

2016 JUN 17 AM 9:30

Approved as to Form and Legality

D. Millner
Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 86274 C.M.S.

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A FOURTH AMENDMENT TO THE EXCLUSIVE NEGOTIATING AGREEMENT BY AND BETWEEN THE CITY OF OAKLAND, CALIFORNIA WASTE SOLUTIONS, INC., AND CASS, INC., REGARDING PROPOSED RECYCLING FACILITIES ON THE NORTH GATEWAY DEVELOPMENT AREA OF THE FORMER OAKLAND ARMY BASE EXTENDING THE TERM OF THE ENA THROUGH SEPTEMBER 30, 2016, WITH AN OPTION BY THE CITY ADMINISTRATOR TO EXTEND THE ENA BY UP TO AN ADDITIONAL NINETY DAYS THEREAFTER

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, on April 1, 2014, Council authorized an extension of the ENA to December 15, 2014, and a second amendment was executed by the parties on April 11, 2014 extending the ENA to December 15, 2014; and

WHEREAS, on February 17, 2015, Council authorized an extension of the ENA to December 15, 2015, and a third amendment was executed by the parties on August 17, 2015 extending the ENA to December 15, 2015; and

WHEREAS, the parties to the ENA have acknowledged mutual interest in enter into a fourth ENA extension to September 30, 2016; and

WHEREAS, CWS and CASS intend to build two new recycling facilities on the Property to relocate their existing 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 fourth amendment to the ENA with CWS and CASS extending the ENA to September 30, 2016, 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 his/her 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 fourth 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 fourth amendment to the ENA consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, July 5, 2016

PASSED BY THE FOLLOWING VOTE:

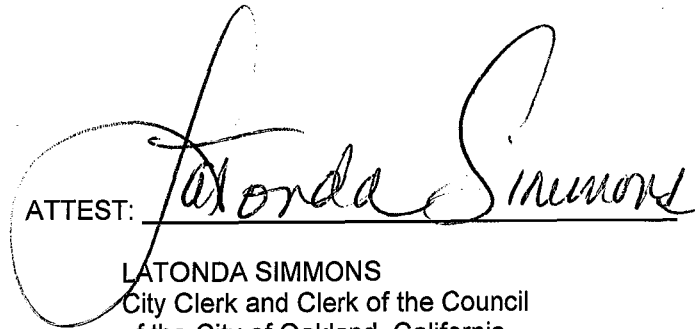
AYES - BROOKS, CAMPBELL-WASHINGTON, ~~GALLO~~, GUILLEN, KALB, ~~KAPLAN~~, REID,
AND PRESIDENT GIBSON McELHANEY - 6

NOES - Gallo - 1

ABSENT - Kaplan - 1

ABSTENTION - 0

ATTEST:


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