

Mayor Patrick McCrory

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Malcolm Graham

Mayor Pro Tem Susan Burgess

Don Lochman
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Sara Spencer
Lynn Wheeler
Joe White

CITY COUNCIL WORKSHOP

Monday, April 2, 2001

Room 267

- 5:00 p.m. Dinner**
- 5:15 p.m. Economic Development: First Ward Land Transaction**
- 5:35 p.m. Economic Development/Transportation: Proposed Right-of-Way Ordinance**
- 5:50 p.m. Economic Development: Children's Theater**
- 6:10 p.m. Economic Development: Sports and Cultural Facilities Capital Investment Strategy**
- 7:15 p.m. Workshop Concludes**
- 7:30 p.m. Citizens Forum
Meeting Chamber**

Request for Council Action: Roll-out Containers for Weekly Garbage Collection.

The agenda item and response to Council questions raised on March 26 will be sent to the Council in the Friday, March 30 Council-Manager Memo and is as follows:

Rollout Containers Lease Agreement

Action: Authorize the City Manager to execute a contract with Plastic Omnium ZARN, Inc. of Reidsville, NC for them to lease, maintain and distribute rollout containers to the City of Charlotte. The contract also requires ZARN to purchase the City's existing inventory of rollout containers.

Staff Resources: Wayman Pearson, Solid Waste Services
John Trunk, Business Support Services
Harry Graham, Internal Audit

Explanation:

Based on the City's Competition/Privatization Model, a team of City staff with representatives from Solid Waste Services, Legal, Internal Audit and Procurement, conducted a study to determine if there was a more cost effective way for the City to provide rollout containers for weekly garbage collection service. The City historically has purchased, maintained and distributed rollout containers.

To determine the most cost-effective manner to provide containers, price quotes were solicited in two ways. The first way was the preparation of an RFP to lease the rollout containers from the successful proposer who would then also handle container distribution and maintenance. This approach has been successfully implemented in Europe for some time, but only used in the U.S. on a limited basis.

The second way employed the method currently used by the City to issue an Invitation to Bid (ITB) for purchase of the rollout containers. This method also had maintenance and distribution components, but ownership of the containers would remain with the City.

Financial analysis of the bids and proposals revealed that the City's most economical choice was the lease proposal(s) submitted by ZARN of Reidsville, NC. ZARN's proposal would save the City \$922,000 in present value dollars

(or \$1,309,000 in total) over the 7-year contract period over the next best option which was a purchase. The lease option would also provide an additional \$500,000 in present value savings over 7 years when compared to our present container purchase and in-house delivery method.

The proposal will require ZARN to purchase the City's existing inventory of approximately 160,000 Toter rollout containers at the price stated in the vendor's proposal. The vendor will then lease these containers back to the City and maintain, replace and distribute these containers as necessary during the term of the contract. ZARN will also provide additional new carts that may be required due to annexation and/or growth on a lease basis.

At the conclusion of the contract with ZARN, the City has the option of three 1-year extensions. ZARN has also offered the City the option to assume ownership of the original Toter rollout container inventory at no cost to the City. Additionally, ZARN has offered the City the option to purchase the remainder of the container inventory (provided under the lease contract) at a value to be negotiated at the appropriate time.

In the event Council decides to re-bid, the following represents the likely timetable for the process:

- ❑ Proposal/Bid mailed out 4/3/01
- ❑ Pre-bid conference 4/17/01
- ❑ Bid opening 4/30/01
- ❑ Evaluation period 5/1/01 – 5/11/01
- ❑ Request for Council Action Either 5/29/01 or 6/11/01

Contingency plan for obtaining 10,000 containers required for annexation:

- ❑ Immediately prepare a request for Council approval of an extension of the expired contract with Toter, Inc.
- ❑ Total cost of purchasing the 10,000 containers from Toter would be: \$448,600 (10,000 carts x \$44.86 per cart)
- ❑ This compares with the cost of leasing the 10,000 containers under the ZARN proposal at a first year cost of \$32,400

MWBD:

ZARN will expend a minimum of 3.2% of the total dollar amount of the contract with Ford Container Industries, a MWBD-owned company.

