Transition Plan**

Sanitation recommends a two year transition and implementation period for the franchise. A transition period is necessary to implement all components of the franchise agreements and to ensure customer needs are met throughout the process. The transition period will begin on the award of the franchise and service will begin within the transition period. Some transition plan elements, such as developing a customer account and billing database, will need to be developed before service can begin, while other elements such as the full roll out of recycling can be completed after the start of service. The start and end dates of the various transition plan elements will be developed as part of the transition plan included in the franchise agreements.

To meet the goals of the City, there will be many new requirements placed on the franchised waste haulers that will require the procurement of new equipment. For example, the franchise agreements will include requirements such items as clean fuel vehicles, and mandatory recycling. To meet these needs, haulers will need to procure new vehicles and new waste and recycling bins. Hundreds of refuse trucks will need to be replaced with clean fuel low emission trucks. Given the number of trucks that will be purchased, the lead time for procurement will be in excess of 12 months. Franchise waste haulers will need to replace waste bins removed by the current permitted waste haulers and will need to purchase and distribute recycling containers. The purchase of new waste or recycling bins will also have a long lead time. These large lead time items must be taken into consideration in the transition plan.

The franchise hauler will need to transition thousands of accounts from permitted waste haulers. A significant effort will be needed to orchestrate the replacement of bin and transition of service to minimize any disruptions in service. The franchise hauler will need to coordinate with the City and the permitted hauler currently serving those accounts. The franchise hauler will begin with developing a database the will capture all the information required through the franchise such as business type and recycling levels. Prior to beginning service, all account and service information will need to be established. This include billing addresses, service address, service levels, and service instructions such as where the bins are located and any special needs, such as the need for scout

vehicles. Once account information and service requirements are established the hauler will begin establishing efficient routes. When all of the account and routing work is completed the franchised hauler will begin the task of physically transitioning each business by having existing bins removed and supplying new bins as necessary.

The franchise waste haulers will also be responsible for public education, outreach and training to businesses on the transition and implementation of new recycling programs. The hauler will need develop to outreach procedures and train staff responsible for working with businesses.

In addition to the franchise wastes hauler's responsibilities, Sanitation will have many elements to address. Sanitation will need to inspect and certify all facilities utilized by the franchise hauler under their agreement. Sanitation will also need to develop and secure the resources necessary to monitor and enforce all franchise requirements.

The exclusive franchise RFP will include a comprehensive list of transition plan elements as well expected completion milestones. Proposers will be required to address how the various elements will be met in their proposal. Sanitation will develop a detailed Transition Plan and schedule that will be a component of the franchise agreements. Franchise haulers will held accountable for meeting the deadlines established in the plan.

Major Transition Plan elements will include:

- Truck Procurement
- Equipment/Bin Procurement
- Customer Database Development and Management
  - Customer database development
  - Billing procedures
  - Account Transfers (permitted hauler to franchise hauler)
- Routing / Mapping
  - Type of services needed by each customer
  - Customer mapping
  - Level of service
  - Routing
    - Route Balancing
    - Route Optimization
- Incremental Personnel Hiring and Training
- Driver Hiring and Training
- Customer Service Procedures and Tracking
- Communication Plan
  - Notice to customers
- Public Education and Outreach
- Facility Certification
  - Inspect Facility for compliance
  - Develop a diversion rate (if a processing facility)

Although the majority of the service will transition in the first twelve months, Sanitation anticipates increased customer service and technical assistance requests for an additional twelve months, see figure 3-4.

