

25 a net benefit to the City, overall, it would result in increased operating cost to the City,
26 require significant investments in equipment, and, in many cases, result in diminished
27 service provision as a result of reduced flexibility in the City's ability to adapt to
28 situational operational fluctuations which is a major advantage to and rationale for
29 utilizing contractors"; and

30 **WHEREAS**, in the years after release of the October 1, 2012, memo quoted
31 above, City Council Members have on multiple occasions questioned this continued
32 practice of outsourcing basic services; and

33 **WHEREAS**, during Council consideration of multiple security contracts, staff
34 memos issued on February 10, 2017, and March 1, 2017, evaluated costs for in-
35 sourcing the services and affirmed the earlier findings that employing security guards
36 costs more than contracting for services and concluded that each department's security
37 needs fluctuated and that some required more specialized training; and

38 **WHEREAS**, a January 29, 2018, staff memo related to two custodial services
39 contracts also recommended outsourcing as the more fiscally advantageous strategy,
40 stating "as the contractors' prices include supervisory support and related operational
41 expenses, these additional costs that the City would need to provide separately were
42 added to the City's staffing costs for purposes of this comparison"; and

43 **WHEREAS**, on multiple occasions, the City Council has embedded fair
44 processes and fair wages into requirements within the City's contracting processes; and

45 **WHEREAS**, one such example is Resolution No. 20140417-050, which directed
46 the City Manager to require that construction contracts and the purchase of goods and
47 services include an anti-retaliation and anti-discrimination policy and that non-

48 compliance would lead to termination and could hinder a contractor’s eligibility for
49 future contracts; and

50 **WHEREAS**, including an offeror’s Department of Labor record can help ensure
51 that the City continues its dedication to establishing a safe and non-exploitative
52 workplace for all employees, both permanent and contracted; and

53 **WHEREAS**, a growing body of research focuses on public sector contracting
54 and its economic and social impacts; and

55 **WHEREAS**, National Employment Law Project’s (NELP) report, “The Road to
56 Responsible Contracting: Lessons from States and Cities for Ensuring That Federal
57 Contracting Delivers Good Jobs and Quality Services,” recommends that the public
58 sector:

- 59 • Institute more rigorous responsibility screening of prospective bidders to
60 ensure that federal contracts are not awarded to employers that are significant or repeat
61 violators of workplace, tax, or other laws,
- 62 • Establish a preference for employers that provide good jobs in the
63 contractor selection process, prioritizing firms that provide living wages, health
64 benefits, and paid sick days,
- 65 • Strengthen monitoring and enforcement of contractor compliance with
66 existing and new workplace standards; and

67 **WHEREAS**, the report also cites studies that have concluded that “better paid
68 workforces typically enjoy decreased employee turnover (with corresponding savings
69 in re-staffing costs), increased productivity, and improvements in the quality and
70 reliability of the services that they provide”; and

71 **WHEREAS**, the report recommends governments “reevaluate the scale of past
72 outsourcing and bring back ‘in-house’ many functions that are performed by
73 contractors”; and

74 **WHEREAS**, while the report focuses on federal government contracting, many
75 of the conclusions remain worthy of discussion at the local level; and

76 **WHEREAS**, acknowledging the extensive body of academic and City research,
77 as well as Council’s persistent interest in this issue, a Contract Labor Working Group
78 (“Council Working Group”) comprised of four Council offices was formed and set the
79 following goals:

- 80 • Establish criteria the City shall use to assess which services should be
81 delivered by City staff,
- 82 • Identify community values that can be embedded in future contracts,
- 83 • Assess budget considerations,
- 84 • Outline a transition process for phasing out contracts for services to be
85 delivered by City staff,
- 86 • Devise a mechanism to allow for an annual living wage adjustment in
87 future contracts,
- 88 • Revise the City’s hiring process to allow previously contracted employees
89 to receive some hiring preference; and

90 **WHEREAS**, the Council Working Group focused on the following labor
91 categories:

- 92 • Security guard contracts,

- 93 • Custodial contracts,
- 94 • Contracted employees at the 3-1-1 and Austin Energy Call Centers,
- 95 • Landscaping; and

