



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 22, 2011

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Professional Services Agreement For Zone 1 Hauler Franchise
Renewal

RECOMMENDATION: That Council:

- A. Authorize the Finance Director to negotiate and execute a Professional Services Agreement, in a form acceptable to the City Attorney, with HF&H Consultants, LLC, in an amount not to exceed \$110,200 for competitive contracting assistance; and
- B. Appropriate \$110,200 from the available reserves of the City's Solid Waste Fund to cover these contract costs and direct staff to require any successful Zone 1 Hauler to reimburse the City for these costs as part of the franchise agreement to be awarded.

EXECUTIVE SUMMARY:

On November 23, 2010, Council directed staff to meet with the Sustainability Committee to discuss, among other things, whether to contract with HF&H for professional support during the negotiation of a new solid waste franchise contract for the City's solid waste Zone 1.

Having met with the Sustainability Committee and received its unanimous support for the contract with HF&H in a reduced non-to-exceed amount of \$110,200, staff is returning for approval from the full Council.

DISCUSSION:

Since 2003, the City has had two "zones" for solid waste collection and disposal in the business, multi-unit residential, and single family residential sectors. The City has contracted with two waste haulers, one in each zone, to collect solid waste, recyclables, green waste and, most recently, business food scraps.

These are the two largest contracts the City has with a private vendor. Collectively, the haulers are paid over \$15.5 million in City rate payer funds for these services. Approximately 65% of this amount is retained by the hauler for collection services, and 35% is paid to the County of Santa Barbara for disposal costs. The cost of these services is funded entirely through the solid waste rates which the City charges to its residents and businesses. The duration of these franchise agreements can typically be for a period of 10 years or longer. The services provided are also essential to public and environmental health. For these reasons, these contracts are some of the most important that the City enters into.

The City's franchise contract with Allied Waste Services of North America, LLC (Allied Waste) for solid waste collection in Zone 1 will expire on June 7, 2013. Zone 1 is roughly described as the area west of the middle of State Street and south of Highway 101. The City has initiated a procurement process to select a hauler with whom to negotiate a successor agreement.

Professional Procurement Support

A 10-year franchise agreement for Zone 1 would be expected to encompass over \$80 million in consumer services paid to the hauler over the term of the franchise. Staff believes that there will be a myriad of complexities and opportunities associated with this procurement process. The investment in professional support from HF&H Consultants, LLC, a respected professional firm which specializes in advising cities and counties in the areas of recycling and solid waste and has conducted hundreds of similar franchise negotiations, will ensure that the City negotiates the best possible franchise terms for its citizens and businesses. Further, it is anticipated that the successful hauler will fully reimburse the City's Solid Waste Fund for these costs.

The use of professional services by public agencies in solid waste hauler franchise negotiations is very common given the importance and complexity of the services involved, changes in solid waste management practices and related technologies, the high level of industry regulation, and the significant financial commitments involved. The City used professional contracting services ten years ago, in 2001 when the last franchise negotiations occurred, in total contract amounts of \$95,000 with ARI & Hanson Bridgett LLP.

On November 23, 2010, staff recommended that the Finance Director be authorized to negotiate and execute an agreement for professional services with HF&H. The total recommended contract amount of \$152,000 included \$126,000 in estimated basic costs, plus up to \$26,000 in the event more than 4 waste haulers were to respond, or the City wished to engage in negotiations with more than one finalist simultaneously.

Based on input from the Council on November 23, 2011, staff reviewed the proposed agreement to see if there were ways to reduce the cost. HF&H revised their estimate for base services to reduce it by \$5,800. The \$26,000 for extra services has also been

removed, because City staff believes it is unlikely these services will be needed, and that there may be some limited opportunities for staff to control costs by having staff assume certain tasks in place of HF&H. Staff will try to absorb any extra services within the base authorized amount, and will return to Council only if further authorization is necessary.

With these reductions, the estimate for remaining services is down to \$110,200. Following discussion with staff, the Sustainability Committee voted unanimously to support staff's recommendation for the contract with HF&H in this reduced amount.

