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2012 OCT -1 AM 8:20

INTER OFFICE MEMORANDUM
OFFICE OF THE CITY ATTORNEY
CITY OF SAN BERNARDINO

To: Andrea Travis Miller
City Manager

From: James F. Penman
City Attorney

Subject: Refuse RFP, Draft # 6

Copies: Mayor, City Council, Jim Smith, Rick Luczak

The Council Office has placed the Refuse RFP, Draft # 6 back on the agenda for the Monday, October 1, 2012 Council meeting.

Draft # 6 is the product of several hours of discussions between Jim Smith, Director of Public Works and Deputy City Attorney Rick Luczak, since the previous Council meeting on September 17, 2012. Limited input was also provided by Council Member Chas Kelley.

I am informed that Mr. Smith and Mr. Luczak have agreed on most of the language and the revised version of RFP # 6 (copy attached,) reflects those agreements. You will note that there have been some changes from draft # 4 which was considered by the Mayor and Council on September 17. However, a few issues remain for the Mayor and Common Council to decide.

As I advised you in our telephone conversation yesterday, I am not comfortable with the Mayor and Common Council proceeding with Draft # 6 without it being reviewed and commented on by Sloan Vazquez, LLC. Pursuant to our discussion, Mr. Luczak spoke with Joe Sloan this morning who advised him to forward the proposal to Enrique Vazquez. Mr. Luczak has done so. As we agreed, Director Smith and Mr. Luczak will confer about Draft # 6 on Monday morning with Mr. Vazquez and share the results of that discussion with the Mayor and Common Council.

James F. Penman
City Attorney

Agenda Item #7C
October 1, 2012

**Request For Proposals
For Solid Waste
Collection, Receiving, Processing, Transfer and Disposal Services**

Including:

- 1) Refuse
- 2) Green Waste, Food Waste
- 3) Recyclable Materials
- 4) Construction and Demolition Materials

This Request for Proposals is official notification of the need for services for the City of San Bernardino (City). The City is considering the outsourcing of San Bernardino's Solid Waste Collection, including, receiving, processing, transferring, and disposing of the City's Solid Waste Stream, as well as Street Sweeping Services, and assuming the lease of some or all of the equipment related to those services.

The City seeks to study and evaluate, for a ten year term, an outsourcing option. It is contemplated that the City may be divided into two solid waste collection zones. The two zones will be divided by Sierra Way and be comprised of Zone 1, which will consist of all City of San Bernardino territory west of Sierra Way, including the west side of Sierra Way, and Zone 2, which will consist of all City territory east of Sierra Way, including the east side of Sierra Way. Each area produces approximately 80,000 tons of waste per year. The City's total annual waste tonnage is approximately 160,000 tons per year. Bidders will also have the opportunity to service County pockets which were annexed into the City, said areas will fully come under the City's jurisdiction in 2014. The City reserves the right to reject some or all of a bid, award a contract for all services in an entire zone or some services for a particular zone, in its discretion.

In an effort to identify participants in this process that meet the City's needs and requirements with regard to company resources, local facilities, industry knowledge, community knowledge and the ability to respond to future programs and requests of the City, the City Council will evaluate qualified applicants to the Request for Proposals (RFP). The Mayor and Council will review and select the most qualified responsible bidder(s) for the project. The purpose of this request is to attract experienced applicants qualified to provide the City with the following exclusive Solid Waste and Street Sweeping services. In addition to providing an operations plan, the applicant should address the following issues at a minimum. Applicant should be willing to:

1. Accept re-assignment of all equipment leases and/or equipment purchases, or comparable disposition of property, related to the Integrated Waste Management Division including:
 - a. Vehicles.
 - b. Bins and containers. The City contemplates moving to a two bin system (1. Green waste; and 2. Other waste). Applicant will specify the number of bins desired with the remainder returned to the City for storage or other disposition.
- Or,
- Advise as to the number of vehicles/bins desired to be assumed, if any.
2. Accept re-assignment of all equipment leases and/or equipment purchases, or comparable disposition of property, related to the street sweeping services, including vehicles, or advise as to the number of vehicles, if any, desired to be assumed.
 3. Hire all qualified City municipal solid waste and street sweeping employees to include:
 - a. Seniority.
 - b. Wages.
 - c. Benefits.
 4. Dismissal of any former City employee from applicant for any reason(s) other than a failed drug or alcohol test or excessive motor vehicle accidents must be reviewed and approved by the City's Human Resources Department for the term of the agreement.
 5. Further details regarding employment to be negotiated.
 6. Provide a per ton pricing schedule for each zone identified above as follows:
 - a. Zone 1 (estimated at 80,000 tons annually);
 - i. Commercial price per ton;
 - ii. Residential price per ton;
 - iii. Street sweeping price (twice per month)
 - iv. Total for all categories.
 - b. Zone 2 (estimated at 80,000 tons annually);
 - i. Commercial price per ton;
 - ii. Residential price per ton;
 - iii. Street sweeping price (twice per month)
 - iv. Total for all categories.

