

# Landfill Criteria Draft

**Austin Resource Recovery**  
**February 8, 2018**

## Background

In response to recommendation #2 of the Council Working Group, Austin Resource Recovery (ARR) developed criteria to evaluate a landfills' ability to be eligible to accept waste managed or generated by the City of Austin. ARR staff reviewed landfill solicitations from other cities, in particular a recent solicitation from Metro in Portland, as a reference in creating this draft. ARR also sought input from the City of Austin's Equity Office regarding criteria related to community impact and social equity and the Office of Sustainability regarding carbon footprint.

For reference, Council Working Group Recommendation #2 is included below:

Should materials be directed to or away from certain landfills through the use of a landfill criteria matrix that reflects Council's environmental priorities? Direct waste diversion by criteria not by landfill. Per previous Council priorities and issues enumerated during the Waste Working Group's meetings with stakeholders, staff should develop criteria for waste diversion to include considerations such as: community impact and social equity, carbon footprint, amount and type of waste, existing levels of hazardous materials at landfill. Staff should prepare this matrix and it should come before the Council for approval before implementation.

## Goals

Develop meaningful, impartial criteria to create Qualified Vendor Lists, one for Type I landfills and one for Type IV landfills, which the City of Austin and its contractors are permitted to use. It is the goal of this criteria to set a level of expectations related to environmental, social, economic, and operational standards, and require facilities that desire to be on the lists to meet or exceed these thresholds. This would allow the city to be able to influence and promote positive waste management practices at facilities across the Capital Area Planning Council of Governments (CAPCOG) region it would otherwise not be able to.

## Initial Rollout

It is anticipated that landfills that desire to be on one of the Qualified Vendor Lists will submit their Submittal Criteria to the city for evaluation. City staff, from ARR, Austin Equity Office, and the Office of Sustainability, will be on an evaluation panel and will rank the landfills based on the information submitted. The facilities that are approved would then be eligible to receive waste from the City of Austin or its contractors. Any new landfill that opens in the area after the initial call for submittals, can submit their Criteria Submittal to ARR for review. If they are approved they would be placed on the appropriate qualified vendor list.

## Renewals

Facilities wishing to remain on the Qualified Landfill Vendor List must requalify each January. This allows the department to ensure the facility is still meeting the threshold of being an eligible vendor for the city and its contractors. Staff does not plan to apply the landfill matrix to previously executed contracts for landfill disposal.

## **Comment Process**

ARR posted draft landfill criteria for comment on Monday, November 6, 2017 and presented them at the meeting of the Zero Waste Advisory Council (ZWAC) on Wednesday, November 8, 2017. In addition, ARR invited stakeholders involved in the Council Solid Waste Policy Working Group to submit comments to ARR through December 13, 2017.

ARR posted revised draft landfill criteria with stakeholder comments on Monday, January 8, 2018 and presented them at the ZWAC meeting on Wednesday, January 10, 2018. ARR invited additional comments on these revised criteria through January 19, 2018.

ARR received comments from ZWAC Commissioners, Austin Energy (AE), City of Austin Office of Sustainability, City of Austin Equity Office, Texas Campaign for the Environment (TCE), Central Texas Refuse (CTR), Green Group Holdings, LLC., Texas Disposal Systems (TDS), and Waste Connections either by email, at the ZWAC meeting, or both.

# DRAFT LANDFILL CRITERIA

Abbreviations for commenters:

- AE – Austin Energy
- CTR – Central Texas Refuse
- GGH – Green Group Holdings
- TCE – Texas Campaign for the Environment
- TDS – Texas Disposal Systems

## General Comments

**City of Austin Office of Sustainability:** How do you define some of these things, what are the boundaries, how would they be calculated, reported, verified, scored, etc. etc.

*Response: The descriptions for the criteria will define the information used to evaluate a landfill.*

**City of Austin Equity Office:** Beginning early in the development of these criteria, the Equity Office provided input and feedback on the criteria. Initially, at a high-level, they recommended that criteria address each of the Council’s six strategic priorities and include a robust community engagement process. Additionally, some of their specific initial input led to adding such criteria as the living wage, diversity of the workforce, safety training, emergency procedures, reducing exposure to toxics, and other employee protections. Further, the Equity Office recommended:

- The criteria should lay out terms for checks and balances for community engagement to ensure that it is “accountable,” specifically in regards to “engagement with the people of color communities being most directly impacted by that landfill.”

*Response: Measurements for pertinent criteria will include ‘checks and balances’ to ensure accountability. For example, for the criterion “4C Commitment to Community Relations” a landfill applicant would describe their community engagement and how it would confirm that they are maintaining that commitment. Respondents would be evaluated on ways they engage the community, such as those listed in the City’s Equity Assessment Tool. This would include evaluation of methods such as how landfill operators offer residents opportunities to provide recommendations on policies or programs at the landfill, whether and how landfill operators translate notification documents for persons with limited English-speaking proficiency, and whether accommodations such as childcare, transportation or translation services are offered at meetings. Respondents would also be evaluated on the strategies they use to ensure accountability to communities of color such as the creation and use of stakeholder groups and advisory committees, targeted community meetings and increased outreach in other forms.*

- The criteria should require applicants to show how they have advanced racial equity across priorities.

**Response:** For the criterion “4C Commitment to Community Relations,” a landfill would provide information on its community engagement and how they advance racial equity. Similarly, responding to the “4A Diversity of Workforce” criterion, a landfill would provide demographic information for employees and the measures it employs to eliminate discrimination and develop a diverse workforce at all levels.

**CTR:** Our overriding concern is that should the City of Austin decide through some form of decision matrix to exclude City of Austin Municipal Solid Waste from area landfills that do not meet or exceed the criteria, independent third party haulers that do not own a landfill would be ineligible to participate in city waste contracts by virtue of existing contracts under the following scenarios:

- Should a landfill be excluded from accepting the City’s MSW, existing contracts between a hauler and the excluded landfill would preclude the hauler from participating in the bid process
- The exclusion of a landfill could result in extended driving distances and impose time constraints to an “acceptable” landfill that would make any attempt to bid cost prohibitive to be considered
- Should multiple landfills fail to meet the criteria, the resulting hauling to landfills geographically displaced from Austin would result in skyrocketing costs.

**Response:** The City of Austin controls only about 15% of the material hauled to Austin-area landfills from within the city limits and approximately less than 5% of the total disposed in these landfills. Nevertheless, setting landfills standards is intended to encourage all area landfills to meet certain standards directly benefiting not only the City as a customer but all of the landfills’ users.

