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Title: Resolution to Negotiate an Agreement with Recycle Ann Arbor to Rebuild and Operate the Ann Arbor MRF for an Initial Period of Ten (10) Years (*Title Revised to Reflect Substitute Resolution)

Sponsors:

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Attachments: 1. substitute resolution for CA7 version 2.pdf, 2. substitute resolution for CA7 draft.pdf, 3. Emterra Contract 2019-11-26 final.pdf, 4. CommitteeScores.pdf, 5. RAA Protest RFP 19-28 MRF.pdf, 6. Letter of Protest to Award of RFP 19-28.pdf, 7. Emterra Submission Materials for RFP 19-28_Compiled.pdf, 8. RAA Submission Materials for RFP 19-28_Compiled.pdf

Date	Ver.	Action By	Action	Result
12/2/2019	1	City Council		
12/2/2019	2	City Council	Amended	Pass
12/2/2019	2	City Council	Approved as Amended	Pass

Resolution to Negotiate an Agreement with Recycle Ann Arbor to Rebuild and Operate the Ann Arbor MRF for an Initial Period of Ten (10) Years (*Title Revised to Reflect Substitute Resolution)

Purpose

Attached for your approval is a resolution to approve a Services Agreement with Emterra Environmental USA Corp. (Emterra) to operate the City’s Materials Recovery Facility (MRF) structure as a materials transfer station and processing of the City’s recyclable materials at their new MRF facility in Lansing, Michigan. Emterra is in compliance with the requirements of the City’s Non-Discrimination and Living Wage ordinances.

Background

Ann Arbor has historically provided local processing capacity for recyclables collected from residents and businesses, as well as outside third-party materials. However, in 2016, the City ceased processing operations at our MRF because our contracted vendor did not have a safe work environment or equipment condition. Since 2016, the MRF has been a transloading operation for the City’s collected materials and international, state and regional recycling dynamics have evolved to alter the recycling landscape.

In 2017, the Governor’s Recycling Council issued a comprehensive report to push the state to double its recycling rate of 15% through increased education, market development, increased funds, clear performance metrics and implementation of a “hub-and-spoke” processing model where materials are collected in lower density areas and shipped to hi-tech, regional MRFs to achieve economies of scale. In 2018, China effectively banned import of scrap materials, drastically altering the recycling market in states including Michigan. Finally, on a more local level, in December 2019, the County

established the Washtenaw Regional Resource Management Authority (WRRMA) - an organization dedicated to improving regional resource management coordination, education and infrastructure. As of November 2019, the City of Ann Arbor is not a member of WRRMA.

The City's existing contract with Recycle Ann Arbor for MRF Operations and Recyclables Processing expires on June 30, 2020. RAA currently operates the City's MRF as a materials transfer station and trucks the City's recyclable materials for processing at a MRF in Cincinnati, Ohio.

In a rapidly changing recycling market, the City of Ann Arbor is striving to make an informed decision about how to best utilize our existing MRF infrastructure, minimize risk to the City's taxpayers, and maximize recovery of our recycling resources.

In anticipation of the end of the RAA transloading contract term, and in alignment with guidance on the draft [Solid Waste Resource Management Plan \(SWRMP\)](#) <
<https://www.a2gov.org/departments/systems-planning/planning-areas/Pages/Rethinking-Waste---Developing-a-New-Solid-Waste-Plan.aspx>>, Ann Arbor posted a Request for Proposals (RFP) #19-28 to the Michigan Inter-governmental Trade Network (MITN) BidNet® website on August 16, 2019. The RFP included two options for offerors to propose work plans and cost proposals:

- Option 1 - Receive recyclable materials at the City's MRF structure, transload the recyclables to an offsite MRF for processing and subsequent marketing to end markets;
- Option 2 - Equip the City's MRF and modify the structure (as needed) to receive, process, and market all recyclable materials. Proposals for Option 2 also needed to include details on the interim operations/handling of the City's recyclable materials during the transition from a transload operation at the City's MRF to a processing operation at the MRF.

