City of Austin

FOLLOW-UP AUDIT REPORT

**A Report to the Austin City Council**

**Mayor**
Lee Leffingwell

**Mayor Pro Tem**
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Chris Riley
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# Follow-up of the Cemetery Contract Review Audit

August 2012

Office of the City Auditor


**City Auditor**
Kenneth J. Mory
CPA, CIA, CISA

**Deputy City Auditor**
Corrie E. Stokes
CIA, CGAP



REPORT SUMMARY

We confirmed that the two recommendations from the June 2010 audit are underway. However, based on our observations the overall conditions of the cemeteries have not significantly improved since our 2010 audit. As such, we have identified the need for a comprehensive review of the cemetery activities in our FY 2013 Strategic Audit Plan.

**AUDIT NUMBER:** AU12120

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## GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## AUDIT TEAM

Niki Raggi, CIA, CICA, Assistant City Auditor
Henry Katumwa, CGAP, CICA, Auditor-in-Charge

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August 2012

# Follow-up of the Cemetery Contract Review Audit

## Audit Report Highlights

### Why We Did This Audit

This follow-up audit was conducted as part of the Office of City Auditor's FY 2012 Strategic Audit Plan.

The initial audit contained two recommendations aimed at clarifying contractual responsibilities and establishing and implementing an effective contract monitoring system.

### What We Recommend

We did not issue any new recommendations.

For more information on this or any of our reports, email oca_auditor@austintexas.gov

Mayor and Council,

I am pleased to present this follow-up audit on the Cemetery Contract Review.

## BACKGROUND

In June 2010, the Office of the City Auditor (OCA) issued an audit report titled Cemetery Contract Review. The original report contained two recommendations aimed at amending the cemetery contract to clarify contractual terms and responsibilities and establishing and enforcing an effective cemetery contract monitoring system.

## OBJECTIVE AND SCOPE

The objective of this audit was to confirm whether, and to what degree, PARD management has implemented the recommendations from the original audit Cemetery Contract Review.

## WHAT WE FOUND

We confirmed that the two recommendations from the June 2010 audit are underway. However, based on our observations, the overall conditions of the cemeteries have not significantly improved since our original audit. As such, we have identified the need for a comprehensive review of the cemetery activities in our FY 2013 Strategic Audit Plan.

| Original Recommendation | Last Status Reported by Management | Status Verified by OCA |
|---|---|---|
| The PARD Director should work with the Purchasing Office and the Law Department to identify necessary amendments to the cemetery contract to clarify contractual terms. | Underway | Underway |
| The PARD Director should put in place and enforce an effective contract monitoring system for the cemetery contract. | Underway | Underway |

We appreciate the cooperation and assistance we received from Parks and Recreation Department staff during this audit.

Kenneth J. Mory, City Auditor

## BACKGROUND

In June 2010, the Office of the City Auditor (OCA) issued an audit report titled Cemetery Contract Review. The original report contained two recommendations aimed at clarifying contractual responsibilities and establishing and implementing an effective contract monitoring system.

The Parks and Recreation Department (PARD) is responsible for overseeing activities of the five City-owned cemeteries. PARD has outsourced the management and operation of the City-owned cemeteries to Intercare Corporation (Intercare).

The contract with Intercare covers the period from October 2006 through September 2016 for a dollar amount not to exceed $651,330. During the contract period from October 1, 2006 through the second quarter of FY2012, the City has paid InterCare a total of $534,548, which leaves a balance of approximately $116,000 out of the initially authorized amount.

## OBJECTIVES, SCOPE, AND METHODOLOGY

This Cemetery Contract follow-up audit was conducted as part of the Office of City Auditor's FY 2012 Strategic Audit Plan, as presented to the City Council Audit and Finance Committee.

### Objectives

To confirm whether, and to what degree, PARD management has implemented the recommendations from the original Cemetery Contract Review audit.

### Scope

The audit scope includes the steps taken by PARD since 2010 to address the two recommendations from the original audit.