Franchise Proposal Process

Council also directed staff to meet with the Sustainability Committee to discuss staff's recommendation that the City conduct an open competitive process to solicit proposals for the franchise hauling contract, rather than limiting the process to certain haulers, in order to be fully assured that the proposals are as price competitive as possible and provide the City rate payers with the best and most efficient trash and recycling services for their money. Upon further advice from the City Attorney, staff has concluded that an open and public process is required by Article XIV of the City Charter for franchise negotiations and the Council award of City franchises by City ordinance. Therefore, staff will proceed with the open competitive process.

Nevertheless, staff believes that many of the concerns raised by Councilmembers related to an open competitive process, such as ensuring that the selected hauler has a record of good customer service and public stewardship, can be addressed through carefully crafted proposal evaluation criteria.

BUDGET/FINANCIAL INFORMATION:

Funding for the contract of \$110,200 will be appropriated from Solid Waste Fund reserves to the current operating budget to cover the contract costs. However, it is anticipated that the successful hauler will reimburse the City for these costs in full, so these funds will eventually be restored to reserves.

ATTACHMENT: Revised HF&H Consultants, LLC: Scope Of Work and Fee Estimate to Provide Solid Waste and Recycling Contracting Services

PREPARED BY: Kristy Schmidt, Employee Relations Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office

HF&H CONSULTANTS, LLC

**SCOPE OF WORK AND FEE ESTIMATE TO PROVIDE SOLID WASTE AND
RECYCLING CONTRACTING SERVICES**

CITY OF SANTA BARBARA

PROJECT BACKGROUND

The City of Santa Barbara (City) currently receives collection services under separate agreements with Allied Waste Services (“Allied”) in Zone 1 and Marborg Industries (“Marborg”) in Zone 2. The agreements expire June 7, 2013. The Marborg agreement provides the company with an extension option. The Allied Waste Agreement does not. The City seeks an experienced solid waste consultant in order to assist the City through a competitive procurement of a new solid waste collection agreement for services provided in Zone 1 serviced by Allied Waste beginning June 8, 2013.

Each hauler provides exclusive residential and commercial collection services within their zones. Obtaining a new agreement with enhanced services through a competitive process in half of the City presents certain challenges. For example, different rates and/or services proposed for Zone 1 may necessitate negotiations with Marborg for service or rate changes in Zone 2, City-billing of blended rates, or other remedies to standardize rates and services City-wide, if that is the City’s goal. Alternatively, services and/or rates could be different in each zone.

There have been many regulatory and other industry developments in the solid waste field since the current agreement was drafted. As part of this contracting process, we will identify service improvements and provide new contract language so that the City’s agreement addresses changes in the City’s needs, and reflect current solid waste industry practices. A few of these issues that cities must now consider include:

- Air Resource Board regulations and other vehicle requirements;
- Commercial and multi-family recycling services;
- Collection of electronic and other universal waste;
- Sharps collection (i.e. syringes);
- Large venue event recycling; and,
- Proposition 218 issues.

Additionally, we understand that the City is interested in the feasibility of:

- Door-to-door HHW collection (the City currently relies on a regional drop-off location open Saturdays);

- Textile recycling;
- Food waste diversion; and,
- Other programs to increase recycling.

HF&H has provided services to jurisdictions throughout the State and has assisted clients with similar issues. We can provide the City with the expertise and assistance that the City needs for a successful process.

PROJECT INITIATION

In November 2010, the City retained HF&H to:

- Profile the current solid waste agreement requirements against updated service options and contract terms;
- Analyze key contracting strategy options;
- Meet with City staff and the City to discuss the existing and alternative services and terms; and,
- Meet with Sustainability Committee to review contracting options.

The above work was completed and we met with the Sustainability Committee on February 28, 2011. The following scope of services describes the workplan to complete the City's competitive procurement process.

HF&H APPROACH

HF&H offers the City full service competitive contracting assistance, as described in the work plan below. Each of HF&H's clients have different service and contract needs, which we work with each city to address. All of our clients have the same desire for a smooth process, which we offer through our program outlined below.

