

Amending the “Fracking Waste” Ordinance

- The “fracking waste” ordinance passed last year by the Board of Representatives has crippled the City’s ability to repair roads and curbs this spring
 - It is also increasing the cost to the City
 - There may be additional future implications with other suppliers to the City (particularly GC construction bidders or other petrochemical products)
- We are requesting a change to the purchasing affidavit requirement in the ordinance in order to restore operational effectiveness
 - This will not impact the environmental protections provided in the ordinance

Anti-Fracking Ordinance No. 1241

- Approved by BOR on May 7, 2018; effective June 6th
- Ordinance Implemented as Pre-Existing Contracts Expire
- Effective this April we are unable to directly obtain asphalt from local supplier
 - Local asphalt contractor will not sign affidavit
 - Next closest “signed” supplier is in Mount Vernon, NY
 - Cost increase from \$89 to \$115/ton
- Impact
 - Significant decline in number of potholes filled each day
 - Unlikely all curbing repairs will be done this season
- Potential additional challenges in the future as several bidders for other services or products have been unwilling to sign affidavit

Purchasing Implementation

- Ordinance in effect June 2018
- ~55 contracts for roads and real property have now been executed with the required affidavit
 - 1 contract inadvertently missing
 - Elevator maintenance contractor for Government Center piggybacking on state contract
 - Affidavit requested but not yet received
 - Contract expires July 31 – will obtain affidavit when new contract let
- A few bidders have declined to sign affidavit – so far, they have not been lowest cost supplier and therefore have not had an known impact on supplied products & services, until this April
 - While it is possible the affidavit requirement has resulted in increased cost by bidders, we have no information to confirm this
- The paving contract had 3 bidders on April 18th. Two declined to sign, but the low cost bidder has signed, so road paving will continue and has not been operationally impacted

Highways Major Activities by Season



SPRING

Paving
Potholes
Curb Prep
Sidewalks & Aprons

Access to local asphalt is critical to operational effectiveness in Spring until backlog is cleared



SUMMER

Paving
Curb Repairs
Storm Drain Repair



WINTER

Storm Snow Plowing
Limited Pothole Repair

YEAR ROUND
Storm Drain Cleaning
Street Cleaning
Debris and Animal Pickup



FALL

Paving
Finish Curb Repairs
Leaf Pick-up

Pothole Repairs – Capacity

Winter months

- After Leaf Pickup through early April largest potholes are priority. Limited hot asphalt access as most plants are closed.

Peak Pothole Season

- Early April until backlog cleared, usually early June
- Increased availability of hot asphalt is critical
- Majority of potholes are filled

Local Asphalt (spring)	New York Asphalt (winter)
4 tons/hotbox x 2 trucks	3 tons/truck x 2 trucks
1.5 tons/low boy x 2 trucks	No low boy trucks
Reload at 11:30am	No reload
Max of 22 tons/day = ~150 potholes/day	6 tons/day = ~40 potholes/day

Assumes relatively small potholes. Curb repairs require substantially greater tonnage.

Recent Large Asphalt Usage

Many repairs use a substantial amount of asphalt



Cove Island (3 tons or 1 hotbox)

