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AGENDA REPORT

(Revised July 28, 2014)

TO: HENRY L. GARDNER
CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Award of Zero Waste Franchise Agreements **DATE:** July 24-28, 2014

City Administrator
Approval

Date

7/26/2014

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council conduct a Public Hearing and upon conclusion adopt three of the six following legislation:

1. An Ordinance Granting A Franchise For Mixed Materials And Organics Collection Services To Waste Management Of Alameda County, Inc., Contingent On Its Execution Of A Mixed Materials And Organics Collection Services Contract With The City And Authorizing The City Administrator To Negotiate And Execute Such A Contract, Regulating Maximum Service Rates For Mixed Materials And Organics Collection Services, Residential Recycling Services, And Disposal Services, And Setting Forth Procedures To Allow For Adjustment Of Maximum Service Rates
2. An Ordinance Granting A Franchise For Residential Recycling Collection Services To Waste Management Of Alameda County, Inc., Contingent On Its Execution Of A Residential Recycling Collection Services And Non-Exclusive Commercial Recycling Collection Services Contract With The City, And Authorizing The City Administrator To Negotiate And Execute Such Contract
3. An Ordinance Authorizing The City Administrator To Execute An Exclusive Contract For Landfill Disposal Services With Waste Management Of Alameda County
4. An Ordinance Granting A Franchise For Mixed Materials And Organics Collection Services To California Waste Solutions, Inc., Contingent On Its Execution Of A Mixed Materials And Organics Collection Services Contract With The City And Authorizing The City Administrator To Negotiate And Execute Such A Contract, Regulating Maximum Service Rates For Mixed Materials And Organics Collection Services, Residential Recycling Services,

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- And Disposal Services, And Setting Forth Procedures To Allow For Adjustment Of Maximum Service Rates
5. An Ordinance Granting A Franchise For Residential Recycling Collection Services To California Waste Solutions, Inc., Contingent On Its Execution Of A Residential Recycling Collection Services And Non-Exclusive Commercial Recycling Collection Services Contract With The City, And Authorizing The City Administrator To Negotiate And Execute Such Contract
 6. An Ordinance Authorizing The City Administrator To Execute An Exclusive Contract For Landfill Disposal Service with California Waste Solutions, Inc.

EXECUTIVE SUMMARY

At a Special Meeting of the City Council on May 29, 2014, staff presented an analysis of the customer rate impacts and benefits of the two viable proposal combinations for the three franchise contracts:

1. Award of all three franchise contracts to Waste Management of Alameda County (WMAC) – Option 1; and
2. Award of the Residential Recycling (RR) contract to California Waste Solutions (CWS), and award the franchise contracts for Mixed Materials and Organics, and Disposal to WMAC – Option 2.

Staff recommended that the City Council authorize the City Administrator to accept the Option 1 Term Sheet for WMAC for the Zero Waste Services franchise contracts, and prepare the rate tables with any alternative selected by City Council and bring the Ordinances to City Council for consideration and approval to replace the existing contracts, which expire June 30, 2015.

The City Council expressed concern with the potential customer rate increases that approval of Option 1 would cause, and did not act on the resolution selecting alternatives, but by motion directed staff “to allow bidders to submit new (best and final) bids to include all components including East Bay Municipal Utility District (EBMUD), mixed materials, organics, recycling and landfill comparable in scope to the Waste Management proposal. Council further requested bidders be allowed to include additional components including but not limited to cost saving elements, at the bidders discretion.”

Staff prepared Request for Proposal (RFP) documents to request “apples to apples” new best and final proposals from CWS and WMAC, the two proposers on the Zero Waste Services RFP. Both companies submitted new offers on June 13, 2014.

As the City Council had hoped to achieve, these new offers provide the single-family 32-gallon cart customers a lower rate than was provided in the May 29, 2014 Council Report. Since the proposals were received on January 9, 2013, the initial rate increase for the July of 2015 rates,

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have decreased from over 75% to 50% from negotiations, and again by City Council action to a range of 24% to 46% increase.

The three possible proposal combinations for City Council consideration are:

1. Award of all three franchise contracts to Waste Management of Alameda County (WMAC); or
2. Award of the Residential Recycling (RR) contract to California Waste Solutions (CWS), and award the franchise contracts for Mixed Materials and Organics, and Disposal to WMAC; or
3. Award of all three franchise contracts to CWS.

Option 1 is the most practicable and prudent option to deliver service on July 1, 2015, would provide the best value for the Oakland ratepayers and the best customer experience, while meeting the City's adopted Zero Waste goal.

Option 2 is also a viable option. It would deliver service on July 1, 2015, provide good customer experience, meet the City adopted Zero Waste goal. However, Option 2 is not the lowest rate for the Oakland ratepayers of the three Options.

Option 3 is not the preferred option. It is discussed later in this report.

Attached to this report are the necessary draft ordinances and rate tables. The draft franchise contracts will be published within the Special City Council meeting notice requirements necessary for City Council to make a selection and award of services of any of the options to replace the existing services which expire on June 30, 2015.

OUTCOME

Approval of the Ordinances would allow the City Administrator to execute franchise contracts that would replace the existing service agreements with WMAC and California Waste Solutions, which expire on June 30, 2015. Execution of new franchise contracts at this time is necessary to ensure continuity of solid waste collection and disposal services on July 1, 2015, which are vital to public health and safety in the City of Oakland.

BACKGROUND/LEGISLATIVE HISTORY

City Council provided 32 policy directives that governed the process and provisions of the Zero Waste RFP, including the three draft franchise contracts it comprised, that allowed the City to specify the contract terms and performance standards, including provisions that stabilize rates, address illegal dumping, provide service equity across customer sectors, and achieve solid waste diversion in the short- and long-term. Pursuant to Council direction provided in June 2012,

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Public Works (OPW) issued the Zero Waste Services RFP, and received proposals in January 2013.

On June 18, 2013, the City Council authorized the City Administrator to enter concurrent contract negotiations with CWS and WMAC.

On May 29, 2014, a Special Meeting of the City Council, staff presented an analysis of the customer rate impacts of the two viable proposal combinations for the three franchise contracts, and an analysis of the two options:

- (1) award of all three franchise contracts to WMAC; and
- (2) award of the Residential Recycling (RR) contract to CWS, and award the franchise contracts for Mixed Materials and Organics, and Disposal to WMAC.

Staff recommended that the City Council authorize the City Administrator to accept the Option 1 Term Sheet for Waste Management of Alameda County for the Zero Waste Services franchise contracts, and prepare the rate tables with any alternative selected by City Council and bring the Ordinances to City Council for consideration and approval to replace the existing contracts, which expire June 30, 2015.

The City Council did not act on the resolution, but by motion directed staff "to allow bidders to submit new (best and final) bids to include all components including East Bay Municipal Utility District (EBMUD), mixed materials, organics, recycling and landfill comparable in scope to the Waste Management proposal. Council further requested bidders be allowed to include additional components including but not limited to cost saving elements, at the bidders discretion."

As directed by City Council, staff prepared RFP documents to request new best and final proposals from California Waste Solutions (CWS) and Waste Management of Alameda County (WMAC). The terms and conditions contained in the May 29, 2014 City Council report were offered to both proposers to achieve the Council's request for an "apples to apples" opportunity. Both companies submitted new bids on June 13, 2014. CWS has stated their pricing is good through August 2014. WMAC's pricing is good through July 31, 2014.

ANALYSIS

Time is of the essence for the City to put in place agreements for the collection and processing of mixed materials, residential recycling, and landfill disposal. There are 11 months until the existing solid waste service agreement expires.

To stay on the critical path so that garbage service is in place on July 1, 2015, this report focuses on the essential and fundamental pieces of information necessary to bring this multi-year process to a close. Additionally, responses to City Council questions from May 29, 2014 will be

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forwarded in a follow up to this report within the meeting notice timeline for the scheduled July 30, 2014 meeting.

As the City Council had hoped to achieve, these new offers provide a lower rate to the single-family 32-gallon cart customer than the rates provided in the May 29, 2014 Council Report. Since the proposals were received on January 9, 2013, the initial rate increase for the July of 2015, rates have decreased from over 75% to 50% from negotiations, and again by City Council action to a range of 24% to 46% increase.

These new offers were analyzed based on the following criteria:

1. Garbage collection on July 1, 2015:
 - Collection of garbage on day one of the new franchise contract for the 150,000 Oakland customers is of foremost concern for the City
 - Public health and safety is the City's responsibility according to state law and City ordinance
 - Reliable garbage service is paramount.
2. Best value and experience for the rate payer:
 - Best value provides the greatest overall benefit in response to the services and requirements described in the RFP.
 - Best experience for the rate payer includes consistently complete and on-time collection; accurate and timely billing; expeditious customer service response to resolve performance issues;
3. Achieving the City's adopted Zero Waste goals:
 - This Zero Waste RFP process was established based on City Council adoption of Zero Waste Goal and Strategic Plan in 2006.
 - The RFP requires of materials collected a minimum of 40% be diverted from landfill by 2022.
 - The RFP required proposers to provide minimum annual diversion calculation to show progress to both the 2022 goal and the 2035 goal.

Based on these criteria, the three franchise combination options are listed below. Options 1 and 2 are the most viable options based on the criteria listed above, and Option 3 is shown because it is the lowest rate. Following is a discussion of each of the Options.

- Option 1: Award of all three franchise contracts to WMAC
- Option 2: Award of the Residential Recycling (RR) contract to CWS, and award the franchise contracts for Mixed Materials and Organics, and Disposal to WMAC.
- Option 3: Award of all three franchise contracts to CWS.

Option 1

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WMAC provided new pricing on June 13, 2014 and no changes to the services in the proposals submitted on January 9, 2013. The original proposals and changes derived during negotiations and provided at the Council meeting on May 29th are published on the City's website at www.zerowasteoakland.com. WMAC accepted all of the terms and conditions offered in the City's second request for best and final proposals.

Option 1, award of MM&O franchise contract to WMAC would ensure garbage collection on day one of the new contract, residential recycling, and disposal services. WMAC is the sole proposer with qualified experience in the collection and processing of mixed materials and organics, and disposal of garbage. WMAC owns and operates a permitted 15-acre corporation yard on 98th Avenue in Oakland for dispatch, fueling, and maintenance of trucks, WMAC owns and operates the fully permitted Davis Street Transfer Station in San Leandro, which houses an organics processing facility, and recyclable materials that were not source separated by the residents or businesses. Under Option 1, WMAC would transfer garbage for disposal to the Altamont Landfill, operated by WMAC and located in Alameda County.

Residential recycling under this option would be collected by WMAC and taken to the Davis Street Transfer Station for processing, packaging, and transfer to markets. WMAC currently provides residential recycling collection for half of Oakland and expansion to the entire city is within its capabilities.

While Option 1 does not provide the lowest cost, it does provide all services requested in the RFP on day one and the best value to the rate payer. WMAC has an established record of success for collection of garbage and organics in Oakland and other communities in Alameda County. They have extensive experience processing and marketing organic material in Alameda County and California. WMAC is the only proposer with experience in running a full-service call center, and providing billing services to garbage customers.

WMAC has the capital and operational support to ramp-up for Zero Waste service delivery in less than 11 months, providing new clean fuel trucks, new cart delivery, and roll-out of a dynamic public outreach campaign. WMAC has an established and proven customer service billing system, already providing a reliable experience for the customer. WMAC proposed enhancements to its customer service to increase a reliable customer experience. WMAC's existing and enhanced customer service includes multiple access opportunities (in person at its 98th Ave office, phone, web, mobile applications), and monthly customer service representative performance monitoring. A comprehensive description of WMAC's Customer Service Plan is provided in section 5.4 of its January 9, 2013 proposal and can be found on the City's website at www.zerowasteoakland.com.

WMAC is able to draw on its regional resources to overcome any obstacles caused by the shortened startup time for this franchise contract process. Delivery delays of needed equipment or vehicles due to local or non-local exigencies, or any other failure of equipment and facilities

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needed to fulfill the obligations of these franchise contracts can be managed by the company. WMAC is the only proposer able to deliver all three Zero Waste Services franchise contracts completely within Alameda County, through the entire contract term.

Option 1 provides a superior approach to achieving the City's Zero Waste goal. On day one of the contract, WMAC will process multi-family mixed materials to divert materials from the landfill and return them to the economic mainstream. WMAC's long-term plan for organics diversion far exceeds diversion proposed by CWS in Option 3. Option 1 provides the highest level of diversion and correlating Green-house Gas (GHG) emissions reduction for the City.

WMAC has already completed major capital upgrades to facilities at Davis Street. It has plans and permits ready for additional new facilities at Davis Street and Altamont that would place it among the largest and most advanced resource recovery systems in the country. The City of Oakland would continue its nationally recognized green leadership through access to these facilities by franchise contract.

As adopted by City Council policy and provided for in the MM&O and RR Franchise Contracts, WMAC will be required to hire City of Oakland residents for at least 50% of all new hires. The 50% local hire requirement will be applied to all employees of the proposer, who are associated with the contract for collection and processing, except management.

Option 2

In Option 2, the MM&O franchise contract would be awarded to WMAC. This would ensure garbage and organics service meeting the RFP standards on day one of the contract would be delivered. Billing and customer service would be provided by WMAC ensuring a continuation of systems that are in place. Zero Waste diversion goals would be met. The Disposal franchise contract would be awarded to WMAC, for use of the Altamont Landfill in Alameda County.

