

Item 3.e. City Facilities Dumpster Collection Services - Contract to provide dumpster collection services for City of Austin facilities to include non-hazardous Class II waste collections.

Gerry Acuna: All right guys, the next item of business is the actual dumpster contract; the City's dumpster contract, here.

Jessica Frazier: Me again.

Gerry Acuna: Welcome.

Jessica Frazier: So I'm going to read the header, introduction, and then I'm going to give you guys some additional information about this solicitation, or this RCA. So we are requesting a favorable recommendation from ZWAC to the City Council for the authorization of an award and execution of a contract with Republic Services in an amount not to exceed \$16,995,000 for the provision of refuse, recycling, organics and special waste collection for City facilities, over a six year period. So in the ZWAC Memo, under Funding, it says "funding of the first year requirement" and it has a dollar amount of \$7,725,000. That's actually the three year amount, so that's an error, that's not the first year amount. If you look at the RCA, the Recommendation for Council Action, it looks like this, the language under Amount and Source of Funding, is the correct first year funding amount, it's \$1,818,750, and that includes funding in ARR's budget as well as budgets in other City departments. So the purpose of this contract; we currently have a contract that provides the same services that this contract is going to provide. It's for trash and recycling dumpster services at City facilities, to be used at City co-sponsored special events, and then in case of emergency. So there was a lot of confusion about the terminology that we used in this contract where it says "citywide". When we reference "citywide" in this contract we're referencing the City as a government organization; the City of Austin and the departments that go along with the City. So it should have been capitalized, with a capital C, and that's how we know what's the difference between the City of Austin as an organization, and the City of Austin as in the city that has a population and boundaries of where the city limits are. So this contract is specifically for just those City facilities that are currently under this contract, so we're talking about ARR, Austin Energy, Austin Water, Parks, all those different departments, and the dumpsters for recycling and trash that they currently have. And then from the special events perspective, it has to do with special events where the City is a co-sponsor and asked to do the trash or recycling services. And then for the emergency services, that's in case if we have a flood or some other kind of emergency where we have to pull in dumpsters to help clean up all the debris that we can't handle with the cart services. And then the only other thing that's additional, that's new in this contract, that wasn't in the previous contract, is the provision to provide organics at these same City facilities. We're trying to lead by example and having City Hall have the ability to have organics collection is one of the locations that we're looking at first, and then there's a couple other City facilities that are interested in having organics collection at their facility. Okay?

Gerry Acuna: Okay, just clarify this. Okay, so basically the dollar amounts are incorrect.

Jessica Frazier: On the Memo, the funding, where it says \$7,725,000, it says for one year, but that's actually for three years. The RCA itself, which is what you're approving, has the correct dollar amounts.

Gerry Acuna: Okay, thank you. We do have some speakers who wanted to discuss this item. Andrew Dobbs, Bob Gregory, Adam Gregory.

Andrew Dobbs: Hey y'all. Andrew Dobbs, Texas Campaign for the Environment. We are strongly recommending that you oppose this recommendation, this proposal, and that you recommend opposition to the Council also, that you recommend that they reject it. I sent the information to y'all yesterday. Did everybody see that? I'll get you a copy of that momentarily. There are several different things going on here

that are really problematic for us. First things first, this is yet another instance of policy making by RFP and by contract. I'm really excited to hear us now involving the Commission more in the RFP crafting process, as was discussed earlier. I think that is a very good step in the right direction because then we can avoid problems like this one. This is an eleven million dollar increase over the previous contract, which was covering City facilities. This now includes City facilities, and emergency services, and special events that have to this point always been served by the private sector and are now going to be covered by a City contract, and most infuriatingly the Austin Energy contract, that this Commission unanimously recommended against, that the City Council unanimously rejected in December of last year, is recreated in this proposal whole hog, with absolutely none of the protections that were requested by Council last year. If they're there, I mean maybe it's in this, "We're not allowed to talk about it" space that we hear so much about, but they asked for diversion requirements, which I think that all of us would like that for each of the sections. We would love a diversion requirement for the emergency services, for the City facilities, for the special events if we're going to do that, we're gonna take on that. We would love that for Austin Energy. That doesn't exist here. We would like some standards about the environmental performance of the facilities that we're sending it to; we don't have that here. And in fact, as far as we can tell, they're either sending it all the way to San Antonio – talking about our emissions here – we're gonna ship this all the way to Tessman Road in San Antonio or we're going to put it in the Waste Management landfill, which repeatedly the constituents of that neighborhood have asked us not to send things there and to endorse it because they know that they're going to go on to a fight about expansion on that in the next couple of years, and they don't want Waste Management saying, "Well the City sends stuff here. Why should we stop it?" That is recreated here. I am telling you, if you take that to Council they are going to be unhappy; it is going to be a problem. This does not have those standards. The other last standard that I'm really concerned about, is about the living wages. Poverty is a form of pollution. As an environmental organization we are concerned about poverty and about the wages that workers are paid for their work. The way that this is written, if you go through all the bid documents, it says, they had a point where it says that you have to, it has to be directly assigned. And when Republic asked them "What does that mean?" They said it had to be working on a City contract on City property, but that you may not have any employees, on a \$17 million dollar contract, covering all these facilities, you may have zero employees that are covered by the living wage contract. How many of them are covered? Are we going to be paying people a living wage for handling our materials? This is a really problematic contract. They either need to start over, or we need to... there's no way that we can approve this, and I hope that you will not. I'm happy to answer any questions.

Gerry Acuna: Any questions? Thank you Mr. Dobbs. Bobby Gregory, Adam Gregory, and Ryan Hobbs who is donating to Bob Gregory, and Gary Newton actually is donating time to Bob Gregory, so 12 minutes.

Bob Gregory: Thank you very much, I'm Bob Gregory with Texas Disposal Systems. This is the package of this RFP. It is not a bid, it's an RFP. It is very specific to many, many things; I encourage you to look at it. I encourage you also to look at the package that we handed out earlier because it most specifically deals with this item, as well as the Organics, but more importantly this item. This was not a very broad RFP where people could add a lot of things; they have a lot of things in it. It's a tremendous amount. It is completely disingenuous to say this is just a City facilities contract; that is absolutely disingenuous. When you look at the documents that I gave you, our annotated versions of the backup documents, it says "City contract does not provide collection of material from non-City department facilities or events." Then they go on and basically provide for City sponsored events and City sponsored special events, and the details on the special events leaves nothing to the imagination. They list 22 of many, many, many events out there, of which TDS has 17 of those contracts tied up. We depend on those contracts for our business. The City is taking over the collection, or the ownership in the compostables, as well as the recyclables. That's in the RFP, it's also in the bidding numbers. The bidding numbers have 3-yard, 4-yard, 8-yard, 10-yard, 20, 30, 40 cubic yard boxes, compactors, everything all the way down to special waste, which could include biosolids sludge, and it also includes the recycling which includes the description that "the City reserves the right to modify the contract at any time, to change it, to add it, and that all recyclables will be sent, and compostables sent to City designated recycling and composting facilities." This is a complete departure from longstanding City policy not to compete with private industry. I

