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OFFICE OF THE CITY CLERK
OAKLAND

2014 AUG 11 PM 2:57

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Resolution to Appropriate and Expend
Funds for Zero Waste Services Transition

DATE: August 11, 2014

City Administrator
Approval

A

Date

8/11/14

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City adopt a resolution authorizing the City Administrator:

1. Appropriate To The Adopted Fiscal Years 2014-2015 Operating Budget, Increasing Budgeted Revenue By One Million, Five Hundred Thousand (\$1,500,000) In Fiscal Year 2014-2015 In Fund 1710 (Recycling Program), For Reimbursement Of Expenditures Incurred During The City Of Oakland's Zero Waste Procurement Process, and
2. Authorize The City Administrator To Include In The Adopted Fiscal Years 2014-2015 Operating Budget Two (2) Exempt Limited Duration Employees Not To Exceed Five Hundred Thousand (\$500,000) To Support The Environmental Services Division With The Transition To California Waste Solutions; and
3. Allocate To Oakland Public Works Department Adopted Operating Budget For Fiscal Years 2014-2015, Fund 1710 (Recycling Program) In The Amount Of Seven Hundred And Fifty Thousand Dollars (\$750,000), For Contractual Services To Execute The Transition To California Waste Solutions By July 1, 2015; And
4. Award Professional Services Contracts With Various Vendors Within A Budget Amount Of Up To Seven Hundred And Fifty Thousand Dollars (\$750,000) For Professional And Legal Services Related To The Transition Of City Of Oakland's Zero Waste Collection Contracts With Waste Management Of Alameda County to California Waste Solutions, Provided That Prior To Expenditure Of Any Funds Staff Will Award Contracts And Establish Contract Amounts For The Controller's Bureau; and
5. Waive The City's Advertising, Bidding And Request For Proposals/Qualifications (RFP/Q) Requirement For Each Of Professional Service Contracts.

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EXECUTIVE SUMMARY

The resolution provides for the Zero Waste Services request for "proposal development and cost reimbursement fees" of \$1,500,000, which are required to be provided by the new Contractor to the City at execution of the new franchise agreements, to be appropriated in the Oakland Public Works Department (OPW) FY 2014-15 budget in Fund 1710. Additionally, the resolution provides adjustments to the FY 2014-15 budget Fund 1710 to (1) appropriate and expend up to \$500,000 for two Exempt Limited Duration Employees (ELDE) to assist with transition to the new franchise agreements and complete the last two Zero Waste System components, and (2) appropriate and expend up to \$750,000 for professional services agreements for the needed specialty professional services and additional outside legal services to support the transition of Zero Waste Services to a new service provider on July 1, 2015. The additional resources are needed to support staff in the transition to the new franchise contractor.

OUTCOME

Adoption of the resolution will allow the City Administrator to:

- (1) Appropriate \$1,500,000 in revenue from the proposal development and cost reimbursement fees, and
- (2) Add two ELDE positions to the Recycling Program FY 2014-15 Budget, and appropriate \$500,000 from the Fund 1710 (Recycling Fund) to the Recycling Program FY2014-15 Budget for the ELDE positions, and
- (3) Appropriate \$750,000 from the Fund 1710 (Recycling Fund) to the Recycling Program FY 2014-15 Budget for legal and professional services, waiving the competitive Request for Proposal/Qualifications (RFP/Q) competitive selection requirement per OMC Title 2, Chapter 2, Article I, Section 2.04.051.B.

BACKGROUND/LEGISLATIVE HISTORY

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. The Zero Waste System Design includes a non-exclusive franchise for construction and demolition waste collection and a permit system for commercial recycling collection to achieve the adopted Zero Waste goal.

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. The RFP for Zero Waste Service for Disposal and Collection Services required proposal development and

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cost reimbursement fees of the Contractor to the City upon the execution of the franchise contracts.

At a Special Meeting on July 30, 2014, the City Council held a public hearing and adopted three Ordinances (X, Y and Z) that granted franchises and authorized the City Administrator to execute contracts with California Waste Solutions, Inc. In addition, Council approved Rate Tables 3C, which corresponded to the selected ordinances.

