CITY OF OAKLAND

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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: June 12, 2012

City Administrator Approval Deanna Santana **Date** 6/13/12

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 June 5, 2012, pursuant to Rule 7(6) of Resolution 82580 C.M.S., the City Council's Rules of Procedures, the report was continued to the June 19, 2012 City Council Agenda. Staff presented information contained in the June 5, 2012 Agenda Report and responded to questions from the City Council.

The City Council requested additional information regarding how the process for payment to the Residential Recycling contractor by the Garbage and Organics contractor will work, and what assurances would be available in the Contracts to ensure payment. Additionally, the City Council asked for additional detail on the award of preference points for local business participation, and options for awarding participation in half point increments; clarifying requirement for proposals for the green cart for multi-family buildings; enforcement and corrective action for the economic benefits provisions; and cost impacts.

OUTCOME

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

- Competitive Wages and Benefits – with "Competitive" clearly 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, preference points for exceeding minimum, and methods for enforcement
- Job Retention – for existing franchise and recycling contract workers
- In-County Landfill Preference Points – to recognize the economic benefit that accrues to the City
- Labor Peace – proposers to describe plans for preventing labor unrest
- Call Center – require that proposals include a call center in Alameda County, while allowing proposals for a call center outside of Alameda County that meets the customer service standards and specifications of the RFP

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.

The process for decisions on the Zero Waste RFP began with the first report to the Public Works Committee November 29, 2011. A summary of the legislative history for the Zero Waste RFP chronology of reports and City Council action is summarized in ***Attachment A***.

ANALYSIS

The City's contracting and purchasing policies and ordinances do not apply to these Franchise Contracts for Zero Waste services, but only to the City's purchase of goods and services. When the City is spending its own money, the City has more flexibility to implement economic benefit policies than it does 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.

The revised resolution from the Public Works Committee on May 8, 2012 recommends seven economic benefit provisions to include in the Zero Waste RFP and subsequent contracts. These items would otherwise not be included in the RFP. Additionally, the revised resolution clarifies that all qualified firms would be allowed to propose. The revised resolution would establish the following economic benefits provisions and accept proposals from all qualified firms:

- 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, preference points for exceeding minimum, and methods for enforcement
- Job Retention – for existing franchise and recycling contract workers
- In-County Landfill Preference Points– to recognize the economic benefit that accrues to the City
- Labor Peace – proposers to describe plans for preventing labor unrest
- Call Center – require that proposals include a call center in Alameda County while allowing proposals for a call center outside of Alameda County that meets the customer service standards and specifications of the RFP
- Allow all qualified firm to participate to stimulate competition among the qualified firms and to obtain the most cost-effective services for the ratepayers.

Each of these items is further discussed in the ***Attachments B through I*** (issue papers) to this report. Additionally, two other items that the City Council discussed at its meeting on June 15, 2012 have been included as issue papers for consideration. These items are ***Attachments J & K***:

- Green Cart for Multi-family Buildings
- Enforcement/ Corrective Action for Economic Benefit Provisions

The purpose of the "issue papers" is to summarize the outstanding items before City Council breaking down each of the items separately to address the item, discuss alternatives and provide a recommendation. The "issue paper" is organized into four sections: Item; Purpose; Options; and Recommendation.

Residential Recycling Contractor Payment/ Liquidated Damages
In the Zero Waste RFP, the Garbage and Organics Contractor is responsible for the billing process and collecting payment from the customer. The Garbage and Organics (G/O) Contract specifies that the G/O Contractor is required to pay the Residential Recycling Contractor monthly within 30-days of receiving a valid invoice.

The City Council expressed concern that the City has assurances in the G/O Contract to ensure payment to the Residential Recycling Contractor. The G/O Contract includes a liquidated damage provision for failure to make a payment to the Residential Recycling Contractor, assessed on a per incident per day basis. Along with the liquidated damages provision to correct performance on timely payment, the City will establish a letter of credit for the G/O Contract that the City may draw on to affect payments to the Residential Recycling Contractor, if the G/O contractor fails to make a payment.