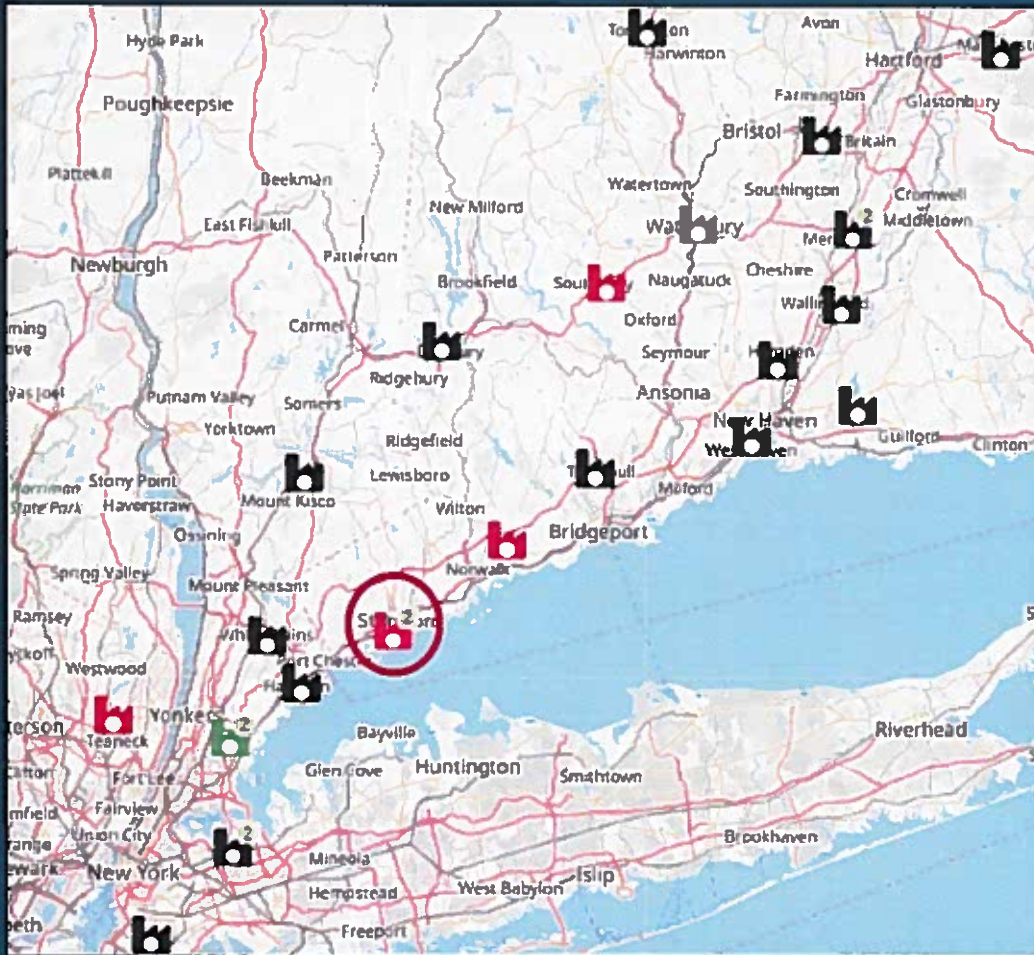


Corn Cake Lane (6 tons or 2 hotboxes)



E. Gaynor Brennan Golf Course Patches (2 tons)

Asphalt Suppliers



Contacted all suppliers on the State of CT list (39)
Contacted suppliers on Westchester County's supplier list (9)

RCA Asphalt & Pro Asphalt Mt. Vernon, NY
(same owner) are only two with signed affidavits.
City acquires hot asphalt from one of these two plants during the winter

Some suppliers proposed modifications to language
O&G in Stamford allows time for two trips per day



