



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Clem Brown, Environmental Sustainability/Special Projects Manager  
Kristen M. Crane, Assistant City Manager  
Via Ashley Jones, Interim City Manager

DATE: June 7, 2021

SUBJECT: Procurement Process for the City's Next Solid Waste Franchise Agreement

## REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council direct staff to conduct a competitive procurement process for the City's next solid waste franchise agreement, which is supported by the Council ad-hoc subcommittee liaisons Deputy Mayor Worden and Councilmember Quirk.

## EXECUTIVE SUMMARY

The City's current 10-year franchise agreement with Waste Management for the collection, transportation, and disposal of solid waste, recyclables, and green waste is set to expire on June 30, 2022. The City Council has the option to either enter into sole source negotiations with Waste Management or solicit competitive proposals for its next agreement.

In April, the City Council appointed Deputy Mayor Worden and Councilmember Quirk to serve as liaisons to a Council ad hoc solid waste procurement services subcommittee to work with staff and the City's consultant on the next franchise agreement. The Council liaisons have participated throughout the process and worked with staff and the consultant to determine the recommended action being presented to the Council for this agenda item.

Staff, the consultant, and the ad hoc subcommittee met and discussed the advantages and disadvantages of negotiating with Waste Management on a sole source basis versus a competitive procurement process via a Request for Proposals (RFP). The Council ad hoc subcommittee and staff recommend that the City issue an RFP for solid waste collection services for the following reasons:

- Senate Bill (SB) 1383 is bringing about significant changes in the way residents, businesses, and the City will handle their waste and recyclables, especially organics (including food waste). This will result in a significant change in scope from the current franchise agreement to incorporate new services and programs in order to comply with SB 1383.

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City Council Action:

- The City needs to fully understand its options regarding the diversion of organic material from the landfill.
- The City's solid waste franchise agreement is a long-term commitment with a significant contract value, the cost for which is ultimately borne by Del Mar residents, businesses and the City as part of the rates paid for solid waste collection services. The current value of the Waste Management franchise is approximately \$13 million over ten years, making it one of the City's highest valued contracts. The City needs to ensure that its ratepayers receive competitive rates and excellent customer service, while bringing the City into compliance with State regulations. The best way to achieve these goals is through a competitive process.
- Conducting a competitive procurement process does not preclude the City from ultimately selecting its current hauler. The City expects Waste Management to submit a proposal to continue providing services as part of the competitive process.

The consultant, staff, and the City Council ad hoc subcommittee considered several factors to inform its recommendation to competitively bid and award the next franchise agreement, including:

- Status of the City's current contract with Waste Management;
- Understanding of the requirements of SB 1383 and other relevant solid waste requirements;
- Background on the solid waste market in San Diego County, including waste haulers and disposal/diversion facilities;
- Recent solid waste contract awards in other nearby cities; and,
- Survey of residential and commercial customer rates in the San Diego region.

## BACKGROUND

### ***City's Current Solid Waste Contract***

The City's solid waste program goals are to provide safe, reliable solid waste collection service at a reasonable cost to residents, businesses, and the City, and to comply with the State's regulatory requirements and waste diversion mandates. Currently, the City has a 10-year agreement with Waste Management to provide exclusive solid waste, recyclables and greenwaste collection services to single-family, multi-family, commercial, and construction and demolition (C&D) customers. The current agreement expires June 30, 2022, and includes two (2), twenty-four (24) month optional extensions (by mutual agreement between both parties). The current agreement was the result of a competitive procurement that took place in 2011-2012.

As noted in the agenda report presented to City Council on February 16, 2021, the City has come under increasing pressure from the California Department of Resources Recycling and Recovery (CalRecycle) to ramp up its organics recycling programs to comply with State law (e.g., AB 1826 and SB 1383). On that point, the City was notified via letter that it was not in compliance with the State's organics recycling regulations and was placed on an informal corrective action plan.

One of the City's actions to address its noncompliance status was to request an organics collection and recycling proposal from its current waste hauler, Waste Management. In response, Waste Management submitted a proposal to provide an organics recycling collection program that would collect and transport commercial organic waste to their organics processing facility in the City of Orange. The cost of that program would have increased all commercial solid waste rates by 34 percent.

Due to the high rate increase, driven by the significant transportation-related costs, the City did not move forward with that program and directed Waste Management to find a local, lower-cost option for Del Mar's organic waste (that would also include residential organic waste in compliance with SB 1383). To date, the City has yet to receive an alternative organics proposal from Waste Management that meets the City's requirements although Waste Management reports it is working on one.

