

JUNE 23, 2014

SUBJECT: CONSIDERATION OF ATHENS SERVICES' PROPOSAL FOR
ENHANCED SERVICES AND EXTENDED TERM OF THE
AGREEMENT FOR INTEGRATED SOLID WASTE
MANAGEMENT SERVICES

INITIATED BY: DEPARTMENT OF PUBLIC WORKS
(Sharon Perlstein, City Engineer) *SP*
(Oscar Delgado, Director of Public Works) *OD*

STATEMENT OF THE SUBJECT:

The City Council will consider the recommendations in the report prepared by R3 Consulting Group, Inc. evaluating a request by Athens Services to enhance the scope of services and extend the term of the Agreement for Integrated Solid Waste Management Services.

RECOMMENDATION:

1. Consider the recommendations in the report prepared by R3 Consulting Group, Inc. and direct staff to report back by November 2014 with an updated Agreement with Athens Services which enhances the scope of services and extends the term of the Agreement for Integrated Solid Waste Management Services.
2. Approve Amendment No. 1 to the professional services Agreement with R3 Consulting Group, Inc. in an amount not to exceed \$33,000 to provide technical assistance in drafting a new Agreement for Integrated Solid Waste Management Services which incorporates the enhanced scope of services and extension of term with specific ties to meeting performance requirements, as well as updates contract provisions for consistency with current best practice terms and conditions.

BACKGROUND ANALYSIS:

In spring 2011, the City Council directed staff to investigate the feasibility of having 100% of all waste citywide processed at Athens Services' mixed waste Materials Recovery Facility (MRF). Since 100% of commercial waste is already sent to the MRF, this change would involve processing the waste generated by residential parcels to the MRF, as opposed to the current source separated bin system. Beginning in the early 1990's, all of the City's residential parcels (including single family as well as multi-unit) have been provided separate carts or bins for collection of recyclables and green waste, in addition to the carts or bins for collection of the regular trash. Parcels with 1 to 4 units have a 3 cart system under which residents receive once per week collection service of their blue, green, and black carts. The participation in recycling by the 1 to 4 unit residential parcels is very high and is

achieving a diversion rate of approximately 70%. On the other hand, a lower percentage of waste is diverted from multi-unit residential parcels. The primary reason for the lower participation by multi-unit residential parcels is the limited space at many buildings for placement of recycling bins and carts. Many older buildings do not have room for the number of recycling containers needed to accommodate the number of tenants; the result is that the limited numbers of recycling containers fill up quickly and the rest of the recyclables are thrown out in the regular trash.

On July 16, 2012, the City Council heard a New Business item for consideration of Athens Services' December 29, 2011 proposal for enhancing services and extending the term of the Agreement for Integrated Solid Waste Management Services. A majority vote was not received and the item was tabled. Athens Services continued to encourage the City Council to consider their proposal. On May 6, 2013, the City Council authorized a professional services agreement with R3 Consulting Group, Inc. to evaluate Athens Services' proposal. Using special expertise in solid waste and recycling, R3 Consulting Group, Inc. was contracted to advise the City on detailed costs, savings, market conditions, new solid waste and recycling technologies, as well as the pros and cons of implementing the options in the Athens Services proposal.

The primary focus of the enhanced scope of services in Athens Services' December 29, 2011 proposal involves 100% MRF processing of the waste from multi-unit residential parcels. 100% MRF processing for the multi-unit residential properties would require a 20% increase in rates for multi-unit residential trash services. Raising the rates for multi-unit residential is a difficult proposal, since increased costs cannot be passed on to tenants in rent controlled units. Acknowledging that raising these rates by 20% is undesirable, Athens Services' proposal included four options to offset the rate increase with a large package of additional enhanced services in exchange for extension of the number of years remaining in the term of the exclusive contract.

R3 Consulting Group, Inc.'s evaluation report is attached as Exhibit A. A summary of the findings and recommendations is as follows:

Current Customer Rates:

Athens' rates for residential and commercial trash services in West Hollywood compare favorably to neighboring jurisdictions. In most cases, the rates paid in West Hollywood are lower. The existing franchise agreement has tied annual rate increases to the consumer price index (CPI), and has effectively controlled rates. The November 2013 closure of Puente Hills Landfill has resulted in rate increases of 7% to 10% for many communities. West Hollywood has avoided this impact to rates through the existing agreement with Athens Services.

