



AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E

SUBJECT: Supplemental Zero Waste
Authorization to Negotiate

DATE: May 29, 2013

City Administrator
Approval

A handwritten signature in dark ink, appearing to read "Deanna J. Santana", is written over a horizontal line.

Date

6/5/13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

It is Recommended That City Council Approve A Resolution Authorizing The City Administrator To Enter Into Negotiations With The Top-Ranked Proposers For The Zero Waste Services Request For Proposals.

REASON FOR SUPPLEMENTAL OR REPLACEMENT

On May 28, 2013, Public Works Committee made a motion amending the resolution to include reference to a new Exhibit that summarizes all the policies that City Council directed staff to apply to the Zero Waste Request for Proposals (RFP), and requested that staff provide a supplemental report to City Council regarding several additional concerns raised by the Public Works Committee. The Committee requested additional information on the following topics related to the procurement:

- Provide a list of criteria for conducting negotiations
- Describe how price (rate) increases will be controlled
- Address Civicorps Schools concern with new franchise
- Discuss viability of 10-year disposal contract
- Clarify the opportunity in RFP for apartment residents to access bin for source-separated organics
- Describe new franchise contract provisions for reduction and abatement of illegal dumping
- Provide detail on the cost of technical assistance consulting contract

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OUTCOME

Approval of the revised resolution will authorize the City Administrator to negotiate with the top-ranked proposers in each of the three service groups identified in the Zero Waste Services RFP, within the guidance provided by the Council policies established for this procurement, and return to Council with a request for authorization to enter into a franchise agreement(s) with the proposer(s) that fulfills the RFP requirements and provides the best value to the City and community.

BACKGROUND/LEGISLATIVE HISTORY

The City Council received a series of agenda reports regarding the Zero Waste System in 2012, adopted three resolutions, and passed one motion providing guidance to staff in conducting the RFP procurement process.

The Zero Waste System RFP was issued in two stages. The first stage, released August 3, 2012, solicited proposals for Disposal Services (Service Group 3). The second stage, released September 5, 2012, solicited proposals for Collection Services (Service Groups 1 & 2). Proposals for all three Service Groups were received on January 9, 2013. Staff conducted a thorough evaluation process, consistent with Council direction, which concluded with ranking of the proposals received for each of the three service groups.

On May 17, 2013, the Administration announced the top-ranked proposers and opened a five-day protest period for proposers wishing to dispute the City's determination. A protest was received from each of the two top-ranked proposers. The Hearing Officer appointed by the City Administrator's Office reviewed and investigated these protests and denied both of them. On May 23, 2013 the City Administrator published an Info Memo noting that restrictions on communication between proposers and City staff, City agents, and elected officials had been lifted per the Protocol for Process Integrity, Code for Communication.

ANALYSIS

City Council provided direction to staff on conducting the RFP process, including evaluation of proposals and negotiation of franchise contracts, through adoption of Resolution 83729 C.M.S. on February 24, 2012. The direction has been adhered to from release of the RFP through the current request for authorization to enter into negotiations with the top-ranked proposers.

For any competitive solicitation of proposals for any solid waste and residential recycling contracts, the pool of qualified companies that may propose is very limited. Most RFP processes garner between one and four proposals. For example, San Francisco conducted a Request For Qualifications for disposal services in 2008 and received two proposals. South Bay Waste Management Authority conducted a collection services RFP in 2007 and received four proposals.

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Both the Zero Waste Services RFP process and the Zero Waste System Design that were adopted by the City of Oakland supported competition for the services. Using a RFP to procure the Zero Waste Services established the City's desire for competition. Proposals were received on January 9, 2013. These proposals were found to be in full conformance with the City Council policies, which were incorporated into the RFP and the draft contracts it contained. Two responsive proposals and one non-responsive proposal were received for Service Group 1 (Garbage and Organics Collection) and for Service Group 2 (Residential Recycling Collection) from California Waste Solutions (CWS) and Waste Management of Alameda County (WMAC), and one responsive proposal was received for Service Group 3 (Disposal) from WMAC.

