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MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Brooke A. Levin
Interim Director, PWA

SUBJECT: Information Zero Waste Services
RFP Negotiations

DATE: February 21, 2014

City Administrator	Date
Approval /s/ Deanna J. Santana	2/21/14

INFORMATION

This memo provides background information regarding the Zero Waste Services Request For Proposals (RFP) process and the negotiations with the top-ranked proposers, to prepare City Council for consideration of forthcoming recommendations on the award of Zero Waste franchise contracts. It is expected that these recommendations will be discussed at a Special Meeting of the City Council in early May 2014, and published in advance of the meeting in accordance with the City's Sunshine Ordinance and Brown Act requirements.

Background

The City of Oakland's Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services with Waste Management of Alameda County (WMAC), and the Agreement for Residential Recycling Service with California Waste Solutions (CWS) expire on June 30, 2015. Replacement of these contracts is critical to public health and safety, and procurement of these services through RFP process is consistent with the City's adopted Zero Waste Strategic Plan.

Following a series of City Council meetings that began in November 2011, in which City Council provided policy direction on 32 matters of interest, the RFP was issued in August 2012. Proposals were received in January 2013, and thoroughly evaluated by teams of experts over the next several months. In June 2013, City Council authorized negotiation with the top proposers.

The RFP was divided into three service groups: Mixed Materials and Organics Collection (MMO), Residential Recycling Collection (RR), and Solid Waste Disposal. CWS submitted qualified proposals for MMO and RR, and WMAC submitted qualified proposals for all three service groups. Per City Council authorization, negotiations for final franchise contract terms are being pursued with both companies simultaneously.

Policies and Options

City Council provided policy direction on a broad variety of matters starting with the structure of the Zero Waste System, affecting the implementation of the procurement process, and including specific provisions of the RFP and the draft franchise contracts it contained. These policies were adopted in June 2012 and again in June 2013, with authorization to negotiate, where some additional policies were established by a motion of the Council. The adopted policies are attached as **Exhibit A**.

The policies that apply specifically to the terms of the contracts were examined and certified as compliant during the proposal evaluation process and have not been subject to negotiation with the proposers.

Other City Council policy directions mandated the inclusion of several options for which the proposers were asked to provide pricing. The options were:

1. System for collecting delinquent bill payments
 - a. Alternate lien process
 - b. No lien
2. Customer call center location
 - a. In Alameda County
 - b. Outside Alameda County
3. Source separated organics collection from multifamily dwellings
 - a. Container provided on request for no additional charge
 - b. Container provided on request for clearly identified additional charge
 - c. Container provided by default for no additional charge

Both proposers have provided customer rate tables that address all of these options. Council will be presented with analysis of the proposed rates and options and recommendations for option selection. Council will also be presented with recommendations for the award of the franchise contracts for the three service groups.

Respectfully submitted,

/s/

BROOKE A. LEVIN
Interim Director, Public Works Agency

All public information regarding the Zero Waste Services RFP is published online at www.zerowasteoakland.com. For questions please contact Susan Kattchee, Acting Assistant Director, Public Works Agency, Department of Facilities and Environment, at (510) 238-6382.

Zero Waste System Design and RFP Policy Decisions Summary

January – June 2012

	Policy Decision
1.	<p>Approved the Zero Waste System Design that shall include a single franchise for citywide garbage and organics (G&O) collection services which comprises:</p> <ol style="list-style-type: none"> a. Single family dwelling garbage and organics collection and processing without changes to the existing three-cart system b. Multifamily dwelling (MFD) garbage and organics collection and processing with: <ul style="list-style-type: none"> • a two-container system: one container for recyclables and the other container for all other discards (“mixed materials”), which will be processed at a material recovery facility (MRF) to recover organic materials for composting • three-container service options for collection of source-separated organics from MFDs c. Commercial recycling collection and processing will be required services in the G&O or Residential Recycling (RR) franchise contracts, provided on a non-exclusive basis. d. City services – same collection services as provided presently, with some add-ons, including illegal dumping pick-up services e. Recycling collection services for large public events f. Solid waste transfer and transport to the City’s selected landfill g. Bulky Pickup Service for MFD/Condominiums
2.	Approved the Zero Waste System Design that shall include a single franchise for citywide residential recycling (RR) collection and processing services.
3.	Approved the Zero Waste System Design that shall include landfill capacity procured separately from collection and processing services.
4.	Approved the Zero Waste System Design that shall include a permit system that “licenses” recyclers serving Oakland businesses.
5.	Approved the Zero Waste System Design that shall include a non-exclusive franchise system to regulate construction and demolition (C&D) debris hauling, including both solid waste and recycling.
6.	Approved the Zero Waste System Design that shall include G&O and RR franchise contracts that have 10-year terms plus two 5-year options, and Landfill Disposal franchise contract that has a 20-year term, plus two 5-year options.
7.	Approved the Zero Waste System Design that shall include specialty organics recycling (e.g., animal feed) as a not-exclusively-franchised, fee-for-service activity.
8.	Directed that respondents to the RFP shall be eligible to submit proposals for, and may be awarded, more than one contract. Proposals for each contract shall be evaluated separately, and the City shall accept alternative proposals for multiple contracts.
9.	Directed that the entire RFP process shall be managed by a Project Manager, and conducted by a designated Process Coordinator who shall 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.
10.	Directed that the evaluation process shall identify a top-ranked proposal for each of the three

