

DRAFT

**MINUTES OF THE MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY BOARD (WMA)
AND
ENERGY COUNCIL (EC)**

**Wednesday, March 27, 2024
3:00 P.M.**

***IN PERSON MEETING LOCATION:
STOPWASTE BOARD ROOM
1537 WEBSTER STREET, OAKLAND, CA***

I. CALL TO ORDER

President Carling called the meeting to order at 3:00 p.m. Timothy Burroughs explained the process that would be utilized during the meeting. A link to the process is available here: [Virtual-Meetings-Instructions](#).

II. ROLL CALL OF ATTENDANCE

WMA & EC

County of Alameda	David Haubert, WMA, EC (EC President)
City of Alameda	Tracy Jensen, WMA, EC
City of Albany	Jennifer Hansen-Romero, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Danny Akagi, WMA (alternate)
City of Dublin	Melissa Hernandez, WMA, EC
City of Emeryville	David Mourra, WMA, EC
City of Fremont	Yang Shao, WMA, EC
City of Hayward	Francisco Zermeño, WMA, EC
City of Livermore	Bob Carling, WMA, EC (WMA President)
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Dan Kalb, WMA, EC
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Jen Cavanaugh, WMA, EC
City of Pleasanton	Valerie Arkin, WMA, EC (alternate)
City of San Leandro	Fred Simon, WMA, EC
City of Union City	Jeff Wang, WMA, EC

Staff Participating

Timothy Burroughs, Executive Director
Pat Cabrera, Administrative Services Director
Alma Freeman, Communications Manager
Justin Lehrer, Operations Manager
Nisha Patel, Management Analyst
Jennifer West, Program Manager
Arliss Dunn, Clerk of the Board
Deborah Miller, WMA Legal Counsel

Others Participating

Bruce Fritz, Alameda County HHW
Kathy Cote, City of Fremont
Priscilla Quiroz, Shaw, Yoder, Antwih, Schmelzer & Lange

III. ANNOUNCEMENTS BY PRESIDENTS

There were none.

IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

There were no public comments. Staff received an email from Mr. Kumar Shah. It was received after the deadline for written public comments to be submitted for this meeting, but the comment will be added to the minutes as a matter of public record.

V. CONSENT CALENDAR

1. Approval of the Draft WMA & EC Minutes of February 28, 2024

There were no public comments for the Consent Calendar. Board member Zermeño moved approval of the Consent Calendar. Board member Wang seconded, and the motion carried:

The Clerk called the roll: WMA Vote: 19-0 and EC Vote: 19-0.

(Ayes: Akagi, Carling, Cavanaugh, Hannon, Haubert, Hernandez, Jensen, Kalb, Mourra, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Hansen-Romero)

VI. REGULAR CALENDAR

1. StopWaste Building Rooftop Heat Pump HVAC Upgrade (Ben Cooper)

That the WMA Board authorize the Executive Director to enter into a construction contract with American Mechanical, Inc. to install new heat pump HVAC and hot water equipment at the Agency office located at 1537 Webster Street, Oakland, CA 94612.

Timothy Burroughs introduced the item. Ben Cooper provided an overview of the staff report and presented a PowerPoint presentation. A link to the staff report and the presentation is available here: [HVAC-memo.pdf](#). Mr. Cooper stated that the current rooftop HVAC equipment and gas hot water heater were installed in 2007 and are incurring increased maintenance costs. The WMA put out a formal and public request for proposals (RFP) to replace the rooftop HVAC units and the water heater in February and received four bids. American Mechanical, Inc (AMI), was the lowest and most responsive bidder. Staff requested the WMA Board to authorize the Executive Director to enter into a construction contract with AMI. Additional time was provided to the Board for discussion and clarifying questions. An audio link to the discussion is available here: [HVAC-Discussion](#).

There were no public comments on this item. President Carling thanked staff for the presentation. Board member Zermeño moved approval of the staff recommendation, and Board member Young seconded. The motion carried 19-0. The Clerk called the roll:

(Ayes: Akagi, Carling, Cavanaugh, Hannon, Haubert, Hernandez, Jensen, Kalb, Mourra, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Hansen-Romero)

2. Household Hazardous Waste (HHW) Program and Fee Analysis (Pat Cabrera)

That the WMA Board approve the annual HHW disposal and collection fee of \$7.80 per residential unit for the five years beginning in FY 2025 and direct staff to present the Board with an ordinance to remove the fund balance requirement and negotiate amendments to the MOUs with the County and City of Fremont based on maintaining the same level of service through FY 2029.