Willing

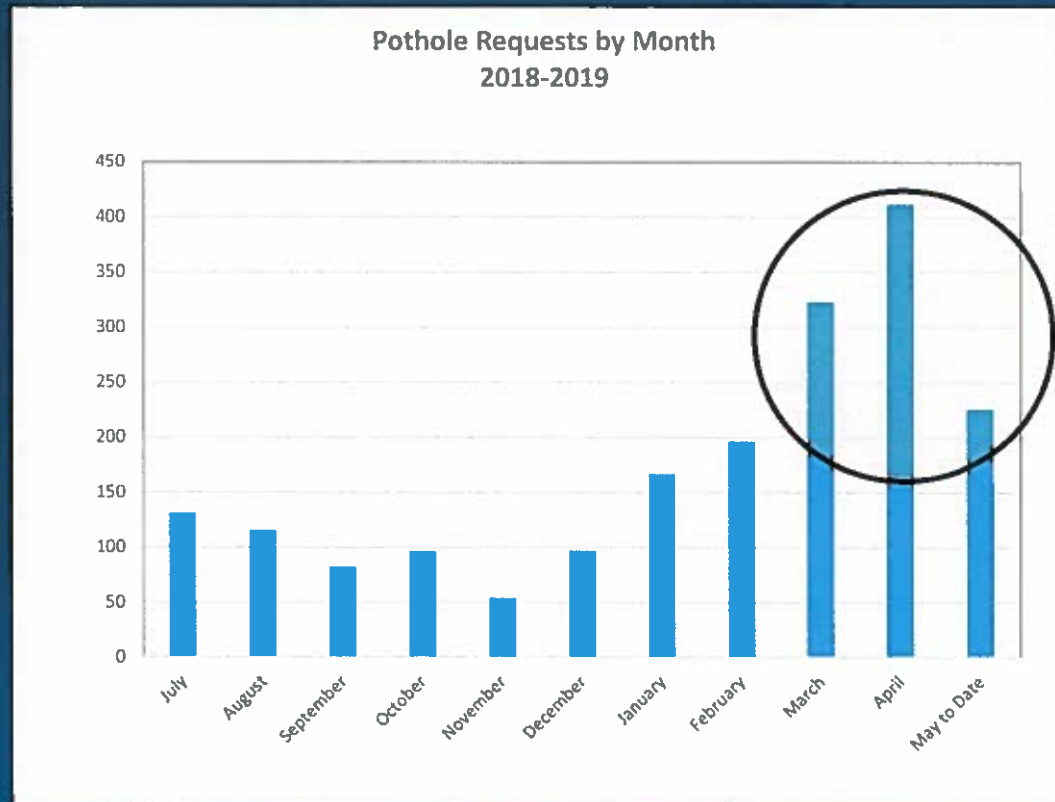


Unknown (no response or proposed modification)