WORK PLAN

The following work plan is for conducting a competitive procurement. This section is organized as follows:

Task 1: Determine City's Collection Needs & Develop Contracting Strategy

Task 2: Prepare and Issue Request for Proposals

Task 3: Review and Evaluate Proposals

Task 4: Negotiate With Top Ranked Contractors, and Prepare a New Agreement with Selected Contractor for City Council Approval

TASK 1: DETERMINE CITY'S COLLECTION NEEDS & DEVELOP CONTRACTING STRATEGY

Subtask 1A: Initiate Project

HF&H has already completed the following tasks:

- Reviewed existing background documents including the city's existing franchise agreement and solid waste rate schedules.
- Discussed the existing and alternative services with City staff on January 6, 2011 and February 2, 2011.
- Met with Sustainability Committee on February 28, 2011 to discuss contracting strategy options.
- Prepared the project plan and analysis of the current agreement.

Subtask 1B: Define Scope of Services and Confirm with City

The purpose of this task is to define the scope of the solid waste services to be proposed upon in the RFP package. HF&H has performed a preliminary review of existing service methods in the City. We will prepare for a subsequent meeting with the Sustainability Committee to review potential key service enhancements and contract terms. HF&H will meet with the City's Sustainability Committee to discuss these options and answer questions. The Sustainability Committee may subsequently make recommendations to the City Council, and if requested we will attend the City Council meeting to answer questions when the Sustainability Committee's recommendations are considered.

Subtask 1C: Gather and Review Operating Data

We will collect any data available regarding the current services provided. We will prepare data collection forms to assist the City and/or hauler in providing additional information in a user-friendly format. As the City provides all billing services, the City will be able to provide much of the key service data.

It has been our experience that when proposers are confident about the accuracy of operating data contained in the RFP, they propose lower rates and include fewer contingency costs. Collecting data in this manner also may uncover additional issues, such as poor reporting or service issues that we would address in the new agreement.

TASK 2: PREPARE AND ISSUE REQUEST FOR PROPOSALS

Subtask 2A: Prepare draft RFP and agreement

Based on the information and direction received in prior tasks, we will prepare the draft RFP, agreement, and criteria to be used in evaluating the proposals received.

Subtask 2B: Revise RFP and agreement once, after review by the City Attorney, other City staff and potential proposers

We will submit the draft RFP and agreement to City staff, City Sustainability Committee, the City Attorney, and potential proposers for review. We will provide a list of potential proposers to the City. After City staff, the Sustainability Committee, and the potential proposers have reviewed the documents and provided us with their written comments, we will confer with City and make appropriate revisions once to these documents. The draft agreement is included in the RFP as an attachment. The City Attorney is requested to make any changes directly to the documents in a strike-and-replace format.

HF&H works at developing proposer interest in the City's RFP process from the beginning of the project. Seeking input on the agreement from potential proposers can not only lead to a better contract, but also assists in generating proposer interest. Some cities issuing RFPs have recently failed to receive a sufficient number of proposals. HF&H has consistently obtained for its clients multiple quality proposals in response to each RFP.

Subtask 2C: Attend meetings with City regarding RFP package

If necessary after parties have reviewed the draft documents, HF&H will attend one meeting with the City Sustainability Committee, City Manager, and/or City Attorney to discuss suggested revisions.

Subtask 2D: Attend Council meeting to approve RFP package

HF&H will attend one City Council meeting at which the City Council will approve the RFP and draft agreement. We recommend that contact between proposers and the City be controlled through "Process Integrity Guidelines" and will suggest methods to do so, based on City staff and City Council's desired level of interaction with proposers. We will make a presentation, if requested, and answer questions. Once the RFP and the draft agreement have been approved by the City Council, they can be distributed to potential proposers. We will provide the City with a list of potential proposers with whom we are familiar.

Subtask 2E: Prepare for and attend proposers' conference

With City staff coordination, we will schedule a proposers' conference to be conducted shortly after release of the RFP. Potential proposers will have an opportunity to receive clarification of any issues and ask questions at this conference. We will also accept written requests for clarification, until a set deadline.

Subtask 2F: Prepare addenda

We will prepare written responses to questions posed at the proposers' conference, or submitted in writing, and prepare any necessary addenda arising from issues posed at the proposers' conference. All questions and responses shall be made available to all proposers in attendance at the conference.

We find that proposers will often have last minute questions while finalizing their proposals a day or two before they are due. We arrange our personal schedules to ensure that we always have project staff available to answer last minute questions.

Subtask 2G: Development of a Proposal Evaluation Team

The City will select a proposal evaluation team to review the proposals. The City's selection of this team may also be made earlier in the process.

