



MEMORANDUM

TO: Mayor and City Council

CC: Zero Waste Advisory Commission
Austin Energy Utility Commission
Water / Wastewater Commission

FROM: Bob Gedert, Director
Austin Resource Recovery

DATE: December 13, 2016

SUBJECT: City Facilities Dumpster Collection Services Contract

The purpose of this memo is to provide background on this proposed contract and address various concerns raised by stakeholders and Commissioners regarding the City Facilities Dumpster Collection Services contract scheduled for Council consideration on December 15, 2016.

BACKGROUND

This Request for Proposal (RFP) covers four specific waste and recycling services:

- Servicing city-owned facilities,
- Dumpster collection for operational needs,
- Servicing city sponsored special events, and
- Servicing Austin Energy Industrial Class 2 and Special Wastes.

Servicing city-owned facilities – As you know, City employees collect residential trash within our service area. We are limited to that service by City Code Chapter 15-6-11 which stipulates that the City may only provide collection service to residential properties with less than five dwelling units. Therefore, because Austin Resource Recovery (ARR) only provides residential trash cart service, the City contracts with a private hauler to pick up trash and recyclables from our city facilities. This new contract adds organics collection to city facilities, including City Hall. This service is typical for any public or commercial facility.

Dumpster collection for operational needs - The City regularly needs dumpster collection for emergency clean up situations that require trash and recycling services. Under the current

contract with Republic Services, the Department has relied on Sections 3.0 (C) *Special Collection* and (D) *On-Call* to obtain dumpsters for emergency clean-up of the 2014 and 2015 floods. We need to have this “on-call” service already under contract in order to respond to our community after an emergency. The new contract includes specific standards to meet emergency and storm debris management needs in situations that require larger-scale clean-up volume than the City is able to provide with existing equipment and personnel.

Servicing city sponsored special events - Since approximately 2007, ARR has contracted to provide dumpster service to City Co-sponsored events and other department sponsored events such as the Austin New Year. Due to the volumes of waste generated and need to store trash or recycling overnight, special events – including City Co-sponsored events – generally require dumpster service. As mentioned above, ARR only provides cart service so we contract with a private hauler to provide dumpster collection for city special events that require trash and recycling services. When ARR is asked by a City Co-sponsored event organizer to coordinate their waste management needs, ARR staff utilizes the city facility dumpster contract. The fee waiver presented to Council includes a request to waive recycling dumpster service fees. The event organizer is billed at the same rate charged to the City for landfill trash dumpster service. As a governmental entity, ARR does not profit from any services provided, including coordinating dumpster service. A full list of city special events noted in the RFP is attached.

This proposed contract **does not** require event organizers to use ARR coordinated services. It is not the intent of ARR to enlarge services, but rather better manage the waste flows of special events where the organizer does not have the capacity to sign a waste hauling contract. Instead, approval of this contract maintains the status quo which:

- 1) Offers waste and recycling services through a competitive bid from a private hauler to gain the best pricing available;
- 2) Allows the event organizer to request bids to choose from various waste management service providers or use the ARR selected contractor; and
- 3) Enables the City to provide coordinated dumpster service using a Council approved contract, if the event organizer chooses ARR coordinated waste management services.

Servicing Austin Energy Industrial Class 2 and Special Wastes – Class 2 and Special Wastes are defined by the Texas Commission on Environmental Quality (TCEQ) as “solid waste that does not meet the criteria for hazardous waste....” Section 2.6 of the RFP specifically states that the Class 2 and non-hazardous special wastes generated by the City include used treated wood utility poles, certain contaminated soil, Class 2 wastewaters, rust, spent desiccants, unused solid chemical products, non-PCB bushings/capacitors, and asbestos. These wastes are normally generated during the normal course of operating an energy plant.