Process and Scoring

On September 17, 2019 the City received proposals from two offerors, Emterra Environmental USA Corp. (Emterra) and RAA. A selection committee comprised of City staff reviewed the proposals based on several criteria:

- Professional Qualifications (20% of Total Score)
 - Skill and qualifications of key management personnel (30% of subtotal)
 - Skill and qualifications of team members, including subcontractors (30% of subtotal)
 - Safety & Training Programs (10% of subtotal)
 - History of firm(s), length of existence (30% of subtotal)
- Past Involvement with Similar Projects (15% of Total Score)
 - Specific experience with similar projects (60%)
 - Safety Record (20%)
 - Quality and relevance of references listed within the proposal (20%)
- Proposed Work Plan (35% of Total Score)
 - The work plan shall be sufficiently detailed and clear to define the methodology to be employed by the Offeror, including: staffing; process for processing of recyclables; identification of primary processing sites; identification of back-up processor (interim for Option 2); management and scheduling of the work; communication and coordination

- with the City (65% of subtotal)
- Distance to primary (Option 1)/interim (Option 2) processing site (10% of subtotal)
- Overall completeness, clarity, thoroughness and content (25% of subtotal)
- Fee Proposal (30% of Total Score)
 - Option 1
 - Avg. Total Cost per Ton (75% of subtotal)
 - Material Revenue Credit (15% of subtotal)
 - 3rd Party Recyclables Credit (5% of subtotal)
 - Saturday & Sunday Operations (5% of subtotal)
 - Option 2
 - Blended Capital/O&M Cost per Month (60% of subtotal)
 - Material Revenue Credit (20% of subtotal)
 - 3rd Party Recyclables Credit (15% of subtotal)
 - Saturday & Sunday Operations (5% of subtotal)

The RFP selection process requires an initial evaluation of proposals, after which the fee proposals are opened only for the top proposals. The City determined both Emterra and RAA were qualified. City staff held interviews held with both offerors. Following the interviews and review of follow-up information requested from and provided by the offerors, staff reviewed and re-scored the proposals of the offerors. The final scoring of the two offerors is as follows:

1. Emterra (Option 1): 82.06 points
2. RAA (Option 1): 65.70 points
3. RAA (Option 2): 58.20 points

Evaluation and Selection

Based on staff's evaluation of Emterra and RAA's proposals using the criteria highlighted in the previous section, it recommends that Emterra Environmental USA Corp. (Emterra) operate the City's Materials Recovery Facility (MRF) structure as a materials transfer station and processing of the City's recyclable materials at their new MRF facility in Lansing, Michigan.

Below is detail on both organizations and the assessment of their proposals.

Emterra

Emterra Environmental USA Corp is headquartered in Flint, Michigan and a division of Emterra Group, a vertically integrated Canadian resource recovery company providing recyclables collections, processing and commodity marketing for over forty-three years.

Emterra currently has over sixty municipal contracts in Michigan, and serves communities in eight counties, including Genesee, Huron, Lapeer, Oakland and Saginaw. Emterra operates 15 MRFs- including 6 single stream MRFs designed for energy and water savings-processing and marketing 550,000 tons of recyclables annually. Although Emterra does handle some refuse disposal, if required by contract, Emterra originated as a recycling company; recycling remains the company's focus, and most of its work and services are recycling operations.

In June 2020, Emterra is opening a single stream MRF in Lansing, MI with capacity to process 40,000 tons per year.

Emterra submitted a proposal for Option 1 (transloading). Key factors in the selection committee's scoring of Emterra's proposal are:

- **Professional Qualifications:** Emterra has 43 years of experience collecting, processing and marketing commodities. Emterra identified a clear organizational structure with distinct roles and qualifications and their management chain has extensive experience operating MRFs and recycling commodities marketing. Emterra holds monthly safety meetings with staff and regularly reviews loss data with risk staff.
- **Past Involvement with Similar Projects:** Emterra has successfully run collection and transloading in municipalities in MI and Canada. All expertise is in-house, including materials processing and commodities marketing. Emterra provided several references for past projects of a similar breadth and scope, including municipal references. Based on our understanding of their past performance, the City anticipates streamlined communications, reporting, and strong commodity marketing outcomes.
- **Proposed Work Plan:** Emterra's work plan clearly presents staffing plans for the City's transloading operation, as well as operational methodologies for transportation, processing and commodity marketing. While the City requested bi-annual MRF audits in line with our current contract terms, Emterra has offered two additional audits per year for \$1,000 per audit. The City anticipates added benefits to tracking our materials stream, including an ability to adapt education and outreach initiatives in response to more frequent audit data. Due to the completeness and clarity of Emterra's workplan, the City did not have substantial follow-up questions after the initial proposal.

Additionally, Emterra's proposal includes measures to ensure they achieve consistent loads of 23 to 25 tons and agrees to meet or exceed an average of 20.5 tons per load. Emterra also has an interest in maintaining a residual rate of 10% or less of non-recyclable materials in order to provide a clean and valuable recycling stream to its Lansing MRF. Emterra's proposal outlines procedures for identifying and addressing contaminated loads.

- **Fee Proposal:** The City scored Emterra's fee proposal for Option 1 slightly less than RAA's and included a higher third-party per ton recycling credit than RAA's for Option 1.

