



Post 2021 Solid Waste Collection Options

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City Council Study Session
June 12, 2018



Study Issue

February Study Issue

- Solid waste collection agreement ends July 2021
- Charter limits franchises to 30 years
- Limit will be reached when agreement ends

Post 2021 Options

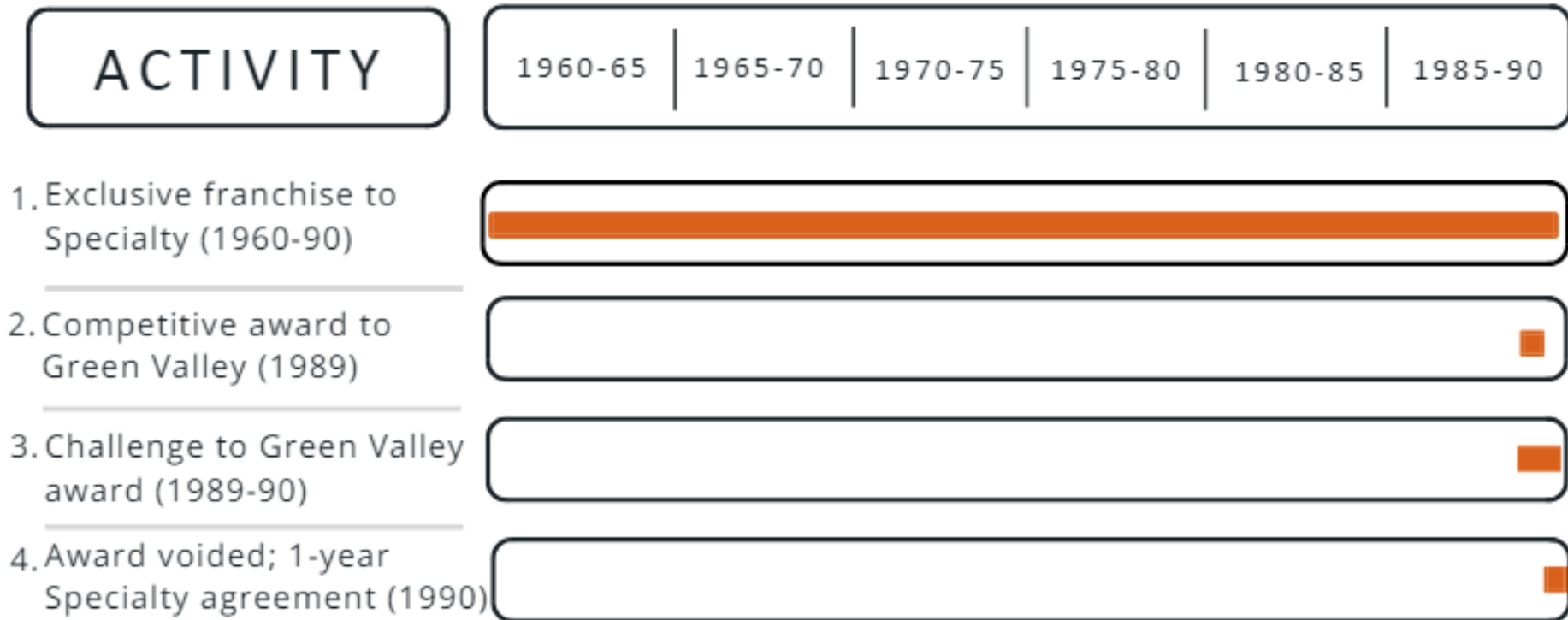
1. Place Charter amendment on ballot to modify franchise term limits; award short-term agreement
2. Conduct competitive process; award new franchise and agreement
3. Conduct single source process, award new franchise and agreement to incumbent without Charter change

Agenda

1. Contracting Practices
 - a. Sunnyvale History
 - b. Best Practices
 - c. Santa Clara County
2. Franchise Term Limit – Common Practices
3. Competitive or Single Source
 - a. Pros and Cons
 - b. Timing and Key Activities
4. Study Issue Findings
5. Recommended/Alternative Actions at July City Council Meeting