Contract Corrective Action

Both the G/O Contract and the Residential Recycling Contract include a progressive process to ensure quality of performance and service to the customers. The first step in this process is the assessment of liquidated damages, which is used to address immediate performance issues. Should assessment of liquidated damages not correct the performance, the City can move to a notice of default, where the contractor would receive notice that performance must be corrected by a date certain or the City will use any and all of its options available, up to and including termination. The Contractor is given the right to cure the identified performance issue before the date certain. If the performance is not corrected, then the City may choose to enter into dispute resolution, move to arbitration or terminate the contract.

Cost Impacts to the Rate for Customers

The purpose of establishing the new franchises for garbage and organics and residential recycling services through a request for proposal procurement process is to create a fair and transparent competitive environment with the objective of obtaining the best value to the rate payers for the services they receive.

It is not possible to conduct a cost analysis of options prior to the release of the RFP as any price received would not be in context to the overall proposals and not include the multifaceted and involved range and depth of services required of the proposers through the RFP. Any company providing a price before proposals are submitted, would be revealing their competitive edge, disadvantaging it in the RFP process.

As the RFP process is a competitive process, soliciting prices ahead of time for individual elements cannot take advantage of economies of scale nor address a company's strategic businesses decision to forgo some portion of its profit margin to secure its competitive edge.

The City Council was provided an informational memorandum, dated January 12, 2012, which provided information on rate impacts experienced by jurisdictions that have implemented new garbage franchise agreements. The change in rates experienced range from a low of 7% increase in the City of Menlo Park to a high of 45% increase in the Cities of Albany, Emeryville, and Castro Valley. The memo is attached to this report as ***Attachment L***.

POLICY ALTERNATIVES

Each of the economic benefit provisions is discussed in "issue papers," Attachments B through I to this report. The purpose of the "issue papers" is to summarize the outstanding items before City Council, breaking down each of the items separately to address the issue, offer altematives, and provide a recommendation. The "issue paper" is organized into four sections: Item; Purpose; Opfions; and Recommendafion.

The Council could consider each of the economic benefit provisions separately to move forward those items for which there is consensus.

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.

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

Item: _____
City Council
June 19, 2012

ATTACHMENT A
Legislative History

Subject: Zero Waste System Design		
Agenda Report	Public Works Committee	11/29/2011
Supplemental Report	Public Works Committee	1/10/2012
Information Memorandum on Garbage Rate Increases	City Council	1/12/2012
Agenda & Supplemental Reports	City Council	1/17/2012
Resolution **83689** C.M.S. Approved	City Council	1/17/2012
Policy Decisions		
1. A single franchise for citywide garbage and organics (G&O) collection services		
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 [and Residential Recycling] franchise contracts, provided on a non-exclusive basis.		
d. City services – same collection services as provided presently, with some add-ons		
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. A single franchise for citywide residential recycling (RR) collection and processing services		
3. Landfill capacity procured separately from collection and processing services		
4. A permit system that "licenses" recyclers serving Oakland businesses		
5. A non-exclusive franchise system to regulate construction and demolition (C&D) debris hauling, including both solid waste and recycling		
6. G&O and RR Franchise Contracts will have 10-year terms plus two 5-year options. The Landfill Disposal Franchise Contract will have a 20-year term, plus two 5-year options by agreement of both parties.		
7. Specialty organics recycling will continue as a not-exclusively-franchised, fee-for-service activity		

ATTACHMENT A
Legislative History

Subject: Zero Waste RFP Process, Schedule, and Protocol for Process Integrity		
Agenda Report	Public Works Committee	2/14/2012
Agenda & Supplemental Reports	City Council	2/21/2012
Resolntion 83729 C.M.S. Approved	City Council	2/21/2012
Policy Decisions		
8. Respondents to the RFP would be able to submit proposals for, and could be awarded, more than one contract. Proposals for each contract would be evaluated separately, and the City would accept alternative proposals for multiple contracts.		
9. 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.		
10. The evaluation process will identify a top-ranked proposal for each of the three contracts, which would be published in a City Council report. Staff will 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 will return to City Council with a recommendation once negotiations are completed.		
11. 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 is adopted.		
12. The Protocol for Process Integrity described in the report dated February 14, 2012 is adopted.		
13. 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.		