am crazy enough to invest all this money, we invested \$17 million dollars on not knowing we'd have a contract. We did get a MRF contract for two years. We got 40% of it beyond that. There's a lot of struggling business people in here that want to do more for Zero Waste but they don't ever know whether their contract, or whether the City will pull it away from them. So if you want to give, you want to promote private industry and private contractors to do more composting and recycling and such, give them a reason to think they'll stay in business. The very interesting thing is I had an individual present at the RFP opening, I watched it along with a whole group of people at my office. There was one RFP respondent. It was Waste Management. There was no Republic that responded, yet a few days later the City noted that there was a response. It's very simple, they're there, they say we only have one, they open it, they say the name of the one company that they have, there are no other names. But yet later on they come back and there are other names that are; one other name: Republic Waste. This City policy by RFP, getting into areas that the City has never been involved in, getting into areas that the City Council has specifically prohibited staff from getting in, should make this a no-brainer. Please say no. I've talked about the big enchilada; this is it. I said a moment ago that this is something I can't afford to lose. It's not so much this contract, it's the City Council voting to set a policy that the City can be in competition with all of these other contracts. We have the airport contract. We just doubled the volume of recycling. Republic had it before. It went from 12% to 25%. The City reported there was a 13% increase. It was 13 percentage points, it was actually over a 100% increase. When TDS is involved in it, they don't even want to recognize the merit and the benefits that we gain. Just an example of what we deal with. The airport contract is in this; there's pricing for the airport contract in here. We had the Convention Center contract. Maybe y'all, a couple of you would have heard it before, that used to be what Mr. Gedert bragged about, the highest diversion contract in the City for the City. We couldn't bid on it because of the Anti-Lobby deal. Another guy got it, Central Waste I think is the name, I think they're a good company, I don't have any idea what they're doing with composting at all, but that is in this contract. So, while there's 19 or 18 million dollars, whatever it is, a lot of things, like the Central Business District contract that can be added. All of those containers are priced in here. It's a huge contract. It's not part of that \$18 million dollars. The airport contract is a big, big contract. We have five full time employees out there. It's not in this contract, in the dollar amounts. The pricing for everything except the individuals is here, so what they can do is they can award this, they can do a Green Builder initiative and have Green Builder events all over the City, at every construction site in the City and they can do it under this contract. They can do the downtown contract and expand it so that it spreads out in all the major arteries. Four or five times since the 39 years that I've been in business, the City has tried to do this. This is the most ingenious one. We have beat them, we've defeated them every time because it was to create a public utility. This is not a figment of my imagination; it's happened, we have all the paperwork, the news stories to talk about it. This is a big one. They can have a toll operator, a toll hauler, that can haul all the commercial, all the roll off, all the City facilities in town. So this goes so far away from policy. Please say no. Send it back. Even if you want to do these things it has to strip those things out so that it gets down to what they said that it was – for City facilities only. It is so frustrating, I agree with you, it is so frustrating that we're up here and you hear me say these things, and you hear them say something very different. If you can take the time, please do, to read these, see the pricing sheets and ask yourself, "Well why are all those other contracts priced in here if they don't intend to roll them in?" And they wouldn't even have to go out for bid again on the airport, the downtown Central Business District, the Convention Center, or to go up and down Burnet Road, all the major arteries. The very first time it ever happened the City leased trucks and containers without Council approval, this was in the '80s, and I found the trucks and containers in a City yard. Council threw the staff out on it, we bought the trucks and containers, that's how I went in the container business back in those days. They sent out notices telling everybody, "Your contracts are over, we're taking it over at the first of the month", and the Public Works director is a guy who still lives here, and he said "Bobby, all I want is downtown and the main arteries, the main traffic – Lamar, Burnet Road, Anderson Lane." I said, "Richard, that's all there is. It's just residential, you've got everything else." He said, "Well you can do a few things in there." That's exactly where they're going. We need a lot of people helping us on Zero Waste. We need a lot of contractors. Hopefully you should have four or five people bidding on this Organics business deal here. You're never gonna have it when the biggest threat to business is the City of Austin staff who has a different view. They have a

different definition of Zero Waste than I do, than you do, and Council does. That's what we're getting into. Please don't move this forward. Please don't make us go out – I've gotten between three and five thousand businesses to sign petitions, and trust me, there is no problem getting businesses to sign petitions that they want open competitive market rather than being subject to only the City's will and the City's pricing. Almost every single business will happen. That's when we went door to door with petitions. Now, as you know, with social media you can do... we can probably do four thousand in a day, where we used to take a week to get a thousand signatures. Please don't make me do that. Let's please, please, if you want to do it, and the Council wants to change the policy, then do it in the noonday sun. None of these people, these 21 vendors, ACL is one of them, these 21 promoters that do special events, none of them know about this. None of them know about it. Once they know about it they're going to go ballistic. They want choices, they want to hold standards, and they're not going to do it with a standard pricing vendor that the City forces them to use. So please, please say no to this. Thank you very much. I'll answer any questions.

Gerry Acuna: Any questions? Thank you Mr. Gregory.

Bob Gregory: Thank you.

Bob Gedert: I'd like my professional staff to address some of those issues.

Jessica King: Good evening Commissioners, Jessica King, Austin Resource Recovery. My team worked very closely with special events organizers to ensure that they provide recycling to their patrons. I need to back up and provide you with some history, first and foremost, and that will allow you to have some context. But the first and most important thing that I want to stress to you is that the City of Austin, Austin Resource Recovery in particular, notifies the event organizers as to whether or not they are receiving City co-sponsored acknowledgement or recognition by the City Council. At that time we tell them they have a choice to utilize, they are eligible for City services and City contract services, or they can go their own way and choose a private hauler. You will see in the list that you have before you right now that there are events that choose private haulers, and we have no problem with that. So there is no issue of competition because we don't force them to choose City services. So just to back up one more time, the City of Austin, City Council, before they would consider a special events ordinance, directed City staff to ensure that certain City co-sponsored events determined by City Council, would be eligible for City services and that we would be able to provide assistance with recycling and any other diversion needs. So oftentimes before an event can get their permit approved they meet with City staff, we go over their waste management plan and we tell them what services are available to them, we recommend coordination with KAB, Keep Austin Beautiful, we provide them with a list of the different service providers that are available, and they can choose whatever service they wish. Oftentimes they do go through us because as a City co-sponsored event, one of the key things that they get is a waiver, and the reality is that there are some events choose that route, but many events do not, the vast majority of events do not. Y'all know quite well that there are hundreds of events that occur in this City and we do not provide service to them. So there is no intent under this contract to provide service to all City, all events that occur in the City of Austin. There is an intent to be able to provide service when requested to City co-sponsored events, and that list is normally determined by the City Council.

Amanda Masino: Excuse me, Jessica, what is the waiver for?

Jessica King: Oftentimes City Council will waive City fees. So, for example, if an event were to ask for City services such as APD, Fire, EMS, any transportation, barricades, any services that the City provides, then the City can request, the City can direct staff to waive that fee, basically the event would not have to pay for that fee.

Amanda Masino: So if it's a City co-sponsored event, they can use City services and not pay for recycling, or they can look for their own hauler and pay.

Jessica King: So here's our standard, yeah, I wish I could give you an easy yes or no to that. Basically a City co-sponsored event, determined by Council, is eligible for City services. With Austin Resource Recovery, when we sit down and go over those services with them, because we are a Zero Waste department, and we want to support Zero Waste efforts, we will recommend a waiver for cycling costs but we will ask them to pay for trash, trash fees. So, that's generally what will happen. When they come to us, if they determine that they want to use City services, then we give them a cost assessment. All the waivers are considered and reviewed by Council, and then an action is actually taken by Council. It's normally under the Items for Council section.

Amanda Masino: But if they opt to go private, then they pay for trash, and for recycling, and organics.

Jessica King: That's correct. That's correct.

Gerry Acuna: Commissioner Bones.

Kendra Bones: How does the event recycling rebate tie into the program?

Jessica King: I'm glad you asked that question. So, we, Iby Setzer is the person, the waste diversion Planner Senior, who pretty much helps coordinate a lot of the ARR resources to these events, and she promotes that rebate. And we notify events that if they are interested in recycling, or any other diversion efforts, they can be eligible for that about, I think it's \$750, towards diversion efforts at their event.

Gerry Acuna: Any other questions?

Jessica King: And just to clarify, if they are a City event, meaning if they are a City co-sponsored event, then they are not eligible for that rebate. So it's not like they can get double.

Kendra Bones: Got it.

Heather-Nicole Hoffman: And they can use that to pay a private hauler if they choose to go private hauler instead of City services?

Jessica King: If they go with a private hauler, they can use that rebate.

Heather-Nicole Hoffman: So then they are no long a City sponsored...

Jessica King: So, City... I'll double check that and give you a better answer on that tomorrow. My understanding is that if they do not, the way the rebate is written, is that if they do not use ARR services then they are eligible for the rebate, regardless as to whether or not they are a City co-sponsored event.

Gerry Acuna: Adam Gregory, you have 3 minutes. That's the last speaker that's signed up.

Adam Gregory: Thank you very much, Adam Gregory with Texas Disposal Systems. I hope you can understand that what Jessica just described is competition. It's competition by an entity that has permitting abilities and has a lot of power over them. Also, there is no definition of City sponsored event, or co-sponsored event. It says in the handout you got in your backup, and it also says in the Master Plan that that's the case. And Jessica, you heard her say, it's often done by Council, that selected them. That's true, there are a handful of events that Council ordinance recognizes and provides waiver for. It's also considered a City sponsored event or City co-sponsored event just if the City department chooses to sponsor them, so this department, ARR, with this contract has the power to say "I sponsor thee" to any single event in Austin. That is a fact. They can say that and that makes them eligible to use this contract that they can go market to these private events; to an ACL. They can say, "Look, we've got this commodity based pricing as a part of this big contract for City facilities and maybe that has a lower price." They can do that. They can say "I sponsor thee" and they can compete for those events. We've invested a lot of money to provide services to these events; this is a big expansion into that. It's not about what their intent is; they'll tell you that we're crazy, that we're wrong. It's about what the contract allows. Also, this secret contracting thing that we're seeing here today, where you can't ask questions of the proposer, you can't ask questions about the contract, I've been coming to these things for a decade, I've

missed very few ZWAC meetings in a decade. I've seen dozens and dozens and dozens of contracts approved by you. I've never seen anything like that. You can always ask questions about the proposal. It's very common to separate negotiation and execution and ask that the contract come back. Last month, Synagro contract was on several Agendas. They saw the contract, they saw the proposals. This is a new thing that they're trying to foist on a new group of Commissioners. I think it's ridiculous, and I think you have every right to ask these questions, and I think you should certainly insist on seeing these contracts and proposals before you even consider giving them a recommendation. I'm happy to answer any questions.

