



PROPOSAL: Don't Waste LA

COMPETITIVE EXCLUSIVE WASTE & RECYCLING FRANCHISE SYSTEM FOR THE CITY OF LOS ANGELES

I. BACKGROUND

In 2002, the Los Angeles City Council adopted the AB 939 Compliance Fee Ordinance No. 174706, which added Sections 66.32 and 66.32.8 to the Los Angeles Municipal Code, and established an open market, permit system for private waste haulers. Under this system, no City regulatory oversight of private waste haulers exists, with the exception of a mandatory business license requirement.

Approximately 130 haulers are permitted to collect waste generated in the commercial, multi-family (apartment complexes of 4 units or more) and industrial sectors. However, a substantial majority of those companies are primarily engaged in construction and demolition (C&D) and/or roll-off business. Based on an exhaustive review of all reported commercial hauler receipts to the City of Los Angeles from 2008-2010, there are, at most, 12-15 companies that engage in regular commercial/multifamily refuse routes in the city as a major part of their business operations. Moreover, that list includes companies with dubious environmental and health and safety records.

The primary condition upon which permit renewals rests is the payment of an AB 939 Compliance Fee of 10% of gross annual receipts to the L.A. Recycling Trust Fund.¹ The fee is used to support recycling programs and diversion goals for commercial businesses, multi-family complexes, and manufacturers.² Under this system, the City has fallen well behind its peers in commercial sector diversion, recycling and environmental impacts, and put itself in a difficult position to reach its own Zero Waste goals. Specifically, absent standards or industry accountability, Los Angeles' commercial and multifamily waste and recycling systems are inefficient, rely too heavily on self-reporting, and are insufficient in meeting the city's long-term needs and goals:

- No recycling standards exist for the commercial and multifamily apartment sectors;
- Rates are haphazard and unfair, with small businesses and small landlords subsidizing the rate leverage of large businesses and realtors;
- Service standards, rate and recycling options, and reporting are inconsistent at best;
- Over 1,000 trucks, ranging in age and quality, and governed by weak emissions standards (open market systems are exempt from SCAQMD waste fleet emissions rules), wear down our streets and pollute Los Angeles air;
- Overlapping truck routes unnecessarily exacerbate the negative impacts of waste hauling trucks;
- Recycling is difficult to track, due to a complete disconnect between collection/hauling and processing facilities;
- The absence of job standards at processing facilities impacts diversion quality and efficacy;
- The absence of job standards in collection impacts public safety and service reliability;
- The absence of job standards results in regular abuse and exploitation of waste and recycling workers;
- Significant commercial and multifamily waste continues to feed our near-capacity landfills, including organic waste that contributes to greenhouse gas emissions; and
- Enforceable accountability is impracticable.

¹ Haulers who collect less than 1,000 tons annually are exempt

² http://www.lacitysan.org/solid_resources/pdfs/AB939_Compliance_Fee_FAQs.pdf

II. POLICY FRAMEWORK

As the City strives to meet its ambitious zero waste goals—to increase the current 65% diversion rate to 75% by 2013 and 90% by 2025—and to remain compliant with state diversion and greenhouse gas reduction requirements, increasing recycling and diversion for the multifamily and commercial waste sectors will be crucial.

The City typically generates over 10 million tons of waste per year. In 2006, approximately 3.65 million tons was disposed of in landfills - and 2.4 million tons (or around 65%) of that was generated in the commercial and multifamily sectors.³ A policy establishing a competitive exclusive commercial and multifamily franchise system will increase diversion in these sectors by creating a “race to the top” bidding process in which haulers compete for the right to service designated service areas – and that competition will hinge, in large part, on the hauler’s demonstrable long-term plan for achieving the city’s zero waste goals. By extension, the City will catalyze more rapid development of recycling infrastructure – and the attendant green jobs - while also addressing the other negative impacts of non-exclusive systems by eliminating overlapping truck routes, maximizing partnership around public education and rate structures that incentivize recycling, maximizing efficiencies, ensuring fair rates for *all* Angelenos, and creating new jobs, while also strengthening the standards for the jobs that exist.

A proposed competitive exclusive waste and recycling franchise will include:

A. Franchise areas. The City of Los Angeles is already split up into six waste-shed districts. Each waste-shed could be split into up to two exclusive service areas, depending on the amount of waste generated in a given waste-shed. Alternatively, the City could map the service zones based on costs and accessibility. Ultimately, we propose the City create 10-12 service zones, with 2-4 designated “Small Enterprise Zones”. Small Enterprise Zones will be specifically created as incubator zones for responsible small haulers. Small Enterprise haulers will be subject to the same standards as other franchisees, but the service zones will be designed to accommodate small hauler capacity.

After a competitive process, each franchisee will be awarded the exclusive right to collect waste and discarded recyclable materials within a particular service area.

B. Term of Franchise. Franchise agreements could establish 7-10 year terms.

C. Franchise Fee. Retain the current AB939 fee and establish an administrative/AB939 fee to provide sufficient funds to implement and manage the franchise system and diversion programs; and evaluate establishing a solid waste hauler franchise fee.