ATTACHMENT A
Legislative History

Subject: Zero Waste Proposal Requirements and Evaluation		
Agenda Report	Public Works Committee	3/27/2012
Agenda Report	City Council	4/3/2012
Resolution **83783** C.M.S. Approved	City Council	4/3/2012
Policy Decisions		
14. Evaluation criteria and weighting for the proposals for the Garbage and Organics Franchise, and Residential Recycling Franchise		
15. Evaluation criteria and weighting for the proposals for the Landfill Disposal Contract		
16. Provision in the Zero Waste System Contracts for a solid waste industry-related index to calculate annual adjustments to customer rates		
17. Inclusion of a provision in the Zero Waste System Contracts for withholding of a full annual adjustment of compensation to the Garbage and Organics Franchise and to the Residential Recycling Franchise if the annual diversion performance requirement is not met		
18. Provision in the Zero Waste System Contracts for the denial of contract extension if the franchisee fails to meet the contract diversion performance standard in year seven of the contract		
19. Payment of Alameda County Measure D fees on franchised Oakland solid waste that may be disposed in a landfill outside of Alameda County		

ATTACHMENT A
Legislative History

Subject: Zero Waste RFP Economic Benefits		
Agenda Report	Public Works Committee	4/24/2012
Agenda & Supplemental Report	Public Works Committee	5/8/2012
Agenda & 2 Supplemental Reports	City Council	5/15/2012
Agenda & 3 Supplemental Reports	City Council	6/5/2012
Agenda & 4 Supplemental Reports	City Council	6/19/2012
Resolution: Pending	City Council	
Policy Decisions		
20. Lien process; require proposals to include two options for addressing the impact of the delinquent bill payment rate on the cost of service		
21. Equal Benefits, Living Wage; and Campaign Contributions; include these City policies in the contracts, as they are included in the existing contracts		
22. Ban the Box; require contractors to remove on the initial job application, the requirement to disclose felony history as long as it complies with governing laws.		
23. Competitive wages and benefits		
24. Local business presence and participation, including non-profit and local public agencies		
25. Local hire		
26. Employment preference for displaced workers		
27. In-county landfill bonus points		
28. Labor peace		
29. Call center in Alameda County		
30. Arizona		
31. MFD 3rd container		
32. Enforcement of economic benefit provisions		

Summary of Zero Waste System RFP Economic Benefit Measures
Attachments B - K

Attach-ment	Item	Option 1	Option 2	Recommen-dation
B	23. Competitive Wages & Benefits	Approve language in Resolution	Approve modified language that changes "comparable to" to "equivalent to or better than"	Option 2
C	24. Local Business Participation	Approve language in Resolution	Approve modified language that delineates how the preference points will be awarded	Option 2
D	25. Local Hire provisions	Approve language in Resolution	Approve modified language that removes preference points for local hire above 50%; awards points in half point increments.	Option 2
E	26. Employment Preference for Current Contractors' Employees	Approve language in Resolution	Strike provision from Resolution and make no requirement	Option 1
F	27. Preference Points for In-County Landfills	Approve language in Resolution	Strike provision from Resolution for preference points	Option 1
G	28. Labor Peace	Approve language in Resolution	Strike provision from Resolution for labor peace	Option 1
H	29. Customer Service Call Center in Alameda Co	Approve language in Resolution	Strike provision from Resolution for call center in Alameda Co.	Option 1
I	30. Open RFP to all Qualified Firms	Approve language in Resolution	Make a motion to extend City's Arizona Policy to franchise services	Option 1
J	31. Source-Separated Organic Materials Collection from Multi-Family Dwellings	Make no motion beyond Resolution No. 83689	Require proposers to provide a rate for a third "green" container for MFDs at no additional charge, and allows proposers to provide an optional proposal for a rate	Option 1
K	32. Contract Enforcement and Compliance	No additional action; process described in reports	Specifies that the City is empowered to take action against the franchisees for failure to perform	Option 1

ATTACHMENT B

Item #23 - Competitive Wages and Benefits

Purpose: To obtain economic benefits for Oakland by establishing for proposers to the RFP that wages paid to employees of the proposer shall be no lower than those wages paid to workers that have been established through collectively bargained labor agreements in the Bay Area region. This provision is recommended to set a floor for wages and benefits should there be a proposer who does not have collectively bargained labor agreements.

Options: Both options below would establish a base level wage and benefit package for the proposers that do not have collectively bargained labor agreements. The second motion clarifies the definition by changing "comparable to" to "equivalent lo or better than."