**CTR:** Modern Landfills are highly engineered and regulated facilities that are sanctioned by the State of Texas to accept MSW, Class 1 and Hazardous Wastes and are necessary to maintain the health, safety and welfare of the population. As a hauler, we comply with all local, state and federal statutes regarding the disposal of the materials we haul and only haul to state approved landfills.

For a municipality to subjectively decide not to send waste to a licensed state regulated landfill through a decision matrix seems highly irregular and could cost the city and its’ citizens significant money and resources in order to comply along with denying hauling companies the opportunity to bid on city contracts.

**Response:** After several meetings with stakeholders the City Council Working Group recommended that staff develop landfill criteria that would determine which landfills would be eligible to receive city-controlled trash. Rather than highly irregular, this approach is like most public RFPs that score proposals based on past performance, references, potential risk, financial stability, and other critical factors. In fact, many of the criteria have been drawn from solicitations for services.

**CTR:** While the goals of Zero Waste are laudable, in the foreseeable future they cannot be accomplished by simply eliminating landfills and creating monopolistic markets. There are currently, and in a zero waste equation will continue to be, material that cannot be economically or sustainably recovered, reused or recycled that need to be addressed through landfilling until such time that technology or the collective societal mindset regarding throwing things away is achieved.

The elimination of a landfill such as Waste Management’s Austin Community Landfill, that is permitted and has a long term usable life, would result in a monopoly by the remaining local landfill and hauler who would then be in a position to exclude third party haulers from their site and raise tipping fees for the City of Austin and all others who now must use their facility exclusively. Then the question becomes, would this be in the best interests of the citizens of Austin?

**Response:** *Staff partially concurs. While the City cannot speculate on which landfills would become Qualified Landfill Vendors, a landfill that did not qualify would be incentivized to boost its scores. However, it is possible that one landfill is the only vendor on the list and would be able to eliminate competition by setting disposal rates for its competitors that make it impractical for them to win contracts. ARR’s current disposal contract has approximately 12 years remaining and is a set rate that is adjusted, up or down, each June according to the Consumer Price Index.*

**CTR: General comments:**

- How will each item be weighted?
- How will bias and subjectivity be eliminated from the decision matrix?
- Is the City creating a level playing field?
- How will this criteria stand up to:
  - Existing TCEQ Permit Qualifications
  - Legal challenge
- What will be the public input process to develop the Criteria?
- What will be the time frame to develop the Criteria?
- Who has the expertise and impartial credentials to lead the development of the Criteria?
  - ZWAC
  - ARR Staff
  - Third party consultants
  - State Regulators

**Response:**

- *Staff will propose and Council will adopt weighting.*
- *Some criteria relate to existing TCEQ permit requirements and compliance history.*
- *This public input process has helped determine the criteria. Additional public input will help refine the descriptions for the criteria. ARR is taking Input from other city departments, ZWAC members, and other stakeholders.*

**Green Group Holdings**

We generally agree with the recommended Criteria and will expect that it will likely be expanded upon as more comments are submitted. Nevertheless, our main area of concern is that any new site such as 130 EP [130 Environmental Park, Green Group’s proposed landfill, transfer station, and storage and processing facility] can be penalized for a lack of sufficient historical data of its facilities or operations. Even though, one can make an assessment on the future operational integrity of a new site based on the character displayed during the long and adversarial permitting process; as well as the current relationships with the host community. A case in point: Given the controversial nature of landfills, 130 EP continues to gain public and private support for its development while being a model of a good

community partner through its contributions and involvement in educational, civic, religious, and kid-friendly organizations.

***Response:** The landfill criteria matrix is intended to incentivize all Austin-area landfills, no matter their age, to exceed certain expectations. As possible, criteria that would otherwise inappropriately penalize a landfill for its age will include alternate, but similar, measures.*

## **Texas Disposal Systems**

Given TDS' full understanding of the pending policy issues regarding City use of private landfill facilities, TDS overall view is that the Draft Landfill Criteria plainly "misses the mark" and will be met with strong opposition from a broad range of stakeholders unless considerable revisions are made. TDS' preliminary observations regarding the Draft Landfill Criteria include but are not limited to the following:

- ARR's Draft Landfill Criteria fails to accurately represent the specific scoring categories described in the 7/21/17 recommendation of the Council's Working Group. Specifically, staff's draft scoring categories include only two of the Working Group's recommended scoring categories ("Carbon Footprint" and "Community Impact & Social Equity"), but also introduce two new scoring categories ("Operational Considerations" and "Environmental, Zero Waste, and Sustainability").
- ARR's Draft Landfill Criteria would utilize a specific model to quantify landfill gas emissions which has been shown to produce results that are clearly inconsistent with local reality. Due to the model's failure to consider numerous facility specific conditions and waste stream variations, it effectively penalizes facilities that have been successful in minimizing the generation of landfill gas. Please see attached memo regarding Greenhouse Gas Emission Estimates at the Texas Disposal Systems Landfill.
- ARR's Draft Landfill Criteria fails to appropriately recognize and give proper consideration to the \$100,000 City Council-commissioned study (Carter & Burgess Private Landfill Environmental Assessment) which led the Council to decline approval of a staff-proposed long-term landfill disposal services contract to use the Waste Management Austin Community Landfill (ACL), due to the Carter & Burgess' finding that the ACL poses a substantial environmental risk and potential future liability to the owners and users of the site. For reference, please see the attached City Council resolutions authorizing the Carter & Burgess Private Landfill Assessment.
- ARR's Draft Landfill Criteria fails to appropriately recognize and give proper consideration to previous testimony from City of Austin experts and attorneys about the Waste Management Austin Community Landfill during the contested case hearing regarding the landfill's previous permit expansion application. Please see the attached memorandum prepared by Gary Newton, which was previously submitted to ZWAC at the November 2017 meeting and to City staff on December 12, 2017.

- ARR's Draft Landfill Criteria fails to appropriately recognize and give proper consideration to several previous resolutions reflecting ongoing City Council and Zero Waste Advisory Commission opposition to ACL. For reference, please see the attached Resolutions.
- ARR's Draft Landfill Criterial seemingly attempts to unnecessarily complicate the policy issue and greatly expand staff's desired oversight of private landfill facilities already under contract, and of private haulers. Staff is now asserting that these criteria will affect EXISTING landfill contracts as well as collection and hauling contracts. Retroactive application of any landfill criteria to previously executed contracts for landfill disposal and hauling services would unquestionably be met with a legal challenge by parties to those contracts.