Timothy Burroughs introduced the item. Pat Cabrera provided an overview of the staff report and presented a PowerPoint presentation. A link to the staff report and the presentation is available here: [HHW-Fee-memo.pdf](#). Bruce Fritz, Alameda County HHW Program Manager, was present to answer any questions. Ms. Cabrera stated that as required by the HHW fee ordinance, a funding analysis was conducted to determine if the HHW fee needs to be revised beginning in FY 2025. Ms. Cabrera provided the results of this analysis with the recommendation that the WMA board set the HHW fee at \$7.80 per year

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per residential unit. The annual fee would remain the same for the next five years. Additional time was provided to the Board for discussion and for clarifying questions. An audio link to the discussion is available here: [HHW-Fee-Discussion](#).

Kathy Cote, Environmental Services Manager for the City of Fremont, expressed her support for the staff recommendation to continue the same level of services for the next five years. There were no public comments for this item. President Carling thanked staff for the presentation.

Board member Jensen moved approval of the staff recommendation, and Board member Kalb seconded. The motion carried 19-0. The Clerk called the roll:

The Clerk called the roll: WMA Vote: 19-0 and EC Vote: 19-0.

(Ayes: Akagi, Carling, Cavanaugh, Hannon, Haubert, Hernandez, Jensen, Kalb, Mourra, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Hansen-Romero)

3. Legislative Positions for 2024 (Jennifer West)

Staff recommend that the Boards adopt the stated positions on the bills listed in the staff report.

Timothy Burroughs introduced the item. Jennifer West provided an overview of the staff report and presented a PowerPoint presentation. A link to the staff report and the presentation is available here: [Leg-Update-memo.pdf](#). Priscilla Quiroz, Agency Lobbyist, was present for questions. Ms. West provided an update on the current legislative cycle as it relates to the five legislative priorities adopted by the Boards in January and recommended that the Boards adopt the stated positions on the bills listed in the staff report. Additional time was provided to the Boards for discussion and for clarifying questions. An audio link to the discussion is available here: [Leg-Update-Discussion](#). There were no public comments for this item. President Carling thanked Ms. West for a very complete and informative report.

Board member Kalb moved approval of the staff recommendation that the Boards adopt the stated positions listed in the staff report, and Board member Zermeño seconded. The motion carried:

The Clerk called the roll: WMA Vote: 20-0 and EC Vote: 20-0.

(Ayes: Akagi, Carling, Cavanaugh, Hannon, Hansen-Romero, Haubert, Hernandez, Jensen, Kalb, Mourra, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: None)

4. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn) (WMA only)

(Joint meeting of the WMA Board, Energy Council, and Planning Committee & Recycling Board on Wednesday, April 24, 2024 at 3:00 p.m. The meeting will be held at StopWaste, 1537 Webster Street, Oakland, CA)

There were no requests for an interim appointment.

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

Mr. Burroughs announced that the monthly topic brief highlights tips for sustainable spring cleaning. A link to the topic brief is available [here](#).

Board member Zermeño announced the City of Hayward's Annual Citywide Clean-Up and Community Fair will take place on Saturday, April 20, 2024 from 8:30 a.m. – 1:00 p.m. All are invited to attend.

Board member Young informed the Board that Arthur Boone, former Recycling Board member, is very ill and to keep him in our thoughts. Board members may contact her if they would like to reach out to his family.

VIII. ADJOURNMENT – TO JOINT WMA, EC, AND PC&RB MEETING ON APRIL 24, 2024 at 3:00 P.M.

The meeting was adjourned at 5:10 P.M.