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, to include in the RFP - Competitive wages and benefits defined as wages and benefits comparable to collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties, will be required of proposers of the Garbage and Organics and Residential Recycling Contracts;

OR

2. Make a motion to include in the RFP - 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, will be required of proposers of the Garbage and Organics and Residential Recycling Contracts.

Recommendation: Option #2 is recommended because it more clearly states the intent to provide a floor for wages and benefits for non-union proposers, which must be provided to their employees.

ATTACHMENT C

Item **#24:** Local Business Participation

Purpose: To obtain economic benefits for Oakland by establishing for the RFP evaluation process preference points to award proposers who commit to local business presence (operations in Oakland).

Options: Both options establish two (2) preference points for local business presence and include local non-profits and public agencies in the definition for local business presence. The second option includes additional language delineating how the preference points will be awarded, compliance requirements, and liquidated damages for failure to meet commitments to local business participation made by the proposers. The cost of local business participation requirements is expected to be minor, but staff does not have sufficient information to state this with certainty.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, to include in the RFP – 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;

OR

2. Make a motion to include in the RFP – 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 in half-point increments beyond the 100 points established for proposal evaluation based on the economic value to Oakland of their proposed operations in Oakland, with only the most valuable proposal eligible for the full two (2) points.

Recommendation: Option #2 is recommended because it will facilitate differentiation in the proposal evaluation through award of half-points and emphasize the City's intent to enforce local business presence requirements.

ATTACHMENT D

Item #25: Local Hire

Purpose: To obtain economic benefits for Oakland by requiring the collection franchisees to hire Oakland residents at a minimum threshold and by providing preference points beyond the 100-point base evaluation for proposals that include commitments above the minimum requirement.

Options: Both options below would award three (3) preference points above the 100 established. The second motion differs from the first by excluding preference points for new local hires above the 50% requirement, awarding points in half-point increments, and allocating one (1) preference point to disadvantaged worker commitment and two (2) preference points for Oakland composition of the workforce. Under either option, the local hire requirements are expected to be minor for the franchisees, but the City will incur additional staffing costs related to compliance and enforcement of such requirements.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, to include in the RFP – that Local Hire 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;

OR

2. Make a motion to amend the Resolution to include in the RFP – that Local Hire will be required such that 50% of all new hires must be Oakland residents for the Garbage and Organics and Residential Recycling Contracts and award up to one (1) local hire preference points 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 Oakland residents in their workforce, including management positions, on a year-by-year basis.

Recommendation: Option #2 is recommended because it will facilitate differentiation in the proposal evaluation and assign points commensurate with the economic benefits of the commitments.

ATTACHMENT E

Item #**26:** Employment Preference for Current Contractors' Employees

Purpose: To require that the new Garbage and Organics and Residential Recycling Franchisee(s) provide employment preference to the current contractors' employees, who may be displaced by a change in seryice providers.

Options: The options are to require Employment Preference for the current contractors' employees or not to provide such employment preference. Option #1 would require the new Franchisee(s) to offer employment to the current employees of the incumbent companies, allowing the employee the option to choose whether to take a position with the new company, stay with the old company, or sever employment. This requirement would provide a measure of continuity of service to Oakland customers, and economic stability to the incumbent workforce, of which many are Oakland residents.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, requiring that 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;

OR

2. Make no requirement to provide employment preference to current contractor's employees

Recommendation: Option #1 is recommended in order to provide a measure of job security that in turn provides benefits to Oakland residents and businesses.

ATTACHMENT F

Item #27: Preference Points for In-County Landfills

Purpose: To obtain economic benefits for Oakland by rewarding proposals for disposal services that include landfills located in Alameda County, without limiting competition from landfills located out of Alameda County. There are two landfills located in Alameda County, Altamont and Vasco Road landfills.

Options: The options are to award bonus points or not to award bonus points. Option # 1 would award preference points for in-county landfill disposal, acknowledging the direct and indirect economic benefits that are received for these businesses' location in the county, including a portion of sales taxes paid by an in-county landfill that would be allocated to Oakland. In addition, property, payroll, business license, and gas taxes paid by an in-county landfill fund services that Oakland receives from Alameda County.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, awarding three (3) bonus points to landfill disposal proposals including in-county landfills;

OR

2. Make a motion to strike the provision for in-county landfill preference points from the Resolution.

Recommendation: Option # 1 is recommended because it provides a reward commensurate to the economic benefits that Oakland would receive.

