

RESOLUTION NO. 73362

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO NEGOTIATE MEMORANDUMS OF AGREEMENT WITH CALIFORNIA WASTE SOLUTIONS, INC. AND GARDEN CITY SANITATION, INC., FOR RECYCLE PLUS PROGRAM SERVICES

WHEREAS, the City of San José (“City”) implemented its “Recycling Plus!” system for integrated solid waste, recycling and yard waste collection services in the residential sector on July 1, 1993; and

WHEREAS, on February 15, 2006, the City issued a Request for Proposals (“RFP”) for Recycle Plus services, consisting of solid waste and recycling services for single-family residential for Districts A and C, and for yard trimmings and residential street sweeping services in District C, to begin on July 1, 2007; and

WHEREAS, on August 22, 2006, the City Council considered memoranda and correspondence on recommendation to award a contract for solid waste and recycling services.

WHEREAS, the City Council heard public testimony at a study session on August 11, 2006 and at the August 22, 2006 Council meeting and has determined that the proposal of California Waste Solutions, Inc. for single-family residential recycling services and the proposal of Garden City Sanitation, Inc. for single-family residential solid waste services in Districts A and C are the most advantageous proposals and best meet the needs of the City; and

WHEREAS, the City desires to negotiate Memorandums of Understanding with California Waste Solutions, Inc. and Garden City Sanitation, Inc. for single-family residential solid waste services for a six year term to commence on July 1, 2007, with the final agreements to include the terms specified below; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Manager is hereby authorized to negotiate Memorandums of Understanding with California Waste Solutions, Inc. and Garden City Sanitation, Inc. for single-family residential recycling services in Districts A and C, with a six year term commencing July 1, 2007. The final agreements negotiated should include the following direction from City Council:

- a. **Strict performance measures will be monitored on an ongoing basis**, including minimizing contaminated recyclables and increasing the diversion rate. In order to guarantee satisfactory delivery of recycling and solid waste services, a performance bond will be negotiated as part of the terms of each contract. In addition, each contractor will be required to conduct customer satisfaction surveys and city staff will present the results of these surveys to the Council on at least a biannual basis.
- b. **Fair costs to ratepayers**, guarding against any potential rate increases over the life of the contract. City staff has presented the Council with data that shows that, for a term of 6 years, awarding the Recycling Services contract for Districts A and C to California Waste Solutions and awarding the Solid Waste Services contract for Districts A and C to Garden City Sanitation will result in a 29% increase (up \$5.84 per month) over current rates. Any potential rate increases can only be considered if absolutely necessary, and even then, they must be incremental and reasonable in scope. An audit of any final negotiated agreement should be performed and the proposed agreement brought back to council for final approval. The contract must be negotiated to ensure that our customers' rates remain stable.
- c. **Service enhancements over the life of the contract**, including increased programs for the disposal of bulky goods and appliances, and ensuring that recyclables are not contaminated by waste.
- d. **Each contractor will be held to clear deadlines throughout the mobilization phase**. The last thing we want is garbage piling up in our yards if the recommended contractors are unable to mobilize in a timely manner. Staff shall include something analogous to a claw-back provision in the executed contracts, requiring that any initial investment on the part of the City and the ratepayers to finance the mobilization phase will be refunded if the contractors are unable to meet the negotiated mobilization deadlines. Such a clause shall also provide for cancellation of the contract and enable the issuance of a new Recycle Plus Request for Proposals, with timelines that reflect recent industrial benchmarks for successful implementation of similarly sized contracts.
- e. **The City Manager should provide for adequate inspection at California Waste Solutions' recycling facility, paid for by California Waste Solutions,**

to monitor activities at the center and ensure compliance with the provisions of the executed contract. Due to concerns raised about improper and/or inadequate tracking and reporting of materials entering and leaving California Waste Solutions' San Jose site, improper removal of unprocessed material, and unacceptable contamination of recyclables by waste, this measure will ensure that the City collects the appropriate Solid Waste Enforcement Fees and provides accurate reports of solid waste diversion to the California Integrated Waste Management Board.

ADOPTED this 22nd day of August, 2006, by the following vote:

AYES: CAMPOS, CHIRCO, CORTESE, LeZOTTE, NGUYEN,
PYLE, REED, WILLIAMS, YEAGER, CHAVEZ

NOES: NONE

ABSENT: NONE

DISQUALIFIED: GONZALES

CINDY CHAVEZ
Vice Mayor

ATTEST:

LEE PRICE, MMC
City Clerk