



DISTRIBUTION DATE: 1/24/13

MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Zero Waste Procurement Process Integrity **DATE:** January 24, 2013

City Administrator

Date

Approval

/s/ **Deanna J. Santana**

1/24/13

INFORMATION

On January 9, 2013, the Public Works Agency received proposals in response to the Request for Proposals (RFP) for Zero Waste Services. As required by the Protocol for Process Integrity adopted by the City Council (Resolution No. 83729 C.M.S), all inquiries and conversations regarding the RFP must be directed to the Process Coordinator, Garrett Fitzgerald (City Council Resolution and Report attached).

The Protocol established a Code for Communication that requires all eligible proposers communicate with the City **only** through the designated Process Coordinator identified in the RFP. Eligible proposers shall not communicate with City staff, City agents, and elected officials and instead will refer any inquiries to the designated Process Coordinator.

After publication of the recommendation of the top ranked proposers and the completion of the protest period, contact between respondents and City staff, City agents, and elected officials is permissible. Staff expects to present the recommendation of top ranked proposers in May 2013.

If someone contacts you regarding the Zero Waste Services RFP, please refer them to Mr. Fitzgerald at (510) 238-6179 or zerowasterfp@oaklandnet.com. All documents regarding the RFP are posted on the City's website in the news section at www.zerowasteoakland.com.

Respectfully submitted,

/s/

VITALY B. TROYAN, P.E.

Director, Public Works Agency

Attachment

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 FEB -2 PM 1:34

OAKLAND CITY COUNCIL

RESOLUTION No. 83729 C.M.S.

Approved as to Form and Legality

City Attorney

RESOLUTION ADOPTING THE RECOMMENDED PROCESS AND SCHEDULE, AND PROTOCOL FOR PROCESS INTEGRITY, FOR A REQUEST FOR PROPOSALS FOR ZERO WASTE SERVICE CONTRACTS

WHEREAS, the City of Oakland's Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services with Waste Management of Alameda County, and the Agreement for Residential Recycling Service with California Waste Solutions expire on June 30, 2015; and

WHEREAS, in 2006 through Resolution No. 80286 C.M.S. the City Council adopted a Zero Waste Strategic Plan that included Strategy 2, Develop and Adopt New Rules and Incentives to Reduce Waste Disposal, which states: "Development and adoption of a new waste management system design in preparation for Oakland's next collection and disposal contract is key to the goal of reducing waste;" and

WHEREAS, on January 17, 2012 the City Council adopted a System Design which provides the framework for developing new Contracts under a single franchise for citywide garbage and organics collection services, a single franchise for citywide residential recycling, and landfill capacity procured separately from collection and processing services; and

WHEREAS, the City will use a competitive procurement through a Request for Proposals (RFP) to establish new Contracts; and

WHEREAS, the RFP for new Contracts represents one of the City's largest competitive procurements with an estimated total value over \$60 million per year for a term of 20-30 years, including contract extension options; and

WHEREAS, it is critical that the RFP for new Contracts be released by May 2012 in order to allow adequate time to complete the entire RFP process in a thorough manner and obtain the best value for services; and

WHEREAS, before issuing a RFP for new Contracts the City must establish a process and schedule for the procurement; and

WHEREAS, the City's mission and goals for procurement include upholding the highest ethical and professional standards; now therefore be it

RESOLVED: That the City Council hereby adopts the RFP process described in the report dated February 14, 2012; and be it

FURTHER RESOLVED: That the City Council hereby adopts the RFP Schedule for establishing new Contracts described in the report dated February 14, 2012 with a targeted RFP release date of May 23, 2012; and be it

FURTHER RESOLVED: That the City Council hereby adopts the Protocol for Process Integrity described in the report dated February 14, 2012.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 21 2012, 20

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF ~~and PRESIDENT~~

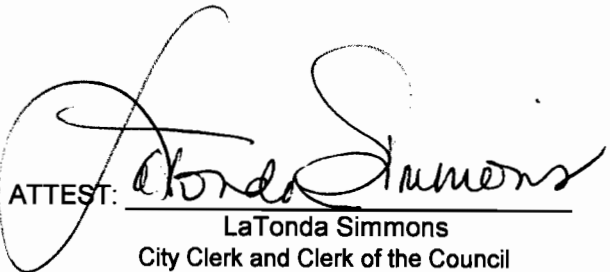
~~REID~~ - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Recused - Reid

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

2012 FEB -2 PM 1:36

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Public Works Agency
DATE: February 14, 2012
RE: **Resolution Adopting The Recommended Process And Schedule, And Protocol
For Process Integrity, For A Request For Proposals For Zero Waste Service
Contracts**

SUMMARY

The recommended resolution adopts a process and schedule for competitive procurement through a Request for Proposals (RFP) to establish Zero Waste Service Contracts (Contracts). In addition, the recommended resolution adopts a protocol for process integrity to foster transparency, consistency, and fairness in the solicitation and evaluation of proposals, and to establish a code of conduct for participants in the RFP process. The new Contracts for garbage and organics collection, recycling collection, and landfill disposal would replace existing agreements that expire on June 30, 2015.