ATTACHMENT G

Item #28: Labor Peace

Purpose: To establish that proposers to the RFP be required to describe their plans for preventing labor disputes or unrest during the franchise term.

Options: The options are to require proposers to submit plans for labor peace or not to require such plans. Labor Peace language is found in RFPs for similar type services and could protect the quality of service Oakland customers receive.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May **8**, 2012, requiring the RFP proposers to submit plans for labor disputes or unrest during the franchise term;

OR

2. Make no requirement in the RFP for proposers to submit plans regarding Labor Peace.

Recommendation: Option #1 is recommended because it provides additional security to Oakland residents and businesses regarding the reliability of the franchised services.

ATTACHMENT H

Item #29: Customer Service Call Center in Alameda County

Purpose: To ensure that effective and knowledgeable customer service is provided by the Garbage and Organics Franchisee by requiring that the franchisee's customer call center be located in Alameda County.

Options: The options are to require a local call center or not to require a local call center.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, requiring in the RFP that proposers provide a call center located in Alameda County, and allow proposals for providing an optional call center outside of Alameda County that meets the customer service standards and specifications of the RFP. This would allow the City to assess the cost to the ratepayer for having a local call center;

OR

2. Make no requirement regarding the location of the customer call center

Recommendation: Option #1 is recommended as it retains flexibility in determining the value of a local call center compared to the costs for a call center located outside Alameda County submitted in the proposals.

Item #30: Open the RFP to all qualified firms to establish competition and avoid significant additional costs to ratepayers.

Purpose: To clarify for proposers that the City's policy prohibiting doing business with companies headquartered in Arizona does not apply to the procurement of franchise services, and that all qualified companies may propose, to achieve the best rates for the ratepayers. This is because the City is not purchasing goods or services, but arranging for services to be provided to ratepayers who in turn pay the franchisee for the services provided.

Options: The City Council can either clarify that it is seeking proposals from the greatest number of companies to maintain competitive proposals, or act to extend the Arizona policy to franchise services, thereby limiting the number of proposals.

1. Make a motion to approve the Resolution that was revised per Public Works Committee on May 8, 2012, to include in the RFP language that clarifies 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;

OR

2. Make a motion to extend the City's Arizona Policy to the procurement of franchise services.

Recommendation: Option #1 is recommended because it would encourage a level of cost competition that maximizes the competitive process among a limited pool of potential proposers, resulting in downward pressure on rates for Oakland ratepayers.

ATTACHMENT J

Item #31: Source-Separated Organic Materials Collection from Multi-Family Dwellings (MFD)

Purpose: To provide supplemental service to the two-container MFD service, allowing source separated organic materials collection to MFDs upon request from MFD owners or managers.

Options: The January 10, 2012 Supplemental Report adopted by Council Resolution No. 83689 C.M.S., established the two-container system for MFDs and that staff would "add language to the RFP for source separation options for collection of organics from MFDs, via three-container service." Option #1 recommends no additional action, which allows staff to proceed with soliciting proposals for a 3rd container for source separated organic materials that require proposers to show the costs for such service embedded in the MFD rates and provided as a separate cost for customers that subscribe to the service. This will ensure that all proposals received will be evaluated based on the same required information. Option #2 requires proposers to provide a rate for a third "green" container for MFDs at no additional charge, and allows proposers to provide an optional proposal for a rate that would apply only to the customers who subscribe to third cart service.

1. Make no additional requirement, beyond the requirements of Resolution No. 83689 C.M.S. regarding the provision of a third "green" container to Multi-Family Dwellings.

OR

2. Adopt a motion that proposers to the RFP for the Garbage and Organics Franchise be required to include providing a third "green" container to Multi-Family Dwellings 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.

Recommendation: Option #1 is recommended because it will provide the City with the most comprehensive information on the relative costs of these service options.

ATTACHMENT K

Item #32: Contract Enforcement and Compliance

Purpose: To ensure that the Franchisee(s) fulfill the commitments and obligations of the accepted proposal(s) and resulting Franchise Contracts, to maximize the economic benefits sought by the City through various related contract RFP and requirements, including Local Business Participation, Local Hire, Employment Preference, and Competitive Wages and Benefits.