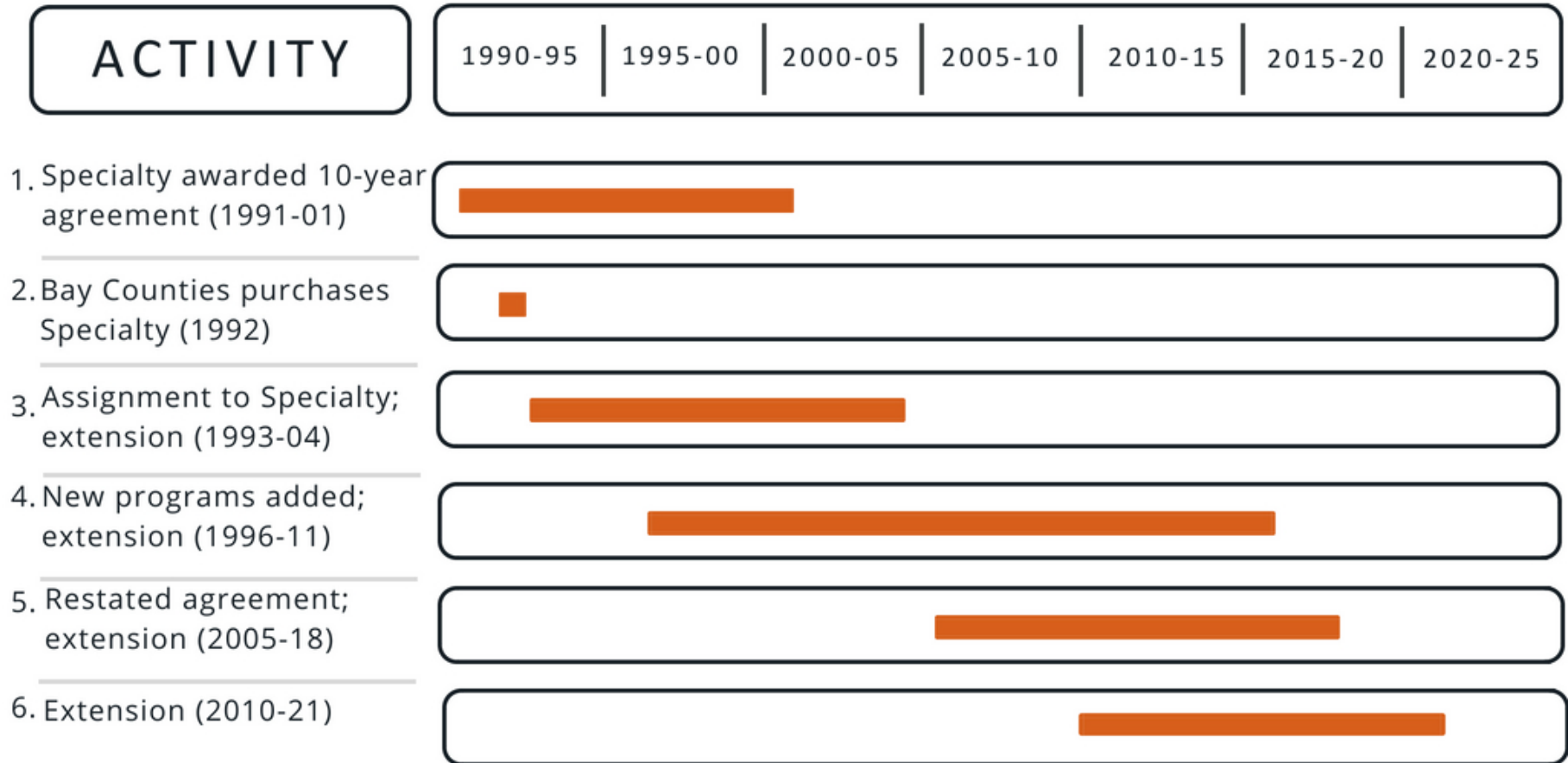
1. Contracting Practices - Sunnyvale

1960 – 1990: 1st 30 Year Franchise



1. Contracting Practices - Sunnyvale

1991 – 2021: 2nd 30 Year Franchise



1. Contracting Practices - Sunnyvale

Past Extensions

- Extensions in 1993, 1996, 2005 and 2010
- Benefits to City:
 - ◆ Lower profit
 - ◆ Improved service
 - ◆ New services
 - ◆ Cost reduction from added efficiency