And/or, at the discretion of the Mayor and Common Council, pay a monthly franchise fee or system lease fee due on or before the 15th day of each month for the life of the Agreement, said amount to increase proportionately with any increase in rates due to a consumer price index increase or otherwise.

7. Pay to the City 50% of any monies recovered related to recyclables, after deducting reasonable processing costs, if applicable, or an amount pursuant to any existing agreements already in place, whichever is greater.
8. Provide and implement a smooth service transition plan with the equitable division of residential and commercial accounts if needed.
9. Receive and collect all solid waste generated within the City's collection boundaries by zone for processing, marketing and transfer, including any residual waste for ultimate disposal in a licensed landfill operated in compliance with all permits and local, state and federal regulations. Any response must demonstrate the following:
 - a. Ability and resources to provide all labor, materials and equipment to perform complete residential, commercial and industrial solid waste collection services for the City within the City's collection boundaries.
 - b. Ability to assume and expand the City of San Bernardino's current Solid Waste Collection Programs, complying with all State mandated requirements. Applicant will be required to extend existing price per ton costs to all annexed area incorporated into the City.
 - c. Ability to compensate the City in the form of a franchise fee or system lease fee.
 - d. Ability to purchase and or assume any lease agreements, for all City solid waste collection vehicles and equipment, or provide own equipment.
 - e. Sufficient capacity "use rights" to a permitted delivery or tipping site (a transfer station, landfill, or tipping floor), and
 - f. Sufficient capacity and "use rights" to a permitted Materials Recovery Facility (MRF) able to receive all waste generated within the City and located within a 12 mile radius of City Yards (234 S. Mt. View Avenue, San Bernardino)
 - g. Long-term disposal capacity (and "use rights" if the landfill is owned by a third party) to accept all the solid waste generated and collected within the collection boundaries of the city, with alternative disposal site(s) if the designated landfill is permanently or temporarily closed to all disposal traffic for any reason, and Solid Waste Facility Permit (SWFP) number(s) for all facilities submitted by the bidder listed on the RFP response cover page and checklist, and
 - h. Price per ton for all solid waste including green waste, food waste, residential waste, commercial waste, recyclables, and construction and demolition materials.
 - i. Residential collection will occur Monday through Friday.
 - j. The City intends to transition to a two bin system described above.

- k. Advertising on waste hauling vehicles will be permitted provided the advertisement is first approved by the City and applicant pays to the City \$50.00 per month per advertisement.
10. Receive, process and transfer all residential and commercial green waste and/or food waste collected by zone within the City's collection boundaries. Any response must demonstrate the processing method and cost or price per ton for all green waste collected. Receive, process and transfer all residential and commercial single stream recyclables collected within the City's collection boundaries. Any response must demonstrate the processing method, process for paying the City for recycled materials, and price per ton for all recyclable "commodities" collected. Receive, process and transfer all construction and demolition waste material collected within the City's collection boundaries. Any response must demonstrate the processing method, and cost or price per ton for all construction and demolition waste collected.
 11. Receive, process and transfer electronic waste, household hazardous waste, bulky items, tire collection, holiday tree collection, and periodic special collection days.
 12. Provide monthly reports to the City showing the tonnage of all solid waste and materials received, processed, transferred and/or disposed for the purpose of reporting City's diversion of waste pursuant to the requirements of AB 939, AB 341 and any other federal, state, or local requirements. Applicant will be required to provide all legally required documentation to all applicable agencies demonstrating compliance with state and federal laws either on behalf of the City or in conjunction with the City, including, but not limited to, inspection of records upon reasonable request.
 13. Lease, if desired, portions of the City's corporate yards and/or garage bays and/or fueling stations.
 14. Provide waste collection services to all City owned properties, City special events, and other City related services, including but not limited to, Code Enforcement, City buildings, and parks, free of charge.
 15. Provide street sweeping services twice per month. The City has approximately 1,152 curb miles to be swept.
 16. The City currently utilizes the City Water Department for the billing the majority of integrated waste costs, but will consider billing suggestions made by applicant.
 17. Save, defend, indemnify and hold harmless the City and shall provide and maintain in effect policies of comprehensive public, general and automobile liability insurance, in the amount of \$15,000,000.00 combined single limit, and statutory worker's compensation coverage. The City shall be set forth as an additional named insured in each policy of insurance and the Certificate of Insurance furnished to the City shall require the insurer to notify the City at least 30 days prior to any change in or termination of the policy.
 18. Applicant shall also be required to provide a performance bond in the amount of \$2,000,000.00.
 19. Provide public education and outreach related to applicable topics as required by law or otherwise.
 20. Allow the City to maintain flow control of waste streams.

