

City Council
Jose Esteves, Mayor
Carmen Montano, Vice Mayor
Garry Barbadillo, Councilmember
Debbie Indihar Giordano, Councilmember
Marsha Grilli, Councilmember



NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a Special Meeting of the Milpitas City Council will be held at 6:00 P.M. on Monday, November 14, 2016 at Milpitas City Hall, 455 East Calaveras Boulevard., Milpitas, CA in City Council Chambers on the second floor. Agenda for the meeting is as follows:

SPECIAL MEETING AGENDA

MONDAY, NOVEMBER 14, 2016

6:00 PM CLOSED SESSION

6:30 PM OPEN SESSION

**City Hall, City Council Chambers, 2nd Floor
455 East Calaveras Boulevard, Milpitas, CA 95035**

- I. CALL TO ORDER / ROLL CALL (6:00 PM)**
- II. CONVENE TO CLOSED SESSION**
 - CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
City of Milpitas' appeal of City of San Jose Planning Director Decision, San Jose Planning Commission, file no. PD 14-014
 - CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(3)
Solid Waste Contract – CEQA Analysis
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PUBLIC FORUM (6:30 PM)**

Comments limited to 3 minutes may be made on any subject not listed on the agenda
- V. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- VI. ACTION ITEM**
 - Receive Staff Report and Adopt a Resolution to Approve and Authorize the City Manager to Execute an Agreement for Solid Waste Collection and Processing (Staff Contact: City Manager Tom Williams, 408-586-3051)**
- VII. ADJOURNMENT**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in Council Chambers for all meetings.

AGENDA REPORT

Background:

RFP Process – Disposal and Collection

The City's contract for solid waste collection expires in September 2017. The City conducted a two part procurement process, separating disposal and collection contract award. In response to the City's Request for Proposals (RFP), two companies submitted disposal proposals (Green Waste Recovery and Waste Management, Inc.) and six companies submitted solid waste collection and materials processing proposals (California Waste Solutions, Garden City Sanitation, Green Team, GreenWaste Recovery, Republic Services, Inc., and Waste Management, Inc.). The high level of competition for the services has been demonstrated to be a direct result of separating the proposal process and contract award for the two services, resulting in substantial savings to ratepayers.

Award of Disposal Agreement

In March 2016, the City Council awarded the disposal contract to Waste Management, Inc. This decision was affirmed by voters in the recent election via the outcome of the Measure "L" ballot measure.

City Council Direction – Collection and Processing

At the May 23, 2016 Council study session, five of the six collection proposers presented their qualifications and approach for providing services to Milpitas. At the June 21, 2016 Council meeting, staff presented technical evaluation results and proposed costs. Council directed staff to conduct negotiations with each of the four lowest cost proposers (Garden City, Green Team, GreenWaste Recovery, and Republic Services, Inc.) and authorized the City Manager to discontinue negotiations with any of the proposers upon his determination that a viable contract could not be agreed-upon.

Determination of Viable Proposals

The City Manager provided oversight of, and participated in the negotiations. As the negotiations with the proposers progressed, it became clear that it was not possible to negotiate viable franchise agreements with Green Team and GreenWaste Recovery. The business terms required by Green Team created an unacceptable level of cost and contractual risk to the City and to ratepayers. The cost proposal, subscription level commitments, and resulting customer rates required by GreenWaste Recovery resulted

in significantly higher rate impacts (a rate increase of more than 30%) than the other remaining proposers, despite several cost reduction strategies that were discussed in the negotiations.

Council Direction on October 17, 2016

At the October 17 Council meeting, staff provided the final draft agreement with Republic Services, Inc. and pricing for both Republic Services, Inc. and Garden City Sanitation (GCS) assuming processing at the City of Sunnyvale's SMaRT Station. Staff was not able to include a final draft agreement with Garden City Sanitation because the City of Sunnyvale was not prepared to commit to the use of the SMaRT Station at that time, despite a commitment letter from Sunnyvale's City Manager submitted with Garden City's proposal. During the meeting, Louie Pellegrini, President of Garden City Sanitation made a commitment to honor Garden City's pricing for collection and processing as provided in the October 17 staff report but to arrange for alternative processing through privately owned and operated since the City may or may not direct use of the SMaRT Station.