### Methodology

To accomplish our audit objectives, we performed the following steps:

- Conducted interviews with PARD staff;
- Reviewed documentation supporting implementation status;
- Performed cemetery site visits; and
- Considered risks related to information technology and fraud, waste, and abuse.

## AUDIT RESULTS

The June 2010 audit included two recommendations. In their initial response to the audit, Parks and Recreation Department (PARD) management concurred with both recommendations and laid out a strategy to implement the recommendations by December 2010. However, in December 2011, PARD management reported to the Controller's Office that both recommendations were still underway.

### Finding 1: We confirmed that the two recommendations from the June 2010 audit are underway.

Based on our work, we verified that both the recommendations are underway. Exhibit 1 shows an excerpt of the original recommendation, last reported status, and verified status. Appendix B details the full text of the original recommendations, PARD management's responses, and last reported status for each of the recommendations.

**EXHIBIT 1**
**Status of June 2010 Cemetery Audit Recommendations**

| Recommendation | Last Status Reported by Management | Status Verified by OCA |
|---|---|---|
| 1. The PARD Director should work with the Purchasing Office and the Law Department to identify necessary amendments to the cemetery contract to clarify contractual terms. | Underway | Underway |
| 2. The PARD Director should put in place and enforce an effective contract monitoring system for the cemetery contract. | Underway | Underway |

**SOURCE:** OCA analysis of recommendation implementation status, June 2012.

Current Status of Original Recommendation #1

Following the 2010 audit, PARD management, in coordination with the Purchasing Office and the City Law Department, promptly began working on developing an amended and restated draft agreement with InterCare Corporation, the contractor for cemetery maintenance. The draft agreement went through several iterations to address concerns raised by the public as well as recommendations from the Parks and Recreation Board. The latest draft was submitted to InterCare on July 13, 2012. However, on July 30, 2012, the contractor's representative indicated that the contractor will not be agreeing to the restated draft, as currently written.

PARD management is considering alternative options, including:

- Continuing to operate under the current (2006) agreement until 2016, and issuing an Request for Interest (RFI) to obtain a list of potential contractors for cemetery maintenance service;
- Terminating the current agreement without cause (which would entail paying liquidated damages) and assuming all or part of cemetery operations; or
- Terminating the current agreement without cause and issuing a new Request for Proposal (RFP) for cemetery maintenance.

PARD management has indicated that the delay in implementing this recommendation is due in part to the Parks and Recreation Board's need for additional time to take a comprehensive look at cemetery issues, including the draft agreement. Further, PARD management also indicated that disagreements between the parties have contributed to the delay.

Current Status of Original Recommendation #2

PARD management has enhanced monitoring of the cemetery agreement. At the same time, PARD management indicated that, because contractual responsibilities are not clearly stated in the current contract, they are holding the contractor to the minimal responsibilities that are clearly reflected in the various documents that make up the current contract. Also, we have identified one area where the improved monitoring could be further strengthened to hold the contractor accountable.

PARD management has instituted contract monitoring improvements related to the cemetery contract in the following areas:

- Administrative oversight: Identifying a staff member who is in charge of day-to-day monitoring of the cemetery contract; identifying the PARD contract compliance manager as the point of contact for cemetery-related issues.
- Compliance Monitoring: Periodically performing on-site monitoring visits of each cemetery.
- Complaint resolution: Creating avenues for handling citizen cemetery complaints, including establishing a dedicated cemetery email, creating service requests for cemetery issues in the 311 call system, and holding community and stakeholder quarterly meetings.
- Community inputs: Holding quarterly meetings to collect citizen input.

Additionally, PARD requested that the City Forester identify the stressed trees in each of the cemeteries, in order to focus watering efforts. However, in our review we observed that while PARD identified the stressed trees in each of the five cemeteries and asked the contractor to provide a periodic watering report, PARD does not receive or maintain those reports on file. When we requested these reports from the contractor's staff we identified some anomalies, such as watering reports for one cemetery did not match consumption data from the billing system. Specifically, while the watering reports indicated that Oakwood Annex cemetery had been watered for 26 days during the 67 day period from 9/6/2011 to 11/14/2011, a review of consumption records from the City's billing system indicates that no water was used for this cemetery during this period.