**Response:** *Staff concurs and does not plan to apply the landfill matrix to previously executed contracts for landfill disposal.*

TDS also provided copies of the following:

- City Council Resolutions 981105-52 and 990107-35 approving professional engineering services for the Private Landfill Environmental Assessment Project
- City Council Resolution 010524-70 directing staff to evaluate and report to Council on the formal monitoring program of the Waste Management landfill
- City Council Resolution 20100408-033 directing staff to appeal a Texas Commission on Environmental Quality (TCEQ) permit for the Waste Management landfill
- 4-14-2010 SWAC Resolution requesting that Council be a part in any appeal process for a permit from the TCEQ for the Waste Management landfill
- 2017 06 09 GreenThink Consulting memo to provide clarification as to why the greenhouse gas (GHG) emissions reported to the Environmental Protection Agency by Texas Disposal Systems have been higher than what is actually expected to be generated.
- 11-8-17 TDS Memo to ZWAC regarding the 1999 landfill study

## **Waste Connections**

Our principle concern is, that if the criteria is constraining to the degree that only one disposal facility is eligible to receive waste generated from the City solid waste collection programs, and the operator of that facility is also a bidder on the collection solicitations, it could create a situation where that entity will always win the collection contracts. This is because the operator of the sole eligible disposal facility can charge themselves whatever internal rate (charge) that they want and charge other collection service bidders a higher disposal price. This situation presents financial risks to the City because, under the above described scenario, the sole facility operator/collector can control the price by quoting exorbitant disposal fees to the other potential collection bidders and win the collection bid for themselves at a price that may be significantly higher than would be available if at least two competing disposal facilities were eligible to receive the wastes.

We have consistently expressed throughout the Solid Waste Policy Focus Group process, to that group, City Council, ZWAC and to the Ethics Commission that we, in the Austin market, want a level and fair playing field for the solicitation of solid waste services. That is in the best interest of the City, the public and the industry by insuring fair and even competition.



# 1 Carbon Footprint

## Staff response to recommendations

**CTR:** What will determine acceptable gas emission levels and beneficial use?

**CTR:** Should the criteria be established, will an existing landfill have enough notice and time to address any deficiencies they may have (without the interim penalty of being cut off until they meet the criteria)?

***Response:** The descriptions for these criteria will define the information used to evaluate a landfill. Rather than set minimum performance levels for any criteria, landfills will receive an overall evaluation. In addition, weights assigned to each of the criteria will indicate their relative importance.*

## 1A – Estimated LFG Collection Efficiency

**Measurement** - Facility will submit GHG reports that are submitted to EPA that document the estimated landfill gas collection efficiency. Facilities that operate under New Source Performance Standards (NSPS), would also be given credit over a facility that has a less robust collection and monitoring program.

**Staff Justification** - This method of evaluating LFG collection and destruction puts facilities on an equal footing as it does not matter the age, size or operational efforts to increase or decrease gas production, but instead measures the facilities success in collection and or destruction of gases that are generated. Type IV landfills are not required to report landfill gas emissions since they do not accept types of waste that typically generate these emissions.

## Staff response to other recommendations

**TDS:** 1. CARBON FOOTPRINT [history over life of facilities]

***Response:** Staff does not concur. This criterion is intended to incentivize facilities to take actions, if they haven't already, to minimize their carbon footprint, no matter the historic footprint.*

**AE:** 1.A Landfill gas emissions depend on the size and age of landfill and should not be factor in the evaluation.

***Response:** Staff partially concurs. This criterion has been modified and is aimed at the measures to minimize methane releases from the landfill, no matter its age, size, or operational efforts.*

**TDS:** 1.A Landfill gas emission [estimates]

***Response:** Staff partially concurs. While the criterion has changed, the word “estimate” has been included in the description.*

## **1B – Landfill Gas Beneficial Use/Energy Use**

**Measurement** – Proposer will provide information about any current uses of LFG that occur at the facility. For example, the LFG could be used to produce electricity, fuel vehicles, space heating or it could be fed into a natural gas line for off-site use. In addition, proposer may provide information on onsite carbon offset projects that meet accepted protocol for validating, measuring, and monitoring.

**Staff Justification** - LFG beneficial use not only destroys methane but also replaces the use of another energy source, which typically has a carbon impact.

### **Staff response to other recommendations**

**AE:** 1.B This should be reworded to read “landfill gas energy reuse.”

***Response:** The intent is to promote the energy use of landfill gas, such as generating electricity, supplying natural gas to a grid, powering vehicles or equipment, or supplying heat for industrial customers, where the LFG displaces a non-renewable energy source.*

**Kaiba White, ZWAC** (paraphrasing): What is meant by the term “reuse?” Does that apply?

***Response:** Staff agrees that the term “reuse” does not apply, and it has been removed.*

**TCE:** Strike 1B “Landfill gas beneficial use.” As of right now a landfill generating thousands of tons of methane captured for “beneficial use”—which nonetheless generates some climate impacts, as not all gas is actually captured—could get a higher score than a facility that had aggressively diverted organic materials and rigorously dry entombed their wastes, thus generating less methane. This criteria is one that can distort the actual intent of Council. The less methane, the better—regardless of whether or not it is captured.

***Response:** Staff does not concur. All Type I landfills will generate LFG regardless of operational efforts. While organic diversion will decrease LFG volumes, this measure only looks at the beneficial uses of LFG without regard to quantities of equipment being utilized or volume of gas utilized. This allows landfills with less gas generation to receive credit for applications that use landfill gas beneficially regardless of the scale of their utilization.*

**TCE Response:** Staff’s non-concurrence suggests that they will give credit for LFG beneficial use regardless of scale of production—i.e. this is a binary use/don’t use criteria and not something that scales up with the amount of LFG used. If this is the case we drop this recommendation, but we strongly discourage any criteria which will

benefit large-scale producers of methane over those that reduce production in the first place.

**TDS:** 1.B Landfill gas beneficial use [current and long term plans]

**Response:** *Staff does not concur. Planned activities would be counted when they are implemented as no guarantee can be made that the proposed activities will actually take place.*

**GGH:** A good landfill candidate should have incorporated in its design the management of landfill gas; a proven source of green energy. However, how would it be documented as a new site? Will it consist of industry standards?

**Response:** *Staff concurs. A Type IV landfill would also not be able to claim beneficial use of landfill gas because it generates no, or incidental amounts of landfill gas. Just as a Type IV landfill would receive full points for this criterion, until a new Type I landfill begins generating landfill gas, it would also receive full points.*

## 2 Environmental, Zero Waste, and Sustainability

### 2A – Permit Compliance – 5 Year

**Measurement** – Compliance rating given to a facility annually by TCEQ based on inspections and complaint investigations. Ratings are maintained on a 5 year rolling schedule and are classified as High, Satisfactory or Unsatisfactory with a numerical rating that fits into each of these compliance tiers.