Not Willing

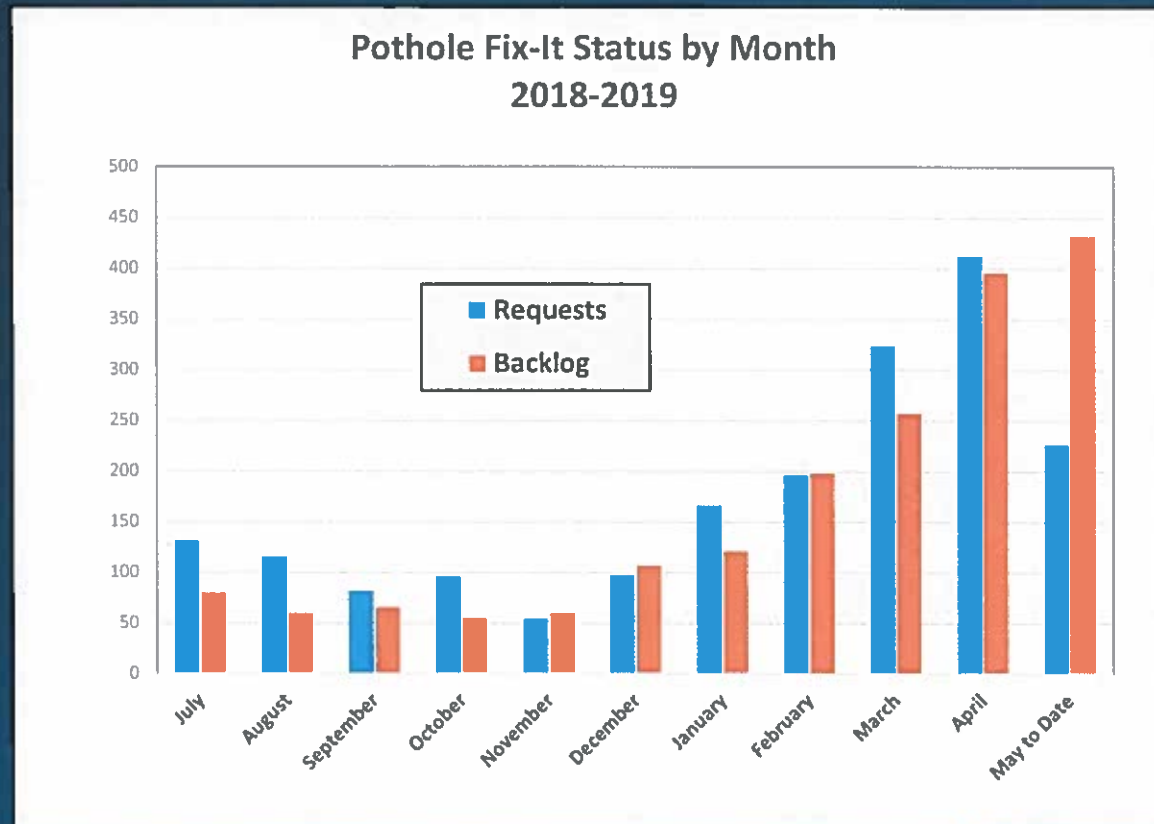
New Pothole Requests by Month



Pothole requests
accelerate in Spring

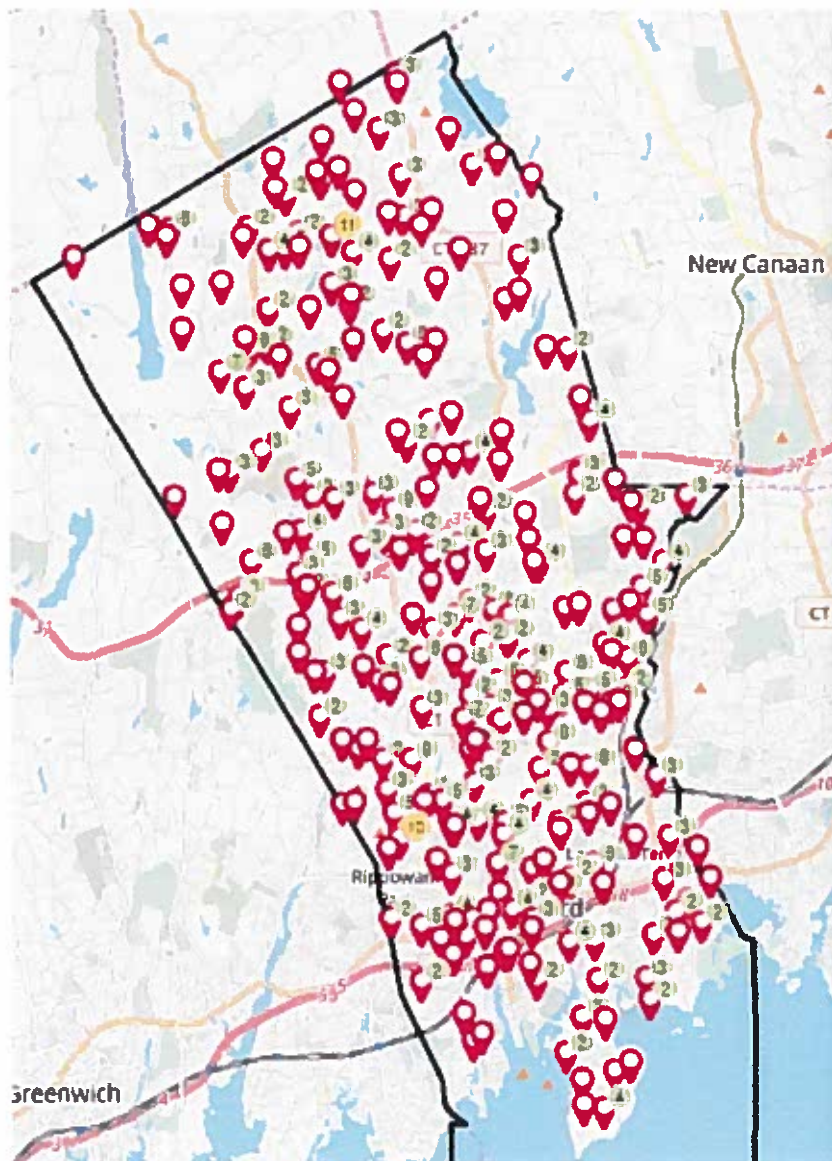
Note – often there are
several potholes for each
Fix-it request

