

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

**ORDINANCE**

**AUTHORIZING A LEASE AND CONTRACT WITH ATLAS ORGANICS, INC., D/B/A ATLAS ORGANICS CU05, LLC, FOR PROCESSING SERVICES FOR THE SOLID WASTE MANAGEMENT DEPARTMENT'S ORGANICS PROGRAM IN AN AMOUNT OF \$1,870,000.00 FOR THE FIRST YEAR OF A TEN YEAR TERM AND A PAYMENT OF \$5,528,749.00 FOR INFRASTRUCTURE IMPROVEMENTS AND SORTING EQUIPMENT TO BE CONSTRUCTED AT THE NELSON GARDENS LANDFILL**

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**WHEREAS**, the SWMD began the organics program in 2011 as a major strategy to divert waste from the landfill and increase recycling in the community; the organic materials are collected by SWMD crews using automated equipment and delivered to a contractor to process the material into compost; the program has grown very popular city-wide; in FY2019, the SWMD sent approximately 68,000 tons of material to its organic processor and it is anticipated that this program may grow to over 80,000 tons annually within the next ten years; and

**WHEREAS**, on January 10, 2020, the City issued a Request for Proposal (RFP 20-025, 6100012385) for the procurement of "Organic Materials Processing Services"; two responses were received and these were evaluated and scored by a committee consisting of representatives from various City departments and SAWS and, based on the evaluations and rankings made in the selection process, staff recommends awarding a contract to Atlas Organics, Inc., d/b/a Atlas Organics CU05, LLC, as the most qualified respondent; and

**WHEREAS**, Atlas Organics shall lease approximately 70 acres of land from the SWMD at the Nelson Gardens Landfill and will design, construct and install permanent infrastructure improvements, and pick line assets and equipment for an organics processing facility, and will operate the facility during the term of the contract. The improvements and assets become the property of the City of San Antonio immediately upon acceptance by the City. Atlas Organics CU05, LLC will operate and maintain assets and equipment for the life of the contract. The value of the improvements is estimated at \$3,478,800.00; the value of the assets and equipment is estimated at \$2,049,949.00 and the deadline to complete the work on the facility is December 31, 2020; and

**WHEREAS**, Atlas Organics shall provide organic processing services at the Nelson Gardens facility for a 10-year term period at a rate of \$27.50 per ton, allowing for annual CPI increases, with a contract value estimated at \$1,870,000.00 for the first year. Atlas Organics shall accept all SWMD loads for organics processing and shall pay for all incidentals, including any non-organic or contamination material below five percent (5%) by weight; and

**WHEREAS**, this ordinance authorizes a lease and agreement with Atlas Organics for the processing of organic material for a total estimated contract value of \$1,870,000.00 for the first year, and authorizes payment of \$5,528,749.00 for the infrastructure improvements and sorting equipment to be constructed on the City's Nelson Gardens Landfill for processing of the organic material. The deadline to complete the work on the facility is December 31, 2020. The initial term of the lease and agreement is ten years and shall begin January 1, 2021 and terminate on December 31, 2031. Two additional one-year renewals, at the City's sole option, are also authorized. Funds are available in the Solid Waste Operating Fund and Solid Waste Reserves; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Atlas Organics, Inc., d/b/a Atlas Organics CU05, LLC, is hereby selected to provide services in relation to the "Organic Materials Processing Services" (RFP 20-025) for the City of San Antonio as the most qualified respondent to the Request for Proposals.

**SECTION 2.** The City Manager, or designee, or the Director, Solid Waste Management Department, or designee, is hereby authorized to take all actions necessary to negotiate and execute a Lease and Agreement with Atlas Organics, Inc., d/b/a Atlas Organics CU05, LLC, for a term of ten years, with the option for the City to extend the contract for two additional one year terms under the same terms and conditions. The term of the Agreement to construct the organics processing facility shall begin after approval by the City and shall end on December 31, 2020. The initial term for the operation of the organics processing facility shall be for ten years and shall begin on January 1, 2021 and terminate on December 31, 2031. Two additional one-year renewals, at the City's sole option, are also authorized. The City Manager, or designee, or the Director, Solid Waste Management Department, or designee, is hereby authorized to execute all documents required to exercise the annual renewal options with no additional Council action required, provided that funding is available and has been approved in the SWMD annual budget. A copy of the Agreement, in substantially final form, is attached and incorporated herein for all purposes as **Attachment I**. The execution authority granted by this ordinance shall expire 60 days from the effective date.

**SECTION 3.** Funds generated by this ordinance will be deposited in Fund 55001000, Internal Order 255000000024, and General Ledger Account 4401100.

**SECTION 4.** Funding in the amount of \$1,870,000.00 for this ordinance is available in Fund 55001000, Cost Center 5501010010 and General Ledger 5201041 as part of the Fiscal Year 2020 budget. Additional funding in the amount up to \$16,830,000.00 is contingent upon City Council approval of future fiscal year budgets within the duration of this contract.

**SECTION 5:** Payment is authorized to Atlas Organics CU05, LLC (Atlas).

**SECTION 6.** Funds in the amount of \$5,528,749.00 for this ordinance is authorized to be appropriated in Fund 55001000, Internal Order 390000002418 and General Ledger 6102100 and the Fiscal Year 2020 budget shall be amended.

**SECTION 7.** The budget in SAP Fund 55099000, Environmental Capital Project, SAP Project Definition 55-00030, Atlas Organics, shall be revised by increasing SAP WBS Element 55-00030-90-14-01 entitled Transfer from I/O# 390000002481, SAP GL Account 6101100 – Interfund Transfer In, by the amount \$5,528,749.00.

**SECTION 8.** Payment is authorized to be encumbered and made payable to Atlas Organics CU05, LLC (Atlas) in an amount not to exceed \$5,528,749.00. Payment is in support of the Atlas Organics Project, using Fund 55099000, with WBS 55-00030-05-02 and General Ledger 5202020. Funding is provided by Solid Waste Operating Fund and is budgeted as provided in Section 4 above.

Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.

**SECTION 9.** The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 10.** This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage hereof.

**PASSED and APPROVED** this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2020.

**M A Y O R**  
Ron Nirenberg

**ATTEST:**

**APPROVED AS TO FORM:**

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Tina J. Flores, City Clerk

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Andrew Segovia, City Attorney