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25 result in a net benefit to the City, overall, it would result in increased operating cost
26 to the City, require significant investments in equipment, and, in many cases, result
27 in diminished service provision as a result of reduced flexibility in the City's ability
28 to adapt to situational operational fluctuations which is a major advantage to and
29 rationale for 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,
34 staff memos issued on February 10, 2017, and March 1, 2017, evaluated costs for
35 in-sourcing the services and affirmed the earlier findings that employing security
36 personnel costs more than contracting for services and concluded that each
37 department's security needs fluctuated and that some required more specialized
38 training; and

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

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

48 **WHEREAS**, one such example is Resolution No. 20140417-050, which
49 directed the City Manager to require that construction contracts and the purchase of
50 goods and services include an anti-retaliation and anti-discrimination policy and that
51 non-compliance would lead to termination and could hinder a contractor's eligibility
52 for future contracts; and

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

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

58 **WHEREAS**, National Employment Law Project's (NELP) report, "The Road
59 to Responsible Contracting: Lessons from States and Cities for Ensuring That
60 Federal Contracting Delivers Good Jobs and Quality Services," recommends that
61 the public sector:

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

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

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

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

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

- 83 • Establish criteria the City shall use to assess which services should be
84 delivered by City staff,
- 85 • Identify community values that can be embedded in future contracts,
- 86 • Assess budget considerations,
- 87 • Outline a transition process for phasing out contracts for services to be
88 delivered by City staff,
- 89 • Devise a mechanism to allow for an annual living wage adjustment in
90 future contracts,

91 • Revise the City’s hiring process to allow previously contracted
92 employees to receive some hiring preference; and

93 **WHEREAS**, the Council Working Group focused on the following labor
94 categories:

- 95 • Security services contracts,
- 96 • Custodial services contracts,
- 97 • Contracted employees at the 3-1-1 and Austin Energy Call Centers,
- 98 • Groundskeeping services; and

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

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

- 104 • Supervisor salary rates,
- 105 • The ratio of contracted employees to supervisors,
- 106 • Methods for determining the actual salary of contracted employees
107 (versus just compliance with the living wage requirement),
- 108 • The variable need for contracted services throughout the year,
- 109 • Other costs embedded within contracts,
- 110 • How the City monitors a contractor’s return on investment,

- Contractor employee retention plans,
 - The number of full-time and part-time employees within each contract,
 - Turnover rate for contracted employees,
 - Costs of equipment supplies, uniforms, vehicles, and other equipment and 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

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

135 **WHEREAS**, generally, if a service has been contracted for five or more years
136 and the contract includes 20 or more employees, the contract is authorized for
137 \$500,000 or more, and has a total employee pool that has varied by less than 75%,
138 the service should be delivered by City employees; and

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

142 **WHEREAS**, some contracts for employment services contain a non-
143 solicitation clause that prohibits the City from directly hiring a contractor's
144 employees during the contract term and for six months after the contract has ended,
145 unless by agreement with the contractor; and

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

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

153 **WHEREAS**, it is critical that the vendors the City contracts with to perform
154 municipal duties align with our community's values of justice, dignity, and safety in
155 the workplace; and

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

158 **WHEREAS**, individuals delivering a consistent municipal service should be
159 included within the City's workforce; **NOW, THEREFORE**,

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

161 To implement Council's policy to minimize the use of contracts for various
162 custodial, security, call center, groundskeeping and similar general services or labor-
163 intensive services, the City Manager is directed to consider the following questions
164 to determine whether custodial, security, call center, or landscaping services should
165 be contracted or provided by regular City staff. The City Council may give future
166 direction to include other services that are ongoing and with lower pay classifications
167 within this analysis.

168 1. Assessing permanent need

- 169 • How long has a contract been in place?
- 170 • How many employees have been hired for each stage of the contract?
- 171 • What is the amount of the contract?

172 2. Assessing exceptional circumstances

- 173 • Are there any specialized needs such as security clearance or specialized
174 training/certifications/licenses that would be costly to provide?
- 175 • What are the scheduled shifts required within a 24-hour period?