**Staff Justification** – Review of permit compliance histories is an objective measure of how well a facility operates and what type of impact the facility has had on its neighbors.

#### Staff Response of Other Recommendations

**AE:** 2.A Permit compliance modified to read Permit Compliance in last 5 years

**Response:** *Staff concurs with measure description submitted by AE*

**AE additional comment:** Facilities should also provide Notice of Violation (NOVs) and correspondence associated with the resolution of these violations.

**Response:** *Compliance ratings are based on a site's compliance history, which includes Notices of Violation among several compliance actions.*

**TDS:** 2.A Permit compliance, [complaints and violation history life to-date]

**Response:** *Staff does not concur. Staff recommends against including complaints as complaint numbers can be influenced from individuals, groups, and competitors with issues against a certain company or facility as this would not be an impartial, objective measure. Violation history life to date penalizes companies that have improved their compliance histories and or have been in existence longer than their peer facilities.*

*This criterion encompasses several issues of concern, including those of particular interest to geographic neighbors, ranging from immediate environmental hazards to nuisance odors. By law, TCEQ must consider the current classification and an updated compliance history report of a customer in many of its regulatory decisions. For example, unsatisfactory performers are allowed to continue operating under their current permit but:*

- *They might not be able to renew existing permits at the affected sites.*
- *They might not be able to obtain new permits.*
- *They will be subject to stricter permit conditions in the future.*
- *The affected sites will be subject to higher enforcement penalties.*

*When Compliance History Ratings are calculated each September 1st, the database reviews all applicable items associated to an entity within a 5-year period. When an entity has a HIGH*

*classification with a rating of 0, it means there were applicable components documented during the 5-year time period, and the calculated value (rating) was 0. In many cases, these are sites that have been inspected during the 5-year period and no violations were documented. If there are no applicable components (violations, investigation, audits, etc.) documented for an entity during the 5-year time period, the entity does not receive a rating and is classified as UNCLASSIFIED and the rating is set to the default value of 0.*

**CTR:** Should fall under Item 3 (see notes below)

**Response:** *Staff does not concur. While this criterion relates to the operation of a landfill, the criteria grouped under 3 Operational Considerations are intended to be measures of reduced risk to the city. The criteria in 2 are intended to represent environmental, zero waste, or sustainability benefits.*

## 2B – On-Site Use of Alternative Fuels

**Measurement** – This criterion credits the landfill’s use of alternative fuels/power for its landfill fleet or other uses separate from a landfill’s on-site use of landfill gas. This includes but is not limited to propane, CNG, LNG, solar, wind, hydrogen, electric, or hybrid technology. This does not include waste incineration, but does include renewable energy.

**Staff Justification** – The city supports low-carbon and renewable energy sources such as CNG-powered or hybrid vehicles and wind- or solar-sourced electricity.

### Staff response to other recommendations

**TCE:** Strike 2B “On-site use of alternative fuels.” It is unclear whether this would be counted for or against the facility, but it could be a backdoor to incentivizing or blessing waste incineration in direct contravention of long-standing Council policy and our Zero Waste Master Plan.

***Response:** Staff partially concurs. This criterion credits a landfill’s use of alternative fuels for its landfill fleet or other uses. It would not include a landfill’s on-site use of landfill gas, which is addressed by 1B. The description for scoring this criteria can further clarify that alternative fuels does not include municipal solid waste but does include renewable energy.*

**TCE Response:** Staff says they can further clarify that this will not include any so-called “waste-to-energy” credits. If this is the case we do not object to this standard.

***Response:** The typo in the last sentence of the Measurement description above was corrected by adding the word not, as in “does not include waste incineration.”*

**CTR:** What level of use is the city looking for? Will the percentage of the landfill alternative fuel use need to exceed a certain percentage? Will that percentage be in line with what the City of Austin currently uses?

***Response:** None of the criteria in the landfill criteria matrix are proposed to have minimums.*

**Kaiba White, ZWAC** (paraphrasing): The term “alternative fuels” is obsolete. Propane and natural gas are fossil fuels, which this criteria should not encourage.

***Response:** In the context of climate protection, the term “alternative fuels” may be archaic, however, this criterion relates to air quality. The purpose is to convert heavy-duty landfill equipment and light-utility vehicles, such as pickups, from diesel or gasoline to cleaner fuels. In addition, this criteria will also encourage hybrid- or plug-in electric vehicles choices as they become available.*

**AE:** On-site usage should be based on percentage of alternative fuel vehicles as a percentage of total fleet, for comparison purposes. Alternate metric could be the percentage increase in alt fuel vehicles in the last 5 years.

***Response:*** *This suggestion will be useful in the development of scoring for this criterion.*

## 2C – Zero Waste/Beneficial Waste Diversion

**Measurement** – Landfills are credited for on-site activities that reduce disposal of reusable, recyclable, compostable materials or products. Proposer should submit a detailed list of activities that promote zero waste and waste diversion.

**Staff Justification** – Getting to Zero Waste relies on establishing diversion activities wherever discards change hands including landfills, where staff and equipment are available for other non-disposal activities.

### Staff Response to Other Recommendations

**TDS:** 2.C Zero Waste [and waste diversion] activities

***Response:** Staff concurs. The description for this criterion could include a definition for Zero Waste that would include waste diversion as well as other activities that reduce disposal of reusable, recyclable, compostable materials or products.*

**CTR:** What exactly is being asked for?

***Response:** See Measurement, Staff Justification, and Staff Responses, above.*

**AE:** Modify waste diversion activities to beneficial waste diversion.

***Response:** Staff concurs. Title of 2C is modified above.*



## 2D – Other Environmentally Sustainable Practices

**Measurement** –This criterion looks at environmental sustainability practices put forth by the facility. The proposer should submit a detailed list of current sustainable environmental practices that are currently in place at the facility.

**Staff Justification** – Allows facilities to expand upon positive practices not covered elsewhere in the criteria. Including, but not limited to, such activities and policies as managing a tree farm, subscribing to clean energy, fostering carpooling.

### **Staff Response to Other Recommendations**

**CTR:** How can this be structured to eliminate bias and subjectivity?

*Response: See Measurement and Staff Justification, above.*

**AE:** Add GHG offsets as one of the criteria.

*Response: Staff concurs and has added this suggestion to criterion 1B LFG Beneficial Use.*

## 2E – Existing Hazardous and Industrial Waste

**Measurement** –This criterion would assess the risk to the city and a landfill’s neighbors based on the quantity and nature of hazardous and industrial materials existing on-site.