The RR contract would be awarded to CWS, under Option 2. CWS currently provides residential recycling to half of Oakland, using its two west Oakland facilities, at 10th and Pine Streets and on Wood Street to process, package and transfer materials to market. Doubling their service from 83,000 households to 165,000 households, and using their existing facilities until the new Gateway Facility is opened, is within the functional capacities of CWS based on the information presented by CWS and analysis by staff and technical consultants.

CWS would process Citywide residential recyclables at its two existing facilities in west Oakland, primarily by adding additional processing equipment and a second shift at its facility located at 10th and Pine Streets.

- This facility operates under a conditional use permit (CUP) that allows CWS to expand its processing hours to 9 p.m., enabling a second shift.
- CWS proposed to use additional processing capacity as needed at its Wood Street facility.

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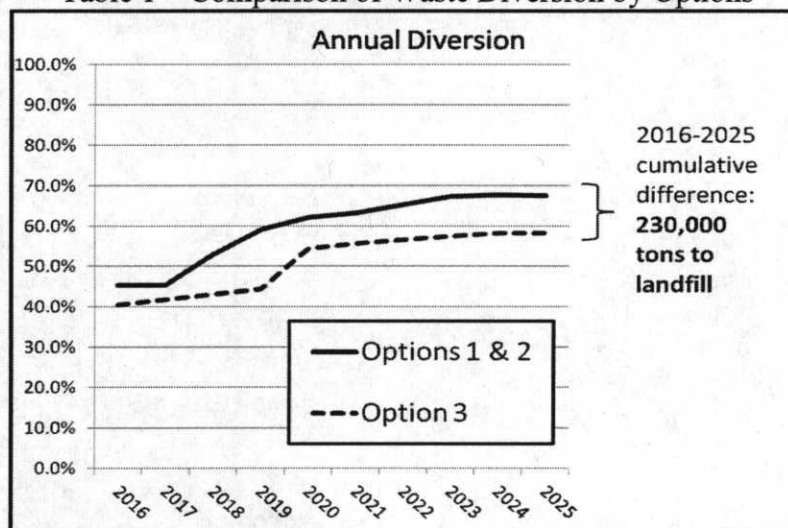
- 43 collection vehicles would be parked and operate from at 10th and Pine Street facilities.
- Recycling Services would be transferred to the new Gateway Facility when it is completed within approximately five years.

There is low risk associated with this fully viable option as CWS is currently operating these facilities and has the necessary conditional use permits to manage the increase in materials at the locations. However, Option 2, using the lowest combination of rates is more the costly choice for the rate payer by more than \$3.52 per month or over \$42 per year per 32-gallon single-family residential customer, compared to Option 1. The price to accommodate Local 6 recycling workers wage and benefits was offered at \$0.26 per month by WMAC and \$0.57 by CWS (see Rate Option A Table on page 14).

As adopted by City Council policy and provided for in the MM&O and RR Franchise Contracts, both WMAC and CWS will be required to hire City of Oakland residents for at least 50% of all new hires. The 50% local hire requirement will be applied to all employees of the proposer, who are associated with the contract for collection and processing, except management.

Table 1 shows the annual waste diversion anticipated through each of the three Options provided. Options 1 and 2 provide the superior waste diversion achievement. Over a ten year period, the difference of the number of tons of material that would be diverted from landfills through Options 1 and 2 compared to Option 3 is over 200,000 tons. This figure, 200,000 tons, is equivalent to one year's worth of franchise garbage sent to landfill today by Oakland. The selection of Option 3 would be a lost opportunity to divert this 200,000 to beneficial use.

Table 1 – Comparison of Waste Diversion by Options



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Option 3

CWS on June 13, 2014, provided new pricing and a new proposal for the services requested through the RFP process. CWS provided an entire new pre-Gateway contingency proposal for the MM&O services, new pricing for the previously proposed RR services, and a first-time landfill proposal.

CWS' June 13, 2014 new best and final proposal for the MM&O contract is the third of its proposals to provide City-wide garbage and organics collection services, and is referred to as "Plan C." Plan C was submitted as an alternative proposal that allows for use of other facilities during the first five years of the contract, while CWS' new Gateway facility is being constructed and commissioned. CWS has explained that Plan C represents their primary proposal for delivery of the MM&O services, but that Plan B was still available as a contingency in the event that Plan C could not be fully implemented on schedule. Plan B was presented to Council on May 29, 2014.

Under Option 3, CWS has stated it would use a "belt and suspenders" approach to providing MM&O collection services, organics processing and transfer, and transfer of garbage to landfill. CWS' Plan C engages a number of entities woven together with varying levels of assurances and agreements. Additionally, required permits from regulatory agencies have not been secured, leaving this option in less than strong standing. With Option 3, mixed material processing would be delayed for five years, until the Gateway Facility is open, seriously impeding the City achievement of its Zero Waste diversion goals.

Plan C would involve:

- Using a 3.6 acre portion of EBMUD property adjacent to the North Gateway property as the location for a temporary solid waste transfer station to receive and transfer mixed materials and organic material.
- The temporary transfer station would receive 660 tons per day of mixed materials and 90 tons per day of organic materials.
- Vehicle maintenance will take place at 1021 10th Street – CWS' current maintenance facility
- Compressed natural gas (CNG) vehicle fueling will take place at either Oakland Maritime Support Services (OMSS), Viridis Fuels, Port of Oakland, or City of Berkeley
- All new carts would be purchased and delivered
- All new multifamily and commercial bins would be purchased and delivered
- Single-family organic material would be transferred from the temporary transfer station to the organic processor in Napa County or Yolo County
- Multi-family organic material would go either to the temporary transfer station or EBMUD's food waste pre-processing facility operated by Recology for processing.
- Parking of CWS 80 route trucks on Oakland Army Base property leased to OMSS, Inc. or at future Viridis Fuels property on property owned by EBMUD

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- Customer service would take place at the 10th Street facility
- Delay of Mixed Materials processing by five years until new CWS facility is in operation
- Development of a billing system for 150,000 customers

Due to essentially a new service proposal, comprising over 300 pages, and the extremely short timeframe to assess, staff secured the assistance of an independent consultant for the evaluation of Plan C, to assess the level of risk for the City should it move in this direction. The consultant selected has no association with either proposer, and frequently provides this type independent analysis for municipalities. The firm is located in southern California, distancing it from local affairs. The independent evaluation of risk is attached as **Attachment B**.

After internal and external review of Option 3, including the consultant report, staff research, questions and responses from CWS Option 3 is not being recommended. Option 3 presents the lowest rate, however, the risks associated with Option 3 outweigh the monetary benefit that might accrue to the ratepayers. The risks include the critical path to bring together the essential agreements between multiple parties and the necessary permitting to construct and operate a temporary transfer station on day one of the contract.

Another issue to consider is the use of the OMSS facility for parking trucks. Currently, OMSS occupies six acres of land at the Oakland Army Base and it is 90% occupied. CWS has stated it would lease three acres of land from OMSS for truck parking thereby displacing the existing independent truckers that use OMSS. In early 2017, OMSS is scheduled to expand, having new acreage which would be available for CWS to sublease. On June, 26, 2014, CWS also provided a letter of support from Viridis Fuels which has secured 6 acres of land in the North Gateway area on EBMUD property; and stated it is willing to provide CWS parking 130 collection trucks, employee rest, meals, meeting, locker room and bath and wash room areas and operational offices. Agreements would need to be put in place to ensure the arrangements.

Additional risks include the delivery of new collection vehicles in time for operations on day one. CWS may be able to find used vehicles to bridge the gap in time until the delivery of the new vehicles; however, the likelihood that CWS would be able to procure approximately 80 temporary collection vehicles has not been verified.

The RR contract under Option 3, would be awarded to CWS as in Option 2. CWS currently provides residential recycling to half the City, using its two West Oakland facilities, at 10th and Pine Streets and on Wood Street to process, package and transfer materials to market. Doubling their service from 83,000 households to 165,000 households, and using their existing facilities until the new Gateway Facility is opened, would appear to be within the functional capacities of CWS.

Disposal

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Under Option 3, CWS submitted a disposal proposal using Vasco Road Landfill in Alameda County as the primary facility, and Keller Landfill in Contra Costa County as a backup. Both facilities are owned by Republic Services Group, a multi-national company, like WMAC, that took out the RFP for landfill disposal but did not submit a proposal on January 9, 2013.

Both Vasco Road Landfill and Keller Canyon Landfill are permitted landfills and have the daily permitted capacity to accept Oakland's franchised waste on July 1, 2015. Republic Services aerial survey from December 31, 2013 estimates that Vasco Road Landfill has approximately 22 years of remaining capacity and Keller Canyon Landfill has 78 years. The Oakland RFP for landfill disposal required 30-years of landfill disposal.

CWS has stated that the circumstances governing the use of Keller Canyon Landfill as the contingent disposal site will be the availability of capacity at the primary site. The expectation is that Vasco Road Landfill will receive at least 60% of the material to be landfilled, with the balance sent to Keller Landfill in Contra Costa County.

RATES

Council Requested New Offers

On June 13, 2014, new best and final proposals were received from CWS and WMAC, the two proposers on the Zero Waste Services RFP. This was in response to City Council's request to provide lower costs to the rate payers. The new offers provide the single-family 32-gallon cart customers a lower rate than those provided in the May 29, 2014 City Council Report.

Additionally, a second offer from both companies provides a the MM&O and RR portions of the rate with a lower first year rate and an addition of 1.5% increase to the Refuse Rate Index (RRI) annual increase for years 2-5 of the contract. This results in a lower first year cost for the rate payer.

Mayor and City Administrator Request for Best and Final Offer

On July 15, 2014 the Mayor and City Administrator asked each proposer one additional time for their very last final offers. WMAC did not provide new pricing. CWS provided a second lower pricing for the RR franchise contract that includes:

- Year 1 rate of \$8.85 per household
- Years 2-5 ~~2-4~~ annual rate increase of \$0.97 plus the RRI
- 15-year term, plus 5 year option to extend
- Years 1 through 5 use of bio-diesel (B20) collection vehicles.
- Year 6 begin use of CNG fuel collection vehicles.

This rate option provides a lower first year cost for the rate payer. However, this option also requires the City Council to approve a change in the term of the contract from 10 years to 15 years. The term for the second 5-year extension would not change. This proposal would continue the use of diesel trucks for the first five-years rather than switching to cleaner burning

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CNG trucks, delaying the environmental and health benefits to Oakland under this new franchise contract.

Call Center

In an effort to provide the lowest rate impact options for the City Council to select from, the out-of-county call center rate was used in both Option 1 and Option 2 rate impact scenarios.

Rate Options

The Matrix 1 shows the various rate tables prepared; the left hand column indicates what the rate options include in the rate, for each of the three contract award options previously discussed in the report. Following Matrix 1 there are samples of rate impacts for the full rate tables attached to the ordinances.

Matrix 1: Rate Options for City Council

	<u>Option 1</u> MM&O WMAC RR WMAC Disposal WMAC	<u>Option 2</u> MM&O WMAC RR CWS Disposal WMAC	<u>Option 3</u> MM&O CWS RR CWS Disposal CWS
Rate Option A - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 	Rate Tables 1A	Rate Tables 2A	Rate Tables 3A
Rate Option B - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 Council requested MF Green Cart Alternative No. 3 	Rate Tables 1B	Rate Tables 2B	Rate Tables 3B
Rate Option B - includes: <ul style="list-style-type: none"> <u>Council requested Local 6 wage/benefits package</u> <u>Out-of-Co. call center Option 1 & 2</u> <u>Council requested MF Green Cart Alternative No. 3</u> 	<u>Rate Tables</u> <u>1B</u>	<u>Rate Tables</u> <u>2B</u>	<u>Rate Tables</u> <u>3B</u>
Rate Option C - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 Lower MMO rates in Year-1 and RRI plus 1.5% in Years 2-5 	Rate Tables 1C	Rate Tables 2C	Rate Tables 3C

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<p>Rate Option D - includes:</p> <ul style="list-style-type: none"> • Local 6 wage/benefits package • Out-of-Co. call center • \$8.85 RR rate in Year 1 • RR Rate Increases by RRI + \$0.97 in yrs 2-4 • RR rate reverts to base year RR rate escalated by RRI in Year 7 • RR be changed to a 15-year term • Use B20-bio Diesel trucks/ yrs 1-5 • Lower MMO rates in Year-1 and RRI plus 1.5% in Years 2-5 		<p>Rate Tables 2D</p>	<p>Rate Tables 3D</p>
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Competitive Wages and Benefits for Recycling Sorters

The ILWU Local 6 contracts with WMAC and CWS provide differing wages and benefits to the recycling sorters. The Local 6 contract with WMAC provides starting wages for recycling workers at \$12.50 per hour, while its contract with CWS provides starting wages at \$11.97 per hour. The health benefits are also different for each of these contracts; the Local 6 contract with WMAC includes family health benefits while its contract with CWS provides health benefits solely for the employee.

On June 12, 2012 the City Council adopted language requiring the new franchise agreements to “require contractors to pay competitive wages and benefits, defined as wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara and San Mateo counties.”