Council directed staff to return to Council within thirty days with final draft collection agreements and final pricing for both Garden City Sanitation and for Republic Services, Inc. Council also directed staff to return with pricing and final draft agreements that allow for including or not including the current non-exclusive construction and demolition system services under the exclusive agreement, and for including or not including a 20 gallon cart option for garbage.

Comparison of Collection and Processing Agreements

Options for Consideration

As directed, staff has returned with four service package options for both Garden City and Republic:

- Option 1: Exclusive Debris Box without 20 Gallon Garbage Carts
- Option 2: Exclusive Debris Box with 20 Gallon Garbage Carts
- Option 3: Non-Exclusive Debris Box without 20 Gallon Garbage Carts
- Option 4: Non-Exclusive Debris Box with 20 Gallon Garbage Carts

The City currently has a non-exclusive temporary debris box system with eleven participants. Options 3 and 4 would preserve this non-exclusive system, while options 1 and 2 would incorporate those services into the exclusive franchise with the selected provider. Most residents currently subscribing to the optional garbage cart service do not have options for the size of their carts. At the October meeting, staff presented three options (32-, 64-, and 96-gallons) for cart-based service in the new Agreement. Several members of the public and the City Council were interested in having an additional, smaller option for that cart service. The attached agreements include the language that would be used for all four options, with highlighting to show how the language will be revised based on the Council's selected proposer and option. The two services and cost and rate impacts of the four scenarios are discussed further below.

Key Retained and New Customer-Friendly Services

A top priority for staff has been to retain customer-friendly services based on public comment at Council meetings and other public meetings, and from the surveys. Among the popular features of current services to be retained are:

- Discounted senior rates
- Discounted mobile home rates
- Billing drop-off at City Hall (during the transition)
- Local payment options

Among new customer-friendly services are:

- New Contractor-Provided Carts without the Monthly Rental Fee

- New On-Call, At-Your-Convenience Curbside Bulky Item/Refuse Collection (four per year at no charge)
- Enhanced Used Motor Oil/Filter Curbside Collection & Recycling (no additional charge)
- New Used Cooking Oil Curbside Collection & Recycling (no additional charge)
- New On-Demand Extra Material Setouts (fee for service)

Key Recommended Contract Terms and Other Added Services

In negotiations with Garden City and Republic, the following key business and service terms were incorporated to reflect Council direction and to be in the best interests of the City's ratepayers:

- **Reimbursement of Consultant Costs:** Reimbursement of \$425,000 in consultant costs for assisting the City in the procurement process.
- **Contract Term:** 10 Years if Republic Services, Inc., is selected; 15 years if Garden City is selected (Due to each company's handling of depreciation, Garden City's proposal provides significant additional benefit to ratepayers for the extended term, while Republic's proposal does not.)
- **Rate Adjustment Process:** Little change from RFP, with annual CPI-based adjustments capped at 5% per year, and detailed cost-of-service reviews for years 4 and 8 with a 5% cap. In the event that calculated adjustments exceed the 5% cap, Contractor must present justification to City Council. Garden City's draft agreement provides for a Year 3 review of construction and demolition debris box revenues should revenue targets not be met under Options 1 or 2. Ratepayers and Garden City share in the risk and benefit of an increase or decrease in rates, and any change is subject to the 5% cap. Garden City's draft agreement also moves the Year 8 detailed cost of service review up by one year to Year 7. In both cases it is staff's belief that these changes provide a fair distribution of risk reflecting Garden City's present understanding of services in Milpitas as a non-incumbent. It is also worth noting that these changes were not requested by Republic in their proposal nor during negotiations.
- **Billing Services:**
 - Selected contractor will assume responsibility for all customer billings
 - City Hall payment drop-off will be retained for one to two years (at City direction) after transition; contractor will establish a local payment locations after that
 - Elimination of several historic City charges (billing services, street sweeping fee, bus stop service, administrative costs, etc.) through direct provision of services by Contractor rather than City
- **Standard Service Level and Variable Rate Features:**
 - Single-Family Customers:
 - 38 gallon (under Options 2 and 4), 45-gallon, 64-gallon and 96-gallon contractor-provided split-carts for garbage and food scraps (see further description below)
 - 20 gallon (under Options 2 and 4), 32-gallon, 64-gallon, and 96-gallon contractor-provided garbage carts under the Republic agreement
 - Multi-Family Customers: 32, 64, and 96-gallon carts; 1 through 8 yard bins; compactors
 - Commercial Customers: 32, 64, and 96-gallon carts; 1 through 8 yard bins; compactors
 - Roll-off/Compactor Customers: 10, 20, 30, and 40 yard boxes; various compactors
- **New/Improved Services for Legislative/Regulatory Compliance:**
 - Residential Food Scraps Program starting immediately with new contract (SB 1383)
 - Commercial and Multi-Family Recycling (AB 341) at 25% of equivalent garbage rate
 - Commercial and Multi-Family Organics (AB 1826) at 80% of equivalent garbage rate
 - Special Event Recycling Services (AB 2176) at no charge to City or event organizer
 - Significant expansion of public education and outreach (AB 341, AB 1826)
 - Significant expansion of reporting (AB 341, AB 1826)
- **Solid Waste Processing:** The proposed Republic contract reserves the City's right to implement solid waste processing at a later date at a specified cost, depending on the City's remaining