### ***SB 1383 Requirements***

SB 1383 is the most significant change to solid waste handling regulations in 30 years. This new law begins to take effect January 1, 2022. It will require jurisdictions to:

- Amend their municipal codes to enforce the requirement that essentially all waste generators recycle their organics, including dry organics (cardboard, paper, etc.).
- Ensure that their waste haulers provide organics collection service.
- Estimate the amount of organic waste and recoverable edible food generated within their boundaries and provide that information to their county for facility planning purposes.
- Enhance existing edible food recovery programs to reduce the amount of recoverable edible food sent to landfills.
- Ensure that all newly constructed buildings have readily accessible space for recycling.
- Develop inspection and compliance review programs to ensure that waste generators fulfill the requirements of SB 1383 and the jurisdiction's municipal code.
- Conduct periodic education and outreach to all waste generators, and specifically, generators of edible recoverable food.
- Ensure that the City's hauler performs annual route inspections to minimize contamination.
- Procure a minimum quantity of recovered organic waste products.

- Prepare and submit annual compliance reports to CalRecycle.

**Solid Waste Market in San Diego County**

The solid waste market in San Diego County is comprised of solid waste collection companies and the facilities to which they deliver material. Table 1 below shows each of the three main waste haulers in San Diego County and the cities in which they currently have exclusive solid waste contracts.

**Table 1 – Exclusive Solid Waste Agreements in San Diego County**

City	Waste Hauler
Carlsbad	Republic Services
Chula Vista	
Del Mar	Waste Management
Oceanside	
Santee	
Coronado	EDCO
El Cajon	
Encinitas	
Escondido	
Imperial Beach	
La Mesa	
Lemon Grove	
National City	
Poway	
San Marcos	
Solana Beach	
Vista	

All of the haulers in Table 1, along with other waste haulers, provide service on a non-exclusive basis in the City of San Diego and in the unincorporated areas of the County. The City of San Diego itself collects waste from its residential customers while commercial hauling is conducted on a non-exclusive basis. The County of San Diego has a non-exclusive hauling system for both residential and commercial customers in the unincorporated areas of the County.

Table 2 shows the main solid waste facilities that accept refuse, recyclables, and organics in San Diego County. Waste Management takes Del Mar’s refuse to the Palomar Transfer Station, which is operated by Republic Services, before it is transported to the Otay Mesa landfill for disposal.

**Table 2 - Key Solid Waste Facilities in San Diego County**

Facility Name	Location	Operated by:
<b>Refuse</b>		
Palomar Transfer Station	Carlsbad	Republic Services
Escondido Resource Recovery	Escondido	EDCO
Otay Mesa Landfill	Chula Vista	Republic Services
Sycamore Canyon Landfill	Santee	Republic Services
<b>Recyclables</b>		
Oceanside Transfer Station	Oceanside	Waste Management
SANCO	Escondido	EDCO
<b>Organics</b>		
Escondido Resource Recovery	Escondido	EDCO
Otay Mesa Landfill - Compost	Chula Vista	Republic Services

Table 3 shows some recent events among cities in San Diego County that have recently updated their solid waste franchise agreements.

**Table 3 – Recent Events in Local Solid Waste Franchise Agreements**

City	Event	Notes
Carlsbad	In April 2021, the city awarded a 10-year agreement to Republic Services. Waste Management (incumbent hauler) did not submit a proposal.	Runner up was EDCO by 3-2 vote. Republic Services currently owns and operates the Palomar Transfer Station within the city's limits.
El Cajon	In May 2020, the city awarded a 20-year contract to EDCO via a competitive procurement. Waste Management was the incumbent hauler.	EDCO's proposal provided the lowest rates and most rate savings. EDCO also highlighted their new organics processing facility.
Oceanside	In late 2020, the city issued an RFP for solid waste collection service. Waste Management is their current hauler.	City is currently evaluating proposals from waste haulers for its next franchise agreement. A hauler decision is expected between October and December 2021.
Santee	In August 2020, the city renegotiated a 10-year year contract with Waste Management.	Waste Management is transporting food waste to its organics facility in Orange,

		CA until it develops a local organics solution.
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Finally, the City’s solid waste consultant conducted a rate survey of all the cities in San Diego County to benchmark Del Mar’s current solid waste rates. The results of that survey are included as Attachment A. As shown in the graphs in Attachment A, the City’s residential solid waste and recycling rates fall in the middle of the range of rates around the County. On the other hand, the City’s commercial rates are toward the upper end of those surveyed.

