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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E

SUBJECT: Zero Waste Technical Assistance Contract Amendment DATE: August 31, 2012

City Administrator
Approval

Date

9/12/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution authorizing the City Administrator to amend an agreement with R3 Consulting Group (R3) to provide zero waste system technical assistance services increasing the amount not to exceed by six hundred thousand dollars (\$600,000.00) for a total contract amount not to exceed one million one hundred thousand dollars (\$1,100,000.00) and waiving the advertising and competitive request for proposal/qualification requirements.

Maintaining the integrity of the work and the confidentiality of the process to successfully complete the Zero Waste Services Request for Proposals (RFP) process necessitates continuing the work with R3. Section 2.04.051 B of the Oakland Municipal Code permits the City Council to waive the competitive selection process requirement if it finds that it is in the best interest of the City.

OUTCOME

Approval of the resolution will provide continued specialized, technical consulting services from R3 Consulting Group, which are needed to:

- Ensure completion of the Zero Waste Services RFP proposal evaluation process in a thorough and timely manner, and at the level of analytical detail needed for optimal selection
- Accomplish negotiations with top-ranked proposers, and approval and execution of new service contracts, so that new contracts and services are in place when current service agreements end in June 2015

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- Maintain the continuity and integrity of work on the RFP procurement, and the confidentiality of the process

BACKGROUND/LEGISLATIVE HISTORY

In 2009 the City Council approved a four-year Professional Services Agreement (Agreement) for zero waste system technical assistance with R3, in an amount not to exceed three hundred thousand dollars (\$300,000.00). The Agreement was awarded through the City's competitive request for proposals process, to provide technical assistance and "subject matter expertise" supporting staff in designing a new Zero Waste system and procuring new waste reduction and recycling services. In February 2012 City Council approved an amendment to the R3 Agreement, increasing the Agreement's not to exceed amount by two hundred thousand dollars (\$200,000.00), for a total amount not to exceed five hundred thousand dollars (\$500,000.00), and extending the term of the Agreement by two years to September 1, 2015.

When the Agreement was amended in February 2012, staff did not anticipate the full scope and complexity of the issues raised during City Council RFP policy deliberations, nor the corresponding consultant technical assistance that would be required to support staff response to Council discussion, and to incorporate City Council's policy direction into RFP and contract documents. Additionally, the final RFP and contract provisions incorporating policy directions were customized to thoroughly and accurately represent the City's specific policies in a procurement project that is uncharted territory for the City. The RFP and contract provisions are more complex than initially expected. This also creates a greater need for technical assistance to conduct the proposal evaluation process and finalize recommendations for Council consideration in Spring 2013. Finally, staff now expects to need additional consultant technical assistance to support City Council authorization of top-ranked proposals, contract negotiations with top-ranked proposers, and City Council final approval of three new service contracts.

ANALYSIS

Since the Agreement was amended in February 2012, R3 has completed research and technical assistance for multiple issues raised during City Council RFP policy deliberations including economic benefits, lien options for delinquent bill payment, and recycling options. R3 produced a full RFP package that includes five significant documents: two RFPs and three draft contracts. The RFPs include instructions for proposers, demographic and existing service account data, evaluation criteria, evaluation process description, and cost forms for proposers to complete. The three complete service contracts incorporate performance metrics, service specifications, and contract management advancements and innovations. In completing the RFP and contract documents, R3 worked closely with staff, Office of the City Attorney, and the City's outside counsel to incorporate City Council policy decisions, recommendations developed by

StopWaste.Org's Franchise Task Force, the latest contracting terms and standards, and lessons learned in Oakland and other jurisdictions.

However, the scope and complexity of technical assistance that was required to support staff response to City Council RFP policy deliberations and decisions, and to develop RFP and contract documents incorporating those policy decisions, exceeded initial staff expectations for the current Agreement. Therefore, a second amendment to the R3 Agreement, increasing the not to exceed amount by five hundred thousand dollars (\$500,000.00), with a one hundred thousand dollar (\$100,000.00) contingency, is necessary to maintain R3's specialized and technical consulting services to complete the entire RFP procurement process for establishing new contracts before current service agreements end in June 2015. Under this six hundred thousand dollar (\$600,000.00) increase, the amended Agreement amount not to exceed would be one million one hundred thousand dollars (\$1,100,000.00)

Under the proposed amended Agreement, R3's focus and majority of work will be dedicated to preparing RFP addenda and conducting detailed technical and financial review, analysis, and evaluation of submitted proposals. R3 also will support staff's presentation of top-ranked proposals to City Council, staff responses to any questions or issues raised during City Council authorization of top-ranked proposers, and adjudication of any protests filed by proposers. Finally, R3 will assist with contract negotiations and finalizing and executing contract documents, including supporting staff response to any questions or issues raised during City Council final approval of new contracts.

R3's RFP evaluation work will include analysis that identifies the optimal combination of waste reduction performance and ratepayer value. The analysis will consolidate pricing from three separate proposals into one set of customer rates, and evaluate service alternatives and costs received in response to the options required in the RFP. These options include call center location, lien process for delinquent bill payment, and multi-family dwelling organics collection.