regulatory demands after implementation of recycling/organics programs noted above. As discussed further below, the Garden City contract does not currently provide for guaranteed capacity or pricing for this type of processing. Should the City direct use of the SMaRT Station in the future, this service would be included in a contract amendment. This processing is expensive, regardless of the selected contractor, and may not be necessary for several years (if at all). As such, it is not recommended for initial implementation, until such time that it is needed.

Comparing the Options

The four options are a function of how temporary debris boxes are handled and whether a 20 gallon garbage cart option will be made available for single-family residents.

Temporary Debris Box Services

Options 1 and 2 provide for shifting the services provided through the current non-exclusive system to the collection franchise. Options 3 and 4 provide for maintain the current non-exclusive system. Key considerations in deciding between the two approaches include the following, as discussed further below.

Common Practice in the Bay Area.

Effective management of non-exclusive temporary debris box systems to ensure full payment of fees and reporting of diversion requires significant administrative oversight. While many Bay Area cities at one time had non-exclusive systems, they are now primarily limited to larger cities such as San Jose and Oakland. The existence of these other competitive systems in larger communities should provide continuing business opportunities for debris box haulers, should the Council conclude that an exclusive system is more appropriate for Milpitas.

Recent City Audits.

The City recently conducted audits of six of the current non-exclusive franchisees to evaluate the reasonableness and accuracy of each company's reported City fees for 2014. The audits included smaller to medium size companies that are not participating in the City's current solid waste collection procurement process. Staff plans to conduct similar audits for the other, larger franchisees. Findings of the audits included:

- 2014 underpayment of fees to the City for the six small/medium-sized companies totaled about \$21,500.
- Most of the audited parties miscalculated fees, resulting in the under-reporting.
- Record keeping practices varied widely among the audited parties with regard to isolating and accurately tracking total revenues for service to Milpitas customers on which City fees are based.

Retention of the Non-Exclusive System.

As directed by Council at the October meeting, staff has done an initial review of staffing and auditing support necessary to fully manage a non-exclusive system, based on the initial review and the experiences of other communities, staffing is estimated to be the equivalent of one full time employee (\$160,000 per year), with the addition of about \$50,000 per year in outside auditing support to allow for auditing of approximately one third of the franchisees each year. Given the results of the recent audits, should Council direct retention of the current system (Options 3 or 4) staff will prepare a more detailed plan and budget managing the system and return to Council as part of FY 2017-18 budgeting to present proposed modifications to the system, and specific proposed changes in staffing and support. This will also include any modification in fees paid by non-exclusive franchisees needed to increase effectiveness in management of the system.

20 Gallon Garbage Cart Options

Both proposers have agreed on providing an option for 20-gallon garbage service. As noted above, the two companies have a different approaches to residential cart service generally, and to 20 gallon service

in particular. These differences are a function of GCS providing food scraps collection through a split-cart and Republic providing the service by commingling food with yard trimmings. The equipment requirements and availability differ somewhat between these approaches. There is no loss of capacity to the customer with the GCS split-cart approach.

Public Input Supports Selected Service Package

As reported at the June 21, 2016 Council meeting, staff conducted a comprehensive survey (included in the Council packet) of services with more nearly 900 respondents reflecting the ethnic composition of Milpitas. The results are included in the Council packet and generally support the proposed service package.

- 83% of respondents support converting from customer-owned cans to contractor-provided carts
- 53% of respondents support add residential foods scraps, if there is no rate impact
- 69% of respondents support replacing dump days with on-call pick ups

The proposed service package also largely reflects the input of the Recycling and Source Reduction Advisory Commission.

