



**STUDY SESSION**

**Agenda Item # 1**

**AGENDA REPORT SUMMARY**

**Meeting Date:** August 27, 2019

**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

**Prepared by:** Michael Bakaldin, Public Works Consultant

**Reviewed by:** Jim Sandoval, Engineering Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

None

**Initiated by:**

City Council

**Previous Council Consideration:**

April 24, 2018

**Fiscal Impact:**

None at this time

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Should the City extend the existing franchise agreement with Mission Trail Waste Systems (MTWS) for one, ten, or fifteen years?

**Summary:**

- At Council direction, staff has been negotiating a franchise agreement extension with MTWS
- Negotiated agreement modifications would result in improved service levels and ensure full compliance with state mandates
- Negotiations have resulted in three options for consideration – an extension for a one, ten, or fifteen-year term

**Staff Recommendation:**

Direct the staff to complete negotiations with Mission Trail Waste Systems and develop an amendment for a fifteen-year extension to the existing franchise agreement

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

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### **Purpose**

Receive an update on the solid waste and recycling franchise agreement extension negotiations, provide feedback on the negotiated deal points, and provide direction to staff on the length of the extension period - one, ten, or fifteen years.

### **Background**

In 2010, Council approved a franchise agreement with Mission Trail Waste Systems (MTWS) to provide solid waste, recycling, and organics collection services in the City. The original term of the agreement was for ten years and fifteen days with a termination date of September 30, 2020. MTWS was selected after a competitive selection process, in which the City received three proposals to provide collection services.

Starting in late 2017, with the MTWS agreement nearing maturity, the staff completed a performance review and resident survey to evaluate the quality of services provided by MTWS. The performance review found that MTWS complied with the vast majority of its contractual obligations and was providing safe and effective solid waste collection services. The resident satisfaction survey, which evaluated numerous City services, found that the solid waste collection and recycling program scored very high in customer satisfaction with 96.2% of respondents either being “very satisfied” or “somewhat satisfied” with the service, with only fire service scoring higher in customer satisfaction.

On April 24, 2018, as a result of the performance review and resident survey findings, Council authorized the City Manager to enter into negotiations with MTWS for a ten-year franchise agreement extension.

In preparation for contract negotiations, the staff conducted a series of stakeholder outreach events to educate stakeholders and to gather input and feedback. The following events were held in the winter of 2018 and spring of 2019:

- One-on-one meetings with each member of the City Council
- A meeting with an ad hoc committee of the Environmental Commission
- An evening community meeting open to all members of the public
- An online survey open to the public seeking input on improvements to the solid waste and recycling program

The staff compiled the feedback from the four events, evaluated recurring and relevant themes, and added them to its list of negotiating points and agreement modifications. In broad terms, following is a list of identified priorities and agreement modifications:

- Maintain and improve the City’s high diversion rate



**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

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- Achieve compliance with new state recycling and organics mandates
- Secure City-wide roll out of recycling and organics to businesses and multi-family dwellings
- Keep rate increases as low as possible
- Secure a new, clean-air collection fleet
- Maintain the City's wide selection of recycling programs
- Improve the recycling and organics public education and outreach program
- Improve timeliness of the bulky waste collection program

### **Discussion/Analysis**

The above-mentioned list of agreement modifications and improvements was presented to MTWS at the start of the franchise agreement extension negotiation process in the spring of this year. MTWS has conceptually agreed to virtually all proposed modifications, with a few minor modifications. MTWS proposed a small number of modifications also, which the staff has also agreed to in concept. The significant agreement modifications that have been conceptually agreed to in negotiations are presented below:

- Deployment of all new compressed natural gas fueled collection vehicles by July 1, 2021
- Roll-out of organics services to all non-exempt commercial customers by July 1, 2021
- Increase in bulky waste collection from one to two routes, with the option to add additional routes (with a commensurate rate increase) if two routes are not sufficient to meet demand during the peak summer season
- MTWS minimum diversion requirement reset to an achievable level of 65%, while maintaining a goal of 78% and compliance with State recycling mandates
- Provision allowing MTWS to dispose of un-marketable recyclable materials, upon MTWS request and City approval
- MTWS will re-route Thursday routes to achieve operational efficiencies necessary for agreed-on rate adjustments
- Performance bond amount increased to \$1.5M
- Additional requirements added regarding fleet lifecycle and vehicle maintenance and upkeep
- Additional annual report items
- Addition of bulky waste collection promptness of service requirements
- Addition of liquidated damages for existing requirements
- Adjustments to performance review provisions, enabling additional performance reviews
- MTWS to maintain all other currently provided services

