



COLLECTION AND RECYCLING PROGRAM SUPPORT AND COMPLIANCE



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Date: November 19, 2015 Board of Directors Meeting
Subject: Discussion on Draft Plan and Recommended Process for Supporting Member Agencies with Future Franchise Agreement Decisions

Recommendation

This is a discussion only item and no formal action is requested of the Board.

The attached Plan and Recommended Process (see **Attachment A**) for supporting Member Agencies with negotiating a potential Franchise Agreement extension with Recology San Mateo County (Recology) was approved by the TAC at its October 8, 2015 meeting.

To be clear, this is a "process and approach" discussion at this point and not a recommendation whether or not to extend the current Member Agency Franchise Agreements with Recology.

Analysis

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.

The Plan addresses how the JPA staff can best support the Member Agencies with this important decision individually and as a whole service area wide. The attached Plan recognizes that each Member Agency will individually decide whether to extend their Franchise Agreement with Recology and will decide what the final scope of services will be. The prior direction from the Board and past practice has been for the JPA to help facilitate and manage the process for selection of a franchised collection services provider, negotiate franchise agreement contract terms, and to provide overall contract administration support. Staff is committed to continue providing this support if tasked to do so.

The Recology Franchise Agreement extension process outlined in this document does not include the potential extension to the Shoreway Operations Agreement which expires on December 31, 2020. The term extension provisions of that Agreement allow the JPA unilateral discretion to extend the Agreement for up to three additional one-year periods on the current terms and conditions. Such current terms and conditions are very financially beneficial to the JPA as has been discussed at several Board meetings.

The active engagement and collaboration between JPA staff, Member Agency staff (including the TAC), Recology and the SBWMA Board will be required to develop an effective plan and process that can be executed in a timely manner. By meeting the Plan milestones in 2016 this will allow for sufficient time for Member Agencies to schedule their governing body action early enough in 2017 to meet their franchise agreement deadline for action on a franchise agreement extension or not.

Background

On September 24, 2015, an adhoc subcommittee of the TAC met with SBWMA staff Kevin McCarthy and Cliff Feldman to discuss a revised draft of the Plan which was originally shared at the July 9th TAC meeting. This adhoc committee consisted of the TAC Chair Afshin Oskoui, City of Belmont; TAC Vice Chair George Rodericks, Town of Atherton; City of San Mateo City Manager Larry Patterson; Roxanne Murray, City of San Mateo; and Jeff Moneda, Public Works Director, City of Foster City. The final version of the document included as **Attachment A** reflects feedback and discussion from the September 24th meeting. No changes were made to the document as approved at the October 8th TAC meeting.

On June 25, 2015 the Board adopted the 2015 Long Range Plan which includes recommendations that may affect the future scope of the Franchise Agreements. On the same date, the Board adopted the FY1516 budget which provides funding for two collection related pilots, use of co-collection vehicles and an every other week garbage collection pilot.

This item was referred to the TAC by the Board of Directors at its May 28, 2015 meeting. The Executive Committee requested that the TAC review a draft Plan and develop a final recommendation for consideration by the Board. A draft Plan was presented at the July 9th TAC meeting and comments and discussion ensued regarding the Plan.

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.

Attachment:

Attachment A –Plan and Recommended Process for Supporting Member Agencies with Negotiating a Potential Franchise Agreement Extension with Recology San Mateo County

**Plan and Recommended Process for
Supporting Member Agencies with Negotiating a Potential Franchise Agreement Extension with
Recology San Mateo County**

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 include the following provisions regarding the term of the Agreement and an extension:

- **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 prescribed in Section 3.03 was set for a defined period to allow sufficient time to conduct a competitive procurement process if no contract extension was granted. 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 applicable, given the scope of services, and size and complexity of the service area.

