

## MEMORANDUM

TO: City Council

FROM: David J. Deutsch  
City Manager

SUBJECT: Sludge Disposal Contract  
R-49-09

DATE: July 14, 2009

At its regular meeting on June 15, 2009, the Council approved a resolution authorizing the City Manager to enter into a contract with Recyc Systems, Inc. for disposal of sludge, through a "piggyback" agreement incorporating the terms of a competitive bid process conducted by WSSC. In the resolution and in the accompanying memorandum to Council, the disposal price per ton was accurately stated at \$33.77 (with annual increases tied to the Consumer Price Index, if the City exercises any or all of the one-year renewal periods for which the contract provides). However, both the memorandum and the resolution misstated the amount of the fuel surcharge that would be added to the base rate.

You were advised that the fuel surcharge would be \$6.60 per ton (based on the \$5.40 per ton contract price for WSSC plus \$1.20 per ton due to the increased mileage from the City of Bowie). In fact, however, the fuel surcharge accrues at a variable rate, calculated by multiplying the average monthly price per gallon of diesel fuel on highway for the Central-Atlantic regions, as posted by the U.S. Department of Energy, by 2.75 gallons and multiplying that product by the total number of wet tons actually hauled. WSSC's contract similarly incorporates a variable rate, but multiplier is 2.25 gallons, rather than 2.75 gallons (again, to account for the difference in hauling distance). At the current time, with diesel rates at a relatively high level, the fuel surcharge for the City's agreement with Recyc Systems would be approximately \$7.26.

The change in the information related to the calculation of the fuel surcharge does not change our recommendation concerning the award of this contract; the Public Works Department continues to believe that the contract price is still very reasonable.

The attached resolution requests Council approval to execute this contract with Recyc Systems, Inc., incorporating the change in the fuel surcharge rate. As previously noted, because Recyc Systems is not offering the City the same price as it has offered to WSSC, this contract cannot technically be considered the sort of cooperative bidding contract that the City Manager may execute without bids under Section 62 of the Charter. Nevertheless, the Council may, upon two-thirds vote, pursuant to Charter Section 61(B)(3), waive the Charter's bidding requirements for good cause shown. Given the circumstances as set forth above and in staff's June 9, 2009 memorandum, staff recommends that an amended bid waiver resolution be passed by the Council, authorizing the City to participate in the contract offered to WSSC with respect to all terms other than price and accepting Recyc System's bid of \$33.77 per ton plus a fuel surcharge calculated as set forth above.

Although the total cost for the hauling and disposal of sludge is over budget by at least \$26,000 (depending on the surcharge calculation), there are sufficient funds in the Reserve for Contingencies account.

**RESOLUTION**

**OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND  
BY TWO-THIRDS VOTE WAIVES BIDDING REQUIREMENTS FOR THE  
HAULING/DISPOSAL OF BIOSOLIDS FROM THE BOWIE WASTE WATER TREATMENT  
PLANT AND AUTHORIZING A CONTRACT PURSUANT TO THE TERMS AND  
CONDITIONS OF AN AGREEMENT BETWEEN THE WASHINGTON  
SUBURBAN SANITARY COMMISSION AND RECYC SYSTEMS, INC.  
AND SUPERSEDING RESOLUTION NO. R-38-09**

**WHEREAS**, the City of Bowie (the "City") disposes of lime stabilized sewage sludge or biosolids at a rate of approximately 3,300 wet tons annually; and

**WHEREAS**, the Washington Suburban Sanitary Commission ("WSSC") recently awarded a contract to Recyc Systems, Inc. of Remington, Virginia, for the hauling and/or disposal of biosolids; and

**WHEREAS**, Recyc Systems has offered the City the opportunity to enter into a contract for sludge disposal based upon WSSC's bidding process at the same terms offered to WSSC except as to a fuel surcharge; and

**WHEREAS**, WSSC's procurement procedures with respect to obtaining competitive bids are substantially comparable to those of the City and the City would, under Section 62 of the Charter, be entitled to enter into a contract based upon WSSC's bid process if the City had been offered the same terms by the bidder; and

**WHEREAS**, the bid price provided to WSSC by Recyc Systems is \$33.77 per ton plus a fuel surcharge that accrues at a variable rate, calculated by multiplying the average monthly price per gallon of diesel fuel on highway for the Central-Atlantic regions, as posted by the U.S. Department of Energy, by 2.25 gallons and multiplying that product by the total number of wet tons hauled;

**WHEREAS**, due to the additional 25 mile travel distance to Bowie, Recyc Systems requires an additional fuel surcharge for the City contract, using a multiplier of 2.75 gallons in lieu of the 2.25 gallons offered to WSSC; and

**WHEREAS**, the City Council is authorized by Section 61(B)(3) of the City Charter to waive the bidding processes otherwise required by Section 61 by two-thirds vote, for good cause shown; and

**WHEREAS**, the City Council previously adopted R-38-09 waiving the City's competitive bid processes for good cause on the basis that a competitive bid process was unlikely to yield a more advantageous price for the City than that obtained by entering into a contact with Recyc Systems based on WSSC's bid process but incorporating the higher fuel surcharge; and

**WHEREAS**, at the time of adoption of R-38-09, City staff erroneously believed that the fuel surcharge offered by Recyc Systems to WSSC was a fixed rate of \$5.40 per ton of

material hauled, rather than a variable rate calculated as set forth above; and that the rate to be offered to the City was, similarly, a fixed rate of \$6.60 per ton, and

**WHEREAS**, taking the change in the fuel surcharge, from a fixed rate to a variable rate, into account, the rate offered by Recyc System to the City remains favorable to the City with respect to prices available for biosolid removal upon the open market; and

**WHEREAS**, this contract with Recyc Systems, Inc. is for a term of one year, with four one-year renewal period options at the same rate, adjusted annually for increases in the Consumer Price Index ("CPI"); and

**WHEREAS**, Recyc Systems has been providing biosolid removal services for the City for the past ten years in a very satisfactory manner; and

**WHEREAS**, notwithstanding the change in the calculation of the fuel surcharge from the rate approved by the Council in R-38-09, it remains in the best interest of the City of Bowie to enter into a contract with Recyc Systems, Inc. for the hauling and/or disposal of biosolids.

**NOW, THEREFORE, BE IT RESOLVED**, upon two-thirds vote of its members, that the Council of the City of Bowie, Maryland waives bidding requirements for hauling and/or disposing of biosolids in order to become a party to the terms of the WSSC contract with Recyc Systems, Inc., as adjusted with respect to the fuel surcharge; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Bowie, Maryland that the Council accepts the terms and conditions contained in the WSSC contract with Recyc Systems, Inc. and hereby authorizes the City Manager to execute a contract with Recyc Systems, Inc. of Remington, Virginia, for one year at a cost of \$33.77 per ton plus a fuel surcharge calculated at a variable rate, by multiplying the average monthly price per gallon of diesel fuel on highway for the Central-Atlantic regions, as posted by the U.S. Department of Energy, by 2.75 gallons and multiplying that product by the total number of wet tons hauled, with four one-year renewal period options at a rate adjusted annually for increases in the CPI.

**INTRODUCED AND PASSED** by the Council of the City of Bowie, Maryland, at a Regular Meeting on August 3, 2009.

**WITNESS:**

**THE CITY OF BOWIE, MARYLAND**

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Pamela A. Fleming, City Clerk

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G. Frederick Robinson, Mayor