Comparison of Costs and Rates for Negotiated Agreements

The following were the results of comparing service options with and without non-exclusive debris box service and with and without 20-gallon garbage carts.

- Non-Exclusive debris box service: retaining non-exclusive debris box service will result in a cost increase for both Garden City and Republic. The cost increase is the result of lost revenue from lost debris box hauling volume that will not be available to offset overhead costs for the entire collection contract.
- 20-gallon carts: the addition of 20-gallon cart service will result in a cost increase for both Garden City and Republic. This cost increase is primarily driven by the collections contractor’s risk tolerance with regard to reduced revenue resulting from the smaller service level.

Table 1: Summary of Change in Rates by Option

Scenario	% Change from Current Rates*	
	Garden City	Republic
1-Exclusive C&D Without 20-Gal Cart	1.5%	-5.9%
2-Exclusive C&D With 20-Gal Cart	3.3%	-5.4%
3-Non-Exclusive C&D Without 20-Gal Cart	7.4%	1.4%
4-Non-Exclusive C&D With 20-Gal Cart	9.6%	1.9%

*Change for most common rates from current rates

Tables 2 through 5 illustrate several of the most common service levels in use by Milpitas customers. Note that the current monthly residential rate of \$33.89 and the percentage changes in rates by option shown in the following tables are for customers that now have unlimited service using their own garbage cans. However, about fifty percent of residents now subscribe to cart service and are paying a \$3.18 monthly cart rental fee, for a total monthly rate of \$37.07 per month. These cart customers will experience greater rate decreases and/or smaller rate increases compared to those shown in the four tables, depending on the option selected by the Council.

Table 2: Example Rates for Option 1

1-Exclusive C&D Without 20-Gal Cart		Current	Garden City		Republic	
		\$	\$	%	\$	%
Residential	32-Gallon	\$ 33.89	\$ 34.39	1.5%	\$ 31.90	-5.9%
	64-Gallon		\$ 40.44	19.3%	\$ 37.52	10.7%
	96-Gallon		\$ 46.45	37.1%	\$ 43.10	27.2%
	32-Gal Senior	\$ 16.96	\$ 17.21	1.5%	\$ 15.97	-5.9%
	64-Gal Senior	\$ 16.96	\$ 20.24	19.3%	\$ 18.78	10.7%
	32-Gal M.H.	\$ 10.34	\$ 10.49	1.5%	\$ 9.73	-5.9%
	64-Gal M.H.	\$ 15.34	\$ 15.56	1.5%	\$ 14.44	-5.9%
Multi-Family	96-Gallon	\$ 28.62	\$ 29.04	1.5%	\$ 26.94	-5.9%
	1CY 1x/wk	\$ 81.58	\$ 82.77	1.5%	\$ 76.80	-5.9%
	1CY 3x/wk	\$ 186.80	\$ 189.53	1.5%	\$ 175.85	-5.9%
	3CY 1x/wk	\$ 183.60	\$ 186.29	1.5%	\$ 172.83	-5.9%
	3CY 3x/wk	\$ 485.83	\$ 492.94	1.5%	\$ 457.34	-5.9%
	4CY 1x/wk	\$ 213.31	\$ 216.43	1.5%	\$ 200.80	-5.9%
	8CY 1x/wk	\$ 382.28	\$ 387.87	1.5%	\$ 359.86	-5.9%
Commercial	96-Gallon	\$ 33.62	\$ 34.11	1.5%	\$ 31.65	-5.9%
	1CY 1x/wk	\$ 94.88	\$ 96.27	1.5%	\$ 89.32	-5.9%
	1CY 3x/wk	\$ 233.65	\$ 237.07	1.5%	\$ 219.95	-5.9%
	3CY 1x/wk	\$ 215.48	\$ 218.63	1.5%	\$ 202.84	-5.9%
	3CY 3x/wk	\$ 609.99	\$ 618.91	1.5%	\$ 574.22	-5.9%
	4CY 1x/wk	\$ 252.88	\$ 256.58	1.5%	\$ 238.05	-5.9%
	8CY 1x/wk	\$ 455.73	\$ 462.39	1.5%	\$ 429.00	-5.9%
MSW R/O* (Base Charge)	10 Yards	\$ 512.09	\$ 434.02	-15.2%	\$ 396.50	-22.6%
	20 Yards	\$ 725.49	\$ 607.76	-16.2%	\$ 554.60	-23.6%
	30 Yards	\$ 922.69	\$ 765.06	-17.1%	\$ 697.46	-24.4%
	40 Yards	\$ 1,131.63	\$ 934.28	-17.4%	\$ 851.37	-24.8%
C&D R/O** (Base Charge)	10 Yards	N/A	\$ 390.62	N/A	\$ 356.85	N/A
	20 Yards		\$ 546.98	N/A	\$ 499.14	N/A
	30 Yards		\$ 688.56	N/A	\$ 627.71	N/A
	40 Yards		\$ 840.85	N/A	\$ 766.23	N/A

