

RESOLUTION NO. 20190822-067

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

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

- Janitorial and Custodial Services,
- Facilities Maintenance,
- Landscaping and Groundskeeping,
- Light Construction and Concrete Work,
- Additional Fleet Repairs,
- Other general labor contracting; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Revise the City's hiring process to allow previously contracted employees to receive some hiring preference; and

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

- Security services contracts,
- Custodial services contracts,
- Contracted employees at the 3-1-1 and Austin Energy Call Centers,
- Groundskeeping services; and

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

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

- Supervisor salary rates,
- The ratio of contracted employees to supervisors,
- Methods for determining the actual salary of contracted employees (versus just compliance with the living wage requirement),
- The variable need for contracted services throughout the year,
- Other costs embedded within contracts,
- 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

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, the contract is authorized for \$500,000 or more, and has a total employee pool that has varied by less than 75%, the service should be delivered by City employees; and

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

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

WHEREAS, understanding that the City 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; and

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

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

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

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

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

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

1. Assessing permanent need

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

2. Assessing exceptional circumstances

- Are there any specialized needs such as security clearance or specialized training/certifications/licenses that would be costly to provide?
- 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?

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to prepare a list of custodial, security, call center, landscaping, and other low-wage 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 deadline, in advance of completion of the full report.

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

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

BE IT FURTHER RESOLVED:

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

- The City Council directs the City Manager to evaluate the discontinuation of the inclusion of non-solicitation clauses in the City’s contracts that relate to 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

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

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

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

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

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

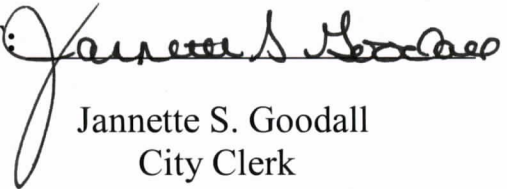
Furthermore, the City Manager is directed to ensure that City contracts include the stipulation that the vendor—not the contracted employees—bear all costs for uniforms and required equipment.

BE IT FURTHER RESOLVED:

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

ADOPTED: August 22, 2019

ATTEST:


Jannette S. Goodall
City Clerk