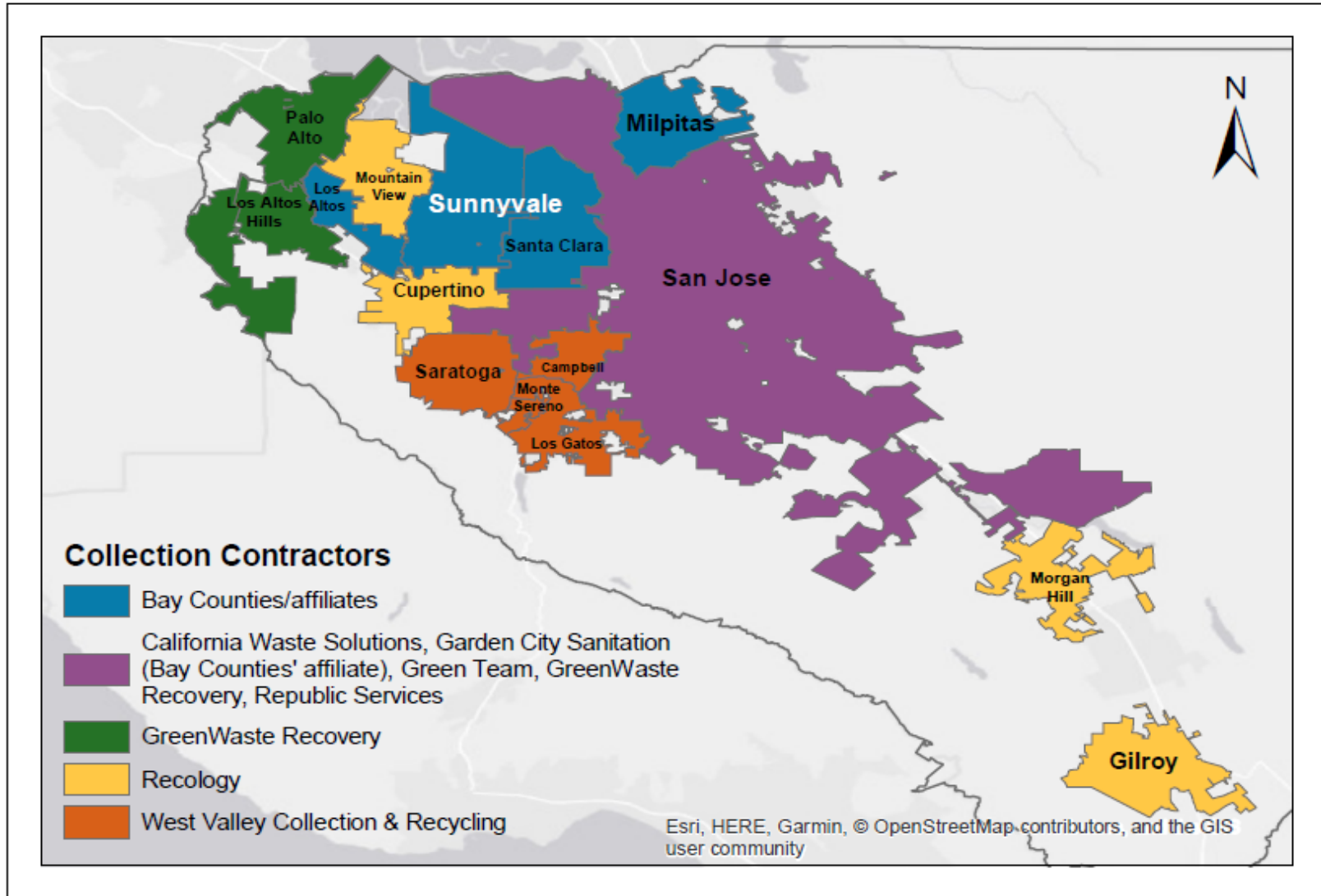
Current Agreement

1. Fixed term
2. 11 years
3. Exclusive

1. Best Practices in Contracting

Agreement Features	Best/Common Practices
Term Type	
Fixed term	✓
Indeterminate or “evergreen” term	
Term Length	
< 7 years	
Seven to 15 years	✓
> 15 years	
Exclusivity	
Exclusive	✓
Nonexclusive	
State law and charter grant broad contracting authority; City not required to award to lowest qualified bidder	

1. Santa Clara County Contractors



2. Franchise Term Limit Practices

Analysis Summary

- Charter language limiting franchise terms fairly common
 - ◆ 10 to 50 years
 - ◆ 25 or 30 years most common (Mountain View and Palo Alto 25 years)
- Language, including the City's, often from 1950s or earlier
- No knowledge of recent use of ballot measures to modify city charters, except for the city of Bell
- Other charter cities with term limits award new franchises to existing contractors on single source basis

