A U S T I N C I T Y C O U N C I L

# AGENDA



**Thursday, February 25, 2010**

**Solid Waste Services** **Item No. 50**
**RECOMMENDATION FOR COUNCIL ACTION**

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**Subject:** Approve the execution of a restated and amended contract with Mid-America Recycling, L.L.C. dba Greenstar for the transport, processing, and sale of commingled recycling material for a 36-month term with estimated revenue of $7,661,354 and estimated processing and transportation expenditures in an amount not to exceed $14,782,935 and four (4) 6-month extension options related to the completion of the City's proposed single-stream material recovery facility, with estimated revenue of $1,322,317 and estimated processing and transportation expenditures in an amount not to exceed $2,640,319 per extension option, for a total contract not to exceed $12,393,589.

**Amount and Source of Funding:** Funding is available in the Fiscal Year 2009 Operating Budget through an end of year accounting accrual and in the Fiscal Year 2010 Operating Budget of the Solid Waste Services Department.

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**For More Information:** Bob Gedert, Director (512) 974-1926, Tammie Williamson, Assistant Director, (512) 974-1997

**Prior Council Action:** June 5, 2008 - Council approved the current contract with Mid-America Recycling, L.L.C. dba Greenstar (formerly Vista Fibers).

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The Solid Waste Services Department (SWS) implemented Single-Stream Recycling in October 2008 and executed a short-term contract, approved by Council in 2008, with Mid-America Recycling, L.L.C. dba Greenstar for the transportation, processing, and sale of single-stream recycling material. The City executed a short-term contract in order to evaluate options to build a new local Single-Stream Material Recovery Facility (SSMRF). Although the City recently issued a Request for Proposal (RFP) to establish and operate a local SSMRF, selection and construction could take some time to complete. The City's contract with Greenstar expires on September 30, 2010, and there are no extension options after September 2011.

On December 17, 2009, Council authorized staff to renegotiate the contract based on the amendment option 3 with the Solid Waste Advisory Commission's recommendations and return to Council for authorization to execute.

Summary of Proposed Contract Amendment. The proposed contract amendment will reduce the current processing fee by $3.50 per ton for all materials collected in the single-stream recycling program for the remainder of the existing 2-year contract term, and requires the City to immediately execute the two (2) 6-month extensions, effectively extending the contract through September 2011. The anticipated savings in processing costs, compared to current costs for the same time period, is approximately $400,000 – assuming 100% of the material is delivered through the entire contract period. After March 2011, the City is only required to deliver 50% of all material to Greenstar. By not sending 50% of the material to Greenstar from April 2011 through September 2011, there would be a cost avoidance of approximately $690,000, but the City would have to find a more economical alternative for processing the material in order to realize any further savings than those provided by the pricing in this amendment. This amendment also includes four (4) 6-month extension options after September 2011, requiring only 50% of

the material, and the City will have the right to exercise the extensions one at a time. This amendment will allow the City flexibility in anticipation of a new local SSMRF.

The City is committed to deliver 100% of the material to Greenstar for 30 months but during the last six months of the 36-month period, and for each 6-month extension option thereafter, the City is only required to deliver 50% of its material to Greenstar. The City will notify Greenstar no later than sixty (60) days prior to each 6-month extension option if the City intends to exercise another 6-month option in full, or if the City believes the start-up of the new SSMRF will occur within the subsequent six-month option period. In the event the new SSMRF is expected to be operational within the identified six-month option period, Greenstar will agree to work cooperatively with the City and its SSMRF contractor on a month-to-month basis during the transition phase.

Staff Recommendation. Staff recommends approving the proposed amendment which will (1) allow the City to continue providing Single Stream Recycling services to Austin residents and (2) provide the City with flexibility while planning for construction of a local SSMRF.

Detailed Background. The current Greenstar contract was negotiated during the spring of 2008, approved by Council on June 5, 2008, and went into effect on October 1, 2008. The current contract is a 2-year agreement with two (2) 6-month extension options. Terms of the contract included a stipulation that all transportation costs and processing fees due to Greenstar were to be deducted by Greenstar from the gross revenue from the sale of recyclable materials collected by the City of Austin. The contract was amended in February, 2009, to clarify terms related to transportation costs.

During the first year of single-stream recycling operations, the program experienced a 50% increase in the amount of materials being recycled as well as a decrease in operational costs as a result of moving to every-other-week collections. However, the worldwide economic downturn caused an unpredictable and severe negative effect on recycling markets. As a result, the City experienced a deficit. To address the City's contract concerns, the City and Greenstar discussed: 1) extending the length of the contract to ensure there is no interruption in the Single-Stream Recycling Program before a local SSMRF is operational, 2) establishing lower processing fees in exchange for extending the contract length, and 3) obtaining proper authorization to pay any amount owed to Greenstar throughout the term of the contract. On December 17, 2009, Council provided authorization to pay the amount currently owed to Greenstar for transportation and processing costs and authorized staff to complete negotiations with Greenstar, with additional discussion on utilizing audit procedures, specifying the definition of market prices, and obligating Greenstar to recycle all recyclables sent to them by the City of Austin.

Proposed Amendment Details. Greenstar will reduce the current processing fee by $3.50 per ton for all materials collected in the single-stream recycling program, provided the City commits to the remainder of the existing 2-year contract term and immediately executes the two (2) 6-month extensions, effectively extending the contract through September 2011. This amendment option also includes a series of four (4) 6-month extension options after September 2011 in which the City will have the right to exercise the extensions one at a time.

Council authorization to execute this amendment option is requested to provide Greenstar the total amount due for processing and transportation services. Estimated total expenditures for processing and transportation services, and estimated gross revenue under this amendment option are as follows:

*36-Month Commitment

10/1/08 through 9/30/11

Estimated Total Expenditures - $14,782,935

Estimated Gross Revenue - $7,661,354

*Additional Four (4) Six-Month Extensions (Each at City's Option)

10/1/11 through 9/30/13

Estimated Expenditures per Option - $2,640,319

Estimated Revenue per Option - $1,322,317

*Note: During the last six months of the 36-month period, and for each 6-month extension option thereafter, the City is only required to deliver 50% of material to Greenstar. For purposes of estimating expenditures and revenue, 100% of material is used.

Over the 36-month commitment through September 2011, a conservatively estimated gross revenue amount of $7,661,354 is expected (assuming 100% of material is delivered), with expenditures for processing and transportation services estimated at $14,782,935. Total processing fee savings over the 36-month period when compared to current contract terms is estimated at approximately $400,000. Each of the four additional 6-month extension options after September 2011 will be exercised by the City as needed.

With regards to the specific concerns identified by the City Council, the proposed amended contract includes clauses that:

(1) Strengthen the City's ability to conduct a thorough audit;

(2) Clarify the recycling market being used to calculate revenues;

(3) Explicitly requires the contractor to recycle all material that can be recycled, regardless of profitability; and

(4) Clarifies back payments and authorizes future payments to Greenstar.