TASK 3: REVIEW AND EVALUATE PROPOSALS

Subtask 3A: Review proposals for completeness

We will perform an initial review of each proposal submitted for compliance with the City's RFP requirements and disregard substantially incomplete proposals.

Subtask 3B: Evaluate complete proposals

The specific criteria for which we evaluate the complete proposals will be developed using input received from City staff and the City Council. Based on our experience in other cities, we anticipate evaluating the proposals based on the following criteria:

- Experience of the proposers in providing the requested services in other jurisdictions, based on information contained in their proposals;
- Exceptions taken to the terms and conditions of the draft agreement;
- Proposed total compensation (rate revenue) over the term of the agreement, based on the rates included in the financial section of the proposal;
- Financial resources of the proposers, based on information in their proposals; and,
- Unique proposal features that exceed the RFP's minimum requirements.

Proposals received in each RFP process present unique issues to be evaluated. For example, our success in assisting cities in reducing rates can result in lower City fee revenue for cities that assess fees based on gross receipts. The City receives a 5% City billing fee, a 2% gross receipts fee, and a 6% utility users tax. In such instances, a "lump sum fee" increased annually by CPI may be more appropriate, or the fee percentage may need to be increase to generate historical fee levels.

Subtask 3C: Prepare follow-up questions for proposers

After performing our initial review and evaluation, we will provide each proposer with our summary evaluation of the company's individual proposal in order to confirm our understanding of the information presented in the proposal.

Subtask 3D: Review responses and clarify unresolved issues

We will review responses received from proposers and resolve any open issues to help ensure that proposers are satisfied with the representation of their proposals.

Subtask 3E: Meet with staff to discuss preliminary evaluation

We will meet with the City's evaluation team regarding our preliminary evaluation and discuss the next steps in the evaluation process, such as selecting the proposers to be interviewed.

Subtask 3F: Interview proposers

Along with the City's evaluation team, we will interview the proposers, scheduling all interviews on one day. The City may decide to interview all proposers, or interview companies with the top proposals only

Subtask 3G: Contact references for recommended proposer

We will contact references provided for the proposer to be recommended to the City Council for award of the agreement. We will summarize the results of the reference checks within the evaluation report.

Subtask 3H: Prepare evaluation report

All proposals receive a preliminary evaluation. A detailed evaluation is performed of the one or two proposals that appear to offer the most value for the services and costs proposed. Additionally, we will review the overall reasonableness of the operational and financial assumptions contained in the technical section of the proposals selected for detailed evaluation. After our evaluation is complete, we will provide the City with a report describing the evaluation results.

TASK 4: NEGOTIATE WITH TOP RANKED CONTRACTORS, AND PREPARE A NEW AGREEMENT FOR CITY COUNCIL APPROVAL

Subtask 4A: Participate in negotiating session

HF&H will participate in a negotiation session with one or more haulers. Based on our prior experience, final negotiations can usually be completed during one session per proposer, and the fee estimate includes costs for one session with one proposer. However, the City may prefer to negotiate with multiple proposers at this time, as multiple proposals may appear attractive prior to finalizing the agreement(s). Proposers are most cooperative when they are still in competition. After finalizing negotiations, we would then assist the City's evaluation team in its determination of a final selection. If the City desires to negotiate further with the final selection, we would assist in those negotiations as well.

Subtask 4B: Prepare revised portions of agreement

Based upon the negotiations, we will make one set of revisions to the final agreement negotiated with each proposer and ask each proposer to sign the agreement. The City can then make a decision based on clearly defined contract terms, verses general promises often made in proposals and during negotiations. Also, at award, neither the successful nor unsuccessful proposers can debate what was or was not the final offer to the City.

Subtask 4C: Attend one City Council meeting for approval of final agreement

We will attend the City Council meeting at which the final agreement is expected to be approved.

