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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for April 5th, 2011. We will start with the invocator. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. It is my honor to welcome back the head Pastor at St. Victor's church, father Michael Hendrickson. Established in 1961, St. Victor's on Sierra Road has been an integral part of our community. In addition to being the head pastor at St. Victor's Church, Father Hendrickson is also a reservist chaplain with many assignments, including chaplains from our servicemen and women in Okinawa, Japan and then aboard U.S.S. Iwo Jima as it was deployed to New Orleans following the Hurricane Katrina. The Mediterranean Sea and the Persian Gulf in 2006. Father Michael is currently an assistant regimental chaplain for the 23rd marines in San Bruno. As you may recall, in April 2009 before Father Michael left our community for one year of active duty to serve our brave men and women as the chaplain in the 82 airborne division in Eastern Afghanistan I invited him to lead an innovation and ask for prayers for him and the servicemen and women abroad. I'm happy that he's returned safely, this past June, and I am honored to have him here in the council chamber again to lead an invocation today. Welcome Father Michael Hendrickson.

>> Join me in today's invocation that is taken from a prayer used before every session of the Catholic Church's second Vatican council of the 1960s so let us pray. We stand before you, God conscious of our sinfulness and our weakness, but aware that we gather in your name. Come to us, remain with us, and enlighten our hearts, give us light and strength to know your will, to make it our own, and to live in in our lives. Guide us by your wisdom. Support us with your power for you are the one glorious God. You deserve justice for all. Enable us to uphold the rights of others. Do not allow us to be misled by ignorance or corrupted by fear or favor. Unite us to yourself in a bond of love and keep us faithful to all that is true. As we gather in your name, may we temper justice with love so that all our decisions may be pleasing to you and earn the reward promised to the good and faithful servants. We also pray this day for eternal rest for our fallen hero, from District 4, Lance Corporal Arden Joseph Benagua, United States Marine Corps, and for the Santa Clara Valley's most recent fallen hero, Corporal Harry Lew, United States Marine Corps. May their souls and the souls of all the faithful departed through the mercy of God rest in peace, amen.

>> Mayor Reed: Thank you, father. Our next item is the pledge of allegiance. We're going to be joined and led today by Easterbrook Discovery School, Third Graders, District 1. Please stand. [pledge of allegiance]

>> Mayor Reed: First item of business are the orders of the day. I have a couple of changes to the printed agenda. We'll defer until April 12th item 1.2, a proclamation on month of the young child. Drop item 4.2, the neighborhood service Silicon Valley matter and item 6.1 we'll defer to April 19th, modification procedures for the airport noise abatement office and we need to defer item 2.3, the Rules Committee report for a week. Any other changes to the printed agenda, is there a motion? Motion to approve orders of the day. All in favor, opposed, none opposed, those are approved. This meeting will be adjourned In memory of Reverend Father John Asimacopoulos, Councilmember Constant is going to correct me on that in a minute. From Saint Nicholas Greek Orthodox Church, who served the Greek Community with distinction for over 50 years. Councilmember Constant has some additional words.

>> Councilmember Constant: Thank you, Mayor. As many of you are aware, the San José Greek community is in mourning at this time, for we have all lost our spiritual father, the elder statesman of St. Nicholas Greek Orthodox Church, the Reverend Father John Asimacopoulos, who passed away on March 17th, 2011. Father John was a graduate of the theological school of the University of Athens, and he was ordained into the priesthood in 1957. He served the Greek orthodox church in various parishes for over 54 years with humility, faith and dedication. It was 24 years ago that the future of St. Nicholas parish here in San José was entrusted in the hands of father John, a man of undiminished capacity for courage, dignity, and perseverance. A visionary man who gave the best in him to our church until his very last breath. It was under his inspired leadership that our parish's church complex was initiated. The multipurpose fellowship hall was completed, and several homes in the neighborhood were acquired, while others were built. Regrettably, his dream and vision to start the building of the new church was not fulfilled during his lifetime. As the Greek orthodox community here in San José grieves for the passing of our noble son, our hearts, thoughts, and prayers go of his family, his wife of over 50 years, Presbytera Maria, who is a vision of strength, always at his side, to his children, Antonia, George, and Stephanie to their spouses and his grandchildren, Maria and Nicholas, we as a community will always keep them in our hearts and prayers and ask that each of you do so as well. I fortunately have had the distinct privilege and honor to know

father John and spent Sundays worshiping with him for many years at St. Nicholas Greek Orthodox Church.

Father John married me and my lovely life Julie, who's here today, and baptized all five of our children. Father John was here in the chambers with me at my very first council meeting four years ago, making sure that I got off on a good start by offering the invocation that day. Father John has had a large impact on my life, on the life of my family, on the Greek-American community, many of whom are here with us today -- thank you for being here -- and indeed all of San José. He will truly be missed. I hope that we all have an opportunity to remember him at the many Greek events that we have throughout our community, at our Greek flag raisings here at City Hall, at the festival every year where I know I see my colleagues annually. May his memory be eternal. Thank you all.

>> Mayor Reed: Thank you, Councilmember Constant. Our next item is closed session report. City Attorney.

>> City Attorney Doyle: Mayor the council met in closed session this morning pursuant to notice. There is no report at this time.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to start by inviting Councilmember Constant and the donate for life chairman, Sharon Bacigalupo, to join me at the podium.

>> Councilmember Kalra: The mayor says I have to pay for this if I break it so I'll be very careful. Thank you very much, mayor. I'm very happy today to have the -- thank you -- to have the opportunity to present a proclamation in recognition of the DMV donate life California month and I'm very happy to have with us here today Sharon Bacigalupo who is a donate for life ambassador with the California transplant network. Sharon's husband received a heart transplant which gave him an additional 18 years of life which he would not otherwise have had. Donate Life California is a nonprofit organ and tissue registry dedicated to saving the lives of thousands of Californians awaiting lifesaving transplants. Currently more than 100,000 individuals nationwide and more than 20,000 in California are on the national organ transplant waiting list. Every 90 minutes one person dies while waiting due to the shortage of donated organs. That is why organ tissue, marrow, and blood donation are important saving the lives of others and recognized worldwide as expressions of compassion. A single organ donor can save up to eight lives. Donation of tissue can save and heal the lives of up to 50 others and a single blood donation can help

three people in need. With the ongoing collaborative efforts between the California Department of Motor Vehicles and donate life California, nearly 8 million Californians have signed up with the state authorized donate life California registry to ensure their wishes to be organ and tissue donors are honored. If you want to help individuals in need through a life giving act, California residents can sign up for the donated life California registry when applying or renewing their driver's licenses or I.D. cards with the DMV and get that cool little pink -- now, it used to be a sticker, now it's a little pink circle that says donor on it, on your license. So with that, Mayor, I would ask if you could please present the proclamation to Sharon Bacigalupo in recognition of the Donate Life California program.

>> Mayor Reed, Councilmember Kalra, I'm a new Donate Life ambassador with the California Transplant Donor Network, but not by any means new to the concept or the practice. I have a very personal connection, as you know. My husband was extremely fortunate, he has been a heart transplant recipient, a humbling experience for both of us. This wondrous opportunity added 18 gifted years to his life enabling him to walk our daughter down the aisle, spend precious time with our grandson, and we were blessed to enjoy spending quality time together with family and friends exploring the coast and doing some extensive traveling. I have tremendous respect for donor families. My heart goes out to them, and to the broad spectrum of dedicated medical professionals who assisted us with our journey from beginning to end and became extended family in the process. We all have our ups and downs. Life isn't always beautiful but it is indeed precious. A quote I picked up within the donor network in recent months should be reminder to all of us in all areas of our lives. Simply stated, it says, you make a living by what you get, but you make a life by what you give. Your support in asking San José residents to consider saving lives through organ and tissue donation by signing up with the donor life California registry and today's proclamation designating April as the California DMV donate life month for the City of San José is very greatly appreciated. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Herrera and the Sikh Gurdwara management committee to join me at the podium as we commend the Sikh Gurdwara of San José on the grand opening of their new 100,000 square foot temple in Evergreen. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor. And I want to welcome Sikh temple president Hardiff Singh Dakkar, Bob Dillon, Nichu Palun, Gurdiff Karsi, Sukdiv Baniwal and Kurpal Atwal, the Sikh temple management committee, for the temple in Evergreen, the Sikh Gurdwara. I'm very proud that this wonderful facility and organization exists in my district, District 8 in Evergreen. This new temple and this is a new phase, the first phase of this temple was opened in 2004, so this represents the second phase of the temple and it's a new 100,000 square foot facility in Evergreen. It serves the needs of 5,000 members of the Sikh Gurdwara. Actually this temple goes all the way back to 1984 in the community. And it took many years. The construction of phase 1 began in 1995 and they moved into the temple which is at 3636 Murillo avenue in 2004. For those of you who have never seen this building it is truly iconic. It is one of the buildings in San José that I say is a must-see. Our rotunda is certainly one of them and the Sikh temple in Evergreen is another one. You have to see it if you never have seen it. This new and much larger temple facility will meet the needs of the many thousands of Sikhs that call the Sikh Gurdwara San José home. And the Sikh community, for those of you who might not be familiar, is a religion that started over 500 years ago in Punjab, India. The new building, this new building is going to house a prayer hall, a school, residences for temple priests, and a dining hall. The dining hall, it's interesting, and I've come and visited the Sikh temple many times. They have a facility that's open on Sundays and serves meals to the Sikh community, but also anyone who is welcome to needs to come to their community and share a meal. And I really believe that is a perfect expression of the generosity and hospitality that the Sikh community shows to every person that visits the temple. And they really welcome the community to come visit. So again, it's 3636 Murillo. On April 9th, this Saturday, there's going to be an open house and from 1:00 to 5:00 there's going to be tours and introduction to what the Sikh religion is all about. So they can share that with the community. And on Sunday April 10th is the big grand opening of the new temple. And we're very, very excited about it and I just wanted to say that this Sikh community contributes much to the fabric of San José. Along with many other cultures it is one of the wonderful reasons why I love being here in San José, the diverse cultural opportunities we have and to share with so many different cultures from around the world. One of their own, Conrell Rapie, was one of the founding members of Tie, and there's many -- which is Indo-American entrepreneurs association that has spawned innovation, venture capital for companies that have located, Indo-American companies that have located. So they have a huge impact in the outcome here in San José, as well. So at this time I'd like to ask Mayor Reed to present

this proclamation to President Daccar and representatives from the Sikh Gurdwara Evergreen. And Bob Dillon I think is going to have a few more words to say about the grand opening.

>> Thank you, Rose Herrera and thank you mayor for a wonderful commendation on this occasion that we are very, very excited about. We -- this project has been in the making for a long time, like Rose said, that conceptually the Gurdwara was incorporated in '84. But it -- we went through several smaller buildings, and site selections, that did not work out. And now that week look back, it looks like that was a blessing in disguise. This is the best site. It is beautiful. And we want to invite you all, those who can come on Sunday, it is going to be crowded but on a day before, is actually an open house for nonsikh people living in our immediate area, being advertised in the Evergreen times. You're welcome to come on the 9th. You'll be given a guided tour of the facility, and on Sunday, several of the councilmembers and mayor, who have RSVP'd we welcome them including governor who is going to be here. So with that, we thank you all again. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Constant and members of the Greek American community who have joined us today to please come down and join Councilmember Constant with me at the podium as we welcome recognize March 25th, 2011 as Greek Independence Day in the City of San José.