On March 18, 2014, the City Council adopted legislation that requires that “all workers who provide recycling services to the City of Oakland its residents and businesses, pursuant to any new City exclusive franchise agreement or renewal/extension of any existing exclusive City franchise agreement, be provided wages comparable to those wages that recycling workers in Fremont, San Jose and San Francisco currently earn or are scheduled to earn under existing agreements, while maintaining wage differentials.” Additionally, the legislation directed that recycling services franchisees and recycling services franchisees renewing and/or extending their contracts be required to provide quality, affordable family health coverage to all employees.

Both firms were provided the March 18, 2014 City Council Resolution and asked to provide the cost to meet the requirement of the resolution for recycling sorter wages and benefits.

On June 30, 2014, Ms. Amy Willis of ILWU forwarded by email a package of materials that described the wage and benefit package requested by the union. On July 3, 2014, the email and the package of information was forwarded to both companies. *Rate Option A Table* shows the rate impact for each of the Options using the ILWU figures of \$20.94 by 2019.

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Rate Option A Table

Service	Current Monthly Rate FY 2014/15	Option 1 MM&O WMAC RR WMAC Disposal WMAC		Option 2 MM&O WMAC RR CWS Disposal WMAC		Option 3 MM&O CWS RR CWS Disposal CWS		
		Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	
Single Family (32-gallon cart)	Proposed Rate	\$ 29.80	\$ 40.08	34.51%	\$ 44.63	49.75%	\$ 37.71	26.54%
	Recycling Workers Wage & Benefits		\$ 0.26		\$ 0.57		\$ 0.11	
	Total	\$ 29.80	\$ 40.34	35.37%	\$ 45.20	51.68%	\$ 37.82	26.92%
Multi Family (20-unit bldg.)	Proposed Rate	\$474.20	\$586.61	23.70%	\$664.28	40.08%	\$554.23	16.88%
	Recycling Workers Wage & Benefits		\$ 3.93		\$ 9.89		\$ 2.55	
	Total	\$474.20	\$590.54	24.53%	\$ 674.17	42.17%	\$556.78	17.41%
Commercial (1-cu.yd. bin)	Proposed Rate	\$139.88	\$200.36	43.24%	\$212.63	52.01%	\$158.18	13.08%
	Recycling Workers Wage & Benefits		\$ 1.12		\$ 1.51		\$ 6.64	
	Total	\$139.88	\$ 201.48	44.04%	\$ 214.14	53.09%	\$164.81	17.82%

Green Cart Service Options For Multi-Family Buildings

Council has expressed preference for green cart service to be provided to all Multi-family buildings. Four scenarios for pricing were presented to City Council on May 29, 2014 which include:

- 1-Base. the base rate which includes sorting of the mixed materials from all MF buildings and a green cart upon request without an additional charge;
- 2-1. an "opt in" rate where the cost for the green cart would be by subscription;
- 3-2. "opt out" where the green cart is provided unless the customer opts out; and
- 4-3. universal provision or "no opt out" whereby green carts are provided to each MF Building.

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Cost options for the base rate and the three additional scenarios were presented to Council on May 29, 2014.

Rate options tables "B" showing the cost to include the universal provision or the "no opt out" of green carts for multi-family buildings have been prepared and are attached as *Rate Option B Table* to provide this option for City Council's selection.

Rate options tables "BB" showing the cost to include the "opt out" of green carts for multi-family buildings have been prepared and are attached as Rate Option 2 BB – Rate Tables REVISED to provide this option for City Council's selection. Any pages of the attached rate tables that have been added or revised since the previously published version dated July 21, 2014 are labeled REVISED.

Under the lowest cost "opt in" rate, staff is recommending a "phased-in approach," as an alternative suggested by Councilmember Kalb at the May 29, 2014 meeting. A "phased-in approach could achieve Council's goal of universal provision of green carts at MF buildings under Option 1 or Option 2. Using a "phased-in" approach, WMAC would develop an aggressive outreach campaign that specifically promotes the use of green carts at MF buildings, deploying significant public outreach efforts including the proposed corps of "Zero Waste Ambassadors", which could potentially include youth enrolled in Civicorps, as well as other community programs to move all MF buildings to the goal of the option of source separation of green waste at all MF buildings.

Furthermore, the City Council could adopt language in the Oakland Municipal Code requiring MF building owners to provide access to all of the franchised recycling services including green cart service for their tenants. In this way, the City Council's goal of universal provision of recycling for MF building tenants could be achieved at the lowest cost to ratepayers.

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Rate Option B Table

Service	Current Monthly Rate FY 2014/15	Option 1 MM&O WMAC RR WMAC Disposal WMAC		Option 2 MM&O WMAC RR CWS Disposal WMAC		Option 3 MM&O CWS RR CWS Disposal CWS	
		Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	Proposed Rate including Recycling Workers Wage & Benefits						
	MF Green Cart Alt No. 3						
	Total						
Multi Family (20-unit bldg.)	Proposed Rate including Recycling Workers Wage & Benefits	\$474.20	\$590.54 24.53%	\$674.17 42.17%	\$556.78 17.41%		
	MF Green Cart Alt No. 3		\$ 60.20	\$ 60.20			
	Total	\$474.20	\$650.74 \$651.14 37.23% 37.31%	\$734.37 \$734.77 54.86% 54.95%	\$556.78 17.41%		
Commercial (1-cu.yd. bin)	Proposed Rate including Recycling Workers Wage & Benefits						
	MF Green Cart Alt No. 3						
	Total						

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Rate Option BB Table

Service	Current Monthly Rate FY 2014/15	Option 1 <i>MM&O WMAC</i> <i>RR WMAC</i> <i>Disposal WMAC</i>		Option 2 <i>MM&O WMAC</i> <i>RR CWS</i> <i>Disposal WMAC</i>		Option 3 <i>MM&O CWS</i> <i>RR CWS</i> <i>Disposal CWS</i>	
		Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	Proposed Rate including Recycling Workers Wage & Benefits						
	MF Green Cart Alt No. 2						
	Total						
Multi Family (20-unit bldg.)	Proposed Rate including Recycling Workers Wage & Benefits	\$474.20	\$590.54 24.53%	\$674.17	42.17%	\$556.78	17.41%
	MF Green Cart Alt No. 2		\$ 57.80	\$ 57.80			
	Total	\$474.20	\$648.34 36.72%	\$731.97	54.36%	\$556.78	17.41%
Commercial (1-cu.yd. bin)	Proposed Rate including Recycling Workers Wage & Benefits						
	MF Green Cart Alt No. 2						
	Total						

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Rate Option C Table shows the second offer from both companies that provides a MM&O portion of the rate with a lower first year rate and an addition of 1.5% increase to the Refuse Rate Index (RRI) annual increase for years 2-5 of the contract. This results in a lower first year cost for the rate payer.

Rate Option C Table

Service		Current Monthly Rate FY 2014/15	Option 1 MM&O WMAC RR WMAC Disposal WMAC		Option 2 MM&O WMAC RR CWS Disposal WMAC		Option 3 MM&O CWS RR CWS Disposal CWS	
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	Proposed Rate including Recycling Workers Wage & Benefits	\$ 29.80	\$ 40.34	35.37%	\$ 45.20	51.68%	\$ 37.82	26.92%
	Lower rates in Year-1; RRI plus 1.5% in Years 2-5		\$ (1.63)		\$ (1.50)		\$ (1.00)	
	Total	\$ 29.80	\$ 38.71	29.88%	\$43.70	46.65%	\$ 36.82	23.56%
Multi Family (20-unit bldg.)	Proposed Rate including Recycling Workers Wage & Benefits	\$474.20	\$590.54	24.53%	\$674.17	42.17%	\$556.78	17.41%
	Lower rates in Year-1; RRI plus 1.5% in Years 2-5		\$ (24.07)		\$ (20.95)		\$ (9.80)	
	Total	\$474.20	\$566.47	19.46%	\$653.22	37.75%	\$546.97	15.35%
Commercial (1-cu.yd. bin)	Proposed Rate including Recycling Workers Wage & Benefits	\$139.88	\$201.48	44.04%	\$214.14	53.09%	\$164.81	17.82%
	Lower rates in Year-1; RRI plus 1.5% in Years 2-5		\$ (8.37)		\$ (8.81)		\$ (8.48)	
	Total	\$139.88	\$193.11	38.06%	\$205.33	46.79%	\$156.34	11.77%

Rate Option D Table provides the rates for CWS, which second lower pricing for the RR franchise contract that includes:

- Year 1 rate of \$8.85 per household
- Years 2-5 annual rate increase of \$0.97 plus the RRI
- 15-year term, plus 5 year option to extend
- Years 1 through 5 use of bio-diesel (B20) collection vehicles.
- Year 6 begin use of CNG fuel collection vehicles.

This rate option provides a lower first year cost for the rate payer. However, this option also requires the City Council to approve a change in the term of the contract from 10 year to 15 years. The term for the second 5-year extension would not change. This proposal would continue the use of diesel trucks for the first five-years rather than switching to cleaner burning CNG trucks, delaying the environmental and health benefits to Oakland under this new franchise contract.

Rate Option D for Residential Recycling combined with *Rate Option C* for MM&O provides the lowest cost option for the rate payer. However, Rate Option D does not provide the best value for the rate payer as discussed above.

It is recommended to select *Rate Option C* which provides lowest rates for the rate payer and greatest environmental protection and achievement.

Rate Option D Table

Service		Current Monthly Rate FY 2014/15	Option 1 MM&O WMAC RR WMAC Disposal WMAC		Option 2 MM&O WMAC RR CWS Disposal WMAC		Option 3 MM&O CWS RR CWS Disposal CWS	
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	Proposed Rate including Recycling Workers Wage & Benefits	\$ 29.80			\$ 43.70	46.65%	\$ 36.82	23.56%
	RR rates lower in Year-1, higher in later years + 15-year RR term				\$ (1.47)		\$ (1.02)	
	Total	\$ 29.80			\$42.23	41.70%	\$35.80	20.12%
Multi Family (20-unit bldg.)	Proposed Rate including Recycling Workers Wage & Benefits	\$474.20			\$653.22	37.75%	\$546.97	15.35%
	RR rates lower in Year-1, higher in later years + 15-year RR term				\$ (29.52)		\$ (20.47)	
	Total	\$474.20			\$623.70	31.53%	\$526.50	11.03%
Commercial (1-cu.yd. bin)	Proposed Rate including Recycling Workers Wage & Benefits							
	Recycling Workers Wage & Benefits							
	RR rates lower in Year-1, higher in later years + 15-year RR term							
	Total							

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Bulky Pick Up service options for MF Buildings

The Mixed Materials and Organics franchise contract provides bulky pickup service to MF residential customers. The basic service for MF is one annual bulky collection per dwelling unit, scheduled by the customer/ owner or manager. The cost of the service is embedded in the rate, but any resident (tenant or owner) may order additional bulky service from the contractor on a pay-as-you-go basis. Mattresses remain a part of the bulky pickup service, and state legislation that requires retailer take-back will be implemented July 1, 2014.

City Council has expressed a preference for a high level of access to Bulky Pick Up services to residents in MF buildings. Following Council direction staff requested proposers to provide rates for Bulky Pick Up service that could be ordered directly by MF building tenants. It would increase rates by 15% for building owners with no assurance that there would be higher participation in the service to justify the higher costs, which could be passed on in rent increases. Staff recommends that the program remain as proposed with aggressive outreach and education be done to let all MF owners and residents gain awareness and participate of how to access the new programs.

Commercial Organic Material to EBMUD

EBMUD has a nationally recognized program for processing food waste based on existing waste water processing capacity. EBMUD would provide a high performing solution for commercial organic material processing for any community that does not have competitive alternatives. Oakland is in the unique position of having a competitive alternative to EBMUD in the services provided in WMAC proposal.

The existing and proposed facilities at Davis Street and Altamont are multifaceted and better suited to the full range of organic materials the MM&O contractor will be required to collect under the MM&O franchise, and per the Alameda County Mandatory Recycling Ordinance. EBMUD uses a narrower range of organic materials for its digesters, requiring a high degree of pre-processing, as evidenced by the need for EBMUD to construct and operate a Food Waste Preprocessing Facility as a prerequisite for utilizing existing digestion capacity.

As discussed in staff's May 29, 2014 Agenda report, the City can achieve environmental benefits that are equal or superior to EBMUD with the WMAC proposal, at a lower cost to ratepayers. Using EBMUD would increase WMACs' commercial organics service rates for carts by approximately ~~10%~~ 9% and rates for bins by approximately ~~18%~~ 14%. The EBMUD option increases cost to commercial ratepayers and does not improve or enhance the City's zero waste goals.

20-Gallon "Mini-Cart"

Currently 74 % of Oakland residents use a 32-gallon garbage cart. Along with the 32-gallon garbage cart, each single-family residence is provided a 64-gallon recycling cart and a 64-gallon green waste cart for food scraps, contaminated paper and yard trimmings. This is a total of 160

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gallons of capacity. The City Zero Waste goal and services are designed to move material from the garbage cart to either the recycling or green waste "organics" cart for return to the economic mainstream.

Residents can support the City's Zero Waste goal by recycling more and reducing to 20- gallon cart service. Currently 19% of Oakland residents have achieved this waste reduction goal. An additional benefit of moving to the mini-cart size is the decrease in the monthly service cost by 14% or \$5.36 per month using *Rate Option C* under Option 1 and 2.