On January 17, 2012 the City Council adopted a Zero Waste System Design (System Design) which provides the framework for developing new Contracts. The RFP for these Contracts represents one of the City's largest competitive procurements, with an estimated total value over \$60 million per year for a term of 20-30 years, including contract extension options. With contracts at such high estimated value, it is important to have clear ground and engagement rules to not create any actual or perceived conflict of interest.

Before issuing the RFP the City must establish a process and schedule for the procurement, and a protocol to ensure process integrity. As described in this report, the recommended RFP process involves:

- soliciting proposals for three new Contracts
- conducting a comprehensive evaluation of the proposals
- conducting exclusive negotiations with the respondents who submit the top-ranked proposal for each Contract
- developing and executing new Contracts

The recommended RFP schedule includes authorization from City Council at several key points including prior to entering into exclusive negotiations on the top-ranked proposals, and prior to executing new Contracts. The recommended Protocol for Process Integrity (Protocol) will maintain transparency, ensure consistency and fairness, and set a code of conduct for the participants.

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This report recommends that the City Council approve the attached resolution adopting a process and schedule for the RFP, and a Protocol for Process Integrity.

FISCAL IMPACT

There are no direct fiscal impacts associated with the adoption of this recommendation. Staff will return to the City Council with recommendations related to the costs and revenues associated with the Contracts.

BACKGROUND

The City of Oakland's Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services (Franchise Agreement) with Waste Management of Alameda County (WMAC), and the Agreement for Residential Recycling Service with California Waste Solutions (CWS) expire on June 30, 2015.

In 2006 the City adopted a Zero Waste Strategic Plan that included developing a new System Design to be used in a RFP process to procure new Contracts. On January 17, 2012 the City Council adopted a System Design which provides the framework for developing new Contracts under a single franchise for citywide garbage and organics collection services, a single franchise for citywide residential recycling, and landfill capacity procured separately from collection and processing services.

Existing Solid Waste and Recycling Services

The Franchise Agreement was approved in 1995 after exclusive negotiations with WMAC, the incumbent garbage franchisee, for an initial term ending December 31, 2010. The 1995 Franchise Agreement has been extended twice. Two years were added in 2005 when the City implemented one-cart residential recycling. In 2011 the term was extended by two-and-one-half years to June 30, 2015 in order to maintain the stability of the existing rate structure for Oakland residents and businesses during the current economic downturn, to maintain stable revenues to the City provided by the Franchise Agreement, and to allow sufficient time to complete System Design and establish new Contracts. Services provided by WMAC under the Franchise Agreement have never been procured competitively, with the exception of residential recycling services that were awarded to WMAC through a competitive RFP procurement in 1993.

The Recycling Agreement with CWS for residential recycling in the northern half of the city was established in 2005 through exclusive negotiations with the incumbent. CWS had previously been awarded residential recycling contracts through a competitive RFP procurement in 1993 and 1997. In 2011 the term was extended by two-and-one-half years to June 30, 2015 to align

with the extended term of the Franchise Agreement so that both services could be included in the RFP.

KEY ISSUES AND IMPACTS

The RFP to establish new Contracts represents one of the City's largest competitive procurements, with an estimated annual value over \$60 million dollars per year for a term of 20-30 years. Oakland's limited history of competitive procurement for solid waste and recycling services requires the City to exercise particular care in conducting the RFP process. At the same time, establishing new Contracts through a RFP allows the City an unprecedented opportunity to set contract terms, service standards, and performance outcomes.

Staff developed the recommendations in this report based on research of similar competitive procurements in other jurisdictions, input from the City's technical assistance consultant, and discussion of process integrity procedures with the Office of the City Attorney. The recommendations are intended to ensure a clear, fair, transparent, and thorough process for soliciting and evaluating proposals, and establishing new Contracts.