Market Conditions:

The solid waste and recycling services provided by Athens Services in West Hollywood are more comprehensive than those offered in most other jurisdictions in the region. Athens is one of the few companies that can provide food waste programs, as they own one of the only composting facilities in the region which is

permitted to compost food waste. Athens is one of a limited number of solid waste management companies in the region that has a mixed waste Materials Recovery Facility (MRF) which allows it to process portions of the City's mixed waste stream for diversion of recyclables. Currently Athens is recovering recyclables from approximately 26.5% of the commercial waste stream through mixed waste processing at their MRF. Additionally, Athens provides source separated recycling programs to West Hollywood customers at no additional charge. Most communities which do not provide mixed waste processing for recyclables offer source separated recycling at an additional cost to the customer.

Long Term Disposal Capacity:

The majority of West Hollywood's trash has until recently been disposed at the Puente Hills Landfill. However this landfill closed at the end of October 2013, requiring all waste haulers to find new destinations for trash disposal. Athens Services has positioned their company to efficiently manage trash disposal for their clients. In April 2013, Athens Services and San Bernardino County entered into an agreement in which Athens will operate San Bernardino County's active landfills and transfer stations for 10 years, through June 30, 2023. With this Agreement, Athens Services is required to dispose of approximately 800,000 tons of waste per year for its clients at the San Bernardino County landfills. This arrangement provides a secure disposal option at a much lower cost than participation in the long feared rail-haul of trash to the Mesquite Regional Landfill in Imperial County.

Compliance with Legislation:

The City is in compliance with AB 939 and AB 341, the State laws mandating a citywide 50% diversion of waste from landfills, as well as a statewide diversion goal of 75% by 2020. The City's 2012 State Reported Diversion Rate is approximately 59% and the City is in compliance with AB 939 and AB 341. It is important to note that the compliance is achieved by including the diversion of construction and demolition waste in the City's total tonnages. The construction and demolition waste diversion is handled by 5 permitted haulers, which are outside the City's exclusive franchise agreement with Athens Services. Under the City's Green Building Ordinance, these construction and demolition haulers must divert 80% of all waste away from landfills. AB 341 also mandates that recycling be available to all commercial and multi-unit residential properties; however the legislation places no mandate on the City beyond an education and outreach program to make sure customers understand the recycling services available under the existing franchise agreement with Athens Services.

Athens Services Initial Proposal:

The four options presented in Athens Services' December 29, 2011 proposal include 8-year and 15-year extensions with either fixed or rolling/evergreen terms. In the 8-year fixed, 8-year rolling, and 15-year fixed options, there would be rate increases for the multi-family residential customers ranging from 8% to 20% for the cost of the MRF processing, as well as a rate increase to the 1-4 unit "single family" residential customers ranging from 2.8% to 1.4% for the cost of enhanced green waste/composting. Additionally, these options include a range of costs to the City for Athens Services to take over a number of Public Works maintenance services

including citywide street sweeping, pet waste stations, sidewalk pressure washing, and hand litter pick up on sidewalks. The proposed 15-year rolling option includes all of the services in the other options, but with no cost increase to the customers. Under all four options, the City would not necessarily have solid controls for ensuring Athens Services complied with specific diversion standards or recourse if some aspects of the services fail to comply with all contract terms. Additionally, City staff's preference is to keep the Public Works maintenance services separate from the solid waste and recycling contract to ensure that these programs are done by contractors with specific expertise in each area rather than handled by a contractor with a primary focus on solid waste services. Shorter, 1 to 2 year contracts for the Public Works maintenance services also give the City the opportunity to periodically modify programs to address the ever changing needs of the community for Public Works maintenance services, without having to negotiate reopeners in a large solid waste franchise contract.

Alternative Proposal:

As a result of discussions between R3 Consulting Group, Inc., City staff, and Athens Services staff on February 19, 2014, an Alternative Proposal was developed with modified term extensions and program enhancements. The total term extension would be 15 years; however it is broken up into three five-year extensions. Each five-year extension is predicated on Athens Services complying with verifiable Contractor diversion standards, a complete contract compliance audit, and two non-CPI rate adjustments (in year 6 and year 11) subject to City approval. The Alternative Proposal meets the following City goals:

1. Increased Diversion of Franchise Tonnage. The Alternative Proposal requires Athens Services to achieve 50% diversion during the 1st five year extension, 60% in the second five year extension, and 70% during the third five year extension.
2. Additional Services. The Alternative Proposal requires Athens Services to provide 100% MRF processing of all waste from the multi-unit residential sector. The existing 100% MRF processing of the commercial sector would remain in place. Athens Services would provide enhancements to the commercial food waste and green waste composting programs, as well as implement a Drop-Off Program for Compact Fluorescent Lights (CFL).
3. Providing Stable Customer Rates with Increased Services. During the 1st five year extension, Athens Services would provide the above additional services with no extra rate increase. There would only be the annual CPI adjustment for customer rates. During the 2nd five year extension, Athens Services could request one non-CPI rate adjustment which would be subject to City approval. Otherwise during the 2nd five year extension, Athens Services would only be eligible for annual CPI adjustments for customer rates. During the 3rd five year extension, Athens Services could request one non-CPI rate adjustment which would be subject to City approval. Otherwise during the 3rd five year extension, Athens Services would only be eligible for annual CPI adjustments for customer rates.