### Rate Adjustment

The staff and MTWS negotiated rate adjustments based on the above-mentioned requested service modifications and the following external, extenuating factors:



**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

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- Over the last several years, MTWS has seen a significant drop in revenue from the sale of recyclables due to changes in the market, primarily driven by China’s “National Sword” policy to no longer accept many types of plastic and paper waste
- Significant new state requirements related to the recycling of organics, especially food waste

The staff and MTWS negotiated three different rate adjustment schedules, based on the length of the agreement extension:

**Fifteen-year agreement extension**

- 9% rate increase on July 1, 2020
- 8% rate increase on July 1, 2021
- 7% rate increase on July 1, 2022
- Rate adjustments effective July 1, 2023, and annually thereafter, based on annual change in CPI (Water, Sewer, Trash Index) with a floor of 2% and a cap of 6%

**Ten-year agreement extension**

- 9.9% rate increase on July 1, 2020
- 9.9% rate increase on July 1, 2021
- 9.9% rate increase on July 1, 2022
- Rate adjustments effective July 1, 2023, and annually thereafter, based on annual change in CPI (Water, Sewer, Trash Index) with a floor of 2% and a cap of 6%

**One-year agreement extension**

- 36% rate increase on July 1, 2020
- Only applicable if Council decides not to approve a long-term extension with MTWS. The one-year extension will provide the City adequate time to solicit and evaluate proposals for solid waste collection services and potentially transition to a new service provider

For the ten- and fifteen-year extension options, the following additional agreement modifications have been negotiated:

- Potential for additional future rate adjustments due to unknown changes in City-directed disposal facility or disposal rates (after expiration of existing disposal agreement on November 20, 2023) and/or material changes to MTWS’s cost of organics processing
- No future adjustments to rates due to changes in recyclables processing costs or sales/redemption revenues