Summary of Bids and Proposals:

Vendor	Lease or Purchase	Projected Total Cost to the City for 7	Additional Information	Contract Period
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	Options	Years @ Net Present Value		
ZARN (Option #3)	Lease	\$3,511,000	ZARN supplying a cart of City's choice	7 yrs w/3-1yr. extension options
Toter	Purchase	\$4,433,000		7 years
ZARN	Purchase	\$4,803,000		7 years
Otto	Lease	\$5,508,000		7 yrs w/3-1yr. extension options
Toter	Lease	\$5,811,000		7 yrs w/3-1yr. extension options
Schaefer	Lease	\$6,244,000		7 yrs w/3-1yr. extension options

Note: Otto did not submit a bid for purchase and Schaefer's bid for purchase was deemed non-responsive due to exception stated on a required maintenance component.

Funding:

General Fund Operating Budget

Rollout Container RCA - Additional Information

Issue: Request For Proposal (RFP) Ambiguity

Staff's further review of the RFP indicates the document was clear with respect to the issue concerning how the suppliers were to price their proposals. Section 3.4 of the RFP stated each proposer was to:

- Indicate the purchase amount they would pay, per container, for the City's existing inventory of containers and,
- Indicate a **unit cost**, per container, per year that they would charge the City over the seven (7) year period for the lease, maintenance, and distribution of the containers.

Staff believes all suppliers had adequate opportunity to address any part of the RFP that was unclear to them. Section 1.8.18 of the RFP – “Clarification of Ambiguities” – provided all proposers the opportunity to promptly notify the City in writing of any perceived ambiguity, inconsistency, or error in the RFP or (to) waive all future claims.

Further, the RFP clearly stated in Section 1.8.19 – “Proposal's Obligation to Fully Inform Themselves” – that each proposer was to perform its own evaluation and due diligence verification of all background information, conditions or requirements that may impact its proposal. Failure to do so was at the Proposer's own risk.

Issue: Residual Value / Buy-Back

The original RFP (Request for Proposal) for container leasing did not request the suppliers to submit with their proposal a 'buy-back' option at the end of the contract term for the City to

consider. The reasons did not request this information or give it any consideration in Staff's financial evaluation model were:

1. Legal Limitation on the RFP Process

Pursuant to G.S. 160A-19, leases of personal property that include a purchase option (buy-back) must be awarded in accordance with the competitive bid statutes. Including a buy back provision in the RFP would have been useless since a purchase Invitation to Bid (ITB) was contemplated already. The purpose of issuing the RFP along with the ITB was to provide Staff with the necessary comparative data to assess the merits of the lease versus purchase option.

2. Financial

- Assessing the value of the containers 7-10 years from now is highly arbitrary and subjective involving many factors and market conditions that are always subject to change.
- At the pre-bid conference the suppliers requested Staff to insert language into the RFP giving the successful vendor the option at the end of the contract of giving back to the City, at no cost, all the leased containers then in service. The reason given by the suppliers for this request was to allow them to avoid the considerable costs they would incur in collecting, transporting, and disposing of the containers.
- Given this, Staff did not want to lock the City into a fixed price option that may not be in its best interests at the end of the contract – a minimum of 7 years from now. Since the containers will be stamped 'City of Charlotte', and because of the likelihood that a supplier will desire to avoid collection, transportation, and disposal costs, Staff believes the City will be in a strong negotiating position at the end contract if it wishes to pursue an option to purchase the containers.

3. Operational

- The City may not want to assume ownership or to purchase the containers.
- The City may elect to prepare a new RFP continuing the lease of containers.
- Advances in technology may result in new equipment or processes for providing rollout container service – if so, purchase of the containers may limit Solid Waste Service's operational flexibility

Issue: Timeliness of RFP Process Planning

Staff believes the RFP planning process has been conducted in a timely and thorough manner. The process began in January **2000**, and over the course of the last 15 months, Staff has met with the suppliers to ensure their input and involvement. Our review of the timeline indicates Staff initially anticipated bringing this matter to Council for action at an earlier time. Staff adjusted the timeline, however, to accommodate various requests from the suppliers. Some of the requests

staff accommodated include granting opportunities for suppliers to make presentations about their qualifications, adding pre-bid and pre-proposal conferences to the schedule, and extending response due dates to allow suppliers more time to prepare their proposals.

