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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E

SUBJECT: Supplemental Zero Waste
Request for Proposals

DATE: May 9, 2012

City Administrator
Approval

Date

5/10/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Resolution Adopting Zero Waste System Request For Proposals Economic Benefit Measures: Competitive Wages And Benefits, Job Retention, Local Business Participation, Local Hire Preference Points, In-County Landfill Preference Points, Labor Peace, And Requires That Proposals Include A Call Center In Alameda County; And Seeks Proposals From All Qualified Firms To Establish Competition To Avoid Significant Additional Costs To City Rate Payers.

REASON FOR SUPPLEMENTAL OR REPLACEMENT

On May 8, 2012, Public Works Committee made a motion to include additional policies in the Resolution that establish economic benefits for the Zero Waste System Request for Proposals (RFP). These contracting policies may affect the cost proposals received in response to the RFP process, to be incorporated into the resulting Contracts.

The economic benefit policies included in the Revised Resolution are: (1) competitive wages and benefits, (2) local business participation and presence that include non-profits and public agencies, (3) local hire, (4) job retention, (5) in-county landfill preference, the addition of (6) labor peace, and the addition of (7) a requirement for the proposers to the Zero Waste System RFP to include a call center in Alameda County and they may also propose an out-of-county call center, but must demonstrate how they will meet the RFP customer service standards.

The Public Works Committee asked that staff return at another appropriate date with a report on how the exclusive franchise for garbage collection would be enforced. This work is slated for 2013 when the permitting program for recycling hauling and non-exclusive franchise for construction and demolition hauling will be addressed along with changes to the Oakland Municipal Code.

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OUTCOME

Approval of the revised resolution will establish the following economic benefit contracting provisions in the RFP:

- Competitive Wages and Benefits – with “Competitive” defined
- Maximization of Local Business Participation – with preference points and including local business presence (to include non-profits and public agencies)
- Local Hire Requirement – 50% minimum, and preference points for exceeding minimum
- Job Retention – for existing franchise and recycling contract workers
- In-County Landfill Preference Points
- Labor Peace – proposers to describe plans for preventing labor unrest
- Call Center – require that proposals include a call center in Alameda County

Additionally the Resolution allows all qualified firms to propose in response to the Zero Waste RFP, to stimulate competition among the qualified firms and to obtain the most cost-effective services for the ratepayers.

BACKGROUND/LEGISLATIVE HISTORY

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.

On January 17, 2012, the City Council adopted Resolution No. 83689 C.M.S., establishing a framework for the Zero Waste System Design including 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. On February 21, 2012, the City Council adopted Resolution No. 83729 C.M.S., establishing a process and schedule for releasing a RFP to procure new contracts to provide the services that the System Design comprises. On April 3, 2012, the City Council adopted Resolution No. 83783 C.M.S., establishing proposal evaluation criteria weighting, approving use of an industry-related index for adjusting customer rates, providing Contract diversion performance incentives, and continuing participation in Alameda County Measure D fees.

ANALYSIS

To refine the application of proposed economic benefit measures to the Zero Waste System RFP, this supplemental report further defines “maximization of local business participation” and adds a provision to the RFP to require proposers for the Garbage and Organics Collection Franchise to include in their proposal a call center for customer service located in Alameda County.

The Committee also stated that in addition to the RFP requiring an Alameda County call center, the proposers must provide the cost to the rate payers for that local call center. In addition to the

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local call center, proposers may propose an out-of-county call center, but must describe how it would achieve the RFP required customer service standards.

Policy Recommendations

This section describes the recommendations for the application of specific economic benefit provision in the RFP. The City's contracting and purchasing policies and ordinances do not apply to these Franchise Contracts, but only to the City's purchase of goods and services. When the City is spending its own money, it is not subject to certain constitutional restrictions, and thus the City has broader power to implement economic benefit policies than it does when it is regulating, as in the case of a franchise. This RFP is for franchise services where the services provided by the franchisee are not paid by the City, but are paid directly by the user or customer to the franchisee.

Local Business Participation

The Public Works Committee at its April 24, 2012 meeting recommended the addition of two (2) preference points above the 100 established evaluation points to be awarded for proposals that demonstrate maximum local business participation. The Public Works Committee further defined local business participation to include "business presence" and "non-profits and public agencies." The addition of these terms clarifies that both the company's operations in Oakland, its purchase of goods and services in Oakland, and the use of services that are provided by either a local non-profit or public agency would count towards maximizing local business participation.

Call Center In Alameda County

The Public Works Committee believed that to ensure that effective and knowledgeable customer service is provided by the Garbage and Organics Franchisee, the customer call center should be local. In order to assess the cost to the ratepayer for the provision to have a local call center versus another location, the Committee agreed to require the proposers to provide in their proposal a call center located in Alameda County. Additionally, the proposers may provide an optional call center outside of Alameda County that meets the customer service standards and specifications of the RFP.