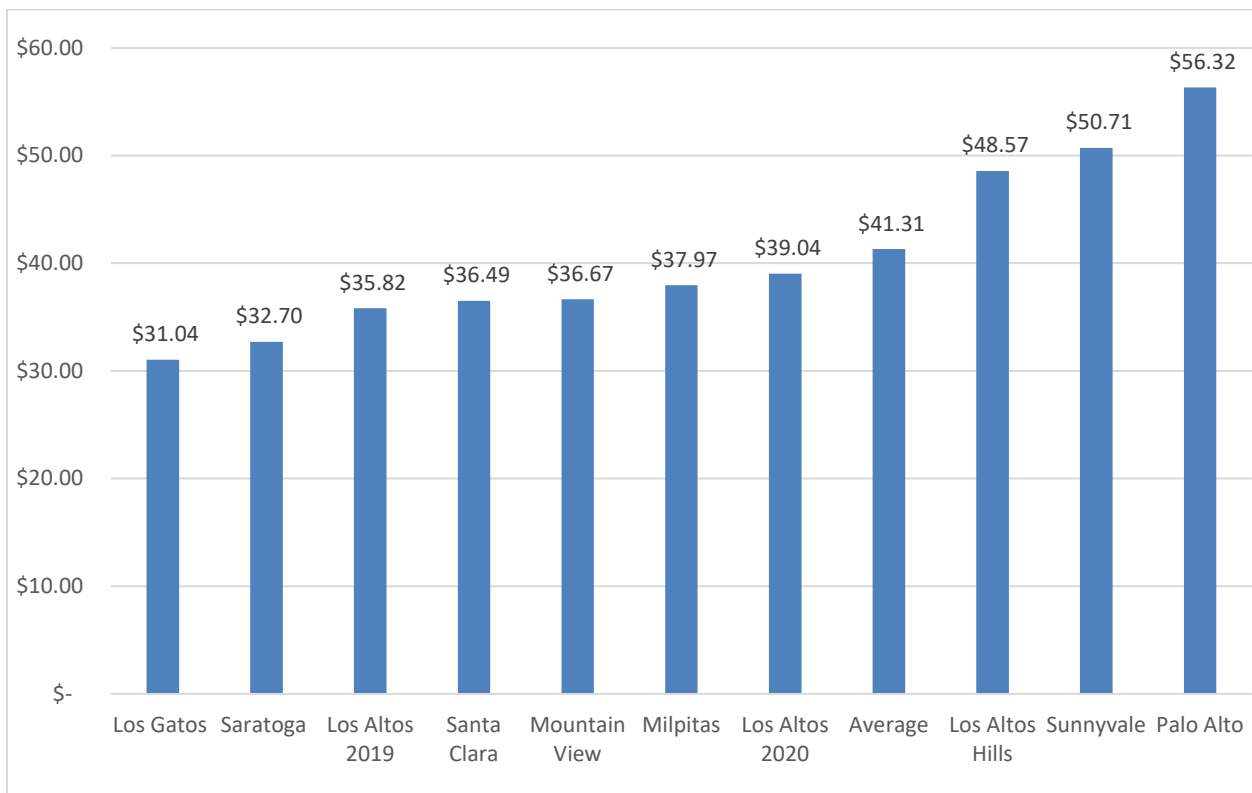


**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

Rate Comparison

Assuming the recommended fifteen-year amendment, Figure 1 displays the projected residential rates for July 2020 for 35-gallon cart service, the most popular level of residential service. For reference, the graph also shows the Los Altos rate as of July 1, 2019. The comparison of projected 2020 residential rates still finds Los Altos below the average of neighboring agencies in Santa Clara County, even after including the 9% first-year rate increase. It is important to note that true comparisons are inherently difficult as each agency offers varying levels of additional services. However, Los Altos offers the broadest variety of additional services of any of the comparable agencies, while maintaining rates below the average.

**Figure 1. Comparison of Projected Monthly Residential Garbage Rates for 35-gallon Cart Service - July 2020**



Note: For the 10-year extension, the Los Altos 2020 rate would be \$39.37, while for the 1-year extension the rate would be \$48.72

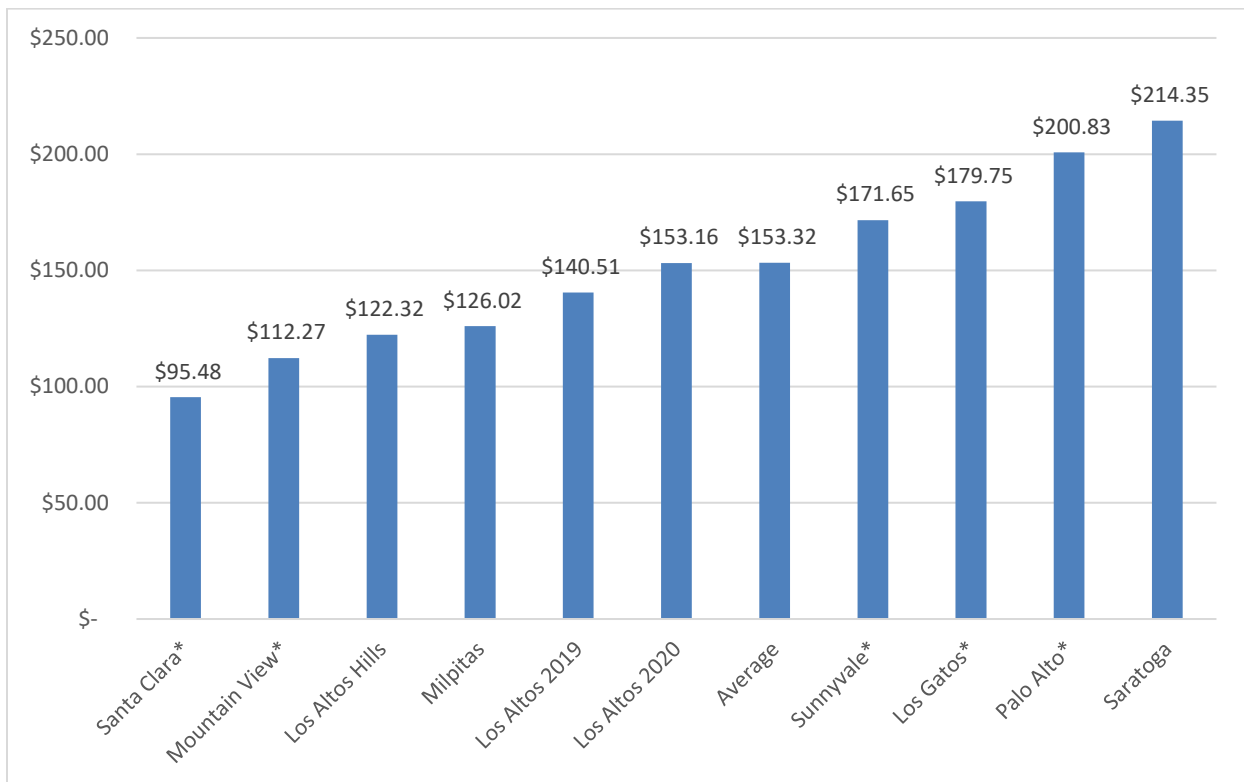
Assuming the recommended fifteen-year amendment, Figure 2 displays the projected commercial rates for July 2020 for 1 cubic yard bin service, the most popular level of commercial service. For reference, the graph also shows the Los Altos rate as of July 1, 2019. The comparison of projected