**Staff Justification** – Landfills with less existing hazardous and industrial material pose less risk to public health and the environment.

### Staff response to recommendations

**AE:** 2.E Existing Levels of Hazardous Materials. This is a difficult question to answer since non-hazardous industrial landfill take in material based on how generators of waste material classify and sample materials. Perhaps a better question may be “QA processes in place to prevent hazardous material from being landfilled”. This is addressed in 2.F

***Response:** Staff partially concurs. As noted in the TDS comment and staff response below, adding the word “industrial” should clarify this criterion. QA processes to prevent hazardous material from being landfilled should be included in 3G – Efforts to reduce exposure to toxics and negative environmental externalities*

**TDS:** 2.E Existing Levels of [Industrial] Hazardous Material [waste units]

***Response:** Staff concurs. This criterion should include the word “industrial” since all MSW landfills accept household hazardous waste.*

**CTR:** What threshold would be considered too much? Where will hazardous materials go?

***Response:** None of the criteria in the landfill criteria matrix are proposed to have minimums. This criterion refers to existing hazardous materials and does not refer to other hazardous materials.*

## 2F – Unacceptable Waste Screening

**Measurement** – Proposers will detail procedures to exclude all waste streams that the landfill is not permitted to accept.

**Staff Justification** – Landfills should minimize chances of accepting unpermitted materials to reduce future risks to the public health and the environment.

### Staff Response to Other Recommendations

**CTR:** This would fall under Item 3 (see notes below)

***Response:** Staff concurs that this criterion could be included under Item 3. As such, staff has included it under Item 3G, Efforts to reduce exposure to toxics and other negative environmental externalities.*

### 3 Operational Considerations

**CTR:** How can any of these items be effectively measured without introducing bias and subjectivity in order to compare to all available landfill options?

**Response:** *The Measurements and other descriptions for these criteria are intended to fairly evaluate each landfill.*

**CTR:** All of the listed items are elements of the landfills state issued permit and would be met by any landfill. To use these as criteria will not distinguish one from another.

**Response:** *See the Response to the TCE and TDS comments for item 3A, below.*

### 3A – Experience/Qualifications/Controlling Entity Characteristics

**Measurement** – Proposers will summarize their experience managing landfills, provide information on similar contracts with other local governments, and provide business-related references from the public and private sectors.

**Staff Justification** – This measure allows the landfill to show that it has sufficient experience operating landfills – from the gate house and the working face to the account manager – and satisfactory performance with other jurisdictions to meet city expectations.

#### Staff response to other recommendations

**TCE:** 3A-3E should only consider measures above and beyond permit requirements. Experience and qualifications, contingency plans, safety measures, emergency procedures, and financial responsibility are all required in one form or another of every facility. Merely performing the measures required by minimal state requirements should not be considered as grounds for favoring one facility over another, and in fact if one facility is going above and beyond it SHOULD be given credit. Each of these need to be distinguished as the measures taken NOT required by their permit or state and federal regulation.

**Response:** *Staff partially concurs. Experience and qualifications are not permit requirements for TCEQ. These criteria (3A-3E) are intended to reflect either expectations or regulated practices. Scoring for these and other similar criteria, such as those proposed by commenters, could give extra credit for exceeding expectations and no credit for not meeting expectations.*

**TCE Response:** Staff says they “could give extra credit for exceeding expectations and no credit for not meeting expectations.” We should not be giving credit for merely meeting basic expectations. There should be credit given for exceeding expectations and none given for merely meeting or falling short of expectations. Present state and federal regulations are woefully inadequate. If Austin cares about protecting our air, water, land, and health we will need to demand higher standards than the basic expectations.

**TDS:** 3.A Experience / Qualifications /[Controlling entity characteristics]

**Response:** *Staff concurs. The risk exposure from the controlling entity of the facility, whether private or publicly owned, can vary. Facilities owned by local governments reduce the risk to the City of Austin by having a higher level of assurance that they will continue to operate and fund the facility and not expose the city to the same amount of risk as a privately owned facility.*

**GGH:** Even though the site [130 EP] is new, what considerations are there for existing operations outside of the market area? For the experience of the personnel and operators?

**Response:** *New landfills will be able to cite experience and provide references for other landfills managed by the firm.*

## **3B – General Contingency**

**Measurement** – Landfill should provide detailed information on how it will be able to accept trash from COA or COA contractors during any timeframe that the facility must cease acceptance of waste due to extenuating circumstances including, but not limited to weather, labor issues, or pandemic outbreaks.

**Staff Justification** – This measure relates to risk of inaccessibility to COA and its contractors and what options the facility provides as a contingency.

### **Staff response to other recommendations**

**TCE:** 3A-3E should only consider measures above and beyond permit requirements.

***Response:** (See 3.A, above.)*

## 3C – Safety

**Measurement** – Landfill shall provide detailed info on its training, reporting, inspections, investigations, lost time injuries, workers comp record, and safety record for the past five years.

**Staff Justification** – This measure relates to safety risk to COA and its contractors.

### **Staff response to other recommendations**

**TCE:** 3A-3E should only consider measures above and beyond permit requirements.

***Response:** (See 3.A, above.)*

### **3D – Emergency Procedures**

**Measurement** – The proposer should provide detailed info all of the procedures that are in place to handle unexpected incidents including but not limited to releases, fires, etc.

**Staff Justification** – This provides assurance to city that prior planning is in place to respond to emergencies and limit negative effects to the city.

#### **Staff Response to Other Recommendations**

**TCE:** 3A-3E should only consider measures above and beyond permit requirements.

**Response:** *(See 3.A, above.)*



## **3E – Financial Capability and Risk**

**Measurement** – Submittal of GASB report from facility.

**Staff Justification** – Facility must be in good financial condition to ensure continuity of operations with the city and its contractors, and not expose the city to unwarranted financial risk.

### **Staff response to other recommendations**

**TCE:** 3A-3E should only consider measures above and beyond permit requirements.

***Response:*** (See 3.A, above.)

### **3F – Hours and Days of Operation Available to City and City Contractors**

**Measurement** – A submittal from the facility identifying hours and days that the facility is available to the city or its contractors.

**Staff Justification** – Facility must be available during city operating times and during collection times when city contractors need to dump, if applicable.

#### **Staff Response to other Recommendations**

**TDS:** 3.F Hours and days of operation [available to serve City]

***Response:** Staff concurs. A landfill may be available to serve the City but not open to the public.*

### **3G – Efforts to Reduce Exposure to Toxics and Other Negative Environmental Externalities**

**Measurement** – Proposer will provide a detailed report on efforts the facility has made to reduce exposure to toxics and other hazards, and to exclude all waste streams that the landfill is not permitted to accept. This includes but is not limited to odors, groundwater migration, noise, lights, vectors, etc.

