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**DATE:** October 1, 2015

**TO:** Alameda County Source Reduction and Recycling Board

**FROM:** Wendy Sommer, Deputy Executive Director

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**SUBJECT:** Municipal Panel Presentation: Franchise Contract Management

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## **BACKGROUND**

Measure D mandates that 50% of all Recycling Fund revenues be apportioned to eligible municipalities on a population basis. In 1996, the Board began requesting that representatives from each Measure D-funded jurisdiction update the Board annually on their recycling and waste diversion programs.

Every quarter, StopWaste staff assembles a panel of representatives from the member agencies to speak on a topic previously selected by the Recycling Board. The topic for the October Municipal Panel is “Franchise Contract Management.” Representatives from the cities of Fremont and Livermore, and from the Castro Valley Sanitary District, will participate in this panel.

## **DISCUSSION**

Given that the topic of franchise contract management spans a large number of diverse and complex issues, we have decided to focus this municipal panel narrowly on the related topics of rate structures and revenue (both to the hauler/service provider and to the Member Agency issuing the franchise). The speakers from the member agencies will respond to two questions as part of the panel:

1. Rates Structures. What are the embedded incentives and/or disincentives to recycling and organics in your rates? What are the guiding principles or policies that shape your rates? How have you managed rate changes over time?
2. Franchise Fees and Revenue. What are the franchise fees and how are they used? How does the contract stipulate provider compensation? What have been the revenue trends that affect your agency and your service provider?

By way of background, Appendix A lists the services providers by member agency, with contract expiration dates.

### Rate Structures

An important policy consideration in setting rates is the extent to which an economic incentive exists for the customer. These incentives appear in three main ways. One way is that the relative cost per volume of service is higher (or constant) for those customers with a larger volume of trash. For example, the City of Berkeley offers the strongest incentive countywide for generating less waste in the single family residential sector. The City charges \$15/month for a 13 gallon container and \$114/month for a 96 gallon container. Therefore, if a household generates a very small amount of garbage each week, they can save nearly \$100/month. This type of incentive is most common in single family residential. The second way a Member Agency can create an economic incentive is to include recycling and organics service at no additional (or nominal) charge. This second incentive is universal in the residential sector among Member Agencies for at least base-level services, and it also appears in some commercial rates. The third way that an economic incentive operates is that the equivalent cost of services for recycling and/or organics service is discounted relative to the garbage service. This is common in the commercial sector. Therefore, if a business decreases their garbage waste and transfers that same volume of material into recycling and/or organics, they will see a net decrease in their bill for all three services. (It is important to note that volume of service for all three streams is likely to be higher than service for just garbage, in order to provide enough ongoing service when amounts of garbage, recycling and organics vary week to week.) Commercial rates also have some volume incentives similar to residential, but these are generally less steep compared to similar residential incentives.

Countervailing policy considerations in setting rates involve cost of service and cost recovery. The cost of collecting a 20 gallon “mini-can” of garbage may be nearly as much as the cost of collecting a 32 or even 64 gallon garbage cart. Much of the cost involves driving the truck to the home and tipping the cart; less of the total cost involves the disposal of the larger increment of trash and the incremental cost of supplying a larger cart. Similarly, collecting and processing recycling and organics are not “free.” Costs for these services may range from somewhat cheaper to more expensive than the cost of collecting and disposing of garbage. For bundled residential services, where all costs are recovered through rates on the garbage can and recycling and organics collections appear to be “free” to the resident, some may subscribe to the smallest possible mini-can for garbage and simply toss their overflow refuse into one or another of the larger, “free” recycling or organics carts. Contamination in the recycling and organics streams is a result, as is a deficit in revenues, necessitating another round of rate increases. There is a direct cost of providing three carts to each home and sending a truck around to service each one every week, regardless of the size of the respective bins. Developing rate structures that account for these baseline “core” costs and still encourage resource conservation is one of the primary challenges facing local governments today.

Table 1 shows the rates and incentives in the single family residential sector. The highest rate difference between the largest and smallest level of service reflects the strength of the incentive within this member agency, irrespective of the comparative costs by city for each service level. One twist on this incentive is the size of the smallest container available—not all member agencies offer “mini-cans” of 20 gallons, and only three offer weekly service less than 20 gallons.