**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

2020 commercial rates still finds Los Altos below the average of neighboring agencies in Santa Clara County, even after including the 9% first-year rate increase. It is important to note that Los Altos offers commercial organics collection at no additional cost, while the agencies with an asterisk levy additional charges for commercial organics collection.

**Figure 2. Comparison of Projected Monthly Commercial Garbage Rates for 1 Cubic Yard Bin Service - July 2020**



Note: For the 10-year extension, the Los Altos 2020 rate would be \$154.42, while for the 1-year extension the rate would be \$191.09  
\*Agency levies additional charges for commercial organics collection

The negotiated rate increases for the ten- and fifteen-year extension periods are in line with recent negotiated, non-competitive procurements or service provider requested rate adjustments across the Bay Area, with the majority of those rate increases ranging from 9 to 20%. Conversely, the majority of recent competitive procurements in the Bay Area have resulted in rate increases in the range of 30 to 60%. For example, the very recent and comparable new fifteen-year agreement in Los Altos Hills includes rate increases of 9% per year for the first five years.



**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

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## Options

- 1) Direct the City Manager to complete negotiations with MTWS and prepare an amendment to the existing agreement for a fifteen-year extension through September 30, 2035

**Advantages:** The fifteen-year extension would provide the City with the lowest rate increase of the three options and provide continuity and stability in a critical service by a provider that has demonstrated high levels of customer satisfaction. Rates for the most popular residential and commercial levels of service would both remain below average in 2020 after the first negotiated rate increase

**Disadvantages:** The City would not plan to test the market for solid waste collection services for 15 years

- 2) Direct the City Manager to complete negotiations with MTWS and prepare an amendment to the existing agreement for a ten-year extension through September 30, 2030

**Advantages:** The ten-year extension allows the City to provide continuity and stability in a critical service by a provider that has demonstrated high levels of customer satisfaction with a reasonable rate increase schedule in line with other Bay Area agencies. Rates for the most popular residential level of service would remain below average in 2020 after the first negotiated rate increase, while rates for the most popular commercial level of service would jump to slightly above the average of comparable local agencies

**Disadvantages:** The City would not plan to test the market for solid waste collection services for ten year. Rate increase is higher in the first few years than the 15-year agreement

- 3) Direct the City Manager to complete negotiations with MTWS, prepare an amendment for a one-year extension to the existing agreement, and begin the process of soliciting proposals for solid waste collection services

**Advantages:** Allows the City to test the market for solid waste collection services

**Disadvantages:** Raises the rates in 2020 by 36%, setting a new “floor” for the competitive procurement process. Additionally, the majority of recent competitive procurements in the Bay Area have resulted in rate increases in the range of 30 to 60% (versus the 9 to 20% increase for recent negotiated, non-competitive procurements or service provider requested rate increases)



**Subject:** Mission Trail Waste Systems Franchise Agreement Extension Update

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**Recommendation**

The staff recommends Option 1.