A detailed chronology of the entire process please is attached.

	<u>Present Value of Proposals and Bids for Containers</u>	<u>Decrease in Zarn Proposal for Switching To Zarn Carts after 1st 10,000 Toter</u>	<u>Adjusted Present Value of Proposals and Bids for Containers</u>	<u>Present Rankings</u>	<u>Present Value of Maximum* Zarn Buyout Offer (Based on 74,571 Containers**)</u>	<u>Present Value of Bids After Adding Zarn Maximum Buyout Offer</u>	<u>Maximum Zarn Payout (Over) Under Other Proposals</u>	<u>Rankings Assuming Maximum Possible Buyout Amount</u>
Zarn Lease Proposal	\$ 3,511,000	\$ (194,000)	\$ 3,317,000	1	\$1,198,751	\$ 4,515,751		2
Toter Purchase Bid	\$ 4,433,000		\$ 4,433,000	2	not applicable	\$ 4,433,000	\$ (82,751)	1
Zarn Purchase Bid	\$ 4,803,000		\$ 4,803,000	3	not applicable	\$ 4,803,000	\$287,249	3
Otto "Lease" Proposal***	\$ 5,508,000		\$ 5,508,000	4	not applicable***	\$ 5,508,000	\$992,249	4

* Staff considers this only as a starting point for possible negotiations. This would be a "worst case" scenario, and not necessarily an option the City would pursue at the end of the 7 year lease.

** Zarn has agreed to not charge the City for buyout of any replacement containers during the 7 year term. The 74,571 is the City's projection of containers that may be added for anticipated growth and annexations.

*** Otto's "lease" proposal is not actually a lease arrangement in that Otto would not purchase the City's existing inventory. Instead, from the inception of the contract Otto would turn over title to the City for each added container after the City's next-month "lease" payment.

Roll Out Refuse Container RFQ/RFP/ITB

Chronological Process Time-Line:

DATE	ACTIVITY
October 12, 1999	Original contract for purchase of roll out containers established in 1994 with Toter, Inc. expires.
January, 2000	Decision by Solid Waste Services Director to explore feasibility and desirability of lease arrangement for containers.
February, 2000	<p>Staff committee was assembled to determine vendor qualifications for a lease arrangement. Committee members are as follows:</p> <p>Wayman Pearson, SWS Alvin Woods, SWS Carl Terrell, SWS Carolyn Johnson, City Attorney (Joined group in 2/01) - Original members: Sara Holderness and then Becky Cheney John Trunk, Procurement (Joined group in 8/00) Mehl Renner, Procurement</p>
March-April, 2000	The committee developed appropriate qualifications and scope of services for the lease, maintenance, and distribution of containers.
May 8, 2000	Request For Qualifications (RFQ #2000-341) was sent to all known potential roll out container vendors due May 25, 2000.
May 5-31, 2000	A total of five (5) addendums issued for the Request For Qualifications (RFQ #2000-341) primarily in response to numerous questions about the RFQ.
June 9, 2000	<p>Request For Qualifications responses received from Toter, Inc., OTTO, Industries, Inc, Plastic Ominium Zarn, and Schaefer Systems, International.</p>
June 21, 2000	First extension of expired contract with Toter, Inc. to enable the purchase of needed containers while evaluating lease option.
June-July, 2000	The committee conducted a thorough review of each vendor's qualifications. This included both

	an audit and overall financial assessment.
August, 2000	Presentations by all of the vendors under consideration for qualification were made to the committee. (See list June 9, 2000)
September-October, 2000	All four vendors were given careful review and determined to be qualified for the <u>lease</u> arrangement. Decision was made to conduct a simultaneous Invitation To Bid for the <u>purchase</u> of containers in order to do a comparative lease vs. purchase cost analysis
November 9, 2000	Letters of Qualification and a Request For Proposal (RFP #2000-063) for <u>lease</u> was sent to the four vendors qualified and an Invitation To Bid (ITB #2000-064) for <u>purchase</u> was sent to all potential vendors with both due November 28, 2000