Establishing a protocol for process integrity further clarified the City's desire for a competitive process, setting high standards for equity and transparency for all participants. Clarifying that companies headquartered in Arizona could submit proposals increased the pool of potential proposers and competition for the Zero Waste Services RFP. The Zero Waste System Design adopted by Council separated disposal services from collection services, allowing for companies that do not own landfills to the opportunity to submit proposals, thereby increasing competition for the collection service franchise contracts. Market forces outside the City's control that may have limited competition and affected the procurement include the Alameda County labor market, market consolidation, and market timing – competing business opportunities for the potential proposing companies.

The Zero Waste System RFP was issued in two stages, in August and September 2012. Five companies took the steps necessary to become eligible proposers for the Disposal Services franchise contract, and six companies took the steps necessary to become eligible proposers for the Collection Services franchise contracts. From August through November 2012, the eligible proposers submitted over 180 questions and requests for clarifications regarding the RFP and draft franchise contracts to which staff provided detailed answers and in many cases amendments to the original text of these documents. All questions and responses were published as Addenda and posted on the City's website.

The Process Coordinator conducted exit interviews with the eligible proposers who declined to submit proposals despite actively participating in the process. For Disposal Services, one company stated that they were moving their headquarters out of California, another company stated they no longer considered disposal a core business activity, and a third company said they did not believe they could be cost competitive given the county fees that applied to their landfill. For Collection Services, of the six eligible proposers, one company withdrew, and another submitted a non-responsive bid. The two remaining eligible proposers for Collection Services withdrew from the process and notified the City by letter. One of these companies explained that they could not develop a proposal that "penciled" out compared to the proposals they expected to see from competing firms. The other company stated that they could only be competitive by building a new facility in Oakland, but could not fund such a facility based on the 10-year initial terms of the franchise contracts.

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Regardless of the independent decisions of these eligible proposers to withdraw from the RFP process shortly before submittal deadline, the eligible proposers who elected to submit proposals developed their proposals under the competitive pressure created by this RFP process that was open to all qualified companies.

These proposals were fully reviewed and evaluated, concluding with the ranking of the proposals received for each of the three service groups. Having completed a full evaluation of these proposals and conducting a protest process, staff now seeks authorization to proceed with negotiation with CWS and WMAC, in order to secure the best prices and services for Oakland residents and businesses. At the conclusion of negotiations, per Resolution 83729 C.M.S, City Council will be presented with the costs and service options that were solicited in the RFP, and will have the opportunity to select the options for inclusion in the final franchise contracts.

Additional information is provided below addressing specific questions raised by Public Works Committee on May 28, 2013:

- Provide a list of criteria for conducting negotiations
- Describe how price (rate) increases will be controlled
- Address Civicorps Schools concern with new franchise
- Discuss viability of 10-year disposal contract
- Clarify the opportunity in RFP for apartment residents to access bin for source-separated organics
- Describe new franchise contract provisions for reduction and abatement of illegal dumping
- Provide detail on technical assistance consulting contract

Provide a List Of Criteria For Conducting Negotiations

Authorization to negotiate with the top-ranked proposers is sought to secure the best rates and services for Oakland residents and businesses. Cost alternatives are subject to negotiation on price and scope of service, to obtain the best value for the ratepayers, and are listed below. Specifically, the following alternatives solicited in the RFP, per policy direction from City Council require additional negotiation with the proposers:

- Lien Process: proposers for the Garbage and Organics Collection Services portion of the RFP were required to submit proposed rates based on a new lien system for bad debt collection, and on a no-lien process in which the franchise contractor absorbs all bad debt.
- Customer Service Call Center: Garbage and Organics Collection Services proposers were required to submit proposed rates based on an in-county call center, and were allowed the option to propose alternate rates based an out-of-county call center.
- Source Separated Organics Collection from Apartments and Condominiums: Garbage and Organics Collection Services proposers were required to submit proposed two rate options for collecting source separated organics on customer request: (1) rates for the optional service embedded in the base rates for all apartment and condominium

customers; and (2) rates for the optional service that would apply only to the accounts that select the source separated organics service.

