



COLLECTION AND RECYCLING PROGRAM SUPPORT AND COMPLIANCE



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Date: May 28, 2015 Board of Directors Meeting
Subject: Draft Plan and Recommended Process to Support Member Agencies with Future Decisions Regarding Franchise Agreements with Recology

Board Action

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

Analysis

Staff has prepared a draft plan and recommended process for how to prepare Member Agencies with their future decisions in 2017 regarding extending their current Franchise Agreements with Recology San Mateo County. While Member Agencies have to decide individually whether to extend their Franchise Agreements or not, Board direction and past practice has been for the JPA to help facilitate and manage the process for selection of a franchised collection services provider and to provide overall contract administration support. The development of this draft plan is included in the Executive Director's FY1415 goals as adopted by the Board on September 25, 2014.

The draft plan can be found in **Attachment A** and consists of three critical components or key steps:

- A financial analysis of collection costs to address actual collection costs vs. adopted compensation, development of a proforma model to capture current and future projected collection costs, and complete actual projections of future collection costs.
- Review of the existing uniform Franchise Agreement and develop recommendations for changes.
- Develop final recommendations for Board consideration regarding a recommended schedule for review and final decisions by the Member Agencies regarding extending the existing Franchise Agreements. This step would include scheduling Recology's submittal of contract extension proposals and how such proposals will be reviewed.

All of the above key steps assume active engagement and collaboration between JPA staff, Member Agency staff (includes TAC Members), Recology and SBWMA Board Members. It is important to note that ultimately the governing bodies of our Member Agencies make the final decisions on whether or not to extend their current Franchise Agreements with Recology.

This draft plan and recommended process does not pertain to the Shoreway Operations Agreement which is a separate and direct contract between the SBWMA and SBR. That Agreement is through December 31, 2020 and states the following in terms of an option to extend:

"The Authority may extend the Term for one (1) or more periods of one (1) year, up to a maximum of three (3) years (i.e., until December 31, 2023), on the same terms and conditions. If Authority wishes to extend the Term it shall deliver a written notice to Contractor at least six (6) months before the expiration of the then-current Term, specifying the number of additional years by which it wishes to extend the Term."

Background

Each of the Member Agencies has a Franchise Agreement with Recology San Mateo County which started on January 1, 2011 and ends at midnight on December 31, 2020. The Franchise Agreements state:

- **SECTION 3.02 TERM**

The Term of this Agreement shall begin on the Effective Date and shall end at midnight on December 31, 2020, unless earlier terminated, or extended as provided in Section 3.03. Contractor's obligation to Collect Solid Waste, Targeted Recyclable Materials and Organic Materials shall begin on January 1, 2011 at 12:01 a.m. and shall continue for the remainder of the Term.

- **SECTION 3.03 EXTENSION OF TERM**

During calendar year 2017, the Parties shall meet and confer on the possible extension of the Term.

The contract extension decision period was set for a defined period so as to allow sufficient time if needed to conduct a competitive procurement process if no contract extension was granted. Given the size and complexity of the service area it was determined that a three-year period (i.e., 2018-2020) was needed to complete a competitive procurement process and transition to a new service provider if appropriate.

Fiscal Impact

There is no specific fiscal impact associated with this item. However, future recommendations by the SBWMA Board and Member Agency decisions regarding an extension to their existing Franchise Agreement(s) will ultimately impact the solid waste collection rates charged to residential and commercial customers.

Attachments:

A – Draft Plan and Recommend Process

Attachment A
Draft Plan and Recommended Process

Key Steps:

- Complete an analysis of Recology's actual collection costs vs. the compensation they receive. This analysis will help establish more accurate baseline compensation figures to use in projecting future collection costs for Member Agencies. Staff, with the assistance of a consultant, will conduct an initial analysis based on information provided by Recology. Once any follow-up questions or issues are addressed, then the final information will be used to build a baseline financial model for contractor collection costs.

Staff will use the baseline financial model to produce multiple scenarios of future collection costs based on assumed contract changes and other factors such as pass-through costs (i.e., mainly processing and disposal costs). Future pass-through costs may be affected by changes to contracts with third party vendors (e.g., Republic Ox Mountain landfill), Shoreway capital improvement scenarios (per the Long Range Plan), etc.

- Review the existing "uniform" Franchise Agreement to determine what changes should be included in a potential future Franchise Agreement with Recology. An initial review will be conducted by staff, with input from Recology, on basic contract provisions like reporting and other administrative items that have a minimal financial consequence.

Staff will engage the Board and TAC to identify any contract provisions they want to be evaluated for possible change. One possible item might relate to evaluating potential changes to the compensation methodology. Staff would also recommend obtaining feedback early on from Recology to understand if they want any changes to the current compensation methodology.

Other possible changes to the Franchise Agreement may relate to changes in the scope of services. The current scope of collection services has already been evaluated as part of the 2015 Long Range Plan and some changes have been recommended (i.e., convert collection fleet to CNG) whereas others are recommended for pilots (i.e., every other week garbage collection pilot and split-body collection vehicle pilot).

- Develop final recommendations for Board consideration regarding a recommended schedule for review and final decisions by the Member Agencies on the extension of the existing Franchise Agreements.

Timeline:

July – Oct. 2015	Complete initial analysis of Recology actual collection costs including building a financial model to use in future projection of collection costs.
Sept. – Dec. 2015	Staff and Recology collaborate on identifying administrative changes to Franchise Agreements. SBWMA staff to prepare a redline and clean version of the Franchise Agreement reflective of recommended contract changes.
Oct. – Dec. 2015	Board and TAC feedback on potential minor contract changes.
Fall 2015 – April 2016	Analysis of and recommendations for any changes to the scope of collection services. Will include completion of pilot projects recommended in the 2015 Long Range Plan.
Jan. – April 2016	Analysis of any proposed major contract changes such as a change to the compensation methodology.
Spring – July 2016	Completion of future collection cost projections based on assumed changes to Franchise Agreement scope of services and other factors such as pass through costs.

Sept. – Oct. 2016

Board adopts recommendations for Member Agency consideration regarding the review and approval process (schedule) for potential extensions to Franchise Agreements. This would include a schedule of when Recology would submit proposals for contract extensions.

Consideration should be given to direct Recology to first submit an overall proposal for the entire service area in the fall of 2016 for review by a committee of JPA and Member Agency staff. Based on that review, JPA staff would prepare recommendations to the Board for specific direction to provide Recology in preparation for their proposals to be submitted to the individual Member Agencies in 2017.

Other Considerations: Member Agencies should consider whether they want to hold a performance hearing per Section 8.11 of their Franchise Agreement to facilitate public input on Recology's performance delivering franchised collection services.