>> Councilmember Constant: We are issuing a proclamation, indicating March 25th, 2011 as Greek Independence Day in San José. Due to the funeral services of father John that I mentioned earlier is why we delayed it to today. I want to thank all the members of the community for coming out to receive this proclamation. On march 25th, 1821, which is 190 years ago, the people of Greece ended nearly four centuries of oppression under the Ottoman empire and declared their independence. As we all know, Greece and the Greek people have really helped to shape the modern world. They are the birth place of democracy, architecture, mathematics, science, astronomy, art, literature, it goes on and on, pretty much almost everything that affects us day to day, can trace its roots to the early Greek culture. We have started a few years ago honoring Greek Independence Day here at City Hall with a flag raising. We had that flag raising as I mentioned on the 25th, where we were joined by a large number of people and all of my colleagues on the council. It was wonderful to have them there with us. The rain threatened us a little bit so we moved it into the rotunda. But the event went very

well. I am proud to say that this is a tradition that I started here at the new City Hall and I plan on continuing for as long as I'm in office and hopefully long after I'm gone the tradition will continue. Accepting the proclamation today on behalf of the Greek community is Nick Prius, he is the district governor of the HEPA organization, which is the American Hellenic Educational Progressive Association. And Mr. Mayor, if you will hand Nick the proclamation.

>> Mayor, city councilmen, Pete Constant, I baptized his little girl that you just see right behind here. I have known Pete probably for 20, 25 years when he was a young man before he even became a police officer and all the stuff that he did. For the city council I thank all of you for doing this today. It is a great honor that the city has recognized the Greek community of San José. We also would like to thank the city for doing also this for father John Asimacopoulos that passed away about three weeks ago. It was a great loss for the city and for the Greek community. Again, on behalf of the Greek community I'd like to thank everybody for the proclamation and for this event. Thank you very much. [applause]

>> Mayor Reed: We'll now take up the consent calendar. Are there any requests from the public to speak on the consent calendar? Any questions from councilmembers to pull items for discussion? Motion to approve the consent calendar, all in favor, opposed, none opposed, that's approved. Item 3.1 report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council I have one report today and that is I wanted to remind the council that this week we're beginning a series of community budget meetings throughout the city. The meetings give community members an opportunity to better understand the very difficult fiscal situation facing the city. And the nature of the reduction proposals that the council will face in May and June. I should caution everyone that we're still working on many of the recommendations to be included in the proposed operating budget which will be released on May 2nd so some details are still being finalized. Nevertheless, these meetings will give community members an opportunity to hear and ask questions about how we expect to close the deficit currently facing the city, which at this point is now approaching \$115 million. The first meeting is tomorrow night, at the Southside community center in District 2. That will be followed by meetings in each of the city council districts over the next five weeks. All of the meeting dates times and locations are highlighted on the City's Website home page and if you haven't already I would urge the council to use your online newsletters and

distribution lists to remind your constituents about these meetings. Within the organization we're working as well to make sure employees are informed. Members of senior staff have initiated conversations within their department so that employees have some idea of what to expect, and our HR department is working on the process to notify employees whose positions will be impacted by these proposals and those notifications will happen on April 25th. As you know, the proposed operating budget will contain some of the most difficult decisions faced by any city council. My request to the city council and the community is that you view these proposals that we will be discussing as a whole. And as the specifics of what will be in the proposals become more widely known, you will undoubtedly begin to hear many good and persuasive arguments against any particular proposal. However, taken as a whole and in context, it will be clear that more palatable alternatives are simply no longer available. And that concludes my report.

>> Mayor Reed: Item 3.3, San José Redevelopment Agency civil service staffing reductions. We have a motion to approve the recommendations. All in favor? Opposed? None opposed, that's approved. 3.4, appeals hearing board commissioner leave of absence and interim appointment. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. As you are aware one of our appeals board commissioners has been called to active duty and doing so will take him away from his official duties as an appeals hearing board commissioner for one year, hopefully only one year. During that time we will have a vacancy on the board. And at the Rules Committee we discussed how to fill that being that we just had interviewed and we had multiple people apply and the vote was close between Ms. Cynthia Cobb and the person who was appointed to the position. We felt it was appropriate to do an interim appointment, temporary appointment for one year for Ms. Cobb. Being that the appellate board is a pretty complex board and it takes quite a while to get someone trained, someone would be just about trained when it was time to come off the board. Ms. Cobb has experience on the board for multiple years including service as both vice chair and chair. I know there's some concern that the fact that Ms. Cobb also sits open the redistricting committee, I had a brief discussion with the City Attorney about that and given that I don't believe that they are incompatible offices and the fact that the redistricting committee is a short-term almost an ad hoc type of setting, I believe it would be okay and I would like to make a motion after the City Attorney either confirms or gives any additional information on that.

>> City Attorney Doyle: Yes, Councilmember Constant you're correct. There isn't a conflict. I think the position for the redistricting commission is temporary. Because the commission has a finite time period. This position, the appeals hearing board generally meets once a month, as you know, occasionally more, but I don't see it as a time issue, as well and I'm sure she would have said something if there was.

>> Councilmember Constant: So with that I would like to make a motion to accept the recommendations and appoint Ms. Cobb as the interim member.

>> Mayor Reed: Motion is to approve. I'd just like to thank Troy Overton who has been called to active duty for his service and we would look forward to having him back in San José and back on the board in a year. Councilmember Kalra.

>> Councilmember Kalra: Thank you Mr. Mayor. I would like to second that motion that Mr. Overton have a safe tour and come back and continue to serve in his capacity. I have a question because I know we don't allow two people to be on the commission at the time, I understand the redistricting committee is not a commission. However the duties that are being assigned to it are certainly of great significance and the temporary nature of it is due to the end result, other than that how can we reconcile that with the fact that we don't allow two people to serve on commissions that don't conflict with each other?

>> City Attorney Doyle: Well, I think first of all there is no conflict between the two functions, but again, it would be a policy. The council does have a policy generally not to make two appointments. In this case, both are temporary. The one redistricting commission is a like I mentioned a finite appointment, and this is to serve in the interim while Mr. Overton is deployed. So I don't -- this is something certainly it's not a legal prohibition and the council has the authority to do that.

>> Councilmember Kalra: It seems like a -- like someone on the redistricting committee of all people it just seems like there could be other options. I know there maybe some urgency to make sure the seat is filled but was

there any other consideration given? I didn't get an opportunity to see or hear the Rules committee discussion, so I don't know if there's going to be elaboration as to whether this is taken into account and what discussion kind of led to.

>> Councilmember Constant: If I may mayor, a lot of it goes to the time it would take to put it out for recruitment have people apply and all that. By the time that happened, half the year would probably be gone and the redistricting commission given that they only have the 120 days that's allowed by the charter, the overlap will be very minimal. It will be probably five weeks, I would believe, no more than that.

>> Mayor Reed: One other item that was mentioned at the Rules Committee and I did support it at Rules Committee was we just did the interviews for this position not long ago and this particular person was part of that interview process so the council has had a chance to see her in person so that's why I supported the recommendation to bring it forward this way. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'll be supporting the motion as well but some of the comments that you made, City Attorney, maybe in the future we can clarify this policy because when you say temporary in nature, and frequency of meetings and you know, if that's not embedded in the policy then just becomes discretionary. And I'd rather see us not make any decisions in this context but rather just knowing ahead of time if we can or can't do something like this. Because in a sense every commission appointment is temporary, just a matter of the time served, really, so thank you.

>> Mayor Reed: We have a motion to approve the recommendation from the Rules Committee to allow the leave of absence and make the appointment on an interim basis. All in favor? Opposed, none opposed, that's approved. Item 4.1, purchase of real property located at 802 West Holm Street. Motion to approve, all in favor, opposed, none opposed, that's approved. Item 7.1, actions related to the report on a request for proposals on the commercial solid waste system.

>> Councilmember Liccardo: A no vote on the last item.

>> Mayor Reed: Sorry, item 4.1 Councilmember Oliverio was a no vote.

>> Councilmember Liccardo: Liccardo, thank you.

>> Mayor Reed: Sorry, Councilmember Oliverio made the motion, Councilmember Liccardo was the no vote, sorry. Now, 7.1. Actions related to report on request for proposal of commercial solid waste system. We will have a staff presentation. I have requests from the public to speak on this. We'll get to that in a bit. We will start with the staff presentation.

>> John Stufflebean: Good afternoon, John Stufflebean, director of environmental services. I'll kick off the presentation and Scott Johnson has a part of the presentation as well. I'll start off to say, why we are doing this as a reminder to council. Under the current system, we have -- this is the service for all businesses in San José, trash service for all businesses. In the current situation we have uneven rates and service. Small and medium companies have no leverage and they tend to pay higher rates than others. And there's a fairly again uneven rate, some pay more than others. The diversion is low in this system, the residential rate for about a third of the city, the trash that's picked up in the residential part of the city is about 70%. The rate for commercial for construction demolition debris is about 60% but the rate in the commercial sector is only 22%. So it is a very underperforming third of the city's waste management program. It is also difficult under the current system for any of the hauling companies or the processing companies to make an investment, because there's no guarantee that they have a customer base. So it's difficult for them to get loans to make investments in new trucks to make investments in processing equipment. Beyond that, the routing is inefficient, typically or very often, there's three or four companies will be going down the street to pick up businesses next door to each other. So there's a lot of extra trucks on the street. And beyond that from the City's General Fund perspective there's an instability in the amount of franchise fees that go to the General Fund. The recommendation we're bringing forward today will resolve all of those issues. It will provide many service options for companies, it will provide opportunity for recycling for all businesses, they'll provide for evening of the rates out, it will provide for 75% diversion, and in companies that are then selected will have a 15 year contract that will enable them to make the investments in the trucks and the

sorting equipment and the processing equipment. The routing will be more efficient and the General Fund stability problem will also be resolved. So at this point I'll turn it over to Scott to present the process information.

>> Scott Johnson: Thank you, Mr. Mayor, members of the council. On this item staff has provided a comprehensive staff report on the commercial solid waste system redesign request for a proposal process. Included in the staff report are two attachments. One is, providing detail on the stakeholder engagement process, that is attachment A. Attachment B provides a detail on the evaluation process. In addition, the city received three protests in which staff provided written responses. The protests and the staff responses are provided as attachments to the council staff report and staff also conducted in-person debriefing meetings to the protestors. Additionally, staff issued two supplemental memorandums, the first supplemental addressed questions raised by the council after the staff report was issued, and the second supplemental was in response to Recology's request to appeal the questioned franchise RFP. Subsequently staff met with Recology representatives to address this issues raised in their appeal letter, and after which, Mr. Mark Arsenal notified me that Recology was withdrawing their appeal request and would like an opportunity to address the council during the public testimony period of this council item requesting that the council consider alternative option number 1 that's laid out in the staff report. And so Mr. Mayor, members of the council, at this time I'd like to proceed with the procurement process briefly and then turn it back over to the mayor and the council if you need any further clarifications or if you have any other questions. So we initiated two requests for proposal processes, one RFP was issued for commercial solid waste and recyclable material collection services. And the second RFP was issued for commercial organic waste processing services. The RFPs were released April 16th, 2010. 176 companies viewed the RFPs that were issued through the city's e-procurement bidsync system. 17 companies attended a mandatory pre-proposal conference. Five submitted responsive proposals by the submittal deadline of September 22nd, 2010. The proposals consisted of approximately 100 service model variations, in which staff conducted an analysis on each option. Regarding the specific evaluation process, this is a very diverse expertise team consisting of solid waste, engineering, and planning to name a few. There were internal and consultant expertise on these teams. The municipal and business community evaluators consisted of the City of San José ESD and general services and solid waste experts from other cities from Morgan Hill and Palo Alto. A business community evaluated from the downtown association and advisors from business owners and managers

association, which is a property management professional society, and they provided advice to the team. There were separate technical and cost evaluations, the technical evaluation team conducted their evaluations separately without knowing any cost information. The cost proposals were reviewed and evaluated by a separate team. We had a multi-tiered evaluation process. There was input to review the process with the proposals oral interviews and clarifications. The process was reviewed and approved by multi-tiered teams consisting of a technical rating panel, a technical advisory team, and a executive steering committee review. All provide cross checks and redundancies in the system to review and approve the procurement plan for this unique process. The two RFPs required unprecedented integration of the process to ensure the resulting recommendations would be compatible. We needed to design the RFPs independently, but with the ability to combine them at the end, and this has been a very creative and groundbreaking process. On the next slide this is just to demonstrate the comprehensive evaluation process for the proposals. The detailed and structured rating methodology was used which followed the city's procurement guidelines, the evaluation criteria for the collections RFP was shown on this slide to convey the breadth of criteria that were evaluated. The criteria awaiting for the organics RFP were slightly different due to the inclusion of local and small business criteria. The technical rating panel rated the first three criteria categories which were qualifications and experience at a 30% rate, technical proposals at 35, and environmental stewardship at 5%. And as I mentioned a separately technical team evaluated the cost proposals with a 30% weight on cost. The financial strength of the proposals was also evaluated by the cost evaluation team. Let me go specifically into each of these categories on the technical end. 30% qualification experience, related to comparable experience, financial strength and corporate history. Sub-criteria for this particular category included experience providing similar services at similar service levels and through put volume, qualifications and structure of the management team, experience in successful coordination with key stakeholders and other contractors. Reference, employer history, history of innovation in meeting Green Vision goals and any potential litigation history. The 35% ranking rating for technical proposal, that included customer service and convenience, innovation, Green Vision, implementation and environmental impact. The sub-criteria in this category included the technical approach, the ability to meet the transition and implementation schedule, technical innovation, furthering Green Vision goals, the environmental innovation and mitigation of impacts and technical exceptions to the contract. The 5% environmental stewardship included support of the City's environmental procurement policy, corporate environment and the corporate environmental commitment and finally on the cost proposal, the 30%

rating all costs were scored independently by the cost evaluation team and we looked at comparison of revenue requirements, comparison of revenue requirements relative to like proposals, the reasonableness and predictability of cost including any true-up risks and any cost-related exceptions to the contract. Now I'd like to turn it back over to John to complete the presentation.