96 **WHEREAS**, the Council Working Group worked in close consultation with the
97 Purchasing Department, as well as departments in which the contracting needs are more
98 specialized, such as the Austin Water Utility; and

99 **WHEREAS**, the Council Working Group identified areas that warranted
100 additional analysis, such as:

- 101 • Supervisor salary rates,
- 102 • The ratio of contracted employees to supervisors,
- 103 • Methods for determining the actual salary of contracted employees (versus
104 just compliance with the living wage requirement),
- 105 • The variable need for contracted services throughout the year,
- 106 • Other costs embedded within contracts,
- 107 • How the City monitors a contractor's return on investment,
- 108 • Contractor employee retention plans,
- 109 • The number of full-time and part-time employees within each contract,
- 110 • Turnover rate for contracted employees,
- 111 • Costs of equipment supplies, uniforms, vehicles, and other equipment and
112 an assessment of which entity bears those costs, and

- Whether a contracted employee interacts with a vulnerable population; and

WHEREAS, the Council Working Group used the Austin Energy janitorial contract on the April 25, 2019, agenda as a “test case contract” to work through these various elements and questions; and

WHEREAS, the Council Working Group submitted questions to the Council Q&A regarding the proposed contractor’s retention plan, the rate per hour that employees receive, and the contractor’s turnover rate in comparison to the City staff turnover rate in this field of work; and

WHEREAS, staff responded that the proposed contractor’s annual turnover rate is 40% as compared to Building Services Department’s annual turnover rate of 9.5%; and

WHEREAS, the Council Working Group determined that due to differences between the City and the contractor’s title classifications, the supervisory costs estimated in previous staff memos were higher than would actually be realized should the positions be brought in-house and classified appropriately and the employee-supervisor ratio re-balanced; and

WHEREAS, the Council Working Group sees value in contracted employees with City experience and expertise serving as City staff, as appropriate; and

WHEREAS, generally, if a service has been contracted for five or more years and the contract includes 20 or more employees or is worth more than \$500,000 and has a total employee pool that has varied by less than 75%, the service should be delivered by City employees; and

135 **WHEREAS**, if the primary cost differential between contracted labor and the
136 cost to bring employees in-house is the absence of quality health insurance, the City
137 strongly affirms that these positions become City positions; and

138 **WHEREAS**, some contracts for employment services contain a non-solicitation
139 clause that prohibits the City from directly hiring a contractor’s employees during the
140 contract term and for six months after the contract has ended, unless by agreement with
141 the contractor; and

142 **WHEREAS**, understanding that the City will likely need to contract at some
143 level for services within these four areas of interest, the City Council desires to update
144 city practices with regard to such contracts; and

145 **WHEREAS**, the Municipal Civil Service rules governing the competitive
146 selection process for employment assign seniority points based on current City
147 experience to full-time regular employees but not to individuals currently or previously
148 employed as a contractor; and

149 **WHEREAS**, it is critical that the vendors the City contracts with to perform
150 municipal duties align with our community’s values of justice, dignity, and safety in the
151 workplace; and

152 **WHEREAS**, in June of 2017, Forbes Magazine named the City as the highest-
153 ranking employer in the government services sector; and

154 **WHEREAS**, individuals delivering a consistent municipal service should be
155 included within the City’s workforce; **NOW, THEREFORE,**

156 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

157 Upon passage of this resolution, the City Manager is directed to consider the
158 following questions to determine whether custodial, security, call center, or landscaping
159 services should be contracted or provided by regular City staff. The City Council may
160 give future direction to include other services within this analysis.

161 1. Assessing permanent need

- 162 • How long has a contract been in place?
- 163 • How many employees have been hired for each stage of the contract?
- 164 • What is the size of the contract?

165 2. Assessing exceptional circumstances

- 166 • Are there any specialized needs such as security clearance or specialized
167 training/certifications that would be costly to provide?
- 168 • What are the hours required within a 24-hour period?
- 169 • Are there any other factors that would make outsourcing a preference over
170 hiring?
- 171 • Do the contracted employees work with vulnerable populations?

172 3. Assessing costs

- 173 • Are estimated salary costs for the contractor and City employees in similar
174 positions based on the same job title and hourly wage?
- 175 • What hourly wage will the contracted employee receive? What hourly wage
176 will the City pay for that contracted employee?