This service, specifically for AE, was brought to Council for their consideration at the December 10, 2015 Council meeting. At that time, Council voted not to extend a contract with Republic Services to manage Austin Energy’s (AE) Class 2 non-hazardous waste. Instead, Council directed

staff to develop a contract solicitation that would NOT be Austin Energy specific, but would be broader so as to include every City Department. Council wanted to ensure that the City would not bring forward several department-specific contracts but instead bring a city-wide contract that would include diversion requirements and address pricing concerns. This is consistent with the Council direction from April 11, 2013 regarding folding in the AE contract into a city-wide contract for waste and recycling services provided to city facilities. AE is currently relying on an existing contract with Green Environmental Services. However, this contract was intended for remediation services of construction projects. Using the contract with Green Environmental Services as opposed to a dedicated contract for Class 2 materials is causing significant inefficiencies in AE's ability to manage its waste stream from various power plant facilities.

PREPARATION FOR THIS SOLICITATION

Soon after the December 10, 2015 Council meeting, ARR and AE staff discussed options to move forward with a new solicitation. At the time, ARR recognized that the city facilities dumpster contract was scheduled to expire and acknowledged Council's concern that Class 2 and Special Wastes could be generated by other Department activities. To streamline contract management needs and utilize the City's economies of scale, ARR and AE jointly agreed to include Class 2 and Special Wastes in the new solicitation for use by all City departments. When drafting the RFP, staff considered Council's concerns regarding diversion requirements and other environmental issues.

Subsequently, after meeting with City departmental stakeholders, Austin Resource Recovery developed this RFP to accomplish the following goals:

1. Streamline contract management and respond to direction from City Council to combine various departments' waste contracts into a single contract;
2. Benefit from the economy of scale generated by combining contracted waste collection services into one solicitation;
3. Provide specific standards to meet the Departments' customer service needs; and
4. Address Austin Energy's and other City department's need to manage Industrial Class 2 and Special Wastes.

BIDS RECEIVED

The Request for Proposals (RFP) closed on July 28, 2016. Despite statements made by stakeholders, there were two respondents: Republic Services, Inc. and Waste Management of Texas, Inc. Proposals from both respondents were evaluated in accordance with the evaluation factors included and published in the RFP which consisted of the following:

- Overall costs and best value to the City
- Company experience and history
- Company facilities and equipment used to perform services
- Community impact and zero waste collaboration efforts
- Compliance with all regulatory requirements
- References

COMMISSION CONSIDERATION

Three commissions were asked to consider the Request for Council Action (RCA) to authorize and negotiate a contract for refuse, recycling, organics, and special waste collection for city facilities and operations; the Zero Waste Advisory Commission (ZWAC), Water and Waste Water (W/WW) Commission (in respect to servicing Water facilities) , and Electric Utility Commission (EUC).

The **ZWAC** recommended against the proposed contract. Their stated objections were as follows:

- *“Lack of diversion policies/goals;*
- *Inclusion of the Austin Energy waste which is problematic for reasons that date back to original version of the contract rejected by Council*
- *Expansion of services*
- *Tripling of cost*
- *Lack of information about location of the landfill*
- *Lack of information about carbon footprint*
- *Concern about the impact of special events services”*

The **EUC** chose not to take action on the item. Commissioners expressed concern that Austin Energy (AE) did not have a contract to manage its Class 2 waste stream. During the discussion, Commissioners also noted that the issues being highlighted were ARR policy issues with minimal reference to AE. Therefore, they did not feel comfortable taking action on the item.

The **W/WW** Commission inquired as to whether or not the dumpster contract would be utilized for the purpose of moving biosolids. Staff explained that the contract is not intended for that use since AWU is committed to composting biosolids. The Commission voted unanimously to recommend approval of the contract.

CONCERNS/ISSUES and STAFF RESPONSE

- “This contract expands the service authority of Austin Resource Recovery”
STAFF RESPONSE - This contract does not service commercial building accounts for non-city buildings, and does not include any wastes streams referenced in the Synagro or Click contracts recently reviewed by City Council.
- “Policy via RFP - ARR is attempting to provide dumpster service throughout the community to “take over” from private haulers” –
STAFF RESPONSE – As stated above, this contract does not service commercial building accounts for non-city buildings, and does not include and wastes streams referenced in the Synagro or Click contracts recently reviewed by City Council. City Code Chapter 15-6-11 stipulates that the City may only provide collection service to residential properties with less than five dwelling units. By ordinance, the City staff are not able to provide dumpster service to commercial and multi-family properties.