- Non Exclusive Commercial Recyclables Collection: Proposers for both the Garbage and Organics and Residential Recycling Collection Services portions of the RFP were required to submit proposed rates for providing recycling services to any Oakland business that requests it.
- Disposal Fee Adjustment Methodology: Proposers for Disposal Services portion of the RFP were required to propose a rate adjustment methodology for the disposal fee that is charged per ton of solid waste disposed at the landfill site.
- Residential Recycling Contamination Audit Procedures: The RFP required Residential Recycling Collection Services proposers to provide audit procedures for validating diversion levels and how contamination of recyclables with garbage will be measured. The proposed methodologies require additional exploration and refinement.
- Household Hazardous Waste (HHW) Collection Service: Garbage and Organics Collection Service proposers were required to submit proposed rates based on the collection of HHW on a paid subscription basis, and were allowed to propose alternative rates based on the inclusion of this service cost in the base rates.
- Sharps Collection Service: Garbage and Organics Collection Service proposers were required to submit a rate for the collection of sharps (e.g. needles and lancets) on a subscription basis along with a description of the type of program (e.g. on-call, mail back, etc.) to be provided. The decision of whether or not to include this program is at the option of the City.

In addition, all proposals included exceptions and alternatives that were allowed, but not required, in the RFP solicitation. These exceptions and alternatives, which may provide additional service value or reduction in costs, require further exploration and assessment through the negotiation process.

Describe How Price (Rate) Increases Will Be Controlled

On April 3, 2012, through adoption of Resolution 83783 C.M.S., City Council approved a provision in the Zero Waste System franchise contracts for a solid waste industry-related index to calculate annual adjustments to customer rates. The agenda report that accompanied that resolution described use of the Refuse Rate Index (RRI), which is based on multiple national indices that tie directly to the major cost categories of solid waste collection service providers: solid waste disposal, materials processing, labor, fuel, and maintenance, repair and replacement of vehicles and equipment. The RRI-based rate adjustment mechanisms were incorporated in the collection franchise contracts that were issued as part of the RFP, capping the adjustment at plus or minus 5%. In addition, as specified by the same resolution, the franchise contract for Garbage and Organics Collection reduces the rate adjustment for failure to meet annual diversion goals.

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Address Civicorps Schools Concern with New Franchise

The Executive Director of Civicorps Schools, at the Public Works Committee meeting on May 28, 2013, suggested that award of the franchise contracts pursuant to the Zero Waste Services RFP would cause Civicorps Schools to lose their commercial recycling clients in Oakland. The Zero Waste System Design explicitly allows Civicorps Schools and other independent recyclers to compete for commercial recycling clients in Oakland, without conferring a competitive advantage through the franchise contracts.

The Zero Waste System Design, approved by Council, supports commercial recycling in two ways. First, through a permit system, that allows for the continuation of open-market commercial recycling services to Oakland businesses by independent recycling service providers, many of which are Oakland-based businesses. The second, the System requires that either the Residential Recycling contractor or the Garbage and Organics contractor provide recycling services, on a non-exclusive basis, to any Oakland business that requests it; this provision to guarantees that recycling service is available to any Oakland business, allowing them to comply state and county mandatory recycling laws.

Discuss Viability of 10-Year Disposal Contract

The Zero Waste System Design approved by Council called for a Landfill Disposal Contract with a 20-year term, plus two 5-year options by agreement of both parties. The RFP included this language and the proposal received was deemed responsive. The 20-30 year length of the contract would lock in low-cost disposal rates and provide financial stability to the Zero Waste System. The Disposal Services Contract includes a provision for disposal fee adjustment in year 11 of the contract, based on the lowest fees charged by the contractor at the selected landfill and the lowest fees changed for landfill disposal within 50 miles of the selected landfill. It is a reasonable assumption that if the City were to re-solicit proposals for a 10-year term, that the price for disposal would be higher for the ten-year period and the City's residents and businesses would pay more for solid waste disposal over the long-term (20 years from now) as landfill capacity diminishes and environmental regulatory costs increase.