<p>November 21, 2000</p>	<p><u>Addendum #1 for RFP #2000-063 & ITB #2000-064</u> Extension of the due date and pre-proposal conference date announced for which written questions were due in advance.</p>
<p>December 5, 2000</p>	<p><u>Addendum #2 for RFP #2000-063 & ITB #2000-064</u> Answered a total of 28 questions submitted by Toter, Inc. and OTTO.</p>
<p>December 6, 2000</p>	<p>Second extension of expired contract with Toter, Inc. to enable the purchase of needed containers while RFP/ITB process in progress.</p>
<p>December 13, 2000</p>	<p>Pre-proposal and pre-bid conferences conducted. All four RFP vendors were represented; OTTO was also represented by their attorney, Anthony Fox. In addition, Urban Services, SDC Consulting, Inc. and FCI Waste Services (possible subcontractors) were represented. An additional representative with REHRIG Pacific Company attended the pre-bid conference. Neither of these conferences was mandatory. Both were recorded.</p>
<p>December 18, 2000</p>	<p><u>Addendum #3 for RFP #2000-063 & ITB #2000-064</u> New due date</p>

	changed to January 24, 2001.
January 24, 2001	Bids and proposals were opened separately for the purchase and for the lease of the containers. Three (3) bids were received on the <u>purchase</u> invitation and, four (4) vendors submitted a total of nine (9) responses to the <u>lease</u> request for proposal from the four RFP qualified vendors. OTTO chose not to respond to the ITB for purchase.
January 24, 2001	Public record copies of all documents related to RFP #2000-063 & ITB #2000-064 requested and provided to Anthony Fox on behalf of OTTO.
February 14, 2001	All records reviewed by attorney Al Guarnieri also representing OTTO.
February 22, 2001	A letter was sent to all participating vendors stating that the lease of roll out containers represented the best option and that a lease proposal submitted by Plastic Ominiun Zarn would be recommended for award. In that letter it was stated that we were willing to share our evaluation process.
February	Audit committee member Harry

<p>23, 2001</p>	<p>Graham allowed an unscheduled meeting with attorney Anthony Fox representing OTTO to review recommendation analysis.</p>
<p>February 23, 2001</p>	<p>Public record copies of all documents related to RFP #2000-063 & ITB #2000-064 requested and provided to Toter, Inc.</p>
<p>February 27, 2001</p>	<p>Initial RFP assessment / contract negotiation meeting conducted with Plastic Omnium Zarn represented as follows: Jonathan Farley, President & CEO, Zarn Tal Johnson, Regional Sales Manager, Zarn Doug Ritter, President – Urban Services Joel Ford, Minority Contractor – President FCI Shannon Horner, Marketing Director, Zarn</p>
<p>March 8, 2001</p>	<p>Contract negotiation status meeting by John Trunk, Mehl Renner and Wayman Pearson (briefly) with Jon Farley, President & CEO of Zarn and Bernard Tabary, Directeur General of Zarn / France.</p>
<p>February-March, 2001</p>	<p>Meetings conducted with each vendor by Audit to share our analysis information has been accomplished as follows: Toter February 23, 2000 - Jim Pickett, Vice President Sales</p>

	<p>Zarn February 27, 2000 - (Represented as indicated above)</p> <p>OTTO February 28, 2000 - Jeff Nadeau, President David Springs, Manager Container Services Anthony Fox, Attorney</p> <p>Schaefer March 8, 2000 - Arnold Heuzen, President - Mike Knaub, Vice President Sales</p>
March 15, 2001	Public record copies of correspondence related to RFP #2000-063 & ITB #2000-064 requested and provided to Toter, Inc and OTTO.
March 16, 2001	Formal protest letter from Schaefer recommending that both the RFP and ITB be thrown out.
March 26, 2001	Target date to request Council approval of contract with Zarn.