ANALYSIS

The coordination, compressed time schedule, and volume of work the City will need to oversee for transition from Waste Management of Alameda County to California Waste Solutions (CWS) will require a team of specialized professionals and legal services. This team will make sure that milestones, deliverables and performance standards are met for delivery of the full suite of zero waste services on day one and in the initial months of the new services.

Additionally, there is a body of work regarding changes needed to the Oakland Municipal Code (O.M.C.) to reflect provisions in the new Zero Waste Services franchise contracts, including amended definitions and the new assessment process for failure to pay garbage bill. An entirely new non-exclusive franchise for construction and demolition debris collection, and a permit system for commercial recycling collection programs also need to be developed, receive public input, and come before City Council for approval.

The RFP for Zero Waste Service for Disposal and Collection Services required proposal development and cost reimbursement fees by the Contractor to the City upon the execution of the franchise contracts. The total amount of the three franchise contracts proposal development and cost reimbursement fees is \$1,500,000. It is recommended that these monies be appropriated to the 1710 Fund where the Zero Waste Services request for proposals costs were expended.

City Transition Team

Ensuring a successful implementation of the new zero waste franchise agreements for the residents and businesses of Oakland will require a City transition team. The City's transition team will coordinate with CWS and its various operational project managers and vendors to ensure that project schedules, milestones and deliverables are met. Due to the compressed timeframe, an increased level of coordination internally between the City Administrator's Office, OPW, Revenue Division, Office of Contract Compliance, Planning and Building Department, and City Attorney's Office to complete the transition is required. In addition, the members of OPW's Zero Waste Team that has been leading this project for several years, have experienced their own transitions within OPW: Susan Kattchee has been appointed as Assistant Director, Becky Dowdakin is serving as Acting Environmental Services Manager, and Peter Slote and Mark Gagliardi have taken turns as Acting Solid Waste & Recycling Program Supervisor. As a

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result, all team members have new and expanded duties that significantly limit the amount of time they are available to spend on the zero waste transition.

It is recommended that two Exempt Limited Duration Employee (ELDE) positions be added to the FY 2014-15 Budget allowing the City to manage the critical path for a successful transition on July 1, 2015. ELDE positions are appropriate for a project such as this that are critical and limited in time. One of these positions will act as the project manager overseeing the transition to the new Zero Waste Services and System. The position will ensure that the startup activities prior to July 1, 2015 are being attended in accordance with the schedule and address any shortcomings. This position will prepare the regular reports to City Council on CWS's implementation progress. The second position will facilitate the changes to the O.M.C. including the development and new programs for the non-exclusive franchise for construction and demolition debris collection and the permit system for commercial recycling collection.

Additionally, there is a need for legal services to complete franchise contract negotiations, provide specialized legal advice, and address assurances in the contracts for performance should the timelines stray from the critical path in the implementation of the three franchise contracts, and advise the City on possible alternatives if the franchisee is unable to fulfill its contractual commitments. This will include drafting and reviewing new City ordinances for the implementation of the Zero Waste Non-exclusive Franchise for Construction and Demolition Debris Collection and Commercial Recycling Collection programs. The City Attorney's Office is requesting authorization for appropriation of up to \$250,000 from Fund 1710 in the FY 2014-15 Budget for these activities.

Along with needed legal services, there is a need for other professional services such as auditing to verify accuracy of Contractor billing, outreach and communications oversight, job retention provisions and field and operations monitoring investigation. A service transition of this scope typically involves intensive coordination between the contractors and the City. Given the foreshortened transition period, and the inexperience of both the Contractor and OPW staff in transitions of this magnitude, it is recommended that one ELDE be hired to provide project management services to implement these franchise contracts. In addition, significant revisions to the O.M.C. are required to conform to Zero Waste System, particularly the non-exclusive franchises for construction and demolition debris, the permit system for commercial recycling, the assessment related to failure to pay residential garbage bills, and other provisions in the franchise contracts. OPW is requesting appropriation of \$500,000 from Fund 1710 in the FY 2014-15 Budget for these activities.

PUBLIC OUTREACH/INTEREST

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

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COORDINATION

Oakland Public Works Department has coordinated closely with the City Administrator's Office, Office of the City Attorney, and Budget Office, for this report and the development of the Resolution.

