

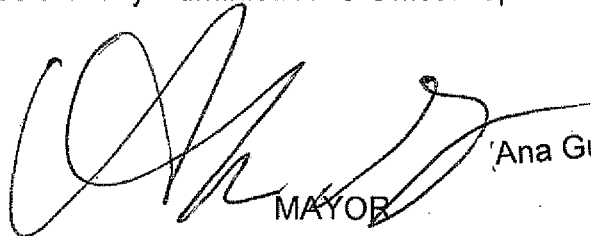
0610-01876-0347

**TRANSMITTAL**

TO The Council	DATE NOV 05 2013	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT All	

**Supplemental Agreement to Contract No. 107485 with Waste Management – Bradley Landfill and Recycling Center for Receipt and Processing of Residential Green Material**

Approved and forwarded for consideration.  
See the City Administrative Officer report attached.

  
MAYOR (Ana Guerrero)

MAS:WKP:06140035t

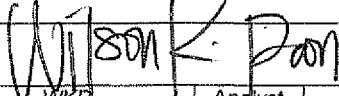
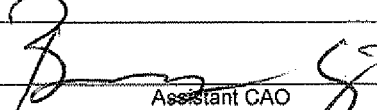

**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 10-28-13	C.D. No. All	CAO File No.: 0610-01876-0347				
Contracting Department/Bureau: Public Works/Sanitation		Contact: Bernadette Halverson, (213) 485-3634					
Reference: Transmittal from the Board of Public Works dated September 27, 2013; referred for report on September 27, 2013.							
Purpose of Contract: Supplemental Agreement to Contract No. 107485 to provide "all inclusive" turnkey recycling services for the receipt, processing, and reuse of green material (yard trimmings and horse manure) collected through the City's curbside collection program.							
Type of Contract: ( ) New contract ( X ) Amendment		Contract Term Dates: Two years, from October 14, 2013 through October 13, 2015					
Contract/Amendment Amount: \$35,858,000							
Proposed amount \$35,858,000 + Prior award(s) \$83,801,007 = Total \$119,659,007							
Source of funds: Solid Waste Resources Revenue Fund No. 508, Account No. 50KX82							
Name of Contractor: Waste Management – Bradley Landfill and Recycling Center							
Address: 9081 Tujunga Avenue, Sun Valley, CA 91352							
	Yes	No	N/A*	8. Contractor has complied with:	Yes	No	N/A*
1. Council has approved the purpose	X			a. Equal Employmt. Oppty./Affirm. Action	X		
2. Appropriated funds are available	X			b. Good Faith Effort Outreach**	X		
3. Charter Section 1022 findings completed	X			c. Equal Benefits Ordinance	X		
4. Proposals have been requested			X	d. Contractor Responsibility Ordinance	X		
5. Risk Management review completed	X			e. Slavery Disclosure Ordinance	X		
6. Standard Provisions for City Contracts included	X			f. Bidder Certification CEC Form 50	X		
7. Workforce that resides in the City: 23%				*N/A = not applicable ** Contracts over \$100,000			

**COMMENTS**

In accordance with Executive Directive No. 3, the Board of Public Works (Board), on behalf of the Bureau of Sanitation (Bureau), is requesting authority to execute a Supplemental Agreement with Waste Management – Bradley Landfill and Recycling Center (WM) to provide "all inclusive" turnkey recycling services for the receipt, processing, and reuse of green material (yard trimmings and horse manure) collected through the Bureau's curbside collection program. The Supplemental Agreement will extend the term of Contract No. 107485 by an additional two years, from October 14, 2013 through October 13, 2015, for a total term of 11 years. The proposed maximum allowable compensation over the two year term is \$35,858,000 with a proposed total cost ceiling of \$119,659,007. However, this Office is recommending a revised two-year cost of \$41,200,000 and total cost ceiling of \$143,200,000.