**DISCUSSION/ANALYSIS**

The approach used by the project team to make its recommendation was first a consideration of the general pros and cons of sole source negotiating with the City’s incumbent hauler verses a competitive procurement process that any city would evaluate, as shown in Table 4.

**Table 4 – Solid Waste Agreement Negotiate vs. Competitive Procurement**

<b>Advantages of Negotiating with Incumbent Hauler</b>	<b>Advantages of Soliciting Competitive Proposals from Several Haulers</b>
<ul style="list-style-type: none"> <li>▪ If there is adequate time remaining on the current contract term, allows the City to subsequently issue an RFP if the negotiations are not successful.<sup>1</sup></li> <li>▪ Avoids the risk of problems arising from the transition to a new service provider (e.g., changed pickup days, a new hauler will not be familiar with the City’s unique service requirements, etc.).</li> <li>▪ Avoids the problems that may occur if the City receives a ‘low-ball’ bid; avoids the risk of creating a high-profile and controversial contractor selection process.</li> <li>▪ Allows the City to achieve much of the same assurances that it has obtained a fair deal by comparing its rates, services and terms to those in nearby jurisdictions.</li> <li>▪ May require less City Council and staff time.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Provides more assurance that City has obtained the greatest value.</li> <li>▪ Provides more assurance to the public that contractor was selected in a fair manner.</li> <li>▪ City benefits from the technical creativity of several firms in identifying a menu of program and service options to achieve the waste diversion requirements.</li> <li>▪ Allows the City to choose from several haulers.</li> <li>▪ Allows the City to ‘mix ‘n match’ features from multiple proposals.</li> <li>▪ May require more City Council and staff time.</li> <li>▪ Provides opportunity for Council members to learn about solid waste issues.</li> </ul>
<b>Bottom line:</b>	<b>Bottom line:</b>

<p>More appropriate when City is already meeting its solid waste program objectives:</p> <ul style="list-style-type: none"> <li>▪ Hauler provides high quality, reliable service; and,</li> <li>▪ Rates are reasonable; and,</li> <li>▪ City meeting diversion mandates; and,</li> <li>▪ Scope of services will not change.</li> </ul>	<p>More appropriate when City is not meeting its solid waste program objectives:</p> <ul style="list-style-type: none"> <li>▪ City is less satisfied with hauler, or</li> <li>▪ Rates are higher than nearby, comparable jurisdictions; or,</li> <li>▪ City not meeting diversion goals; or,</li> <li>▪ City intends to make significant changes to the scope of services.</li> </ul>
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<sup>1</sup> Because the City’s current contract expires June 30, 2022, staff does not recommend this approach given the significant time constraints it would place on the project schedule.

With an understanding of the general merits and limitations for both options, staff, the consultant, and the ad hoc subcommittee then applied those considerations to the City of Del Mar’s specific situation and environment. The resulting application of those general pros and cons to Del Mar’s specific situation are outlined in Table 5.

**Table 5 – Application of Pros and Cons to the City of Del Mar’s Situation**

<b>Key Reasons Why Del Mar Should Conduct a Competitive Procurement</b>
<ul style="list-style-type: none"> <li>▪ The City’s current franchise agreement was prepared in 2011, prior to recent legislation including Mandatory Commercial Recycling (AB 341), Mandatory Commercial Organics Recycling (AB 1826), and SB 1383, which are bringing about significant changes in the way resident and businesses will handle their waste and recyclables, especially organics. The City will need to make significant changes to the current franchise agreement to achieve these requirements.</li> <li>▪ There are significant differences among the approaches to organics recycling taken by each of the major solid waste haulers in San Diego County. The City needs to fully understand its options regarding the end use for organics and the cost involved with those options; the City can learn from multiple proposers who can offer various options.</li> <li>▪ Conducting a competitive procurement does not preclude the City from ultimately selecting its current hauler. The City expects Waste Management to submit a competitive proposal.</li> <li>▪ The City’s solid waste franchise agreement is a long-term commitment; the City Council needs to make the best decision for the City by obtaining the best value for ratepayers.</li> </ul>

**Overview of Potential RFP Process**

If the City were to decide to issue an RFP for solid waste services, it would need to prepare and distribute an RFP package to potential proposers, and evaluate and score the haulers’ proposals. The RFP package would include everything the proposers would need to prepare a comprehensive proposal including, the RFP process requirements, current customer and

tonnage data, a draft of the franchise agreement, and rate proposal forms. Each proposal would be evaluated based on objective criteria such as the haulers' safety records, municipal references, waste diversion experience, any exceptions taken to the draft franchise agreements, and proposed rates. Depending on the results of the evaluation, the City's project team would select one (or possibly more than one) of the highest scoring finalist proposer(s) with which to negotiate an agreement. Based on these negotiations, the City would negotiate a final agreement, which would be presented to the City Council for approval. The schedule for this process is included as Attachment B.

