



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Councilmember Johnny Khamis
Councilmember Sergio Jimenez

SUBJECT: SEE BELOW

DATE: January 11, 2019

Approved

Johnny Khamis (signature)

Date

01/11/19

Sergio Jimenez (signature)

**SUBJECTS: ACTIONS RELATED TO NEGOTIATIONS OF RECYCLE PLUS
RESIDENTIAL SOLID WASTE AGREEMENTS**

RECOMMENDATIONS

Accept the Staff Report with the following modification: continue good faith negotiations with California Waste Solutions (CWS) for two weeks in a final attempt to come to an agreement with CWS that resolves past performance issues and is comparable in rates to other recyclers.

BACKGROUND

California Waste Solutions (CWS) is a family-owned company and is one of the largest minority-owned companies, if not the largest, doing business with the City of San José. CWS has provided recycling services in the City of San Jose since 2002 as a sub-contractor and since 2007 as a hauler and processor.

CWS collects recyclable materials in Solid Waste Districts A & C, serving approximately 166,000 households, more than 75% of households in the City.

CWS has not met its diversion requirements in the last few years due to reported curbside pick-up contamination. A City Auditor Report on Curbside Recycling from 2015¹ concluded that had the diversion formula applied to CWS been applied to the City's other recycling contractor, that contractor would have failed to meet its diversion goals in five out of seven years. The report also concluded that districts A & C each had a higher rate of curbside pick-up contamination than did district B. Because of the high percentage of contamination and non-program materials, CWS has paid millions of dollars in fines and additional processing costs.

The Environmental Services Department (ESD) has discussed remedies such as a pilot program for using larger carts for problem areas and households, as well as condensing the rate differences

between 32-gallon, 64-gallon, and 96-gallon garbage carts to encourage household use of larger garbage carts to minimize use of the recycle carts for garbage. Unfortunately, these changes were not implemented.

CWS has offered to pay for a City-wide waste characterization study, to be conducted by the City, to identify the mix of recyclable materials in the waste stream and the amount of contamination and non-program materials placed at curbside.

CWS is a union company (Teamsters), and reports that they pay about \$3 million more per year in better wages and benefits than the City's other provider. The current CWS business model was one that was, historically, imposed exclusively upon them by the City of San José.

CONCLUSION

Despite higher employee costs, the proposed rates for CWS are comparable to those proposed by the City's other recycler.

The percentage of rate increase is based upon service level, current contamination, and non-program material levels at curbside. Unlike the City's other processor(s), CWS has incurred substantial fees to dispose of garbage and contaminated materials that do not meet program requirements set by the City. Garbage companies are paid to dispose of waste materials. This appears to unfairly disadvantage CWS.

It is important to recognize that residents have had legitimate customer service concerns with CWS. The issuance of non-collection warnings and non-collection notices have disrupted service for residents and caused confusion. Moving forward, we expect CWS to work with the City to improve customer service including its responsiveness to resident concerns.

Another issue that has been raised is the Large Item Pickup Program. CWS had ramp-up issues with this program but these appear to have been solved with additional vehicles, equipment, drivers, and customer service representatives to handle the volume of calls for pick-up. ESD is proposing that this program not be included as part of the contract extension.

The negotiation process thus far has been complicated and challenging with staff and CWS having legitimate concerns. We hope that additional time will help resolve these points of contention and that a mutually favorable agreement can be reached.