Civicorps

City Council has expressed an interest of having Civicorps, a local non-profit conservation corps, be involved in the new Zero Waste services contracts. Both CWS and WMAC have stated their commitment to partner with Civicorps for activities best suited to the non-profit's strengths such as community outreach, surveying, tabling, door-to-door delivery to optimize participation and diversion. CWS has additionally stated that it would develop plans with Civicorps to provide temporary training of some interns without any impact or displacement of permanent union jobs.

Civicorps, has provided commercial recycling services in Oakland since the early 1990s'. The City informed Civicorps in 2012 that commercial food scraps collection service would be included in the franchise as part of the new Zero Waste design. The RFP clearly defined this in response to the City Council adopted policy. However in 2012, Civicorps began working with Recology of the East Bay on providing commercial food scraps collection service. Commercial food scraps collection will be part of the franchise agreement and not be available for open market business. Civicorps can continue to provide commercial recycling services as that portion of the Zero Waste System stays in the open market.

OPTIONS FOR COUNCIL

In order to move forward and put in place the necessary contracts for garbage and organics, residential recycling, and disposal services that start on July 1, 2015, staff has provided all documents needed for City Council to make an award. Below is an outline of the steps necessary to complete the first reading. After closing the public hearing, the City Council should:

Step 1 – Select an Option for the delivery of service.

	Option 1	Option 2	Option 3
Mix Materials & Organics Contract	WMAC	WMAC	CWS
Residential Recycling Contract	WMAC	CWS	CWS
Disposal Contract	WMAC	WMAC	CWS

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Step – 2 Make a motion to adopt the appropriate Ordinances.

	Option 1	Option 2	Option 3
Mix Materials & Organics Contract	Ordinance U	Ordinance U	Ordinance X
Residential Recycling Contract	Ordinance V	Ordinance Y	Ordinance Y
Disposal Contract	Ordinance W	Ordinance W	Ordinance Z

Step – 3 Make a motion to adopt the set of preferred rate tables.

	<u>Option 1</u> <i>MM&O WMAC RR WMAC Disposal WMAC</i>	<u>Option 2</u> <i>MM&O WMAC RR CWS Disposal WMAC</i>	<u>Option 3</u> <i>MM&O CWS RR CWS Disposal CWS</i>
Rate Option A - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 	Rate Tables 1A	Rate Tables 2A	Rate Tables 3A
Rate Option B - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 Council requested MF Green Cart Alternative No. 3 	Rate Tables 1B	Rate Tables 2B	Rate Tables 3B
Rate Option C - includes: <ul style="list-style-type: none"> Council requested Local 6 wage/benefits package Out-of-Co. call center Option 1 & 2 Lower MMO rates in Year-1 and RRI plus 1.5% in Years 2-5 	Rate Tables 1C	Rate Tables 2C	Rate Tables 3C
Rate Option D - includes: <ul style="list-style-type: none"> Local 6 wage/benefits package Out-of-Co. call center \$8.85 RR rate in Year 1 RR Rate Increases by RRI + \$0.97 in yrs 2-4 RR rate reverts to base year RR rate escalated by RRI in Year 7 RR be changed to a 15-year term Use 20-bio Diesel trucks for yrs1-5 		Rate Tables 2D	Rate Tables 3D

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A second reading of the Ordinances is scheduled for Wednesday, August 13, 2014.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

Public Works Agency staff has coordinated closely with the Office of the City Attorney, the Division of Contract Compliance, the Risk Management Division, the Revenue Division, and the Planning and Building Department for this report and the development of the Franchise Contracts.

COST SUMMARY/IMPLICATIONS

Adoption of these ordinances will sustain the City's franchise fees, which are currently \$30 million per year, and with the adoption of these ordinances will be \$28 million per year. The majority of fees (70%) are used to support City sanitation services provided by the Public Works Department, including street sweeping, graffiti and illegal dumping abatement, parks litter removal. Eighteen percent of the fees go into the General Fund and eleven percent is used to support mandated Integrated Waste Management Act (AB939) program development and planning for solid waste reduction and recycling, franchise contract management, environmental compliance, and related activities.

SUSTAINABLE OPPORTUNITIES

Economic: Expanding and actively supporting use of discarded materials drives local economic and workforce development with 'green collar' jobs and value added production.

Environmental: Waste reduction and recycling conserves natural resources, reduces air and water pollution, protects habitat, and reduces greenhouse gas (GHG) emissions.

Social Equity: Increased jobs through additional diversion of materials from the landfill.

CEQA

For award of the Franchise Agreement(s) to either/both WMAC and/or CWS, City staff (Public Works and Planning & Building) determined that the City Council's actions are exempt from the California Environmental Quality Act (CEQA), because award of these franchise agreements would be a continuation of existing programs, but with greater environmental benefits. These added environmental benefits are created by shifting from a diesel-fueled fleet to a compressed

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natural gas fleet, and diverting greater amounts of recyclables and organics from landfill disposal.

The City has independently reviewed, considered and confirmed the environmental analyses conducted for Options 1, 2, and 3 (see Attachment C for CWS and Attachment D for WMAC); these analyses conclude that there would not be the potential for significant environmental impacts under any of the options, therefore no further environmental review is required. Specifically, the project is exempt from CEQA pursuant to the following CEQA Guidelines, each of which provides a separate and independent basis for CEQA compliance and when viewed collectively provide an overall basis for CEQA compliance:

- Section 15301: Ongoing operation of existing facilities;
- Section 15307: Action for the protection of natural resources;
- Section 15308: Action for the protection of the environment;
- Section 15183: Approvals consistent with Community Plans
- Section 15273: City approval to change the rates; and/or
- Section 15061(b)(3): Common sense exemption because project does not have potential to cause significant effect on the environment

As a separate and independent basis from the above, should the City Council select CWS for Option 2, the City also relies on the 2002 Army Base EIR and the 2012 Army Base Addendum, and no further environmental review is required. Should the City Council select CWS for Option 3, the City also relies on the aforementioned Army Base environmental review documents and the June 2011 EBMUD certified EIR for the Main Waste Water Treatment Plant Master Plan, and no further environmental review is required (See Attachment C).

The 2002 Army Base EIR, 2012 Army Base Addendum, 2011 EBMUD EIR and related documents, including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Programs, have previously been furnished to the City Council and are also available at:

- 2011 EBMUD Maser Plan EIR (Item #26 under Completed Environmental Review Documents):
<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009158>
- 2002 Army Base EIR and 2012 Addendum (Item # 4 under Current Environmental Review Documents):
<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

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For questions regarding this report, please contact Susan Kattchee, Assistant Director, 510-238-6382.

Respectfully submitted,



BROOKE A. LEVIN
Director, Public Works Department

Prepared by:
Susan Kattchee, Assistant Director

Prepared by:
Becky Dowdakin, Acting Environmental Svcs. Manager

Attachment A: Answers to Council Questions May 29, 2014

Attachment B: Report from technical consultant dated July 21, 2014 REVISED

Attachment C: Environmental Analysis for CWS for Options 2,3

Attachment D: Environmental Analysis for WMAC for Options 1,2

- Ordinance – U
- Ordinance – V
- Ordinance – W
- Ordinance – X
- Ordinance – Y
- Ordinance – Z
- ~~WMAC – MM&O Contract~~
- ~~WMAC – RR Contract~~
- ~~WMAC – Disposal Contract~~
- ~~CWS – MM&O Contract~~
- ~~CWS – RR Contract~~
- ~~CWS – Disposal Contract~~
- ~~1A – Rate Tables 1A – Rate Tables REVISED~~
- ~~1B – Rate Tables 1B – Rate Tables REVISED~~
- 1BB – Rate Tables REVISED (New)
- ~~1C – Rate Tables 1C – Rate Tables REVISED~~
- ~~2A – Rate Tables 2A – Rate Tables REVISED~~
- ~~2B – Rate Tables 2B – Rate Tables REVISED~~
- 2BB – Rate Tables REVISED (New)
- ~~2C – Rate Tables 2C – Rate Tables REVISED~~
- ~~2D – Rate Tables 2D – Rate Tables REVISED~~
- ~~3A – Rate Tables 3A – Rate Tables REVISED~~
- ~~3B – Rate Tables 3B – Rate Tables REVISED~~
- 3BB – Rate Tables REVISED (New)
- ~~3C – Rate Tables 3C – Rate Tables REVISED~~
- 3D – Rate Tables REVISED

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Responses to Questions from City Council
on May 29, 2014 Staff Report and Presentation

1. Will there still be 20-gallon "mini-cart" service available?

Yes, residents will continue to be able to subscribe to 20-gallon service. The below table shows 20-gallon rates under the proposed rate scenarios:

Single Family 20 gallon and 32 gallon Rates – Rate Option A

Service	Current Monthly Rate FY 2014/15	<u>Option 1</u> MM&O WMAC RR WMAC Disposal WMAC		<u>Option 2</u> MM&O WMAC RR CWS Disposal WMAC		<u>Option 3</u> MM&O CWS RR CWS Disposal CWS	
		Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
20-gallon	\$22.21	\$34.77	56.57%	\$39.29	76.88%	\$33.12	49.10%
32-gallon	\$29.80	\$40.34	35.37%	\$45.20	51.68%	\$37.82	26.92%

Single Family 20 gallon and 32 gallon Rates – Rate Option C

Service	Current Monthly Rate FY 2014/15	<u>Option 1</u> MM&O WMAC RR WMAC Disposal WMAC		<u>Option 2</u> MM&O WMAC RR CWS Disposal WMAC		<u>Option 3</u> MM&O CWS RR CWS Disposal CWS	
		Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
20-gallon	\$22.21	\$33.35	50.18%	\$38.01	71.14%	\$32.11	44.56%
32-gallon	\$29.80	\$38.71	29.88%	\$43.70	46.65%	\$36.82	23.56%

2. The May 29, 2014 Agenda Report included tables that broke out the cost components for MM&O, RR and Disposal. Please provide same for the rates in the July 30, 2014 Agenda Report.

The table below breaks out the MM&O, RR and Disposal cost components:

32-gal SFD Rate Option A – MM&O/RR/Disposal Rate Components

Service		Current Monthly Rate FY 2014/15	<u>Option 1</u> MM&O WMAC RR WMAC Disposal WMAC		<u>Option 2</u> MM&O WMAC RR CWS Disposal WMAC		<u>Option 3</u> MM&O CWS RR CWS Disposal CWS	
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	MMO Collection Element		\$30.19		\$32.09		\$25.26	
	MMO Disposal Element		\$2.25		\$2.39		\$2.56	
	Recycling		\$7.90		\$10.72		\$10.00	
	Total Rate Option A	\$29.80	\$40.34	35.37%	\$45.20	51.68%	\$37.82	26.92%

32-gal SFD Rate Option C – MM&O/RR/Disposal Rate Components

Service		Current Monthly Rate FY 2014/15	<u>Option 1</u> MM&O WMAC RR WMAC Disposal WMAC		<u>Option 2</u> MM&O WMAC RR CWS Disposal WMAC		<u>Option 3</u> MM&O CWS RR CWS Disposal CWS	
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	MMO Collection Element		\$28.88		\$30.70		\$24.36	
	MMO Disposal Element		\$2.25		\$2.39		\$2.56	
	Recycling		\$7.58		\$10.61		\$9.90	
	Total Rate Option A	\$29.80	\$38.71	29.88%	\$43.70	46.65%	\$36.82	23.56%

3. The July 30, 2014 Agenda Report shows rates for 20-unit buildings only. What would be comparable rates for, say an 8-unit building and a 50-unit building?

The table below show examples of rates for 8, 20 and 50-unit buildings:

MFD Rates – Option A

Service		Current Monthly Rate FY 2014/15	<u>Option 1</u>		<u>Option 2</u>		<u>Option 3</u>	
			MM&O RR Disposal	WMAC WMAC WMAC	MM&O RR Disposal	WMAC CWS WMAC	MM&O RR Disposal	CWS CWS CWS
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
8 units	2 x 96 gal carts	\$189.68	\$270.81	42.77%	\$306.43	61.55%	\$254.42	34.13%
20 units	1 x 2 cy bin	\$474.20	\$590.54	24.53%	\$674.17	42.17%	\$556.78	17.41%
50 units	1 x 4 cy bin + 1 x 1 cy bin	\$1,185.50	\$1,476.35	24.53%	\$1,685.43	61.55%	\$1,388.51	34.13%

4. A memo from City Council members Kalb, Kaplan, and McElhaney, dated July 24, 2014 requested: "that the following options be costed out and included in all proposed options (Option 1, 2 and 3 as proposed by City Staff) so that they are available to be considered and voted on at the July 30, 2014 Special Council Meeting"

Following are the six (A-F) options listed in the memo, with staff's responses:

"(A) Allocating citywide commercial source-separated organics collection and disposal services to Civicorps to be handled at the EBMUD local waste-to-energy facility;"

Response: Carving out a contract for collection and processing of commercial organics apart from the MM&O exclusive franchise would require a significant renegotiation of contracts with WMAC and CWS. This would be similar to a reopening of the RFP process, and because of the reduced size and scope of the MM&O exclusive franchise that was the basis of the proposals and revised proposals received on and since January 2013, the likely result would be higher MM&O rates. It would require that the franchise fees be reallocated to the commercial organics service provider, and MM&O franchise rates be proposed using a new and reduced scope of services. How the MM&O franchisee could guarantee diversion with a third-party carve out of the accounts with the best organic recoverables is just one of many issues that would arise. Last, no contract, assurances of ability to perform, or any other items required for the City to enter into a contract have been developed for organics collection and processing apart from the MM&O contract.