**Table 1: Residential Incentives**

Member Agency	10-13 Gallon	20 Gallon	32-25 Gallon	60-64 Gallon	90-96 Gallon	Cost Difference (Highest-Lowest)
Alameda		\$ 30.65	\$ 38.65	\$ 63.56	\$ 88.77	\$ 58.12
Albany	\$ 18.37	\$ 36.72	\$ 41.13	\$ 71.08	\$ 101.02	\$ 82.65
Berkeley	\$ 15.49	\$ 23.79	\$ 38.05	\$ 76.05	\$ 114.03	\$ 98.54
Dublin			\$ 21.10	\$ 38.75	\$ 56.40	\$ 56.40
Emeryville	\$ 7.21	\$ 10.93	\$ 18.10	\$ 36.19	\$ 54.29	\$ 47.08
Fremont		\$ 29.89	\$ 30.51	\$ 33.39	\$ 48.93	\$ 19.04
Hayward		\$ 20.40	\$ 29.81	\$ 53.16	\$ 76.48	\$ 56.08
Livermore		\$ 23.61	\$ 32.96	\$ 57.54	\$ 90.41	\$ 66.80
Newark		\$ 26.01	\$ 28.91	\$ 51.20	\$ 73.47	\$ 47.46
Oakland	\$ 32.10	\$ 32.10	\$ 36.82	\$ 67.19	\$ 102.43	\$ 70.33
Piedmont		\$ 51.39	\$ 53.99	\$ 63.42	\$ 74.71	\$ 23.32
Pleasanton			\$ 33.80		\$ 41.43	\$ 7.63
San Leandro		\$ 22.84	\$ 28.46	\$ 46.37	\$ 66.26	\$ 43.42
Union City		\$ 26.08	\$ 32.60	\$ 65.25	\$ 97.85	\$ 71.77
Castro Valley SD		\$ 24.54	\$ 38.07	\$ 66.10	\$ 94.17	\$ 69.63
Oro Loma SD (L1 & L2)		\$ 8.32	\$ 16.60	\$ 33.24	\$ 49.83	\$ 41.51
Oro Loma SD (L3)		\$ 9.60	\$ 19.25	\$ 38.45	\$ 57.70	\$ 48.10
Average Rate	\$ 18.29	\$ 22.29	\$ 27.35	\$ 45.20	\$ 63.91	\$ 44.04

Table 2 illustrates economic incentives in the commercial sector. For the sake of simplicity, this table contains prices at only two service levels (one cubic yard service/one time per week and three cubic yards of service/one time per week) although there are numerous rate categories. Most often, rates are linear, meaning that three yards of services costs three times one yard. The fifth column demonstrates the cost *per cubic yard* of garbage service when comparing one and three yards of garbage with one weekly pickup, the first incentive noted above. Almost half the member agencies have the same cost/yard regardless of volume, and nine offer a slight discount on price/yard for higher volumes. Perhaps more importantly than this incentive, however, almost every member agency offers some type of discount or incentive for recycling and organics service, as shown in columns six and seven.

**Table 2: Commercial Incentives**

Jurisdiction	1CY/ 1xweek	3CY/ 1xweek	Price/Yard 3CY/Week	Price/yard 3CY v 1CY	Organics Discount	Recycling Discount
Alameda	\$147.36	\$442.08	\$147.36	\$0.00	20% 1-96 gallon no charge	20% 1-96 gallon no charge
Albany	\$163.87	\$491.61	\$163.87	\$0.00	50%	100%
Berkeley	\$128.00	\$384.01	\$128.00	\$0.00	20%	100% (Berkeley Customers)
Dublin	\$102.35	\$307.05	\$102.35	\$0.00	50%	100%
Emeryville	\$107.78	\$323.34	\$107.78	\$0.00	50%	50% 2-64 gallon no charge
Fremont	\$86.95	\$195.45	\$65.15	(\$21.80)	50%	25%
Hayward	\$126.75	\$326.58	\$108.86	(\$17.89)	50%	80%
Livermore	\$116.72	\$350.16	\$116.72	\$0.00	50% 1-96 gallon no charge	50% 1-96 gallon no charge
Newark	\$117.14	\$309.91	\$103.30	(\$13.84)	25% (yard debris only)	50%
Oakland	\$194.10	\$462.27	\$154.09	(\$40.01)	(14-40% Higher**)	Open Market
Piedmont	\$169.43				100%	100%
Pleasanton	\$161.96	\$462.52	\$154.17	(\$7.79)	N/A	1-96 gallon no charge
San Leandro	\$124.78	\$377.23	\$125.74	\$0.96	20% 1-96 gallon no charge	1-96g no charge 20% mixed recycling 40% source separated
Union City	\$135.44	\$354.94	\$118.31	(\$17.13)	40%	50%
Castro Valley SD	\$270.29	\$719.20	\$239.73	(\$30.56)	25%	100% up to 3 yds
Oro Loma SD (L1 & L2)	\$150.41	\$324.04	\$108.01	(\$42.40)	1-96 gallon no charge	60%
Oro Loma SD (L3)	\$174.00	\$374.91	\$124.97	(\$49.03)	1-96 gallon no charge	1-96 gallon no charge
Average:	\$ 145.73	\$387.83	\$129.28	(\$14.97)		