>> John Stuffbean: Yes I did want to add to the fact with respect to the procurement process that we did a lot of outreach at the beginning of the procurement process. We met with both the businesses that utilize the service and the haulers in the hauling community. We had in-person interviews, we did presentations, we used the local media, we did an online survey to which 500 businesses responded, and we met with haulers. The main issues that were identified in the outreach were the kind of lack of service options, as I mentioned earlier in the present system, the needs that a lot of businesses have for assistance in recycling to help them set up their programs and also on the lack of space the businesses have. It makes it difficult to have multiple bins. I want to briefly walk through our recommendation. Our recommendation is for allied waste for the selection service, this is about 90% of the franchise value. The allied proposal was for a one-bin-plus collection system. It's a convenient service tailored to businesses, so most businesses would get one bin, put all their waste in there, and it gets sorted at other locations. If businesses had a particularly large amount of a certain kinds of material particularly organic material they could get a second bin and that would be kept separately and hauled separately to the organics processing location, this provides a tailored service for each business. Again, allied also proposed to do thorough outreach and transition plans to help businesses to understand how the system works. And it includes local processing facility, an integrated material facility sorting and because there is an existing facility that simply needs to be retrofitted there's less implements risk of the facility already in place. The second part of the recommendation is zero waste energy which is the organics processing. This is an innovative proposal. It includes methane production, an anaerobic digestion plant, an anaerobic digestion plant that is located near the water pollution control facility and also close to the allied operations. There are 18 facilities of this kinds in Germany but this would be the first one in the United States full scale facility in the United States and we think San José is the ideal incubator with this as I'm sure you all will agree with that. The Green Vision is a policy driver to make San José such a great place for this. Economic development is supporting this innovation. Venture capital is available here. The site location is just ideal, it can provide fuel to the plant. It's close to the allied operation and it also can

provide fuel for the fleet for that operation. And there is also regional access to streets off the central location that can provide access beyond San José as well. The enclosed system, it would be completely enclosed in a building so there would be no impact offsite. Even materials receiving would be inside. It would be completely controlled air circulation with biofilters to control any other in a 6,000 square foot building could be up to 40 foot high. We also think ZWED is an ideal company to provide this service. They have already demonstrated the ability to implement inventive technologies in San José. They had the Z best compost facility in Gilroy, basically the same principles are involved. The Zanker rocket operations, building rockets, what they call their special processing facility, and then they have the St. Charles transfer and materials recovery facility. Again we -- briefly we recommended 15 year option. We looked at a ten year option and a 15 year option. The main year we recommended a 15 year option is because it will save the businesses cost. The businesses will have a longer time to amortize their equipment. A 15 year option saves about 2% of the total cost. We are also recommending citywide the citywide instead of two districts we're recommending the entire city. This is -- results in a 4% savings for all the businesses in San José compared to what would have been for individual districts. It also makes it by recommending one company for the collection it's easier to coordinate between the hauler and the organics processor, and of course the other reason for 15 years is because the determinants are expensive and difficult and the less often you have to do them, the better, and I'll be retired in 15 years. It provides great benefits to business, the system. It extends the volume discount basically to all businesses so even the smaller business the medium size businesses can take advantage of the volume of a large system. This will result in rates that are very similar to other Bay Area cities. Waste diversion data will be available to all so for example if a company wants to get a LEED certification there will be the data available for them to demonstrate how much of their waste is recycled. The city will have access to the data and also the noise would be reduced because there would be fewer trucks, the trucks will ideally running on compressed natural gas which are quieter and again, there will be a lot fewer trucks in the downtown. Beyond that, we see this as meeting a number of the Green Vision goals. Obviously, the waste diversion goal, alternative vehicles, as part of the Green Vision will be 200 green jobs, generate renewable energy from the waste and lower the system carbon footprint. The time line they're proposing is that we would, with council approval, enter into negotiations in April and come back to the council in June of this year return to council with the final agreements and the CEQA work would be done by June of this year. Transitioning, it would take a while to transition, need to work out the details of a new -- or to implement the

new system and then we implement propose to commence operations July 2012. Scott I'll turn it back to you -- or back to the mayor. That concludes our presentation.

>> Mayor Reed: I have quite a few people who want to speak on this. I think what I'd like to do is get the public testimony before we get into the council discussion. But before we do that I need to make some disclosures. In preparation for this meeting, I and my staff have met with allied waste, green waste, Recology and Revolution resource recovery folks, along the way. And I just want to verify before we get into the hearing that the appeal is withdrawn. So item 7.1A on the agenda we will not hear, which is the appeal. We of course will hear the matter in chief, which is why we're here. What I'd like to do is to take public testimony at this time. When I call your name, please come down close to the front so you're close to the microphone. Gil Chesso, Pat Dando and Randy King.

>> Honorable mayor and city council and staff, my name is Gil Chesso, I'm the general manager for allied waste services. I would like to thank staff for their dedicated and comprehensive efforts towards the awarding of this complicated commercial collection franchise. We support staff's award recommendation, their subsequent responses to protests and memorandums have sufficiently answered all questions related to the original award recommendation. We feel our proposal captured all aspects of the mayor's Green Vision by offering innovative collection programs to help reduce greenhouse gas emissions and increase diversity wide. Our innovative diversion programs will maximize diversion to a level that will place San José as a nationwide leader in sustainability and on behalf of allied waste services I thank staff for the award recommendation and look forward to a long and successful partnership with the City of San José.

>> Mayor Reed: Pat Dando, Randy King, Lance match.

>> Pat Dando: Good afternoon, mayor, councilmembers, Pat Dando, San José Silicon Valley Chamber of Commerce. I stand before you today and proudly support staff's recommendation to award this contract to allied waste. This is based on their staff's extensive outreach and surveying that they did with the business community. This support is based on the extensive experience of allied waste, some 30 years in San José. The environmental technology that they use to be a smarter, greener business, certainly the cost plays into a fact of

our supporting allied waste as well as it will generate 250 jobs. The consistency that this will provide the business community is considerably important. One number, one provider. Makes it easy. It's also important that this business will not have a cookie cutter approach to business but will have some flexibility to allowing the design of the program that best fits the business. I also want to mention that their use of Newby island will ensure that San José will receive \$15 million annually of processing fees. So I encourage you to support staff's recommendation and award this contract to allied waste. Thank you.

>> Mayor Reed: Randy King, Lance match, Michael Pimm.

>> Honorable mayor, city council, my name is Randall King. I'm the artistic director of the San José stage company. The San José stage company is a nonprofit professional arts organization which must right on private contributions for support. This support helps bridge the gap between ticket and subscription revenues and the more than 50% more that it actually costs to produce high quality professional theater. Allied waste is a consistent high level supporter of the stage company and has been for many years. We rely on their sponsorship to continue to provide arts entertainment to the City of San José, each season. With the economic downturn affecting every aspect of our budget, and those of our many supporters, allied has remained a strong sponsor, nonetheless. The stage can also thank allied for keeping the ever popular Monday night live fund raiser event, San José tradition for the last 18 years. I would like to ask you to support city staff's recommendation to award allied, the commercial collection franchise for the entire City of San José. Aside from providing high level diversion programs to businesses, to meet the City's Green Vision goals, this company that understands what it means to be a community partner and to help organizations like the stage company not only survive, but to thrive. Thank you for your time.

>> Mayor Reed: Lance match, Michael Pinn, Monte Chavez.

>> Honorable mayor and council, my name is Michael Pimm. I'm the assistant general manager of Santana Row. Santana Row contracted with allied waste in 2005, and since then we've built an impressive diversion program that incorporates large-scale recycling with 35 of our restaurants and our retail stores. Santana Row

prides itself on sustainable programs and we've been fortunate to work with allied waste to succeed in these programs. As Santana Row continues to grow I'm more than confident in allied's ability to adjust its services to meet our demands and maintain high levels of recycling diversion without missing a beat. I'm looking to partnering with allied waste for many years to come. They are easily the best company to provide the most comprehensive sustainable programs to all the businesses in San José. Thank you.

>> Mayor Reed: Monte Chavez, George Denice, Virginia Santa Inez.

>> Honorable mayor and council, I'm Monte Chavez, director of building services for HP Pavilion in San José. Since the beginning of our partnership with allied in 2005, we depended on them to meet our tight turn around, variable schedule and on call needs which are necessary to meet the demands of our event attendance schedules. Waste pickup is one component of our between event conversion for which there is no fall back. And where our mousse failure. Allied's resources and dedication to service have prevented any such failure. Just as importantly, our recycling program has flourished in these years through their creative organic composting program, recycling paper and construction materials, plastics glass and Cr beverage containers in partnership with San José Conservation Corps, HP pavilion diverts 90% of its disposables from the waste stream. Additionally allied is a sponsor of the San José sharks which assists us in providing excellent entertainment for the fan base. So pleased to have them as partners. I would like to ask you to support a recommendation to award allied the commercial collection franchise for City of San José. Allied's ability to create outstanding sustainable programs and meet operational needs cannot only meet but help to exceed the city's Green Vision goals. Businesses in San José deserve a service provider like allied. Thank you.

>> Mayor Reed: George Dennis, Virginia Santa Inez, Mary Mashburn.

>> Good afternoon, honorable mayor and city council, my name is Virginia Santa Inez and I'm the director of catering for the Hilton San José and I stand before you today to let you know what great pleasure it's been contracting allied waste services for a number of years. We have received excellent customer service from them and we couldn't be happier. Managing a hotel of our size, in this big city, requires attention to every detail, every

minute of every day. Essential services like waste recycling and collection must be fine-tuned and run like clockwork. Allied waste provides us with the assurance that we never need to be concerned that the job gets done. Their drivers and administrative staff are professional, consistent and put safety first when going about their daily responsibilities. And safety is important when operating trucks and containers in high-traffic areas such as Downtown San José. I would like to ask you to support city staff's recommendation and award allied waste the commercial collection franchise for the entire City of San José. They're the right choice. Thank you.

>> Mayor Reed: Mary Mashburn, Michael Arsenault, Michael Tejero.