“(B) Multi-family buildings curbside bulky pick-up services to be performed quarterly at times coordinated with building management by both WM and CWS in their designated areas at no additional cost to building residents;”

Response: This could be addressed during program implementation. If the City Council direction is to allow tenants more access to bulky pickup, adoption of new Oakland Municipal Code (OMC) provisions that would require building owners to provide access to all franchised services to tenants could be developed. The design of how the building owner or manager can use the Bulky Pickup program would be refined as we work on outreach and education aspects of the program, and could include debris box service and other features that would improve tenant and property manager access.

“(C) Multifamily buildings organics collection services be performed as follows: Opt-in incorporated into base rates through June 30, 2017; Opt-out from July 1, 2017 through June 30, 2021; mandatory with a waiver for cause option from July 1, 2021 forward;”

Response: The July 30, 2014 Council report has two Rate Options for the handling of MFD organics (page 14- base rate and the “no opt out”, i.e., “mandatory” rate). Councilmember Kalb requested an additional Rate Option (“opt out”) when staff briefed him on July 23, 2014. Staff added this third Rate Option for “opt out” as “Rate Option BB”) to the revised July 30th report. This new request has not been costed-out. However, it could be addressed during program implementation, and with Council adoption of OMC provisions that require building owners provide access to all franchised services to tenants.

“(D) Use of the EBMUD local waste-to-energy facility for handling source-separated organics;”

Response: The July 30th Council report on page 20 states that rate impact would be 9-14% on Commercial Organics Service only, and rates are included attached Rate Tables. Also, the May 29th report included these rates on page 32, Table 14A.

“(E) Versions of the agreement(s) that do not exempt the franchisee from having to pay liquidated damages due to company ‘lock-outs’;”

Response: The provision that would have exempted the franchisee from having to pay liquidated damages due to company ‘lock-outs’ has been struck from the agreements.

“(F) Versions of the agreement(s) that allow for the extension of any Zero Waste Franchise agreements by the City of Oakland.”

Response: There are two (2) five (5) year extensions in the contracts.

5. What would be the impact of EBMUD processing on the rates Oakland businesses would pay for commercial organics collection services?

The tables below show examples of the impacts on rates in the Rate Option Tables:

Rate Option Table 1C
 64-gallon cart/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 84.01
Proposed Rate With EBMUD Processing	\$ 91.84
Added Cost EBMUD Processing (\$)	+ \$ 7.83
Add Cost EBMUD Processing (%)	+ 9.32%

Rate Option Table 1C
 1-cu. yd. bin/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 171.81
Proposed Rate With EBMUD Processing	\$ 195.29
Added Cost EBMUD Processing (\$)	+ \$ 23.48
Add Cost EBMUD Processing (%)	+ 13.67%

Rate Option Table 2C
 64-gallon cart/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 89.32
Proposed Rate With EBMUD Processing	\$ 97.15
Added Cost EBMUD Processing (\$)	+ \$ 7.83
Add Cost EBMUD Processing (%)	+ 8.77%

Rate Option Table 2C
 1-cu. yd. bin/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 182.69
Proposed Rate With EBMUD Processing	\$ 206.17
Added Cost EBMUD Processing (\$)	+ \$ 23.48
Add Cost EBMUD Processing (%)	+ 12.85%

Rate Option Tables 3 (all)
 64-gallon cart/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 79.74
Proposed Rate With EBMUD Processing	\$ 79.74
Added Cost EBMUD Processing (\$)	+ \$ 0.00
Add Cost EBMUD Processing (%)	+ 0.00%

Rate Option Tables 3 (all)
 1-cu. yd. bin/weekly collection

Alternative	Monthly Rate Impact
Proposed Rate	\$ 156.34
Proposed Rate With EBMUD Processing	\$ 156.34
Added Cost EBMUD Processing (\$)	+ \$ 0.00
Add Cost EBMUD Processing (%)	+ 0.00%

6. What is the impact on rates for an in-County call center?

The impacts on rates for an in-County call center are shown in the table below:

Rate Option C Table

Service		Current Monthly Rate FY 2014/15	<u>Option 1</u> <i>MM&O WMAC RR WMAC Disposal WMAC</i>		<u>Option 2</u> <i>MM&O WMAC RR CWS Disposal WMAC</i>		<u>Option 3</u> <i>MM&O CWS RR CWS Disposal CWS</i>	
			Monthly Rate	Rate Impact	Monthly Rate	Rate Impact	Monthly Rate	Rate Impact
Single Family (32-gallon cart)	Proposed Rate	\$ 29.80	\$ 38.71	29.88%	\$43.70	46.65%	\$37.82	26.92%
	Add Local Call Center	n/a	\$0.45		\$0.48		\$0.00	
	Total	\$ 29.80	\$39.16	31.41%	\$44.18	48.26%	\$37.82	26.92%

7. How do the contracts ensure that the companies meet the local hire requirements?

The awarded firm is required to hire City of Oakland residents for at least 50% of all new hires. The 50% local hire requirement will be applied to all employees of the proposer, who are associated with the contract for collection and processing, except management. These long-term contracts will have some variability in employment opportunity over time, and the process identified in the contracts ensures compliance over the term of the contracts.

8. What was required of the proposers by the RFP and in the negotiations to justify their proposed rates?

The City's Request for Proposals and the subsequent negotiations were a competitive process designed to solicit innovation at competitive costs, not a "cost plus" process. The services and rates were assessed based on industry standards and comparable recent contract awards.

9. What are the provisions for illegal dumping in the proposals? How does Bulky Pickup service help? How and where is illegal dumping enforcement addressed?

There are several features of the proposals that will have a positive impact on the clean up and reduction of illegal dumping. First, both proposers have proposed significant resources to pick up illegally dumped material five days each week, abating illegal dumping. Second, bulky pick up service will for the first time be available to all multi-family (MF) residences. This service will be aggressively marketed throughout the City. It is anticipated that MF move-outs are associated with some illegal dumping, so this service is expected to reduce illegal dumping.

- 25 pickups per of illegal dumping per day, 5 days per week, 52 weeks per year (by comparison, WMAC made 4 pickups per day under the Lockout Settlement Agreement).
- Integration of contractor's field operation (drivers' eyes) and City's reporting program (KOCB, Call Center, SeeClickFix, etc.) to identify and dispatch resources to clean up illegal dumping.
- Bulky pickups extended to all residents including multi-family buildings. This will be a broad expansion of bulky pickup service for both tenants and building managers

10. Could we phase in the alternatives for multifamily organics services, with costs embedded in the rates?

A phased in approach to providing green carts to all MFD residences, utilizing the base cost embedded in the rates, is described on page 15 of the July 30, 2014 Agenda Report.

11. What are the direct and indirect economic impacts of the proposals?

Business License Tax: The City collects business license taxes from solid waste and recycling businesses based on gross receipts. Regardless of which company the City awards contracts to, and regardless of the location of those companies' facilities, business tax revenues to the City should be the same. In the case of the landfill disposal contract, because no landfill exists in Oakland, the only consideration is whether the landfill is inside or outside Alameda County. Council established two preference points in the RFP for landfills located in Alameda County to recognize the modest economic benefit that could accrue to Oakland.

Both CWS and WMAC would generate the same approximate business tax license revenues on total rates collected. CWS gross revenues would also include sale of recyclables from Oakland processing operations, while WMAC (which processes materials outside Oakland would not). CWS has indicated that the company plans to move from its existing Oakland facilities to the North Gateway property. CWS construction of a new facility in Oakland would generate one-time construction job benefits, however, this move is expected to occur regardless of award of franchises by the City to CWS. City permitting fees are based on cost recovery to cover budgeted staff.

Payroll Tax: The City collects no payroll taxes.

Property Tax: Both CWS and WMAC own property in Oakland and pay property taxes to Alameda County, of which an increment is returned to the City. Depending on the development agreement with the City for the North Gateway property, development of that site should result in additional property tax revenues accruing to the City. CWS has indicated that they intend to develop North Gateway regardless of receiving award of franchise contracts from the City.

12. How are City and ratepayer interests protected under the amended provisions for “market risk” (MM&O Section 30.09)?

The contracts as released with the RFP place virtually all commodity market risk on the contractors, as the current franchise and residential recycling agreements do. In return for accepting all market risks, and all costs of processing the material into saleable commodities, the contractors retain all revenues from commodity sales. While the contractors bear all of those risks they provide the City with fixed franchise fees. This is a common arrangement used by cities throughout California, intended to provide cities with stable revenues (fixed franchise fees), and avoid volatile revenues (commodities sales).

This provision is responsive to WMAC’s proposal to achieve extremely high contractual annual diversion requirements, which begin at 37% in 2016 and increase to 63% in 2025. These would be the highest contractual annual diversion requirements in a municipal franchise to our knowledge. However, commodities markets could significantly change during the 10-20 year term of the MM&O. For example, markets for low-grade commodities such as scrap wood, mulches, various grades of soil amendments, rigid plastics, film plastics, or other materials could be restricted or disappear, impacting WMAC’s ability to meet its ambitious diversion requirements.

If there is a *significant* change WMAC and City could negotiate changes to annual diversion requirements. Under extreme circumstances, additional compensation to WMAC could be negotiated, that could result in nominal rate increases.

13. What will the franchise fees be used for?

Adoption of these ordinances will sustain the City’s franchise fees, which are currently \$30 million per year, and with the adoption of these ordinances will be \$28 million per year. The majority of fees (70%) are used to support City sanitation services provided by the Public Works Department, including street sweeping, graffiti and illegal dumping abatement, parks litter removal. Eighteen percent (18%) of the fees go into the General Fund and eleven percent (11%) is used to support mandated Integrated Waste Management Act (AB939) program development and planning for solid waste reduction and recycling, franchise contract management, environmental compliance, and related activities.

14. What is the revenue potential for the contractor in the new mattress rebate program?

Exact revenues from California’s mattress recycling program will not be determined until 2015 when State regulations are finalized. However, revenues are expected to offset only a small portion - perhaps \$2-\$3 per mattress - of the cost to pick up, transport, store and recycle mattresses.

15. Is there an option to keep a NON-EXCLUSIVE franchise for City’s commercial organics, so EBMUD can get its own business contracts?

Any changes to the MM&O contract would have to be negotiated with the companies to give them the opportunity to provide new rates that reflect the change. A change to remove commercial organics from the MM&O contract is not recommended.

Carving out portions of the exclusive MM&O franchise would lower the value of the franchise and reduce the amount of investment the MM&O contractor could commit to diversion, lower their diversion guarantees, and potentially affect rates.

An exclusive franchise that combines all mixed materials with all organic materials, and which can achieve the highest diversion, is the fundamental premise of the exclusive MM&O contract arrangement adopted by Council in Resolution No. 83689 C.M.S. (January 2012). One exclusive MM&O contractor can maximize diversion of organic material (as well as other recyclable materials), without shrinking the total amount of the business covered by the franchise, which in turn financially supports the whole integrated system.

16. Will WMAC have to build a facility to process commercial organics at Altamont, and if so would the cost of that facility make WMAC more costly than EBMUD, which would use existing facilities?

The proposed organics processing facility at Altamont is permitted but not yet built. As this is not a "cost plus" contract, the City does not know WMAC's cost.

While EBMUD would use existing waste water treatment digesters for the *digestion phase* of processing, it must construct a new "Food Waste Preprocessing Facility" which is described in EBMUD's 2011 Environmental Impact Report as occupying "approximately 1.4 acres and include an approximately 58,000-square-foot facility to be able to accept commercial organic material from Oakland businesses.

17. Has StopWaste determined that EBMUD's proposal for land application of digestate would conform to the Alameda County Mandatory Recycling Ordinance? And if so, are there any further issues regarding EBMUD and compliance with the Mandatory Recycling Ordinance?

Yes, StopWaste has confirmed that if EBMUD follows its proposed management practices for digestate it would conform to the Mandatory Recycling Ordinance which would address conformity with the ordinance regarding the digestate.

However, EBMUD would require a narrower range of materials to be delivered to its Food Waste Preprocessing Facility, than the range of materials Oakland businesses will be required to recycle under the Alameda County Mandatory Recycling Ordinance. It remains unclear how this gap between "covered materials" in the Ordinance and the "acceptable materials" for EBMUD would be reconciled.

The WMAC proposal for organic material would accept a broader range of organic materials than EBMUD, and aligns with the broader range of materials Oakland businesses will be required to recycle under the Alameda County Mandatory Recycling Ordinance.

See letters dated June 13, 2014 from EBMUD and StopWaste Exhibit 1 and Exhibit 2 to this Attachment.

18. Did staff consider de-bundling the pick-up of MMO/recycling with the transfer/landfilling components, as designed in parts of Contra Costa County? Did our RFP structure (just one total MMO contract, one total recycling contract) guarantee better landfill diversion rates?

The Zero Waste System Design configuration of a Citywide MM&O contract including transfer, one Citywide RR contract, and a separate landfill disposal contract, as adopted by Council in Resolution No. 83689 C.M.S. (January 2012), was the product of staff's and the technical consultant's consideration and review of multiple contract configurations.

19. Is there a general difference in rates within Alameda County and Contra Costa or other neighboring counties? Can we connect rate differences to different union/bargaining contracts?

