



City of Oakland Meeting Minutes

Office of the City Clerk
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, California 94612
LaTonda Simmons, City Clerk

* Special Concurrent Meeting of the Oakland Redevelopment Successor Agency/City Council Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, CA 94612

Monday, September 22, 2014

5:30 PM

City Council Chambers, 3rd Floor

1 PLEDGE OF ALLEGIANCE

The Special Concurrent Meeting of the Oakland City Council and Successor Redevelopment Agency was held on the above date. Opening with the Pledge of Allegiance, the meeting was convened at 6:28 PM.

2 ROLL CALL / CITY COUNCIL

ORA\Councilmember Absent: 1 - Vice Mayor Reid
ORA\Councilmember Present: 7 - Councilmember Brooks, Councilmember Gallo, Councilmember Gibson McElhaney, Councilmember Kalb, President Pro Tempore Kaplan, Councilmember Schaaf and Council President Kernighan

3 OPEN FORUM / CITIZEN COMMENTS (Time Available: 15 Minutes)

There was one speaker during Open Forum.

4 Subject: Ordinance Amending Ordinance No. 13253 C.M.S.
From: Office Of The City Administrator
Recommendation: Adopt The Following Pieces Of Legislation:
1) An Ordinance Amending Ordinance No. 13253 C.M.S., Which Granted A Franchise For Mixed Materials And Organics Collection Services To California Waste Solutions, Inc., To Instead Grant The Franchise For Mixed Materials And Organics Collection Services To Waste Management Of Alameda County, And/Or Such Other Affiliate Entity Approved By The City Administrator, Contingent On Its Execution Of A Mixed Materials And Organics Collection Services Contract With The City, And Authorizing The City Administrator To Negotiate And Execute Such A Contract Which May Regulate Maximum Service Rates For Mixed Materials And Organics Collection Services, Residential Recycling Services, And Disposal Services, And Setting Forth Procedures To Allow For Adjustment Of Maximum Service Rates, On Such Terms And Conditions And Rates Approved By The City Council
[14-0047](#)

A motion was made by Councilmember Gallo, seconded by Councilmember Kalb, to * Approved As Amended On Introduction and Scheduled for Final Passage to the * Special Concurrent Meeting of the Oakland Redevelopment Successor Agency/City Council, to be heard at the September 29, 2014 meeting. The motion carried by the following vote:

Votes: ORA\Councilmember Abstained: 1 - Councilmember Brooks
ORA\Councilmember Absent: 1 - Vice Mayor Reid
ORA\Councilmember Ayes: 6 - Councilmember Gallo, Councilmember Gibson McElhaney, Councilmember Kalb, President Pro Tempore Kaplan, Councilmember Schaaf and Council President Kernighan
There were 39 speakers on this item.

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2) An Ordinance Amending Ordinance No. 13255 C.M.S., Which Authorized The City Administrator To Execute An Exclusive Contract For Landfill Disposal Services With California Waste Solutions, Inc., To Instead Authorize The City Administrator To Execute An Exclusive Contract For Landfill Disposal Services With Waste Management Of Alameda County, And/Or Such Other Affiliate Entity Approved By The City Administrator, On Such Terms And Conditions And Rates Approved By The City Council

[14-0047-1](#)

A motion was made by Councilmember Gibson McElhaney, seconded by Councilmember Kalb, that this matter be * Approved On Introduction and Scheduled for Final Passage to the * Special Concurrent Meeting of the Oakland Redevelopment Successor Agency/City Council, to be heard at the September 29, 2014 meeting. The motion carried by the following vote:

Votes: ORA\Councilmember Abstained: 1 - Councilmember Brooks

ORA\Councilmember Absent: 1 - Vice Mayor Reid

ORA\Councilmember Ayes: 6 - Councilmember Gallo, Councilmember Gibson McElhaney, Councilmember Kalb, President Pro Tempore Kaplan, Councilmember Schaaf and Council President Kernighan

Councilmember Gibson McElhaney made the following amendments:

1. *In the MMO contract -*

· *Article 3 section 3.01 entitled "Term" is amended to read as follows:*

3.01 Term The term of this Contract shall be for a ten (10) year period beginning

July 1, 2015, and terminating on June 30, 2025. City in its sole discretion shall have the option to extend the Contract for up to two (2) additional 5 year periods.

3.01.1 First Extension. On or about May 1, 2022 City in its sole discretion may extend this Contract by five (5) years by notifying CONTRACTOR of its intention to do so in writing.

3.02.2 Second Extension. On or about May 1, 2027, CITY in its sole discretion may extend this Contract five (5) years by notifying CONTRACTOR of its intention to do so in writing.