TASK 5: TRANSITION ASSISTANCE (OPTIONAL TASK)

After award of the new solid waste collection agreement, the City and contractor will need to undertake numerous tasks in order to ensure a smooth transition. HF&H has assisted cities

through this process to minimize disruption to ratepayers and to ensure programs are properly implemented in a timely manner. Services with which we can provide assistance include:

- Development and Monitoring of Detailed Transition Calendar

During the transition, it is critical that key tasks are completed by certain dates. We develop a detailed calendar and monitor all parties' compliance in meeting deadlines. Examples include dates for ordering and delivering equipment, for initial and final drafts of each public education piece to be delivered and edited, community workshops, and Proposition 218 noticing (if applicable). If a new hauler is selected, parties will need to meet and establish key transition dates for exchange of information and container delivery and removal.

- Review and Revision of All Public Education Materials

Transition materials prepared by the contractor may not be sufficient to simply and productively provide customers with the information necessary. For example, a recent RFP client of ours distributed what appeared to the city to be a well laid-out informational piece from an experienced hauler, with a return card for the selection of residential cart sizes. The mailer did not include sufficient information on certain cart selection options, and other public education efforts did not sufficiently educate residents as to their cart selection options, resulting in the hauler needing to order additional cart types and sizes after the initial roll-out, and replace numerous customers' carts at an increased expense. Another recent RFP client is having HF&H monitor and help manage the transition, in which we have assisted in revising public outreach materials to ensure their clarity and effectiveness.

- Evaluating the Reasonableness of Contractor Plans

We have guided RFP clients regarding the reasonableness of its contractor's assumptions for the time necessary to roll-out new containers and how best to coordinate a container exchange without a disruption in service to the customer.

- Conducting Public Workshops
- Attending City Council Meetings
- Assistance with Proposition 218 Notice Development and Public Hearings
- Conducting Meetings with the Contractor and City Staff
- Providing City with Customer Service Support
- Reviewing and Amending the Municipal Code for Consistency with New Agreement
- Monitoring Contractor Compliance With Agreement Terms During Transition, including remittance of applicable fees and attainment of insurance and performance surety.

These optional services are not included in the proposed scope, but can be provided on a time and materials basis.

COMPETITIVE PROCUREMENT SCHEDULE

The current agreement expires on June 7, 2013, providing ample time for a thorough process and a smooth transition, including time for ordering equipment and conducting public education.

Table 1: Competitive Procurement Schedule

Activity	Party	Target Date
1. Approve consulting agreement	City Council	March 15, 2011
2. Meet with City staff and Sustainability Committee to confirm service options	HF&H and City	April 2011
3. Provide requested operating data	Haulers and City staff	April 2011
4. Review City billing data and hauler operating data	HF&H	May 2011
5. Prepare preliminary RFP and draft agreement	HF&H	June/July 2011
6. Seek input from: City staff, Sustainability Committee, and City Attorney	City, HF&H	August/September 2011
6. Seek input from potential proposers.	Potential Proposers	October 2011
7. Prepare revised RFP and draft agreement	HF&H	November 2011
8. Present RFP package to Council for approval, and distribute to proposers	City, HF&H	December 2011
9. Prepare proposals	Proposers	January/February 2012
10. Submit proposals	Proposers	March 2012
11. Evaluate proposals	City, HF&H	April/May 2012
12. Contact references and finalize evaluation	City, HF&H	June 2012
13. Select contractor(s) for negotiations	City	July 2012
14. Conduct negotiations and resolve exceptions to agreement	HF&H/City/ Proposer	August/September 2012
15. Consider negotiated agreement for approval	City Council	October 2012
16. Order equipment	Contractor	November 2012
17. Outreach Campaign - Prepare and distribute educational materials, conduct informational meetings and prepare for transition	Contractor	November 2012 through May 2013
18. Initiate rollout of new service	Contractor	June 8, 2013

FEE ESTIMATE

We will perform the scope of work based on time and materials. The estimated total cost to perform the workplan tasks is \$110,200, excluding the optional transition assistance in Task 5. Our actual costs could be higher or lower than this amount, depending on the complexity of the City's contracting process, the number of proposals to be evaluated, the number of negotiation sessions required, and other factors that cannot be precisely estimated in advance. The estimated level of effort by task is summarized below and hours may be shifted among tasks.