Options: As described in this Supplemental Report (June 19, 2012), both the Garbage and Organics (G/O) Contract and the Residential Recycling (RR) Contract include a progressive process to ensure quality of performance and service to the customers. In addition, these Contracts will specifically address remedies for late payment or non-payment by the G/O franchisee to the RR franchisee, specifically through a Letter of Credit. Such provisions are commonplace in these types of contracts, and staff is experienced in using these tools as necessary to ensure compliance with contract provisions. Option #1 is to take no action on this item, and Option #2 specifies that the City is empowered to take action against the franchisees for failure to perform.

1. Make no additional requirement.

OR

2. The RFP will make clear that the successful proposers on the Garbage and Organics and Residential Recycling Contracts will be subject to compliance monitoring, orders for corrective action, and liquidated damages for failure to perform required services and economic benefit obligations including, but not limited to: failure of the Garbage and Organics franchisee to pay the Residential Recycling franchisee within 30 days of invoice; and failure to maintain competitive wages, meet contract requirements for local business presence and participation, meet 50% new local hire requirement, maintain local workforce and/or hire disadvantaged workers, and offer 90- day retention and then employment to qualified displaced employees of the current solid waste franchise and residential recycling contractors. In addition, the RFP shall make clear that the failure to comply with the foregoing provisions may result in the City not granting an extension of the Franchise [Contract] in year ten.

Recommendation: Option #1 is recommended, allowing staff to write contract requirements that will address effectively concerns about timely and full payment to the Residential Recycling Franchisee, and other performance issues that may arise.

ATTACHMENT L

DISTRIBUTION DATE: 1/12/12

CITY OF OAKLAND

City Administrator's Office

MEMORANDUM

TO: HONORABLE MAYOR & CITY COUNCIL

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Regional Garbage Rate Increases

DATE: January 12, 2012

City Administrator Approval

Date 1/12/12

INFORMATION

This information is provided at the request of Council President Larry Reid, made in the Public Works Committee meeting on January 10, 2012 in response to the Council Agenda Report Item #4, "Resolution Adopting The Recommended System Design To Meet The Adopted Zero Waste Strategy - Develop A New Waste Management System Design In Preparation Of Oakland's Next Collection And Disposal Contracts."

President Reid requested staff to provide information on rate impacts experienced in jurisdictions that have implemented new garbage franchise agreements. Communities in the Bay Area that have executed new service agreements in recent years for collection, processing and disposal of garbage, recyclables and organic materials have experienced significant rate increases for these services. Staff disclosed this information to the City Council in a memo from the City Administrator on April 12, 2011 (attachment), when the existing garbage franchise and recycling agreements were extended. Supplementing the information contained in that memo, the tables below summarize the rate impact on commercial and residential customers in several jurisdictions where new franchises were negotiated with incumbent haulers or procured through a competitive process.

Table 1. Garbage Rate Impacts – New Contracts from Negotiations with Incumbent Hauler

City	New Contract Effective	Year One Rate Impact	32-Gallon Single Family Rate		One Cubic Yard Commercial Rate	
			Before	After	Before	After
Albany	2011	45%	$24.77	$35.92	$98.73	$143.16
Dubhn	2011	27%	$14.25	$17.99	$63.53	$80.21
Emeryville	2011	45%	$11.81	$16.91	$69.59	$100.67
Hayward	2007	32%	$17.83	$23.28	$75.38	$98.45

Table 2. Garbage Rate Impacts – New Contracts Procured through RFP

City	New Contract Effective	Year One Rate Impact	32-Gallon Single Family Rate		One Cubic Yard Commercial Rate	
			Before	After	Before	After
Castro Valley	2009	45% Residential 68% Commercial	$19.44	$28.18	$81.90	$199.65
Livermore	2009	19%	$16.21	$19.26	$76.14	$90.61
Menlo Park[1] (South Bayside Waste Mgt. Authority)	2011	7%	$20.25	$21.60	$107.90	$115.45

[1]The South Bayside Waste Mgt. Authority (Authority) is comprises 12 jurisdictions in San Mateo County who conducted a joint RFP for new services commencing in 2011. The average rate impact was 23%. However, for the City of Menlo Park which is one of the Authority's larger cities, the rate impact was only 7% because prior rates were higher than typical rates for the Authority's other member jurisdictions.

Respectfully submitted,

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Director, Public Works Agency

For questions please contact Susan Kattchee, Environmental Services Manager, at 238-6382.

Attachment
4/12/11 Memo from City Administrator to City Council