Key Assumptions:

- All Member Agencies, with the support and assistance of the JPA, will enter into negotiations with Recology for a potential extension of their franchise agreement beyond 2020. The JPA staff will take the lead in negotiating and drafting the uniform franchise agreement amendments that apply across all Member Agencies, including both minor/administrative changes and any major changes resulting from contract negotiations. Further, upon request, the JPA staff can assist individual Member Agencies with negotiating unique franchise agreement changes (e.g., if a Member Agency has a specific change in Recology's scope of services unique to their community).
- The JPA Board will appoint an adhoc committee of TAC or designated Member Agency staff to review the franchise agreement amendments negotiated by JPA staff prior to such amendments being brought forward to the full Board for consideration. The Board will consider approval of the uniform franchise agreement changes and make a recommendation to forward the uniform Franchise Agreements to the individual Member Agency governing bodies who ultimately approve any changes to their individual franchise agreements, including any unique scope items requested by the Member Agency.
- The JPA staff will take the lead in preparing rate revenue requirement projections, including different scenarios reflective of potential changes to the franchise agreements. JPA staff's work will include building a baseline proforma model that identifies Recology's current compensation vs. their actual operating costs (as provided by Recology). The model will also cover 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. This baseline model will be provided to the Board prior to the start of formal contract negotiations.
- Also prior to the start of negotiations, JPA staff with input from the TAC will prepare a high level analysis of Recology's performance in meeting the franchise agreement performance standards and meeting the original goals of the contractor selection process that resulted in the selection of Recology as the service provider. As part of the performance review, Recology will be requested to prepare its own written self-review.
- If applicable, the JPA staff will take the lead in developing and managing a collection services contractor RFP and selection process if directed by the Board. Such a process would be concluded in time to ensure franchised collection service is provided uninterrupted after expiration of the current franchise agreements on December 31, 2020.
- The Recology Franchise Agreement extension process outlined in this document does not include the potential extension to the Shoreway Operations Agreement which expires on December 31, 2020. The term extension

provisions of that Agreement allow the JPA unilateral discretion to extend the Agreement for up to three additional one-year periods on the current terms and conditions. Such current terms and conditions are very financially beneficial to the JPA as has been discussed at several Board meetings.

Timeline:

- Current – Spring 2016 Member Agency governing bodies decide whether to be part of joint effort to negotiate a potential franchise agreement extension with Recology. This timeline allows for any Member Agencies that want to conduct any formal community outreach, if so desired, regarding this decision.
- Fall 2015 – Spring 2016 Complete analysis of Recology actual collection costs including building a baseline financial model to use in future projection of collection costs. This work will include identifying any significant variances and how such variances may affect future collection costs.
- Jan. 2016 – June 2016 Analysis of and recommendations for any changes to the scope of collection services based on the results of the two collection pilots per the adopted 2015 Long Range Plan and any cost savings suggestions developed by JPA staff in collaboration with Recology.
- March 2016 Recology completes and submits to JPA and Member Agencies a self-review in meeting the franchise agreement performance standards and meeting the original goals of the contractor selection process. This self-review will include suggestions for any cost savings measures and/or future improvements to the current collection services noting that not all of the Long Range Plan collection pilots will be completed yet.
- April 2016 JPA staff completes and submits to the Board its high level review of Recology's performance in meeting the franchise agreement standards and meeting the original goals of the contractor selection process.
- Spring 2016 Board appoints an adhoc committee of TAC or designated Member Agency staff to review franchise agreement amendments negotiated by JPA staff prior to such amendments being brought forward to full Board for consideration This Board action can happen as early as it's clear that a majority of the Member Agencies are onboard with pursuing contract extension talks with Recology.
- Spring – Fall 2016 Contract negotiations take place between the JPA staff and Recology representatives. The final step of this process would be for Recology to submit an overall technical and cost proposal for the entire service area reflective of the agreed upon changes per the negotiations. Once the proposal is reviewed and agreed upon then a final document can be brought to the Board for consideration. (This does not preclude Member Agencies from individually negotiating aspects of their Franchise Agreements separately with Recology.)
- Fall 2016 – Dec. 2016 Completion of future collection cost projections based on negotiated changes to Franchise Agreement scope of services and other factors such as pass through costs.
- Completion of revisions to franchise agreements based on negotiated changes with Recology.
- Jan. / February 2017 Board considers and adopts Recology proposal for extension of current franchise agreements. This approval would be in the form of a recommendation to Member Agencies to adopt the Recology proposal and new, revised and amended franchise agreements.
- March – Dec. 2017 Individual Member Agencies consider approval of contract extension with Recology.