Clarify the Opportunity in RFP for Apartment Residents to Access Bin for Source-Separated Organics

City Council addressed the provision of source separated organics collection from apartments and condominiums in approving the Zero Waste System Design in January 2012 and in its motion on the RFP provisions at its meeting on June 19, 2012. The Agenda Report presented to Public Works Committee on November 29, 2011, described a two-container (one for recyclables and the other for garbage) system for collection from apartments and condominiums. In the two-container system, garbage would be processed by the franchise contractor to recover organic materials. The primary reason for implementing a two-container system is that greater diversion of organic material could be achieved, and sooner, than through a three-container system that relies on the source separation of organic material by the participants.

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In response to the November 29, 2011 Agenda Report, Public Works Committee requested that staff meet with representatives of the Sierra Club, who had advocated for inclusion of source-separated organics collection, and with the East Bay Rental Housing Association, and to report on the alternatives in a Supplemental Report. The results of these meetings were conveyed in a Supplemental Report to the Public Works Committee on January 10, 2012, and the Zero Waste System Design was amended to include source separated organics collection from apartments and condominiums on an opt-in basis upon request by the owner. Further, the City Council-approved opt-in program for source separated organics collection in the Motion on June 19, 2012, which required that the RFP solicit 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" and "proposals that include a third "green" container option for Multi-Family Dwellings at a clearly identified additional charge."

The RFP solicited pricing for the optional third cart for apartment building source separated organics, priced in two ways, as prescribed by City Council. The proposals received in response to the RFP provided this pricing, and when negotiations are concluded with the proposers, the final pricing information will be provided to City Council for selection of the preferred option.

Describe New Franchise Contract Provisions For Reduction And Abatement Of Illegal Dumping

Several new services are provided in the Garbage and Organics Collection Services Contract that are designed to help reduce and abate illegal dumping in Oakland.

- On-call bulky item collection service: This provision was added for apartments and condominiums as a standard service embedded in the base rate, and would increase by approximately 60,000 the number of residential units with access to disposal and recycling service for large items that do not fit into a cart or bin. The bulky item collection service includes the types of items typically found illegally dumped on Oakland streets.
- Pay-as-you go bulky item service: This provision gives residential property owners and other residential customers direct access to bulky item collection services that meet needs such as recycling or disposal of move-in and move-out debris.
- Illegal dumping removal. The Garbage and Organics franchise contractor will pick up four illegal dumping piles each weekday, as directed by the City, supporting City crews in clean up of illegal dumping.
- Documentation and reporting of illegal dumping to City. The Garbage and Organics franchise contractor is required to direct its drivers to note addresses where materials have been dumped in an unauthorized manner. New technologies allow for this kind of information to be collected while trucks drive throughout the city, helping to support the City in its efforts to eradicate illegal dumping.

Along with the new programs, these existing programs are retained in the new Garbage and Organics contract and support removal of illegally dumped items from our streets.

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- Councilmember and Mayor debris box program. Each Councilmember and the Mayor is allocated 12 debris boxes annually to use for community clean ups. These boxes may be used for collection of illegally dumped items cleared during neighborhood clean ups.
- On-call Bulky Item annual collection. This service for single family residents provides a no extra cost alternative to illegal dumping.

Separate from the service that will be provided by the franchise contracts established through this procurement process, the Zero Waste System Design includes provisions for regulating independent recyclers and haulers of solid waste from construction and demolition sites, including a permit or non-exclusive franchise system. Supplementing the City's efforts in this arena, the Alameda County Waste Management Authority may also apply regulations that require special permitting or licensing of solid waste haulers countywide. While these efforts target waste reduction improvements in the "self-haul" sector, a new regulatory regime might provide new opportunities for the identification of illicit or "fly-by-night" haulers who are often implicated in illegal dumping investigation. This work is commencing and will be conducted over the next 18 months.