Gerry Acuna: Thank you.

Jessica King: Commissioners, sorry, Jessica King once again. Mr. Gregory stated that any department sponsored event could utilize this contract. That is true, there are department sponsors. So the City has contracts and agreements, a good example would be the Trail of Lights and Austin New Year. Those are City department based sponsored events and in those situations we would utilize this contract. Oftentimes we bill the department that is requesting sponsorship of that event and they pay that fee. So this contract is a managed contract by Austin Resource Recovery. An example would be that if another department needed a dumpster service or a dumpster collection of some kind, then the City would bill, or ARR would end up shifting the cost or notifying them of the cost for that service, so ARR is not incurring that cost.

Gerry Acuna: Commissioner Blaine.

Joshua Blaine: I've heard a lot of conversation about sort of this question of competition from the City and the City kind of presenting a danger to private industry and kind of a thriving private industry. I haven't heard any commentary on TCE's concerns around this being a doubling or tripling of the contract kind of under the table, around the Austin Energy contract which was extremely unpopular on this Commission, and around Waste Management, a very unpopular, you know I'm part of a new merchants association up on Manor Road. We work with the City with the Soul-y Austin program. I can very easily see it becoming a sponsored event for one of these things. I don't want to think that our stuff on Manor Road is getting shipped up to Waste Management because they don't have any control over it, so I want to hear some answers to those concerns.

Jessica Frazier: Okay, so part of the City sponsored events and the issue that we can take over everything, and the contract itself giving us that authority is not, is not, the intent. The other thing is the dollar amount of the contract is limited. So the projection that we have for this contract is for the things that we have described and the things we've done in the past similar to that. If we were going to try to add additional facilities to this contract or add additional events that weren't currently in our projections based on what we've done historically, we would have to do adjustments for that and we're limited to what we can do without having to go out for a new solicitation. So there's limitations that are inherent in the contract that prevent us from doing that if, let's say, that's not what we are trying to do, but if that was the case there's dollar amount limitations to that. In the contract, language for the RFP to talk about the TCEQ, the Class II Hazardous Waste, it does speak to the, and I can read, I'm going to read directly from the RFP 'cause this isn't my ballgame and then the guys in the back know more information and can give you more information if you have it; but it asked for the "contractor to provide containers, collection, transportation, cleaning and all resources to properly dispose and/or recycle all Industrial Class II and special non-hazardous waste streams generated by the City from several departments. Contractor shall keep separate all materials that can be recycled and properly weigh and record these materials for revenue to the City." So that's what's in the Scope Of Work that we asked and the bid whatever the response was about bid on that specific part is what we can't talk about, but that's what the requirement was of the responders. So that's the part that's spoken to about, from what I remember and understood, about that conversation about the waste, it is spoken to about trying to recycle those materials. So that's, if you have more questions about the detail of that then I can ask some of the people that know more about Class II hazardous waste. The, I'm trying to think what was the other.

Joshua Blaine: There were concerns there about not being any diversion requirements in this contract which we explicitly had asked about, and Waste Management.

Jessica Frazier: So, one of issues was brought up from the emergency perspective, from that side, so when we talk about emergencies, we've had three major floods in the last couple of years, so that's what we are talking about when we talk about emergencies, where there's floods and there's debris that needs to be cleaned up. From my experience based on those floods, there's not a whole lot of diversion opportunities, there's not a lot of space, there's not a whole lot of stuff that can be diverted and then a lot of that stuff I don't know if it's allowed to be, so if there was something that was clearly able to be recycled of course we'd want to focus on that but when it's an emergency situation our priority is to get everybody, get all the debris out of the way, get everything safe, get everything healthy. That's where this health and safety thing comes in when it's an emergency. So other than that with the City facilities the diversion for the City facility is part of our department Zero Waste Plan, and I'll let Bob talk more to that, but this is more on the servicing side of once we have those materials in those places.

Joshua Blaine: I guess I just have a general confusion around why this again is becoming such a controversial contract. What are y'all? What is in y'all's best interest in expanding this so dramatically and taking on so much more than the original contract, what's the motivation?

Jessica Frazier: I'm glad you brought that up, 'cause that was the biggest thing about it. So when we first bid this contract out the contract that exists now that's expiring at the end of this month, was bid out in 2010. So again with competitive bidding we get the price that we get when folks bid and then we had two bidders on this and all of this stuff is evaluated. Right? So just based on increased cost, or inflation, or whatever it may be, the increase in the cost is not due to the expansion of the services that we're asking for, above and beyond the organics that we're adding in, it's just that the prices of things have gone up and that was the bid price that we got. There's nothing hidden underneath that we are trying to hide with a pricing cost it's just based on the projected amount, based on the pricing we have now of what we are going to need to cover mainly for the City facilities, that's what the main purpose of this contract is.

Joshua Blaine: But is it not true that the City events having a locked-in contract for all City events, that's a new policy, is it not?

Jessica Frazier: That's not, that's not, that's not what it is. If the City, if the event organizers choose to use us for their service we can't bid out those things individually because as a collective, it's more than \$5,000 dollars, more than \$58,000 dollars and our purchasing rules require if we know in advance, that's State purchasing law, if you know in advance that you're going to be purchasing something that's over that threshold you have to competitively bid it out. So this contract allows us to have that authority to be able to use that service without violating purchasing law to go out and buy those as single purchases when in reality it's a combined service that we ... an ongoing service.

Commissioner: So why wouldn't they use you, you're free?

Jessica Frazier: Not always.

Bob Gedert: Very few times.

Jessica Frazier: Usually the fees and the waivers that I have seen, they're all different like Jessica said. Sometimes the waivers that are given for the City staff that are onsite. Very rarely do I see the dumpster fees themselves waived. So we, there's services that are provided by our City staff to be onsite, to pick up the litter and get it to the dumpsters and then the dumpsters are emptied. Those fees, because it's something that we have to then write a check out to the vendor, those are rarely waived. Like Jessica said, the recycling, I think, is the only thing, but in most of the fee waivers that I've seen, 'cause all that stuff gets processed by my division, the dumpster fees we then invoice the event organizer. So the reason why they might want to choose a private

hauler over us is theoretically it might be cheaper because then they have that one on one negotiation ability versus us, we have a locked in contract price.

Joshua Blaine: On that point, what is the price competitiveness? I mean, are you undercutting these private haulers because you are getting this huge ...?

Jessica Frazier: I don't know, I would doubt it.

Bob Gedert: I would add that our prices are posted and any private hauler that wants to be competitive can just bid a penny under ours or a dollar under ours. It's not secret, there's no secret price list, it's all published. I would also say this is not an expansion of past policies. This is exactly what we have done in the past. This is a package that is a maximum and it is a choice of the event organizer. It is a choice, there is a letter, we can supply you the letter. There is communication to the event organizer on what choices they have available and this is a past practice that has been going on for a long time. This is not new and expansive. It is exactly what we've done in the past.

Gerry Acuna: Commissioner White, and then I have a comment.

Kaiba White: Can you speak to the issue that was raised about driving the waste to San Antonio and the related emissions from driving to San Antonio, if that's where the waste is gonna be disposed of.

Bob Gedert: I'm unfamiliar with any waste load going to San Antonio. I think that's an extreme.

Kaiba White: So it's all going to the Austin...

Bob Gedert: I would note that when we bid contracts out we do not designate a landfill and therefore we do not practice flow control. The U.S. Supreme Court has ruled that we cannot prohibit waste from entering a private landfill and we cannot promote a private landfill by government edict. There is restrictions on the government on controlling waste streams, and we do not control waste streams. It is the generator and the hauler that decide where it ends up. And every contract that we sign has diversion requirements; every contract has diversion requirements. We have basic language that goes into every contract. On the emergency services that Jessica had noted, there is significant water damage when there's flooding and much of the material from houses and businesses cannot be recycled, but all of the tree limbs and all of the damage to trees, bushes and yard trimmings, all of that gets diverted to composting. So we do make great efforts to divert in every situation.