>> Good afternoon, honorable mayor and council. My name is Mary Mashburn and I'm the branch manager of Addison Avenue Federal Credit Union here on West San Carlos. I'm also the previous president of the West San Carlos business association. I've had the pleasure of working with allied waste for several years, beginning with my previous position in Milpitas, a city where allied has provided collection service for over 25 years. Not only does allied have an impeccable reputation as a hauling company in Milpitas but it also is held in very high regard as a leading community partner. When a transition to my current position in San José, I was not surprised to learn allied's reputation in the City of San José was no different. Not only do they provide a significant amount of support to local businesses, but they also work hard to create programs to keep San José at the forefront of environmental initiatives. Allied currently services over 3500 businesses in San José and I can tell you that every - - that each representative from each one of those businesses could have been here today telling you exactly what I'm saying. Allied is the best choice to meet this San José Green Vision goals as well as the only choice when it comes to providing the most dedicated service possible to your businesses and ours. I would like to ask you to support city staff's recommendation to award allied the commercial collection franchise for the entire City of San José. Thank you.

>> Mayor Reed: Mark Arsenault, Michael Tejero, Terry Riley.

>> Good afternoon, honorable mayor, council members. My name is Mark Arsenault. On behalf of the 62 Recology Silicon Valley employees and our families, I'm here today to ask for your consideration for policy

alternative number 1, as identified in your staff report. As the city embarks upon the zero waste and recovery of a thousand tons a day of mixed commercial waste, awarding two franchises to the top two ranked proposers would have significant favorable results to the success of the program. Recology was the lowest cost provider in the South District. There is a 3% savings instead of the 5% as was originally reported now four by staff for the selection of a sole source service provider but that savings is immaterial when considering the factors that will influence the cost of this program over the next 15 years. Instead of proceeding with staff recommendation, without knowledge of a proven system, why not select two providers with proven abilities and the necessary capital and human resources. Two service providers could compete to provide their ability to achieve the zero waste goal, while at the same time, working to share best practices and provide a backup system to the commercial customers if needed. There are many important outstanding questions. We urge to minimize the risk of potential customer service problems, failure to achieve the diversion goal, and a shortage of processing capacity and many other risks that may be negotiated -- and we urge you by negotiating with the top two ranked service providers. Thank you.

>> Mayor Reed: Michael Tehero, Terry Reilly, Steve Lopes.

>> My name is Michael Tehero and I'm a resident and business owner for the City of San José. I've lived here for all 44 years of my life. I'm the founder of California Waste Consultants, a local waste and recycling brokerage company which currently operates in San José. We are business with five loyal and dedicated employees. We hold roughly 5% of the market share and our customers have been participating in our recycling programs for years and in most cases are well over 70% diversion from our waste streams.

>> Not once during the process were we ever solicited for information on our clients. We could have added value and insight into the information used to form this proposal. We currently have letters from commercial customers that do not want to be subjected to an exclusive hauler system and would like to have a choice in who their services providers are. Our company could never compete with the larger corporations like allied waste and green waste but somehow we have managed to survive primarily based on our ability to provide excellent service and because of this great city whom you all serve has allowed free enterprise to reign in our industry, up until now, of

course. By accepting the current recommendation you are forcing the closure of small businesses. To add insult to injury staff whom our taxpayers paid over \$1 million to, is now recommending a company, allied waste, that just got kicked out of San Mateo county for not meeting their diversion and recycling goals. In light of our local government's history with waste contracts do you, as council, really want to subject yourself to the same back room standards that your predecessors used to navigate through the last waste contracts for the city? What happened to accountability and transparency? Do you really want to head down that road again? We have to hold the hired staff to a standard. Instead of forcing this contract onto customers and the other 20 haulers who will be out of business we request you hold staff accountable to generate scoring that is transparent and will provide this city and its businesses with a viability hauling and disposal option for the next 15 years. I have learned that in order to improve sometimes change is necessary and I've accepted that this contract will put me out of business however please don't appease the 8,000 commercial customers of this city and myself by accepting this recommendation today. These are challenging times and budget need to be met. That is all the more reason why this recommendation needs to be re-evaluated and opened up to a fair process.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Terry Reilly, Steve Lopes, Kevin Chiapello.

>> Mayor Reed, councilmembers, Terry Reilly, co-founder of the friends of San José rose garden. And because of the hard work of the volunteers, the park staff and Recology, it is now America's best rose garden. I recently attended Councilmember Oliverio's film shown right here in this very room. There was trash and just last night, a film called bag it which detailed the wastefulness in our society for single use plastics and bags which the council has addressed. These films bring home the importance of reuse and recycling. Now I'm not an expert at these subjects, but I can speak to first-hand the type of corporate citizen you'll find in Recology. Last year Recology found out about the competition for America's best rose garden and wanted to help. You see the large employee owned company in the industry they have committed themselves to serving the communities they work in

volunteer projects including serving the homeless, using recycled paint to beautify childcare centers and creating a sustainable landscaped playground for underprivileged kids. In the case of the San José rose garden, over 200 employees showed up to weed, spread 75 yards of cubic mulch that they donated, and planted over 50 roses that they replaced in the garden. The enthusiasm of the volunteers were overwhelming. I could see helping the community that they work in was truly a priority for every employee. It's companies like Recology that San José should value and want to have here in San José. I've had the opportunity to work with them and I hope that others in San José will get that same chance. Please consider their proven corporate citizenship and dedication to the community, in your decision today.

>> Mayor Reed: Steve Lopes, Kevin Ciapello, John Delgado.

>> Good afternoon. Steve Lopes, Tom Lopes distributing incorporated. As a local business man and concerned citizen, I'm here to advocate the city choose a second service provider to share this lucrative contract. San José has already set a precedent of using two service providers which I believe helps maintain an honest and competitive playing field which is vital to this process. Further I believe it is critical that the city choose a local provider, someone who would retain all the profits and taxes generated by this contract in our area where the moneys are needed most. Let's get the best deal we can for our community. I urge you to put this contract out for a last, best and final. Thank you.

>> Mayor Reed: Kevin Chiapello, John Delgado, Mosey hill.

>> Good afternoon, honorable mayor and council. I'm Kevin Chiapello, general manager of recology, Silicon Valley. An award of two franchises which would minimize the risk to the city and increase the opportunity for success of the program. Are allied's one bin plus diversion expectations realistic and does the processing system work on 100% commercial waste stream? A commercial waste stream with as varied and multiple business generated many diverse materials some if not many contaminants. We would ask the council to consider the following. There are any other major cities using a one-bin system for the processing of a commercial waste system, and what is their diversion experience? We don't believe there are any, and if these programs did exist,

diversion rates would be substantially lower than has been guaranteed. Has staff thoroughly investigated how the one bin plus system works with heavy industrial customers such as gas stations, medical facilities, manufacturing company? And the contamination issues associated with the recyclable materials that need to be diverted. Processing descriptions in a proposal are significantly different than real world recycling. After months of analysis, we believe this process has many questions. Accordingly, we believe awarding two franchises with different processing systems would mitigate risks for the city. Thank you for your time.

>> Mayor Reed: John Delgado Mosey hill Mike page.

>> Good afternoon, honorable mayor and council. My name is John Delgado and I'm the sales manager for Recology Silicon Valley. I recommend you consider alternative 1, two commercial service providers as the only practical option to implement a diversion program with a goal of 75% for all commercial waste generated. In an effort to facilitate a comprehensive diversion program for 4,000 customers in the South district I present the following: The recommended proposers outreach staff assumed only 2.5 diversion specialists in the South district, with 4,000 commercial customers in the South district, they would have to successfully transition more than 10 customers per day, simply an unrealistic assumption. To give you a sense of time requirement to successfully outreach and execute new service, Brocade provides the perfect example. They were recently converted to a hybrid organic customer as defined in our proposal. We benchmarked a diversion goal of 80% that required more than 50 man hours consulting over a six-month period of time. Alternative 1 would add additional recycling diversion specialists under recology's proposal. Recology proposed 4 compared to the 2.5 by the recommended provider. Improving a diversion or conversion goal of 6.2 customers per specialist per day. We believe two commercial franchise providers would minimize risk to the city and contribute to higher diversion rates. Thank you thank for your time.

>> Mayor Reed: Mosey hill, mike page, Ronny Reed.

>> Good afternoon, honorable mayor, council. My name is Mosey Hill, I'm the operations manager for Recology of Silicon Valley. I've been in the solid waste industry for over 25 years, exclusively all of those years here in San

José. I've grown to know and understand the layout of this extensive city. I have personally been involved in four different transitions, in which the city has implemented for their commercial and the residential programs. The last transition, the recycle plus! program, was deemed by staff as the smoothest transition in the history of this city. A reason for that success I believe is because the multiple service providers with multiple manageable service areas, I'm sorry, it is this experience that leads me to my concern. I ask that council consider the significant risk that staff's recommendation is placing on the City's shoulders. The possibility of customer dissatisfaction and disruption are great. Why not minimize this risk. Why not utilize resources made available to the city through the policy alternative number 1. Allowing for the two lowest-cost service providers in the north and the south district. Alternative number 1 would award the two highest ranked proposers which could only increase the success of this type transition as well as minimize customer service interruption and provide it at a low cost. Thank you.

>> Mayor Reed: Mike page, Ronny Reed, David Wall.

>> Good afternoon. My name is Michael page. I am a rolloff driver with Recology. First started driving a garbage truck in 1983 for BFI followed by waste management, green team, back to waste management and now for the last five years r ecology. I have to say without a doubt, working at Recology is hands down a different experience than the other companies. And I racked my brain thinking why, and two reasons really came up. Local company, Bay Area values, and we are an ESOP, employee owned. Which, let me tell you, from a driver's point of view, makes a gigantic difference. There's an incentive there to truly do great work. We all have a stake in the future of our company. And I know that the crew that I've been working with for the last 22 years, majority of the same guys, we take this very seriously, we're very much Bay Area guys, and we'd like to ask the city council to truly create a competitive environment and award at least part of this to Recology and you won't regret it, believe me, thank you.

>> Mayor Reed: Ronny Reed, David Wall, Nicole Rinaro.

>> Hello, my name is Ron Reed. I have been working for the garbage haulers for the last 30 years. I started in garbage when I was 19 years old. Right out of school, started a family. And I have to say I worked for nearly all the garbage companies that have been here in San José. I went through many of the contracts. And to say now that I've worked for Recology and it seems to me to be the best because once again it is employee-owned. So that means that I have the responsibility to get up each morning and take my job serious and see each customer, hands on hands. I do my best. I know I have to do my best, because, once again, our company Recology, our CEO comes and talks to us. This is the only company I've seen where the CEO comes down and explains to us how important it is to have good service. With that said I'm making my point to service each customer as if I owned the company. And so I would like for you to all think about having Recology, the second company, take this contract. Because I know every time I get up in the morning I know there's a benefit by working with all my co-workers who seem the same way. They value their jobs. Especially with this economy the way it is. And Recology is definitely one of the best companies that I've been working with for 30 years, that's a long time. So I'm hands on hands. My children have been raised around garbage, and it is very helpful for me. So being that said, Recology also gives us values to the community to give back to the community because we've learned by working every day how important a community especially San José is. Because I've been through here every day on my way to work as well as the parks, recreation and seeing how valuable companies like Recology is when it comes to make sure that our beautiful City of San José stays beautiful. So I'd like for to you think about that.

>> Mayor Reed: Sorry your time is up.

>> All right thank you.

>> Mayor Reed: David Wall Nicole Renaro, Bruce Osusky.

>> David Wall: I think the solid waste system of ESD has been very much a plus for the city. We've had no problems whatsoever so there's really no reason to distrust their calculations about a one-hauler system. However it is very dubious to have only one hauler. Personally I'd like to focus on structural aspects. I would like to see liquidated damages for lack of performance. I would like to see quarterly audits for both financial

and performance. I would like to see revenue streams set up for the attorney's office for the auditors for code enforcement as a function of the integrated waste funds to start having a fee recovery for these services, and others in the city as justified. With reference to zero waste energy development I have very significant concerns, considering their admonition and declaratory statements concerning no odors. I would like to see a hold-harmless agreement, with this specifically -- with liquidated damages for any odors whatsoever. And that should cover it, thank you.