- 177
- How does the contractor benefits package compare to City’s benefits?
 - 178
 - Does the employee of the contractor bear any additional costs?
 - 179
 - How does the turnover rate of contract employees compare to employees in
 - 180
 - similar positions at the City?
 - 181
 - Are there any savings that accrue to the City beyond the cost differential
 - 182
 - attributable to benefits?

183

4. Provide flexibility/access

- 184
- Are there some employees who would prefer to remain contracted employees?

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BE IT FURTHER RESOLVED:

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The City Council directs the City Manager to prepare a list of custodial, security, call center, landscaping, and other service contracts recommended for continuation and those recommended to be replaced with City staff no later than December 1, 2019. For contracts that will expire within Fiscal Year 2019-2020, the Council directs the City Manager to provide individual assessments as soon as possible and, in the event that the full analysis cannot be completed by the December 1, 2019, in advance of completion of the full report.

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If the City Manager recommends continuing to contract for certain services, he shall provide a detailed justification for that recommendation.

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For any future custodial, security, call center, landscaping, or other service contracts the City Manager deems appropriate to continue, a detailed justification shall accompany the Recommendation for Council Action (RCA).

198 **BE IT FURTHER RESOLVED:**

199 The City Manager is directed to explore city hiring policies, no later than
200 December 1, 2019, as follows:

- 201 • The City Council directs the City Manager to evaluate the discontinuation of the
202 inclusion of non-solicitation clauses in the City’s contracts that relate to custodial,
203 security, call center, and landscaping services.
- 204 • For current contracts that contain these clauses, the City Manager is directed to
205 take steps to remove these clauses as an impediment for future employment upon
206 conclusion of the contract with as little disruption as possible.
- 207 • The City Council directs the City Manager to consider using or creating titles
208 equivalent to those used by the contractors for custodial, security, call center, and
209 landscaping services. In conversation with AFSCME, the City Manager shall
210 explore considering employment with a City contractor as a preferred
211 qualification and awarding seniority points for such experience. Any individual
212 employed by a former contractor and who has worked for the City of Austin
213 within the previous year shall potentially receive an interview, provided they
214 meet minimum qualifications for the position, and the City Manager shall attempt
215 to implement an expedited hiring process for these positions.

216 If the City of Austin has a practice of maintaining a particular supervisor-
217 employee ratio, the City Manager is directed to articulate this policy, to consider
218 whether the City should alter the ratio to achieve cost and efficiency savings, and to
219 report any recommendations to Council no later than **December 1, 2019**.

220 **BE IT FURTHER RESOLVED:**

221 Understanding that the City of Austin will likely need to contract at some level
222 for services within these four areas of interest, the City Council desires to update city
223 practices with regard to such contracts. The City Council may issue future direction to
224 require contracts for other services to include these provisions.

225 Upon passage of this resolution, the City Council directs the City Manager to
226 provide in future RCAs, as well as custodial, security, call center, landscaping, and other
227 service contracts recommended for continuation, the following information for each
228 offeror recommended for a contract:

- 229 • any Department of Labor violations over the previous five years,
- 230 • the level and costs of benefits available to employees,
- 231 • employee retention plans, and
- 232 • annual turnover rate.

233 For multi-term contracts, the City Manager is directed to include in the City's
234 Requests for Proposals that the contractor must provide an automatic annual cost-of-
235 living adjustment of 2.5% for all employees.

236 Furthermore, the City Manager is directed to ensure that City contracts include
237 the stipulation that the vendor—not the contracted employees—bear all costs for
238 uniforms and required equipment.

239 **BE IT FURTHER RESOLVED:**

240 Per the recommendations of the National Alliance to End Homelessness, the City
241 Manager is directed to ensure that the security guard positions at the Austin Resource
242 Center for the Homeless (ARCH) shall be staffed with city employees as soon as
243 possible, the positions be renamed "safety officers," and that all safety officers be

244 trained in de-escalation techniques, positive relationship management skills, and
245 trauma-informed care.

246
247 **ADOPTED:** _____, 2019 **ATTEST:** _____

248 Jannette S. Goodall
249 City Clerk

DRAFT