This report will cover:

- Benefits of the RFP Process and New Contracts
- Improvements Under New Contracts
- RFP Process and Schedule
- Protocol for Process Integrity

Benefits of the RFP Process and New Contracts

Contracting for recycling, composting, and solid waste services through a RFP to obtain the best value for services is a well-established strategy of many jurisdictions in the Bay Area and throughout the state. Replacing expiring service agreements with completely new Contracts awarded through a RFP process provides particular benefits for implementing Oakland's Zero Waste System Design, and for improving services and contract management tools.

Awarding new Contracts using a RFP puts the City in a stronger position to set contract terms, service standards, and performance goals. Setting these terms and standards is necessary to implement changes in services and contract structures called for under the new System Design. Having set the terms and standards for new Contracts, the RFP process provides the companies that provide these specialized services with an equitable opportunity to compete for desirable multi-year contracts.

The expiring WMAC Franchise Agreement was developed in the 1990's through the best available information at the time, and through exclusive negotiations with the incumbent service provider. New Contracts established using a RFP will incorporate the latest contracting terms and standards, and incorporate lessons learned in Oakland and other jurisdictions including stronger contract management tools to enforce high performance standards for the service providers. Setting contract terms up-front will enable the City to address issues of concern, such as bulky collection services for multi-family dwellings to reduce illegal dumping associated with tenant move-outs.

The new Contracts will also incorporate goals developed by StopWaste.Org's Franchise Task Force. The Task Force researched and consolidated experiences and best practices for designing, developing, and administering service agreements. In developing these policy-level goals the Task Force recognized that franchise systems are enormously complex, with many interrelated issues and challenges.

The Task Force recommended that the Goals of an Ideal Franchise System are:

1. Achieve high diversion with minimal contamination and maximum quality of recovered commodities.
2. Provide cost efficient services with stable rates for customers.
3. Minimize risk.
4. Include provisions for ease of contract administration and transparency.
5. Provide adequate and stable financial resources for government and service providers.
6. Provide flexibility and discretion.
7. Promote multiple benefits.
8. Enjoy customer and public support.
9. Protect the public and meet regulatory requirements.

Improvements Under New Contracts

New Contracts would incorporate provisions that address current and future needs, lessons learned from prior service agreements, and the most current technology advancements. The resulting improvements and benefits under new Contracts would include:

- Bulky collection services for multi-family dwellings to reduce illegal dumping associated with tenant move-outs
- Bulky item drop-off "amnesty days" for Oakland residents to reduce illegal dumping
- City-designated collection services to clean up illegal dumping

- Multi-family dwelling rate structure that provides a minimum mandatory level of service to protect health and safety, while also providing a financial incentive to reduce waste
- Access to recycling services for all businesses, eliminating existing service gaps and enabling businesses to comply with pending state and county recycling mandates
- More recycling and organics container size choices for single family residences
- A new generation of collection vehicles that are more energy efficient, less polluting, and potentially quieter
- Integration of technology advancements for customers, such as SeeClickFix smart phone apps for reporting basic service issues (e.g., missed pick-up, broken cart)
- Comprehensive special events collection services, including recycling and organics services
- Mulch and finished compost from collected organics returned to the City for community benefit
- A turn-key system for street litter container services
- Stronger contract performance enforcement through the addition of administrative assessments for basic contract violations, augmenting established liquidated damages assessments for chronic violations and breach of contract for major violations
- Integration of technology advancements to improve service provider performance, such as on-board wireless communication and global positioning in collection vehicles

RFP Process and Schedule

It is recommended that procurement for Zero Waste Service Contracts be through one RFP that solicits proposals for three contracts, per the framework adopted for the System Design:

1. Garbage and Organics Franchise for citywide collection of garbage, organics, and commercial recycling; organics processing; and transfer and transport to landfill (10-year term, with two 5-year extension options)
2. Residential Recycling Franchise for citywide collection and processing of residential recyclables (10-year term, with two 5-year extension options)
3. Landfill Disposal Contract for landfill capacity (20-year term, with two 5-year extension options)

Respondents to the RFP would be able to submit proposals for, and could be awarded, more than one contract. This submittal arrangement provides the City with the greatest flexibility in awarding new Contracts. Proposals for each contract would be evaluated separately. Respondents would be able to establish joint venture partnerships for the purpose of submitting a

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proposal, subject to partnership disclosures and other requirements detailed in the RFP. The RFP would provide potential respondents with comprehensive background information and data, specific requirements for services to be provided, detailed proposal instructions, and submittal requirements. The RFP will include a procurement schedule, proposal evaluation criteria, description of the selection process, and model contracts. More information on these items will be included in a report to City Council in late March.