Joshua Blaine: Director Gedert, wouldn't the City of Austin be the generator? When you said it's up to the generator and the hauler to decide where it goes, wouldn't you be a generator in this case? I mean, that means you have the power to decide. I feel like that's something that the Commission should have the power to decide.

Bob Gedert: I think that's open for discussion if it's generated from as City department.

Joshua Blaine: Well let's discuss it then.

Bob Gedert: If it's open from a City department, the position that ARR is in, that this department is in, is that we are a liaison to providing these services to Austin Energy, Austin Water, Watershed Protection and all these other departments, and they are billed for these services. So this is a collective consolidated contract that takes a lot of different City departments' waste flows, including this City Hall. This City Hall's waste is included in that and there could be a general policy on designated, but it would have to be in the bid itself. It cannot be in the negotiation of a contract, it has to be in the bid documents, in the solicitation as it goes out the door. And the lawyers would have to help out on that because there is a Supreme Court ruling, the Carbone decision from the 1980's, that restricts governmental actions. We cannot say, "this is a dirty landfill, none of our waste shall go there." That's flow control. Likewise, saying all of our waste must go to this landfill, that's flow control too. And so there is a way around that, some of the lower courts have provided some additional powers back

to the government but we do need to consult with the attorneys on that issue. At the moment there is no designation of landfills. At the moment.

Kaiba White: Does that mean that you could not have estimated carbon emissions as another line item on here, and factor in transportation to and from the site?

Bob Gedert: I think that is a great idea, and I think that could be a scoring element. We would again have to provide that prior to the bid solicitation, but I think that is a fantastic idea.

Kaiba White: And that should not run into any legal hurdles...?

Bob Gedert: I think, we can consult, that does not get into the Supreme Court ruling on flow control; that is a different measure. That's not saying "thou shall not go there", that's putting an objective measure rather than a subjective measure, and I think that would pass the test.

Gerry Acuna: We have made, previously we absolutely sat up here as a Commission, and I think we were called the Solid Waste Advisory Commission back in those days, and the decisions that were made by the Commission were to refrain from any waste going to one of the landfills in northeast Austin due to the fact that it was proven that there was hazardous material in this facility, and we didn't want the City to be a part of that. Should something happen we would be responsible for a cleanup. We have passed Resolutions on that and I think they're on record.

Bob Gedert: There is a difference between philosophical resolutions and actually implementing it into contracts, and there is a legal liability on the Supreme Court ruling.

Gerry Acuna: We did implement that. No, it was implemented into the contract.

Bob Gedert: As you refresh our memory from the past I would note that I had lunch with JD Porter yesterday, and he says Hi to all.

Gerry Acuna: Thanks.

Jessica King: Commissioners, I'm sorry, Jessica King, if you could refresh, I did some research on that issue as to whether or not Council specifically directed us, because as an advisory body you can make that recommendation to the City Council, we follow the City Council's directives, and so I did some research to determine whether or not there was any language specifically telling us not to send anything to certain landfills and I could not find anything. And no, so...

Bob Gedert: [speaking from the audience, unclear]

Jessica King: Okay, so I did not find any Resolution language from the City Council and there could have been something, surely that the Zero Waste Advisory Commission, or Solid Waste Advisory Commission passed but I just wanna make clear for the record since there are so many new Commissioners on this Board that that wasn't something that the City Council passed.

Bob Gedert: I'd like to clarify some language, and it was language that from the testimonies as well as this general, and I think this would add clarity, there are some terms that have been used. "City utilities" has been used, that the department is working towards a "city utility". I think it's a misused term, I think there's a better term for what Mr. Gregory is referring to. City Utilities in the legal sense is referencing the City taking over and providing, being the direct service provider, and that certainly is not our ambition. We're not buying trucks and bins and providing the service, we're contracting out with private haulers. So this is not building a "city utility." I think that may be a wrongly applied term. He may still have a point, but there is no conspiracy theory. There's no action of this department towards what he is angling on there. What he may be referring to is exclusive franchise agreements, where certain haulers are banned from a certain geographic territory, or territory of accounts, and there's an exclusive account. This is a not an exclusive franchise agreement, this is not what

we're speaking of here today, and that is not what the department desires. There's also the free market and the departments choosing whatever hauler they may choose, you know, Austin Energy, Austin Water, and so forth. State law does not allow us to do that. If the contract is \$58,000 of value or higher per year, State law says we must bid the services out. So this is following State and City law, we are bidding out in a competitive market and the service provider is a private hauler. It's not the City and it's not a particular conspiracy of the City to take over any territory. This is City generated waste at City facilities that are hauled by a hauler selected through a competitive bid process. We honor State law. When it is over \$58,000, we bid it out. So that's difference in terminology. It's not a "city utility", it's not exclusive franchise agreement, and it's not a free market arrangement.

Gerry Acuna: Okay, you know I'm going to go back. I do recall there was a Resolution passed by Council that allowed, or that asked staff at the time, to refrain from contributing any waste to the landfill in question here. Having said that, let me get back to some basics here, you mentioned 2010 was the last time that this contract was actually let. Is that correct?

Bob Gedert: Yes.

Gerry Acuna: Now what was the language in that 2010 contract? What was asked of? I think again it was City facilities, is that correct?

Jessica Frazier: I didn't bring a copy of that contract with me so I don't know, but I do know that when we create we, often, when we create the drafts the new RFP's, the first thing we do is pull the old one and look to see if we can use that language and make it better, so I would assume it would be similar to what the current contract has in it, but I don't, I didn't compare the two.

Gerry Acuna: Again, there was a comment made I guess in October that you had a dumpster contract coming to us similar to the previous dumpster service contracts. This is not similar.

Jessica Frazier: I would assume they are similar, again I didn't look at it, but I can tell you that it's for the same services, it's to replace the contract...

Gerry Acuna: Well it's the same buildings, correct.

Jessica Frazier: Sure, same services the only thing different is that we are adding in the organics. I don't know if the emergency part was filled out as much, I know we had to do some emergency contracts that we wanted to make sure we had something in place, but with the emergency one specifically we also have a disaster debris removal, and ...

Gerry Acuna: And that's important, absolutely.

Jessica Frazier: ... and monitor contract so, but the other stuff like I said, it's for the same services that we're currently providing, or currently receiving because we are not providing the service.

Gerry Acuna: I don't feel comfortable with the way this is drafted, and I'll share my concerns are basically, we've added quite a bit more to this agreement than the previous two, three contracts. Having a citywide contract dumpster contract is wonderful. There is a service provided that the City can rely on. It's picked up, we're out of here; we're clean. This is going way above what originally was done. I don't recall ever seeing events, private events, as something that ... in a previous life I used to do the recycling at places like SXSW, ACL; I don't recall this.

Jessica King: So in the previous contract I don't know if it was specifically called out as events, but I will say that it was used that way, and we have ever since I've been at the department, which has been since 2007-8, we've utilized the City dumpster contract, City facilities dumpster contract for City purposes. So while I understand the hesitation in terms of City facilities, this is a City, basically City, I don't want to even say operations because I know that will send up all kinds of red flags but, what I am trying to say is for City use.

This is a dumpster contract for City use, and City function, and so when we are charged or asked to provide service to a City co-sponsored event we utilize the City dumpster contract to do that.

Gerry Acuna: Again, back in the old days I think, and again, Bob you got here in 2010? Back in the old days I think the event coordinators were given the numbers and suggested operators or private companies and the negotiations occurred between the private companies. I can tell you now, looking at these events that are on here, these are all very successful events, they've been around for decades if not longer. They didn't rely on the City, and never have relied on the City to provide their services.

Jessica King: And they likely still won't. The reason the list is provided is because it is a list of events that could potentially request our services and so we had to be all inclusive of that list. That is the list that is identified by City Council as City co-sponsored events.

Gerry Acuna: I guess I have an issue with that. I mean that's totally separate. If we want to go and negotiate, as we should, a contract strictly with the facilities, and basically a contract similar to 2010 agreement, I think that's wonderful, that's fine, that needs to be done, but to add all the other incidental items to this new agreement is worrisome to me. And it does, not to sound like I'm paranoid, but it does sound as though we're starting to infringe in the private sector's line of business and that's problematic for me considering that we have to, at the end of the day, rely on revenue generated from marketing, from sales, whereas as a City owned utility we have ratepayers that we can rely on and all we do is go back to them for a rate increase. And that may sound a little coarse here but that's not meant to be, my goal is to keep this as simple as possible. I would like to see a lot of the items that have been added to this stricken from this agreement and literally just go back to a basic let's get the darn trash and recycling picked up at City facilities and move on down the road.

