



TO: Mayor and Members of City Council

FROM: Mark Casey, City Manager

DATE: June 30, 2014

RE: Organized Collection of Solid Waste: Completion of 60-Day Negotiation Period Pursuant to Minn. Stat. § 115A.94 and Submittal of Proposal

On June 29, 2014, the City of Saint Anthony Village (the “City”), under the authority of Minn. Stat. § 115A.94 (“Organized Collection Statute” or “Statute”), completed its 60-day negotiation period with the City’s currently licensed collectors of solid waste—Allied Waste Services of North America, LLC dba Allied Waste Services of the Twin Cities - Eden Prairie // Republic Services of the Twin Cities - Eden Prairie; Walters Recycling and Refuse, Inc.; and Waste Management of Minnesota, Inc. (collectively, “Haulers”). This memorandum summarizes the process that the City undertook in carrying out these negotiations and achieving the culminating result—an organized collection proposal (“Proposal”) submitted by the Haulers, as a consortium, for the City Council’s review.

Background

The City’s authority arose primarily from the Organized Collection Statute, which allows cities to enter into an exclusive 60-day negotiation period with their currently licensed collectors. The intent of this negotiation period is to develop an organized collection proposal in which the City’s licensed residential collectors, as a consortium, may collect solid waste and recyclables from designated sections of the City, in accordance with the following criteria:

- ✓ The proposal must include identified city priorities.
- ✓ The proposal must reflect existing haulers maintaining their respective market share of business.
- ✓ The initial organized collection agreement must be for a period of three to seven years.

The initiative to start a plan for organized collection has been a longstanding objective of the City Council and is part of the City’s goal of building and cultivating environmental responsibility. The City Council discussed organized collection more specifically at the City Council work session meetings of March 10, 2014 and April 29, 2014. These meetings involved discussion of the process and requirements outlined by the Organized Collection Statute and review of certain documentation for use in the exclusive negotiation period, including the City’s identified priorities, draft specifications, and timeline. At the conclusion of the April 29, 2014 work session meeting, the City Council directed City Staff to commence the 60-day negotiation process authorized by the Statute.

60-Day Negotiation Period

On April 30, 2014, the City provided public notice and individual notice to each of the Haulers that the City was entering the 60-day exclusive negotiation period. The first meeting was held at City Hall on May 7, 2014, with representatives from each of the Haulers in attendance. Mark Casey (City Manager) and Kurt Whitman (City Attorney) attended on behalf of the City, and Barb Suci (City Clerk) was in attendance to take meeting minutes solely for use by the negotiating parties. The first meeting involved the City providing general information and expectations to the Haulers, as well as providing them with the City's identified priorities, draft specifications, and timeline. Key to the City's expectations was that the negotiations would be conducted in good faith, while maintaining the exclusivity contemplated by the Statute.

Subsequent meetings were held at City Hall on May 13, May 27, June 3, June 10, June 16, and June 23. City Clerk Suci took meeting minutes for each of the meetings and disseminated them via email to the entire group. An agenda was also prepared and distributed at each meeting. City Manager Casey facilitated the meetings, with the Haulers providing insight, questions, and status updates on the Proposal and process, and City Attorney Whitman providing insight on legal matters and the Statute's requirements.

The meeting minutes and agendas are available to the City Council if requested. The following is a summary of some of the key aspects of the meetings:

- As a whole, the negotiations involved positive dialogue and collaboration, all parties aspiring to create a beneficial Proposal to present to the City Council.
- The Haulers were in general agreement with, and appreciated, the City's priorities and timeline.
- The Haulers raised concerns over the proprietary and confidential nature of the market share information required in the Proposal. As such, to protect the Haulers' interests, this information should be redacted from any public version of the Proposal, draft Agreement, or other related document.
- The Haulers addressed practical concerns over certain aspects of the draft specifications, some of which related to the perceived impractical nature of certain specifications within a consortium-style system. The City responded to each concern with modifications and/or clarifications. All parties were in agreement with a revised version of the specifications as of June 10, 2014.
- Toward the latter half of the process, the Haulers worked together on finalizing particular aspects of the Proposal (including pricing, collection "zones," and market share), as well as a draft Agreement (contract) for the City's review. City Manager Casey and City Attorney Whitman reviewed the draft Proposal and draft Agreement and provided suggestions and comments prior to the Haulers' submission of the Proposal and draft Agreement in their final forms.

Recommendations

City Staff will provide further analysis of the content of the Proposal and draft Agreement, to be delivered to the City Council prior to the July 8, 2014 City Council Meeting.

City Staff recommends that the City Council review the Proposal, draft Agreement, and City Staff analysis, and subsequently undertake one of the following four options:

- 1) Set date for public hearing to take action on the Proposal and contract as is (date of hearing decided at July 8, 2014 City Council Meeting).
- 2) Direct City Staff to continue exclusive negotiations with Haulers to address particular concerns with the Proposal and/or draft Agreement.
- 3) Reject Proposal and contract as is, and direct City Staff to create a resolution appointing an Organized Collection Options Committee pursuant to the Statute.
- 4) Reject Proposal and terminate further organized collection efforts at this time.

Sincerely,

Mark Casey
City Manager

CC: Kurt Whitman, City Attorney
Jay Lindgren, City Attorney