



Agenda Date: 5/20/2019

Agenda Placement: 6C

## Upper Valley Waste Management Agency Board Agenda Letter

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**TO:** Board of Directors

**FROM:** Steven Lederer - Manager  
Upper Valley Waste Management Agency

**REPORT BY:** Steven Lederer, Director, Public Works - 259-8228

**SUBJECT:** Ad Hoc Committee Update on UVDS Contract/Selection of Outside Counsel to Assist

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### **RECOMMENDATION**

#### **UPDATE FROM AD HOC COMMITTEE/SELECTION OF OUTSIDE COUNSEL TO ASSIST**

**DISCUSSION AND POSSIBLE ACTION:** Ad Hoc Committee requests the Board provide direction to staff to negotiate a contract with an attorney to assist in reviewing the UVDS and CFL contracts.

### **EXECUTIVE SUMMARY**

On April 5, 2019, the Board directed the Agency Manager to conduct an expedited recruitment of a law firm with expertise in waste management contracting issues to conduct a high-level review of the current franchise agreement with UVDS and CFL. After contacting a number of firms, staff is returning with two qualified firms ( 2 lawyers per firm) for the Board's consideration. Staff request Board direction and authorization for the Agency Manager to negotiate and sign a contract for a maximum of \$10,000 with one of these firms.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	Agency Reserves. Elsewhere on this agenda is a request for the Board to increase appropriations in the current year budget to pay for this contract. If that budget adjustment is not approved a contract cannot be signed this fiscal year. The funds are available in our reserves, but they must be moved in order for them to be available to spend.
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification: Outside expertise could be useful in negotiating future contracts with the Company.

Is the general fund affected? Yes

Future fiscal impact: None

Consequences if not approved: Expertise of outside counsel will not be available.

Additional Information:

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On April 5, 2019, the Board directed the Agency Manager to conduct an expedited recruitment of a law firm with expertise in waste management contracting issues to conduct a high-level review of the current franchise agreement with UVDS and CFL. One Board member recommended Gary Bell of the Colantuono law firm. Other Board member suggestions included Jasun Molinelli of the Hanson Bridgett firm and Rob Epstein of Epstein & Holtzaple. The Agency Manager also asked Agency Counsel to conduct a search for additional attorneys with the required experience who might be good candidates for the work.

Agency Counsel identified three other attorneys with such expertise, which happened to include another attorney from the Hanson Bridgett firm, Allison Schutte. Agency Counsel then contacted the six identified attorneys and asked them to submit statements of qualifications and hourly rates by April 30. Agency Counsel informed the candidates that the Agency Board had indicated a desire to see the project completed for an initial maximum fee of \$10,000. Agency Counsel described the scope of the review as follows: “[A] high level review of the existing franchise agreements with both the landfill operator and the waste hauling company, which has an exclusive franchise in the service area covered by the agency. The Board is seeking broad suggestions as to areas where the agreements should be modified. The scope of the project would involve review of the contracts, preparation of a written report with broad recommendation areas, and one in-person presentation to the Board.”

Three of the attorneys declined to present their qualifications. Two law firms submitted statements of qualifications. Each of the firms identified two principals who would collaborate on the review: Mike Colantuono and Gary Bell from the Colantuono firm; and Allison Schutte and Jasun Molinelli from the Hanson Bridgett firm. Their submissions are attached to this agenda letter. The Colantuono firm would charge \$350 per hour for each attorney’s services; while the Hanson Bridgett firm would charge \$450 per hour. Both firms have acknowledged the stated \$10,000 maximum for the project. All four attorneys appear to have suitable experience necessary for the assignment.

### **SUPPORTING DOCUMENTS**

A . Colantuono CVs

B . Hanson Bridgett CVs

Recommendation: Approve  
Reviewed By: Steven Lederer