Yes, there are different union locals that have different contracts in surrounding counties, which have a significant impact on rates in Alameda County compared to surrounding counties.

20. If Oakland includes Local 6 wage and benefit increases in these franchise contracts, Oakland rate payers would be paying for this increase for all Local 6 workers at the company or companies awarded the MM&O and RR contracts, not just the Local 6 workers who handle Oakland material, correct? And if so, can Oakland get Hayward, Castro Valley, Emeryville and Albany pay their share of this wage increase (in the case of WMAC)?

Correct, Oakland rate payers would pay for the increase for all Local 6 workers at the MM&O and RR company/companies, not just the workers who handle Oakland material.

21. How comparable are WMAC and EBMUD options for commercial organics regarding truck miles traveled?

Truck Miles Traveled in Oakland

EBMUD has previously stated that delivering commercial organic material to its Wake Ave. facility would reduce truck miles traveled in Oakland because, "Restaurants are clustered in downtown, 15 miles closer to EBMUD's facility than WM's San Leandro transfer station."

However, proximity to downtown restaurants has little impact on truck miles traveled. What counts more is the proximity of the processing facility to where these trucks end their shifts each day. Delivering material to WMAC's facility at Davis Street will result in fewer truck miles traveled because of the proximity of Davis Street to WMAC's 98th Avenue corporation yard, where these truck start and end their shifts. It should also be noted that WMAC would collect organic material from restaurants, food processors, large institutions with food service operations, and all other businesses that generate organic material in every part of the City, not just from restaurants in the downtown area (including many businesses that are closer to Davis Street than to EBMUD).

Truck Miles Traveled outside of Oakland

WMAC would haul more tons of pre-processed material to Altamont than EBMUD would haul tons of post-processed material to out-of-county destinations, including destinations that could distant from Alameda County. However, the farms that purchase the compost WMAC produces at Altamont are predominantly further east, in the Central Valley, making Altamont an efficient logistical hub for the west-to-east transfer of soil nutrients from Bay Area urban centers to Central Valley crop lands.

Additionally, WMAC transfer trucks run on low-carbon natural gas fuel which produces lower emissions per mile than the diesel-fueled trucks used by EBMUD's third party contractor, offsetting the emissions impact of the incremental increase in mileage.

As shown in Table 6 of the May 29, 2014 Agenda Report (shown below), high solids anaerobic digestion (HSAD) processing commercial organics /Altamont would result in nominally fewer miles driven in Oakland, and nominally more miles driven outside of Oakland than anaerobic digestion (AD) processing at EBMUD.

Table 6: Processing of Commercial Organic Material

WMAC – HSAD at Altamont	EBMUD – AD at Wake Ave.
Nominally fewer truck miles driven in Oakland	Nominally more truck miles driven in Oakland
Nominally more truck miles driven outside Oakland	Nominally fewer truck miles driven outside Oakland
Produces vehicle fuel for Oakland collection vehicles	Produces electricity for waste water treatment plant
Produces compost from aerobic composting of digestate	Produces soil amendment for land-application from digestate
No additional City revenues	Additional City revenues from EBMUD
No additional cost to Oakland businesses	Additional cost for collection services to Oakland businesses

22. Are there differences between EBMUD and WM proposals for organics in terms of local-hire and union contracts for who hauls away the compost/by-product after the digestion process?

Yes. WMAC drivers represented by Teamsters Local 70 would haul some of this product under the WMAC proposal, and these jobs would be subject to the Oakland hire provisions in the franchise contract. In addition, some of this product would be picked up by product purchasers, or hauled to purchasers by third-party haulers, and these jobs would not be subject to Oakland hire provisions as they would not part of the Oakland franchise agreements.

It is our understanding that EBMUD hires third-party haulers to haul all of the by-product generated by its wastewater treatment operations, a portion of which would be the by-product from processing Oakland commercial organics. These jobs would not be subject to Oakland hire provisions as they would not part of the Oakland franchise agreements.

23. Staff report said EBMUD has not been fully permitted, through w/ EIR for their process, whereas report says WM Altamont facility is total permitted – is this accurate?

The WMAC facility at Altamont is permitted. The Food Waste Preprocessing Facility at EBMUD is also permitted.

24. Is the environmental/energy efficiency of the EBMUD system and what WM is building comparable?

They are comparable, but not they are not readily quantifiable because they use different processes to produce different products.

The WMAC digestion system is a low-capital, low-energy-input system that produces carbon-negative vehicle fuel and aerobically-processed market compost.

Subject: Responses to Questions from City Council on May 29, 2014 Staff Report and Presentation
Date: July 30, 2014

EBMUD would take food waste, considered "solid waste" under state law, and preprocess it to conform to a liquid waste water process, then comingle it with waste water biosolids in the dewatering phase, adding expense and consuming energy.

EBMUD may yield more energy value during the digestion phase of processing. However, aerobically produced compost produced by WMAC has dramatic environmental and energy benefits, including the replacement of energy- and emission-intensive products such as fossil fuel-based fertilizer (which also reduce toxic runoff), and reduced demand for crop irrigation water.

25. Is there a difference in quality of by-product of compost created by EBMUD and the WMAC systems?

Yes. The food waste residue from EBMUD would be comingled with municipal biosolids in the dewatering phase. It would not be aerobically composted. Referred to as "soil amendment", it has nominal value and few markets. Currently EBMUD landfills 60% of this by-product, primarily at out-of-county landfills. EBMUD has stated that it would cease landfilling this material, and ensure all of it is land applied to non-food agricultural lands, in order to conform to the Mandatory Recycling Ordinance.

WMAC will use the post-digestion material as a feed stock to manufacture market grade compost at Altamont, for shipment to Central Valley agricultural markets.



**ALAMEDA COUNTY
WASTE MANAGEMENT AUTHORITY**

June 13, 2014

Member Agencies

Alameda County
Alameda
Albany
Berkeley
Dublin
Emeryville
Fremont
Hayward
Livermore
Newark
Oakland
Piedmont
Pleasanton
San Leandro
Union City
Castro Valley
Sanitary District
Oro Loma
Sanitary District

Mr. Alexander R. Coate
General Manager
East Bay Municipal Utility District
375 Eleventh Street
Oakland, CA 94607-4240

Dear Mr. Coate:

This letter is response to your letter dated June 13, 2014, and previous conversations with you and your staff. Your letter requests written concurrence that anaerobic digestion of discarded food and compostable paper (the "Phase 2 Covered Materials" in Alameda County Waste Management Authority Ordinance 2012-01) will be compliant with our ordinance for commercial recycling, if the commitments listed in the letter are implemented.

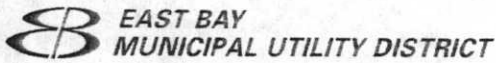
I concur, so long as the commitments in the letter are implemented.

Feel free to contact me with any further questions or concerns. We look forward to reducing the amount of solid waste that is deposited in landfills, and is instead recycled (per our ordinance definition), in cooperation with your agency.

Sincerely,

Gary Wolff, P.E., Ph.D.
Executive Director

EXHIBIT 2 to Attachment A



ALEXANDER R. COATE
GENERAL MANAGER

June 13, 2014

Gary Wolff, P.E., PhD
Executive Director
Alameda County Waste Management Authority
1537 Webster Street
Oakland, CA 94612

Dear Mr. Wolff:

Thank you for taking the time to meet with us on May 12 and June 6, 2014 to discuss the East Bay Municipal Utility District (EBMUD) anaerobic digestion program. As you are aware, EBMUD has historically made available a portion of the digestate generated by this program for use as alternative daily cover (ADC). EBMUD understands that Alameda County Waste Management Authority (Authority) Ordinance 2012-01 (Ordinance) requires recycling of all Covered Materials, which by definition includes discarded food and Compostable paper. EBMUD further understands that beneficial reuse as defined by the State, including ADC, is not considered recycling under the Ordinance. Accordingly, in the event that Covered Materials generated in Alameda County are delivered to EBMUD for anaerobic digestion, EBMUD will ensure that no digestate will be deposited in landfills, as ADC or otherwise.

EBMUD will implement this commitment as follows:

- When EBMUD begins accepting Covered Materials generated in Alameda County for processing, all digestate will be land applied as an agricultural soil amendment. EBMUD will notify the Authority in writing immediately when it begins to accept Covered Materials generated in Alameda County.
- EBMUD will continue to land apply or compost all digestate for as long as EBMUD processes Covered Materials generated in Alameda County. During this period, EBMUD will prohibit its digestate hauling contractors from delivering any digestate or digestate-derived products to landfill.
- In the future, EBMUD may elect to install separate processing trains for Covered Materials and sewage sludge (i.e. construct separate dewatering). If this occurs, the commitment to land apply or compost digestate will apply to all digestate from the train processing Covered Materials.
- In compliance with 40 CFR Part 503 and EBMUD's Environmental Management System, all land application of digestate will occur at agronomic rates for the purpose of fertilizing the soil and growing crops. Such rates will be calculated based on the crops being grown. Crops grown using EBMUD's digestate soil amendment will be

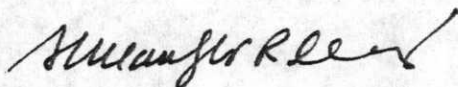
Gary Wolff, P.E., PhD
Alameda County Waste Management Authority
June 13, 2014
Page 2

sold in competitive markets and will not be deposited in landfill. Land application practices, as well as crop production and sale, will be verifiable by EBMUD and the Authority.

- If, in the future, EBMUD should elect to use its digestate as a feedstock for compost, such composting will occur at facilities that are permitted under applicable regulations found in Title 14 of the California Code of Regulations. EBMUD will ensure that the permit for any selected composting facility explicitly states that the facility can accept the type of digestate EBMUD will send to the facility (i.e. digestate containing biosolids and/or digestate derived from non-biosolids organic wastes). Such compost shall not be deposited in landfill, as ADC or otherwise.
- EBMUD will process only Source Separated organic material containing more than 90% Phase 2 Covered Materials by weight and/or organic material delivered from a High Diversion Mixed Waste Processing Facility certified by the Authority. All discarded food and Compostable paper (Phase 2 Covered Materials under the Ordinance) will be digested. Loads with less than 90% Phase 2 Covered Materials by weight will be rejected, and inspection data will be made available to the Authority upon request.

We are requesting written concurrence from the Authority that the co-digestion of Covered Materials and sewage sludge at EBMUD's facility, or separate digestion of Covered Materials as described in the third bullet above, will be fully compliant with the Ordinance when the commitments above are implemented.

Sincerely,



Alexander R. Coate
General Manager

BKH:JTK:akg

cc: Brian Mathews, Alameda County Waste Management Authority

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CLEMENTS
ENVIRONMENTAL

MEMORANDUM

DATE: July 21, 2014

TO: City of Oakland - Peter Slote
Acting Solid Waste & Recycling Program Supervisor, Environmental Services
Division
Oakland Public Works
250 Frank H Ogawa Plaza, Ste. 5301
Oakland, CA 94612

FROM: Clements Environmental Corp.

SUBJECT: ANALYSIS OF CWS BEST AND FINAL OFFER FOR CITY OF OAKLAND ZERO WASTE FRANCHISE PROPOSAL

Clements Environmental is pleased to provide the City of Oakland with the following analysis of Commercial Waste Solutions (CWS) "Best and Final Offer – Service Group 1 and Service Group 2" for the City of Oakland Zero Waste Services Franchise Request for Proposals.

The following tasks are addressed by Clements Environmental under this Memorandum:

- Analysis of the proposed interim solid waste processing facility development timeline and completion dates;
- Analysis of the interim facility's operation capacity;
- Analysis of procurement of collection vehicles and waste carts or bins; and,
- Analysis of available landfill capacity.

The above tasks are intended to assist in determining if CWS can provide the required infrastructure to meet service requirements by July 15, 2015.

Interim Transfer Facility

Overview

In developing a "typical" Material Recovery Facility (MRF)/transfer station facility, Clements would plan two-years for permitting, and one year for engineering design and construction. In this situation, there are unique circumstances that potentially streamline permitting and construction to allow a faster development process. The special circumstances include:

July 21, 2014

- East Bay Municipal Utility District (EBMUD) plans to use a Addendum to a previously certified Environmental Impact Report (EIR) for its Main Waste Water Treatment Plant (MWWTP) Master Plan that as the basis for granting the environmental clearance of the proposed interim facility;
- Project does not have to comply with City zoning laws because the interim facility is located on EBMUD property within the Port of Oakland's planning area and therefore is subject to the Port's planning/land use jurisdiction; and,
- Use of a pre-fabricated fabric, clear-span building which affords a faster construction phase.

Timeline

As part of the June 20, 2014, "Best and Final Offer" CWS proposed the following timeline for developing an interim solid waste transfer and processing facility at the EBMUD Main Wastewater Treatment Plant (MWTP):

TASK	COMPLETION DATE
Receive CEQA Compliance determination from EBMUD	August 1, 2014
Receive Development Permit from Port of Oakland	November 7, 2014
Facility Included in County Wide Siting Element and NDFE	August 15, 2014
Solid Waste Facility Permit	January 30, 2015
Detailed Design	November 14, 2014
Demolition of Existing Buildings	December 12, 2014
Purchase and Fabricate Building	November 28, 2014
Building Permits from City of Oakland	January 2, 2015
Construction	May 22, 2015
Facility Start-up	June 26, 2015

The following is an analysis of the proposed CWS interim facility development and permitting timeline:

1. Receive CEQA clearance for the CWS interim facility from EBMUD by August 1, 2014.

This timeline is plausible. In order to have CEQA clearance by August 1, 2014, EBMUD would need to make a determination that the EBMUD's 2011 MWWTP Master EIR adequately analyzed the impacts of the interim facility, and that it does not want to circulate an addendum to the MWWTP EIR for an additional public comment period (note, there is no legal requirement to circulate an addendum for public comment).