COST SUMMARY/IMPLICATIONS

The attached Resolution recommends the following fiscal actions for the City to implement the transition from the existing solid waste service provider to California Waste Solutions.

1. Appropriate the revenue from the "proposal development and cost reimbursement fees" of one million five hundred thousand dollars (\$1,500,000) required at execution of the Zero Waste franchise agreements to the 1710 Fund (Recycling Fund), and
2. Add to the FY 2014-15 OPW Budget two ELDE positions to provide the necessary and increased level coordination and oversight needed for the MM&O and RR Franchise contracts implementation. Appropriate four hundred thousand dollars (\$500,000) from the 1710 Fund to the Environmental Services Division Recycling Program budget for the funding for the ELDE positions. ELDE positions are specified for limited special projects and are allowed to work up to one-year, and
3. Appropriate one million dollars (\$1,000,000) from the 1710 Fund to the FY 2014-15 Environmental Services Division Recycling Program Budget for legal and professional services needed to ensure a timely and quality service transition. Because of the compressed timelines to transition to a new solid waste collection company it is recommended that City Council waive the competitive RFP/Q competitive selection requirement per OMC Title 2, Chapter 2, Article I, Section 2.04.051.B.

SUSTAINABLE OPPORTUNITIES

Economic: Zero Waste Services expand and support the use of discarded materials which helps drives local economic.

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

Social Equity: Meeting the Zero Waste diversion goal increases jobs through additional diversion of materials from the landfill.


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To: Henry L. Gardner, Interim City Administrator
Subject: Zero Waste Services Transition Funds
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For questions regarding this report, please contact Susan Kattchee, Assistant Director, 510-238-6382.

Respectfully submitted,



BROOKE A. LEVIN
Director, Public Works Department

Prepared by:
Susan Kattchee, Assistant Director

Prepared by:
Becky Dowdakin, Acting Environmental Svcs. Manager

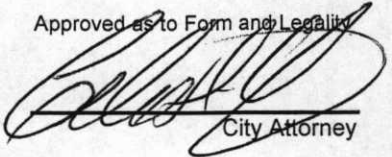
Attachment: Resolution

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FILED
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OAKLAND

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

2014 AUG 11 PM ~~RESOLUTION~~ No. _____ C.M.S.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND
AUTHORIZING THE CITY ADMINISTRATOR OR HIS/HER DESIGNEE TO:**

- 1) APPROPRIATE TO THE ADOPTED FISCAL YEARS 2014-2015 OPERATING BUDGET, INCREASING BUDGETED REVENUE BY ONE MILLION, FIVE HUNDRED THOUSAND (\$1,500,000) IN FISCAL YEAR 2014-2015 IN FUND 1710 (RECYCLING PROGRAM), FOR REIMBURSEMENT OF EXPENDITURES INCURRED DURING THE CITY OF OAKLAND'S ZERO WASTE PROCUREMENT PROCESS, AND
- 2) AUTHORIZE THE CITY ADMINISTRATOR TO INCLUDE IN THE ADOPTED FISCAL YEARS 2014-2015 OPERATING BUDGET TWO (2) EXEMPT LIMITED DURATION EMPLOYEES NOT TO EXCEED FIVE HUNDRED THOUSAND (\$500,000) TO SUPPORT THE ENVIRONMENTAL SERVICES DIVISION WITH THE TRANSITION TO CALIFORNIA WASTE SOLUTIONS; AND
- 3) ALLOCATE TO OAKLAND PUBLIC WORKS DEPARTMENT ADOPTED OPERATING BUDGET FOR FISCAL YEARS 2014-2015, FUND 1710 (RECYCLING PROGRAM) IN THE AMOUNT OF SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000), FOR CONTRACTUAL SERVICES TO EXECUTE THE TRANSITION TO CALIFORNIA WASTE SOLUTIONS BY JULY 1, 2015; AND
- 4) AWARD PROFESSIONAL SERVICES CONTRACTS WITH VARIOUS VENDORS WITHIN A BUDGET AMOUNT OF UP TO SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FOR PROFESSIONAL AND LEGAL SERVICES RELATED TO THE TRANSITION OF CITY OF OAKLAND'S ZERO WASTE COLLECTION CONTRACTS WITH WASTE MANAGEMENT OF ALAMEDA COUNTY TO CALIFORNIA WASTE SOLUTIONS, PROVIDED THAT PRIOR TO EXPENDITURE OF ANY FUNDS STAFF WILL AWARD CONTRACTS AND ESTABLISH CONTRACT AMOUNTS FOR THE CONTROLLER'S BUREAU; AND
- 5) WAIVE THE CITY'S ADVERTISING, BIDDING AND REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/Q) REQUIREMENT FOR EACH OF PROFESSIONAL AND LEGAL SERVICE CONTRACTS.