* Current rate includes disposal cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$42.78/ton.

** Current rate includes processing cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$70/ton (GCS) or \$66.50/ton (REP).

Table 3: Example Rates for Option 2

2-Exclusive C&D With 20-Gal Cart		Current	Garden City		Republic	
		\$	\$	%	\$	%
Residential	20- Gallon	\$ 33.89	\$ 32.22	-4.9%	\$ 29.48	-13.0%
	32-Gallon		\$ 35.02	3.3%	\$ 32.04	-5.4%
	64-Gallon		\$ 41.19	21.5%	\$ 37.68	11.2%
	96-Gallon		\$ 47.32	39.6%	\$ 43.29	27.7%
	20-Gal Senior	N/A	\$ 16.11	N/A	\$ 14.74	N/A
	32-Gal Senior	\$ 16.96	\$ 17.53	3.3%	\$ 16.04	-5.4%
	64-Gal Senior	\$ 16.96	\$ 20.61	21.5%	\$ 18.86	11.2%
	20-Gal M.H.	N/A	\$ 9.83	N/A	\$ 8.99	N/A
	32-Gal M.H.	\$ 10.34	\$ 10.69	3.3%	\$ 9.78	-5.4%
	64-Gal M.H.	\$ 15.34	\$ 15.85	3.3%	\$ 14.50	-5.4%
Multi-Family	96-Gallon	\$ 28.62	\$ 29.58	3.3%	\$ 27.06	-5.4%
	1CY 1x/wk	\$ 81.58	\$ 84.31	3.3%	\$ 77.14	-5.4%
	1CY 3x/wk	\$ 186.80	\$ 193.05	3.3%	\$ 176.62	-5.4%
	3CY 1x/wk	\$ 183.60	\$ 189.74	3.3%	\$ 173.60	-5.4%
	3CY 3x/wk	\$ 485.83	\$ 502.09	3.3%	\$ 459.36	-5.4%
	4CY 1x/wk	\$ 213.31	\$ 220.45	3.3%	\$ 201.69	-5.4%
	8CY 1x/wk	\$ 382.28	\$ 395.07	3.3%	\$ 361.45	-5.4%
Commercial	96-Gallon	\$ 33.62	\$ 34.75	3.3%	\$ 31.79	-5.4%
	1CY 1x/wk	\$ 94.88	\$ 98.06	3.3%	\$ 89.71	-5.4%
	1CY 3x/wk	\$ 233.65	\$ 241.47	3.3%	\$ 220.92	-5.4%
	3CY 1x/wk	\$ 215.48	\$ 222.69	3.3%	\$ 203.74	-5.4%
	3CY 3x/wk	\$ 609.99	\$ 630.41	3.3%	\$ 576.76	-5.4%
	4CY 1x/wk	\$ 252.88	\$ 261.34	3.3%	\$ 239.10	-5.4%
	8CY 1x/wk	\$ 455.73	\$ 470.98	3.3%	\$ 430.90	-5.4%
MSW R/O* (Base Charge)	10 Yards	\$ 512.09	\$ 443.67	-13.4%	\$ 398.63	-22.2%
	20 Yards	\$ 725.49	\$ 621.43	-14.3%	\$ 557.63	-23.1%
	30 Yards	\$ 922.69	\$ 782.45	-15.2%	\$ 701.30	-24.0%
	40 Yards	\$ 1,131.63	\$ 955.60	-15.6%	\$ 856.08	-24.3%
C&D R/O** (Base Charge)	10 Yards	N/A	\$ 399.30	N/A	\$ 358.77	N/A
	20 Yards		\$ 559.29	N/A	\$ 501.86	N/A
	30 Yards		\$ 704.21	N/A	\$ 631.17	N/A
	40 Yards		\$ 860.04	N/A	\$ 770.47	N/A

* Current rate includes disposal cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$42.78/ton.