Arliss Dunn

Subject: FW: StopWaste RFQ Bid Protest / Appeals Process

From: Kumar Shah <kumar@yopronto.com>

Sent: Tuesday, March 26, 2024 3:23 PM

To: David Haubert <david.haubert@acgov.org>

Cc: Jack Balch <jbalch@cityofpleasantonca.gov>; Bob Carling <rwcaring@cityoflivermore.net>; Jen Cavanaugh <jcavanaugh@piedmont.ca.gov>; Michael Hannon <mike.hannon@newark.org>; Jennifer Hansen-Romero <jhansen-romero@albanyca.org>; Melissa Hernandez <melissa.hernandez@dublin.ca.gov>; Tracy Jensen <tjensen@alamedaca.gov>; Dan Kalb <dkalb@oaklandca.gov>; David Mourra <david.mourra@emeryville.org>; David Sadoff <dsadoff@cvsan.org>; Yang Shao <yshao@fremont.gov>; Fred Simon <fsimon@sanleandro.org>; Jeff Wang <JeffWang@unioncity.org>; swengraf@CityofBerkeley.info; syoung@oroloma.org; Francisco Zermeño <francisco.zermeño@hayward-ca.gov>; Timothy Burroughs <tburroughs@stopwaste.org>; Pat Cabrera <pcabrera@stopwaste.org>; Angelina Vergara <AVergara@stopwaste.org>; Arielle Conway <aconway@stopwaste.org>; Kumar Shah <kumar@yopronto.com>

Subject: StopWaste RFQ Bid Protest / Appeals Process

Importance: High

ACWMA Board,

Re : StopWaste RFQ Bid Protest / Appeals Process

We wish to bring to the attention of the ACWMA Board of Directors the matter of StopWaste RFQ for Transportation Services.

I am the President and CEO of Accelar, Inc. DBA Pronto Corporation. In 2016, we were awarded the contract for School / Student Transportation Services for the StopWaste Transfer Station tours offered to Middle / High Schools in Alameda County. The contract was renewed again in 2021, 2022 and 2023. We successfully operated more than 820 trips during this period from 2016 to 2024.

The StopWaste agency had issued an RFQ for transportation services in September 2023 for the new term starting 2024. We were one of three vendors who responded to the RFQ. There were several irregularities that we found with the RFQ process and how it was conducted. Since late 2023, we have reached out to the RFQ evaluation team, Administrative Services Director and most recently with Executive Director and shared with them our issues and concerns with the process. In February, we submitted our Bid Protest and Appeal with the request for information on how the Agency intends to handle the protest and the appeal.

The agency - Administrative Services Director and Executive Director – have indicated:

- a) The Agency does not have a Bid Protest and Appeals process,
- b) They have not indicated how they intend to remedy this hole in the requirements every public agency is required to meet to comply with Federal, State and County regulations, and
- c) They will not be taking any further action to respond to our bid protest and appeal and they had awarded the contract and they are proceeding with it.

I pointed out to them Alameda County has Bid Protest / Appeals Process in place as evidenced by the following posting on the County website:

Bid Protest/Appeals Process

Learn how to protest or appeal an award

GSA-Procurement prides itself on the establishment of fair and competitive contracting procedures and the commitment made to following those procedures.

In the event bidders wish to protest the bid process or appeal the recommendation to award a contract, a protest process is available.

Each solicitation (RFP or RFQ) contains instructions regarding protesting the award of a contract. Please refer to the RFP or RFQ for details.

For Additional Assistance

For questions, contact:

GSA Procurement & Support Services
Phone: (510) 208-9600

We have been providing our services in the States of California and Nevada and have worked with numerous public agencies and have been awarded contracts for transportation services by a number of public agencies. There is not a single public agency that does not have a Bid Protest and Appeals Process and Policy in place.

Below is the email I had sent to the Executive Director of StopWaste on 03/25, once again, highlighting all the issues with the StopWaste Transportation RFQ process:

Timothy,

We have reviewed your response below and all the email correspondence related to the RFQ. Our concerns and issues with the RFQ process still remain for the reasons we have already shared with you in detail and as summarized below:

- a) ***Evaluation criteria:***
 - a. *The objective criteria for the vendor selection were not specified in the RFQ*
 - b. *The assessment / evaluation of the RFQ responses was subjective and qualitative and in our opinion and assessment it was biased*
 - c. *We remain steadfast in our belief that we are the most qualified respondent. There is nothing in your evaluation that suggests otherwise and our exemplary track record of success in running and managing the transportation program for StopWaste for the past 7+ years is clear evidence of the same.*
 - d. *The rates we have offered are significantly better than the rates offered by Royal Coach*
 - e. *Royal Coach did not meet the mandatory requirements specified in the RFQ of on the list of approved vendors for all the school districts in Alameda County as of September 2023*