21. Meet or exceed the following diversion standards:

- a. 50% or greater diversion by December 31, 2012
- b. 55% or greater diversion by December 31, 2016
- c. 70% or greater diversion by December 31, 2020.

To be considered, applicants must provide a non-refundable \$10,000.00 fee payable to the City of San Bernardino on or before 5:00 p.m., October 8, 2012.

All questions concerning the intent, meaning, and interpretation of the RFP documents or for additional information shall be submitted in writing and received no later than 5:00 p.m. PDT on October 9, 2012. The City will not respond to requests if the applicant has not submitted the \$10,000.00 fee. Written inquiries shall be addressed to:

Ms. Vanessa Sanchez
Finance Department, 4th Floor
City of San Bernardino
300 N. D Street
San Bernardino, CA 92418

The City will have 48 hours to respond to all timely and valid requests for information.

Applicants are requested to provide the City with five (5) copies of their narrative proposal and a separate materials handling price proposal in a sealed envelope no later than **5:00 p.m. PDT, October 16, 2012**. Sealed submittals may be hand delivered or mailed to:

**City of San Bernardino
City Manager
6th Floor
300 North D Street
San Bernardino, CA 92418
Attention: Andrea Travis-Miller, Acting City Manager**

LATE SUBMITTALS WILL NOT BE ACCEPTED

Applicants must also clearly identify any exceptions to the proposal. If selected, the applicant will be required to deposit \$500,000.00 with the City within 15 days of the award of the contract.

Proposals must include a response for collection, receiving, processing, transfer and

disposal services of refuse, green waste, construction and demolition materials, and recyclable materials for an initial contract term for a number of years.

The City reserves and holds at its discretion the following rights and options:

1. Issue addenda to the Request for Proposals, including extending or otherwise revising the timeline for submittals;
2. Cancel the Request for Proposals;
3. Request clarification and/or additional information from the Proposer at any point in the procurement process;
4. Execute a Franchise Agreement on the sole basis of the original proposal or any additions to proposal submissions;
5. Reject any or all Proposals, waive irregularities in any Proposal, accept or reject all or any part of any Proposal, waive any requirements of the Request for Proposals, as may be deemed to be in the best interest of the City;
6. Re-issue the RFP;
7. Amend the City's Municipal Code;
8. Modify the RFP and Agreement through published Addenda; and/or
9. Take any other action it deems in the best interest of the City, its residents and businesses.

The submittal of a proposal does not guarantee that the firm will be selected to perform the services requested, and does not bind or obligate the City in any manner. The submittal of a proposal only serves notice to the City that the firm desires to be considered. The Mayor and Common Council will evaluate the proposals received and will use their best judgment in the award of a contract to one or more.

Applicants should review and accommodate the attached documents prior to submitting a response. The attached documents identify and reflect various costs and obligations associated with the Integrated Waste Management Division at this time.