	Policy Decision
	contracts, which shall be published in a City Council report. Staff shall seek City Council authorization to enter into negotiations with the respondent submitting the top-ranked proposal or proposals for each contract in order to finalize contracts. Staff shall return to City Council with a recommendation once negotiations are completed.
11.	Directed that the RFP schedule for establishing new contracts shall be as described in the City Council report dated February 14, 2012.
12.	Directed that the Protocol for Process Integrity shall be as described in the City Council report dated February 14, 2012.
13.	Directed that the RFP process shall be overseen by an Executive Management Team, which shall include the Public Works Director and representatives from the City Administrator's Office, Finance and Management Agency, and Office of the City Attorney.
14.	Directed that the evaluation criteria and weighting for the proposals for the G&O Garbage and Organics franchise and RR franchise shall be as described in the City Council report dated March 27, 2012.
15.	Directed that evaluation criteria and weighting for the proposals for the Landfill Disposal franchise shall be as described in the City Council report dated March 27, 2012.
16.	Directed that Zero Waste System contracts shall provide for a solid waste industry-related index to calculate annual adjustments to customer rates.
17.	Directed that Zero Waste System contracts shall include a provision for withholding full annual adjustment of compensation to the G&O franchise and to the RR franchise if the annual diversion performance requirement is not met.
18.	Directed that Zero Waste System contracts shall include a provision for the denial of contract extension if the G&O or RR franchisee fails to meet the contract diversion performance standard in year seven of the contract.
19.	Directed that the disposal tipping fee shall include payment of Alameda County Measure D fees on franchised Oakland solid waste that may be disposed in a landfill outside of Alameda County.
20.	Directed that G&O RFP responses shall include two options for addressing the impact of the delinquent bill payments on proposed customer rates: the alternate lien process and no lien process, as described in the Public Works Committee Report dated April 24, 2012.
21.	Directed that new Zero Waste System contracts shall include provisions on City policies for Equal Benefits, Living Wage and Campaign Contributions, as they are included in the existing contracts.
22.	Directed that new Zero Waste System Contracts shall require contractors to remove on the initial job application the requirement to disclose felony history as long as it complies with governing laws.
23.	Directed that new G&O and RR Zero Waste System contracts shall require contractors to pay Competitive Wages and Benefits, defined as wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties.
24.	Directed that the Zero Waste System RFP shall encourage maximization of local business presence and participation, including participation by local non-profits and public agencies for the G&O and RR contracts by providing up to three (3) preference points in half-point increments beyond the 100 points established for proposal evaluation based on the economic value to Oakland of their existing and proposed operations in Oakland, with only the most

	Policy Decision
	valuable proposal eligible for the full three (3) points.
25.	Directed that the new G&O and RR Zero Waste System contracts shall require local hiring such that 50% of all new hires must be Oakland residents, and the Zero Waste System RFP shall award up to one (1) local hire preference point in half point increments beyond the 100 points established for the proposal evaluation for commitment to train and hire local disadvantaged workers, and award up to two (2) local hire preference points in half point increments for commitment to maintain a certain total percent of FTEs (full time equivalent positions) who are Oakland residents, in their workforce, including management positions, on a year-by-year basis with initial points taking into consideration the number of FTEs, in addition to percent of workforce.
26.	Directed that new G&O and RR Zero Waste System contracts shall require that employment preference be offered for the qualified displaced employees of the current solid waste franchise and residential recycling contractor. The employees, for at least 90 days, shall not be discharged except for cause.
27.	Directed that the Zero Waste System RFP shall award up to two points for Landfill Disposal proposals including in-county landfills.
28.	Directed that the Zero Waste System RFP shall require proposers to submit labor peace plans for labor disputes or unrest during the franchise term.
29.	Directed that the Zero Waste System RFP shall require proposers for the G&O franchise to submit proposals that include a customer service call center located in Alameda County. Proposers may also submit proposals that include a customer service call center outside of Alameda County and indicate the cost differential.
30.	Directed that the Zero Waste System RFP shall seek proposals for Zero Waste Services from all qualified firms (including those based in Arizona) to establish competition to avoid significant additional costs to City rate payers.
31.	Directed that the Zero Waste System RFP shall require proposers for the G&O franchise to submit proposals that include within the rate structure for Multi-Family Dwellings a third "green" container at no additional charge whenever the property owner requests it. Proposers may also submit proposals that include a third "green" container option for Multi-Family Dwellings at a clearly identified additional charge.
32.	Directed that the RFP and contracts shall include terminology sufficient to ensure compliance with the payment provisions and the economic benefits required by the RFP, in addition to those that are stated in the proposals submitted by the selected G&O and RR proposers. Enforcement mechanisms shall include use of liquidated damages, access to the financial securities posted, and ultimately the potential of early termination. The RFP shall make clear that the failure to maintain compliance with the forgoing provisions may also result in the City denying an extension of the franchise in contract year ten. These enforcement remedies may be cumulative.

DRAFT Motion from Oakland City Council Meeting on June 18, 2013

Direct staff to negotiate with the two proposers and report back to Council on:

- Cost impacts for 10- and 20-year terms for all three contracts
- Results of discussions with EBMUD concerning use of their digester
- Direct tenant access to bulky pickup service
- Cost proposals for MFD source separated organics collection (3rd bin) at no extra cost
- Mattresses buy-back or other program
- Illegal dumping measures, including
 - Sunday collection services for commercial corridors
 - Expanding or increasing franchisee collection, i.e., more days, more piles
 - Franchise enforcement (against fly-by-nighters)