

Mayor and Council Communication

DATE: 06/10/25

M&C FILE NUMBER: M&C 25-0540

LOG NAME: 22ALLIED WASTE LEASE & OPS SOUTHEAST LANDFILL AMENDMENT6 (RNG)

SUBJECT

(ALL) Authorize Execution of Amendment No. 6 to Contract with Allied Waste Systems, Inc. d/b/a Republic Services for the Lease and Operation of the Southeast Landfill to Amend the Renewal Terms and Other Terms and Conditions to Support the Renewable Natural Gas (RNG) Project and Authorize the City Manager to Grant Leases and Easements Related to the Southeast Landfill, as Needed, to Support the RNG Project

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize execution of Amendment No. 6 to City Secretary Contract No. 28336 with Allied Waste Systems, Inc. d/b/a Republic Services for the lease and operation of the Southeast Landfill to amend the following terms and conditions to support the renewable natural gas (RNG) project:

- Section 2.07 Mining and Mineral Rights
- Section 3.02 Renewal Terms
- Section 6.04(H) Leachate and Condensate Collection Services
- Section 7.01 Operation of Southeast Landfill
- Section 7.03 Tipping Fee - Non-City Waste
- Section 15.01 Notices

2. Authorize the City Manager to grant leases and easements related to the Southeast Landfill, as needed, in support of the RNG Project with Archaea Energy Operating, LLC.

DISCUSSION:

On November 5, 2002, City Council passed M&C C-19358 authorizing City Secretary Contract No. 28336 ("Lease") with Allied Waste Systems, Inc. d/b/a Republic Services, Inc. ("Lessee"), to lease and operate the City's ("Lessor") Southeast Landfill located at 6288 Salt Road, Fort Worth, TX 76140. This contract and subsequent amendments allow Republic Services to lease and operate the landfill until December 31, 2033, and obligate Republic Services to accept disposal of solid waste collected by the Lessor's residential curbside collections contractor with certain exceptions (such as recyclables and bulk waste).

On August 13, 2024, the City Council approved M&C 24-0695, which authorized the execution of a Service Agreement to develop a landfill gas to renewable natural gas (RNG) conversion system at the Southeast Landfill with Archaea Energy Services LLC (now Archaea Energy Operating, LLC) ("Archaea"). City staff recommends that the City Council approve the following amendments to the Lease to align the Lease with the City's RNG Service Agreement with Archaea.

Mining and Mineral Rights

The Lease states that the City retains title to all mining and mineral rights except landfill gas. The Lease does not clearly identify which party has title to landfill gas. City staff recommends that the City Council approve an amendment to Section 2.07 of the Lease. This amendment will align the terms of the Lease and the RNG Service Agreement by clarifying that the City has sole title to landfill gas.

Renewal Terms

The Lease with Republic Services expires on December 31, 2033. Recent data indicates that the landfill's capacity is estimated to reach end of useful life in 2036. The gap between the expiration date of the Lease with Republic Services and the useful life of the landfill creates an operational challenge for the City; it also impacts the landfill lease revenue, post-closure financial responsibility, and landfill operations.

City staff recommends that the City Council approve an amendment to the renewal terms outlined in Section 3.02 of City Secretary Contract No. 28336. The amendment would align the Lease duration with the landfill's useful life, ensuring continuity during closure and post-closure operations in the future.

Leachate and Condensate Collection Services

City staff recommends that City Council approve an amendment to Section 6.04 Landfill Operating Requirements (H) Leachate and Condensate Collection Services, of City Secretary Contract No. 28336 to specify that Archaea will be responsible for all condensate disposal and pre-treatment requirements related to the RNG Service Agreement. Archaea will be responsible for any disposal costs related to non-hazardous liquids; these expenses, if any, will be adjusted on monthly statements and shared among Republic Services, Archaea, and the City.

Operation of Southeast Landfill

City staff recommends that City Council approve an amendment Section 7.01, Operation of Southeast Landfill, of City Secretary Contract No. 28336 to allow Republic to execute a sub-lease with Archaea for the purpose of the RNG project.

Tipping Fee - Non-City Waste

On November 17, 2020, City Council approved M&C 20-0839, adopting Ordinance No. 24533-11-2020, which amended Chapter 12.5 of the City Code to establish a Landfill Environmental Fee in the amount not to exceed \$5.00 for haulers who did not have a Grant of Privilege with the City and disposed of non-city waste at the Southeast Landfill. The fee went into effect on January 1, 2021.

On September 19, 2023, City Council, adopted Ordinance No. 26452-09-2023 amending Chapter 12.5-844 of the City Code, which increased the Landfill Environmental Fee for haulers who do not have a Grant of Privilege with the City to \$10.00 per ton. The M&C also established a \$5.00 per ton Landfill Environmental Fee for haulers who do have a Grant of Privilege with the City.

On September 24, 2024, City Council approved Ordinance No. 27191-09-2028, which increased the Landfill Environmental Fee for haulers who do have a Grant of Privilege to \$6.00 per ton and increased the Landfill Environmental Fee for haulers who do not have a Grant of Privilege to \$12.00 per ton.

City staff recommends that City Council approve an amendment to Section 7.03, Tipping Fee – Non-City Waste, of City Secretary Contract No. 28336 to recommend set, future annual increases of the existing Landfill Environmental Fee for all individuals disposing of non-city waste at the Southeast Landfill during annual budget development. Starting in Fiscal Year 2026 through Fiscal Year 2030, the recommended annual increase would be \$.50 per ton. Beginning in Fiscal Year 2031 and continuing through the landfill's useful life, the annual increase would be limited to \$1.00 per ton.

Lease Section 7.03, as amended, allows for Republic Services to set the tipping fee charged to haulers. The tipping fee must include all charges mandated by the City in its governmental capacity. These planned annual increases to the Landfill Environmental Fee will contribute to stabilizing the Solid Waste Fund and landfill operations.

Notices

City staff recommends that City Council approve an amendment to Section 15.01, Notices, of City Secretary Contract No. 28336 to update the address for notice to City Attorney from 1000 Throckmorton Street, Fort Worth, Texas 76102 to 100 Fort Worth Trail, Fort Worth, Texas 76102.

Authorizing the City Manager to Grant Easements and Leases

City staff also recommends that the City Council authorize the City Manager to grant easements and leases as necessary to support the RNG Project. Archaea may need easements or leases to be executed during the duration of the RNG Project to support their operations at the Southeast Landfill. Authorizing the City Manager to grant easements and leases will ensure the integrity of the RNG Project at the Southeast Landfill.

A Form 1295 is not required because: This contract will be with a publicly-traded business entity or a wholly-owned subsidiary of a publicly-traded business entity: Allied Waste Systems, Inc. d/b/a Republic Services

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this recommendation has no material impact on City funds.

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