- Is there a predictable variation in the seasonal, daily, or weekly need for the labor that would not allow for regular employment?
- Are there any other factors that would make outsourcing a preference over hiring?
- Do the contracted employees work with vulnerable populations?

3. Assessing costs to the extent possible

- Are estimated salary costs for the contractor and City employees in similar positions based on the same job title and hourly wage?
- What hourly wage will the contracted employee receive? What hourly wage will the City pay for that contracted employee?
- How does the contractor benefits package compare to City's benefits?
- Does the employee of the contractor bear any additional costs?
- How does the turnover rate of contract employees compare to employees in similar positions at the City?
- Are there any savings that accrue to the City beyond the cost differential attributable to benefits?
- Would service levels need to be adjusted to manage costs?

4. Provide flexibility/access

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

196 **BE IT FURTHER RESOLVED:**

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

205 If the City Manager recommends continuing to contract for certain services,
206 he shall provide a detailed justification for that recommendation. Staff may present
207 contracts that are contemplated to be issued as “invitations to bid” or contracts in
208 which city staff desires Council input to the Audit and Finance Committee.

209 For any future custodial, security, call center, landscaping, or other service
210 contracts that are ongoing and with lower pay classifications the City Manager
211 deems appropriate to continue, a detailed justification shall accompany the
212 Recommendation for Council Action (RCA).

213 **BE IT FURTHER RESOLVED:**

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

- 216 • The City Council directs the City Manager to evaluate the discontinuation of
217 the inclusion of non-solicitation clauses in the City’s contracts that relate to
218 custodial, security, call center, and landscaping services.

- For current contracts that contain these clauses, the City Manager is directed to take steps to remove these clauses as an impediment for future employment upon conclusion of the contract with as little disruption as possible.
- The City Council directs the City Manager to consider using or creating titles equivalent to those used by the contractors for custodial, security, call center, and landscaping services. In conversation with AFSCME, the City Manager shall explore considering employment with a City contractor at a City facility as a preferred qualification and allow these employees to apply for internally posted positions. . Any individual employed by a former contractor and who has worked for the City of Austin within the previous year shall potentially receive an interview, provided they meet minimum qualifications for the position, and the City Manager shall attempt to implement an expedited hiring process for these positions.

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

BE IT FURTHER RESOLVED:

Understanding that the City of Austin will likely need to contract at some level for services within these four areas of interest, the City Council desires to update city practices with regard to such contracts. Justification to outsource custodial, security, call center, and groundskeeping services is to be provided by the appropriate Department to the Audit and Finance Committee for review prior to solicitation. This justification should include responses to the questions contained herein. Staff may present contracts that are contemplated to be issued as “invitations

244 to bid” or contracts in which city staff desires Council input to the Audit and Finance
245 Committee. The City Council may issue future direction to require contracts for
246 other services that are ongoing and with lower pay classifications to include these
247 provisions.

248 Upon passage of this resolution, the City Council directs the City Manager to
249 provide in future RCAs, as well as custodial, security, call center, landscaping, and
250 other service contracts that are ongoing and with lower pay classifications
251 recommended for continuation, the following information for each offeror
252 recommended for a contract:

- 253 • any Department of Labor violations over the previous five years,
- 254 • the level and costs of benefits available to employees,
- 255 • employee retention plans, and
- 256 • annual retention or turnover rate.

257 Council understands that a portion of this information may need to be kept
258 confidential.

259 For multi-term contracts, the City Manager is directed to propose a
260 mechanism to accommodate annual adjustments to the living wage amount set forth
261 in contracts subject to the City’s Living Wage Program.

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

265 **BE IT FURTHER RESOLVED:**

266 The Council desires the City Manager to consider staffing security personnel
267 at the Austin Resource Center for the Homeless (ARCH) with City employees who
268 are trained in de-escalation techniques, positive relationship management skills, and
269 trauma-informed care, in a manner consistent with the recommendations from the
270 National Alliance to End Homelessness. The City Manager is directed to report back
271 to City Council with a response no later than November 1, 2019.

272
273 **ADOPTED:** _____, 2019 **ATTEST:** _____

274 Jannette S. Goodall
275 City Clerk