Provide Detail on Technical Assistance Consultant Contract

The Public Works Committee expressed concern regarding the costs incurred for the professional services contract that provided the technical assistance for development and issuance of this RFP, needed to replace the existing Franchise Agreement and Recycling Contract when they expire on June 30, 2013. The authorized not-to-exceed amount for this contract is \$1.1 million. Over a period of three and a half years, \$800,000 in contract expenditures has been incurred in support of the staff effort on this project. The work associated with these expenses includes technical support for:

- modeling and testing of Zero Waste System features (\$223,000)
- development of the final Zero Waste System Design - the configuration of services designed to meet the adopted Zero Waste goal (\$41,000)
- response to Council inquiry from November 2011 through June 2012 (\$60,000)
- preparation of the RFP for Zero Waste Services, which was issued in two parts and comprised three draft franchise contracts (\$247,000)
- proposal review and evaluation (\$228,500)

Attachment A provides a list of tasks performed by the contractor, with costs, to support all phases of the Zero Waste System Design development, including creation of the Zero Waste Services RFP incorporating three complete franchise contracts: (1) garbage and organics collection and processing contract, (2) City-wide residential recycling collection and processing contract, and (3) landfill disposal contract, and review and evaluation of the proposal received.

The costs incurred for the technical support are comparable to the costs of similar procurements conducted by Bay Area cities. The magnitude of this expense might best be viewed in the context of contract value. The value of the existing Franchise Agreement and Recycling Contract over 20 years is \$1.6 billion. The City's \$1 million investment in the Zero Waste

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services procurement is the equivalent of 0.06% of these contracts value. An investment of less than 0.1% of the contract value is a reasonable front-end expense to obtain the best system, contract terms and provisions, and to conduct a fair and equitable procurement process. Last, these expenses will be recovered in full from the successful proposer(s) upon execution of the final franchise contracts.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

Public Works staff has coordinated closely with the Office of the City Attorney, the Division of Contract Compliance, the Risk Management Division, and the Revenue Division for this report and the development of the RFP and model Contracts.

COST SUMMARY/IMPLICATIONS

There are no direct fiscal impacts to the City associated with the adoption of the resolution.

SUSTAINABLE OPPORTUNITIES

Economic: Expanding and actively supporting use of discarded materials drives local economic and workforce development with 'green collar' jobs and value added production.

Environmental: Waste reduction and recycling conserves natural resources, reduces air and water pollution, protects habitat, and reduces greenhouse gas (GHG) emissions.

Social Equity: The Zero Waste System will help provide new living-wage jobs for the community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vitaly B. Troyan" with a stylized flourish at the end.

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:
Becky Dowdakin, Solid Waste & Recycling Prog. Sup.
Environmental Services Division

Attachment A - Zero Waste Procurement Cost Breakdown through March 2013

For questions regarding this report, please contact Susan Kattchee, Environmental Services Manager, 510-238-6382.