The Bureau provides curbside collection services to some 750,000 single-family residences and small apartment complexes (four units or less). The Bureau collects approximately 1,800 tons per day (tpd) of green material from these customers. Approximately 400 tons of green material is processed at City facilities (Lopez Canyon and Harbor) and the remaining 1,400 tons of green material is processed by private contractors that prepare the material for beneficial reuse. The Bureau's total permitted capacity is 620 tpd among its two mulching facilities. The collection and processing of green material separately from household refuse is an important component of the City's compliance with the State mandated goal of diverting 50 percent of refuse from landfills and the City's own 75 percent diversion goal. This service is a non-discretionary activity for the Bureau.

 WKP Analyst	 Assistant CAO	 City Administrative Officer
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*Contractor Selection Process*

In accordance with Charter Section 1022, the Personnel Department determined that City employees can perform the work to be contracted. However, this Office determined that the City's existing green material processing facilities lack the permitted capacity to process all the City's residential green material and that the City would be required to build or purchase additional facilities.

As such, the Bureau used a competitive bid process to select three contractors to process the City's residential green material. Effective October 14, 2004, Council (C.F. 04-1499) authorized the Bureau to execute contracts with WM to serve the Valley and Metro areas, Eco-Logics Environmental, Inc. (Eco-Logics) to serve the Western area, and Community Recycling and Resource Recovery, Inc. (CR&RR) to serve as a backup contractor in the event that the other two contractors face a temporary or permanent shutdown due to environmental regulations, weather conditions, regulatory actions, or market shifts. The term of each contract is three years with two three-year renewal options for a total term of nine years. On August 31, 2007, the Bureau terminated its contract with Eco-Logics due to various permit, operating, and regulatory violations by the contractor. The Bureau redistributed the Eco-Logics tonnage among WM and CR&RR. The Bureau exercised both three-year renewal options for the WM and CR&RR contracts and these contracts expired on October 13, 2013.

The Bureau proposed to extend both contracts for an additional two years and, at its September 27, 2013 meeting, the Board approved the WM extension, but deferred the CR&RR extension to its October 11, 2013 meeting as a result of concerns expressed about their prior performance. At its October 11, 2013 meeting, the Bureau withdrew its request to execute the CR&RR extension and no Board action was taken to extend the CR&RR contract. Currently, WM processes approximately 1,000 tpd of green material and CR&RR processes 400 tpd. If WM is to absorb the additional tonnage from CR&RR, the cost ceiling in Provision No. 4 of the Supplemental Agreement needs to be revised. The execution of the Supplemental Agreement is required to extend the term of the contract and continue these critical services until a permanent contract can be awarded. The Bureau estimates that a permanent contract will be awarded within the next year.

*Compensation for Services*

Under the terms of the original contract, WM will be compensated on a cost-per-ton basis, which includes annual Consumer Price Index (CPI) adjustments that are capped at six percent. The rates for the first and second year, which assumes a six percent CPI adjustment, of the Supplemental Agreement for the Metro and Valley facilities are as follows:

1<sup>st</sup> Year – October 14, 2013 through October 13, 2014

WM Facility	100 tpd or less	101 to 250 tpd	251 to 450 tpd	451 to 600 tpd	601 tpd or more
Metro	\$127.15	\$79.46	\$67.93	\$59.48	\$57.89
Valley	\$127.15	\$79.46	\$49.58	\$39.66	\$38.07

2<sup>nd</sup> Year – October 14, 2014 through October 13, 2015

WM Facility	100 tpd or less	101 to 250 tpd	251 to 450 tpd	451 to 600 tpd	601 tpd or more
Metro	\$134.78	\$84.23	\$72.01	\$63.05	\$61.36
Valley	\$134.78	\$84.23	\$52.55	\$42.04	\$40.35

The Metro rates are higher because they include transfer services provided at WM's Metro Transfer Station whereas the Valley rates only include green material processing services. To contain costs, the Bureau minimizes the use of the WM Metro facility and maximizes the use of the City owned Central Los Angeles Recycling and Transfer Station (CLARTS) to transload green material to designated processing facilities. The Bureau only uses the WM Metro Transfer Station when CLARTS has reached its permitted capacity. The Bureau reports that it is currently taking 251 to 450 tpd of green material to the WM Metro facility, but will be required to increase this amount to over 600 tpd to absorb the additional tonnage from CR&RR. The additional tonnage would reduce the cost per ton by \$10.04, from \$67.93 to \$57.89. The above rates assume minimal green material contamination levels and higher rates apply for processing green material with higher contamination levels.