Jessica King: So Commissioner how, if I may ask, because I'm challenged with this. My team in particular is challenged with this because as we are charged with providing all available options and services to City co-sponsored events, so is your... and at the same time we also have to provide services to ... we have to secure a rate that is favorable to the community because this is a department that is a community department, and so when we separate out, if we were to separate out a special events bid and contract for bid no guarantee of other options; I don't know how we can secure a contract that would be financially beneficial to the department.

Gerry Acuna: Okay, I'm confused now. So you're asking me...

Jessica King: So what I heard you say is pull out everything including special events. That's what I heard you say. Is that correct?

Gerry Acuna: I said, let's go back to the basic contract that we originally had back in 2010 which we were able to get ...

Jessica King: The basic contract allowed us to utilize the dumpster for special events and that is how we used it. This is called out more specifically, there are key components because of the service needs that we require, including having a point of contact throughout the course of the event, for example most events as you all know occur on evenings and weekends and there were many times where service providers could not provide us with a contact person to resolve an issue if a dumpster was improperly placed or if it wasn't delivered on time, so the contract and the bid process included enhanced service to make sure that we had one point of contact to handle all of our events, and to be available during evenings and weekends to address the issues if we had issues.

Gerry Acuna: I think the, and again this is just me being perhaps naïve, but I think the private sector actually addressed those very issues, and they did pretty well, and they have done very well, and there's a hell of a lot more private sector service providers than TDS. I mean there's...

Jessica King: So another option is a recommendation to the City Council to not provide waste management services to City co-sponsored events. That is one option, because the reality is when our City Council asks us to coordinate or ensure that they have access to recycling services and coordinate with our department to do that, I am charged to do that, I am charged to meet with them, I provide them with all the resources and I tell them make a choice, and so it is their choice as to whether or not they want to choose Austin Resource Recovery services and our coordinated efforts with a private hauler using a private contract, or to go and handle it on their own. Oftentimes they do go private. If you look at that list, it's all private. Austin Farmers Market is a perfect example; we don't reach out to them they call us and they choose private service.

Gerry Acuna: But to even include this component is disturbing to me. You know, let's go back to the URO. I mean the URO, the department actually has wonderful assistance. You will send somebody out to an apartment complex or to that department store and help them figure out how to minimize their waste, increase their diversion. We don't provide the service but we're there to help them get that. The private sector, at the end of the day, is the one who picks up this material, and I don't see that being much different and if you're telling me that you're willing to do this for some of these events and still rely on the private sector to conduct the services, you know, I might be able to buy that, but just to have this in here and to have the reference point, or to make this a remote possibility in the future of these items and this opportunity to be taken away from the private sector disturbs me.

Jessica King: We do not provide service to event organizers who do not seek out our services. So if an event organizer asks us to provide service, we will offer a bid. They will take all, and we encourage them, please do, secure bids from a variety of vendors and we provide them a list with those vendors. So it is not our intent to be out there at all these events but, what I must ... if for example a City co-sponsored event, I would ask, if you have a recommendation as to what you would like us to do please share that with me, but when a City co-sponsored event who currently may use a private service provider decides "you know what, I wanna try the City service, and I'm gonna take advantage of City co-sponsorship, and I'm gonna try it one year"; I need to, because of the request to Council, I need to be available to do that.

Gerry Acuna: Okay, I am, again, that would probably be a moot point if that wasn't an option as addressed in this contract. In other words, what you're stating now is you're opening the door to this happening. The City has always been involved with assisting events. Always has.

Jessica King: Yes, that's correct but we have not, but our City Council charges us with providing availability of services. This contract opens up eligibility to those City co-sponsored events. I don't, I'm trying to find another way of saying that I'm not quite sure if I am being very clear. In the end the choice is the event organizer, no matter what. No matter what, and they will nine times out of ten choose a private service provider. This contract only keeps our ability to utilize, when we went out for bid, when we went out to notify the private haulers who would bid on this, we wanted to let them know of all possibilities that could occur and so we had to list all the possible events that could at some point say, "you know what, I wanna change my mind and utilize City Service." So we notified all, we listed all the events that are technically considered City co-sponsored.

Gerry Acuna: I have no more questions right now.

Heather-Nicole Hoffman: One quick, can we specify, that the sponsor, City sponsorship, does not go for dumpsters? Can we put that in there? So that, because the comment was made, so they could get recycling for free, so we can make that not a possibility, they won't get the recycling for free.

Jessica King: We can, we can, that's kind of our practice at this point, but the waiver process is a City Council decision, it's not through this contract. So when I submit a waiver to the City Council what will generally happen, an event, one of the City co-sponsored events, even though they are considered an annual event, although things could always change, I don't know. What I will say is that past practice has been, MLK, Juneteenth, they are identified as a City co-sponsored event on an annual basis and every year we evaluate

their plan, we look at the cost implications and what it will take to provide service to them. So every department involved in ensuring that that event goes on without a hitch – Police, Fire, EMS, transportation, right of way, our department, Health department, Code, we all have certain fees and certain costs associated with ensuring that event gets handled correctly. When we go through that process we, based on our conversations with the event organizer, we develop an assessment, that assessment says, okay you're gonna need this many dumpsters, you're gonna need trash landfill dumpsters, you're gonna need this many recycling dumpsters, you might need this many containers, street sweeping will occur at these times, and we organize all the staffing and all the equipment required to provide that service. When we look at that, and then City Council includes in their area called Items For Council, these are items that Council is bringing forward, not departments. So Council has been asked, a Councilmember. Normally a Councilmember will sponsor it, if it's Ora Houston or the Mayor, they will sponsor an item to waive fees for that special event. If you see Austin Resource Recovery included in that list of fees, they'll articulate the fees in their backup material, then it's identifying which waivers are occurring and Council will normally only waive those fees that are identified and they generally, they don't identify what the event organizer is going to have to pay, sometimes they do and it just kind of depends on the agreement, but for the most part it's handled through the Council on the waiver. We still have to include costs associated in the contract.

Bob Gedert: Let me add, and Jessica very accurately described the process and that process was developed through City Council, not through staff. I would add that if your concern is the offering of free services, you could make a recommendation with a Resolution or a statement saying that you oppose offering fee waivers. It's still a decision of Council but you're voicing your opinion to Council by saying that you oppose the exercise of fee waivers in the delivery of these services. That's one option that you could do.

Heather-Nicole Hoffman: My concern is not really service that's provided directly by ARR; we understand that. This a service that is contracted out so it seems like a different process.

Bob Gedert: It's still a waiver request through Council, and there is a tremendous, in the past year there's been a tremendous debate among Council on the approval or denial of waivers, there's been a lot of discussion among Council. It is, again, a Council decision on the waivers. If you feel that that is not proper in this setting, for this contracted service, then you can voice that in your Resolution to Council, and Council will hear it. It's still ultimately a decision of Council though, on the fee waivers.

Joshua Blaine: Mr. Gregory here, is obviously wanting to make a response, so I would like to hear that, but I also haven't heard anything on Austin Energy, sort of, just throwing that in there. There hasn't been a single word, on that, and, again we were very clear on opposing how that all went down not that long ago.

Bob Gedert: This is different than the contract you're referencing in the past, this is not in reference to the contract that we previously discussed. When we're gathering together City waste from various departments, we get the composition of the waste and this is listed as a particular industrial waste that Austin Energy has identified for this contract. It is not the same material as debated in the prior contract. This is, and I can find out the source, I don't know the source of this material from Austin Energy, but I can find out.

Gerry Acuna: It's the same.

Kaiba White: Are you certain? The language looks the same.

Gerry Acuna: It is the same. It's the same, it's the same language.

Bob Gedert: It's a different source. This is not the same material, it may be a similar language; it is not the same material.

Joshua Blaine: If you can find out what that material is, that would be great.

Bob Gedert: I certainly will.

Joshua Blaine: I also just, gonna say again that here we are again talking about specifics at the last minute. I don't know why this wasn't brought to us when you were making the RFP back in May or April? Was it? Am I forgetting? I don't think so. Why are ...

Bob Gedert: The answer is it wasn't our procedure at that time but we are changing our procedure based upon your request.

Gerry Acuna: So let me suggest something. I would love to hear your comment, two minutes, just one minute...