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 2006 the City Council of the City of Oakland approved Resolution No. 79774 C.M.S. which adopted a Zero Waste Goal by 2020, and in 2006 the City Council of the City of Oakland passed Resolution No. 80286 C.M.S., adopting a Zero Waste Strategic Plan and in December 2006 through Resolution No. 80286 C.M.S. the City Council adopted a Zero Waste Strategic Plan; and

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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 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, the RFP for Zero Waste Service for Disposal and Collection Services required proposal development and cost reimbursement fees of the Contractor upon the execution of the franchise contract(s); and

WHEREAS, on July 30, 2014 City Council held a first reading of the Ordinances to award the three franchise contracts to California Waste Solutions (CWS); and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.051.A requires staff to conduct a competitive Request for Proposal/Qualification (RFP/Q) selection process for the procurement of professional services; and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.050 requires formal advertising and competitive bidding when the City purchases services, supplies or a combination thereof that exceeds \$50,000.00, and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.050.I.5 permits the Council to waive formal advertising and competitive bidding upon a finding and determination that it is in the best interests of the City to do so; and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.051.B permits the Council to waive the competitive RFP/Q competitive selection requirement upon a finding and determination that it is in the best interests of the City to do so; and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.010 provides clear definition relative to the City’s mandatory Local and Small Local Business Enterprise (L/SLBE) Provision requirements; and

WHEREAS, the proposed legislation seeks authorization for the City Administrator, or his/her designee, to execute Professional Services Contracts in the amount of seven hundred and fifty thousand (\$750,000) to fund professional services for the transition to California Waste Solutions; now therefore be it

RESOLVED: The proposal development cost reimbursement fees for expenditures incurred during the City of Oakland’s Zero Waste Services procurement process in the amount of one million five hundred thousand (\$1,500,000) be appropriated in Fund 1710 ORG 30682 Account 45417 as a revenue. And appropriate an operating budgetary increase in the amount of one million two hundred and fifty thousand (\$1,250,000) in Fund 1710 ORG 30682 Account 54919 and 51912 in Fiscal Year 2014-2015; and be it

FURTHER RESOLVED: That the City Council, pursuant to OMC Title 2, Article I, Section 2.04.050.I.5 and OMC Title 2, Chapter 2, Article I, Section 2.04.051.B requires staff to conduct a competitive Request for Proposal/Qualification (RFP/Q) selection process for the procurement of professional services of the Oakland Municipal Code, hereby finds and determines that it is in the best interest of the City to waive the formal advertising ,competitive bidding, and the RFP/Q competitive selection requirements of the OMC because the extremely short timelines to transition to a new waste collection company and timely provide garbage collection, recycling and disposal services to the residents and businesses of Oakland do not permit the City the time to conduct such advertising, bidding and competitive RFP/Q selection requirements; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator, or his designee, to execute professional services contracts for service related to the Zero Waste Services transition in an amount not to exceed seven hundred and fifty thousand dollars (\$750,000) in Fund 1710, ORG 30682, for the transition to the City’s new solid waste collection contractor, provided that prior to the expenditure of any funds staff will award contract and establish contract amounts for the Controller’s Bureau; and be it

FURTHER RESOLVED: That the City Council authorize Oakland Public Works Department to allocate five hundred thousand (\$500,000) in the Fund 1710, ORG 30682, Account 51912 in adopted Fiscal Years 2014-2015 Operating Budget for the addition of two (2) exempt limited duration employees to support the City with the transition to California Waste Solutions insure that services and billing are transitioned appropriately for residents, businesses and the City.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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