Pothole Requests by Month



Pothole request
backlog is increasing

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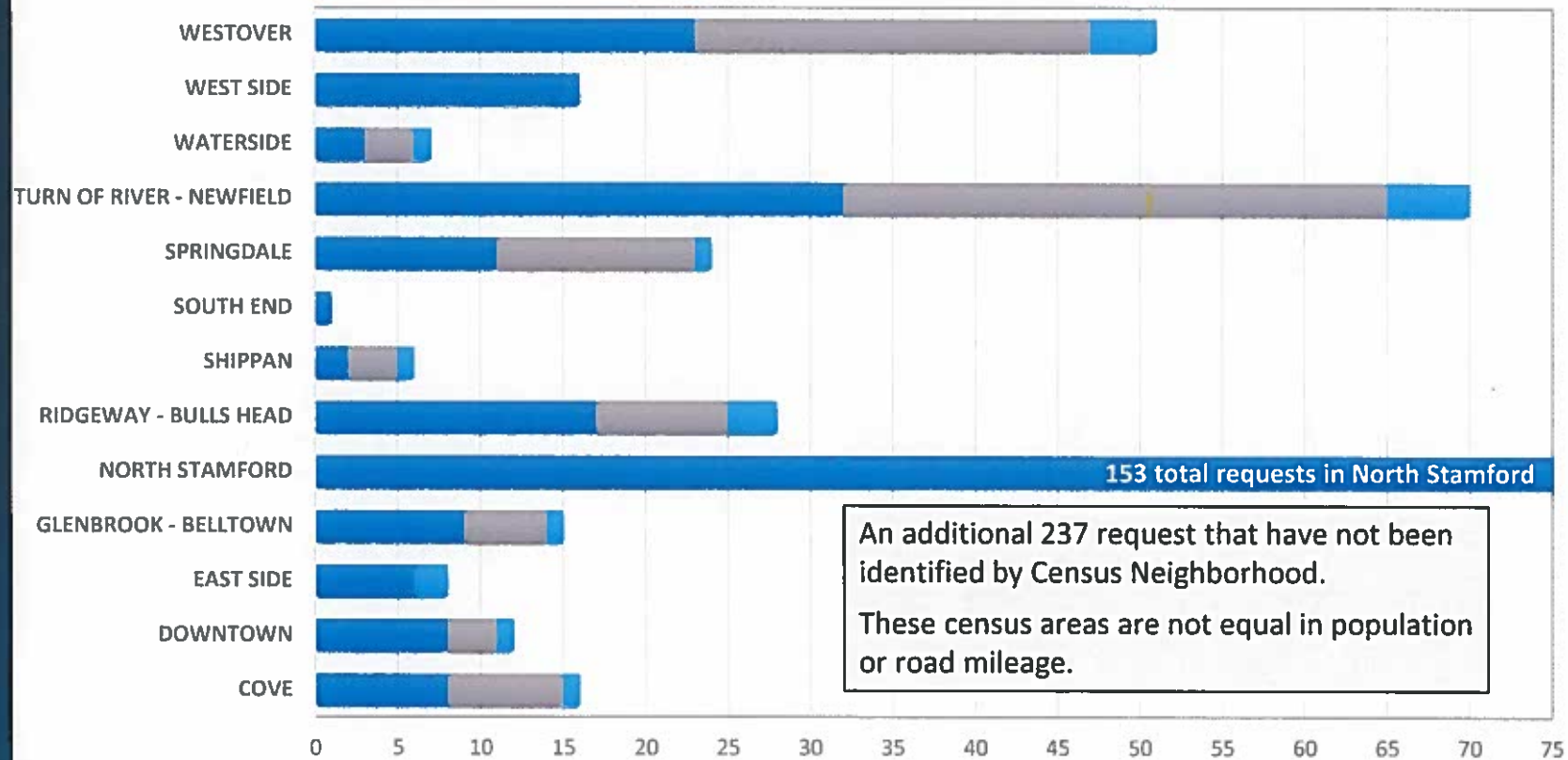


- 629 Fix-It Requests still waiting to be completed
 - Potholes
 - Curb Repairs
 - Apron Requests
 - Sidewalk/Footpath Repairs
- Average Days Open is now 59 days (goal is to fix new requests in 5 to 10 days or less)
- Open Pothole requests continue to increase
- Some notices of flooding on private property because of delayed curb repairs

* number of request too large to display on clear map numbers show amount of request in clusters

Pothole, Curb and Sidewalk Repair Backlog

Current Fix-It Requests



Impact to City Residents

- Pothole requests filled slowly
- ~ \$15,000 increase in asphalt cost
 - additional fuel expense and truck mileage
- Less productive worker hours
- Damage to residents' vehicles
- Yard flooding due to lack of curbs
- Unfixed and potentially hazardous sidewalk conditions
- Increased Damage Claims to the City
 - 32 Pothole damage claims; 60% since March
 - Tires, rims, axels, shocks, engines, transmissions, undercarriages

E-Mail Complaint

I recently had a very bad bicycle accident in Stamford, two weeks ago.