Even if EBMUD does issue a CEQA clearance by August 1, 2014, there is the possibility that another responsible agency could require additional environmental documentation as part of their permitting process. This doesn't imply that they will, just that it is possible. These agencies include:

- The Local Enforcement Agency (LEA) and CalRecycle could require additional environmental analysis as part of the Solid Waste Facility Permit application;
- The Alameda County Solid Waste Authority, acting as the Local Task Force, could require additional CEQA documentation as part the Siting Element

amendment process. It is our understanding that the Alameda County Solid Waste Authority is closely reviewing all projects to ensure that the CEQA process is adequate.

- The Port of Oakland could require additional CEQA analysis as part of the Development Permit application process.
- The local Air and Water Boards would typically weigh in during the CEQA process. However, in this case, there will not be a CEQA review process by outside agencies or the public. An Odor Impact Minimization Plan (OIMP) will be necessary to comply with Air Board regulations, and a storm water discharge permit (Notice of Intent) and Stormwater pollution Prevention Plan and Mitigation Program Plan (SWPPP/MPP) will be necessary to comply with Water Board regulations.

2. Receive Building (Development) Permit from Port of Oakland by November 7, 2014.

This timeline can be shortened. The project site falls within the Port of Oakland's Planning Area. This task should actually be "receive development permit from Port of Oakland". Because the EBMUD site is classified as private property, a development permit can be approved by the Port's Executive Director in an expedited manner. The time frame for administrative approval of a development permit is four to six weeks. The Port of Oakland, as part of the development permit review process, would rely on the EBMUD environmental determination in reviewing and approving the development permit application. The Port of Oakland could require additional CEQA analysis as part of their review which could prolong the permitting process. However, in conversations with the Joe Marsh, Port Permit Coordinator, he indicated that EBMUD has done an adequate job of CEQA compliance in the past and that he did not see any issues with approving a development permit for the CWS project.

3. Include facility in County Wide Siting Element by August 15, 2014.

This timeline is not plausible. CWS will need to have the interim facility included in the County-Wide Siting Element. A Siting Element Amendment is processed by the Alameda County Waste Management Authority (acting as the Local Task Force). In conversations with Debra Kaufman of the Task Force we were told this process would take 60 to 90 days. The application to amend the siting element cannot be filed until a land use approval is obtained from the Port of Oakland, which we are estimating could occur by September 12, 2014.

In addition to amending the Countywide Siting Element, the City of Oakland's Non-Disposal Facility Element (NDFE) also needs to be amended. The NDFE and Countywide Siting Elements amendments could be submitted and processed simultaneously. The process for amending the NDFE is technically a straight forward process and should not present an impediment. In order to amend the NDFE, a simple project description is prepared and transmitted by the City to CalRecycle and the Alameda County Waste Management Authority, which acts as the Local Task Force. However, the City of Oakland's recent experience in processing the Recology NDFE amendment at the EBMUD site was not straight forward and took much longer than expected. That NDFE amendment was given a higher

level of review than legally required and, if the CWS NDFE amendment is subjected to a similar process, it could take longer.

4. Obtain a Solid Waste Facility Permit (SWFP) by January 30, 2015.

This timeline is not plausible. The SWFP application cannot be officially filed until the NDFE and Countywide Siting Element amendments, and Land Use permit have been approved. A draft SWFP application together with supporting documentation such as the Transfer Processing Report and CEQA clearance may be submitted to the LEA for an informal review before all the necessary approvals are in place in order to allow the LEA and CalRecycle the opportunity to provide guidance in the permitting process. Obtaining an informal review of the SWFP will streamline the process once the SWFP is formally submitted and bring any issues, such as the adequacy of the CEQA clearance, to light early in the process.

When the SWFP application is submitted, the LEA has 30 days to review and accept it, or reject it as incomplete. The LEA may be able to accept the application in less than 30 days but the full 30 days is typically taken. If accepted as complete, the LEA then has 60 days to review the application in detail, schedule a public information meeting (PIM), and draft the SWFP. The LEA then transmits the SWFP package to CalRecycle which has another 60 days to review it, clear any issues with the LEA, and finally concur with the LEA's draft SWFP. Thus, the timeline for obtaining a SWFP is 150 days from the date of submittal of the application, which would yield the final permit on May 2nd. We believe this is plausible only if there is a thorough review of the draft SWFP application package by the LEA and CalRecycle prior to the formal submittal.

Regarding the Public Information Meeting, often, the LEA will "piggyback" this meeting with any Planning Commission meeting that is held to approve (or not) the Conditional Use Permit. However, in this case, because there is no requirement for a CUP hearing before the City Planning Commission, there will be no Planning Commission meeting; therefore, the LEA will hold its own public meeting to inform the neighbors about the project and the permitting process, and to receive input from the community.

5. Complete detailed design by November 14, 2014.

This timeframe is plausible and would be dependent on CWS and their design team.

6. Demolition of Existing Buildings by December 12, 2014.

This timeframe is plausible and would be dependent on EBMUD.

7. Purchase and Fabricate Building by November 28, 2014.

This timeframe is plausible and would be dependent on CWS and their design team. From the date the design drawings are approved, fabrication the interim building would take

July 21, 2014

approximately 8 to 10 weeks from the date working drawings are approved. The building could be fabricated and delivered to the site by February 6, 2015.

8. Building Permits from City of Oakland by January 2, 2015.

Based on completing detailed design plans by November 14, 2014, obtaining building permits by January 2, 2015 is plausible. The City of Oakland may not have much experience in permitting temporary fabric structures and there may be multiple plan check corrections/revisions required before building permits are issued. One caution in this timeline is that it occurs over the holidays, which can often lead to delays.

9. Construction by May 22, 2015.

Based on completing detailed design plans by November 14, 2014 and obtaining building permits by January 2, 2015 completion of construction by May 22, 2015 is plausible. Completing the construction phase, including site preparation, foundation and building erection, off-site improvements, and equipment installation and commissioning within six months would be challenging but feasible using a fabric building.

10. Facility Start-up by June 26, 2015.

With construction completion by May 22, 2015, facility startup by June 26, 2015 is plausible.

A comparison of the CWS timeline and Clements revised timeline is provided below. A bar chart of the Clements revised schedule is attached.

TASK	CWS COMPLETION DATES	CLEMMENTS REVISED COMPLETION DATES
Receive Certification of CEQA Compliance from EBMUD	August 1, 2014	No Change
Receive Development Permit from Port of Oakland*	November 7, 2014	September 12, 2014
Facility Included in County Wide Siting Element and NDFE	August 15, 2014	December 1, 2014
Solid Waste Facility Permit	January 30, 2015	May 2, 2015
Detailed Design	November 14, 2014	No Change
Demolition of Existing Buildings	December 12, 2014	No Change
Purchase and Fabricate Building	November 28, 2014	No Change
Building Permits from City of Oakland	January 2, 2015	No Change
Construction	May 22, 2015	No Change
Facility Start-up	June 26, 2015	No Change
* The Port of Oakland issues a Development Permit. Building permits are issued by the City of Oakland.		

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Capacity Analysis

This section addresses the ability of the interim facility to be able to receive, process and transfer the required tonnage, and achieve the promised diversion. For purposes of this analysis, we are using the 2011 tonnage: from Table 2-1 of the City's January 6, 2013 Request for Proposals*

	Year 2011	Year 2016
• Mixed Material		
○ SFD:	61,406	
○ MFE:	32,165	
○ Commercial:	52,634	
○ Roll Off:	27,362	
○ City-Generated/Hauled:	9,733	
○ Misc:	<u>3,114</u>	
▪ Subtotal	186,414	171,414
• Organic Material:		
○ SFE+MFD	35,824	
○ Commercial*:	<u>10,000*</u>	<u>25,000</u>
▪ Subtotal	45,824	60,824
▪ MM&O Grand Total	232,238	232,238

The changes from 2011 to 2016 result from an assumption that 15,000 TPY of new source separated organics from commercial and MFD sources would be recovered from the Mixed Material.

**Commercial Organic Material was not included Table 2-1. We assumed 10,000 tons based on the City's estimate of commercial organic material currently collected outside the current franchise agreement, tonnage that will become part of the MM&O exclusive franchise effective on July 1, 2015.*

Diversion

CWS is proposing an initial diversion rate of 30% increasing to 34.5% in 2018. This rate jumps to 46% in 2019 based on the start up of the new MRF/transfer station, increasing to 52% by the end of the contract in 2025.

CWS proposes a 10% recovery rate from the Mixed Material, using floor sorting and a simple sort line, and trommel screen. Based on other MRF operations with which we have experience, this seems to be a feasible recovery rate. This would result in $171,414 \text{ TPY} \times 0.10 = 17,141 \text{ TPY}$ of diversion.

CWS is proposing to divert all the Organic Material to either the Recology food pre-processing facility at EBMUD, or to a composting site. It is unrealistic to assume that all the Organic Material will be acceptable for these uses. Assuming a 15% contamination level, diversion achieved for the Organic Material would be $60,824 \times 0.85 = 51,700 \text{ TPY}$.

Thus the total 2016 diversion would be $17,141 + 51,700 = 68,841$. This represents 30% of the total 232,238 tons for that year.

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Depending on the contamination level of the organics, processing equipment or increased floor sorting may need to be added for that material. There is space in the building to accommodate this.

Regarding future diversion, the modest increase in diversion to 34.5% in 2018 should be achievable with better outreach and education to improve the quality of the source separated Organic Material, and refined sorting and contamination removal activities; as well as the addition of new equipment for sorting the Mixed Material, as needed.

As part of the due diligence regarding CWS performance for this project, we sought public records from another municipality that contracts with CWS for collection and processing of residential curbside recyclables. It is our understanding that CWS may not have met their diversion requirement. A public records request for documents related to this matter has been made, but these records were not received by the July 21, 2014 publication of this report.

Scale Capacity

At 730 tons of throughput, and 8 tons of material in each collection truck, a total of approximately 92 collection truck trips will be generated each day, or an average of 12 collection trucks per hour (8 hour day for receiving waste). Assuming it takes 60 seconds to weigh-in, approximately 60 vehicles could weigh in per hour. The scale capacity would therefore be adequate to accommodate the anticipated 12 collection trucks per hour. Even if we assume that the peak hour would generate twice as many collection trucks, the scale would be adequate for the proposed throughput.

Tipping Capacity

A minimum of 4 collection trucks could tip simultaneously inside the interim facility. If it takes approximately 10 minutes to unload, a total of 24 collection trucks can tip their loads in one hour. With a capacity of 8 tons per collection truck, approximately 192 tons of waste can be tipped per hour. A total of approximately 4 hours would be necessary to unload the 730 TPD of mixed materials and organics anticipated at the interim facility.

MSW Storage Capacity

Using a mixed materials density of 500 pounds per cubic yard, a tipping area of approximately 11,000 square feet and pile height of 4 feet, approximately 400 tons of mixed materials material could be accommodated on the tipping floor. A 4 foot pile height would allow floor sorting and recovery of recyclable materials prior to being moved to the sort line staging area and/or being loaded out.

Approximately 8,000 square feet of floor area adjacent to the sort line could accommodate approximately 270 tons of mixed materials being staged for processing over the sort line based on a 4 foot pile height and a density of 500 pounds per cubic yard.

Based on initial calculations, approximately 670 tons of mixed materials can be stored on the floor of the interim CWS facility which would exceed the anticipated daily throughput of 500 TPD. There will be a requirement from the LEA to have the tipping floor clear of material at a certain time each day. There is adequate throughput capacity to meet this requirement.

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Organics Storage Capacity

There is adequate room for separate organics tipping and storage piles. Because organic material densities can range from 350 pounds per cubic yard for green waste to over 1,000 pounds per cubic yard for food waste we are using a conservative number of 500 pounds per cubic yard for purposes of this analysis.

There is approximately 5,000 square feet of tipping area for organic waste material which could accommodate approximately 170 tons of material based on a 4 foot pile height and an average density of 500 pound per cubic yard.

MSW Processing Capacity

Based on a sort line capacity of 25 tons per hour, and a 20 hour operating day, approximately 500 tons of mixed material can be processed over the sort line. There would appear to be adequate capacity to process the anticipated 500 TPD of mixed materials each day over the sort line however, some loads may be simply floor sorted and then loaded into transfer trucks. Based on a 10% diversion rate approximately 50 tons of recyclables will be salvaged each day. Adequate room for recovered recyclables, roll-off storage and adequate provisions to allow removal of those recyclables will need to be incorporated into the final project design.

Organics Processing Capacity

A 4 foot pile height would allow floor sorting of the organics and recovery of recyclable materials and contaminants. Once the organics are floor sorted they can be staged on approximately 5,000 square feet of floor area adjacent to the load out area which could accommodate approximately 170 tons of material based on a 4 foot pile height and an average density of 500 pound per cubic yard.