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ATTACHMENT A

Zero Waste Procurement Cost Breakdown through March 2013		
Work Tasks	Est. Amount	Status
September 2009 -2011		
Analyzed City Waste stream by sectors	\$ 14,000	Completed
Analyzed City specific issues and policies/ application to new franchise agreements	\$ 31,500	Completed
Analyzed existing and evaluate options for customer rate structures	\$ 16,000	Completed
Reviewed current agreements and services	\$ 8,500	Completed
Reviewed current City programs and budget requirements	\$ 8,000	Completed
Gathered comparative data on other CA customer rates, services, fees, rate setting methodologies and franchise agreement terms	\$ 18,000	Completed
Attended 30+ meetings with City staff to develop Zero Waste System Design	\$ 30,000	Completed
Developed model for ZW diversion tons, costs, economic impact	\$ 98,000	Completed
Developed draft Zero Waste Procurement Strategy based on City Council policy goals	\$ 42,000	Completed
Supported content for City Council Policy Documents	\$ 32,000	Completed
Supported staff City Council Policy Meetings	\$ 28,000	Completed
Incorporated City Council Policy Directives in Zero Waste Services RFP documents	\$ 45,000	Completed
Developed three separate franchise agreements	\$ 90,000	Completed
Develop evaluation criteria and model	\$ 15,000	Completed
Developed two separate RFPs	\$ 55,000	Completed
Conducted RFP release meeting	\$ 8,000	Completed
Conducted RFP mandatory meetings	\$ 5,500	Completed
Responded to proposer questions	\$ 18,000	Completed
Issued Addenda to RFP	\$ 15,000	Completed
Conducted initial qualification review on five proposals	\$ 5,000	Completed
Prepared proposal summaries and comparison	\$ 10,000	Completed
Conducted Site Visits to Analyze Proposed Processing Facilities	\$ 17,000	Completed
Conducted reference checks	\$ 7,500	Completed
Conducted technical analysis of collection routing	\$ 10,000	Completed
Conducted technical analysis of proposed processing facilities	\$ 15,000	Completed
Conducted four clarification sessions with proposers	\$ 22,000	Completed
Attended 20+ meetings with City staff on Zero Waste Procurement	\$ 24,000	Completed
Develop rate evaluation model and analyze rates	\$ 40,000	Completed
Conducted on-site meetings with proposers to review rate and financial data	\$ 12,000	Completed
Conducted financial analysis of cost proposals	\$ 10,000	Completed
Requested additional clarification of cost proposals	\$ 8,000	Completed
Requested additional clarification of technical proposals	\$ 18,000	Completed
Conducted teleconferences and on-site meetings with proposers	\$ 2,000	Completed
Conducted technical scoring of proposals	\$ 10,000	Completed
Conducted three days of meetings with evaluation committee	\$ 15,000	Completed
Negotiations with top ranked proposers in each service area	\$ 72,000	To be Completed
Prepare documents for City Council report on final recommendations	\$ 25,000	To be Completed
Unprogrammed Reserve	\$ 100,000	
Contingency	\$ 100,000	
TOTAL	\$ 1,100,000	

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2013 JUN -7 AM 9:16

RESOLUTION No. _____ C.M.S.

Approved as to Form and Legality

City Attorney

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER
INTO NEGOTIATIONS WITH THE TOP-RANKED PROPOSERS FOR THE
ZERO WASTE SERVICES REQUEST FOR PROPOSALS**

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, on December 5, 2006 through Resolution No. 80286 C.M.S. the City Council adopted a Zero Waste Strategic Plan; and

WHEREAS, on January 17, 2012 through Resolution No. 83689 C.M.S the City Council adopted a Zero Waste System Design that 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, on February 21, 2012 through Resolution No. 83729 C.M.S. the City Council adopted a process and schedule for releasing a Request for Proposals (RFP) for three new zero waste service franchise contracts for solid waste/organic, recycling, and landfill disposal ("Franchise Contracts"), which included a provision for staff to return to City Council for authorization to enter negotiations with top-ranked proposers; and

WHEREAS, on April 3, 2012 through Resolution No. 83783 C.M.S. the City Council adopted a resolution establishing proposal evaluation criteria and weighting; and

WHEREAS, on June 19, 2012 the City Council approved a motion establishing several economic benefit provisions to be included in the Contracts and as preference points in evaluation of the proposals; and

WHEREAS, the City developed a RFP for Zero Waste Services, which included model service contracts containing provisions adopted by City Council for this procurement;

WHEREAS, on August 3, 2012 the City issued the RFP for Zero Waste Service for Disposal Services, and on September 5, 2012 issued the RFP for Zero Waste Service for Collection Services; and

WHEREAS, on January 9, 2013 the City received responses to the RFP for Zero Waste Services; and

WHEREAS, the City has evaluated, scored, and ranked the responsive proposals received according to the process and criteria approved by City Council; now therefore be it

RESOLVED: That the City Council authorizes the City Administrator to enter into contract negotiations with the top-ranked proposers in each of the three service groups identified in the RFP for Zero Waste Services in order to comply with the policy direction provided by the City Council, as summarized in *Exhibit A* to provide the best value to the City and the community.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

Zero Waste System Design and RFP Policy Decisions Summary

January – June 2012

	Policy Decision
1.	Approved the Zero Waste System Design that shall include a single franchise for citywide garbage and organics (G&O) collection services which comprises: 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: • 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.