**Franchise Fee and Revenue**

Since rates are the basis for determining revenue to both the service provider and the member agency, customer incentives directly impact the amount and type of revenue available. Additionally, revenue available from the sale of commodities and tipping fees may also be variable and impact the stability of revenue. Member agencies have taken different approaches to stipulating provider compensation, including such variable approaches as:

- Annual rate changes tied to established indexes, such as the cost of labor, fuel and commodities.
- Periodic cost reviews, with rates adjusted to cover actual costs incurred by the provider and/or compensation for “pass through costs.”
- Set compensation for providers (cost plus profit).

Rates also provide the basis for revenue for member agencies. Approaches for determining revenue to the member agency include:

- Flat percentage of gross rate revenue.
- Additional, dedicated fees for items such as street sweeping, litter abatement, contract administration and vehicle impact fees.
- Fixed amount of compensation due to the member agency.
- Dedicated flat fees per ton.

Combining economic incentives for customers with adequate revenue for service providers and member agencies, within a stable rate adjustment process, can be a difficult and delicate balancing act. This balancing act tends to be thrust into the spotlight when executing a new contract for services or when implementing a new rate structure.

#### Franchise Task Force

As part of the 2010 Strategic Plan, the Agency convened a Franchise Task Force to explore ways in which local franchises could support the established Agency goal of “Less than 10% of good stuff in the garbage.” Participants from several member agencies met with Agency staff for eighteen months to hash out recommendations that would address the identified issues of sustainable business models; investment in new or expanded facilities; varying services across the county; enforcement of franchises, contracts, codes and ordinances; and reporting standards. The most relevant section of the report is a table listing “Goals of an Ideal Franchise System,” attached as Appendix B to this memo. This table reflects many of the policy nuances embedded within a franchise contract.

#### **RECOMMENDATION**

This item is for information only.

## Appendix A

<b>Agency</b>	<b>Provider</b>	<b>Expiration Date</b>
Alameda	Alameda County Industries (ACI)	10/1/2022
Albany	Waste Management	10/31/2021
Dublin	Amador Valley Industries (AVI)	6/30/2020
Emeryville	Waste Management	12/31/2020
Fremont	Allied Waste dba Republic Services	6/30/2018
Livermore	Livermore Sanitation Industries	6/30/2020
Newark	Allied Waste dba Republic Services	5/31/2023
Piedmont	Allied Waste dba Richmond Sanitary Service	6/30/2018
Pleasanton	Pleasanton Garbage Service (PGS)	6/30/2019
San Leandro	Alameda County Industries (ACI)	1/31/2025
Castro Valley SD	Waste Management	4/30/2019
Oro Loma SD	Waste Management	8/31/2024

<b>Agency</b>	<b>Garbage Provider(s)</b>	<b>Expiration Date</b>	<b>Recycling Provider(s)</b>	<b>Organics Provider(s)</b>
Berkeley	City of Berkeley: Putrescible Waste	n/a	City of Berkeley	City of Berkeley
	WM, RSS, Biagini: Dry Rubbish Only	8/31/2015	Ecology Center Waste Management & TriCED	City of Berkeley
Hayward	Waste Management	2/28/2022	TriCED	Waste Management
Union City	Republic Services	6/30/2016	Republic & TriCED	Republic
Oakland	Waste Management	6/30/2025	California Waste Solutions	Waste Management