· *Article 9 - add the following new section 9.07*

9.07 Organic Materials and Recycling

In the event the recycling contractor ("RR") determines that the content of an

RR container is contaminated, the RR contractor shall have the right to collect such contaminated material and to charge a contamination Rate for the collection of such contaminated material.

· *Article 16 entitled CUSTOMER SERVICE is amended to read as follows:*

16.02 CONTRACTOR'S Customer Service Center and Telephone and Email Access.

CONTRACTOR shall maintain a Customer Service Center in Alameda County that provides toll-free telephone and email access to residents and businesses of CITY, and is staffed by trained and experienced Customer Service Representatives (CSRs). Such Customer service center shall have responsible persons in charge during Collection hours, and shall be open 8:00 a.m. to 6:00 p.m. on regularly scheduled Work Day (Monday through Friday) and when SFD or MFD Collection Services are scheduled to be provided on Saturday; and be staffed with a sufficient number of CSRs and equipped with sufficient telephone and email capacity such that: (etc.)

2. In the MMO Ordinance

· *Section 2 is amended to read as follows:*

Section 2. The Council does hereby find and declare that the above recitals are true and correct and that the award of a franchise for Mixed Materials and Organics Collection to Franchisee is for a proper public purpose, is in the public interest, convenience, and welfare, and is for the common benefit of the inhabitants of the city. The City hereby grants, Waste Management of Alameda County Inc. (WMAC) contingent on its execution of the Mixed Materials and Organics Collection Services Contract, an exclusive franchise for the provision of Mixed Materials and Organics Collection Services, as identified in the Request for Proposals for Zero Waste Services, originally released on September 5, 2012. The term of the franchise from July 1, 2015 to June 30, 2025 and the City's sole option, extend the Contract for two additional five (5) year terms with the potential extension through June 30, 2035 as specified in the Contract.

Section 7. The Franchisee shall allow Civicorps to handle commercial organics collection and delivery to EBMUD and develop plans with Civicorps to provide training of interns without impact or displacement of permanent union jobs, through a contract subject to approval by the City Administrator.

Section 8. The Franchisee shall deliver, as determined by agreement through Civicorps, commercial organics to East Bay Municipal Utility District, and shall enter into a separate processing agreement with EBMUD for these materials, subject to approval by the City Administrator.

Section 11. The franchise awarded hereunder shall be contingent on: 1) dismissal with prejudice of following litigation in Waste Management of Alameda County v. City of Oakland, and 2) submission to the Oakland City Clerk of written notices of withdrawal of referenda measures signed by all proponents, pursuant to California Elections Code Section 9604(c), on City Ordinance Nos. 13253, 13254, and 13255 C.M.S., which awarded franchise agreements to California Waste Solutions for Garbage Collection, Recycling Services and Disposal/Landfill, and no petition for a referendum on any of the above-referenced ordinances being submitted to or filed with the Oakland Clerk within the 30-day period provided for referendum petitions under California Elections Code Section 9237, and 3) Waste Management not opposing CWS development or improvements to CWS' Gateway Facility, Wood Street Facility, 10th Street Facility, or other facilities in support thereof (collectively the "CWS Facilities") directly or indirectly; and, Waste Management not supporting, directly or indirectly, any CEQA challenge regarding the CWS Facilities or the Zero Waste contracts, and 4) payment in an amount needed to make the City whole (i.e., reimburse the City) for costs of legal and other services it incurred to address the aforementioned lawsuit and referenda. The award authorized hereunder shall be null and void if the lawsuits are not dismissed with prejudice and the referenda are not withdrawn, or if a petition for a referendum is filed, or if Waste Management directly or indirectly opposes CWS Facilities or supports CEQA challenges against CWS Facilities or Zero Waste contracts, or if the City is not reimbursed for its costs as indicated above.

Further, I move that Waste Management pay the City the amount of eight hundred thousand dollars (\$800,000) to make the City whole (i.e., reimburse the City) for costs of legal and other services it incurred to address the aforementioned lawsuit and referenda.

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ADJOURNMENT OF COUNCIL SESSION

(Meeting Shall Conclude No Later Than 12:00 A.M., Unless Extended By Majority Vote Of The Council)

There being no further business, and upon the motion duly made, the Council adjourned the meeting at 9:18 p.m.

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MATERIALS RELATED TO ITEMS ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKETS MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK, 1 FRANK H. OGAWA PLAZA, 1ST AND 2ND FLOOR, OAKLAND, CA 94612 FROM 8:30 A.M. TO 5:00 P.M.

City Clerk and Clerk of the Council