

1 **RESOLUTION NO.**

2 **WHEREAS**, recognizing that public sector jobs help provide improved  
3 standard-of-living jobs and economic security in retirement for a local workforce  
4 and that outsourcing public sector jobs does not guarantee a bottom-line savings for  
5 the community and may ultimately result in higher costs for the public and the  
6 government, Resolution No. 20120405-054 directed the City Manager to report on  
7 certain contracts for services and temporary employees; and

8 **WHEREAS**, during this time, staff completed a preliminary analysis of  
9 approximately 1,000 service contracts and identified six labor categories as  
10 applicable for additional analysis and evaluation:

- 11 • Janitorial and Custodial Services,
- 12 • Facilities Maintenance,
- 13 • Landscaping and Groundskeeping,
- 14 • Light Construction and Concrete Work,
- 15 • Additional Fleet Repairs,
- 16 • Other general labor contracting; and

17  
18 **WHEREAS**, Resolution No. 20120524-018 amended Resolution No.  
19 20120405-054 to direct the City Manager to review the contracts identified in the  
20 preliminary analysis report and to provide individual analysis reports to support  
21 contracting services within these six categories as related contracts are brought  
22 forward for Council action; and

23 **WHEREAS**, after analyzing 48 service contracts, staff concluded “[while]  
24 there are individual cases in which transitioning to in-house service provision would

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,

- 111 • Contractor employee retention plans,
- 112 • The number of full-time and part-time employees within each contract,
- 113 • Turnover rate for contracted employees,
- 114 • Costs of equipment supplies, uniforms, vehicles, and other equipment
- 115 and an assessment of which entity bears those costs, and
- 116 • Whether a contracted employee interacts with a vulnerable population;
- 117 and

118 **WHEREAS**, the Council Working Group used the Austin Energy janitorial

119 contract on the April 25, 2019, agenda as a “test case contract” to work through these

120 various elements and questions; and

121 **WHEREAS**, the Council Working Group submitted questions to the Council

122 Q&A regarding the proposed contractor’s retention plan, the rate per hour that

123 employees receive, and the contractor’s turnover rate in comparison to the City staff

124 turnover rate in this field of work; and

125 **WHEREAS**, staff responded that the proposed contractor’s annual turnover

126 rate is 40% as compared to Building Services Department’s annual turnover rate of

127 9.5%; and

128 **WHEREAS**, the Council Working Group determined that due to differences

129 between the City and the contractor’s title classifications, the supervisory costs

130 estimated in previous staff memos were higher than would actually be realized

131 should the positions be brought in-house and classified appropriately and the

132 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?

176 • Is there a predictable variation in the seasonal, daily, or weekly need for the  
177 labor that would not allow for regular employment?

178 • Are there any other factors that would make outsourcing a preference over  
179 hiring?

180 • Do the contracted employees work with vulnerable populations?

181 3. Assessing costs to the extent possible

182 • Are estimated salary costs for the contractor and City employees in similar  
183 positions based on the same job title and hourly wage?

184 • What hourly wage will the contracted employee receive? What hourly wage  
185 will the City pay for that contracted employee?

186 • How does the contractor benefits package compare to City's benefits?

187 • Does the employee of the contractor bear any additional costs?

188 • How does the turnover rate of contract employees compare to employees in  
189 similar positions at the City?

190 • Are there any savings that accrue to the City beyond the cost differential  
191 attributable to benefits?

192 • Would service levels need to be adjusted to manage costs?

193 4. Provide flexibility/access

194 • Are there some employees who would prefer to remain contracted  
195 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:

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

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- 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.

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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.

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**BE IT FURTHER RESOLVED:**

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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.

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273 **ADOPTED:** \_\_\_\_\_, 2019 **ATTEST:** \_\_\_\_\_

274 Jannette S. Goodall  
275 City Clerk