

ORDINANCE NO. 20170406-023

AN ORDINANCE WAIVING CHAPTER 2-7, ARTICLE 6 (ANTI-LOBBYING AND PROCUREMENT) OF THE CITY CODE REGARDING SOLICITATIONS FOR THE COLLECTION, PROCESSING, RESALE, REUSE AND/OR DISPOSAL OF MUNICIPAL SOLID WASTE, REFUSE, BIOSOLIDS, COMPOST, ORGANICS, SPECIAL WASTE AND RECYCLABLES.

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

PART 1. FINDINGS. The City Council adopts the following findings:

The Purchasing Office issues solicitations for a variety of municipal solid waste and waste related services, including but not limited to the collection, processing, resale, reuse and/or disposal of municipal solid waste, refuse, biosolids, compost, organics, recyclables and special waste such as Class 2 industrial non-hazardous waste (collectively referred to as “Solid Waste”); and

1. Chapter 2-7, Article 6 (Anti-Lobbying and Procurement) (“Anti-Lobbying Ordinance”) restricts respondents to a solicitation from making certain representations to City staff and officials while a solicitation is active and such restrictions extend for a period of ninety days when a solicitation has been withdrawn or all responses rejected with the intention of reissuing the request for proposals (the “No-Contact Period”); and
2. Council clearly stated on the record at their March 2, 2017 regular meeting that there is no intention to reissue Solid Waste solicitations until such time as the policy issues are vetted; however, in order to avoid any confusion of the application of the Anti-Lobbying Ordinance and to encourage open dialogue while developing City policy on these matters, Council finds it is in the public’s best interest to waive the Anti-Lobbying Ordinance for the solicitations specified by Council and expand the waiver to future solicitations related to Solid Waste; and
3. By waiving the Anti-Lobbying Ordinance, stakeholders and City staff will be able to openly exchange information and data on Solid Waste policy issues without the requirement of funneling all information through the authorized contact person for

the solicitations still subject to the Anti-Lobbying Ordinance or wait for the ninety day No-Contact Period to expire; and

4. Council has denied award of the solicitation related to citywide refuse, recycling, organics and special waste collections for City facilities (SLW0514), and postponed indefinitely the solicitation related to organics processing services (SLW0509REBID); and
5. The City Council took action on the following requests for proposals and on October 20, 2016, postponed indefinitely the sale and removal of compost materials solicitation (JXP0501), and withdrew the management of biosolids reuse (CDL2003) solicitation on December 15, 2016; and
6. As no new solicitations have been issued for the same or similar services for the request for proposals described in Section 6 above, and ninety days has passed since Council action, the No-Contact Period and the Anti-Lobbying Ordinance is no longer applicable to the request for proposals and respondents as listed in Exhibit "A;" and, further, the City has not received any anti-lobbying complaints on these two solicitations since Council's action on the items; and
7. On March 23, 2017, City Council created a working group to address a broad range of Solid Waste issues, as well as other issues related to solid waste policy and contracts as it deems necessary; and
8. The working group is scheduled to return to the full City Council with recommendations no later than June 1, 2017; and
9. Council finds this action does not create a precedent or bind the Council to waive the Anti-Lobbying Ordinance for future solicitations not otherwise described in this ordinance and each case is reviewed separately on its own merits and in the Council's sole discretion.

PART 2. Waiver of Chapter 2-7, Article 6. City Council waives the requirements and application of Chapter 2-7, Article 6 (Anti-Lobbying and Procurement) of the City Code to the following: (1) solicitations related to citywide refuse, recycling, organics and special waste collections for City facilities (SLW0514) and organics processing services (SLW0509REBID), and to the respondents to the solicitations shown in the attached Exhibit A, incorporated by reference; and (2) future solicitations, including request for

proposals and invitations for bid related to the collection, processing, use, resale and/or disposal of municipal solid waste, refuse, biosolids, compost, organics, recyclables and special waste such as Class 2 industrial non-hazardous waste, excluding solicitations and contracts related to consulting, marketing and outreach of same, until Council has given staff direction on the policies applicable to such matters.

PART 3. Council finds that the waiver presented in this ordinance constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

April 6, 2017

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Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

EXHIBIT A

Respondents to the following Request for Proposals:

A. Waiver of Anti-Lobbying Ordinance:

1. Citywide refuse, recycling, organics and special waste collections for City facilities (SLW0514):
 - a. Republic Services
 - b. Waste Management of Texas
2. Organics processing services (SLW0509REBID):

Employee Owned Nursery Enterprises, LTD dba Organics “By Gosh”

B. Expired No-Contact Period of the Anti-Lobbying Ordinance:

1. Sale and removal of compost materials solicitation (JXP0501):
 - a. Allen Click
 - b. Organics By Gosh
2. Management of biosolids reuse (CDL2003):
 - a. Synagro of Texas-CDR, Inc.
 - b. Denali Water Solutions
 - c. Forsythe Brothers Infrastructure, LLC
 - d. Texas Elements Inc.
 - e. Allen Click