Per written correspondence dated March 6, 2014, Athens Services is agreeable to implementing the proposed Alternative Proposal. Based on R3 Consulting Group, Inc.'s evaluation of Athens Services, the Alternative Proposal would provide the City with a long term integrated waste management program with high diversion standards, stable customer rates, and enforceable controls to ensure contract compliance.

If the City Council accepts the Alternative Proposal, City staff will report back with an updated Agreement for Integrated Waste Management Services. The updated Agreement will incorporate the enhanced scope of services, extension of term with specific ties to meeting performance requirements, as well as update contract provisions for consistency with current best practice terms and conditions. R3 Consulting Group, Inc. has provided a proposal for an amendment to their existing contract to provide a scope of services to assist City staff with the creation of the new Franchise Agreement. The fee for R3 Consulting Group, Inc.'s scope of services is a not to exceed amount of \$33,000. The Amendment to the Agreement for R3 Consulting Group is provided in Exhibit B. Staff will report back with the updated Agreement by November 2014. The 4 to 5 months is the amount of time needed for the consultant, City staff, City Attorney, and Athens Services to process the complete update to the Agreement.

ALTERNATIVES

The City Council could choose to not implement a contract extension with Athens Services, and instead direct staff to conduct a competitive procurement for a new franchise agreement, incorporating current best practice terms and conditions. The existing Agreement with Athens Services expires June 30, 2016; therefore the City has time to undertake a competitive procurement process. However, given the current low residential rates and relatively high level of services, it is conceivable that customer rates would increase if the City were to conduct a competitive procurement process. Also, there are a limited number of haulers that can, at this time, provide the services and access to mixed waste and organics processing facilities that Athens Services is currently providing to the City, as well as those that it is proposing to provide.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

This item is consistent with *the Primary Strategic Goal* of **INSTITUTIONAL INTEGRITY** and the *Ongoing Strategic Program* of **FISCAL SUSTAINABILITY**.

This item is consistent with the following goals of the West Hollywood General Plan:

G-2: Maintain transparency and integrity in West Hollywood's decision-making process.

IRC-10: Use best practices to reduce and manage solid waste.

EVALUATION:

The background section of this Staff Report along with the report prepared by R3 Consulting Group, Inc. (Exhibit A) provides analysis of the City's existing solid waste and recycling programs, costs, savings, market conditions, new solid waste and recycling technologies, as well as the pros and cons of implementing the options in the Athens Services proposal. If the City Council directs staff to go forward with an updated Agreement with Athens Services, R3 Consulting Group, Inc. will assist the City to draft a new Agreement for Integrated Solid Waste Management Services which incorporates the enhanced scope of services and extension of term with specific ties to meeting performance requirements, as well as updates contract provisions for consistency with current best practice terms and conditions.

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:

AB 939 requires municipalities statewide to divert 50% of their waste from landfills. AB 341 is a new State law mandating that recycling be available to all commercial and multi-unit residential properties. Under the existing contracted scope of services with Athens Services, the City is in compliance with these laws. AB 341 also includes a statewide diversion goal of 75% by year 2020; however there is no mandate directly on the City. An issue of great importance for the Los Angeles region is the November 2013 closure of the County Sanitation Districts' Puente Hills Landfill. This closure of the nation's largest landfill has forced the waste disposal industry to find alternative landfill sites, including costly rail haul to remote landfills. The proposed enhanced scope of services and extension of the term for the City's contract with Athens Services could position the City to maximize diversion of recyclables and compostables away from landfill disposal during uncertain times in the landfill industry.

OFFICE OF PRIMARY RESPONSIBILITY:

Department of Public Works (Engineering Division).

FISCAL IMPACT

Athens Services would need to provide for the enhanced scope of services, including MRF processing for multi-family residential parcels, with no rate increase. This would be a savings on future rates of approximately 20% for the multi-unit residential customers.

The Agreement for Integrated Solid Waste Management Services includes payment of a Franchise Fee in the amount of 10% of the gross receipts derived by Athens Services from the services billed to customers and provided in the City. This fee, estimated at \$560,000 per year, is paid into the General Fund.

The Amendment to the Agreement with R3 Consulting Group, Inc. is for a not-to-exceed amount of \$33,000. Funds for the recommended action have been included in the Engineering Division Account 100-3-08-84-538034.