CITY OF SAN BERNARDINO
CITY MANAGER'S OFFICE
INTEROFFICE MEMORANDUM

To: Mayor and Common Council

From: Andrea Travis-Miller, Interim City Manager

Subject: Review and Evaluation of the Draft Request for Proposals for Solid Waste, Collection, and Disposal Services

Date: September 17, 2012

Copies: James F. Penman, City Attorney; Georgeann Hanna, City Clerk; and Jim Smith, Interim Public Works Director

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Attached is a memorandum from Joe Sloan and Enrique Vasquez of Sloan Vazquez LLC. Sloan Vazquez LLC is the consulting firm engaged to assist the City with the preparation of the Request for Proposals (RFP) for Solid Waste, Collection, and Disposal Services. Mr. Sloan and Mr. Vasquez reviewed and evaluated the draft RFP, which is included in this evening's agenda as Item 8A, and identified provisions for further clarification.

The purpose in providing clarity in the RFP is to ensure bidders have adequate information on the City's existing refuse collection system, including client and account information, rates, tonnage data, and leases, to determine anticipated operating costs. It is also necessary to identify the City's expectations related to the term of the agreement, rates, additional costs and fees to be paid by the bidders, and service areas. This information will enable the bidders to provide the City with realistic proposals. While Mr. Sloan and Mr. Vasquez indicate approximately four to six weeks would be needed to gather the data required, the company recognizes the need to expedite this process in order to meet the Council's September 5, 2012, direction that the RFP be presented for approval at the October 1, 2012, meeting. It is recommended that the City Council direct the City Manager to address the fourteen (14) points raised in the memorandum provided by Sloan Vazquez LLC prior to issuing the RFP.

Attachment

*Sloan*VAZQUEZ LLC

Municipal Solid Waste Management & Recycling Advisors

MEMORANDUM

DATE: September 14, 2012

TO: Andrea Travis-Miller, Acting City Manager
FROM: Joe Sloan, Sloan Vazquez, LLC
Enrique Vazquez, Sloan Vazquez, LLC

SUBJECT: Review of the City's Request for Proposals

We have reviewed the current Draft of the City's Request For Proposals For Solid Waste Collection, Receiving, Processing, Transfer and Disposal Services that was prepared in response to the City Council's direction to the City Manager and City Attorney during the September 4, 2012 City Council meeting.

The latest version of the RFP, while it rightly moves the City towards outsourcing its waste management division, it falls short of what is needed in order to attract the highest and best offers for the City's most valuable public asset. The RFP's stated purpose is "to attract experienced applicants qualified to provide the City with the following exclusive Solid Waste Services." However, the RFP, as drafted, lacks important features that will make it impossible for qualified bidders to prepare and submit a bona fide proposal.

To evaluate the draft RFP we identified provisions in the RFP that were incomplete, contradictory, or lacking clarity. In addition, we looked for standard provisions that are in RFPs for municipal solid waste services that are not included in the Draft RFP as prepared.

We base our assessment on thirty years of experience in municipal solid waste procurement processes in the State of California. Twenty of those years were spent in the private sector responding to municipal RFP's, and for the past ten years, we have assisted municipal agencies with procurement processes to help them secure the best possible services and revenues from their municipal solid waste.

In our opinion, it is important to include as much information as possible in the RFP concerning the City's operations so that proposers have a basis for preparing a realistic proposal based on specific information. Realistically, it will require four to six weeks to gather and include all of the data and other information that should be included in the RFP.

Commentary on Provisions of Draft RFP

1) The RFP uses the phrase "Trial Period lasting a number of years to be negotiated".
   In order for proposers to calculate the return on investment or payback, it is important for them to know the term of the agreement. If the RFP does not provide a term, it will be impossible to conduct an "apples to apples" comparison of proposals as they will all range in the number of years proposed.

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2) The RFP states that it contemplates dividing the City into two solid waste collection zones.

   The RFP provides no indication of how to divide the City. Proposers cannot bid on an unknown service area, and without customer/account and tonnage data for the service area, they have no idea of their operating costs.

3) The Mayor and Council will review and select the most qualified responsible bidder(s) for the project.

   The RFP does not provide any evaluation criteria. Evaluation criteria are important to establish the City's standard for evaluation and ranking of the proposals.

4) Ability to purchase and or assume any lease agreements, for all City solid waste collection vehicles and equipment.

   In order to respond with a bona fide proposal, the proposers need an equipment list describing the equipment type, make, model, year, and financial obligation. In addition to the abstract lease data, actual copies of the leases must be provided.

5) Hire all qualified municipal solid waste and street sweeping employees to include; a) seniority, b) wages, c) benefits.

   This is a huge expense and in order to commit to it, proposers need to fully understand the obligation. Is it just for drivers, or does it include every department employee. A listing of employees to be hired, including their compensation and a description of the required benefits, should be provided.

6) Pay a minimum monthly franchise fee of at least seven hundred and fifty thousand dollars ($750,000), said amount to increase proportionately with any increase in rates or increased recyclable profits.

   The ISWD generates about 24M per year. A franchise fee of $750,000 per month would equal $9 Million Dollars per year or 37.5 % of total revenues. Typically, franchise fees range from 5% to 15%, some are higher. If the service rates are not raised, it is unlikely that a company could be profitable after paying a $9.0M annual franchise fee.

7) Pay to the City 50% of any monies recovered related to recyclables.

   The procedure for calculating the 50% needs to be clearly defined to avoid disagreements in the future. Is the 50% to be calculated based on the value of recyclable after processing costs, after the residual materials have been deducted?

8) Implement the City's current Collection Service Provider Franchise Fee Program

Is this in addition to the $750,000 monthly requirement? This program needs to be explained so that the proposer understand what obligations it is committing to.

9) Ability to assume the City's current rate schedule with no proposed increase for the period of the agreement.

   Since the term of the agreement has not been stated, the proposer does not know the time frame they are committing to not increasing service fees. If the agreement is to be for more than two years, it is unreasonable to expect that a proposer can commit to no rate increases for longer periods of time.

10) 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)

    Qualified companies are located outside the 12 mile radius.

11) Lease, if desired, portions of the City's corporate yards and/or garage bays and/or fueling stations.

    Describe City Facilities that are available for lease, i.e. truck parking, bin storage area, shop facilities, maintenance shops, offices, employee service areas, restrooms, etc.

12) Insurance and bond requirements

    The RFP states an insurance requirement of $1,000,000 combined single limit, and statutory workers' compensation coverage. In standard RFP's the requirements range from $10M to $20M. The bond amount should also be stated.

13) Applicants must clearly identify any exceptions to the proposal.

    This language usually refers to exceptions to the Draft Service Contract of which a draft is typically distributed along with the RFP.

    It is standard practice to distribute a Draft Service Contract contemporaneously with the release of the RFP. This allows the proposers to understand the scope of services and other commitments expected by the City and affords the proposers an opportunity to state if they take any exceptions to the proposed provisions. Releasing the RFP without a draft service contract puts the City in a significant disadvantage in the final negotiations.

14) If selected, applicants will be required to deposit $_____ with the City within 15 days of the award of the contract.
    It is unclear if this requirement is related to a bond or to a signing fee. In either case, the amount should be stated.