The proposed cost includes preparation of the RFP, gathering operating data, soliciting proposals, conducting a pre-proposal conference and issuing addenda, evaluating up to four proposals, and preparing and negotiating the final agreement with one proposer. The proposed cost assumes that one integrated residential and commercial RFP and collection service agreement is developed and a single set of services proposed. Should additional proposals beyond four be submitted, we estimate that the budget will increase by \$5,500 per proposal. If negotiations are conducted with more than one proposer, the additional cost shall be \$7,500 per company. If the City were to split the agreement into separate residential and commercial agreements, or seek a subsequent round of "best and final" offers after the proposals are submitted and evaluated, or request other changes to the scope of work, our fee estimate may increase.

The proposed scope of services does not include preparing the staff report that City staff will need to prepare to transmit various action items to the City Council during the process. The proposed scope does not include public education and outreach efforts during the RFP process, which we understand will be performed by City Staff, if necessary.

The scope does not include transition assistance after award of the agreement. However, HF&H can provide these services on a time and materials basis.

We will bill you once per month, based on the number of hours worked and expenses incurred. Payment is due within 30 days of invoicing. Hourly rates for professional and administrative personnel are listed below.

<u>Position</u>	<u>Rate</u>
President and Senior Vice President & Vice President	\$249
Senior Manager/Senior Project Manager	\$210 - \$225
Director	\$210
Manager	\$205
Senior Associate	\$165 - \$185
Associate Analyst	\$125 - \$145
Assistant Analyst	\$100 - \$115
Administrative Staff	\$90
Intern	\$45

Expenses will be billed as follows:

Mileage	Prevailing IRS mileage rate
Document Reproduction	\$0.15 per page (black & white)
	\$0.75 cents per page (color)
Outside document reproduction/couriers/postage	Actual
Public conveyances and parking	Actual
All other out-of-pocket expenses	Actual

In most of the competitive procurements we have conducted for other cities, the successful contractor is required to reimburse the City for its consulting costs. Based on the City's estimate that the existing hauler agreement is worth approximately \$8 million annually, the total value over 10 years would be \$80 million at current rates. Our fees are less than two-tenths of 1%.

WORKPLAN

TASK DESCRIPTION	Sr. Vice President	Manager	Senior Associate	Total Hours
1. Determine City's Collection Needs & Prepare Contracting Strategy				
A. Initiate Project				
	Completed			
B. Define Scope of Services and Confirm with City	28	25	4	57
- Finalize service recommendations and confirm with City staff				
- Meet with Sustainability Committee, document recommendations (mtg #1)				
- Present recommended services/terms to City Council (meeting #2)				
C. Gather and Review Operating Data	8	16	24	48
Subtotal: Task 1 Hours	36	41	28	105
2. Prepare and Issue Request for Proposals				
A. Prepare draft RFP and agreement	16	46	32	94
B. Revise RFP and documents once after review by City Attorney, other City staff, and potential proposers	8	16	0	24
C. Attend Council meeting to approve RFP package (meeting #3)	8	0	0	8
D. Prepare for and attend proposers' conference (meeting #4)	0	8	0	8
E. Prepare addenda	4	12	2	18
Subtotal: Task 2 Hours	36	82	34	152
3. Review and Evaluate Proposals				
A. Review proposals for completeness	1	4	0	5
B. Evaluate complete proposals (maximum of four)	16	40	24	80
C. Prepare follow-up questions for proposers	4	8	4	16
D. Review responses and clarify unresolved issues	4	8	0	12
E. Meet with City staff to discuss preliminary evaluation (meeting #5)	8	8	0	16
F. Interview proposers (meeting #6)	0	8	0	8
G. Contact references for recommended contractor	1	4	6	11
H. Prepare evaluation report	12	24	12	48
Subtotal: Task 3 Hours	46	104	46	196
4. Negotiate Final Agreement and Prepare a New Agreement				
A. Participate in one negotiating session (meeting #7)	8	8	0	16
B. Prepare revised portions of agreement	8	16	0	24
C. Attend Council meeting for approval of final agreement (meeting #8)	10	10	0	20
Subtotal: Task 4 Hours	26	34	0	60
Manage Project and Prepare Workpapers - Task Hours	4	2	0	6
Total Hours	148	263	108	519
Hourly Rate	\$ 249	\$ 205	\$ 165	
Subtotal Expenses	\$ 36,852	\$ 53,915	\$ 17,820	\$ 108,587
Total Fees and Expenses				\$ 1,613
				\$ 110,200