Additionally, the City considers that Emterra's Lansing MRF will use innovative technology to meet today's stricter recycling standards, and to provide flexibility to adjust for future material streams and standards. Emterra's process follows the Hub and Spoke method, recommended by the Governor's Recycling Council.

RAA

RAA is a local non-profit that began curbside collection in Ann Arbor in the 1970s and has contracted with the City to collect recyclables since the 1980s. RAA also operates the City's drop-off station, their ReUse Center, and a Materials Recovery Yard in Scio Township that handles construction and demolition debris and other bulky drop-off materials. RAA is well known and respected locally for

these services.

For over two years, RAA has provided transloading services for the City based out of the City-owned MRF facility. RAA has no organizational history of operating a recyclables processing MRF.

RAA submitted a proposal for Option 1 (transloading) and Option 2 (MRF). RAA proposes continuing current operations for Option 1. Following review of RAA's proposal, interview and an extensive list of follow-up questions, the City finds RAA's preferred Option 2 proposal lacks clarity, detail and certainty in several key areas. The City also finds that RAA's Option 2 proposal has significant and concerning deviations from the RFP that raise questions regarding the City's risk (see below for more details).

Key factors in the selection committee's scoring of RAA's proposal are:

- **Professional Qualifications:** The City does not have questions regarding RAA's professional ability to perform Option 1. However, Option 2 lacks clarity regarding both organizational structure and capacity to adequately perform the multiple and important tasks associated with recyclables processing and marketing.

RAA's proposal lacks detail on the relationships with sub-contractors and third parties, leaving the City with uncertainty about organizational structure, qualifications, capacity and ability to implement and deliver the service. Similarly, it is difficult to evaluate skills and qualifications of RAA's full MRF operations team because while RAA identifies a need for future hires including MRF Manager and Safety Supervisor, their proposal does not identify individuals to fill the roles, nor does their proposal identify minimum experience and qualifications needed to fill these roles. Finally, while RAA's leadership has experience in MRF operations and municipal solid waste management, the City is concerned that other key members of the RAA's proposed team lack direct or extensive experience operating a MRF and, as a result, RAA's CEO will be overextended in his additional role as materials marketer for Ann Arbor's recycling commodities.

In addition to organizational structure, qualification and capacity concerns, the City also finds RAA's proposal to hold quarterly safety meetings insufficient given our history with the City's MRF.

- **Past Involvement with Similar Projects:** RAA has over two years of performing transloading services associated with Option 1. RAA has no direct organizational experience in MRF operations and commodity marketing. Although one individual with the RAA organization may have some relevant experience with a different entity, in a different location, RAA did not provide any references that the City could verify and get feedback regarding that experience.
- **Proposed Work Plan:** RAA's Option 1 work plan is detailed and clear. Under RAA's Option 1 proposal, RAA would continue the loose loading transloading operation they have been performing for the past 2-1/4+ years under their existing contract, except that they would be transporting the recyclable materials to the RRRASOC (Resource Recovery and Recycling Authority of Southwest Oakland County) MRF located in Southfield, Michigan rather than the Rumpke Waste Services MRF in Cincinnati, Ohio.

However, RAA has failed 75% of the time to meet the variable performance measures required by their existing contract, namely, residual rate, monthly average truck weight, greenhouse

gas (GHG) reduction compared to the previous contract operator, and clearing of all recyclables at the facility at the end of each day.

RAA's Option 2 proposal includes a significant deviation from the requirements in the City's RFP. In spite of the City's specification in the RFP that "the City has made the determination that the existing equipment, with the exception of the baler and its feed conveyor, will no longer be put into use due to...safety concerns," RAA's proposal includes refurbishment and use of some of the existing equipment. When the City asked why the plan included refurbishment as opposed to replacement, RAA indicated replacement of all of the necessary equipment was not financially feasible. RAA's proposal does not address the safety concerns if the existing equipment is refurbished, and lacks detail which could lead to unexpected costs, increasing the City's financial risk.

Additionally, RAA's Option 2 proposal raises concerns about their ability to maintain safe transloading operations while simultaneously re-establishing full MRF operations. RAA's written proposal describes re-equipping the MRF over a period of 24 months while the Option 1 transloading occurs on-site; however, during their interview, RAA revised this timeline to re-equip over 12 months. RAA did not provide details regarding to how their proposal would be accomplished in a shorter timeframe, nor how it would be accomplished safely. This aspect of their proposal and their responses when questioned raised concerns about risk for the staff committee.

