



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 19-0449, Version: 1

REPORT TO COUNCIL

SUBJECT

Award of a Contract to HF&H Consultants, LLC for Consultant Assistance with Negotiations for Selection of Solid Waste & Recycling Collection Franchisee

REPORT IN BRIEF

Approval is requested to award a contract to HF&H Consultants, LLC of Walnut Creek, in the not-to-exceed amount of \$139,720 (\$126,140 for base services and \$13,580 for optional services), for consultant services associated with negotiations for the selection of a solid waste and recycling collection franchisee. Approval is also requested for 10% contract contingency in an amount of \$13,972.

EXISTING POLICY

General Plan Goal EM-12 Safe and Healthy Solid Waste Collection:
Ensure that Municipal Solid Waste is collected in a safe and healthy manner.

Pursuant to Section 2.08.070 (b) (1) of the Sunnyvale Municipal Code, specialized services are exempt from competitive bidding requirements.

Pursuant to Section 2.08.040 of the Sunnyvale Municipal Code City Council approval is required for the procurement of goods and/or services exceeding \$100,000 in any one transaction.

ENVIRONMENTAL REVIEW

The actions being considered are exempt from environmental review pursuant to Section 15262 and Section 15738(b)(5) of the California Environmental Quality Act (CEQA) Guidelines. Adoption of a new franchise agreement will likely be subject to a Class 1 CEQA exemption for operation of existing facilities (CEQA Guidelines Section 15301). However, the appropriate CEQA analysis will be included at the time the City recommends City Council to award a franchise agreement.

BACKGROUND AND DISCUSSION

Solid waste and recycling collection services are provided to residents and businesses by Bay Counties Waste Services (BCWS), through the issuance of an exclusive franchise by the City Council, in accordance with Sunnyvale Municipal Code Section 8.16.090. In the context of solid waste and recycling, a franchise is a mechanism for granting the right to a company or individual to perform solid waste and recycling collection services for Sunnyvale residents and businesses. A franchise for solid waste and recycling services cannot exceed thirty years pursuant to Sunnyvale City Charter Section 1604. The term of the current solid waste collection franchise with BCWS began on July 1, 1991 and will expire on June 30, 2021, a period of thirty years.

Given the public and environmental health significance of the work performed within this contract, it is

essential to plan for the continuation of these services in advance of the expiration of the current franchise.

During 2018, Council discussed and evaluated whether to initiate a competitive process or a single-source, negotiated process to select a post-2021 service provider. To inform this decision, the Council directed staff to conduct a review of the performance of BCWS.. HF&H Consultants LLC (HF&H) was awarded a contract to perform this performance review in 2018.

HF&H presented its report on the performance review to Council on December 12, 2018 (RTC No. 18-0910). Based on the findings and recommendations presented by HF&H, Council directed staff to initiate selection of a post-2021 franchisee using a negotiated, single-source process with a timeline that allows for a subsequent open, competitive process if negotiations did not provide an outcome favorable to the City and ratepayers.

Considering the specialized nature of this work, HF&H's significant experience handling similar procurement processes for jurisdictions throughout California and its extensive knowledge of the current franchise agreement and service provider, staff is recommending to award a contract to HF&H to assist with preparation of the RFP, review of the BCWS proposal, and negotiation of the franchise agreement. In anticipation of awarding a contract that is competitively exempt, staff contacted and negotiated with HF&H to provide a proposal that would provide the expected scope of work in addition to any necessary meetings with City staff or City Council in the development of bidding or contract documents and recommendations to proceed. The base services will provide support for negotiating a new contract and award of a franchise, while the optional services may provide public outreach, CEQA compliance support, additional meetings with City staff, and additional negotiation sessions.

Initially, a single-source negotiation process will require preparation and issuance of a Request for Proposals (RFP) to BCWS that describes the scope of work to be performed by a franchised hauler, the terms and conditions of the related franchise agreement and the qualification information requested. The proposal submitted by BCWS will provide narrative and financial information to document the company's understanding of the scope, its capabilities to perform the work in conformance with the service standards detailed in a new franchise agreement, and the cost to the City and refuse collection ratepayers. After evaluation of the proposal and contract negotiations, HF&H will assist the City in determining whether an award of a Franchise Agreement should proceed.

The starting point for the franchisee's scope of work will be the current franchise agreement, which was extensively updated and restated in 2005. Further updates to the scope of work are likely needed to respond to changes in law, among other things. A major focus will be addressing the work required of the franchisee by the SB 1383 organics diversion regulations being developed by the State of California. Those regulations contain extensive requirements for inspections, recordkeeping and reporting related to the collection of food scraps and other organics to support SB 1383's goal of diverting 75% of organics from disposal by 2025. Staff anticipates separately obtaining assistance from outside legal counsel for this portion of the work, in coordination with the City Attorney.

If BCWS were to fail to provide an acceptable proposal and/or subsequent negotiations did not reach a conclusion that the Council determined would meet the City's needs, the City will engage in an open competitive process. That would entail converting the single-source RFP into a competitive format and initiating an RFP process that is open to qualified service providers.

FISCAL IMPACT

Funding is provided in the Solid Waste Program budget by Project 833830 (Procure Post-2021 Solid Waste Collection Franchise). That budget provides \$150,000 in funding for Fiscal Year 2018/19 and \$224,400 for 2019/20.

Funding Source

Solid Waste Management Enterprise Fund.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Take the following actions:

- Award a contract in substantially the same form as Attachment 1 to the report in the not-to-exceed amount of \$139,720 (\$126,140 for base services and \$13,500 for optional services)
- Approve a 10% contingency in the amount of \$13,972
- Authorize the City Manager to execute the contract when all necessary conditions have been met

Prepared by: Gregory S. Card, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Ramana Chinnakotla, Director of Environmental Services

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Draft Consultant Services Agreement