PUBLIC OUTREACH/INTEREST

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

COORDINATION

This report was coordinated closely with the Office of the City Attorney, the Division of Contract Compliance, the Risk Management Division, and the Revenue Division, and this close coordination is continuing with development of the RFP and model Contracts.

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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.

CEQA

Appropriate CEQA review will be conducted prior to the award of the Franchise Contracts.

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

Prepared by:
Susan Kattchee, Environmental Services Manager

REVISED PER PUBLIC WORKS COMMITTEE
OFFICE OF THE CITY CLERK
OAKLAND

REVISED
MAY 8, 2012

Approved as to Form and Legality

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OAKLAND CITY COUNCIL

City Attorney

RESOLUTION NO. _____ C.M.S.

RESOLUTION ADOPTING ZERO WASTE SYSTEM REQUEST FOR PROPOSALS ECONOMIC BENEFIT MEASURES: COMPETITIVE WAGES AND BENEFITS, JOB RETENTION, LOCAL BUSINESS PARTICIPATION, LOCAL HIRE PREFERENCE POINTS, IN-COUNTY LANDFILL PREFERENCE POINTS, LABOR PEACE, AND REQUIRES THAT PROPOSALS INCLUDE A CALL CENTER IN ALAMEDA COUNTY; AND SEEKS PROPOSALS FROM ALL QUALIFIED FIRMS TO ESTABLISH COMPETITION TO AVOID SIGNIFICANT ADDITIONAL COSTS TO CITY RATE PAYERS

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 RFP for three new zero waste service franchise contracts for solid waste/organic, recycling, and land fill disposal ("Franchise Contracts"), including a Protocol for Process Integrity; and

WHEREAS, on April 3, 2012 the City Council adopted a resolution establishing proposal evaluation criteria and weighting, a method for annually adjusting customer rates, diversion performance measurement, and continued participation in Alameda County Measure D; and

WHEREAS, the City Council has adopted Ordinances and Resolutions to enhance the economic benefits to Oakland and its residents and businesses when awarding construction contracts and professional services agreements; and

WHEREAS, the City will use a competitive procurement through a Request for Proposals (RFP) to establish the Franchise Contracts for zero waste services and landfill disposal; and

WHEREAS, businesses interested in submitting proposals in response to the City's Zero Waste System Request for Proposals will invest significant money and time to prepare proposals; and

WHEREAS, allowing firms headquartered in Arizona the opportunity to participate in the RFP for Zero Waste Services and thus allowing more competition for the RFP for Zero Waste Services and subsequent Franchise Contracts will avoid significant additional cost to the City rate payers; and

WHEREAS, it is in the best interest of the City to avoid disruption in service to the residents and businesses of Oakland and therefore has a vested interest in the proposers plans for preventing labor disputes and unrest over the term of the contracts; and

WHEREAS, the City believes that to ensure effective and knowledgeable customer service a customer service call center can better be provided by a local call center located in Alameda County; and

WHEREAS, the City purchasing and development policies and ordinances applicable to contracts for the purchase of goods, construction, services and development projects do not apply to franchise agreements under which franchised businesses provide city services in exchange for fees paid by resident users or ratepayers; now for therefore be it

RESOLVED: that the City Council hereby adopts the following economic benefit provisions for the Zero Waste System RFP and subsequent Franchise Contracts:

1. Competitive Wages and Benefits defined as wages and benefits comparable to collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, San Mateo Counties, will be required of proposers of the Garbage and Organics and Residential Recycling Contracts relative to similar operations in the Bay Area region; and
2. Maximization of Local Business Presence and Participation, including participation by local non-profits and public agencies, for the Garbage and Organics and Residential Recycling Contracts by providing up to two (2) preference points beyond the 100 points established for proposal evaluation ; and
3. ~~Local Hire Preference Points beyond the 100 points established for proposal evaluation, will be awarded for commitment to hire Oakland residents as new hires for the Garbage and Organics and Residential Recycling Contracts~~ will be required for that 50% of all new hires must be Oakland residents for the Garbage and Organics and Residential Recycling Contracts and award up to three (3) local hire preference points beyond the 100 points established for the proposal evaluation for any or all of the following: commitment to hire Oakland residents as new hires beyond the 50% requirement, commitment to train and hire disadvantaged workers, and commitment to maintain a certain total percent of Oakland residents in their workforce; and
4. Employment Preference shall be offered for the qualified displaced employees of the current solid waste franchise and residential recycling contractor by the Garbage and Organics and Residential Recycling Franchisees. The employees, for at least 90 days, shall not be discharged except for cause; and
5. In-County Landfill bonus points, up to three points, may be awarded for Landfill Disposal proposals including in-county landfills; and ~~be it~~
6. Labor Peace, proposers will be required to submit plans for labor disputes or unrest during the franchise term, and be it

FURTHER RESOLVED the City requires that proposers for the Garbage and Organics Franchise be required 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 be it

FURTHER RESOLVED the City seeks proposals for the Zero Waste Services from all qualified firms to establish competition to avoid significant additional costs to City rate payers.

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