The RFP process will begin with the City announcing the release of the RFP, and follow the schedule in Table 1 below. It is critical that the RFP process for new Contracts move forward with release of a RFP by May 2012 to allow adequate time to complete the entire RFP process in a thorough manner and obtain the best value for services. The recommended RFP process schedule details the steps and timing necessary to establish and implement new Contracts before current service agreements end in June 2015.

Table 1 RFP Schedule	
Mandatory RFP Release Conference	Wednesday, May 23, 2012
Mandatory Pre-Proposal Conference	Wednesday, June 13, 2012
Proposals Due	Wednesday, September 12, 2012
Council Report Presenting Top-Ranked Proposals Selected through RFP (Special Meeting, 5th Tuesday)	Tuesday, January 29, 2013
Council Report on Authorization to Enter Exclusive Negotiations with Top-Ranked Proposers	March 2013
Exclusive Negotiation Period Ends	August 2013
Council Report to Approve CEQA & Contracts	October 2013
Execution of Contracts	January 2014
Begin Operations	July 2015

Prospective respondents would be required to attend a mandatory proposal release meeting. At the meeting they would receive the RFP and become an eligible respondent by signing an affidavit acknowledging receipt of the RFP and agreeing to adhere to the Protocol for Process Integrity (discussed below). The City would provide written RFP addenda to all eligible respondents for any necessary amendments or clarifications to the RFP resulting from questions and issues raised by eligible respondents. Based on Oakland's size and location, staff anticipates multiple responsive proposals will be submitted through the RFP process.

Proposals received by the submittal due date would be screened to confirm that they are complete and responsive, and then reviewed and ranked under a detailed and thorough evaluation process. The entire RFP process would be managed by a Project Manager, and conducted by a designated Process Coordinator who would facilitate the review and evaluation work of several teams composed of City staff, the City's technical assistance consultant, and other experts in the field. The evaluation process will involve several distinct steps, including screening to confirm that proposals meet minimum qualifications, extensive technical and financial review and analysis, facility investigation, review of performance in other jurisdictions, interviews, and finally scoring and ranking.

The evaluation process will identify a top-ranked proposal for each of the three contracts, which would be published in a City Council report. Following announcement of the top rankings, a protest period will provide an opportunity for a designated staff member assigned as a Protest Hearing Officer to hear and address any protest issues raised by respondents. Upon completion of the protest period and disposition of any protests by the Hearing Officer, staff will seek City Council authorization to enter into exclusive negotiations with the respondent submitting the top-ranked proposal for each contract in order to finalize Contracts. Staff will return to City Council with a recommendation once negotiations are completed.

Protocol for Process Integrity

The City's mission and goals for procurement include upholding the highest ethical and professional standards. Recognizing the value and length of the agreements for new Contracts as well as the expense for the City and respondents to participate in the process, a Protocol for Process Integrity (Protocol) for this RFP expanding on the City's high standards and safeguards will be established as detailed in *Attachment A*.

The intent of the Protocol is to ensure an impartial climate, and establish a transparent system for communication between the City and prospective respondents to the RFP that guarantees consistency and fairness. The Protocol sets a code of conduct for participants in the RFP process, and provides mechanisms for ensuring that this code is observed. Affected parties under the Protocol would be those involved in a proposal submittal, proposal evaluation, and contract award including: City staff, City agents such as consultants, prospective respondents and their agents, and City elected officials.

The Protocol informs any person involved in proposal submittal, proposal evaluation, and contract award about potential conflicts of interest, and provides a procedure for screening potential conflicts of interest. It includes specific provisions for the proposal evaluation period to protect the confidentiality of the evaluation process and of information in proposal responses.

Specific provisions of the Protocol include:

- A Code for Communications (*Attachment B*):
 - After issuance of the RFP and until the announcement of the top-ranked proposals, all communication between eligible respondents who have received the RFP (and intend to submit a proposal) and the City must be in writing and through the designated Process Coordinator
 - After the announcement of the top-ranked proposals, communication between eligible respondents and the City must be in writing and through a designated Protest Hearing Officer
 - After completion of the protest period, contact between eligible respondents and City staff, City agents, or elected officials is permissible
- Eligible respondents will submit any partnership disclosures by the due date, avoid collusion with one another, and ensure compliance with the Protocol by their employees and agents
- City staff and City agents such as consultants participating in proposal review and evaluation will sign a confidentiality agreement (*Attachment C*) and complete a conflict of interest form (*Attachment D*).
- The City will follow procedures detailed in the Protocol for investigating any allegations of conflict of interest or misconduct by any participant in the RFP process