The projected two-year costs for the proposed Supplemental Agreement is \$35,858,000. However, if WM is to absorb the additional tonnage from CR&RR, these costs will increase to \$41,200,000. The following table illustrates how this cost was calculated:

Fiscal Year	Annual Tonnage	Average Cost per Ton	Expenditures
2011-12 Actual	311,414	\$45.73	\$14,242,305
2012-13 Actual	323,517	49.10	15,883,137
2013-14 Projected	365,400	49.75	18,177,986
2014-15 Projected	365,400	52.73	19,268,665
Projected Expenditures for Two Year Extension			\$37,446,651
10 Percent Contingency			3,744,665
Total Projected Expenditures for Two Year Extension			\$41,191,316

The Bureau used actual expenditures and annual tonnages from 2011-12 and 2012-13 to calculate the average cost per ton. For 2013-14 and 2014-15, an annual CPI adjustment of 1.3 and six percent, respectively, were applied to the 2012-13 and 2013-14 cost per ton. The annual tonnage of 365,400 for 2013-14 and 2014-15 was calculated by multiplying 1,400 tpd by 261 calendar days. The Bureau also included a 10 percent contingency for unanticipated tonnage increases resulting from natural disasters such as heavy winds, rainstorms, or other events.

The projected total 11-year contract costs for the proposed Supplemental Agreement is \$119,659,007. This amount includes the \$35,858,000 for the two-year Supplemental Agreement and \$83,801,007 in total costs reported under Schedule B, a document prepared by WM to report subcontractor utilization and expenditures to date. However, the City's financial systems report \$101,258,196 in expenditures to date under this contract. This amount does not reflect invoices which have yet to be paid so the total projected expenditures under this contract is rounded up to \$102,000,000. In discussions with the Bureau, it was determined that the \$102,000,000 amount is more accurate and adding the modified two-year extension costs of \$41,200,000, this Office recommends that the total contract cost ceiling be increased to \$143,200,000.

*Summary of Supplemental Agreement Changes*

The proposed Supplemental Agreement incorporates all the provisions in the original contract and subsequent amendments. The proposed Supplemental Agreement does not include any changes to the scope of work, but extends the term of the contract by two years, increases the cost ceiling, and incorporates contracting ordinances that were approved by Council after the initial contract and amendments were executed.

### *Compliance with City Contracting Requirements*

To the best of our knowledge, WM has continued to comply with all applicable contracting policies and procedures. Pursuant to Los Angeles Administrative Code Section 10.5 (a), Council approval of the proposed Supplemental Agreement is required because the term of the contract will exceed the nine-year term which was previously approved by Council (C.F. 04-1499).

### **RECOMMENDATIONS**

That the Council:

1. Instruct the Board of Public Works to modify Provision No. 4 of the proposed Supplemental Agreement to increase the estimated two-year cost from \$35,858,000 to \$41,200,000 and increase the estimated total contract costs from \$119,659,007 to \$143,200,000; and,
2. Authorize the Board of Public Works, on behalf of the Bureau of Sanitation, to execute the proposed Supplemental Agreement, as modified, with Waste Management – Bradley Landfill and Recycling Center to provide “all inclusive” turnkey recycling services for the receipt, processing, and reuse of green material collected through the Bureau's curbside collection program, from October 14, 2013 through October 13, 2015, at a cost not to exceed \$41,200,000, subject to City Attorney approval as to form.

### **FISCAL IMPACT STATEMENT**

There is no General Fund impact and sufficient funds are available within the Solid Waste Resources Revenue Fund to support the first year costs of the proposed Supplemental Agreement. The 2013-14 Adopted Budget includes an appropriation of \$20,870,179 in the Solid Waste Resources Revenue Fund Schedule for green waste processing. Funding for the second year of the Supplemental Agreement will be allocated through the City's annual budget process and is subject to Mayor and Council approval. The recommendations in this report comply with the City's Financial Policies as ongoing revenue will support ongoing expenditures. The contract also contains a Financial Liability Clause that limits the City's financial exposure to costs that are supported with revenue.

MAS:WKP:06140035