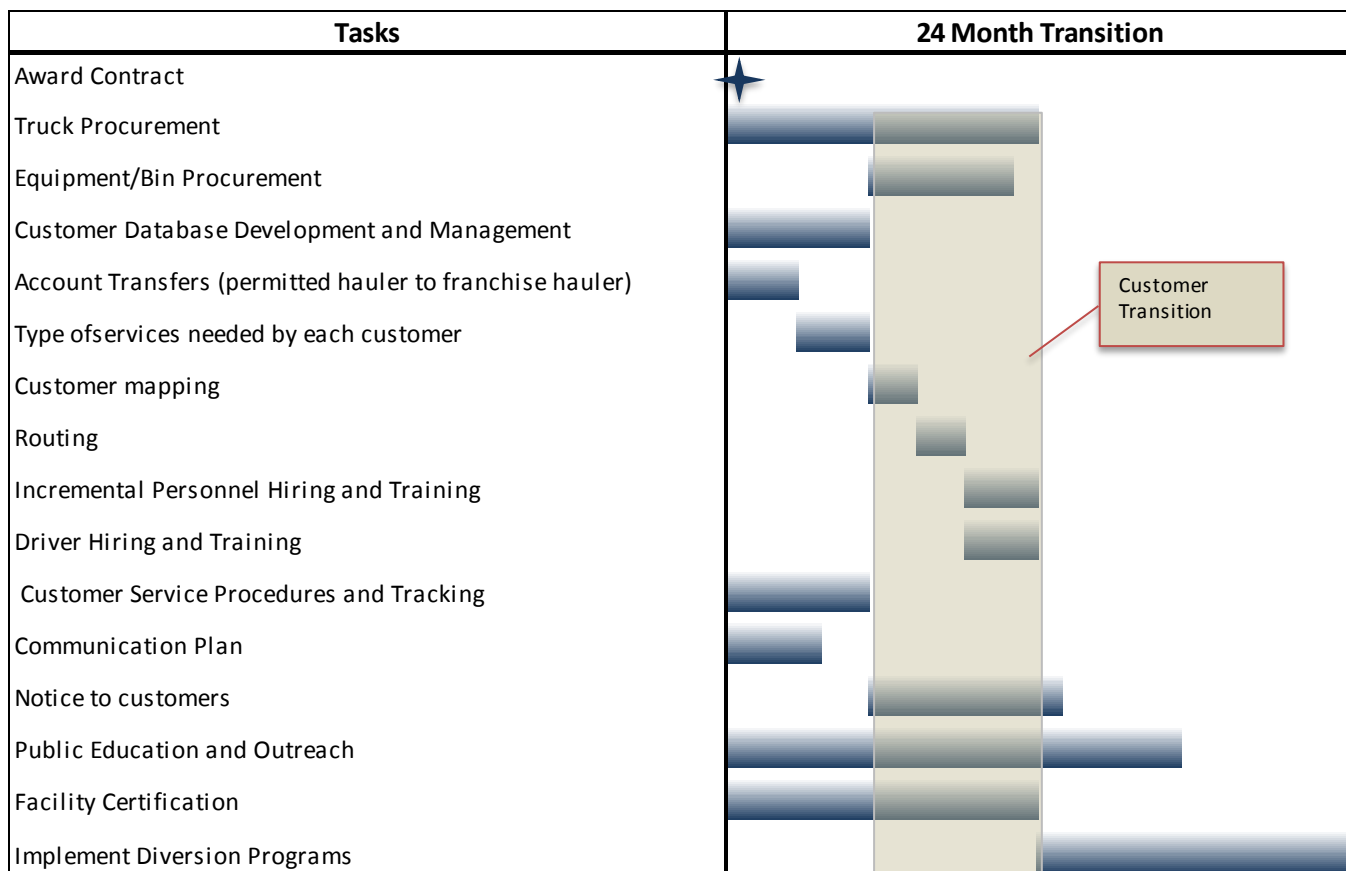


FIGURE 3-4  
Sample Transition Plan

### 3.9 Franchise Term

The term of the franchise agreement shall 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 processing infrastructure. Waste hauling companies typically amortize their equipment over a seven year period, however facility infrastructure is typically amortized over a longer 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.

# Implementation Process and Timeline

## 4.1 Franchise Process and Timeline

The process for the Exclusive Commercial Franchise begins with the policy decision by the Mayor and City Council to move forward in the process. In November 2012, the City Council directed Sanitation to begin the CEQA process, to return with an implementation plan for the Exclusive Franchise system, and requested the City Attorney to draft required ordinances for the project. Upon consideration of the Implementation Plan, as detailed in Section 3.8.7, Sanitation is requesting to move forward with the Request for Proposals (RFP) to meet the December 2016 timeline. Development of an RFP, negotiation and preparation of the contracts, and award of the contracts by the Mayor and City Council is anticipated to take approximately three (3) years. Upon award of contract a period of education and transition of existing hauler accounts to the Exclusive Franchise hauler for each collection zone begins. This transition period is expected to take up to two years.