- f. *While the evaluation team ignored this mandatory requirement, they gave considerable weightage to Desired Qualifications of operating Electric Vehicles (EV's) even though they did not have ANY pricing / rate information from Royal Coach or any other vendor*
- g. *The desired qualification of operating EV's was stated to demonstrate StopWaste's commitment to being environment-friendly and yet the team completely ignored the fact that Royal Coach is 33 miles away and hence would be consuming more fuel in traveling back and forth from their base to StopWaste location than the fuel required to operate the StopWaste trip.*
- b) **RFQ Process:** *The process has been flawed and does not meet the key requirements that every public agency -whether you are part of Alameda County or not – must meet and adhere to:*
 - a. *The objective criteria for evaluation are specified and communicated to all the vendors upfront*
 - b. *The evaluation of the responses is shared with all the respondents*
 - c. *Notice of intent to award the contract to a respondent is communicated to all the respondents along with the instructions for a respondent to appeal such an award or file an objection*
 - d. *The appeal / objection / protest process is clearly communicated to the respondents in the RFQ and as a matter of policy much like Alameda County does explicitly and clearly on the county website.*
 - e. *The agency awarded the contract to Royal Coach without notifying any of the respondents even though we had requested an update from the agency numerous times*
 - f. *The agency has ignored the official appeal we have submitted to the agency against its evaluation process and objection and protest against the award of the contract*
- c) *Your review of the evaluation of the RFQ responses, too, is biased and an intent to merely echo your team's evaluation. There are reasons why any objection raised by a respondent and appeal filed by a respondent is reviewed by an Independent agency.*
- d) *Even after months of going back and forth with you all, you have failed to provide the details of your appeal process to respond to our objections and the protest against the award of the contract*

If you wish to share with us the details of appointment of an independent agency to review the RFQ process and to respond to our objection, appeal and protest please do so. I am assuming at this point that you have no intention of doing so since you have ignored multiple requests we have submitted to you over the past 2+ months.

We are proceeding with our plan to submit our objections, appeal and protest to the appropriate authorities within the County.

*Best regards,
Kumar*

I have also attached for your reference the Protest Letter and Appeal we had submitted to the Administrative Services Director and Executive Director on 02-14-2024.

We have been working very patiently with the StopWaste team for the past several months, but it is clear that our Bid protest and Appeal will not be heard / responded to by them.

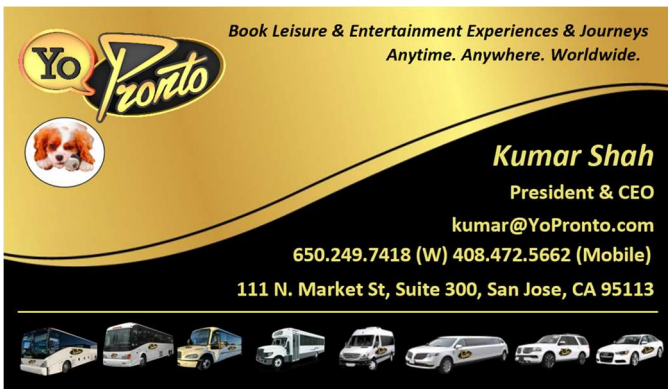
I request the ACWMA Board to:

- a) Acknowledge and accept our Bid Protest and Appeal for the StopWaste Transportation RFQ

- b) Appoint an independent agency / personnel to review the StopWaste Transportation RFQ process, the proposals received and determine the respondent who should be awarded the contract based on OBJECTIVE criteria
- c) Work with the Agency to implement a more rigorous bid process – including the remedy to address irregularities through a Bid Protest and Appeals process to comply with the Federal, State and County regulations

We request the WMA Board to address this matter this during the WMA Board Meeting on Wednesday, March 27th, or in a separate forum / venue suggested by the ACWMA Board. I'm ready, willing and able to participate in the meeting and answer / respond to any questions.

Best regards,
Kumar Shah



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