## Appendix B: Goals of an Ideal Franchise System

Goal	Characteristics
<b>Achieves High Diversion with Minimal Contamination and Maximum Quality of Recovered Commodities</b>	<ul style="list-style-type: none"> <li>• Service delivery structure appropriate to maximize capture rates of specific materials (e.g., availability, frequency, and size and type of containers of service)</li> <li>• Clear, measureable performance standards</li> <li>• Effective incentives for generator, customer, provider, public agencies</li> <li>• Effective disincentives for disposing of readily recyclable material and contamination of recycling</li> <li>• Feedback loop to increase capture rates and minimize contamination (e.g., “love notes,” processor feedback, capture rates compared to contamination rates)</li> <li>• Ability to market material reliably under adverse market conditions</li> <li>• Appropriate standards, technology and efficiency in processing and pre-processing</li> </ul>
<b>Cost Efficient Services with Stable Rates for Customers</b>	<ul style="list-style-type: none"> <li>• Performance standards in place and enforced</li> <li>• Cost controls in place and adhered to</li> <li>• Competitive rates</li> <li>• Rates and services comparable between jurisdictions</li> <li>• Clearly understood basis for rates and rate changes</li> <li>• Ability to minimize or manage major rate adjustments</li> <li>• Ability to manage annual rate adjustments administratively</li> </ul>
<b>Minimizes Risk</b>	<ul style="list-style-type: none"> <li>• Standards, verification, remedies, and defined costs for contracts, including changes or improvements</li> <li>• Minimal litigation risks</li> <li>• Mechanisms for balancing cost/liability</li> <li>• Clear set of rules in place for service changes and extraordinary cost changes</li> <li>• Ability to avoid big and/or sudden revenue shortfalls that would compromise service</li> <li>• Predictability in rate planning and setting</li> <li>• Ability to avoid unanticipated contractor compensation liability</li> <li>• Flexibility to adapt to changing market conditions</li> <li>• Limited liability for materials after disposal or processing</li> <li>• Minimal future/long term environmental risk</li> </ul>
<b>Includes Provisions for Ease of Contract Administration and Transparency</b>	<ul style="list-style-type: none"> <li>• Operational performance standards clear and enforceable               <ul style="list-style-type: none"> <li>○ Liquidated damages provisions clear and enforceable</li> <li>○ Performance standards have other mechanisms for enforcement besides liquidated damages (e.g., provisions for breach of contract, eligibility for extensions)</li> </ul> </li> </ul>

- Effective enforcement mechanisms for routine items as well as large.
- Clear division of responsibilities between contractor, city and regional programs
- Rate review process that does not require complex or difficult to acquire information
- Clearly understood and reported cost, profit and compensation components
- No “leakage” or illegal hauling or dumping
- Defined standards of reporting
  - Includes information on services, sectors, frequency, subscription levels, routes, tonnages, customers, processing and costs
  - Comparable to reports from other providers and agencies
  - No discrepancies between reports
  - Ability to provide generator specific information through audits or verification process
  - Ability to provide jurisdiction specific data
  - Ability to link materials through collection, processing, and disposal

**Provides Adequate & Stable Financial Resources for Government and Service Providers**

- Adequate cost coverage of public services required for contract (e.g., staffing)
- Adequate cost coverage of public services related to contract (e.g., litter abatement, street sweeping, etc.)
- Adequate support for recycling program staff
- Stable revenue stream
- Resources for both long term and short term planning and implementation
- System cost coverage even in zero waste framework
- Resources for long term and short term facility and infrastructure development

**Provides Flexibility and Discretion**

- Scope of services customizable through a defined process
- Mechanisms to determine cost when exercising flexibility
- Transparency in costs
- Right to direct material through a defined process
- Ability to adjust flow to infrastructure changes and/or operational issues (e.g., quarantines, facility performance)

**Promotes Multiple Benefits**

- Supportive of the 3E’s: Environment, Equity, Economy
- Minimal related environmental impacts (traffic, air quality, etc.)
- Provisions for highest and best use of materials
- Provisions to support development of green jobs
- Provisions to maximize benefit on climate change related items

**Enjoys Public & Customer Support**

- Customers know what, when, where and how to place

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materials

- User friendly system with clear public education support
- Defined public education strategy, funding, roles and responsibilities.
- City-wide public education efforts coordinated with regional efforts
- High quality customer services (e.g., no missed pick-ups, readily available staff via phone)
- Rates and services comparable to other jurisdictions
- Customers, citizens and rate payers have broad understanding of the integrated waste management system, including relationships between collection, processing, and disposal of different streams (recyclables, refuse and organics)

**Baseline Goal**

**Protects Public and Meets  
Regulatory Requirements**

Effective mechanisms to address:

- Compliance with legal requirements for public health
  - Minimization and mitigation of litter, overflows, storm water discharges, illegal dumping and spillage
  - Code enforcement
  - Proper hazardous materials management
-