**Staff Justification** – This measure relates to potential exposure to COA staff, its contractors, and neighbors, and is intended to reduce future risks to the public health and the environment.

#### **Staff response to other recommendations**

**AE:** Maybe this can be reworded to read “Efforts to monitor and mitigate offsite chemical exposures including nuisance odors”

***Response:** Staff partially concurs. Staff agrees criterion title should be renamed and has done such, but would prefer to not limit the response to just chemical and odor exposure given other potential negative environmental externalities.*

**TDS:** 3.G Efforts to reduce exposure to toxics and other hazards [on and off site subsurface migration]

***Response:** Staff concurs. This criterion should apply both on- and off-site and, not only subsurface but also, on and above the facility. The description for this criterion will invite landfills to describe efforts to protect workers, neighbors, and wildlife from exposure to any toxics and other negative environmental externalities.*

## 3H – On-Site Fatalities or Catastrophes

**Measurement** - Proposer should submit a list of fatalities or catastrophes that have been experienced by the facility during the past five years.

**Staff Justification** – Occurrence of fatalities at a facility are an indicator of how well a safety program is run at the facility. This data is maintained by OSHA.

### Staff response to other recommendations

**AE:** 3.H can be reworded to include on-site lost time and releases. Catastrophes can be removed.

*Response: This measure references OSHA Fatalities and Catastrophe data. Item 3C is intended to include safety records, which would include lost-time accidents, and workers' compensation claims.*

**TDS:** 3.H On-site fatalities or catastrophes [when landfill operator at fault]

***Response:** Staff does not concur. OSHA provides information on fatalities and catastrophes. Determination of fault often is not readily available as legal proceedings, which often follow workplace fatalities, may take years to resolve. Additionally, regardless of the fault determination between the employee or the facility, an act of negligence by an employee may be based on a loose culture of safety at the facility.*

## 4 Community Impact and Social Equity

### 4A – Diversity of Workforce

**Measurement** – Proposer will provide a detailed breakdown of the racial and gender breakdown of staff and management as submitted by the facility.

**Staff Justification** – The intent is to extend inclusion policies enjoyed by COA and its contractors’ employees to encourage landfills to maintain a diverse workforce that represents the community throughout its hierarchy.

#### Staff response to other recommendations

**TCE:** Strike or amend 4A “Diversity of workforce.” Waste management has historically been a career path our community has had no problem extending to people of color. As a result, these fields have often been disproportionately filled with African-American and Latino workers. Would we credit a facility that reflects this historical tendency as “diverse,” or would we tend to prefer sites that hire mostly Anglo white workers? The measure should either be struck or should favor sites that give top management and executive positions to people of color.

**Response:** *Staff concurs. Management team will also be evaluated in the analysis.*

**TCE Response:** Staff concurs. Considering the diversity of management or executive leadership makes sense nonetheless.

**CTR:** This could fluctuate from pay period to pay period theoretically. How often will this reviewed?

**Response:** *Staff proposes developing a list of Qualified Landfill Vendors annually. This demographic analysis represents an annual snapshot in time. Efforts to report more frequently is burdensome to the proposer, city staff, and is not practical.*

## 4B – Living Wages and Benefits

**Measurement** – Proposer will provide documentation showing that all of their employees at the facility earn at least the current living wage and affordable health care protection as set by the City.

**Staff Justification** – All contracts have a requirement for staff involved in a contract to be paid a living wage. This criterion goes above and beyond to give a facility credit for paying all of their employees a living wage, not just those involved in the particular contract. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a “living wage” and affordable health care protection.

### Staff Response to Other Recommendations

**CTR:** What is the expectation? How often will this be reviewed?

***Response:** The description for this criterion would be patterned after the current requirement in City of Austin solicitations, which currently calls for a \$14 minimum wage. Staff proposes developing lists of Qualified Landfill Vendors annually.*

## 4C – Commitment to Community Relations

**Measurement** – Landfill shall supply any recent letters of support, or host agreements that demonstrate good standing with neighboring civic groups or communities that could be impacted by the landfill or along the route to the landfill. In addition, landfill can describe other community-support efforts.

**Staff Justification** – This measure recognizes a landfill’s outreach to surrounding communities to offset and address its potential negative impacts.

### Staff response to other recommendations

**TCE:** Strike 4C “Commitment to Community Relations.” This is an invitation to greenwashing. The most egregious violators of environmental standards in the waste industry are those with the biggest PR teams--we should not let such manipulations obscure the real effects their operations will have on our community.

***Response:** Staff does not concur. Neighboring civic groups, neighborhood associations, and neighbors that have been negatively impacted by a facility are unlikely to be manipulated by public relation teams to provide letters of support for a proposing facility.*

**TCE Response:** Staff says “Neighboring civic groups, neighborhood associations, and neighbors that have been negatively impacted by a facility are unlikely to be manipulated by public relation teams to provide letters of support for a proposing facility.” If the standard is endorsement by neighboring civic groups and neighborhood associations then we would be supportive of this criteria. A vague “commitment to community relations” gives landfills the power to get points under the criteria for performative and manipulative actions. It is a subjective measure at this point—it needs to be objective or it should be eliminated. This must be amended or eliminated.

**CTR:** This seems very subjective and could be perceived as being geared towards a specific site.

***Response:** Staff partially concurs. While every attempt has been made to eliminate subjectivity, there are some criteria that are unable to be measured in that way. While there may be a perception that this is geared towards a specific site, each facility will be evaluated, separately, on its own merits. This was also a specific criterion that ARR was tasked with evaluating during the Council Working Group mandate.*

## 4D – Wasteshed

**Measurement** – Landfill shall list all counties that it accepts waste from.

**Staff Justification** – This measure recognizes landfills that accept waste from counties outside of the CAPCOG region reduce available capacity for local needs and necessitate the need for premature landfill expansion or new landfills.



## Other Recommendations proposed by Stakeholders

### 2. Environmental, Zero Waste, and Sustainability

**TCE: Add “Complaint History” to the criteria.** State enforcement of environmental regulations is lax and ineffective, and often legitimate impacts on health and quality of life are allowed so long as investigators can’t verify the source of the harms days or even weeks after the initial exposure. Complaints can therefore be a better measure of the environmental and sustainability performance of a facility than compliance history alone.