>> Mayor Reed: Nicole Renaro, Bruce Ozusky, Rick mock.

>> Honorable mayor and members of the city council, I am really honored and happy to be here today, for one reason: This is -- this has been an epic proposal process for me. And as many of you know, I am a third generation resource recovery, been in this industry my entire life. And third generation San José Silicon Valley native. Since we sold our family business in 1997, I have been a consultant to the industry and I'm currently engaged with Cal EPA on zero-waste procurement. We are a local, woman-owned business. And as you can see, that is just a little bit unusual in my industry. First of all I'd like to call the mayor and the city council to please demonstrate the transparency and the values that I think this administration tries to represent. I'm concerned about the process. There's, with a spread of over \$22 million between the low bid and the high bid, and the two-container system, combined with the fact that three out of four bidders treated the recycling revenues different than the recommended bidder, and the numerous scoring hard, quantifiable scoring errors in our proposal that have not yet been addressed appropriately by staff, I think that a best and final offer process will actually close the city to any potential further protests, and possibly, litigation. And give bidders the chance to close that gap. Because obviously, we're bidding on different contracts here with that number being so incredibly different.

>> Mayor Reed: Sorry, your time is up.

>> Thank you for your time.

>> Mayor Reed: Bruce Ozusky, Rick Mock, Todd Sorty.

>> Mayor and councilmembers and staff, it's Bruce Ochufsky but that's happened before, thank you very much. I'm here to speak on behalf of Revolution and some diversity with selections made for commercial recycling. Revolution was the only company that actually made outreach to San José State University which is where I'm from. I'm with the faculty in the environmental studies department, I'm the director of the center for development of recycling, which provides recycling hot line services and Website services for the entire county. We've done that for over 20 years. And so our students come out and then become the green economy -- the base of the green economy in the county. So it was enlightening to have a company come to us, look to see how to build a partnership with us, and have those students become part of their business. So that means that they're looking to have jobs kept in San José. So we appreciate that willingness to work with us, not only us but the business department, the marketing department, engineering department. So we understand then to see that they understand that diversity is strength and the same with our -- in our economy and our community. So I ask that you also look at the diversity in our community and the bridges that they're looking to build with the university. Thank you very much.

>> Mayor Reed: Rick mock, Todd Sorty, Emily Hanson.

>> Hi, good afternoon. I'm Rick mock. I'm past international president of the solid waste association of North America. I've also worked as a director for City of Santa Clara for over 27 years in charge of their integrated waste management program. I retired now here I am as a consultant for the revolution today. I'd like to point out a few things today we found out during the proposal process. We had millions and millions of dollars, \$7 million that was generated from recycling material sale that wasn't used in comparison, our proposal with the other proposals. Several other proposers had the same problem. I'd like you to do the best and final offer. I think that will allow us to get all our dollars on the table for all the proposers. It's a win-win situation for the city and all the commercial businesses. We really want the businesses to experience all the money we're getting from the recycle material sales. That's part of our process and I think that's part of the strength of our proposal. I also -- the allied's offer of a million extra dollars for franchise fees, is problematic, possibly illegal and gosh darn we didn't see the line in the RFP where to put our offer in there. We have money from the recycling materials sales, that was in our

proposal, and it's offered to the businesses and the cities to do with what they need to do with it. Best and final offer is transparent, it's equitable, it will evaluate all proposers equally, provide due diligence, save millions of dollars and reduce cost to the businesses. That's the bottom line, the businesses are paying for this. Also, as an expert opinion, I don't think that one-bin process and two-bin systems are not the best choices, because they're sort of in the -- they are in the haulers and processor choices that commingle the control of waste collection and processing for their own needs. I think the three-bin system is the one to go with and you don't mix the garbage with everything else and contaminate it. So thank you very much.

>> Mayor Reed: Todd Sordie, Emily Hanson.

>> Good afternoon, Mayor Reed and Vice Mayor Nguyen and councilmembers. My name is Todd Sordy and I'm with revolution resource recovery. Thank you with for your time today, and I appreciate that this has been a long process with a number of different variables for everybody. But I'd like to make at least a couple of comments. One, I think staff has done an adequate job with the RFP analysis but has not followed the task at hand all the way through to its completion which should be the best deal for the city. The RFP has a provision for last best and final. Why was it put into the RFP if it wasn't going to be used or even discussed as an alternative? Unlike staff's impression as evident in the alternatives, in the staff report there is enough time to pursue a last best and final and also to possibly look at two service providers as mentioned by previous comments. Revolution is a local San José company and is part of the community. Revolution's proposal keeps San José money in San José and our proposal has a possible \$7 million back to the city depending on the configuration of our bid. Even though we are a new company in San José, the principals have been in business in the Bay Area since 1967. We have over 200 years combined Bay Area hauling and collection processing experience. Annually our affiliated companies haul and/or process over half a million tons currently in the Bay Area. I urge you to consider a last, best and final and two service providers and get the best deal for the city, thank you.

>> Mayor Reed: Emily Hanson.

>> Good afternoon, Mr. Mayor. Members of the council. My name is Emily Hanson I'm here representing zero waste energy development company and first and foremost I really want to commend both the council for providing the direction to embark on the commercial redesign and also to staff for the extensive work that they did both developing the RFP for the hauling side as well as the processing side and doing all of the review and recommendations that were involved. It was a tremendous undertaking and I feel that staff hopefully met your expectations, definitely met ours. I'm here to encourage you to document the staff recommendation both to begin negotiations with allied for the hauling contract as well as the zero waste energy development company for the organics development contract. We are confident that we can work well with allied to work with the business owners to get the cleanest organic stream and to get that material to the delivery standard so we can process it in our facility. As director Stufflebean said, we are locally owned and operated, we are a joint venture between Green Waste Recovery and Zanker Road Resource Management. Our two companies have brought to San José some of the most innovative processing methods from both our dirty MURF at Charles street as well as our construction and demolition debris processing out at Zanker Road. We're very excited to bring this new dry fermentation anaerobic digestion technology to San José, support the city's Green Vision, and really help the city as well as all of the business here come to the forefront of zero waste and actually see it happen. So thank you and I urge you to support staff recommendation, thank you.

>> Mayor Reed: That concludes the public testimony. Want to see if staff has any additional comments they want to add to their report before we have a council discussion. All right. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I know there's going to be a lot of questions, and comments. But I'm going to attempt to make a motion after making my comments here. First of all I wanted to thank staff for your extraordinary work. Obviously this is been a very complicated RFP process, garbage contract hasn't always been clean but I think this process has been very clear and very straightforward and I think that your supplemental memo answered a lot of questions and concerns that were raised from various companies who actually put in the bid. In 2009 when this council directed staff to conduct separate procurements for organic processing services and collection franchise services we also intended for the process to be very transparent, very fair and very objective and I think that this process and the work that you have done accomplished that goal for us. I also think

that the -- I also wanted to thank the companies, the various companies who bid for this contract. Apparently this is a big big contract. But it really accomplished something for us and that is to make sure that we meet our goals, our Green Vision goals to be zero waste by 2022. And so to me that's a very important goal and I think that allied waste and zero waste energy development is going to help us accomplish that. So simply put, we develop different criterias and requirements for this process. And I think that these two companies actually won this contract fair and square. There were a lot of questions and concerns that were raised throughout the entire process and I appreciate the opportunity to talk with some representatives from the various companies, as well as their meeting with my staff. But at this time I'd like to make a motion to move the memorandum co-signed by myself, mayor Chuck Reed and councilmember Donald Rocha dated April 1st, 2011.

>> Councilmember Rocha: Second.

>> Mayor Reed: We have a motion on the floor to approve the recommendations as outlined in a memo. Have some discussions on that. I want to add to my disclosures. My staff and I also met with zero waste in preparation for this meeting. I had a few questions of staff of my own. We heard some criticisms of the process or the result today, and they were in sort of several categories. I'd like to let staff have a chance to talk about those. The first was in cost control. Both the cost of having to change systems to the businesses and then ultimately to the rates. So could you talk about how you anticipate building cost controls into the agreements that would come out of this negotiation?

>> Certainly. Jo Zientek, deputy director, environmental services department. We have very explicit language on what cost and how much of those costs can be transferred to the haulers' proposed rates and council will ultimately approve those maximum rates every year. We have several years of experience doing this on the residential side, where haulers are limited to CPI based indices on their cost increases they propose to the city. They're limited on the types of costs like fuel and labor indexed increases, so issues where the haulers haven't been efficient, those types of cost categories are not allowed to be transferred to the cost -- the rate increase methodology. That language was very explicit in the exemplar agreement. We used our language from the residential contracts as the basis, but there is no -- and then there's an annual cap of 6% on those rate

increases. But only very specific costs can be transferred and they're limited and they're tied to regular indexed type increases.

>> Mayor Reed: Another area of concern was that on performance, first the performance of hitting the 75% goal and secondly the basic customer service performance. What kinds of administrative fees or penalties or whatever you're going to call them do you anticipate building into the contract to ensure that we hit the 75% diversion, and that customer service doesn't suffer because we only have one vendor?

>> We'll have administrative charges for a range of performance standards, both for the diversion requirements and customer service similar to the ones we have on the residential side for missed pickups, not responding to a customer, service requests within a certain prescribed period of time, we're also currently doing a survey of all recent commercial service waste contracts let to look at those performance standards and use them to build on so when we come back to council in June we'll be able to offer you a fully robust performance incentive package based on the best information we can get, and then augmented by the particular requirements of our contract. As you know, 75% diversion is aggressive. We've achieved it in several components in our residential system and we've got performance standard language from that process to bring into this one.

>> Mayor Reed: On the customer service side having had a lot of experience now being on the council and as mayor with the residential side, I know we used to get a lot of calls directly to council offices complaining about customer service. I don't think it happens very much but I do know that if the only place people can complain is to the hauler or the collector, sometimes they don't get very good customer service. Do you anticipate we will be in the loop somehow on customer service, so that we don't wait till the end of the contract to deal with problems?

>> In the new system we have 24-seven access to the hauler's customer information systems, their account information, and we'll be able to see those reports and issues on time and live. If we get a call we'll be able to log on to the system and see what the issues are, the same system as the hauler uses. So we'll be added in the loop as we are in the residential system.

>> John Stufflebean: I will add it will be much better than it is now where we have so many different haulers, and the city has really very little leverage in terms of getting them to perform to meet performance standards. Having the one company will -- will build that more into the franchise and will have more control and of course it will be easier with just one company.

>> Mayor Reed: If you get a call from one of our major commercial customers, that calls to complain about the service they're getting what will you be able to do about that?

>> We'll be able to, like we do now with issues on the residential side, usually we do a site visit, we set up a conference with the hauler and the customer, and then we work out a resolution. But we'll have the same transparency we have on the residential system with the new system. And we'll do the solution, the tailored solution for that particular issue.

>> Mayor Reed: The contract ultimately would require the hauler, I don't know if that's going to be the right term anymore, would require allied or Zwed to participate in customer problems with the city or allow the city to participate in solving those problems.

>> Yes.

>> Mayor Reed: There was another question or comment that there must be something wrong with the process because there was such a difference between the high bid and the low bid. I think somebody said there was \$22 million spread between the high and the low bid. Any comments on that? I think top two bidders were pretty close based on other testimony I heard.

>> Yeah, we did an extensive vetting process with the data. Two of the haulers Recology and allied currently provide about 70% of the service to commercial accounts and then a couple of the other haulers have also had significant but lesser amount of commercial accounts so we really looked at the volume and tonnage information that they provided to vet those data assumptions. And the proposers that were kind of the outliers were

dramatically different than the group of proposers that do provide some service and they were more aligned with each other. But we get outliers typically in solid waste procurements in the past too. It is not unusual for haulers in our estimate with the data.