3. Competitive Process - Pros and Cons

Advantages	Disadvantages
<ul style="list-style-type: none">• Provides the best financial “deal” the market can offer• May result in lower initial customer rates/market-based rates as compared to single-source negotiations• Process and timeframe more-easily managed• Likely provides wider range of program/service options• May require less time than a single-source process• Provides high level of transparency	<ul style="list-style-type: none">• Best financial deal may not equal best overall value• Likely higher procurement cost than for a single-source approach• Requires more time to develop RFP• Higher risk of service disruption if a new service provider• Increases transportation impacts if new contractor’s facility is more distant• Higher risk of legal challenge

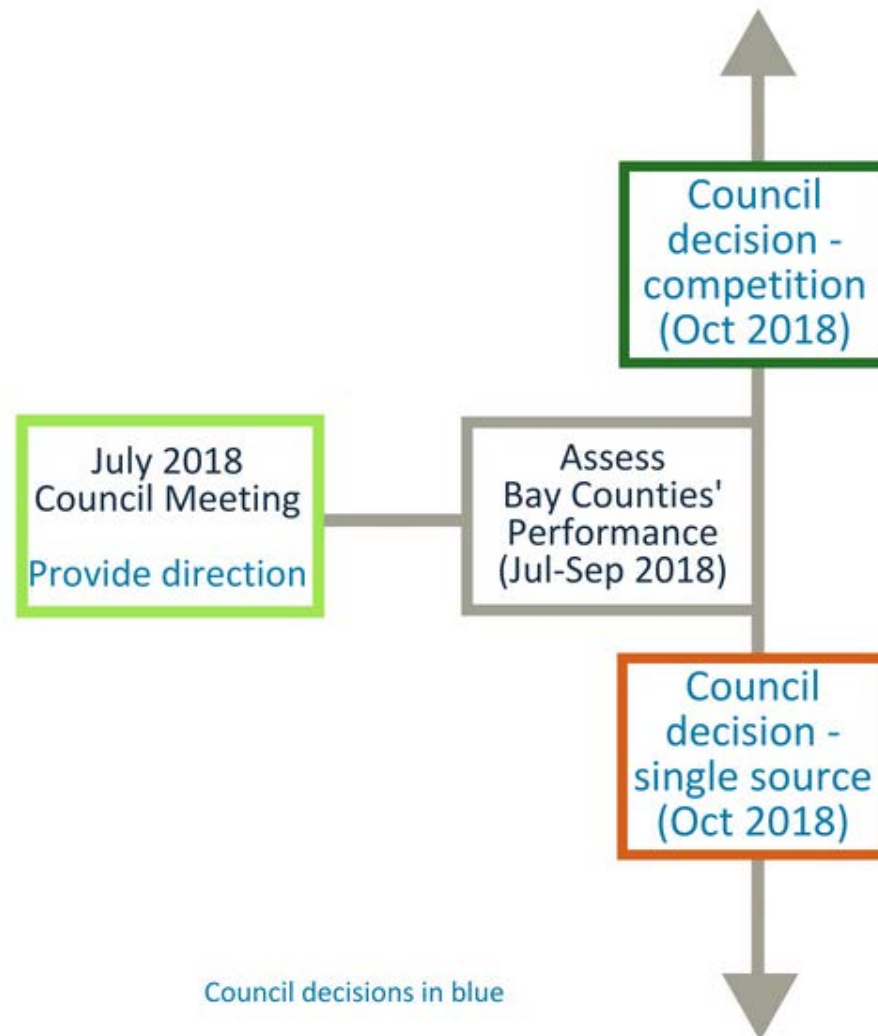
3. Single Source Process - Pros and Cons