**Request For Proposal
For Solid Waste
Collection, Receiving, Processing, Transfer and Disposal Services**

The City requires the applicants to demonstrate their qualifications to perform the requested services, and meet their contractual and financial commitments. Provide information in sufficient detail to allow the City to assess the company's ability to collect, process and ultimately dispose of all of the City's refuse ' including green waste, food waste, residential waste, commercial waste, recyclable materials, and construction and demolition materials. Also, describe your company and staff qualifications as they relate to successfully implementing the proposed services described. Information provided must include the following:

1. **Basic Information.** State the name and address of the company that would sign any agreement with the City. Include the name, address, phone number, fax number, email address and title of a contact person. State the names of any other company or entity that will share significant substantive responsibilities as team members under any agreement with the City.
2. **Company Description.** Identify the organizational structure of your company, and any other information you believe is important in the City's decision-making process. Identify principal owners, corporate officers and majority shareholders.
3. **Company Qualifications.** Fully describe the services provided by your company currently or in the past that are directly relevant to the proposed services. Provide names and phone numbers of municipal clients over the past five years as references of your company's experience.
4. **Residential, Commercial and Industrial Solid Waste and Recyclables Collection.** Demonstrate contractors ability and resources to provide all labor, materials and equipment to perform complete residential, commercial and industrial solid waste collection services for the City of San Bernardino within the City's collection boundaries.:
5. **Landfill, Material Recovery Facility (MRF), Transfer Facility References.** List all the waste landfills and/or MRF / transfer stations your company operates within a 12 mile radius of City Yards (234 S. Mt. View Avenue, San Bernardino). Include all pertinent information regarding the site (s), including, but not limited to, length of time your company has been operating the facility, whether it is company owned or a contract operation, tons per year received and maximum permitted tonnage, remaining contractual term for operating the facility, remaining capacity in tons and years, any fines, penalties, citations, license or permit suspension, or other enforcement actions against the facility, and client reference name(s) and phone number(s).

6. **Green Waste Sites.** List all the green waste sites, including materials recovery facilities (MRFs) your company operates within twelve (12) miles of City Yards (234 S. Mt. View Avenue, San Bernardino). Include all pertinent information regarding the site (s), including, but not limited to, length of time your company has been operating the facility, whether it is company owned or a contract operation, tons per year received and maximum permitted tonnage, remaining contractual term for operating the facility, remaining capacity in tons and years, any fines, penalties, citations, license or permit suspension, or other enforcement actions against the facility, and client reference name(s) and phone number(s).
7. **Recyclable Materials Sites.** List all the recyclable materials sites, including materials recovery facilities (MRFs) your company operates within twelve (12) miles of City Yards (234 S. Mt. View Avenue, San Bernardino). Include all pertinent information regarding the site (s), including, but not limited to, length of time your company has been operating the facility, whether it is company owned or a contract operation, tons per year received and maximum permitted tonnage, remaining contractual term for operating the facility, remaining capacity in tons and years, any fines, penalties, citations, license or permit suspension, or other enforcement actions against the facility, and client reference name(s) and phone number(s).
8. **Construction and Demolition Processing.** List all the construction and demolition materials sites, including material recovery facilities (MRFs) your company operates within twelve (12) miles of City Yards (234 S. Mt. View Avenue, San Bernardino). Include all pertinent information regarding the site (s), including, but not limited to, length of time your company has been operating the facility, whether it is company owned or a contract operation, tons per year received and maximum permitted tonnage, remaining contractual term for operating the facility, remaining capacity in tons and years, any fines, penalties, citations, license or permit suspension, or other enforcement actions against the facility, and client reference name(s) and phone number(s).
9. **Added Value Programs.** Describe any added value programs that your company will provide to the City at no extra cost to enhance the City's efforts to reduce, reuse, recycle, and resource to recovery.
10. **Street Sweeping.** Describe in detail all street sweeping programs you propose to operate, including, but not limited to, types and numbers of vehicles, frequency of sweeping, suggested times of operation, and age of equipment.
11. **Local Jobs.** Describe the number of current employees at facility listed. Describe the number of potential local jobs that would be added at existing or new facilities if this contract is awarded. For the purpose of this RFP, a "local job" is defined as a job that will be performed within the City of San Bernardino.

12. Legal Investigations. State whether your company, parent company, subsidiaries, or any of the officers thereof, are currently or have been (over the past five years) under investigation by any local, state, or federal jurisdiction related to its business activities. Describe the circumstances of any such investigation in detail. Provide the name of the company, affiliate, and officers under investigation. Describe findings of any past investigation(s), or the status of any pending investigation(s). For national companies limit the disclosure to business activities in California.

The City requires the applicants to demonstrate their qualifications to perform the requested services, and meet their contractual and financial commitments. Provide information in sufficient detail to allow the City to assess the company's ability to satisfy the terms of this Request for Proposals.