## Additional observation: The overall conditions of the cemeteries have not significantly improved since our 2010 audit.

State law requires municipalities that operate cemeteries to maintain those cemeteries "in a condition that does not endanger the public health, safety, comfort, or welfare." These responsibilities include:

- Repairing and maintaining any fences, walls, buildings, roads, and other improvements;
- Leveling or straightening markers or memorials;
- Properly maintaining lawns, shrubbery, and other plants;
- Removing debris, including dead flowers and deteriorated plastic ornaments; and
- Promptly restoring gravesites following an interment.

During our 2010 audits, we observed some major issues which were beyond routine maintenance and more capital in nature, and therefore are outside the scope of the current cemetery agreement. During this follow-up audit, we have observed that the same issues still persist, or are worsening. Exhibit 2 on the following pages shows our comparison of the two. Some of the issues observed during the initial audit and this audit are:.

- Dead and dying trees – conditions are worsening
- Leaning headstones
- Settling and disintegrating graves – conditions are worsening
- Buildings in need of major repairs (Including buildings and roofs)
- Roads in need of repairs
- Irrigation systems in need of upgrade

Possible factors that may have contributed to this situation include minimal maintenance of City cemeteries over time and insufficient investment in the cemeteries outside of the cemetery agreement. Without regular cemetery maintenance and addressing these issues in a timely manner, the City cemeteries' conditions will likely continue to deteriorate.

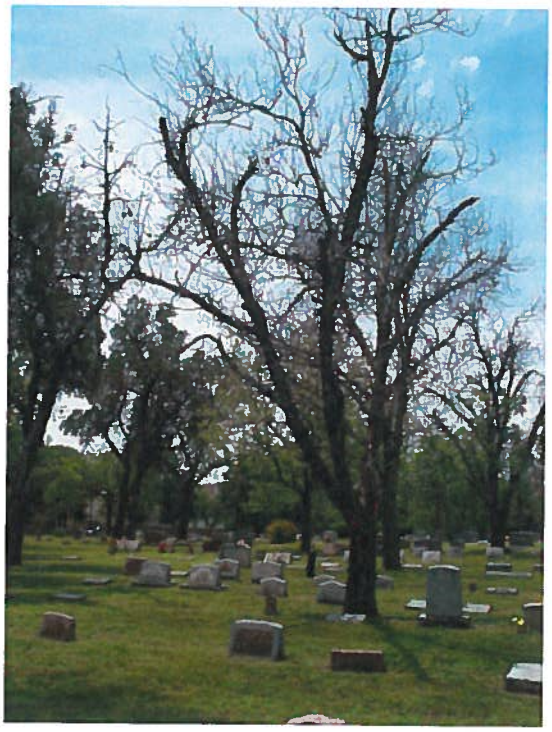
As a result of the conditions observed, we have determined that the risks surrounding the conditions of the five City cemeteries are significant. Consequently, we will be considering including a comprehensive review of the cemetery activities in our FY 2013 Strategic Audit Plan. This review may include the following issues:

- Safety
- Sustainability
- Funding
- Strategic planning

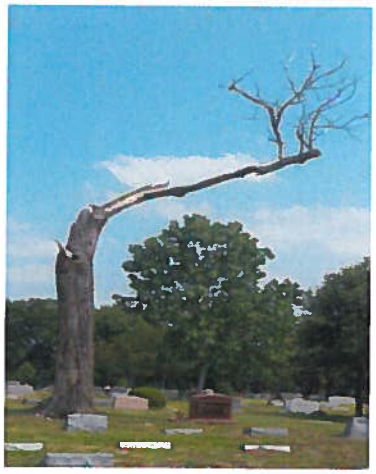
**EXHIBIT 2**

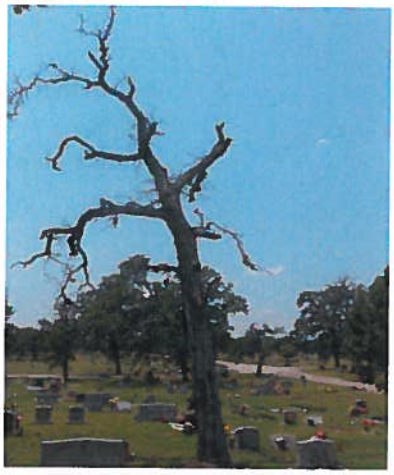
**Comparison of Issues Observed in the Austin Cemeteries during the 2010 Audit (Photos on the left side) and the 2012 Follow-up Audit (Photos on the right side)**

The photos below were taken during our June 2010 audit work, to portray the pervasive problem of **dead and dying trees**. The photos were taken at Evergreen cemetery and Oakwood Annex.



Photos below are from site visits performed in May and June 2012 at Oakwood Annex, Austin Memorial Park, Evergreen, and Oakwood cemeteries.





The photo below was included in our June 2010 audit, to portray **buildings in need of major repairs**. The picture was taken at Oakwood Annex cemetery.

Photos below are from site visits performed in May and June 2012 at Oakwood Annex and Oakwood cemeteries.

The photo below was included in our June 2010 audit, to portray issues with the **maintenance of graves**. The picture was taken at Oakwood cemetery.

Photos from site visits performed in May and June 2012 at Oakwood and Oakwood Annex cemeteries.

## MANAGEMENT RESPONSE

City of Austin
Austin Parks and Recreation Department
200 South Lamar Boulevard, Austin, Texas 78704

August 3, 2012

Mr. Kenneth J. Mory, City Auditor
Office of the City Auditor

Subject: Cemetery Contract Review – Follow-Up Report AU12120

Mr. Mory:

Attached is the Parks and Recreation Department's (PARD) response to the Cemetery Contract Review Follow-Up Audit draft report dated August 2012.

I have reviewed the draft report of the Cemetery Contract Review Follow-Up Audit and am pleased with the depth and breadth of efforts we have implored to clarify the terms of the current agreement and our efforts to establish and enforce a monitoring system to effectively monitor the performance and adequacy of services expected and provided under the contract.

PARD, working with the Purchasing Office and the Law Department, has clarified the contractual terms and responsibilities of the parties into one agreement. A cemetery contract monitoring plan has been implemented and is being enforced. The plan consists of administrative oversight, compliance monitoring, complaint resolution and community and stakeholder input.

Improvement regarding the overall conditions of Austin cemeteries is contingent upon acquiring funding for monument leveling, irrigation system repairs, tree care, capital improvements of buildings and historic facilities, roads, and a comprehensive cemetery master plan to ensure long term needs are identified and adequately resourced.

We are committed to continue our research regarding cemetery management, operations and maintenance industry standards and best practices, standards of care, and identify resources needed to manage and maintain the future success of Austin's cemeteries.

Sincerely,

Sara L. Hensley, CPRP, Director
Austin Parks and Recreation Department

Cc: Marc A. Ott, City Manager
Bert Lumbreras, Assistant City Manger
Cora D. Wright, Assistant Director
Kimberly McNeeley, Assistant Director