>> Mayor Reed: I want to go back to the customer service, I think I had one more version of the question to ask. And that is what remedies will we have if the haulers are not doing customer service to a good standard and despite our repeated efforts to get them to change their attitude, they don't? Are we stuck with these folks for 15 years or do we have ability to terminate the contract for repeated failure to perform?

>> There are some provisions to terminate for cause. Typically we've found the best solution because that's such a significant decision to make, is to make the performance incentives really aggressive. And we've operated contracts without performance incentives or liquidated damages and contracts with, and if they are significant enough and we're able to set the parameters tight enough which we have experience on the residential side we're able to get them to perform. It's been the best remedy.

>> Mayor Reed: Well, performance is definitely the best remedy but I don't want our commercial customers to fear that they're stuck in a 15 year relationship with somebody who can't or won't perform. I think the contract terms will be very important in making sure that everybody understands performance will be required.

>> And we'll thoroughly address that when we come back in June and present on that component.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Staff, there's been a lot of suggestions about using a last and best offer. I'm new to the council, I'm new to this. Can you walk -- I mean what does that mean and can you walk us through if that scenario should arise if we choose to go that direction, what does that look like?

>> Scott Johnson: Councilmember, Scott Johnson, director of finance. This is one of the questions that we responded to in the supplemental. And what you're referring to is the best and final offer. In the RFP we did note that it could be an option that the city could participate in a best and final offer. However, the wording in the RFP was real clear that we cautioned the proposers not to assume that a BAFO process would be implemented and usually a BAFO process would be implemented if the scores were really close, just so we were standardizing processes. What we need is a lot more additional information or clarification. But as was mentioned in our presentation, this was a multiyear process with a lot of stakeholder outreach and a lot of input and vetting of issues and so on. So that's why the staff we felt real clear in regards to the responses that we received, we felt that also, that the proposers shouldn't use a BAFO as an opportunity to in essence rebid. You know, their proposal.

>> Councilmember Campos: Maybe I should be more clear. I did read the supplemental but do you anticipate, as staff, having any different results? I mean would we seize one or the other potentially rise in a process like this, and I guess my -- another question would be, in your opinion, as staff, do you see the possibility of getting bids that are not responsible bids? In other words, you know you have competition trying to out-bid each other and purposely going much lower than would be a responsible bid for this process.

>> We have, in the past, had haulers bid and in a BAFO process we requested that they add routes for particular that issue that they didn't provide enough infrastructure to do the service that they provided. So we've actually done BAFOS where we told them to add cost for that issue. In this case, we -- allied was the top technical ranked score, and the lowest cost score. There was nothing in the other -- that the other proposers offered technically really that allied denies offer for the two-container system. And so we didn't see like we wanted to add anything to allied's proposal and then we did vet that their assumptions with regard to tonnage and the volume of material coming through the system seemed reasonable. So we did not do a BAFO process. If we wanted to equalize, take something that someone else offered and ask allied to include that, that could have been a BAFO process but there was nothing that -- no circumstance where that issue presented itself.

>> Councilmember Campos: Okay. And just for disclosure I also met with representatives from zero waste, revolution, allied and Recology. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. First of all I want to thank staff for the hard work on this proposal. How long has this proposal process been going?

>> 2007 we started.

>> Councilmember Herrera: Before I ever got on the council. It's been going quite a while. So I can really appreciate reading through this and trying to understand all of it and I've deliberately tried to keep an open mind because I wanted to make sure this issue at times in the past the city has become very controversial. So I'm very much wanted to make sure I was listening and keeping an open mind all of this and that's what I've been trying to do all the time to make sure I didn't miss anything. But I really appreciate staff's hard work on this and the process that you've gone through and trying to achieve many different goals including Green Vision goals cost service to our customers it's very comprehensive everything that you've worked on. First I just wanted to say something about the half of the contract that's the zero waste to energy. ZWED. And I don't think there was any protest on that portion of the contract. I think that's really great that this is coming forward. That we are going to have this processing and going to be the first one in the U.S., think that's very exciting to have methane production coming out of this and hopefully this process can be further commercialized and it can be used in other areas of the city, at the plant and other things that have come up. So I think it's a very exciting process. I have a few questions. I want to understand, in terms of ZWED and the other vendor, and if this is allied or whoever it turns out to be here, how is the billing, is it one set of billing to those customers? How does that work on the -- how does that look to the customer in terms of these two services?

>> Allied will provide all the billing services and then remit to the city funds to pay for the ZWED service.

>> Councilmember Herrera: In terms of customer service is there any SLA kind of service level agreement that's being advanced by allied in this case and Zwed in termination of the level of service to commercial customers?

>> We'll be providing that as part of the agreement.

>> Councilmember Herrera: That will be part of the agreement. And liquidated damages have been mentioned I assume that would be part of the contract as well?

>> Yes.

>> Councilmember Herrera: Okay. What other large cities are using the one-bin service?

>> San José, we provide a one-bin service for all apartments in San José. We're the only city that does that in the United States. So apartments that can put all their waste in the garbage dumpster and we sort that material offsite. And we're about a 75 to 80% diversion rate on that. The allied proposal proposes to sustain processes, recyclables process and technology as our apartment program. Allied also provides one bin program using their current more dated processing equipment to Santa Clara County facilities. So all the county facilities in -- for Santa Clara County.

>> Councilmember Herrera: How much is the one-bin option contract to the desirability of going with allied, and what percentage do you think are going to adopt the one-bin in terms of customer base?

>> The one-bin option was very popular with our evaluators that represented businesses on our evaluation panel. They're very concerned about making a recycling system complicated. This was also aligned exactly with the input we did through our stakeholder engagement process. A lot of businesses that knew about our apartment programs that they would like a program like our apartment program. We didn't require that one-bin service because it hadn't been -- well, we left it open as an option. To do the one-bin service, you would have to be willing to take a recycling facility and retrofit it with equipment to do that. And we didn't want to limit the playing field by

requiring it but we ended up getting a proposal from allied and also from green city which was another proposer to do recycle all the material in waste stream through the advance technology.

>> John Stuffbean: And I just want to add that San José has long been a leader in many of these solid weighs issues. So the fact we did a one bin system in the apartment complexes was a leader in the nation I think we have the best recycling rate of multifamily units in many of the country. In many ways the one bin system is a lot easier because you get a wide variety of materials from households, businesses tend to have a smaller number of materials, like they might have a lot of cardboard, lot of paper, a smaller number of materials. It was actually in a lot of ways easier to do the sort.

>> Councilmember Herrera: There's probably less variety in most businesses, I would guess. In terms of recycling. The 15 years has been brought up as an issue too, the length of the contract. In looking at this we're asking the company to make serious investments, and in equipment, in trucks, and what other kinds of investments are we looking at here in terms of allied would have to make?

>> Well the trucks are significant. Over \$300,000 each for 50 trucks and then the recycling facility, the complete retrofit of their recycle facility with the new technology is a significant investment.

>> Councilmember Herrera: And I think it's really compelling that there's already a local processing facility and it has to be retrofitted and the fact that Newby island is going to be able to be utilized as well. Looking at this I think it's been a very tough job for you guys. I'm glad I didn't have to go through and do all this work. But I'm inclined to support the staff recommendation. I want to thank the companies that have -- that have bid on this. I think that Recology looks like a great company and they're doing a lot for their employees and their customers. All of the companies here, Revolution, Recology, Allied and zero waste seems like fine companies it's a tough decision and ultimately I think whoever would get word of this there would be protests so I think it's just you know, just wish you well in future things and appreciate all of the effort for San José, these companies that are not going awarded but I will be supporting the motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. A lot of the questions have been asked, I have some follow-ups to some of the issues that have been raised and I want to start by thanking staff and tremendous amount of work in reading the memo, the 100 different service model variations, I'm sure it took a lot of time just to evaluate that alone let alone getting to the process of the bids. One of the questions I have regarding the bids, and I saw the supplement that explained the best and final offer process you went through, at the time was that -- I know for especially a large bid like this there's typically some presentations prior to the bid deadline. Was that explained during that time or was that in the language as stated in the supplemental? Was there any questions about that part of it or any discussion on that aspect of the bid?

>> Councilmember, Mark Giovanetti, finance purchasing. There were no questions to my knowledge on the BAFO prior to our going public with our recommendation of award.

>> Councilmember Kalra: Is that somewhat typical that there would be under the city's discretion, depending on this case, the explanation is pretty clear there was a sense that allied bid was in staff's estimation clearly superior and so there wasn't a need from the staff's perspective to do the best and final, is that basically where you ended?

>> Yes.

>> Councilmember Kalra: You know and I want to second what Councilmember Herrera said, we have a number of good companies that bid and I had an opportunity to meet with not just zero waste but with allied, Recology and revolution, and all of good corporate citizens -- we had a couple examples of a couple of the companies and what they have done for our community organizations locally. So it's not a question I think not only from me is it a question of whether they are good companies or whether they have capacity but I do appreciate the detailing in which staff has gone through this evaluation. One of the issues raised was the 4% savings citywide, what is -- as going into this process wouldn't there be an assumption that citywide was going to save and if that's the case why

was there a two-district option? Or you get what I'm saying? Why would -- if we know it's citywide and we feel that haulers will have the capacity to do citywide why don't we just make it a citywide bid?

>> John Stufflebean: You know we certainly were open to the notion of having two districts. That's why we put out the two districts and if it had been the case where we had two companies that were very close together and the price was equivalent, we have certainly considered the two-district option and especially if the service had been similar. There are also companies that really maybe couldn't handle the whole city. So this would give some company an option to just have half the city. But it just didn't work out that way. It turned out that there was just huge benefits to doing the citywide.

>> Councilmember Kalra: Couldn't that be presumed, even before the process begins, that there would be savings if one hauler has the entire city? In other words if you had two bidders that were very close in the two different districts you're still going to get more savings from one bidder of the entire city.

>> That's correct but in cases in the past we've done solid weighs procurement one provider may have been just offered a really innovative solution that was slightly more expensive, and we were able to he implement that more cost effectively, one district versus citywide. In this case both the innovation and the cost went to allied.

>> Councilmember Kalra: Okay, and speaking to that point, I think it was brought up by one or two of the speakers. The one-bin plus system which seems like a more innovative system, do you see the -- do you see any risk in going citywide with that as opposed to one district with one bin, the other district with another, more relied upon system?

>> Allied will offer with their proposal the one bin service to customers that want that service and it works the best for their situation and then they'll offer the two-container system for customers that that works better. So they're offering both.

>> Councilmember Kalra: And on page 7 I see that mentioned and, the follow-up to the comment that was also made in regards to some particular commercial businesses that might have certain types of hazardous materials and so on, allied's made it clear that they -- for certain types of vendors where it might not be appropriate to have one bin there is the capacity to have that type of flexibility?

>> Yes.

>> Councilmember Kalra: And the \$1 million franchise fee was raised. The staff report indicates that that was not a consideration in the final decision or as part of the process. Because it seems to me that that would be -- it is stated correctly but one of the speakers wasn't as part of the bid application it seems like it was something that was kind of thrown in. Is that common or is that something that -- because I would see that as something that would be unfair in the sense that if others knew that was an option or if they thought of it I guess they could have done that. But how was -- if that wasn't taken into account how if at all should we consider that?

>> John Stuffbean: Well I guess it's really important to mention that again the technical proposals were evaluated without any knowledge of even the cost let alone whether there's the extra million dollars. And the cost was also calculated without consideration of that extra million dollars. So really it was in a way I think a smart offer by allied to put that in there for additional consideration. But it did not impact in any way the status recommendation.

>> Scott Johnson: Councilmember, I wanted to add one point. It actually affected the ratings on their actual cost proposal because the evaluation team considered the faculty that that cost would have to be absorbed through the rates. So it actually went against them, in the rankings in regards to the cost proposal.

>> Councilmember Kalra: Okay, so I guess -- so it hurt them in some way, I suppose. In regards to the RFP objectives, 75% waste diversion and the mayor touched on it in terms of having some kind of checks on that whether it be administrative charges, what have you, with the one bin plus system and with that goal do you see that as an achievable goal and why do you feel that way?