** Current rate includes processing cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$70/ton (GCS) or \$66.50/ton (REP).

Table 4: Example Rates for Option 3

3-Non-Exclusive C&D Without 20-Gal Cart		Current	Garden City		Republic	
		\$	\$	%	\$	%
Residential	32-Gallon	\$ 33.89	\$ 36.41	7.4%	\$ 34.36	1.4%
	64-Gallon		\$ 42.82	26.3%	\$ 40.40	19.2%
	96-Gallon		\$ 49.19	45.1%	\$ 46.42	37.0%
	32-Gal Senior	\$ 16.96	\$ 18.22	7.4%	\$ 17.19	1.4%
	64-Gal Senior	\$ 16.96	\$ 21.43	26.3%	\$ 20.22	19.2%
	32-Gal M.H.	\$ 10.34	\$ 11.11	7.4%	\$ 10.48	1.4%
	64-Gal M.H.	\$ 15.34	\$ 16.48	7.4%	\$ 15.55	1.4%
Multi-Family	96-Gallon	\$ 28.62	\$ 30.75	7.4%	\$ 29.01	1.4%
	1CY 1x/wk	\$ 81.58	\$ 87.65	7.4%	\$ 82.70	1.4%
	1CY 3x/wk	\$ 186.80	\$ 200.69	7.4%	\$ 189.37	1.4%
	3CY 1x/wk	\$ 183.60	\$ 197.25	7.4%	\$ 186.13	1.4%
	3CY 3x/wk	\$ 485.83	\$ 521.96	7.4%	\$ 492.52	1.4%
	4CY 1x/wk	\$ 213.31	\$ 229.17	7.4%	\$ 216.25	1.4%
	8CY 1x/wk	\$ 382.28	\$ 410.71	7.4%	\$ 387.54	1.4%
Commercial	96-Gallon	\$ 33.62	\$ 36.12	7.4%	\$ 34.08	1.4%
	1CY 1x/wk	\$ 94.88	\$ 101.94	7.4%	\$ 96.19	1.4%
	1CY 3x/wk	\$ 233.65	\$ 251.03	7.4%	\$ 236.87	1.4%
	3CY 1x/wk	\$ 215.48	\$ 231.50	7.4%	\$ 218.45	1.4%
	3CY 3x/wk	\$ 609.99	\$ 655.35	7.4%	\$ 618.39	1.4%
	4CY 1x/wk	\$ 252.88	\$ 271.69	7.4%	\$ 256.36	1.4%
	8CY 1x/wk	\$ 455.73	\$ 489.62	7.4%	\$ 462.00	1.4%
MSW R/O* (Base Charge)	10 Yards	\$ 512.09	\$ 464.61	-9.3%	\$ 433.58	-15.3%
	20 Yards	\$ 725.49	\$ 651.10	-10.3%	\$ 607.14	-16.3%
	30 Yards	\$ 922.69	\$ 820.19	-11.1%	\$ 764.27	-17.2%
	40 Yards	\$ 1,131.63	\$ 1,001.88	-11.5%	\$ 933.31	-17.5%

* Current rate includes disposal cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$42.78/ton.