R3's RFP evaluation work will include:

- Evaluating financial viability metrics pertaining to proposers and any partner entities, and to the operational and fiscal elements of proposals
- Assessing operational proposals, including processing facility tonnage throughput and vehicle routing efficiencies, and verifying representations made in proposals through facility visits to confirm operational capabilities
- Evaluating year-by-year available permitted landfill disposal capacity, and confirming technical and fiduciary adequacy of landfill permitting compliance and closure/post-closure maintenance

Finally, with assistance of the Office of the City Attorney and the City's outside counsel, R3 will assist with contract negotiations and finalize service contracts, transition plans, and exhibits

based on the results of negotiations with the selected proposers and any service options selected during the evaluation and award process.

Staff have conferred with professional colleagues in other Bay Area jurisdictions that have implemented similar projects combining major solid waste system redesign and an associated RFP process, including the City of San Jose and the South Bayside Waste Management Authority in San Mateo County. These jurisdictions have incurred consultant costs similar to the range the City would expend with this contract amendment.

Since 2009 the City and R3 have invested significant effort in developing a high-functioning working relationship, strong command of complex issues, and a deep level of trust and confidence necessary to complete the RFP process successfully. R3's work under the amended Agreement would provide critical support for completing the RFP process, including the evaluation of proposals and completion of contract documents.

Maintaining the integrity of the work and the confidentiality of the process to successfully complete the RFP process necessitates continuing the work with R3. Section 2.04.051 B of the Oakland Municipal Code permits the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the best interest of the City. Amending R3's existing contract requires waiving the advertising and competitive selection requirement. During the implementation phase for the new contracts, the City will most likely need additional consulting services. These services will be selected through the City's request for proposals process.

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 with the Office of the City Attorney, and the Division of Contract Compliance for this report.

COST SUMMARY/IMPLICATIONS

The amended Agreement would increase the not to exceed amount by six hundred thousand dollars (\$600,000.00). Funding is available within Recycling Program Fund (1710).

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PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

R3 is one of the top firms in the state assisting cities with RFP procurements for recycling, composting, and disposal services. During the past five years, R3 has assisted over 60 California cities with RFPs. R3's performance to-date under the Agreement has met or exceeded staff expectations, and the R3 team's expertise and experience has been critical in helping the City design a new system and develop RFP and contract documents.

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.

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

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

Reviewed by:
Becky Dowdakin, Recycling Program Supervisor

Prepared by:
Mark Gagliardi, Senior Recycling Specialist
Environmental Services Division

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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Approved as to Form and Legality

City Attorney

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AMEND AN AGREEMENT WITH R3 CONSULTING GROUP TO PROVIDE ZERO WASTE SYSTEM TECHNICAL ASSISTANCE SERVICES INCREASING THE AMOUNT NOT TO EXCEED BY SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00) AND WAIVING THE ADVERTISING AND COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION REQUIREMENTS

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 June 2012 City Council provided final policy directions regarding a Request for Proposals (RFP) process for procurement of new recycling, composting, and disposal services to become effective July 1, 2015;

WHEREAS, in 2009 through Resolution No. 82175 C.M.S. the City Council approved an Agreement with R3 Consulting Group to provide Zero Waste system technical assistance consulting services for a four-year term ending September 1, 2013, in an amount not to exceed three hundred thousand dollars (\$300,000.00); and

WHEREAS, in February 2012 through Resolution No. 83698 C.M.S. the City Council approved an amendment to the Agreement with R3 Consulting Group, increasing the Agreement's not to exceed amount by two hundred thousand dollars (\$200,000.00), for a total amount not to exceed five hundred thousand dollars (\$500,000.00), and extending the term of the Agreement by two years to September 1, 2015; and

WHEREAS, R3 Consulting Group is uniquely qualified to provide specialized and technical consulting services to complete the RFP procurement process, including the evaluation of proposals and completion of contract documents, and to maintain the integrity of the work and the confidentiality of the process; and

WHEREAS, Section 2.04.040 B 5 and 2.04.051 A, respectively of the Oakland Municipal Code (the "OMC") require the City to conduct a formal advertising and competitive Request For Qualifications/Proposals ("RFQ/RFP") selection process for professional services agreements over \$25,000.00; and

WHEREAS, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the City's best interests to do so; and

WHEREAS, staff recommends that the City Council waive the advertising and competitive RFQ/RFP selection requirement in order to amend the Agreement with R3 Consulting Group for specialized and technical consulting services which is necessary to avoid project disruption and delay, and ensure thorough and timely completion of the RFP procurement process at the level of analytical detail needed, so that new contracts and services are in place when current service agreements end in June 2015; and

WHEREAS, the City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature and are temporary in nature; and

WHEREAS, the City Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now therefore be it

RESOLVED: pursuant to OMC Section 2.04.051 B, the City Council hereby finds and determines that it is in the best interests of the City to waive the advertising and competitive RFQ/RFP selection requirement of the OMC based on the reasons set forth in this Resolution and the Report accompanying this Resolution; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to amend the Agreement with R3 Consulting Group to provide Zero Waste System Technical Assistance consulting services to increase the Agreement's not to exceed amount by six hundred thousand dollars (\$600,000.00), for a total amount not to exceed one million one hundred thousand dollars (\$1,100,000.00); and be it

FURTHER RESOLVED: That the additional six hundred thousand dollars (\$600,000.00) expenditure under the Agreement with R3 Consulting Group will be funded by Recycling Program Fund (1710); and be it

FURTHER RESOLVED: That the City Administrator or his/her designee is hereby authorized and empowered to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in total compensation or the allocation of additional funds, provided that such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk's Office; and be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be approved by the Office of the City Attorney.

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