Advantages	Disadvantages
<ul style="list-style-type: none">• Maintains or improves current relatively-competitive rates• May require less time than a competitive process• Likely lower cost to conduct single-source process• Allows for shift to a competitive process if City goals are not met• Minimal transition risk• Less risk of legal challenge	<ul style="list-style-type: none">• In absence of competitive pressure does not ensure market-based deal• Less likely to provide full range of service options available in the marketplace• Can be more challenging to control negotiation process• May create perception of lack of transparency

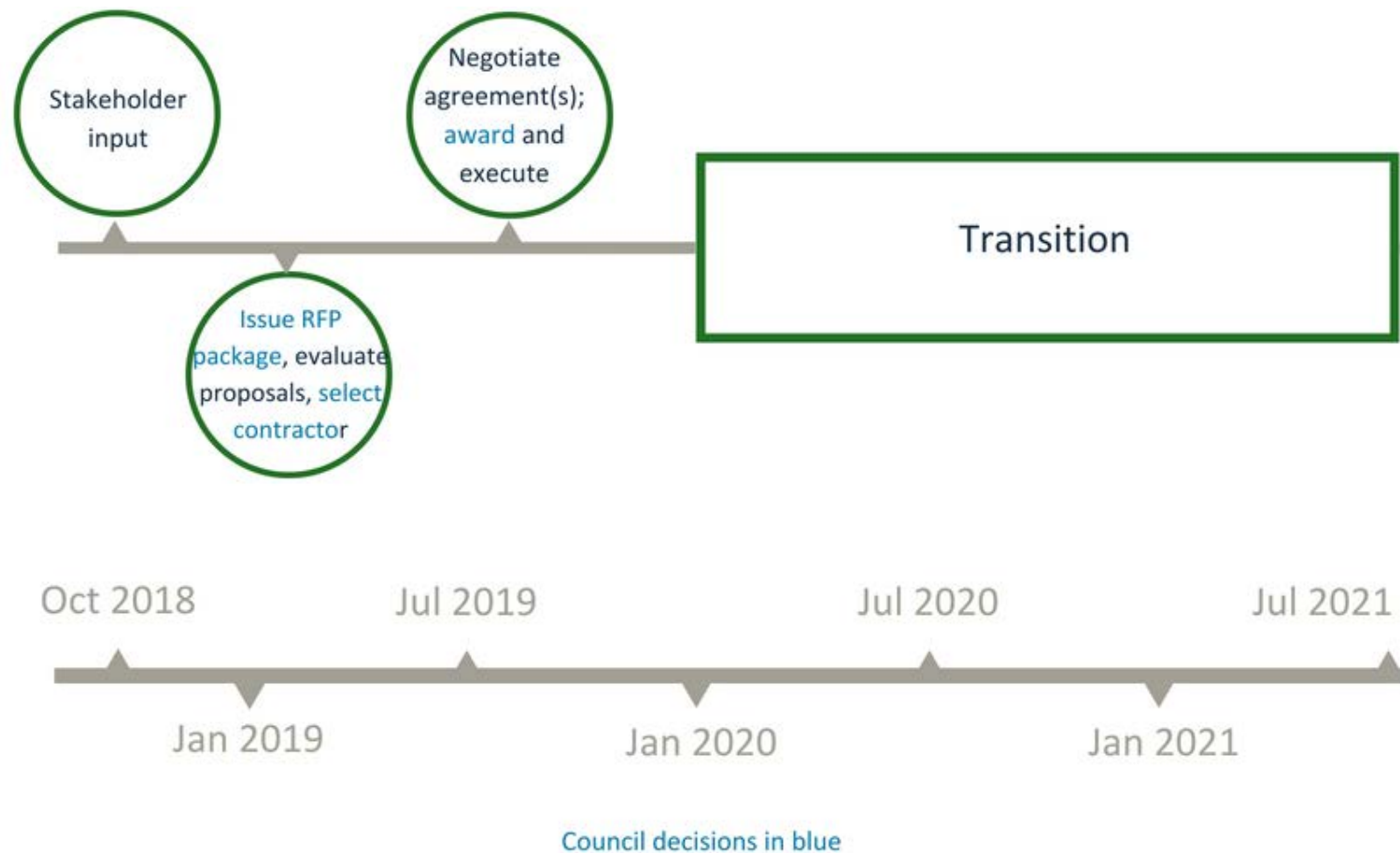
3. Recent Contracting in Santa Clara County