Table 5: Example Rates for Option 4

4-Non-Exclusive C&D With 20-Gal Cart		Current	Garden City		Republic	
		\$	\$	%	\$	%
Residential	20- Gallon	\$ 33.89	\$ 34.17	0.8%	\$ 31.76	-6.3%
	32-Gallon		\$ 37.14	9.6%	\$ 34.53	1.9%
	64-Gallon		\$ 43.68	28.9%	\$ 40.60	19.8%
	96-Gallon		\$ 50.18	48.1%	\$ 46.65	37.6%
	20-Gal Senior	N/A	\$ 17.09	N/A	\$ 15.88	N/A
	32-Gal Senior	\$ 16.96	\$ 18.59	9.6%	\$ 17.28	1.9%
	64-Gal Senior	\$ 16.96	\$ 21.86	28.9%	\$ 20.32	19.8%
	20-Gal M.H.	N/A	\$ 10.43	N/A	\$ 9.69	N/A
	32-Gal M.H.	\$ 10.34	\$ 11.33	9.6%	\$ 10.53	1.9%
	64-Gal M.H.	\$ 15.34	\$ 16.81	9.6%	\$ 15.63	1.9%
Multi-Family	96-Gallon	\$ 28.62	\$ 31.37	9.6%	\$ 29.16	1.9%
	1CY 1x/wk	\$ 81.58	\$ 89.41	9.6%	\$ 83.11	1.9%
	1CY 3x/wk	\$ 186.80	\$ 204.74	9.6%	\$ 190.31	1.9%
	3CY 1x/wk	\$ 183.60	\$ 201.23	9.6%	\$ 187.05	1.9%
	3CY 3x/wk	\$ 485.83	\$ 532.48	9.6%	\$ 494.96	1.9%
	4CY 1x/wk	\$ 213.31	\$ 233.79	9.6%	\$ 217.32	1.9%
	8CY 1x/wk	\$ 382.28	\$ 418.99	9.6%	\$ 389.46	1.9%
Commercial	96-Gallon	\$ 33.62	\$ 36.85	9.6%	\$ 34.25	1.9%
	1CY 1x/wk	\$ 94.88	\$ 103.99	9.6%	\$ 96.66	1.9%
	1CY 3x/wk	\$ 233.65	\$ 256.09	9.6%	\$ 238.04	1.9%
	3CY 1x/wk	\$ 215.48	\$ 236.17	9.6%	\$ 219.53	1.9%
	3CY 3x/wk	\$ 609.99	\$ 668.57	9.6%	\$ 621.45	1.9%
	4CY 1x/wk	\$ 252.88	\$ 277.16	9.6%	\$ 257.63	1.9%
	8CY 1x/wk	\$ 455.73	\$ 499.49	9.6%	\$ 464.29	1.9%
MSW R/O* (Base Charge)	10 Yards	\$ 512.09	\$ 475.71	-7.1%	\$ 436.15	-14.8%
	20 Yards	\$ 725.49	\$ 666.82	-8.1%	\$ 610.78	-15.8%
	30 Yards	\$ 922.69	\$ 840.18	-8.9%	\$ 768.91	-16.7%
	40 Yards	\$ 1,131.63	\$ 1,026.40	-9.3%	\$ 938.99	-17.0%

* Current rate includes disposal cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$42.78/ton.

In addition, there are several other minor structural changes to other rate categories, including:

- reducing the cost of Multi-Family and Commercial Organics service (historically more expensive than commercial garbage service);
- adding a charge for Multi-Family and Commercial Recycling service (equivalent to 25% of the same service level of Garbage); and
- converting the current roll-off rate structure to a more equitable and easy-to-understand system.

Among the drivers of the cost and rate differences between the companies are their material handling costs and desired profit levels. The per ton costs for handling recycling, yard trimmings, food scraps, construction and demolition debris, and mixed waste are provided in the table below along with each company’s desired profit level. The figures are the same regardless of the Council’s selected option,

except that the C&D per-ton rate will not be applicable if the Council selects Option 3 or 4 which retain the non-exclusive debris box system.

Table 6: Comparison of Tip Fees and Profit

	Garden City	Republic
Recycling	\$ (15.00)	\$ -
Yard Trims	\$ 62.00	\$ 59.75
Food Scraps	\$ 92.00	\$ 70.00
C&D	\$ 70.00	\$ 66.50
Profit	13.0%	10.5%

The Garden City/GreenWaste Recovery arrangement and the attached agreement both anticipate the possible use of the SMaRT Station, if the City enter into an arrangement with the City of Sunnyvale. Based on the letter from the Sunnyvale City Manager dated October 17, 2016 on this subject, we understand that Sunnyvale has or intends to schedule a special meeting of its Council for November 29th to discuss the issue. Under the proposed agreement, the City may direct Garden City to use the SMaRT Station rather than, or in addition to, the GreenWaste Recovery facility by February 3, 2017 or after the conclusion of Garden City’s five year subcontract with GreenWaste Recovery. The Garden City agreement includes the SMaRT Station as an “approved alternative facility.” The possible participation with Sunnyvale and other municipalities in the SMaRT station has the following potential advantages for the City:

- Higher level of control on rates in the future for the City of Milpitas as a partner in the SMaRT station.
- Better understanding of cost risks moving forward with regard to solids processing
- Ability to implement increased diversion levels

