



June 25, 2014

Honorable Mayor Jean Quan & Members of City Council
City of Oakland
1 Frank H. Ogawa Plaza 3rd Floor
Oakland, CA 94612

Re: Zero Waste Procurement

Dear Mayor and Members of the City Council:

Thanks to the City Council's direct intervention with City Staff, CWS is able to propose the best, lowest risk and lowest cost alternative for solid waste collection, processing and disposal. It is disappointing but not surprising that, instead of embracing the savings achieved by the fair and open management of the BAFO process, City Staff instead clings to its recommendation of Waste Managements' higher cost (WM is higher by \$34.92 per year per household, \$479.64 per year per twenty unit multi-family customer, and \$441.24 per year per 1 cubic yard commercial customer). City Staff also failed to listen to the clear direction of the City Council with respect to:

1. Cooperation with EBMUD in organics processing;
2. Keeping Oakland jobs in Oakland by locating the call center in Oakland;
3. Working with Civicorps; and
4. Eliminating the lock out loop hole from WM's proposal.

City Staff's position begs the question: Why would City leaders follow the recommendation of the same City Staff and consultants who proposed and performed the failed Zero Waste procurement process and then actively lobbied the City Council for approval of contracts over 20% higher than even the current high bid of WM. Rate payers would have been paying for the incompetence of City Staff for over twenty years. With City Council involvement, first year rate increases have dropped from 50% to 20.12% with CWS coming is as the LOW COST PROVIDER *every time*.

The City Staff's report cloaks its boosterism for WM in vague allegations of risk associated with granting the Zero Waste contracts to CWS and ignores entirely the rate risk buried in WM's proposed shortening of the contract term. The City Staff's repeated reference to the "risk" of CWS is fear mongering propaganda. City Staff and WM count on fear of trash in the streets to distract attention from the facts. The facts are that CWS is 100% capable of taking on RR, MMO and disposal on July 1, 2015, arm and arm with its service participants, EBMUD and Republic Services.

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The “risk” that City Staff points to as justifying millions of rate payer dollars over the term of the contracts is purportedly addressed in the report of Clements Environmental Corporation. First and foremost, the Clements Report ignores the “belt and suspenders” assurance offered by CWS to use Republic Services’ transfer facilities in Richmond if there is a delay in getting the EBMUD interim facility operational. But even ignoring the absolute “fail safe” option of Republic Services, the Clements Report ultimately concludes that the risk is either manageable or minimal:

1. Startup of the EBMUD Interim Facility in June, 2015 is “plausible” – and with the Republic Services back up transfer plan, zero risk.
2. Interim Facility Capacity and Diversion risk is “low” – and with the Republic Services back up transfer plan, zero risk
3. Truck procurement risk is “low” to “moderate” – and CWS has already secured commitments for all of the collection vehicles required, reducing the risk to zero.
4. Landfill Capacity risk is “minimal” – which must be City Staff’s way of saying zero risk.

Finally, the risks identified by Clements are risks that are associated with every trash contract where an incumbent is replaced. The collection, processing and disposal of solid waste are hardly rocket science. It has been done for years and both CWS and WM are capable of doing the work. City Staff’s concern over whether or not CWS can collect the trash on July 1, 2015, is trumped up. CWS has always met its performance deadlines and will in Oakland.

In addition to its fear mongering propaganda, City Staff also chose to ignore the plain direction of the City Council regarding four critically important elements of the Zero Waste program.

The City Council directed Staff to encourage the parties to work with EBMUD. CWS listened and entered into a Memorandum of Understanding with EBMUD that includes siting of the interim transfer facility on EBMUD property and a commitment of Oakland organics to the EBMUD digestion facility. WM, in its “my way or the highway” approach, simply refused to budge, instead insisting on privatization of organics for the next two decades.

The City Council also expressed its preference that the call center for Oakland’s Zero Waste program be operated in Oakland. WM closed the local call center when it locked out its employees. And, again, WM told the City that it is “my way or the



highway” for local call center jobs – they will stay in Washington State. CWS’ call center will be in Oakland and will employ Oakland residents.

Civicorps is an important participant in the waste management infrastructure of Oakland. CWS has made sure that Civicorps has a role in CWS’ performance under the Zero Waste program. CWS will train Civicorps members so that they will be able to qualify for union jobs as they become available. And CWS will work with the City to include Civicorps in its operations as the City may direct. WM, on the other hand, has ignored Civicorps and, again, indicated its “my way or the highway” approach to meeting the reasonable directives of the City Council.

Finally, the City Council made its position on the “lock out loop hole” provision in the Waste Management contract – the provision that allows Waste Management to lock out employees (as it did in 2007) and allow trash to pile up in the streets (as it did in 2007) without fear of sanctions from the City under its contracts. CWS has never sought a lock out loop hole. Here again, WM sticks to its “my way or the highway” position on locking out its employees, causing a public health crisis, and avoiding responsibility.

It would be a great disservice to the rate payers to allow City Staff’s unsupported assertions of the risk that CWS will not be able to collect, process and dispose of trash on July 1, 2015, to cost literally tens of millions of dollars over the term of the Zero Waste program. It would be equally regrettable to allow City Staff’s apparent disinterest in EBMUD, the local call center, Civicorps, and the lock out loop hole in league with WM’s mantra of “my way or the highway” to force Oakland into solid waste contracts that are more costly and contrary to City Council policy.

The best course of action is for the City of Oakland, citizens and ratepayers isto select Option 3 because it provides the lowest rate, best value, greatest innovation and most community benefits – it will be the proudest day ever for CWS to be selected as Oakland’s contractor and to deliver services that meet and exceed the policy and performance expectations of our great City. Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read "David Duong", is written over the typed name and title.

David Duong
President & CEO

cc: Henry Gardner, City of Oakland Administrator