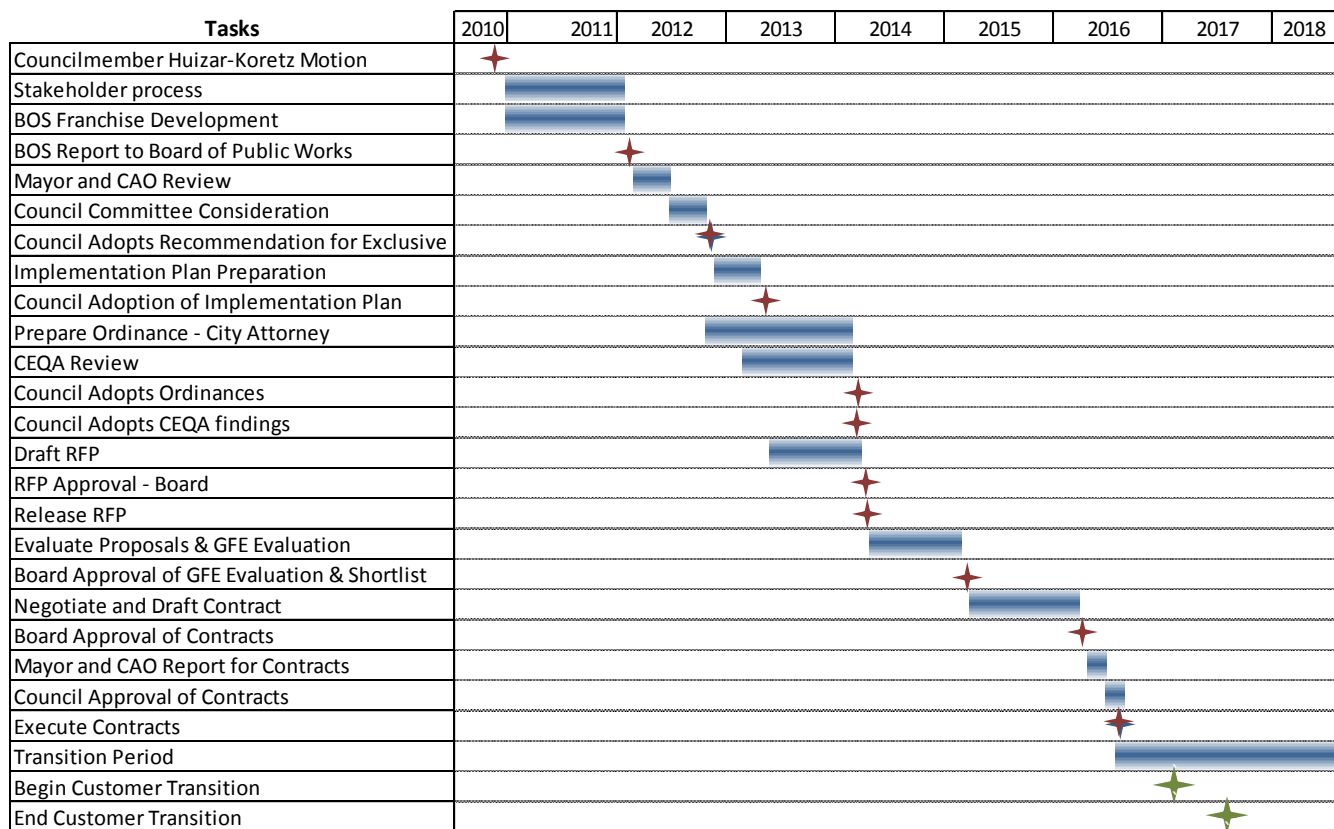


FIGURE 4-1  
Waste Hauler Franchise Initiative Timeline

### 4.1.1 CEQA Process

With the decision on the franchise process, the City Council directed Sanitation to prepare an Environmental Impact Report (EIR) to satisfy CEQA requirements examining the proposed Exclusive Commercial Franchise system, and to include in that EIR reviews of the following alternatives, 1) the status quo (No Project Alternative), 2) a non-exclusive system, 3) an exclusive system with multiple haulers per watershed, 4) City collection of all materials.