- “Why doesn’t the City just contract for these services directly from Texas Disposal Services (TDS) under its existing landfill services contract?”

STAFF RESPONSE – Past City Council practices and preferences dictate that these services go through a competitive bidding process. We agree that a competitive process is a “best practice” throughout the country and support the Council policy. However, if City Council prefers to award these services to TDS without a competitive process, the existing landfill services contract is worded broadly enough that Council could just award the work to TDS. While other providers may balk at such an award...this industry is highly competitive... that is a policy decision within Council’s discretion. Therefore, in compliance with that fundamental “competitive bidding” practice, ARR will continue to solicit for private hauler services for City departmental operations at competitive rates and provide these contracts for Council consideration.

- “There are no diversion requirements or standards whatsoever.”

STAFF RESPONSE - Sections 4.6 thru 4.8 of the RFP clearly state that any materials source separated for recycling or composting must be processed at a legally operated facility agreed upon by the City for recycling or composting. Contract negotiations could allow the City to clarify any facilities that are not eligible for use. Regarding Diversion requirements, the Universal Recycling Ordinance (URO) places the responsibility of diversion goals onto the organization that generates the waste stream, not the private haulers who transport the material.

- “ARR contracted dumpster service for City Co-sponsored events could possibly take opportunities from private haulers.” STAFF RESPONSE - To address this concern, Council could pass a resolution directing ARR to discontinue providing services or provide limited services to City Co-sponsored events, excluding coordinated dumpster service. This would mean that the event organizer would coordinate directly with a private hauler and incur all dumpster service fees directly from the hauler. Events organized by a City department would still be able to secure services under the proposed contract. For example, Austin’s New Year and AE’s Community Resource Fair are events that are organized by City staff, included in participating Department budgets, and require dumpster service.

- “Concerns were raised regarding the qualifications of selected Disposal Facilities”

STAFF RESPONSE – Recognizing environmental and diversion concerns expressed previously by Council, the new RFP stipulates that the City will not send waste to a non-qualified or non-permitted facility. During the solicitation process, vendors were required to submit ten year compliance histories of any potential contractor. Additionally, materials that are source separated for recycling or composting must be processed at a legally operated facility agreed upon by the City for recycling or composting. Processing and disposal facility information cannot be disclosed at this time because state law prevents disclosure of bid proposal specifics, such as subcontractors, until Council approves the bid and accepts the proposal. As previously stated, contract negotiations could include the City clarifying any facilities that are not eligible for use.

- “Options for Utility Pole Recycling are preferred over landfilling”
STAFF RESPONSE - Specific to recycling utility poles treated with creosote, ARR staff researched diversion options and found that there are generally three methods currently available and each have their own challenges:
 - Reuse – some utilities offer utility poles to the public for reuse as fence posts and other salvage purposes. However, there may be liability concerns to offering chemically treated poles for use by the public. Texas Disposal Systems (TDS) indicated that when they had the contract with Austin Energy, they reused the utility poles. However, they have not produced documentation indicating proof of reuse vs stockpiling.
 - Incineration/Waste-to-Energy – some utilities grind and chip up the utility poles use as fuel at waste-to-energy facilities, considering this practice as diversion. From a Zero Waste perspective, waste-to-energy systems are lowest on the hierarchy of best use. Additionally, the environmental community has expressed concern about the carbon footprint impact of waste-to-energy systems.
 - Landfill Disposal – many utilities dispose of their utility poles in landfills. From a Zero Waste perspective, disposal is generally the last option on the hierarchy of best use.

Chemically treated utility poles cannot be recycled, and all utilities have limited options. However, ARR and AE can negotiate language into the contract that would divert utility poles based on the City Council’s preferred management method.