...

Has work come to a standstill?

...

pothole work is "delayed" due to a NO Fracking Waste clause or something in the contract w O&G. What is the problem, the status, and WHEN are they going to resolve it?

...

Safety first and this is a serious issue for making Stamford acceptable for bicycling!

Environmental Protection

The ordinance provides for protection from fracking waste, regardless of whether the purchasing affidavit is signed

... if a business located within the City of Stamford sells a product that is applied to City streets and the product contains fracking waste, the business will be in violation of section 171-4(D) of the fracking waste ordinance. That section prohibits the storage, sale, transfer or handling of fracking waste within the City. A violation of said section would subject the business to the penalties set forth in the ordinance.

Michael Toma, Law Department

Asphalt Use in Stamford



The vast amount of asphalt use in Stamford comes from O&G

There is no indication there is any fracking waste in O&G asphalt

Issue with Current Ordinance

Sec. 171-1. -- Purpose . . .

Sec. 171-2. -- Definitions . . .

Sec. 171-3. -- Prohibitions . . .

Sec. 171-4. -- Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the City.

- A. All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the City shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- B. All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the City shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the City.
- C. The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the City and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the City: "We _____ hereby submit a bid for materials, equipment and/or labor for the City of Stamford. The bid is for bid documents titled _____. ***We hereby certify under penalty of perjury that no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Stamford as a result of the submittal of this bid if selected.***"

Sec. 171-5. -- Penalties . . .

Sec. 171-6. -- Enforcement . . .

Sec. 171-7. -- Severability . . .

Sec. 171-8. -- Conflicts with Other Ordinances . . .

Sec. 171-9. -- Transportation . . .

All sections except 171-4.C in the ordinance are fine.

Responsible businesses are reluctant to certify what they cannot know with certainty

Issue with Current Ordinance

- **Responsible Businesses Are Reluctant to Certify What They Cannot Know**
 - Asphalt suppliers do not have direct control over raw materials; they rely on a supply chain
 - Supply chain frequently involves many different steps and vendors
 - There is no known test to verify that the materials do not contain fracking waste
- The affidavit could complicate vendors' ability to legally hold their suppliers accountable for supplying them with fracking waste.
- Less responsible bidders or who have "little to lose" may be willing to sign without regard for the consequences.
 - Many vendors may not fully understand potential legal issues from signing the affidavit
 - There is no requirement to conduct "Due Diligence" to check with their suppliers to ensure that fracking waste isn't used in Stamford

Requested Ordinance Change

Section 171-4C - Affidavit

- Option 1: Eliminate Affidavit Requirement
- Option 2:

"We ____ hereby submit a bid for materials equipment and/or labor for the City of Stamford. The bid is for bid documents titled _____. We hereby certify under penalty of perjury that we, after diligent inquiry of our material suppliers, have no knowledge of the presence of "natural gas waste" or "oil waste," as those terms are defined in the City Code of Ordinances, in any products we are selling to the City of Stamford or using in connection with the work which is the subject of the bid. ~~no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Stamford as a result of the submittal of this bid if selected.~~"

- Option 3:

"We hereby certify under penalty of perjury that, to the best of our knowledge and after diligent inquiry, no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Stamford as a result of the submittal of this bid if selected."

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 - It is increasing the cost to the City.
 - There may be additional future implications with other suppliers to the City (particularly GC construction bidders or other petrochemical products)
- We need a change to the purchasing affidavit requirement in the ordinance in order to restore operational effectiveness
 - There is no known issue with fracking waste in Stamford
 - This will not impact the environmental protections provided in the ordinance
 - The sooner we can make this correction, the better for the residents of Stamford