Ratepayer Protections & Contract Management Tools

The agreement, regardless of the selected contractor, provides ratepayers and the City the following protections and tools:

1. Rate adjustments are capped and limited in scope. The contractor will not be compensated for faulty operating assumptions.
2. An objective rate adjustment process that prevents manipulations of future rate increases while fairly compensating the contractor.
3. Guaranteed availability of programs and facility capacity to meet all current and anticipated State regulatory requirements for diversion and removal of organics from disposal.
4. City may conduct independent performance reviews, paid for by contractor.
5. City may at its sole discretion require contractor enter into a one (1) year extension of the Agreement without changes to its material provisions. This is an important protection during the process of selecting the next contractor; one the City’s current agreement does not afford.
6. A clear, City-controlled process for making “changes in scope” and responding to “changes in law.”
7. Objective performance standards for all key areas of service, coupled with pre-defined penalties for failures in compliance.
8. Significant increase in reporting and City’s audit rights over all aspects of the contractor’s operations in the City.

Recommended Contractor:

Staff has evaluated both contract offerings from Garden City and Republic Services for solid waste collections services to determine which company would provide best overall service to the City. The City has defined overall best service based on goals of good governance, transparency, competition, affordable and convenient service, and meeting state diversion mandates.

After a rigorous selection process and negotiation with the top two proposers, staff recommends that Garden City be selected to provide solid waste collection services for the City of Milpitas. By making this selection, the City will realize the following benefits:

- Direct attention and involvement to the Milpitas contract from company ownership and higher levels of management and supervisory oversight, which will likely result in higher service quality for the City
- Working with a Company that is primarily focused on diverting material from landfill, which is consistent with direction of State Legislature and CalRecycle.
- Opportunity to participate in Sunnyvale’s SmaRT station, which is a publicly-owned, transparent facility that can be used for handling materials collected in Milpitas. This could offer the City more control over future costs and availability of viable location for solid waste management.

Staff recommends that Council direct staff to finalize an Agreement with Garden City Sanitation (dba Milpitas Sanitation) that is substantially the same as included in the Council packet and at the same cost presented. Staff further recommends that Council direct staff to report back to Council with a summary of the final agreement, pricing, and rates.

Attachments in the Council agenda packet:

- A. Resolution Authorizing City Manager to Execute Solid Waste Franchise Agreement with Milpitas Sanitation
- B. Resolution Authorizing City Manager to Execute Solid Waste Franchise Agreement with Republic Services
- C. Proposed Milpitas Sanitation (Garden City) Franchise Agreement
- D. Proposed Republic Services Franchise Agreement
- E. Results of Assessing Air Quality and Greenhouse Gas Emissions Impact of Solid Waste Diversion Scenarios
- F. Solid Waste Survey
- G. San Jose CEQA Letter of September 20, 2016 and City Response

California Environmental Quality Act:

As stated in the memo entitled “Results of Assessing Air Quality and Greenhouse Gas Emissions Impact of Solid Waste Diversion Scenarios:”

“...even when considering the emissions impact associated with the worst case scenario for the City-approved waste disposal contract (disposal project) in conjunction with the diversion project, the total emissions still fall well below the *criteria pollutant* thresholds. With respect to GHG emissions, recycling and composting provide lifecycle benefits that far outweigh the impacts from transporting and processing of both the landfilled materials and the materials diverted from landfill...the City of Milpitas’ new and proposed contractual arrangements for hauling, landfill disposal, and diversion of solid waste materials (the combined disposal and diversion projects considered herein) are exempt from CEQA per CEQA Guidelines section 15301, as the contracted activities represent the continued operation of existing public facilities that involve “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.”

Alternative: The City's current contract expires September 5, 2017. Award of an agreement is necessary to ensure continuity of service.

Fiscal Impact: None. The cost of solid waste collection will be included in the solid waste customer rates.

Recommendations:

1. Receive staff report.
2. Select the preferred option with respect to exclusivity or non-exclusivity of debris box services and inclusion or exclusion of the 20-gallon residential cart.
3. Adopt a Resolution to award and authorize the City Manager to execute the solid waste collection franchise agreement with Garden City Sanitation (dba Milpitas Sanitation), subject to final review and incorporation of non-substantive changes by the City Manager and City Attorney
4. If non-exclusivity of debris box services is retained, direct staff to return to Council with a long-term plan for management of the non-exclusive debris box program.