

2014 MAR 13 PM 12:06

Approved as to Form and Legality

*Liran Jain*  
Office of the City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. 84915 C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A SECOND AMENDMENT TO THE CITY'S EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH CALIFORNIA WASTE SOLUTIONS, INC. AND CASS, INC., REGARDING A PROPOSED RECYCLING PROJECT ON UP TO APPROXIMATELY 20 ACRES IN THE NORTH GATEWAY AREA OF THE FORMER OAKLAND ARMY BASE EXTENDING THE ENA TO DECEMBER 15, 2014**

**WHEREAS**, on February 12, 2012, the City of Oakland and California Waste Solutions, Inc. (CWS) and CASS, Inc. (CASS) executed an Exclusive Negotiating Agreement (ENA) for the possible development of two recycling facilities on approximately 20 acres of the City-owned North Gateway Area in the former Oakland Army Base ("Property"); and

**WHEREAS**, on May 7, 2013, Council authorized an extension of the ENA to December 15, 2013, and a first amendment was executed by the parties on June 20, 2013 extending the ENA to December 15, 2013; and

**WHEREAS**, the parties wish to further extend the ENA to December 15, 2014 and enter into a second amendment to effectuate this intent; and

**WHEREAS**, CWS and CASS intend to build two new recycling facilities on the Property to relocate their recycling operations out of West Oakland residential neighborhoods and restrict the use of their former West Oakland properties to preclude recycling and other waste operations ("Project"); and

**WHEREAS**, the relocation of CWS and CASS out of West Oakland residential neighborhoods would reduce truck traffic and remove a land use conflict from the community; and

**WHEREAS**, the relocation of CWS and CASS to the Army Base would enable the two firms to remain in Oakland, develop more efficient operations, increase productivity, increase sales, and contribute to the Port of Oakland's business; and

**WHEREAS**, the City is engaged in active negotiations with CWS and CASS and needs additional time to complete these negotiations; now, therefore be it

**RESOLVED**, that the City Administrator is authorized to negotiate and execute a second amendment to the ENA with CWS and CASS extending the ENA to December 15, 2014, and retaining the ENA's existing option in Section 1.4 thereof for the City Administrator to extend the ENA by up to an additional ninety (90) days thereafter, for the purposes of negotiating the terms and conditions of the possible development of the Project; and be it

**FURTHER RESOLVED**, that the City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

**FURTHER RESOLVED**, that the City Administrator or designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

**FURTHER RESOLVED**, that the second amendment to the ENA shall be reviewed and approved as to form and legality by the City Attorney prior to execution; and be it

**FURTHER RESOLVED**, that the City Administrator is further authorized to take whatever action is necessary with the respect to the second amendment to the ENA consistent with this Resolution and its basic purposes.

**IN COUNCIL, OAKLAND, CALIFORNIA, APR 01 2014, 2014**

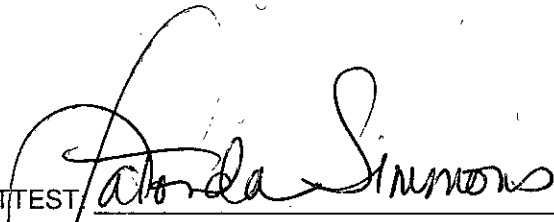
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, AND  
PRESIDENT KERNIGHAN - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST   
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LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California