- “Staff is attempting to utilize this contract to manage biosolids”.
STAFF RESPONSE - Although biosolids are considered a Class 2 or Special Waste stream by TCEQ, Austin Water (AW) is committed to composting its biosolids and does not intend to utilize this contract for biosolids management. If an emergency situation occurred such as severe fire risk, other imminent threat to health and safety, or imminent risk of regulatory non-compliance that could not have reasonably been foreseen, AW would first rely on its biosolids management contractor. But, if AW’s contractor proved to be unreliable or needed assistance, AW could utilize this contract and direct the material to a compost facility. In such a situation, AW would notify the City Council via a Corrective Action Memo within five business days of the declaration of emergency conditions.
- “ARR is expanding the contract to include Organics Collection”
STAFF RESPONSE – Yes, this contract includes Organics collection to City facilities, including City Hall, via the contracted hauler. The current city facility dumpster contract does not include organics collection. This new contract would ensure the City’s ability to comply with the Universal Recycling Ordinance’s (URO) organics diversion requirements and make collection of food waste available to all *city facilities*, including City Hall (as

requested by several Council members). This contract does not offer organics collection to non-city buildings or other commercial businesses.

Staff recommends approval of the contract. Contract approval could also be accompanied by clarifications to:

1. As Council expressed concerns about specific landfills in Northeast Austin, Council could exclude specific disposal or processing facilities from availability to the vendor during contract negotiations. This option requires specific objective criteria to avoid the legal liability of flow control;
2. As stakeholders have expressed concerns about the extensive length of the special events, Council could exclude the provision of dumpster service to special events, with an exception for events that are organized by a City department. This action would place the responsibility of contracting for waste/recycling services onto the event organizer;
3. It is the intent of ARR to exclude biosolids management from this contract, except in emergency situations such as severe fire risk, other imminent threats to health and safety, or imminent risk of regulatory non-compliance that could not have reasonably been foreseen. Council could direct Austin Water to notify the City Council via Corrective Action Memo within five business days of declaring the emergency condition before utilizing this contract for Biosolids management.

For more information, please contact ARR Director Bob Gedert at 512-974-1926.

Attachment: City special events listed under this RFP solicitation

City Facilities Dumpster Collection Services Agreement (RFP#SLW0514) Special Events

Austin Resource Recovery uses third-party contractors to provide dumpster service for events that are City Co-Sponsored, Department Sponsored, held at City facilities, and in the event of emergencies. The dumpster service includes transportation, collection, and processing of refuse, recycling, brush and compostable materials. Container size, location, and quantity are based on an event organizer's request, event history, and ARR's waste management recommendations. A summary of dumpster services include the resources to be waived (recycling dumpster) and the services to be covered by the event organizer (landfill trash).

Official annual City Co-Sponsored events are approved by the City Council and include:

Veteran's Day Parade	Austin PRIDE Event
Juneteenth Parade & Festival	Austin Symphony July 4th Concert & Festival
Martin Luther King Jr. Parade & Festival	Zilker Kite Festival
Fiesta de Independencia (Diez y Seis)	HOPE Farmers Market
Celebrate Texas Parade & Run	VIVA la Vida Parade & Street Festival
Austin Farmer's Market	Merry Memories Event
SXSW Festival & Free Music Concert Series*	Viva! Streets Ciclovia

Other annual events that have received City sponsorship or are coordinated as a result of a public private partnership include:

African American Heritage Festival (City Manager Sponsored)
Urban Music Festival (City Manager Sponsored)
Austin New Year (Public Private Partnership)
Trail of Lights (Public Private Partnership)

The list of official annual City Co-Sponsored events is subject to change at City Council's request. Event organizers can also request City Co-Sponsorship before the event or after the event has concluded.

**The SXSW Festival is a ten day City Wide Co-Sponsored event and generates highly anticipated foot traffic in the Downtown Austin area. All dumpster services required by properties located in the district fall under the City's current dumpster contract for the Central Business District. Properties located outside of the contracted area are told to coordinate with their existing service provider for increased collection and/or number of containers.*

***The Austin City Limits Music Festival is a two weekend event that takes place at Zilker Park. As of 2015, the event has not been labeled an official City Co-Sponsored event. Therefore, Austin Resource Recovery has not been requested to contract container services, and the event production company handles their own waste management needs within the event footprint.*