City	Service	Single Source or Competitive
Sunnyvale (2014)	SMaRT operator	Competitive - 3 proposals
Cupertino (2010, 2015, 2017)	Collection and processing	Single source
Los Altos (2010)	Collection and processing	Competitive - 3 proposals
Milpitas (2017)	Collection, processing and disposal	Competitive - 6 collection, 3 disposal proposals
Mountain View (2013, 2016)	Collection	Single source; amended 2016 to add food scraps collection
Palo Alto (2008, 2015)	Collection and processing	Competitive - 2 proposals Single source extension in 2015
San Jose (ongoing)	Residential collection and processing	Single source - negotiations with 4 current contractors
San Jose (2011)	Commercial collection and processing	Competitive - 6 collection, 3 organics processing proposals
West Valley cities (2014)	Collection and processing	Single source extension

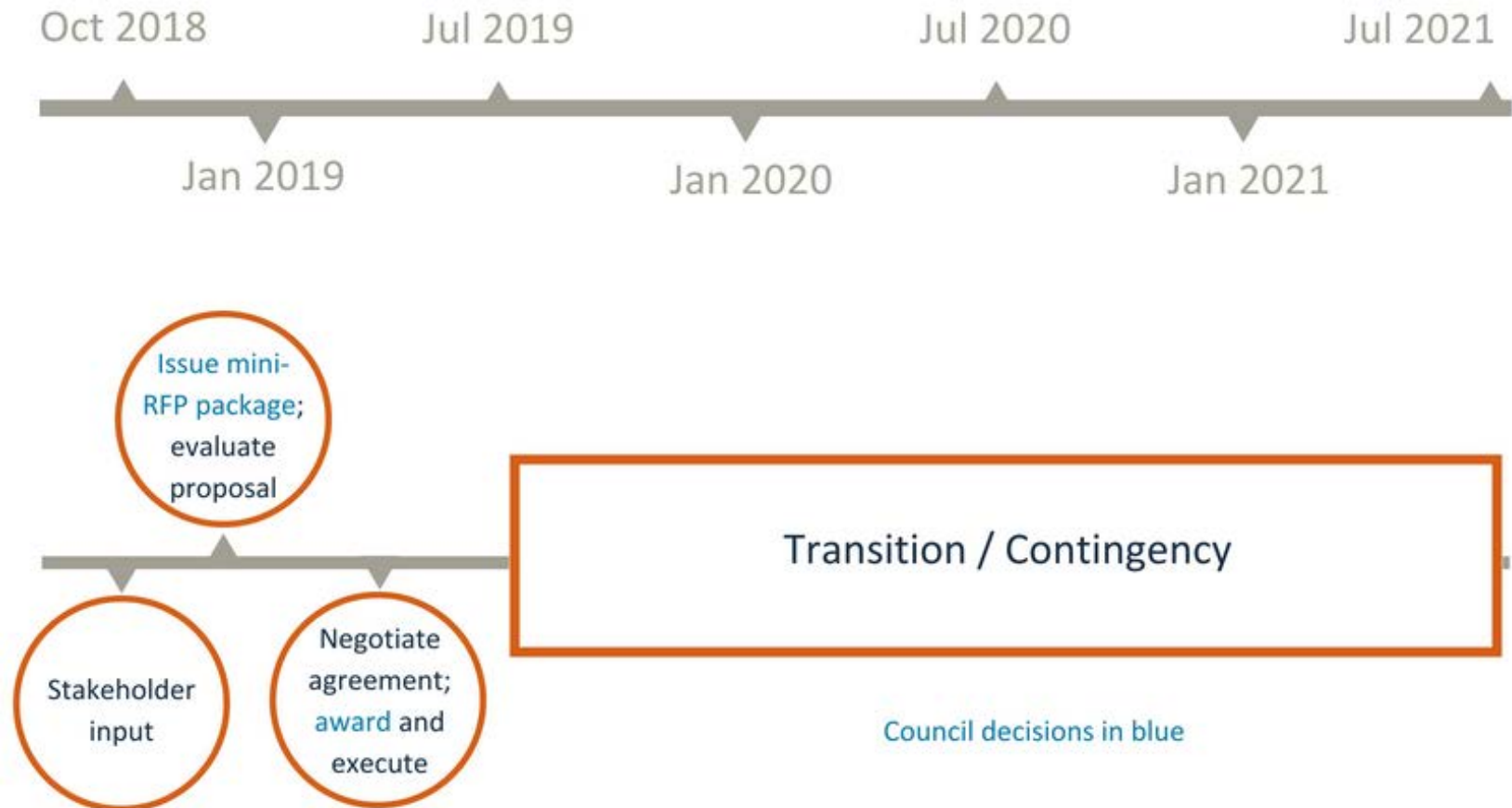
3. Competitive or Single Source – Initial Steps