Additional process integrity safeguards will be implemented to supplement the specific provisions of the Protocol. Prospective respondents would be required to attend a mandatory proposal release meeting in order to receive the RFP and become eligible to propose. A designated Process Coordinator will serve as the point of contact and conduit for all communications between the City and respondents, and among and between work teams performing proposal review, evaluation, scoring, and ranking. The entire RFP process will be overseen by an Executive Management Team, which would include the Public Works Director and representatives from the City Administrator's Office, Finance and Management Agency, and Office of the City Attorney.

Additional RFP Issues for City Council Consideration

Before issuing the RFP staff will return to City Council with additional issues for consideration including:

- Criteria for evaluating RFP responses
- Provisions for local employment, local business enterprise participation, and minimum wages and benefits
- Service provider performance incentives
- Adjustment method for rates paid by residents and businesses

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SUSTAINABLE OPPORTUNITIES

Economic: Implementing a Zero Waste System in Oakland will help Oakland businesses and residents reduce waste and mitigate the long-term trend of increased disposal costs associated with landfill-based systems. Expanding and actively supporting use of discarded materials drives local economic and workforce development with 'green collar' jobs and value added production.

Environmental: Implementing a Zero Waste System will promote sustainability, conserve natural resources, reduce air and water pollution, protect habitat, and reduce greenhouse gas (GHG) emissions.

Social Equity: implementing a Zero Waste System in Oakland will help provide new living-wage jobs for the community, as well as preserve and enhance natural systems that provide basic ecological services such as clean water, clean air, and safe food.

DISABILITY AND SENIOR CITIZEN ACCESS

This report will not have any direct impact on access for persons with disabilities or senior citizens.

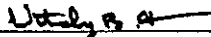
RECOMMENDATION AND RATIONALE

It is recommended that the City Council approve the attached resolution which adopts the RFP schedule and Process Integrity Protocol described in this report. The recommended RFP schedule will allow adequate time for completing the entire RFP process in a thorough manner to obtain the best services and value, and implementing new Contracts before current service agreements end in June 2015. The recommended Process Integrity Protocol will enhance the City's high standards for transparency, consistency and fairness, and establish a code of conduct for all participants.

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that the City Council adopt the attached resolution.

Respectfully submitted,



Vitaly B. Troyan, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director


Reviewed by:
Susan Kattchee, Environmental Services Manager

Prepared by:
Mark Gagliardi, Environmental Services Division

Attachments:

- A – Protocol for Process Integrity
- B – Code for Communications
- C – Confidentiality Agreement
- D – Conflict of Interest Form

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



Office of the City Administrator

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February 14, 2012

Protocol for Process Integrity Zero Waste System - Request for Proposals

BACKGROUND

The City of Oakland is embarking on its first solicitation of proposals for solid waste and recycling services to be awarded as franchises. Because of term and value of the franchises the City must practice the highest standard of integrity to ensure our process is fair, and above suspicion and reproach.

PURPOSE

To provide a fair opportunity for participants in the competitive process for the award of (1) a Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; (2) a Franchise Agreement for Residential Recycling Collection and Processing Services; and (3) a Long Term Contract for Solid Waste Landfill Disposal.

The intent of the Protocol is to create an impartial climate and establish a process for communication between the City and potential respondents during the RFP process, inform any person involved in the decision to award the contracts about conflicts of interest, and provide a procedure for screening of potential conflicts of interest. The Protocol applies to City staff, City's agents such as consultants, potential respondents, and decision makers.

PROCESS

The definition of Competitive Process for this Protocol shall mean procurement and contract activities including specification development, preparation and issuance of request for proposals, evaluation of proposals and submissions, and other evaluations that lead to an award of these City contracts.

I. Code for Communications:

This section describes the characteristics of appropriate communication between respondents and the City during various phases of the Request for Proposals (RFP) process.

A. Prior to Issuance of the Request For Proposals:

Prior to the issuance of the RFP, communication between prospective respondents and City staff, elected officials, or consultants is permissible.

B. After Issuance Of The Request For Proposals And Prior To Submission Deadline For Proposals:

After issuance of the RFP, all prospective respondents shall communicate with the City *only* through the designated Process Coordinator identified in the RFP. Prospective respondents shall not communicate with City staff, City agents, and elected officials and instead will refer any inquiries to the designated Process Coordinator.