***Response:** All complaints may not be equal in that some complaints may be more serious than others, and some complaints may not be legitimate but staff has no way of verifying legitimacy or it could be prohibitively time-consuming. Staff also considered complaints to the City but because area landfills are outside the City’s corporate limits, some complainants might not think to call the City. Criterion 2.A, TCEQ Permit Compliance, was proposed so that it can serve as a proxy since it is calculated by TCEQ to reflect several issues of concern, including those of particular interest to geographic neighbors, ranging from immediate environmental hazards to nuisance odors.*

*Additionally, criterion 3G, “Efforts to reduce exposure to toxics and other negative environmental externalities” is also intended to serve as a proxy to address this concern.*

**TCE Response:** Staff says that they didn’t adopt this standard because they would not be able to assess the validity of complaints, but the point is to not have to rely upon problematic and often subjective standards of “validity” at all. Filing a complaint is not a particularly simple process, and it is unlikely that any responsibly run facility would accumulate a large number of spurious complaints. Landfills that have prompted neighbors to regularly put up with the bureaucratic challenge of lodging their concerns should not be receiving City of Austin materials.

**TCE: Add “Local concentration of permitted waste facilities” to the criteria.** Sending materials to a facility surrounded by other waste facilities can exacerbate an especially unsustainable situation. To the greatest extent possible we should avoid creating large “sacrifice zones” of our community inundated with multiple waste operations.

***Response:** Staff does not concur to add this as a separate item. Traditional land use policies, such as zoning in incorporated areas, group similar and compatible land uses. In addition, geology, topography, and accessibility heavily influence where landfills are located.*

**TCE Response:** Staff notes that zoning decisions can impact the outcome of where facilities are located, and it is true that Austin’s legacy of discriminatory land use policies have concentrated our waste facilities in areas where people of color tend to live. This is not a reason to perpetuate this injustice, however, and while geographic factors do impact landfill siting, the wide dispersal of operating, historic, and proposed waste facilities across the local

region suggest that there is plenty of eligible land for landfills. We should not encourage the creation of these “sacrifice zones.”

**TDS: Add the following:**

- 2.H Cooperation with City/County in groundwater and gas migration monitoring
- 2.I Cooperation with City/County to maintain waste boundary and buffer zone

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include these in their response to item 4.C, Commitment to community relations.*

**TDS: Add the following:**

- 2.J Presence and history of recycling
- 2.K Presence and history organics diversion and composting

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include these in their response to item 2.C, Zero Waste Activities.*

**GGH:** Add 2.G. Site construction (Is the site constructed in a way that is environmentally sustainable? Does the site exceed state regulations?)

***Response:** Answers to these important questions could be included in a response to criteria 2D (Other Environmentally Sustainable Practices), 2A (Permit Compliance), or 3 (Operational Considerations).*

### **3. Operational Considerations**

**TDS: Add the following:**

- 3.I Ground Water Protection System for Waste Units
- 3.J Ground Water Monitoring history of contaminate migration
- 3.K Surface Water Protection
- 3.L Landfill Gas Migration
- 3.M Landfill Gas Management System Design
- 3.N Odor Control
- 3.O Dust Control
- 3.P Windblown Debris Control
- 3.Q Vector Control
- 3.R Litter and Mud Control on roadway

**Response:** Staff does not concur to add this as a separate item. Instead, these are important compliance issues that should be reflected in a landfill's permit compliance history, 1A (Estimated LFG Collection Efficiency) and 3G (Efforts to Reduce Exposures to Toxics and Other Negative Environmental Externalities).

### 3.S Remaining Waste Capacity and ability to expand

**Response:** Staff does not concur to add this as a separate item. Landfill life is an important criterion for a City contract to ensure service throughout the term of the contract but not necessary for inclusion on a Qualified Vendor list.

### 3.T Waste Diversion Amounts Historically

**Response:** Staff does not concur to add this as a separate item. Instead, landfills should include this in their response to item 2.C, Zero Waste Activities.

**GGH:** Add the following:

3.I. Natural disaster mitigation (Are systems and resources in place?)

3.J. Other monitoring activities performed by the operator

**Response:** Staff does not concur to add this as a separate item. These items could be addressed in a response to criteria 2A (Permit Compliance) or 3 (Operational Considerations) depending on the focus of the response.

## 4. Community Impact and Social Equity

**TCE: Add “Area Demographics vs. City of Austin Demographics” to the criteria.** The purpose of this criteria is to discourage the city from dumping on communities of color. We can easily compare the census tracts nearest the facility in question to the racial and economic demographics of Austin to minimize dumping on sites that are disproportionately more populated by people of color or low income families. Without this criteria it does not accomplish what the policy proposals Council has intended for this process.

***Response:** Staff does not agree to add this item. Area landfills predate most residential neighbors and the neighborhoods that continue to grow nearby.*

**TCE Response:** Staff says that “area landfills predate their residential neighbors and the neighborhoods that continue to grow nearby.” Communities of color arose in these areas precisely because they were undesirable to people with more resources and power. Not taking these outcomes into consideration amounts to ignoring historic patterns of discrimination when making our environmental decision, a guaranteed way of perpetuating racial injustice. Staff is directly refusing to follow council direction on this matter, and without this criteria there is not means to determine the precise environmental justice impacts of our disposal decisions.

**TCE: Add “History of City opposition in permitting” to the criteria.** It is an act of hypocrisy to argue that a facility is bad for our community and then financially support that same facility, and it undermines the City’s ability to credibly protest further expansions of the same facilities. The City has taken formal positions on some of these questions, and those positions should be taken into consideration in this process.

***Response:** Staff does not agree to add this as a separate item. Instead, previous reasons for City opposition are included among these criteria. Inclusion on the qualified vendor list does not imply any type of financial support for facilities on the list. The city has passed previous resolutions opposing expansion of facilities, but there are no current or past resolutions prohibiting the use of these same facilities.*

**TCE Response:** Staff says “previous reasons for City opposition are included among these criteria.” If this is to say that past city opposition to a facility will be a factor in the criteria, this meets our expectations. If they are saying, however, that this past opposition is irrelevant to this criteria they are mistaken. Saying that a facility should not exist is obviously relevant to whether or not one supports that facility when its existence is forced upon you. This data needs to be available to councilmembers who may not have been around for previous fights, and council opposition should have a lasting material impact on these facilities.

**TCE: Add “Collective Bargaining Agreement/Labor Peace Agreement” to the criteria.** Wages, benefits and work conditions can erode over time, but collective bargaining from the people working at a facility can prevent or minimize such erosion. Even if a site has not yet agreed to such protections for their workers, a willingness to avoid protracted workplace strife by respecting a clear desire for collective bargaining benefits the City, working families, and the public good.