>> The one bin plus system and the diversion rate is reliant on both alight's ability to sort the recyclable -- the waste to get all the recyclables out and ZWED's ability to recycle the compostable materials through their waste to energy facility. We have been getting results in excess of 75% already in our system that is similar to the one bin plus through the apartment side and we think it will be simpler to do that with commercial waste because it's dryer.

>> Councilmember Kalra: I think a couple of the issues brought up, and they're addressed in the Vice Mayor and mayor and Councilmember Rocha's memo, are certain performance measures. And one of them I think in order to make successful program will be education, outreach and really working very closely with the commercial partners. So I hope as it comes back to us that we very clearly can see what those measures are going to be in terms of outreach and education. Because a program -- if you see residential without that you are not going to have a successful program. And the mayor's right as well in terms of what we can do in response if we're not getting the kind of service or responsiveness we should expect under this what measures we can take to respond and certainly the third item that's measured under B in the memo, the rate stabilization and rate includes mitigation, which is obviously something of great concern to us, especially with the commercial sector to make sure that they don't have inordinate fluctuations in their cost. And the last thing I'll mention is that I am also excited about the opportunity, for zero waste to come in and do something innovative. I think that we will certainly be leaders in the nation and I think appropriately so. And so with that, I was -- I'm comfortable with the staff recommendation, I certainly was very seriously looking at the alternative 1 prior to even the speakers mentioning it. And my staff and I spent many hours evaluating the staff reports as well as the letters and reports that have been given by other stakeholders. But I feel that staff that all in all that you've done a good enough evaluation that I feel comfortable at this point, and the stakes and balances are there going forward to determine whether what has been promised is something we should expect to see in the future.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'll disclose right away that I met with Recology, allied, green waste and revolution and ZWED as well. Given that this is my first contract of this size and scope I had a few questions, and mayor actually asked a few of them but I'm going to approach them in a little bit different way. So if you could please explain the process where you return to council with the agreement and what those will look like, what form.

>> We would return to council with final agreements for execution, that we can -- and we will do a staff report and presentation addressing the issues that have been raised today and any other issues that have come up while we're developing the agreements to show how we address them and those will be available for your review prior to the meeting.

>> Councilmember Rocha: So you sit down with the proposal or proceeder I guess allied in this case and talk about all the comments or issues raised today or is this purely on your side a change in the document?

>> So, we'll set down with allied, we'll take -- we had a base agreement that we included in the RFP, so we'll start with that. We'll add in all the additional services and enhancements they offered in their RFP. We'll add in the interface, how the interface is going to happen between allied and ZWED for the organic material and then we'll address and add in and negotiate the performance measures that we want to incorporate into the agreement and then bring all that back for council consideration.

>> Councilmember Rocha: So the agreement, contract, same form, so the terms and conditions are all within that document?

>> Yes.

>> Councilmember Rocha: Okay so speaking of the performance measures, they'll be spelled out I guess in the agreement based on what you've heard here and also using what you have in mind and also the residential contract you have in mind and past history.

>> Yes.

>> Councilmember Rocha: Now will they be more designed for the city or for the actual customer? Or both?

>> They'll be designed for both. I mean the customer is going to be interested in service, and getting the service that they want, when they're supposed to get it, and the contract fulfills whatever they're supposed to -- containers, missed pickups, is done very timely. For example on the residential contracts there's a 24-hour contract to pick -- if the hauler misses a customer's collection they have to get back there within 24 hours and in the same cases the same business day. For the city we're going to be interested in the diversion rate, the interface between allied and zero waste and the making sure the rate methodology is ironclad and we all know what exactly can go into the rates and what can't. And then issues with the transition, with meeting the transition time lines. Because we'll be watching trucks being made and delivered for this product and the processing equipment being made and installed. We'll be overseeing test runs of that equipment. So we're very involved in that transition and then of course the outreach that they committed to do as the proposal around any additional outreach we think is necessary that we want to put into the contract.

>> Councilmember Rocha: And those liquidated damages that you mentioned, are those purely penalties that the city receives or is there any scenario where you see those going to the customers, if there's pickups as you mentioned but traditionally contracts aren't usually written that way I guess.

>> City Attorney Doyle: I'm going to let staff answer, but I just want to point out. Liquidated damages are not penalties, and it's an important distinction. The damages, and they're set up in such a way as to provide incentives. And also, the damages are such that they're hard to ascertain. So you want something clear as to what that number is. But they are really not a penalty per se. And it's a legal distinction that's very important, that's why I spoke up.

>> Councilmember Rocha: Clearly. So these liquidated damages go where?

>> For the residential side I think we refer to them as administrative charges to address Rick's issue. They go to the integrated waste management fund and I don't know if there's other options for that or if there's circumstances where we should be looking at refunds back to the haulers or they offset the hauler answer cost so we mitigate rate increases. I mean there's a variety of ways they can be handled.

>> Councilmember Rocha: And will you have that language when we see it?

>> Yes.

>> Councilmember Rocha: So I like the concept of, of course, the customers, in terms of keeping rates at a reasonable level. So liquidated damages, not penalties, thank you. I did have a number of questions as well but then the supplemental memo came out and thank you, that was very helpful so I won't go through those again. But I do have a question about the diversion rate. Our estimate right now is about 25% and of course that's an estimate and we're expecting to get it 75% and within how short a time?

>> Six months after the contract starts.

>> Councilmember Rocha: It seems pretty optimistic, is that based on the experience at the residential side?

>> Yes.

>> Councilmember Rocha: You put that target right where you saw that?

>> Yes.

>> Councilmember Rocha: You think that given this customer says you'll be able to get there?

>> Well, because a lot of work is going to be done at the facility, so as long as the facility is set up and running and tested, that's where a lot of the recyclable material is going to be captured. We're not as reliant on the customer sorting the material into the correct bin. If we're doing a one-bin-plus or a two-container option.

>> Councilmember Rocha: Let me also echo some of the comments and thank the proposals and the companies that had an interest in this. This is what makes San José a great city, and I think all of your interests makes this process that much better. So as you saw and the memo I signed I'll be supporting staff's direction with the additional direction listed here in item A. The reason for my support is that after reading through all these documents I'm comfortable with that the staff has judged this RFP in a fair manner, and all my questions have been asked. I'm also comfortable that Allied can manage this contract. What is left to be seen for me is performance. And that agreement that you bring back to council is going to be key. And less, the responsibility upon allied to make that performance meet its customers' expectations. This decision is going to affect thousands of customers, businesses, and residents and it is my hope and belief that that's the direction that's going to best serve San José so thank you for your time.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to disclose that I have met with allied waste, Recology. Revolution, zero waste energy, development. And thank you very much for coming in and educated me on this issue. To the step, also want to thank you very much for your hard work over the years. A couple questions. My understanding that Recology has the lower bid on the southern half of the city. And then because allied offer a certain discount if they can get both, the north and the south, then the whole city. And that's where Recology got outbid. Is that true?

>> It's not quite accurate. The highest -- allied's two container system for the South district was the lowest cost proposal. It's the one-bin-plus system that was a little higher than Recology's in the South district. The service allied's offering is a combination of two container and one bin plus. But allied had the lowest cost proposal for the south district with the two container option.

>> Councilmember Chu: With the two container option.

>> John Stufflebean: But staff wasn't comfortable that -- I believe we didn't feel that was the right technical solution for all the businesses in that area so that's why we would not consider that to be our recommendation.

>> Councilmember Chu: So it's just not really a price issue, but you also considered the technical, the innovation and so on, so forth. And during the process did you ever consider the risk of having one provider?

>> Certain. We've considered that heavily and we've also looked around. For example, in many cities it is very common to have one provider. For example, San Francisco has one provider for all their commercial material which is significantly larger than San José. It also includes their residential program. So it is not uncommon for large cities to have one provider. We are also very comfortable with allied as a corporation, that they are the second biggest waste company in the country in that they certainly have the resources to provide this and they demonstrated expertise by the nature of their proposal. So we're quite comfortable with the risk involved.

>> Councilmember Chu: Right, thank you very much. And also, there is another question. They brought up, I can't remember which company, that they were talking about the city not willing to slow the RFP evaluation panel. Is that a common practice that we don't disclose our evaluation panel? I mean, I thought it --

>> Councilmember, typically, we typically don't name them by name. In this particular case there were six evaluators and their expertise was disclosed.

>> Councilmember Chu: Thank you very much. Why don't we disclose that? Is there any reason we don't want people to know.

>> Scott Johnson: Councilmember it is also in the sunshine ordinance that doesn't allow us to name specific staff members that are on the evaluation team. It's a council policy.

>> Councilmember Chu: Okay, it is a council policy to protect the people on the evaluation team?

>> Scott Johnson: Right.

>> Councilmember Chu: That up. I'm satisfied with that answer. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. Great part about being last or almost last is there's not a lot left to say. I wanted to disclose I met with allied waste, Recology, revolution, resource recovery and zero waste energy development company. Also had an opportunity to sit and talk with staff about the process. And I just wanted to assure everyone that I read everything that everybody gave me, and went through it all, and took the time to question staff on those particular issues that were areas of concern. And based on everything I've heard prior to this and what I've read in the questions and answers that were provided here today plus the supplemental reports I am confident in supporting the motion as been stated. Thanks.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Jo, thanks to you and your team for answering all the questions that we threw at you. Because I know I had many. And congratulations, you're almost at the finish line, at least a couple months away. I met with I think all the companies that have been mentioned all the folks who prevailed or appealed. And it's apparent to me we are fortunate to have an embarrassment of riches, of really environmentally progressive companies that offer a lot of great service. It's important for us to recognize as much as this has been I think naturally a competitive and at times contentious process that we really sit at a point where we're looking through the window at a pretty extraordinary future. ZWED for instance is offering us an opportunity to construct and operate the first anaerobic digestion process in the United States that will utilize dry fermentation technology to convert organics to energy. That's extraordinary and it will certainly further San José's reputation as

environmental leader and I think that's fantastic and I look at allied's experience right here downtown where they provide service to Adobe, I think a 99% diversion rate, that's extraordinary as well and that gives us a great lead-in as we look to making San José the first zero waste city in America. So this is a great opportunity for us to move forward. So I just really appreciate all staff's great work as well as the companies that have stepped forward. Having offered all that praise I do want to ask a couple of questions because -- and follow up on a couple of points that the mayor raised in regards to liquidated damages and the incentives that we have to meet the recycling goals. So when I met with one of allied's competitors they raised the objection that staff is currently contemplating only a \$25,000 liquidated damage fee for failure to meet the 75% target for diversion. And I guess I first want to verify is that currently the staff plan or is that --

>> John Stuffbean: No that's no longer the case. We've heard long and clear that that's not high enough.

>> Councilmember Liccardo: Okay, fab list I'll move on thank you. I know from the reports that we've got a total annual revenue requirement for allied of the one plus bin system of I think it's \$46 million annually. And I'm sure you guys have already done the back of the envelope calculations to see how that affects average rates because a couple of business people came to me and said oh we heard about this what's going to happen to our rates and I said I actually have no idea. So I'm wondering do we have some sense of how that's going to affect the average rate for businesses what that would sort of shake out to when it comes to the rates?

>> Yes, we've done an extensive research. We don't have access to what the haulers are currently charging customers in our current system. But what we were able to do is work with San José State University this fall, to do a survey of businesses, and actually get their garbage bills and kind of evaluate small, medium and large service that we had a sense of what businesses are paying now. We also did a survey of the other cities that have exclusive commercial systems which actually have published rates, and then we had the haulers to give us their estimate of the impact, the proposers of the rates and their impact was pretty consistent. We think small and medium sized businesses will see some reduction in rates. They have the least leverage now to negotiate rates. Large businesses may see some increase of a single digit. We're also looking at ways to mitigate that, and allied has agreed to work with us to look at businesses, say, that would -- with business categories that may see a

big reduction to equalize that. So we go into the system with rates that mimic as closely what they are now, on July 2012.