All requests for clarification, objections to the structure, content, distribution of the RFP, and other inquiries from prospective respondents must be made in writing; the City shall answer these clarifications, objections, and inquiries in writing via addenda to the RFP.

C. **After Submission Deadline Of The Request For Proposals And Prior To Publication Of The Recommendations:**

After the submission deadline for proposals, all communication regarding the RFP may only be directed to the designated Process Coordinator. Prospective respondents shall not communicate with City staff, City agents, and elected officials and instead will refer any inquiries to the Process Coordinator.

D. **After Publication of the Recommendations:**

The City Administrator will publish the recommendations of top ranked proposals. The City will notify all respondents including the basis for selection and instructions for filing a protest. Respondents wishing to file a protest shall follow the procedures indicated in the RFP document. During the protest period, prospective respondents shall not communicate with City staff, City agents and elected officials and instead will refer any inquiries to the Protest Hearing Officer identified in the RFP.

E. **After Completion of the Protest Period:**

After completion of the protest period, contact between respondents and City staff, City agents, and elected officials is permissible. Respondents may appeal the protest decision at a hearing of the City Council.

II. Respondents Code of Conduct

By requesting a RFP package from the City, potential respondents agree to adhere to this Protocol, including the Code of Communications, and are responsible for ensuring compliance with this Protocol on behalf of a respondent's employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a proposal.

In addition to adhering to the requirements of the Protocol, respondents must comply with the City Debarment Program (Oakland Municipal Code (OMC) Chapter 2.12.050). Grounds for debarment include:

- colluding, directly or indirectly, among themselves in regard to the amount, terms or conditions of a solicitation;
- influencing any City staff member or evaluation team member from the issuance of the RFP to the end of the protest period; and
- submitting incorrect information in the response to a solicitation or misrepresent or fail to disclose material facts during the evaluation process.

Any evidence that indicates a respondent has failed to adhere to any section of this Protocol and OMC Chapter 2.12, may result in the City Administrator disqualifying the respondent from the RFP process as well as possible debarment. Respondents will cooperate with the City Administrator in any investigation.

III. Confidentiality During Evaluation Process

City staff, consultants, and outside evaluators, who are participants in the evaluation process, are required to sign a Confidentiality Agreement, which binds the participants not to share any information about responses received or the evaluation process until the City Administrator publishes the recommendations of the top ranked proposals.

IV. Conflict of Interest

Per the General Rule with Respect to Conflicts of Interest, outlined in OMC Chapter 3.16 "Code of Ethics", City elected officials, appointed officials, their staff, and City employees are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

For this procurement the City shall specifically use these measures:

