



# Council Communication

Office of the City Manager

Date

June 9, 2008

Agenda Item No. 78

Roll Call No. 08-

Communication No. 08-346

Submitted by: **Richard A. Clark, City Manager**

## AGENDA HEADING:

Accepting report of Hearing Officer on appeal of Evaluation and Selection Committee recommendation for Request for Proposals (RFP) for Single-Stream Recyclables Processing, rejecting all proposals, and directing the City Manager to examine and recommend a new competitive process for single-stream recyclables processing.

## SYNOPSIS:

Accepting report of Hearing Officer and affirming the decision to overrule the objections of Recycling, Inc. regarding bias on the part of the RFP Evaluation and Selection Committee; rejecting all three proposals submitted; and directing the City Manager to examine and recommend a second competitive process to be used as the City continues to pursue single-stream recyclables processing. Metro Waste Authority (MWA) is considering the issuance of a similar RFP for metro-wide service outside Des Moines. The City Manager will examine the benefits of partnering with MWA to issue a joint RFP.

## FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

## ADDITIONAL INFORMATION:

On April 29, 2008, following a competitive Request for Proposal process, the City's Procurement Administrator announced the recommendation of the Evaluation and Selection Committee (Committee) for Residential Recycling Processing Services was to approve MidAmerica Recycling to be awarded the contract. On April 30, 2008, Recycling, Inc. filed a written appeal of that recommendation with the City Manager. The City Manager appointed the Deputy City Manager as the Hearing Officer for this matter, and an administrative hearing was held on May 12, 2008.

Recycling, Inc's appeal was based on two claims. The first was that Public Works staff members of the Committee were biased against their company because they did not accept and consider the "supplemental information" provided to them at the vendor interview. The second claim was that Committee members exhibited apparent bias because they awarded one point for local preference to MidAmerica Recycling, even though MidAmerica Recycling was owned by a parent company located outside Des Moines.

Following the Hearing Officer's review of the written record and testimony presented at the hearing, the Hearing Officer's decision was to overrule the appeal of Recycling, Inc. due to the fact that Recycling,

Inc. failed to prove bias on the part of the Committee or any of its members, and the fact that MidAmerica Recycling's East Market Street location was determined to be a headquarters under the definition in the City's Procurement Ordinance.

Apart from the appeal itself, there were some flaws noted in the RFP process that led to a recommendation to reject all proposals and identify a new process that would lead to the selection of the best recyclables processing provider. The selection of a second competitive process will be important due to the proposals received in the initial process having been made public. With MWA preparing to issue a similar RFP for recyclable processing in the metro area, it would be prudent for the City to consider the issuance of a joint RFP.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: February 25, 2008

Roll Call Number: 08-317

Action: Issuance of Request for Proposals (RFP) for single-stream recyclables processing. (Council Communication No. 08-081) Moved by Hensley to adopt; refer to the City Manager to schedule a Council workshop to discuss solid waste and recycling. Motion Carried 7-0.

Date: December 3, 2007

Roll Call Number: 07-2308

Action: Amendment to Recyclables Processing Services Contract with Mid America Recycling, Inc. for adjustment of prices. (Council Communication No. 07-714) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: December 4, 2006

Roll Call Number: 06-2387

Action: Amendment to Recyclables Processing Services Contract with Mid America Recycling, Inc. for new per ton recyclable material prices payable to the City. (Council Communication No. 06-765) Moved by Coleman to adopt; refer to the City Manager to look for ways the City can promote recycling. Motion Carried 6-0.

#### **BOARD/COMMISSION ACTION(S): NONE**

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Approve alternative competitive process to select Recyclables Processing contractor.

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