



Office of the City Manager

CONSENT CALENDAR

February 11, 2014

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: Andrew Clough, Director, Public Works
Subject: Contract: HF&H Consultants, LLC for a Franchise Study

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with HF&H Consultants, LLC for a Franchise Study for an amount not to exceed \$69,965 for the period March 1, 2014 through December 31, 2015.

FISCAL IMPACTS OF RECOMMENDATION

Funds for this contract are available in the FY 2014 Zero Waste (Refuse) Fund (Fund 820) budget. The Contract Management System number is CMS No. PFQYI.

CURRENT SITUATION AND ITS EFFECTS

Berkeley is one of very few cities in California that operates its own waste management services, as well as owning and operating a Transfer Station. The City provides curbside collection of garbage (putrescible waste), recycling, and organics for residential and commercial customers. In addition, the City also has several franchise agreements with local waste servicing companies that authorize and restrict them to haul rubbish (dry trash) from commercial customers only, while all putrescible waste must be collected by the City¹. This has been a complicated situation for compliance and accounting for waste diversion.

There are currently 5 active non-exclusive franchise hauler agreements. As an action to improve the fiscal condition of the Refuse Fund, Council voted on June 14, 2011 to “Notify the companies with which the City currently has franchise agreements that the city will be issuing a notice of cancellation for the current franchise agreements.”² Since that time, no new franchise agreements have been issued, and all current agreements will expire in September 2016.

¹ Berkeley Municipal Code 12.32.050.B:
<http://codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=berkeley12/Berkeley1232/Berkeley1232.html>

² Council Annotated Agenda for June 14, 2011 – see item 31h:
www.cityofberkeley.info/Clerk/City_Council/2011/06Jun/City_Council_06-14-2011_-_Regular_Meeting_Annotated_Agenda.aspx

The current franchise service arrangement is complicated, difficult to oversee, and does not support the City's goal of zero waste. With the advent of mandatory commercial and multi-family recycling in Alameda County in July 2012, the need to account for, and report on required service standards and tonnage was increased.

Current Franchise Fees: As established in 1999, the City collects 26% of the reported gross revenue from franchise haulers and currently receives approximately \$841,000 per year from this fee. The franchise fee income is utilized by the City to pay for street sweeping and related activities under the Clean City Program. With the current franchise agreements expiring in 2016, the City will need to make a decision for the future of franchise contracts.

Under this contract, HF&H will develop options for the City's consideration, including cost-benefit analyses and customer impacts. The study will detail the impacts each option would have on the City's funding, policies, programs, and physical infrastructure. Staff will submit a recommendation to Council at the completion of the franchise study.

BACKGROUND:

Council adopted Ordinance Nos. 6,517–N.S. and 6,518–N.S. in December 1999 that were effective in January 2000. In this action, Council repealed and reenacted BMC Chapter 9.60 to provide for non-exclusive franchises for rubbish collection; and amended BMC Section 9.04.176 and 9.04.240 to require private rubbish haulers to enter into non-exclusive franchise agreements. Resolution No. 60,327–N.S. set the franchise fee at 26% of gross revenue reported by the franchise haulers. The initial 7 franchises were approved by Ordinances in June 2000; and there has been limited turnover in active agreements since then.

In December 2013 the City issued a Request for Proposals (RFP) Specification No: 14-10803-C. to analyze the City's franchise services and develop options for the City to consider before the current franchise agreements expire in September 2016. The City received 3 proposals, and a panel comprised of the Zero Waste Manager, Public Works Administrative & Fiscal Services Manager, and a Public Works Senior Management Analyst reviewed all proposals, interviewed 2 of the vendors, and selected HF&H Consultants, LLC. The panel concluded that HF&H demonstrated the best understanding of the project scope, including publicly-owned refuse service operations and privatization feasibility studies, recycling goals, and rate structures relating to zero waste, with a full understanding of the City's Zero Waste Division and commercial franchise services. The proposal also included additional optional tasks, which would only apply if the City wants to focus on a new commercial rate structure, this cost is included in the not to exceed amount.

HF&H Consultants, LLC is a management consulting firm with a focus on municipal agencies responsible for solid waste management, and has conducted franchise feasibility studies for the cities of San Jose, Fresno, Sacramento, and Newport Beach.

RATIONALE FOR RECOMMENDATION

Staff does not have in-house resources with the time or expertise to perform the necessary analysis for the franchise study and review process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Ken Etherington, Manager, Zero Waste Division, Public Works, 981-6359

Sydney Oam, Manager, Administrative & Fiscal Services, Public Works, 981-6306

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT: HF&H CONSULTANTS, LLC FOR A FRANCHISE STUDY

WHEREAS, the Zero Waste Division operates refuse collection and recycling services for residential and commercial accounts, which includes some commercial rubbish collection by haulers franchised by the City; and

WHEREAS, the last time a substantial change was made related to outside haulers of commercial rubbish was in November – December 1999, when Council adopted Ordinances to establish the current non-exclusive rubbish franchises; and

WHEREAS, the City does not have the in-house resources or expertise to conduct a Franchise Study, and therefore solicited written proposals from qualified firms or individuals to evaluate and update fees in accordance with all legal requirements; and

WHEREAS, the City issued a request for proposals (Specification No. 14-10803-C) in November 2013 and, based on their submittal and interview, a review panel selected HF&H Consultants, LLC to prepare the Franchise Study; and

WHEREAS, funding for this contract is available in the FY 2014 Zero Waste (Refuse) Fund (820) budget; CMS No. PFQYI.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with HF&H Consultants, LLC, for a Franchise Study in an amount not to exceed \$69,965 for the period from March 1, 2014 through December 31, 2015.