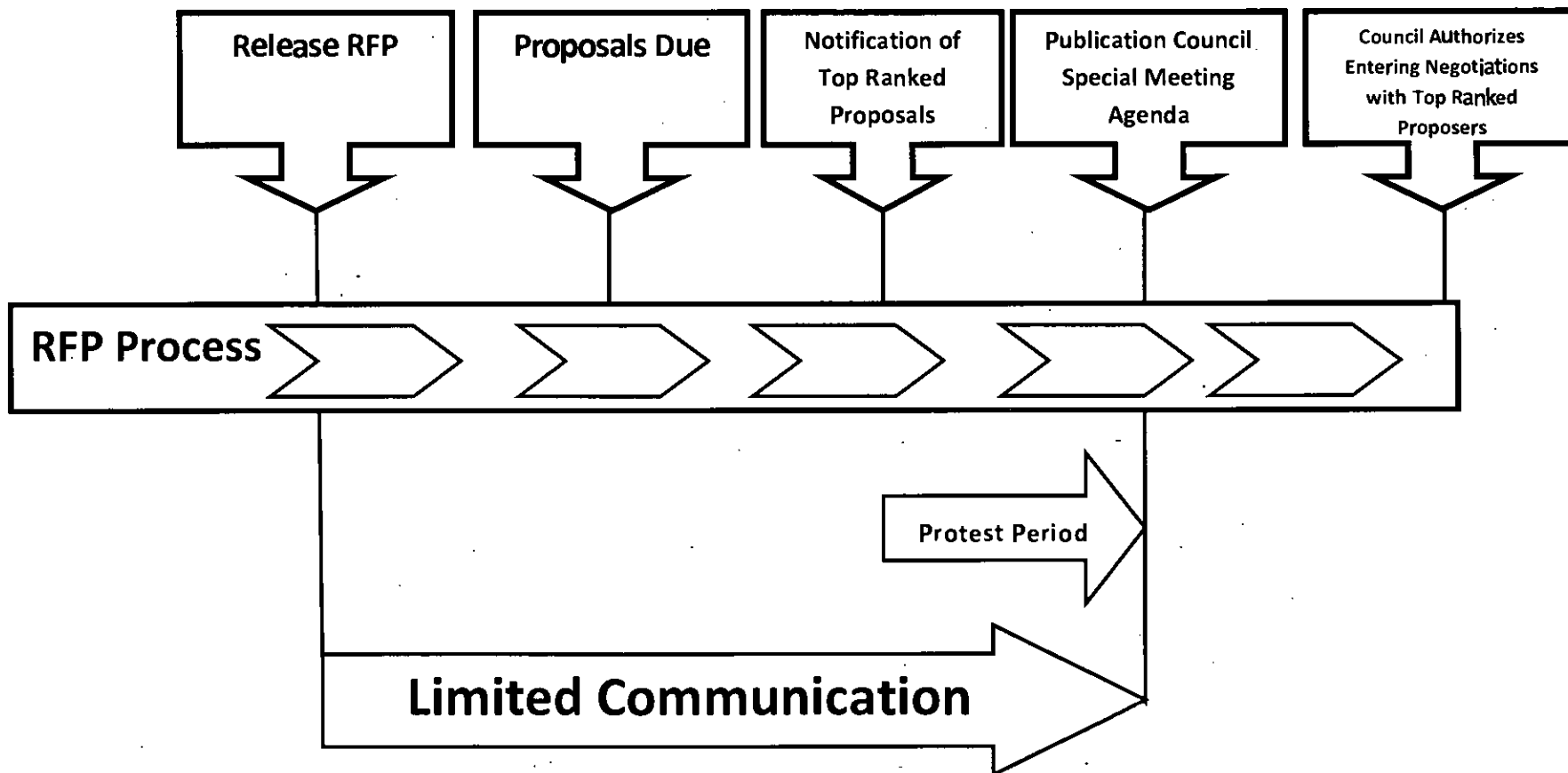
1. Professional procurement and contracting staff, including specialists, managers, directors, members of the City Attorney's office and others who will participate in the making of these contracts on behalf of the City shall be provided a list of potential respondents and shall disclose relevant financial interest as required by State Law and by City Policy.
2. "Persons not regularly involved" but who may be involved in this City procurement processes shall review this Protocol and other ethical standards and complete a Conflict of Interest Form for the City Attorney's Office to determine if the person's participation would create a conflict of interest. "Persons not regularly involved" shall include, but are not limited to:
 - authors of specifications
 - evaluators
 - consultants who assist in the RFP process
3. The City Administrator shall discuss any identified potential conflicts of interest with the City Attorney's Office, document the resulting determination, and take appropriate action. The City Administrator may, but is not limited to, remove an employee, consultant, or outside uncompensated party from the procurement activity, including canceling the solicitation.

V. Allegations of Violations

Prior to the RFP release up to award of contract, any allegations of Conflict of Interest or violations of this Protocol shall be reported to the City Administrator. The City Administrator shall investigate the alleged conflict of interest in consultation with the City Attorney's Office and document the resulting determination.

Nothing in this Policy is intended to prohibit anyone from communicating with the City Administrator's Office, the City Attorney's Office, the City Auditor's Office, or the Mayor or any City Council Member about any alleged misconduct.

Code for Communications
Zero Waste System – Request for Proposals



City of Oakland
Zero Waste System Request For Proposals Process
CONFIDENTIALITY AGREEMENT

I _____ AGREE that I am assigned to review, evaluate, or recommend the Request for Proposals for (1) Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; and/or (2) Franchise Agreement for Residential Recycling Collection and Processing Services; and/or (3) Long Term Contract for Solid Waste Landfill Disposal and that:

- (a) I have received and understand the City's Process Integrity Protocol for the Zero Waste System Request For Proposals; and
- (b) I have completed a Conflict of Interest Form; and
- (c) I understand that in the course of performing this assignment I may come into contact with information which is proprietary or confidential to City employees or agents, or other parties including but not limited to prospective collection, processing or disposal service providers; and
- (d) I understand that Confidential Information may include, but is not limited to: data relating to, the tax revenues, taxpayer information, taxpayer products, equipment, inventions, discoveries, trade secrets, secret processes, financial data, personnel records, financial records, computer programs, marketing information, attorney-client privileged interpretations of contractual terms, contract-negotiating positions, and any other information relating to the business affairs of the City, or other parties; and
- (e) I will not use or disclose the Confidential Information for any purpose whatsoever other than the performance of this assignment unless I am directed to do so by the City Administrator on advise of the City Attorney's Office.