>> Councilmember Liccardo: Great, thank you Jo. And when you say single digit increase for larger companies you're saying that in percentage terms I assume?

>> Yes, yes.

>> Councilmember Liccardo: Okay, that's very helpful. With regard to the rate increases and how the formulas will work in future years you used the word ironclad I think in one of your responses in terms of the formulas that we're going to be using. Are the rates entirely determined by these formulas, that is the range of potential increase, entirely determined by performance of CPI of the various goods or is there some room for discretion by staff and ultimately by council?

>> The rates are determined by the formulas like they are in the residential contract. In the commercial system we have what we call true-up years, one is year 2 of the contract. And that's to adjust for the fact that we had so little information going into the contracts that when we see exactly what volume of waste is collected and the annual revenue requirement is met, we can adjust for that. So that is only limited to number of customers and the revenue. So the city and the ratepayers are at less risk when they pick the proposal that has the lowest revenue requirement because the chances of meeting that and not having to do a true-up are very good. So that's how we adjust it for that. We also if the city wants to change city fees can change the rates to incorporate the fees on the city side.

>> Councilmember Liccardo: Great, thanks Jo.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just want to disclose either I or my staff met with allied waste, Recology, revolution and zero waste.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. Just wanted to disclose that either I or my staff met with zero waste energy development company, Revolution, Recology, and also allied waste. Thank you.

>> Mayor Reed: I think city attorney had some information, additional comments on the identification of evaluators and our public records act open government provisions.

>> City Attorney Doyle: Yes, the beauty of e-mail. I've advised that part of the sunshine reforms, that after the notice of intent to award an agency or city contract has been announced the names of the evaluators and the aggregate summaries of the total ratings will be made available upon request. But under no circumstances are the individual evaluation ratings meaning the score sheets, are they turned over. So upon request we would turn the names over and that sort of clarifies Councilmember Chu's question.

>> Mayor Reed: Thank you. City Manager.

>> City Manager Figone: Thank you mayor. Before the council wraps up I just wanted to add my thanks and praise to the staff work. As you've all acknowledged this has been a long haul. And clearly, the directors have provided fabulous leadership. But I wanted to thank particularly Mark Giovanetti and Jo Zientek. And Jo I have known you a long time let me just say thank you for your steadfast leadership on our environmental issues. It is really in great measure due to your hard work that we're a leader in the nation that I just want to acknowledge that. Thank you.

>> Thank you.

>> Mayor Reed: I think that concludes the council discussion, we have a motion on the floor made by Vice Mayor Nguyen based on the memorandum, any further discussion? On the motion, all in favor, opposed, none opposed, that motion is approved. That concludes our work on this item, but not the entire project. It's going to be back in June with the contracts, another year of implementation. Thank you staff, good work. We've learned a lot over the years doing garbage contracts and that shows, we've learned. Good work. We will have a couple of items. We have the open forum and then we have a housing authority item. I'm going to take the open forum for the city council and the housing authority item together at this time. Those of you who wish to leave would please do so quietly. There's plenty of room outside for talking. We have to finish our work here. Open forum, David Wall.

>> David Wall: Good afternoon. Mr. Mayor, this is in reference to the treatment plant advisory committee meetings that will be held Thursday. With special reference to item E. This deals with, and I'll quote the subject matter, quote, South San Francisco Bay emergency port access project study. First, there's a problem I have with this. It's nested in a 170 page report. This should have been separate and distinct. Two, I have questions, very serious questions, as to why it's showing up at TPAC at all because this deals with primarily the economic development of the port of Alviso. Now, this is a good idea, it was talked about 19 years ago. When that reclaimed water project first came online. The city had the option to go for a superoutfall, which would then give access to funding for dredging, so you could have created a deep-water port, had the city gone that direction. But instead the city was foolish enough to go with a reclaimed water project and now you have an albatross. But this whole project from the Silicon Valley-San José chamber of commerce, it is somewhat a misrepresentation. Because a hover craft port to -- as a predicate for evacuating from an earthquake, or first responders to an earthquake doesn't take into effect the damage to the water pollution control plant of an earthquake was that great. And 50,000 people are not going to walk one hour to -- into the South Bay just to stand in a lake of sewage. Mr. Mayor, this project alone smells and it doesn't pass the laugh test. I want the ESD director to come have a complete report as to the reason for the access to the funds. Thank you.

>> Mayor Reed: Anybody else under open forum? Go ahead sir. Scott Soper.

>> Mayor and council, Scott Soper, college park. I got here a few minutes late and missed the airport stuff, learned a lot about garbage. I just -- the reason I came down is I wanted to call attention to the fact that I think it was 6.1.A regarding the changing of the monthly to annual report on the airport noise. That --

>> Councilmember Constant: We actually deferred that so we're going to hear that on another day.

>> I still learned a lot about garbage.

>> Mayor Reed: Longs you're here you have a minute and a half left you can talk about it if you want to.

>> Maybe I won't have to come down if it will be corrected by the staff. The resolution states there will only be an annual report. The memoranda that the resolution is supposed to reflect says that the monthly reports will be on the web instead of being apparently created in paper so if the resolution would clarify that instead of flatly saying there aren't going to be monthly reports and that's all I have to say, thanks.

>> Mayor Reed: April 19th is the date we deferred that to. Thank you. I think that's it under open forum. We'll now go to the agenda, the San José housing authority, we have a recommendation for comments on the Santa Clara County moving to work fiscal year 2012 annual plan with some changes recommended by staff. Have a motion to approve. Couple of requests to speak. I'll take that now. Bob Dolce, Hilary, and David Wall.

>> Mayor and council, thank you for this opportunity. Thank you too for considering these proposed changes, to the -- moving to work plan that the housing authority is putting forward and thanks for Leslye Corsiglia, Jackie Morales Ferrand and Kelly Hemphill for their work on the memorandum you have before you to support these recommendations. I'm the county homeless concerns coordinator, and part of my job is to coordinate this direct referral program utilizing 200 section 8 vouchers to house chronically homeless individuals and families. And to date since this program began this year we've housed over 77 people. Which is fantastic, and by June 30th we will have housed 200 utilizing these vouchers and during the course of the coming fiscal year, then, that work in helping them to continue to stay housed will continue. However, those of us working to house these chronically

homeless households know that we need the assurance in writing that the housing authority's willing to designate 200 additional section 8 vouchers so we can house 200 more people in households so we can make a real difference in solving and ending homelessness in our valley. So thank you very much for considering this and I urge you to adopt it by voting yes on this memorandum to really make a significant impact on ending chronic homelessness here in the county. Thank you.

>> Mayor Reed: Hilary Baroga and David Wall.

>> Thank you. My name is Hilary Baroga, I'm the chairperson on the Santa Clara County collaborative on affordable housing and homeless issues, and I also work for EHD life builders an organization that serves the homeless here in Santa Clara County and I'm here to urge you to accept the staff recommendation to amend the moving to worked plan to include a specific set aside for fiscal year 12 of 200 vouchers to the chronically homeless. In our community more than 2,000 people experience chronic homelessness for each night. That means that they've been homeless for a very, very long time and they have some sort of disabling condition that is preventing them from helping themselves right at this moment. Studies show nationally that it costs 30 to \$50,000 a year to the public system, more to serve someone who is unhoused than to serve someone who is housed. And together, the collaborative destination home and direct service agencies such as EHC life builders are working to solve chronic homelessness in our community. The availability of deep housing subsidies is recognized nationally as a best practice solution and these vouchers are the single most important component in ending homelessness in our community. Without the specific set aside there's no certainty that these vouchers will repeat in the next fiscal year so again, I urge you to accept the staff's recommendation to amend the plan to include a specific set aside for fiscal year 12 of 200 chronically homeless vouchers. Thank you.

>> Mayor Reed: David Wall.

>> David Wall: I have a problem with the last two speakers, basically their whole livelihoods are associated with this type of giveaway program, in other words, they're lobbyists. Section 8 vouchers cost the city more than the city ever gets in psychological comfort fees. The number of section 8 vouchers in my neighborhood has cost the

city untold number of San José police and San José fire department hours for problems related to these people being homeless. They're homeless for a reason for some of them in fact they're not in jail. This does not apply to all of them. Some of the section 8 people in my neighborhood are very law abiding quiet people so let us not make aspersions about the old program. But for a city that is on the verge of bankruptcy, I don't think that you can really hand out any more charitable giving. I think the city of San José has done more than its fair share of charitable giving. And I for one, I'm sick and tired of this charitable giving, and then cutting back city employees specifically Police and Fire, attorneys, auditors, code enforcement people, and for what? These section 8 vouchers need those services and because of this inclusionary housing policy, this unfortunate group is thrust upon people who actually work and produce something for the city, the state and the nation. They're not equal on that basis whatsoever. So how do you sit back in all comfort and give out money in this way, when you're facing the deficits that incompetent financial decisions that you have made, and continue to make, deteriorate our city. I do not support anything about this section 8 vouchers. Not at all. Thank you.

>> Mayor Reed: That concludes the public testimony. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I just wanted to briefly state how critical this is for this amendment to be included in the annual plan. Obviously, I think a lot of us have seen a surge in homeless individuals throughout our city in the last several months. But I just want to take this opportunity to thank staff from the county for coming out and helping us, especially dealing with homeless issues, in the homeless encampments in District 7, especially around the Communications Hill area. We work with CalTrans, we work with CalTrain and staff from the county to really clean up these areas and we are working tirelessly making sure we place these homeless individuals in temporary shelters. And I think a program like this will really help these individuals because they would create a roof effect that would essentially put them back you know in the right shelter and find employment for them if that opportunity arise. So again I wanted to thank the county for helping us and being a part of this plan.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just had a quick question for Jackie. I certainly support the staff recommendation but paragraph 3 I might actually advocate to go a step further and I wanted to at least check in here in regards to relates to the project based vouchers. I understand we want to get a commitment that the project based vouchers are necessary to make the project feasible. And it raises the question for me, after doing -- after looking at the report that you know we may have different standards as to what an appropriate affordable housing development is in this city as the county might have or the housing authority that is. And so would we want at least to insist that not just that the vouchers are necessary for the project but that the project meet some standard that we all agree on, perhaps we agree with what the housing authority standard is for what affordable housing projects they want to fund obviously to target the population we're most concerned about?

>> Sure, Jackie Morales with the housing department. The vouchers that the housing authority was going to use we're specifically stating that we wanted them to demonstrate they had a financial need for their project only. And so for those particular projects they don't have a lot right now that are within the City of San José because most of them have already been converted to a different type of housing. So they have limited opportunity within the city unless they go forward with new construction. And so we certainly would like to know as much as possible on those projects but we felt at least before they just submitted projects on their own that they had to show financial need. So putting additional requirements is fine and would certainly be helpful but we thought at a minimum the financial need was really important.

>> Councilmember Liccardo: Okay. You know I don't want to step in somewhere where I'm clearly not as well versed as you guys are in terms of determining what projects are worthwhile, and what are not. But I guess I would ask if the maker of the motion would simply amend paragraph 3 to include that staff might also include any standard for what an appropriate affordable housing development might be, that would be appropriately funded by project-based vouchers under whatever standard housing staff believes is the appropriate one.

>> Councilmember Nguyen: That is fine.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Is that okay with the seconder? It is. All right so the motion is amended. I'm going to support the motion. I just wanted to acknowledge and thank the federal government in this case, we wouldn't have a section 8 vouchers without section 8 federal funded housing urban development department is responsible for dispensing those funds, we appreciate that, very important federal contribution to our own efforts locally to deal with the chronically homeless as part of our destination home effort a real critical piece of it are these vouchers. We have a motion on the floor to approve, slightly modified with the friendly amendment. All in favor, opposed, none opposed, that's approved. That is the last item on our agenda we have already had the open forum so we are adjourned.