### ***Next Steps***

In preparation for the City Council's consideration of the recommended action in this report, staff worked with the City's communications consultant to engage the Del Mar community on what solid waste and collection services it would like in the next franchise agreement. Electronic notifications were sent via the Del Mar Weekly e-newsletter and an e-news article, which included an email address for residents and businesses to share feedback ([citymanager@delmar.ca.us](mailto:citymanager@delmar.ca.us)).

If the City Council approves the recommended action, staff and the consultant will immediately begin work on the draft RFP package and implement the procurement process as outlined above and based on the proposed schedule included as Attachment B. According to the schedule, staff would return to the City Council for a final review of the RFP package on August 9, 2021, which would give the City Council and the public the opportunity to comment on the proposed agreement's terms and scope of services. Staff is targeting January 2022 to award the new franchise agreement.

### **FISCAL IMPACT:**

Funding for the recommended action is included in the proposed Fiscal Year 2022 AB 939 Revenue Fund budget. The AB 939 Special Revenue Fund is limited to use for implementing education, outreach, and recycling programs in compliance with State laws, and this project is consistent with that requirement. It is industry practice for cities to be fully reimbursed for any consulting costs for developing the next franchise agreement by the City's selected waste hauler through the negotiation process.

### **ENVIRONMENTAL REVIEW:**

The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

### **ATTACHMENTS:**

Attachment A – San Diego County Rate Survey  
Attachment B – Proposed Project Schedule

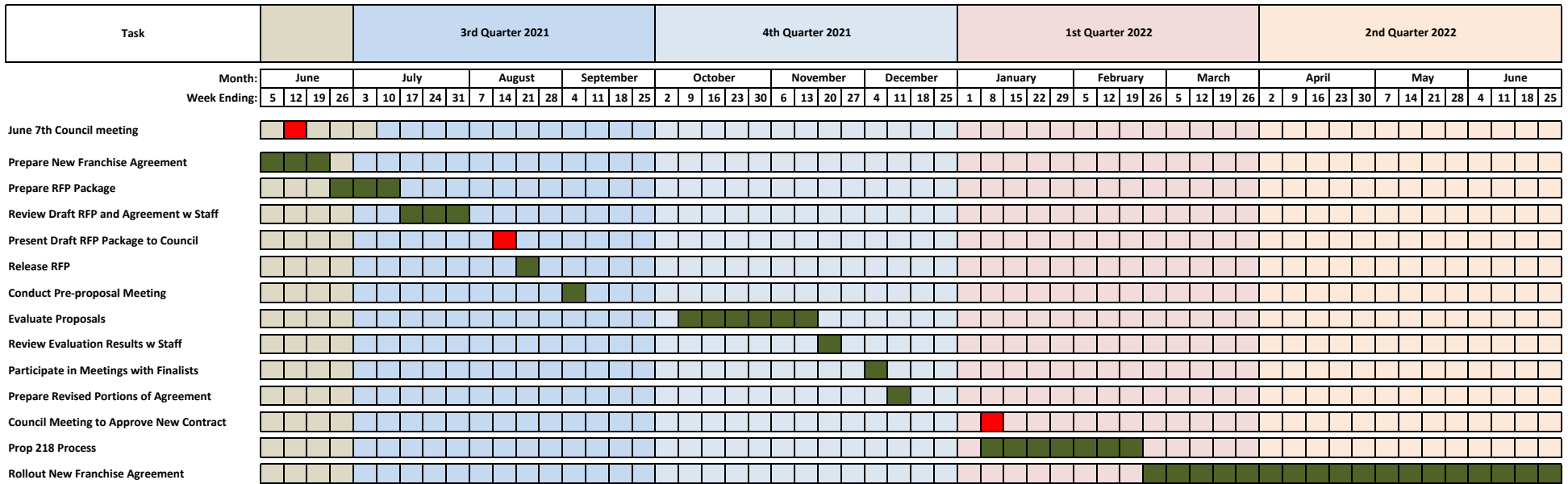


Chart 1 – Monthly Customer Rate Comparison - Residential



Chart 2 – Monthly Customer Rate Comparison – Commercial





Each quarter is a separate color; each block represents one week; 13 weeks in a quarter