Name

Date

Title _____

City of Oakland
CONFLICT OF INTEREST FORM
Zero Waste System – Request For Proposals

NAME:

DATE:

ASSIGNMENT: *Review, evaluate, or recommend for the Request for Proposals (1) Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; and/or (2) Franchise Agreement for Residential Recycling Collection and Processing Services; and/or (3) Long Term Contract for Solid Waste Landfill Disposal.*

This form must be completed by each *person* that participates in the above-referenced assignment, so that the City may assess whether the proposed staff, including consultants, exhibit a conflict of interest. A list of potential proposers will be provided.

Questions	Yes (Provide Details)	No
1. Do you have any official, professional, financial or personal relationships with any person or firm known to be participating in this Request For Proposals?		
2. Would the relationship identified in Question 1 affect your judgment or your ability to execute this assignment in a fair and impartial manner?		

Questions	Yes (Provide Details)	No
<p>3. Stock and Investments</p> <p>(a) Do you own stock in any company likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Does your spouse, domestic partner, or a dependent own any stock in company likely to be affected by or involved in the Proposed Assignment?</p> <p>(c) Do you hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</p> <p>(d) Does your spouse, domestic partner, or a dependent hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</p> <p>If the answer is yes to any of the above questions, please provide the name of the company and the amount of the stock or investment.</p>		
<p>4. Employment & Consulting</p> <p>(a) Is your spouse, domestic partner, or a dependent employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Has your spouse, domestic partner, or dependent been previously employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p> <p>(c) Have you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p>		

Questions	Yes (Provide Details)	No
if the answer is yes to any of the above questions, please provide name of the employer, nature of services provided, and date of employment/ retainment.		
<p>6. Positions</p> <p>(a) Do you currently hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Does your spouse, domestic partner, or a dependent hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?</p> <p>If the answer is yes, please provide the name of the entity, and the title of the position held.</p>		

If during the course of the assignment any personal, external, or organizational impairments occur that may affect your ability to do the work and report findings impartially, notify the City Administrator of the City of Oakland immediately at (510) _____.

Signature

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 FEB -2 PM 1:34

OAKLAND CITY COUNCIL

Approved as to Form and Legality

City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION ADOPTING THE RECOMMENDED PROCESS AND SCHEDULE, AND PROTOCOL FOR PROCESS INTEGRITY, FOR A REQUEST FOR PROPOSALS FOR ZERO WASTE SERVICE CONTRACTS

WHEREAS, the City of Oakland's Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services with Waste Management of Alameda County, and the Agreement for Residential Recycling Service with California Waste Solutions expire on June 30, 2015; and

WHEREAS, in 2006 through Resolution No. 80286 C.M.S. the City Council adopted a Zero Waste Strategic Plan that included Strategy 2, Develop and Adopt New Rules and Incentives to Reduce Waste Disposal, which states: "Development and adoption of a new waste management system design in preparation for Oakland's next collection and disposal contract is key to the goal of reducing waste;" and

WHEREAS, on January 17, 2012 the City Council adopted a System Design which provides the framework for developing new Contracts under a single franchise for citywide garbage and organics collection services, a single franchise for citywide residential recycling, and landfill capacity procured separately from collection and processing services; and

WHEREAS, the City will use a competitive procurement through a Request for Proposals (RFP) to establish new Contracts; and

WHEREAS, the RFP for new Contracts represents one of the City's largest competitive procurements with an estimated total value over \$60 million per year for a term of 20-30 years, including contract extension options; and

WHEREAS, it is critical that the RFP for new Contracts be released by May 2012 in order to allow adequate time to complete the entire RFP process in a thorough manner and obtain the best value for services; and

WHEREAS, before issuing a RFP for new Contracts the City must establish a process and schedule for the procurement; and

WHEREAS, the City's mission and goals for procurement include upholding the highest ethical and professional standards; now therefore be it

RESOLVED: That the City Council hereby adopts the RFP process described in the report dated February 14, 2012; and be it

FURTHER RESOLVED: That the City Council hereby adopts the RFP Schedule for establishing new Contracts described in the report dated February 14, 2012 with a targeted RFP release date of May 23, 2012; and be it

FURTHER RESOLVED: That the City Council hereby adopts the Protocol for Process Integrity described in the report dated February 14, 2012.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California