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## APPENDIX A

MANAGEMENT'S ACTION PLAN

| | Recommendation Text | Reported Status | Last Date Reported |
|---|---|---|---|
| 01 | The Director of PARD should work with the Purchasing Office and the Law Department to identify necessary amendments to the cemetery contract to clarify contractual terms and responsibilities of each of the contracting parties. | Underway | 1/31/2012 |
| **Implementation Status** | **Explanation of Actions** | **Person Responsible** | **Target Date** |
| Underway | PARD Financial Services Division staff, working with the City's Purchasing Office and Law Department, drafted an amended and restated agreement with InterCare Corporation (ICC) to clarify business and performance terms into one comprehensive document.<br><br>The original draft of this agreement was posted on the City's website June 14, 2011, and an update was posted October 24, 2011 based on public comment received through the City's website and email submissions. As a result of ongoing public concerns regarding the amended and restated agreement on cemetery operating issues, the Parks and Recreation Board (BOARD) requested that it become more familiar with the contract, operating requirements, and public demands and needs. At the December 6, 2011 BOARD meeting, a board working group was created with the specific task of facilitating communication between the BOARD, the public, City staff, and ICC, to address concerns that continue to be raised by the public regarding specific contract issues.<br><br>This working group hosted 4 facilitated public input meetings over the course of two and half months to collect and prioritize public concerns and draft recommendations. At the April 26, 2012 BOARD meeting, Parks Board approved the working group's recommendations. PARD incorporated the additional PAR Board recommendations as well as cemetery management performance measures into the draft agreement. The Purchasing Office extended the revised agreement to ICC July 13, 2012 for their review and approval. Currently, concurrence from ICC has not been achieved. PARD will provide a recommendation for council action October 2012. | Beverly Mendez | October 2012 |

| Rec Num | Recommendation Text | Reported Status | Last Date Reported |
|---|---|---|---|
| 02 | In order to provide assurance that the contractor is providing all the services for which the City is paying, the Director of PARD should put in place and enforce an effective contract monitoring system for the cemetery contract. | Underway | 1/31/2012 |
| **Implementation Status** | **Explanation of Actions** | **Person Responsible** | **Target Date** |
| Underway | PARD Financial Services Division has initiated a number of steps to insure contract monitoring compliance with the goal of improving cemetery | Beverly | October |

| | | | |
|---|---|---|---|
| | operations. A Cemetery Contract Monitoring plan has been implemented. This plan is comprised of 4 components. 1) Administrative Oversight: The management and monitoring of contract requirements, deliverables and overall vendor performance; 2) Compliance Monitoring: Performance of bimonthly on-site visits, responding to citizen complaints, managing and monitoring maintenance requirements for cemeteries; 3) Complaint Resolution: In addition to direct communication to PARD and staff, a dedicated cemetery email is available via the Cemetery website to submit comments and concerns. PARD has also implemented the use of the City's 311 system to receive and process customer complaints and requests that are monitored via PARD's work order system; and 4) Regular Community Input: Quarterly meetings to collect citizen input for current and future cemetery operations and maintenance planning needs. Utilizing PARD's monitoring plan, PARD actively enforces terms of the contract as evidenced by compliance requests of an unpermitted fuel tank, environmental Spill Prevention Containment and Control Plan, outside memorial storage, sunken graves, a broken window, a broken fence, irrigation and 311 public generated requests. Compliance requests issued to ICC have been corrected and closed. | Mendez | 2012 |

## APPENDIX B

### The original recommendations, PARD management's response, last reported status, and revised target date

| Original Recommendation | PARD Management's Original Response | Status on 6/11/2012 | Revised Target Date |
|---|---|---|---|
| The Director of PARD should work with the Purchasing Office and the Law Department to identify necessary amendments to the cemetery contract to clarify contractual terms and responsibilities of each of the contracting parties. | The City's ability to effectively monitor the adequacy of services provided by the contractor begins with contract terms and responsibilities that are clear, well defined and enforceable for both parties. Inherent in successfully operating a cemetery system of this size is the need for the contract to clearly delineate minimum standards or care required for each cemetery property. PARD relies on the critical expertise of the Purchasing Office and the Law Department in creating contracts that minimize risk for both parties. We will work with both departments to develop necessary amendments to the cemetery contract. | Underway | August 2012 |
| In order to provide assurance that the contractor is providing all the services for which the City is paying, the Director of PARD should put in place and enforce an effective contract monitoring system for the cemetery contract. | To ensure that the contractor is providing all services that the City is paying for, the department will continue to develop an effective monitoring system for the cemetery contract.<br><br>PARD has made effective and efficient contract management a priority, and in doing so, established a Contract Compliance Management Office in April 2009 whose responsibility is to ensure compliance with all PARD contracts. Continued development of this office will focus on incorporating national standards and best practices, providing staff training and requiring applicable contract management certifications | Underway | August 2012 |