Bob Gregory: I know it makes y'all feel uncomfortable when I get up here and talk about false statements being made by staff, but I would have to be planted here full time responding to the false statements you've heard over the last two months. It's over and over and over again. It has been long standing policy that if a dumpster's involved it's off limits to the City. They're breaking that policy right here. There was a big deal, you may recall, some of you were on here, when the City bought roll off trucks. I think they had five, and whether they were going to go in the roll off business. They had to commit that they would not use those at all for commercial. This allows them to use roll offs all over town, but it's not their roll offs, it's an ingenious way, what I was talking about a while ago, ingenious way to get the business through a contract. He gave you an email, I mean a memo, about a month and a half ago, on flow control via contract, that's exactly what this is. Talking about changes, the handout that I gave y'all has a lot of highlights in it, and red lines that say "new". Where it says yellow, and it says "new", those are new sections for the contract. They say there's not much difference in it, there's a lot of difference. Talking about Austin Energy waste, a utility pole is a utility pole, they've not changed that much in the last 5 years. We diverted 47%, to my knowledge Republic has diverted zero. They have just said earlier tonight, they've not identified anything that is recyclable, or a diversion candidate. Copper is a diversion candidate, steel is a diversion candidate. There's a lot of things, we gave y'all the records, pictures of it, and we reported to the City, it wasn't after the fact, we told them what we had done. It was, they worked hard to make sure we didn't have that. All of this talk about how they're charged with doing it and they make these statements of what the Council has told them to do, please make them bring forward the proof to do that. They can make these statements and y'all feel like gosh, I can't challenge a City official. Why would they lie through their teeth, but that's exactly what they're doing. They are charged to get this public utility. That's what it's all about guys, that's what is about, what I'm saying. Please don't take us there. This is not about rebates, this has nothing to do with rebates. Y'all can do all you want to with whether to give rebates or not. This is about whether the City takes over a public utility. The City has a deal, a franchise with taxi cabs, and ambulances and different things like that. How do you think they would feel if the City said, "You know, we're going to give the people a choice. We're going to start in the taxi cab business. And we'll give them an incentive, matter of fact, we'll charge them something and then give them a rebate if they use us." That's competition. When Uber and Lyft came to town they were breaking into that taxi cab and rent-a-car stuff, they were basically illegally coming into town to do that, but people loved it because we needed the service. We're legal, we're licensed haulers under an agreement, long-standing agreement that the City would stay out of our business. They're telling you they're charged with getting into business. Council has not charged them to do that, they've charged the exact opposite of that. So when they tell you they have been charged, please ask them to prove it. Bring us the information, and don't come in with one thing, having to have the approval tonight because they've gotta go to Council in December. Please forgive me for being frustrated, but we are on the precipice of going to war with the City over this deal to defeat it, or not. I don't want to do that, I don't want to call the attention to Zero Waste. We, none of us need to do that, but that's what they're doing. And believe me, everything they're doing is anti-zero waste 'cause what hauler would ever go into business and expand their business and take the risk if they knew the City could be "charged" with taking them over. Thank you very much.

Gerry Acuna: Thank you. Commissioners, just a reminder here, we have approximately ten minutes and this meeting has to conclude.

Shana Joyce: Can't we go till 10:30, I thought?

Bob Gedert: You can extend it.

Gerry Acuna: We can extend this meeting, correct, if it be the will. Do you have a question?

Stacy Savage: I do. So we were talking, I believe, Jessica, you were, someone one was saying that the contract is basically the same. I really want to get to the cost issue, that's really concerning me. That's a lot of money, it's an extra ... what, eleven million dollars or so?

Bob Gedert: What I would like to recommend is, and again, I'm gonna have to consult with Purchasing Office to see if this is possible. We have three elements in this contract, we have the City facilities, we have the special events, and we have the Austin Energy issue and I'm going to recommend that we take the Austin Energy element out of this bid. I don't know if that derails the bid selection process and I have to talk to the Purchasing Office but if you make a recommendation to move this forward, I would accept the opportunity to segregate out the Austin Energy and run that on a separate track.

Gerry Acuna: Would you consider removing the special events?

Bob Gedert: I'm not sure of the side effects to that but I believe we could do that as well too. And, again I need to consult with the Purchasing Officer to see if this can be done without violating the solicitation.

Jessica Frazier: I don't know about all those options. I think what's on the table for you guys is whether or not you want to make a recommendation to Council to move this forward. What you can do in that recommendation, is say that we recommend it with the following caveats, vote, and then whatever gets approved move forward or not. There are two other Commissions that are also reviewing this. One has already approved it tonight and so that information that you provide will go on to the RCA and move forward to Council. So you make your motions and your amendments to the motions or whatever it may be, and then that's what moves forward or doesn't, depending on how you vote.

Gerry Acuna: You know again, I'm going to go back full circle here, these are very avoidable contentious items if we work together during the actual RFP process. We can all sit up and suggest and have staff bring us what your desires are, your needs are, and have us work together and make sure that we don't have to go through this. Having said that, I will entertain a motion now on this, on this RFP, on this RCA, I should say.

Shana Joyce: Point of clarification, was your question answered?

Stacy Savage: No.

Shana Joyce: No one addressed Commissioner Savage's question.

Gerry Acuna: Thank you, Commissioner Joyce.

Stacy Savage: I wanted to address the major cost increase. If what we're saying is that contracts are basically the same all we're doing is adding in the organics component, where... a) where are we getting this eleven million dollars and what is it going to be spent on, if the contracts are essentially the same, from what you're saying?

Jessica Frazier: I actually did talk about that earlier. The contract, the original, the current contract was bid in 2010, so my assumption is that over the years things get more expensive. When we outlined what the services are, and I misspoke, the other additional thing, I don't think the Class II waste was included in the previous, so those are the two things. So those two things along with the enhancements that Jessica King talked about with the special events, them requiring a higher level of service when we do contract, other than that it's the same services that we are currently providing. So my guess as to why it's more expensive is it's just inflation, it costs more. Whatever the companies, I don't... I can't speak to why someone would make the price higher other than the things that I can assume, which are inflation, the cost in... the rising cost for providing service in the

City, increased traffic, real estate, I mean there's all the different things that cause increase in cost in the City. So it's the projection, again it's the contract projection, it's not what we will actually spend, that will be dependent on the services that we utilize, but we increase what we project what we think the contract cost is gonna be and add a little bit of cushion so that in case there is something that happens that we didn't plan for, but it's not anything, it's not anything more than that.

Stacy Savage: Okay, and at what point do we involve the public on such a huge price increase? I don't feel like there was a stakeholder process, I believe this is something that the TCE folks brought up. That seems like quite a jump to me, without any public input.

Jessica Frazier: That's not how the process works. So the public input is this meeting. So the solicitations are public, the, all the documents and attachments are public when they come to you and the City Council for approval. That's when the public provides their input, at this meeting and at the City Council meeting.

Stacy Savage: And how does your "everyday Joe" figure out that this on the agenda and you know, that they can come down? Are we letting people know that they can speak on these types of things?

Jessica Frazier: I mean it's, I don't know the answer to that. If you want to know what's going on in your City it's your personal responsibility to keep...

Stacy Savage: I'm asking if there's any extra ... yes, personal responsibility, I definitely agree with that. If you really want to know, you'll find out. But what I'm saying is, has there been any additional outreach to folks to...

Jessica Frazier: No.

Stacy Savage: Okay. Jessica...

Jessica King: Just to reiterate this, like all contracts that generally go out to the public. There is the public process is just what Jessica said. Commission meetings are the opportunity for stakeholders to speak up; to integrate whatever concerns they have. The next step is the City Council meeting, those are publicly posted, and they accept communication from the citizens as well, and that has been the process that the City has engaged in. There's no additional notification.

Joshua Blaine: Can I make a motion to extend our meeting considering we're still in conversation?

Gerry Acuna: Correct, thank you. There is a motion to extend the meeting 30 minutes, so then we have to cut off. Do I hear a second to that?

Stacy Savage: Second.

Gerry Acuna: I'm sorry. Commissioner Blaine moves to extend the meeting for 30 minutes, second by Commissioner Savage. No discussion. All those in favor raise your hand. Looks like a unanimous choice here. So let's see.

Joshua Blaine: I personally don't see any reason to approve this. There's just too many questions, there's too many concerns, I'm not feeling very comfortable. I hear what you're saying about events needing to provide a service. I don't think it's unreasonable to ask for some specifics around Council saying that that's the responsibility. But having said that, Austin Energy and the concerns around where this is actually going have never really been addressed. And, those are my thoughts, so I'm happy to entertain a motion to that effect, if folks are ready.

Gerry Acuna: You can make that motion, if you'd like.

Joshua Blaine: Okay, I move to vote to not approve this particular contract slash item.

Gerry Acuna: Do I hear a second?

Bob Gedert: May I adjust the language - it's a recommendation to Council or a non-recommendation to Council?

Joshua Blaine: I move to not recommend passage of this particular item.

Kendra Bones: I second.

Gerry Acuna: Second by Commissioner Bones. Any further discussion on the item?