D. Rates Charged to Producers. Franchisees will be required to incorporate rate proposals as part of each service zone bid. Applicants would be instructed to propose rate structures that incentivize recycling. Bids would be assessed on a value-based approach (i.e., not wholly based on price). The City will be required to ensure general consistency in rates charged across service areas – and any price increases will have to be reflected in, and consistent with, the franchise agreement.

E. Minimum Franchise Standards. To be eligible to receive a franchise, a waste company will be required to meet the following minimum requirements, as terms of the franchise agreement.

1. Collection

³ http://www.zerowaste.lacity.org/files/info/fact_sheet/SWIRPfacilitySystemInfrastructureFactSheet_032009.pdf

a) Scope of Required Collection. Collect and process solid waste (including organic waste) and recyclable materials from all recorded commercial and multifamily buildings within a designated service area. (Construction and Demolition would not be part of the franchise.)

b) Clean Trucks. Use clean trucks with high vehicle emissions standards, to reduce negative impacts on air quality and to improve truck performance and safety. Specifically, franchisees must be in compliance with all applicable air pollution control laws and regulations, including California Air Resources Board's Diesel Particulate Matter Control Measure for On-Road Heavy Duty Residential and Commercial Solid Waste Collection Vehicle Diesel Engines and with Southern California Air Quality Management Board's Rule 1193.

c) Vehicle Miles Travelled. Applicants will be required to submit "smart-routing" plans, quantifying the anticipated vehicle miles travelled required to adequately service a particular franchise zone.

d) Responsible Contractor Measures. Applicants and, ultimately, franchisees will be subject to minimum requirements in the following areas to make certain that responsible contractors service the public:

- (1) Insurance Coverage
- (2) On-hand Capital
- (3) Relevant experience
- (4) Financial Qualifications
- (5) Corporate guarantee
- (6) Financing Plan
- (7) Performance assurance
- (8) Litigation History
- (9) Worker Safety History

2. Processing and Disposal

a) Delivery to Certified Facilities. Franchisees will be required to deliver waste, recyclables or organics generated by L.A. City producers exclusively to City-certified facilities, unless delivering waste to facilities outside California.

3. Diversion

a) Recycling Service. Franchisees will be required to offer each customer at least two bins to allow source separation and provide recycling of the full range of recyclable materials.

b) Diversion Plan. Franchisees will be required to demonstrate how they will meet the City's Zero Waste goals through a proposed long-term collection system and materials processing and recycling plan

c) **Organics Program.** Franchisees will be required to propose an organics diversion pilot program that will expand the existing City pilot food waste program. The plan will need to include an outline timeline and incentive plan for increasing organics and food waste recycling for multifamily and commercial customers, including rate incentives and educational outreach.

d) **Penalties.** Franchisees that fail to meet pre-determined long-term diversion and recycling goals will be subject to financial penalties, including liquidated damages.

e) **Re-Use Program.** Propose a recycling processing and remanufacturing plan.

F. City Certification of Facilities

1. **Process.** California waste processing facilities will be required to obtain certification from the City to receive waste and recyclables from City franchisees. Approval and/or ratification of certified facilities will rest with the Board of Public Works.

III. ADDITIONAL POLICY CONSIDERATIONS & POSSIBILITIES

A. Use of Franchise Fee Revenue

1. **Franchise System Operation.** A portion of a potential franchise fee will be allocated towards development and execution of commercial and multifamily franchise system.

2. **Post-Certification Monitoring.** Revenue from franchise fee will be used for certification; re-certification and monitoring of compliance with certification requirements for transfer/processing facilities.

B. Diversion. The City may partner with franchisees and select public and private partners in the development and execution of public education campaigns to increase recycling participation from commercial and multifamily accounts.

C. Enforcement

a. **Franchisees.** If a franchisee violates collection standards, service requirements or any terms of the franchise agreement, penalties will include financial penalties, including liquidated damages, and possible contract termination.

b. **Facilities.** If a certified facility violates facility certification standards, it will face possible certification revocation, via the Bureau of Sanitation.

D. Worker Retention/Job Retention. The City will require first-source hiring by franchisees of employees of companies that choose to not to apply for, or fail to secure, a franchise.

IV. POLICY BENEFITS

- Maximum recycling and diversion and reduction of greenhouse gas emissions from landfills
- Easier tracking and enforcement of diversion tonnage for the City
- Consistent, safe, cost-effective waste and recycling services for all customers
- Reduced greenhouse gas emissions from trucks and reduced wear and tear on the roads

- Economies of scale will likely result in higher revenues for responsible haulers and lower rates for customers
- Business security and partnership will incentivize hauler investment in recycling and diversion infrastructure
- Responsible job standards to ensure the safe and effective handling of waste and recycling, and improve public safety
- Smarter truck routing and less congestion on LA City streets
- Job creation in the recycling, reprocessing and remanufacturing sectors
- Greater accountability around job standards