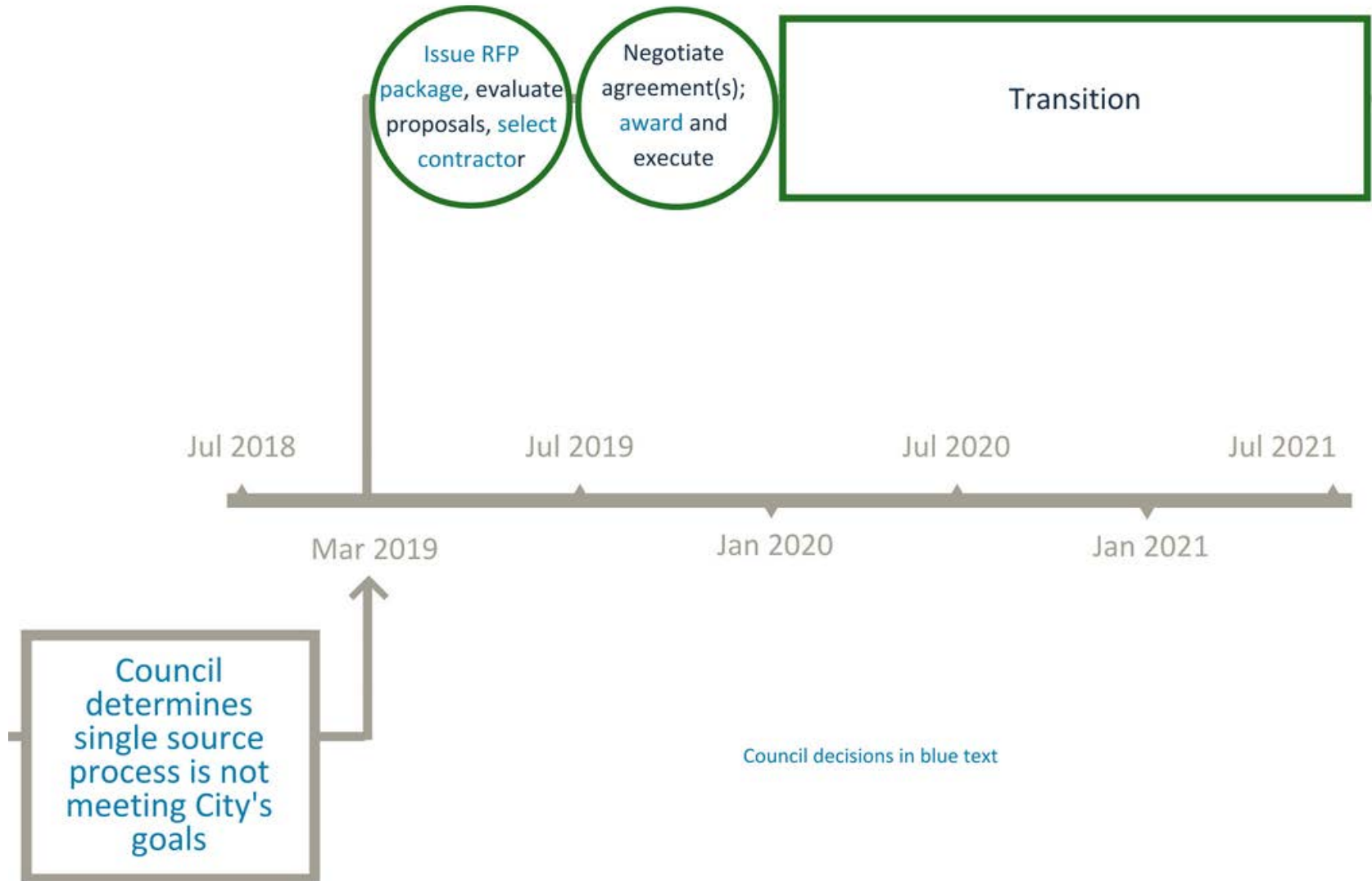
3. Competitive Process – Timing/Key Activities



3. Single Source Process – Timing/Key Activities



3. Single Source Process Converted to a Competitive Process



4. Study Issue – Summary Findings

1. State law delegates broad authority in contracting for solid waste-related services.
2. City solid waste contracting practices are consistent with best practices.
3. We have no knowledge of ballot measures to amend California city charters with the specific intent of modifying franchise terms.
4. A ballot measure could possibly be placed on November ballot; November 2020 more feasible.

4. Study Issue – Summary Findings

5. City cannot *extend* the current franchise term with BCWS without modifying the Charter, but can award a *new* franchise with a *new* agreement.
6. The City likely has adequate time for a competitive, a single source, or a competitive process following an unsuccessful single source process.
7. A new, short “bridge” agreement with BCWS of 1 to 3 years may be needed, depending on approach.
8. Neither a competitive or single source is inherently superior; Council should select whichever best meets City goals.
9. A strong process reduces the risk of successful challenge to award.

5. Recommended Council Guidance and Actions

Tonight

1. Indicate any preference to place a Charter amendment on the ballot this November
2. Identify any other necessary information to support Council action in July

Recommended Actions – July Meeting

1. Approve communications guidelines
2. Direct staff to proceed with assessment of the performance of current franchisee

Recommended Action – October Meeting

1. Direct staff to conduct a single source or a competitive process based on the results of the assessment

5. Alternative Council Actions

1. Direct staff to proceed with a single-source process without conducting an assessment of current franchisee performance
2. Direct staff to proceed with a competitive procurement process without conducting an assessment of current franchisee performance
3. Direct staff to place a charter amendment on the ballot to modify the limit on term of franchise, for 2018 or 2020
4. Direct staff to take other action(s)