Commissioner Masino: As friendly amendments, do we want to add any reasons to our ... do we want to delineate this in our...

Gerry Acuna: That's a very ... would you accept a friendly amendment?

Joshua Blaine: Yeah, for sure.

Gerry Acuna: That's a smart... thank you.

Joshua Blaine: Because we have concerns regarding the Austin Energy portion of this contract or recommendation. We also have concerns around the tripling of the cost. What I heard just there from Jessica was complete conjecture, there weren't any firm reasons behind that. And because there are, this is maybe be a shot in the dark but something we have talked about, there are no diversion requirements in any of this, particularly in the emergency stuff. Any other ideas for what to include?

Kaiba White: Yeah, I would like to add to that list "lack of accounting for carbon and other emissions due to transportation."

Joshua Blaine: Right, I think that could go under the concerns around the location of where the materials are ending up. So, some standards around where the materials end up. This is such a big contract to not have any sense or some standards around where all this material is ending up is a big concern of this Commission clearly.

Jessica King: Commissioners, can I ask for just a clarification? Is your expectation that if we go with a contractor that we place diversion requirements upon the contractor?

Gerry Acuna: On the...

Nicole Hoffman: Yeah, this is just for the dumpster service itself.

Jessica King: So in other words, if I contracted with Texas Disposal Systems for example, then, and this contract were awarded to them, it would be their responsibility to ensure diversion rate requirement of all of our City facilities and City co-sponsored events. Is that what you're asking us to do?

Joshua Blaine: Isn't that the expectation in regards to our URO that as a City we're meeting certain diversion requirements by certain periods of time?

Jessica King: No actually, the Universal Ordinance, as you will find out later on this evening, if you get to it, Universal Recycling Ordinance has no diversion requirements.

Gerry Acuna: Goals.

Jessica King: Only that certain recycling materials be made available to tenants and employees. We have goals in this community of what to achieve but even the haulers, as Mr. Dobbs might want to speak to, even the haulers have stated specifically that the requirements of diversion should be placed upon the generator, not the hauler. If this is a change in course that you would like to explore then we'll need to have that discussion.

Joshua Blaine: Let's hear Mr. Dobbs' comments on this 'cause this is a slightly new topic for tonight.

Andrew Dobbs: Yeah this is, Andrew Dobbs, Texas Campaign for the Environment. This is splitting hairs. I mean, sure, it's a very valid point that you can't do that, but what we mean by diversion or what I mean when I said this, when I raised this concern, is the very real concern that was actually lodged by this Commission and the Austin City Council on the Austin Energy contract that's been put into this, that said that they wanted diversion requirements meaning like, you have to divert the telephone pole, or the utility poles, you have to divert you know, metals, whatever you can. And it doesn't have to be a number but it has to be *something*, you know, and there's *nothing*. So, how about we just say some sort of diversion policies as opposed to the *nothing* that exists in this today.

Gerry Acuna: All right. Do you want to comment?

Bob Gedert: Yeah, the contracts entered in by the City through Public Works and other departments do have diversion requirements. The diversion requirements are on the generation at the site, they're not on the hauler. It would be a change in policy to require the hauler to separate the materials out.

Kaiba White: What about for Austin Energy?

Andrew Dobbs: Y'all are the ones that recommend policy change.

Bob Gedert: And it's not splitting hairs, it's a very, very important point. Diversion requirements at the source get us toward zero waste. Diversion requirements at the hauler level is waste management concepts. We're trying to get away from waste management toward zero waste. It should be separated at the source.

Kaiba White: So do you, does that apply to the Austin Energy contract as well?

Bob Gedert: Yes.

Kaiba White: So, if there were transformers or anything like that that would need to be dismantled in order to recycle the components you would want Austin Energy to do that ahead of time?

Bob Gedert: Absolutely. It's incumbent upon the department to segregate the materials for diversion. Yes.

Joshua Blaine: So if it's not written into this kind of framework, where is that showing up in policy?

Bob Gedert: This bid, and I don't have the language in front of me, but the bid states for recycling services, composting services, trash services. So this is an all-encompassing service network but the department sets aside the recyclables separate from the waste. That is the concept that we were working from for this contract. We do not require the hauler to segregate the materials, we require the generator to segregate the materials.

Gerry Acuna: Mr. Dobbs.

Andrew Dobbs: Just a little thing. First off I want to say, just up front, I apologize if I have been especially angry or rude tonight; it is in fact one of the worst days of my entire life. It's not a joke, it's not something to laugh at, it is absolutely one of the worst days I've ever lived through. So I'm sorry that I'm fired... I'm worked up, and I apologize if I'm taking it out some of my bad feelings on other people. What I will say is that the policy directive came from the Austin City Council last year when they voted 10-0 to reject this very contract that's included in here explicitly. Okay? They voted 10-0 and they said these are the things they want, and they said diversion requirements. If there's not going to be that, then there needs to be an explicit reason set down and they need to go to back to Council and request a Council change on that. Because otherwise they're just deciding to disregard direct request from Council, you know, ad hoc, and I don't think that that's appropriate. In fact, I think that's the very kind of thing that got us in the mess that made my day so crappy in the first place.

Gerry Acuna: Thank you. Also I'd like to include, I guess in your Scope Of Work here there's an Item 3.1.3 is one of the reasons for not agreeing to this contract. 3.1.3, which is special events. Add that into the motion actually, is what I'm asking, Michael.

Kaiba White: I will just say that I actually don't have a problem with the events. It seems like there's some good reason for including that in the contract in that they've been providing this service previously, the Council is directing that they provide or offer the service. What would our solution be if we're gonna say that they shouldn't include the events? How is the department supposed to deal with the situation...?

Gerry Acuna: There is a requirement that they provide diversion services. It's in there. In the past it was done by the private sector. It was never done by a City...

Kaiba White: Can we get some clarification on that? Cause maybe I just got confused.

Jessica Frazier: So the reason why we have to have a contract for the dumpster services is that ARR doesn't have dumpsters that we can use for these. We don't have that capacity. So we're using the private sector to service these special events, in addition to the services that we can provide like the people on the street, the street sweeping and those sorts of things. So it's kind of a bundled deal, if they're asking us to help them with the waste and recycling services, that's part of it. We can't use trash carts for this volume of materials and we're not allowed to do dumpster services, so we use the private sector. But we can't because of the dollar amount over the course of a year, we're required to bid that out, I forgot my words, but to solicit it, "to competitively bid it", that's what I was searching for. So because of the collective amount that we're going to spend, which is more than 5,000, more than 58,000, we have to do it as a competitive bid. So we just kind of wrap it together and say these are the special events we could be called upon to service, if they ask us to. We have to use dumpsters because carts don't go, so we have to have a contract to be able to do it. It's kind of a...

Kaiba White: And this is currently what your operation is?

Jessica Frazier: Yeah. And the current, like Jessica was saying, in the current contract that we have, we use for the same purpose. The language, as we evolve in our contracts and we get more specific about the requirements and the things that have happened in the past, we get more specific in our contract language. So there's going to be differences in the contract language because the newer contracts are going to be more specific because of issues that we've dealt with in the past, or vagueness that we've dealt with in the past, or whatever it may be. That's where you're going to see new language, is if we weren't specific about what day of the month we wanted the invoice and it was taking them six months to invoice us then the next contract is going to be very specific about what we want. So that's where you're going to find new language for the same services that are being provided. Or that we're asking for someone else to provide.

Kaiba White: So I'm just wondering, is it our intention that we are trying to change this procedure? Is that your intention?

Gerry Acuna: My intentions are to go back to the original procedure of 2010.

Kaiba White: Okay.

Gerry Acuna: That's my intention.

Jessica King: I'm sorry Commissioner, but that is the original procedure. That has been the case since I came on board since 2007. When I was first discussing this with Mayor Lee Leffingwell and we presented the idea of a special events ordinance... I'll pull up the video, but I remember getting a discussion about how City co-sponsored events must have recycling services made available to them. And so if we cannot, if we can't do it at our own City co-sponsored events, I specifically remember him saying that and Council members all agreeing, if City co-sponsored events cannot have recycling and other services made available to them then we can't put a special events recycling ordinance forward. So the charge essentially became: make sure these City co-

sponsored events have access to recycling services. They do, yes, by private sector standards, yes, open market, free bid, go out...

Gerry Acuna: Absolutely.

Jessica King: ... but the Council members sought and specifically asked, go out and provide service to these guys. So we are making ourselves available to them. Again, the decision rests with the event organizer.

Gerry Acuna: So how did you make yourself available back in 2010?

Jessica King: Back in 2010 we utilized the City facility dumpster contract.