Sanitation has selected a firm to prepare the EIR. Proposals for the development of the EIR include a very detailed analysis of the potential changes in the vehicles miles traveled by the trucks collecting materials in the City as a result of changes in the solid waste management system. This requires a significant amount of time and funding to perform. The proposed steps (not all inclusive) for the EIR are as follows:

- Prepare Notice of Preparation, circulate for review, and issue for 30 days (completed in February 2013);
- Hold seven Citywide meetings to take comments from interested parties on the potential environmental impacts of the proposed system (completed in March 2013);
- Prepare a Draft EIR, circulate for review, post Notice of Completion, and circulate for public review for at least 45 days;
- Hold seven Citywide meetings to take comments from interested parties on the Draft EIR;
- Prepare a Response to Comments and circulate for review;
- Prepare a Final EIR, including Response to Comments, Findings and Statement of Overriding Considerations (if needed) and circulate for review;
- Schedule for Council consideration;
- If certified by the Mayor and City Council, file Notice of Determination.

It is anticipated that the Final EIR for the Exclusive Commercial Franchise system will be considered by the City Council along with ordinances to define the new system.

#### **4.1.2 Ordinance Development**

The City Attorney's Office was requested in the Council Action on November 14<sup>th</sup> to prepare a draft ordinance for an exclusive waste hauler franchise system for commercial and multifamily waste hauling within the City, in cooperation with, and with assistance, as necessary, from Sanitation, the City Administrative Officer (CAO), and Chief Legislative Analyst (CLA). Modifications to the existing City code regarding franchises and waste hauling in the City will clearly define the authority of the City and its Departments to implement this program. Further clarification of the Franchise program in this Implementation Plan will assist the City Attorney's Office in beginning ordinance development. It is anticipated that the ordinance(s) for the Exclusive Commercial Franchise system will be brought to the City Council for consideration with the Final EIR.

#### **4.1.3 RFP Development**

Development of a Request for Proposals (RFP) will begin upon direction by the Mayor and City Council to Sanitation to begin the process. Sanitation has selected a contractor to assist in the development of the RFP due to staffing shortages, and is seeking information on successful franchise procurements from around the United States. Approval by the Mayor and City Council on the Goals of the program, as well as the major elements, will guide Sanitation in the RFP process.

The RFP is expected to be issued in coordination with the consideration of the Exclusive Commercial Franchise EIR and accompanying ordinances, with any mitigation measures identified during the EIR process incorporated into the requirements of the RFP.

#### **4.1.4 Contract Execution**

After the Request for Proposals (RFP) is issued, Sanitation will assemble an evaluation team that will include experts on the waste industry from inside and outside of Los Angeles as well as City and consultant team members. Evaluation of the proposals will include ranking for items such as experience, work history and ability to perform the required programs, compliance with local, State and Federal laws, financial stability, and cost proposal. Recommended contract awards will include performance and customer service requirements, reporting requirements, contingency measures, and rate schedule for multifamily and commercial waste management services.

Recommendations for contract negotiation will be brought before the Board of Public Works, and recommendations for contract award and execution will move through the Board of Public Works, to the Mayor's Office and CAO, and to the City Council for consideration. Then the contracts are returned to the Board of Public Works for execution. Contract execution is anticipated to take place by July 2016.

#### **4.1.5 Transition Period**

As detailed in Section 3.8.7, the transition period for the Exclusive franchise is expected to take place over a two year period beginning at the contract execution. After the execution of the franchise contracts, the waste hauler awarded the franchise will begin, under Sanitation's assistance and direction, to educate customer in their respective areas about the transition to the exclusive franchise. As waste haulers begin to move their bins and equipment from the customer sites, it is critical to maintain waste disposal services, and Sanitation will work with the Franchise Hauler to place bins, compactors, and other equipment and begin service. Franchise Haulers will be encouraged to work with each other to minimize disruption of service.