***Response:** Staff does not concur to add this as a separate item. As noted by the City Equity Office, City contractors are extensions of the City’s workforce. The Living Wages and Benefits criterion, 4B, would be consistent with similar current contract requirements in the City’s standard terms and conditions.*

**TCE Response:** City policies can change and contracts come to an end. The City should not abandon employees of previous contractors to lower than living wages or dangerous work conditions, and should use its influence and purchasing power to favor operations that help their employees protect their pay, benefits, and conditions through collective bargaining.

**TDS: Add the following:**

4.D Facility landscaping

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include this in their response to item 4.C, (Commitment to Community Relations) or 3G (Efforts to Reduce Toxics and Other Negative Environmental Externalities).*

**TDS: Add the following:**

4.E Reputation in neighboring communities

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include this in their response to item 4.C, Commitment to Community Relations.*

**TDS: Add the following:**

4.F Presence and history of Citizen dropoff and Resale of items diverted disposal

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include this in their response to item 2.C, Zero Waste activities.*

**TDS: Add the following:**

4.G Public site access, involvement and recreation

***Response:** Staff does not concur to add this as a separate item. Instead, landfills should include this in their response to item 4.C, Commitment to Community Relations.*

**TDS: Add the following:**

- 4.H Regulatory compliance history over life of facility
- 4.I Complaint and penalty history – life of site

**Response:** *Staff intends for item 2.A, Environmental Compliance, to address these topics.*

**GGH:** Add 4D. Community giving initiatives (Innovative ways to support the community, such as host Agreements, strategic partnerships, etc.)

**Response:** *Staff does not concur to add this as a separate item. These initiatives could be included in a response to criteria 4C (Commitment to Community Relations)*

## Criteria considered but not included

Staff considered some 7 additional criteria but did not include them in our proposed evaluation matrix for the following reasons.

### 1. Carbon footprint of transport vehicles

This criterion was not included since staff recommends using the evaluation criteria to qualify area landfills to which waste collected by ARR or other haulers contracted through ARR could be sent – meaning that there could be multiple landfills certified in the area and ARR or its contractors could and would presumably choose a landfill to receive waste based on operational efficiencies, which would inherently reduce the carbon footprint of any transport vehicles.

### 2. Amount and type of waste

Regarding the amount of waste sent to a landfill, this criterion was not included because the amount of waste sent to a landfill could be evaluated in different ways. A relatively lesser amount of waste sent to a landfill could be considered a positive, though this could also result in the landfill staying open longer, which could be considered a negative. Alternatively, a relatively greater amount of waste sent to a landfill could be considered a negative, though that could be deemed as a positive in the event that it resulted in a landfill reaching capacity sooner and thus being capped earlier.

(Regarding the type of waste sent to a landfill, two criteria were proposed that speak to this consideration: Criterion 2.E, which evaluates the existing level of hazardous material onsite (as measured in quantity and by nature); and Criterion 2.F., which evaluates the procedures followed to exclude waste that the landfill is not permitted to accept.

Owners and operators of municipal solid waste landfills and other waste management facilities submit an annual report to the TCEQ each year, detailing the amount and types of solid waste managed at each facility. Copies of the individual landfill records can be requested from the TCEQ Central File Room via: <https://www.tceq.texas.gov/agency/data/records-services/fileroom.html>

TCEQ compiles and publishes some of the data in an annual summary report titled Municipal Solid Waste in Texas: A Year in Review (TCEQ publication AS-187). TCEQ posts current and past year's reports at: [https://www.tceq.texas.gov/permitting/waste\\_permits/waste\\_planning/wp\\_swasteplan.html](https://www.tceq.texas.gov/permitting/waste_permits/waste_planning/wp_swasteplan.html)

The landfill data below from TCEQ's 2015 Municipal Solid Waste Summary provides annual tonnages and remaining life for landfills in Central Texas. This data can help address whether a landfill will be operating through the term of a City contract. The closure of the BFI landfill will increase the 2016 tonnages for other landfills. If all the BFI landfill tonnage went to Waste Management's ACRDF, that landfill would have about 10 Remaining Years, per the 2015 report.

### 3. Number of complaints reported to TCEQ, 311 or other public entities

Staff considered including the absolute number of complaints reported to TCEQ, 311 or other relevant public entity but there were a number of concerns with doing so. For example, all complaints may not be equal in that some complaints may be more serious than others, and some complaints may not be legitimate but staff has no way of verifying legitimacy. Many complaints received by the TCEQ are often closed the agency as

because the nuisance no longer exists or there has been a finding on no violation. Area landfills are also outside of the City's corporate limits so it is possible that some complainants might not think to call the City to report complaints.

Perhaps more importantly, a criterion was proposed that can serve as a proxy: Criterion 2.A – TCEQ Permit Compliance, since it is calculated in such a way by TCEQ to reflect several issues of concern, including those of particular interest to geographic neighbors, ranging from immediate environmental hazards to nuisance odors.

#### **4. Vehicle accidents or vehicle-related fatalities in the vicinity of a landfill**

Staff considered including some kind of criterion that would reflect the number and/or types of vehicle-related accidents in the vicinity of the landfill as a way to assess the safety of roads near the landfill and thus potentially the impact on surrounding residents or other travelers in the area but this criterion was rife with complications. For example, staff was concerned that an accident could be attributed to the landfill operator or presence of the landfill – thereby negatively penalizing the landfill operator – when such a correlation might not or could not be justified or verified.

#### **5. Property values and/or socioeconomic status of surrounding area/residents**

Staff considered including some kind of criterion that would speak to property values of the surrounding area or the socioeconomic status of nearby residents in the event that either or both could be any indication of any negative impacts of a landfill on the surrounding community but property values and socioeconomic status are extremely complex social issues that cannot be tightly attributed or correlated to any singular factor.

#### **6. Future redevelopment plans after landfill closure**

Staff considered criterion that would reward or incentivize any redevelopment plans that could have a positive impact on a community after a landfill is scheduled to close but there were a number of issues. For example: (1) it would be very difficult for the City enforce a future promised action on the part of the landfill operator. (2) The type and amount of “positive” benefit created would likely not be something that could easily be assessed in a simple quantitative manner.

#### **7. Whether a landfill is landlocked or if there is vacant land adjacent for expansion**

Staff considered this kind of criterion but there are positives and negatives with both approaches. If a landfill was landlocked and could not expand, one could argue that this is a positive. However, one could also argue that a new landfill might then need to be opened, which would impact another community and a new group of residents. Conversely, if a landfill was able to contiguously expand, one could argue that this would be detrimental to nearby residents, though others might argue that it would preclude a new landfill from opening and affecting more neighborhoods.