Gerry Acuna: Okay, so you took a dumpster out to SXSW, to ACL, to... how did you do it then?

Jessica King: So South by Southwest in particular, SXSW so we'll talk about two different areas. Down 6th Street, in the CBD, we utilized the CBD contract. So that's specific to CBD, there is a waiver, it's all identified.

Gerry Acuna: Which is specific... correct, specific contract.

Jessica King: So they utilized the CBD contract that was currently in place. That is still the case. So currently Texas Disposal Systems is responsible for the CBD. They will still remain responsible for the CBD, for SXSW. However...

Gerry Acuna: So let's go to ACL.

Jessica King: On ACL, we don't provide service to them, they're not a City co-sponsored event anymore. I don't know, I think at one point they were listed as a City co-sponsored event but they are no longer. I don't know why they were listed here so I apologize that they were listed there. They choose their own service provider though.

Gerry Acuna: Fun Fun Fun Fest. I'm just going to go there because that's not part of the Central Business District contract.

Jessica King: Last year it was considered a City co-sponsored event.

Gerry Acuna: And what happened?

Jessica King: We... I believe they chose their own service. They went with their own service provider.

Gerry Acuna: Correct. You suggested some service providers to them.

Jessica King: Correct.

Gerry Acuna: Correct. That's all I'm asking. We don't need...

Jessica King: That's what we do right now. And that's what this contract does.

Gerry Acuna: The contract makes me believe that there is always that opportunity to have whoever is providing this, Republic and/or Waste, as the only two options if they want to utilize the City. In the old days it was all open markets.

Jessica King: That is correct. If they choose to go with City service, then the City has to use its own City contracts.

Joshua Blaine: Why can't the City just reimburse?

Jessica King: Because that's not how the option works. The City Council cannot waive the fees that are going to another department. We utilize rebates to help recover those costs. So legally I cannot waive the fees. Council

can waive, so what that means is that we basically eat the cost. I can't mandate, and Council cannot mandate, that TDS eats the cost.

Joshua Blaine: Right. I understand that. But I'm just suggesting an alternative. We're getting in pretty deep here and we do still have a motion on the table.

Gerry Acuna: Correct.

Jessica King: The alternative is the rebate. And that is what we try to do.

Gerry Acuna: All right, let's go back to the motion then. Do you want to read that back Michael?

Michael Sullivan: Is this on? So one way we could do it, if it's okay with the Commission, is to write it up as a recommendation, we'll record the vote on the RCA, it'll show that you're opposed to it and we'll send the list on a piece of paper that'll go along with the RCA. And it'll state what you just mentioned in the motion that you made plus the 3.1.3 section as well. How does that sound?

Joshua Blaine: Can you just repeat that back so we're all clear on what we're voting on?

Michael Sullivan: Sure. So we want to, since the motion is becoming law and I thought it would be a better idea to just to put it in the form of a recommendation and it'll be, your vote will be recorded on the RCA as in opposition to the recommendation, and then accompanying it it'll have a recommendation stating X, Y and Z.

Kaiba White: I think he's asking for you to read...

Joshua Blaine: X, Y and Z...

Michael Sullivan: Oh, I'm sorry. It would be great if you all could write it but I'm certainly happy to jump in as well. You said the motion was, you made a motion not to recommend the item and the amendment was due to concerns regarding the AE portion of the contract, the tripling of the costs, the lack of diversion requirements, particularly the emergency section, lack of accounting for carbon footprint items, and then we went off into another discussion about the 3.1 section.

Kaiba White: On the diversion, can you add the Austin Energy section as one that is lacking diversion? I guess I would like for us to have a little bit of conversation about whether or not we are trying to change what seems like a fairly longstanding policy of providing the option for City sponsored events to utilize the City contract to get recycling and other trash services. I'm assuming that the reasoning behind that is that there are potentially some events that don't want to deal with going out and finding their own service and that this would just basically make it so there's not an excuse for not providing that service? Okay. So...

Joshua Blaine: I don't think I have a foundational disagreement with it as some folks in the room have, but my disagreement comes in when, if we're going to have one contractor for three years or six years, that's going to do, when folks opt-in to the City, I want to know that the standards meet our standards as a Commission, because we are effectively waiving the fees, or endorsing it. So my concerns aren't necessarily that they are providing an option, it's that, what *is* that option, and what is our oversight of that option?

Gerry Acuna: All right, so we do have a motion on the table. Mike, I'm not going to ask you to read it back. So, any other comments on the motion?

Joshua Blaine: I don't know procedurally how to do this, but it sounds like Michael's recommendation is we break it into two separate items, which I'm okay with, so that seems like we should vote on the first motion, which is to not recommend this RCA.

Gerry Acuna: Yes. Michael...

Michael Sullivan: Okay.

Gerry Acuna: Now we can do this, but then as a second motion, or the friendly amendment to Amanda's concerns, wouldn't that all be part of one motion since it was a friendly...?

Michael Sullivan: Yeah, but I'm just looking at the way it's going to be read by Council and you only have so much room in the portion of the RCA, and it would be very crowded.

Gerry Acuna: Then that's fine, we can do that. All right, so we can do that then. The first part of this motion is basically whether or not to recommend the RCA as written, and all those in favor of recommending the RCA as written raise your hand.

Stacy Savage: Did somebody second it?

Gerry Acuna: Yeah, Josh. Yeah, we already have a second out there.

Joshua Blaine: I think my motion is to not recommend so I think we would all vote in favor of a motion to not recommend.

Gerry Acuna: Okay, let me, stand corrected then, a motion not to recommend the RCA. Thank you. Wonderful. Any other discussion? Hearing none, all those in favor of not recommending the RCA raise your hand. Anybody opposed? Any abstentions? Jeff off it. Unanimous.

Michael Sullivan: Who was the second on that? I'm sorry.

Kendra Bones: I was.

Gerry Acuna: The second part of this motion was basically the why's.

Joshua Blaine: Yeah it was a second, separate recommendation with specifics around why that recommendation, or non-recommendation, was made.

Gerry Acuna: And you're going to address the why's and write that down later. All right, so then I'll...

Michael Sullivan: Sure. If someone just wants to read into the record I can easily take it off the tape. We had concerns regarding the AE portion of the contract, tripling of the costs, et cetera. Did you want to articulate it better than that or just sort of weave that into the...?

Gerry Acuna: Cost, diversion requirements.

Stacy Savage: I think we need to be as specific as we can because there's still another Commission that has to vote on this and it's already been approved by one other. So I think we need to really lay out as the Zero Waste Advisory Commission, why, in specific details.

Amanda Masino: I can give it...

Michael Sullivan: The block will say "rationale" and I'll just dump the text into the block that says rationale.

Amanda Masino: I took a few notes, I can give it a read and then if anyone has...

Gerry Acuna: All right.

Amanda Masino: So I have "diversion policy with respect to emergency services and Austin Energy, expansion of cost, expansion, or maybe increase in cost, expansion of services, combining Austin Energy with other services, location of landfill, carbon footprint concerns, event policy concerns." Is that about everything?

Gerry Acuna: That's pretty good.

Joshua Blaine: It's relatively general.

Amanda Masino: We can tighten it up.

Stacy Savage: Did we get overall diversion goals?

Amanda Masino: Diversion policy on emergency, we can say diversion policy...

Stacy Savage: It seems like overall lack of diversion goals language is not present in there.

Amanda Masino: Okay. So maybe change that first one to lack of overall diversion goals. Any other specific tightening we want to change in any of that?

Gerry Acuna: Again, let me clarify here. It's your motion, Josh? The second part of your...

Joshua Blaine: Sure.

Gerry Acuna: I want to make sure because this is what we're adding here. There was a friendly that Amanda submitted and you agree...

Joshua Blaine: Yeah, I think if it weren't 10:22 I would want to wordsmith that a little bit more. Michael can I, how can we do this? It's just that some of those statements are very general and I think I agree with Commissioner Guidry that this should be pretty specific. So I think I would prefer that it say specifically we have concerns around there not being appropriate standards for where the landfill material ends up. And that there are not... and that the Austin Energy portion of it remains problematic for reasons that date back to previous recommendations. Slightly more specific but still not perfect, I recognize. It is late and it also hasn't been a great day.

Gerry Acuna: All right guys, so, we have a motion, a friendly from Amanda, accepted by the maker. And the second was actually Kendra Bones, on the original. Hearing no further discussion, all those in favor of adding these items to the original motion, raise your hand. Anybody oppose? Any abstentions? Off the dais.

Kaiba White: I'm abstaining.

Gerry Acuna: Oh I'm sorry, one abstention, Commissioner White. All right, the next item of business...