Based on approximately 10,000 square feet of floor area devoted to organic material, a density of 500 pounds per cubic yard and a 4 foot pile height, approximately 340 tons of organic material could be staged and processed in the interim facility which exceeds the 230 TPD of material anticipated.

No specific equipment was shown for processing organics. It is reasonable to assume that some equipment will be needed to assist in removing contamination. What this equipment will be depends on the types, tonnages, and levels of contamination of the organic wastestreams. In the space provided, CWS should be able to accommodate equipment for this purpose.

Load-Out Capacity

For purposes of this analysis we are assuming that the 450 tons of mixed materials plus 15% of the organics (34 TPD) will be transferred to a landfill each day. Transfer truck load-out takes approximately 15 minutes, and each truck has a capacity of 23 tons. Based on an 8 hour transfer operating day which is tied to the landfill hours, and a total of 2 load out ports dedicated to mixed materials residual transfer, a total of 64 transfer trucks, or 1,472 tons of residual waste could be loaded out each day. This is more than adequate for the CWS interim facility.

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For purposes of this analysis, we are assuming that 85% of the 230 tons per day of organic material, or 196 TPD will be transferred off site to the Recology food waste facility or composting facilities. Transfer truck load out takes approximately 15 minutes, and each truck has a capacity of 23 tons. Based on an 8 hour transfer operating day which is tied to the landfill hours, and one load out port dedicated to organics transfer, a total of 32 transfer trucks, or 736 tons of organic material could be loaded out each day. This is more than adequate for the CWS facility which is anticipating a total of 196 TPD of processed organic material.

Procurement of Collection Trucks and Carts

In order to assess the process, we had discussions with three experienced professionals in the waste industry regarding large, rapid truck and cart procurement. It is our understanding that CWS would need to purchase or otherwise procure approximately 75-80 new CNG trucks and approximately 300,000 carts if they were awarded the Oakland contract.

The purchase of this number of collection trucks and carts would be very challenging for a company the size of CWS, and represents a high risk. However, we believe this risk can be lowered if the City requires the following of CWS:

- A very tight management of the procurement process with a senior CWS manager assigned to the task for both trucks and carts.
- Letters of commitment from executive management at Peterbilt and McNeilus that they have the capacity and ability to meet the production deadline. The same commitment letters from the cart manufacturers.
- Commitment from CWS to secure one or two additional manufacturers for both the trucks, bodies, and carts to provide secondary production capacity if the prime contractor falls behind schedule; and to include this in a "Back-Up" plan to achieve the July 1, 2015 deadline.

In addition to the purchase and placement into service of the trucks, the ability and the time to recruit and train 80 drivers is of concern. However, we understand that there is a worker retention policy that might address this issue whereby CWS would hire qualified, existing drivers.

Landfill Capacity

The Vasco Road Landfill is located at 4001 North Vasco Road in Livermore approximately 40 miles from the CWS interim facility location and is owned by Republic Services. The facility accepts a variety of materials including non-hazardous industrial waste (including non-friable asbestos, contaminated soil, municipal wastewater treatment plant sludge, construction and demolition (C&D) wastes, empty containers, and other industrial and special wastes. The Vasco Road Landfill is estimated to have sufficient capacity through 2022.¹ From the CalRecycle Solid Waste Information System (SWIS) the Vasco Road Landfill has a maximum permitted throughput of 2,250 tons per day, a remaining capacity of 9,870,704 cubic yards, a maximum capacity of 32,970,000 cubic yards and an estimated closure date of August 31, 2019.

¹ Alameda County Sand Hill Wind Project Draft EIR dated November 2013.

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The Keller Canyon Landfill is located at 901 Bailey Road in Pittsburg approximately 30 miles from the CWS interim facility location, and is owned by Republic Services. The facility has a permitted capacity of 75 million cubic yards. Currently, approximately 15 million cubic yards have been utilized for disposal, leaving 60 million cubic yards of airspace. Current estimates indicate that the facility has an estimated 65 years of site life remaining at current intake levels. This estimate is based on aerial photo surveys taken in 2012. The facility is permitted to handle 3,500 tons per day of refuse and currently receives 2,700 tons per day on average.²

Given this information, there is sufficient landfill capacity available to CWS.

In addition, Shawn Moberg, General Manager of Republic Services has provided a letter (July 9, 2014) stating that these two landfills, as well as the Golden Bear Transfer Station, have the capacity and the ability to receive and transfer or dispose the material CWS would collect under this contract with the City of Oakland.

Conclusion

Interim MRF Development Schedule

If everything goes as planned by CWS, the July 1, 2015 date can technically be met. This is true because building design, fabrication, and site construction activities can take place on a parallel track with permitting. However, in order to meet the July 1, 2015 deadline, construction of the site improvements and erection of the building would have to be accomplished concurrently with the SWFP process. We have confirmed with the LEA that such construction is permissible, however the project developer bears the full risk that the final SWFP may not be issued, or that revisions to the final design and therefore construction may be necessary.

The most important unknown in the project development schedule is whether any of the other permitting agencies/departments/jurisdictions will challenge the use of an Addendum to EBMUD's MWWTP 2011 Master Plan EIR. These agencies include: the LEA, the Port of Oakland, and the Local Task Force. A traditional CEQA process, even for a Mitigated Negative Declaration (MND) would add at least six months to the timeline. ***We rate the ability of CWS to meet the July 1, 2015 schedule a moderate to high risk.***

Interim Facility Capacity and Diversion

The interim facility has the capacity to receive, process and transfer the requisite material. This facility also has the ability to meet the 30% diversion level, with heavy reliance on organics recovery and recycling. Depending on the contamination levels of the organics, some sorting equipment may need to be installed, or floor sorting intensified. ***We rate the ability of CWS to provide the needed capacity and diversion a low risk.***

² Republic Services "Napa-Vallejo Waste Management Authority Long-Term Disposal and ADC Capacity Report", dated March 15, 2013.

July 21, 2014

Trucks and Carts

The purchase of 75-80 trucks and 300,000 carts and preparing the equipment for the field is a challenging task for CWS with the potential for high risk that the July 1, 2015 deadline won't be met. However, with the measures discussed above (dedication of a senior manager to the procurement, letters of commitment from manufacturers, and requirement for a back-up plan with secondary suppliers) the risk can be reduced. With these measures, and depending on the strength and level of commitments in the back-up plan, ***we rate equipment procurement a low to moderate risk. Without these measures, we rate this a high risk.***

Landfills

At the current fill rates, the Vasco Landfill has about eight years of life remaining. This means Keller Canyon, or some other site, will need to be used for the remaining life of the contract. Vasco is 40 miles from the CWS interim MRF/TS site, and Keller Road is 30 miles distant from the site.

The combined life and capacities of the landfills are adequate. Republic has written in support of the project and dedicated the capacity needed.

We rate the ability of CWS to obtain the needed landfill capacity as minimal risk.

June 13, 2014

Mr. Joel Corona
California Waste Solutions
1005 Timothy Drive
San Jose, CA 95133

RE: Determination of 2013 Diversion Disincentive Payment and 2010-2013 PEOP Reconciliation Deduction

Dear Mr. Corona:

This letter serves as the Director's decision under Section 17.2.2 of the Agreement Between the City of San Jose and California Waste Solutions, Inc. for Recycle Plus SFD Recycling Collection Services ("Agreement") following our June 2, 2014 meeting to review and discuss your dispute of the invoice deduction determination of \$283,664.47 for the 2013 Residential Recyclable Material Diversion Disincentive and of \$55,024.94 for the 2010-2013 Public Education and Outreach Program budget reconciliation. I appreciated our discussion of contamination and the diversion formulas in our Agreement. After our meeting, I had my staff review the City of San José's agreement with CWS to ensure we had not overlooked any provisions in developing our original determination. This includes the analysis detailed below.

Residential Recyclable Diversion Disincentive

Pursuant to Article 16.2 of the Agreement, the diversion requirements are 30% for District A and 35% for District C. The Agreement specifies how the diversion rate is calculated, as follows:

$$\text{SFD RRM Diversion Rate} = \frac{\text{(Tons of Recyclable Material and Non-Program Material Recycled, Processed and Sold)}}{\text{(Tons RSW collected + Tons Recyclable Material and Non-Program Material collected)}}$$

The Agreement requires the City to deduct a Diversion Disincentive in an amount equal to 0.5% of prior calendar year payments for each one percentage point below the diversion standard. Similarly, the Agreement provides for CWS to obtain a Diversion Incentive for each one percent above the diversion standard, in an amount equal to 0.5% of prior calendar year payments. CWS achieved diversion from 2008 through 2011. For 2012, a Diversion Disincentive of \$37,280.71 was deducted due to diversion of 33.6% in District C, one full percentage point off from the 35% standard. For 2013, a Diversion Disincentive of \$283,664.47 is applicable due to being off by two percentage points in District A (27.98%) and five percentage points in District C (29.96%). Per the Agreement, the diversion calculation does not include allowance for market changes or fluctuations, and CWS retains 100 percent of applicable proceeds from the sale of Recyclable Materials. CWS alone bears the market risks and benefits.

At the June 2 meeting, we also discussed the contamination of Recyclable Materials in the recycling carts collected by CWS. Section 6.2 of the Agreement outlines a progressive education and enforcement

process to address this situation. First, if practical, CWS must separate solid waste from the recyclables, collect the recyclables, and leave the solid waste in the recycling cart along with a Non-Collection Notice ("NCN") explaining why the solid waste is not considered recyclable. Second, if solid waste and recyclables are commingled to the extent that they cannot easily be separated, or if the nature of the solid waste renders the entire contents of the cart contaminated, CWS must leave an NCN with instructions on the proper procedure for setting out recyclables and how to request collection of the contents of the cart as residential solid waste. In the event that CWS leaves a recycling cart un-emptied, CWS must provide the City Representative with the details of the contamination. If a recycling cart is left un-emptied more than three times in three consecutive months, the City Representative will work with CWS to resolve the situation.

CWS' monthly reports indicate that from January through May 2014, 556 addresses have received three or more NCNs in three consecutive months, representing less than one half of one percent of CWS' approximate 164,000 service recipients. At our June 2 meeting, CWS expressed concern that the City's Code Enforcement Division had been unresponsive to your requests for support. As discussed, the City's Code Enforcement Division is not staffed to respond to solid waste Municipal Code violations; however, ESD has hired three Environmental Inspectors, one full-time equivalent of which has conducted preliminary audits to assess conditions in the field. In accordance with the draft enforcement policy created with CWS input, ESD will be issuing an educational letter to repeat offenders.

Per Article 8 of the Agreement, CWS is required to process Recyclable Material to Market Specifications identified in the Institute of Scrap Recycling Industries ("ISRI"). Section 8.2 states that processing some Recyclable Material may not be profitable, but CWS nevertheless shall process recyclables in accordance with the Agreement.

Public Education and Outreach Program Reconciliation

Article 9 of the Agreement obligates CWS to develop an annual outreach program that includes four public education and outreach campaigns to increase diversion and resident participation. The Agreement allocated \$156,000 to conduct these public education and outreach campaigns. The Public Education and Outreach Program (PEOP) should be designed to target certain recyclable material, contamination, or "problem" areas where improvements can be maximized. Exhibit 8 of the Agreement requires quarterly and annual reporting of the following community outreach activities: list of events; outreach pieces, distribution, targeted audiences; number of customers reached through each campaign; and, results of outreach efforts. CWS' 2012 and 2013 PEOP campaigns primarily consisted of recycling cart audits by the CWS Eco Team, printing and issuance of non-collection notices and courtesy notices to customers via drivers and the Eco Team, and K-12 student education. CWS also staffed or sponsored some community events.

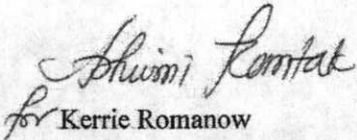
Section 9.1.1 states that if prior years' funding for PEOP services in the amount of \$209,267.63, accrued in calendar years 2006 through 2009, is not fully expended for approved PEOP services by December 31, 2013, exclusive of PEOP budgets for calendar years 2010 through 2013, the unspent funds shall be deducted in twelve (12) equal monthly installments beginning from the March 2014 invoice through the February 2015 invoice. The 2010-2013 PEOP reconciliation shows that CWS under spent these funds by \$55,024.94. CWS has previously committed to rolling this surplus into the 2014 PEOP. The City appreciates CWS' outreach efforts and is supportive of CWS continuing to expand these efforts. Accordingly, the City will allow CWS to increase the 2014 PEOP budget by \$55,024.94 to provide more robust public outreach. CWS must revise the 2014 PEOP to specify how the additional funding will be spent, including revising each campaign budget and adding completion dates for every tactic. The revised 2014 PEOP must be submitted by June 30, 2014.

Joel Corona
California Waste Solutions
June 13, 2014
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The Agreement mandates that the City apply the Diversion Disincentive (see Section 16.5.1). Accordingly, CWS is subject to the original invoice deduction determined by staff. Although the City can require CWS to pay the diversion disincentive up front in one payment, the City proposes that to ease the burden on CWS, the total of \$283,664.47 be deducted in twelve (12) equal monthly installments beginning with the May 2014 invoice through the April 2015 invoice.

Please feel free to contact me with any questions.

Sincerely,



for Kerrie Romanow
Director, Environmental Services

CC: Victor Duong, CWS
Jeff Anderson, ESD
Jo Zientek, ESD