- **Fee Proposal:** RAA's fee proposal contains another significant deviation from the RFP, which called for the cost proposal and revenue share structure to follow industry standards. In this structure, the operator (RAA) is paid a monthly Base Service Fee, which is made up of Capital Cost and O&M Cost Fee components, covering the operator's costs to equip and operate the MRF. All revenues from the marketing of the commodity materials go to the community (the City) until the value of the revenue reaches value of the Base Service Fee, thus the community's cost to the operator is then covered by the revenue. If/when the revenue value exceeds the value of the operator's Base Service Fee, the additional revenue is shared between the operator and the community through an agreed upon percentage split.

RAA's cost proposal for Option 2 (and a pricing variation they titled Option 3) is contrary to the foregoing industry standard in that RAA will receive all of the revenue until its value reaches \$45/ton (it is currently approximately \$20/ton), and only then would the City receive any revenue. This structure eliminates RAA's need and incentive to market the materials aggressively, and reduces the likelihood of any income stream to the City. Therefore, RAA's cost proposal is not only contrary to the RFP requirement, but also not in the best interest of the City.

The foregoing information was taken into account in the committee's scoring for RAA for both their Option 2 and Option 1 proposals, resulting in their significantly lower score compared to Emterra.

Budget/Fiscal Impact

Funding for these services will be provided in the annual approved Solid Waste Operating Budget, if so approved by City Council. The breakdown of the estimated annual costs for this work, which does not include potential revenues from commodity values, are as follows:

FY21	\$2,161,240
FY22	\$2,204,550
FY23	\$2,248,712
FY24	\$2,293,726
FY25	\$2,339,592
TOTAL	\$11,247,820

(*Note: Substitute Resolution as Amended by City Council follows.)

Prepared by: Cresson Slotten, Public Services Area

Reviewed by: Craig Hupy, Public Services Administrator

Approved by: Howard S. Lazarus, City Administrator

Whereas, The City of Ann Arbor has contracted for processing of the City’s recyclable materials since 1993;

Whereas, Initially these services were provided through a long-term contract to design, construct and operate a Materials Recovery Facility (MRF) for the City;

Whereas, In July 2016 the City took the MRF offline as a processing facility because of safety concerns due to the condition of the equipment;

Whereas, The contracted services have since that time been to receive recyclable materials at the City’s MRF structure, transload the recyclables to an offsite MRF for processing and subsequent marketing to end markets;

Whereas, The existing contract for these services will expire June 30, 2020;

Whereas, In addition to the need to replace the existing contract when it expires the City desires to again process recyclable materials at the City’s MRF;

Whereas, The City issued Request for Proposals (RFP) #19-28 seeking proposals from interested parties to propose work plans and cost proposals for two options: Option 1 - to receive recyclable materials at the City’s MRF, transload the recyclables to an offsite MRF for processing and subsequent marketing to end markets; Option 2 - Equip and modify (as needed) the City’s MRF to receive, process and market all recyclable materials at the City’s MRF;

Whereas, The proposal to transload recyclables to a Lansing facility will result in 2.5 truckloads daily of materials making a 140-mile round-trip journey to a facility in Lansing, for a total of approximately 91,000 vehicle miles travelled annually;

Whereas, The President of the Michigan Recycling Coalition Kerrin O’Brien stated “there has been a serious shortage of Material Recovery Facility capacity in southeast Michigan, and this has in part led to Michigan’s underperformance in material recovery;

Whereas, Recycle Ann Arbor presented the only bid to re-energize the Ann Arbor Material Recovery Facility (MRF);

Whereas, Rebuilding the Ann Arbor MRF restores a \$6 million publicly-owned community asset with no up-front capital costs to the City;

Whereas, Rebuilding the Ann Arbor MRF will create approximately 20 local jobs paying living wages, health and vacation benefits;

Whereas, Recycle Ann Arbor has 40 years of nationally-recognized recycling experience and has been a partner to the City since the City began curbside recycling; and

Whereas, Whereas RAA has the staffing with the necessary experience to oversee the rehabilitation and operation of the MRF and operates a construction materials MRF in Scio Township;

RESOLVED, Council directs, authorizes, and supports the City Administrator in negotiating an agreement with Recycle Ann Arbor to rebuild and operate the Ann Arbor MRF for an initial period of ten (10) years. The contract will include requirements that RAA submit timely and detailed reports as required to assess performance and that the City will receive a host municipality fee for all non-City materials processed and that the City will receive the best terms offered to any other entity processing materials through the MRF;

RESOLVED, The City Administrator will report to Council on any budgetary changes required to implement this agreement prior to its execution and will include any rate or budgetary adjustments required in the FY21 budget submittal; and,

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said agreement, after approval as to form by the City Attorney and approval as to substance by the City Administrator and City Council.

As Amended and Approved by Ann Arbor City Council on December 2, 2019