

ORDINANCE 2020-10-29-0777

**AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH ATLAS ORGANICS DEVELOPMENT, LLC FOR THE ORGANICS PROCESSING FACILITY DEVELOPMENT FOR THE SOLID WASTE MANAGEMENT DEPARTMENT'S ORGANICS PROGRAM WITH AN INCREASE IN AN AMOUNT OF \$300,000.00, FOR A TOTAL PAYMENT OF \$5,828,749.00, FOR ELECTRICAL INFRASTRUCTURE IMPROVEMENTS TO BE CONSTRUCTED AT THE NELSON GARDENS LANDFILL. FUNDING FOR THIS AMENDMENT IS AVAILABLE IN THE SOLID WASTE OPERATING AND MAINTENANCE FUND.**

\* \* \* \* \*

**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**, Ordinance No. 2020-04-09-0250 authorized an agreement with Atlas Organics Development, LLC, (Atlas) and authorized payment of \$5,528,749.00 to design and construct an organic material processing facility, and install the equipment to run the facility, at the City's Nelson Gardens Landfill; and

**WHEREAS**, in the FY2020 Annual Budget, the City Council approved \$300,000.00 for electrical infrastructure improvements at the Nelson Gardens landfill. As part of the facility development, Atlas is installing additional electrical infrastructure and has agreed to design and install the previously approved electrical infrastructure using the FY2020 budget funds; and

**WHEREAS**, this ordinance will reallocate the previously approved FY2020 funds to Atlas for the design and installation of the electrical infrastructure improvements required for the Nelson Gardens Organics Processing Facility and approves the amendment to the Facility Development Agreement with an increase of \$300,000.00; **NOW THEREFORE**,

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

**SECTION 1.** The Amendment to the Agreement for the Nelson Gardens Organics Processing Facility Development with Atlas Organics Development, LLC, is hereby approved and the previously approved FY2020 budgeted sum of \$300,000.00 for electrical infrastructure improvements is authorized to be transferred to Atlas thereby increasing the total compensation for the development of the facility to \$5,828,749.00.

**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 an Amendment to the Organics Processing Facility Development Agreement with Atlas

Organics Development, LLC, for the electrical infrastructure improvements at the Nelson Gardens Landfill facility. A copy of the Amendment, 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.** Funding in the amount of \$300,000.00 for this ordinance is available in Fund 55001000, Cost Center 5556060001 and General Ledger 5201140 as part of the Fiscal Year 2021 Adopted Budget approved by City Council.

**SECTION 4.** Payment in the amount up to \$300,000.00 is authorized to Atlas Organics Development, LLC and should be encumbered with a purchase order.


**SECTION 5.** 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 6.** This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage hereof.

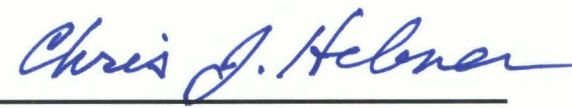
**PASSED and APPROVED** this 29th day of October, 2020.

  
M A Y O R  
Ron Nirenberg

**ATTEST:**

  
\_\_\_\_\_  
Tina J. Flores, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for Andrew Segovia, City Attorney





## City of San Antonio

### City Council

October 29, 2020

**Item: 38**

**Enactment Number:**

**File Number: 20-5714**

**2020-10-29-0777**

Ordinance approving an amendment to the Agreement with Atlas Organics Development, LLC for the organics processing facility development for the Solid Waste Management Department's organics program with an increase in an amount of \$300,000 for a total payment of \$5,828,749 for electrical infrastructure improvements to be constructed at the Nelson Gardens Landfill. Funding for this amendment is available in the Solid Waste Operating and Maintenance Fund. [David W. McCary, CPM, Assistant City Manager; David Newman, Director, Solid Waste Management Department]

Councilmember John Courage made a motion to approve. Councilmember Jada Andrews-Sullivan seconded the motion. The motion passed by the following vote:

**Aye:** 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia,  
Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry

**AMENDMENT ONE TO  
AGREEMENT BETWEEN  
THE CITY OF SAN ANTONIO  
AND  
ATLAS ORGANICS DEVELOPMENT, LLC, FOR  
ORGANICS PROCESSING FACILITY DEVELOPMENT**

The City of San Antonio (“City”) currently has an Agreement (“Agreement”) with Atlas Organics Development, LLC (hereinafter referred to as “Atlas”, or “Contractor”), said Agreement being executed by the City pursuant to Ordinance No. 2020-04-09-0250, passed and approved by the City Council on April 9, 2020.

The ordinance authorized an Agreement and Lease with Atlas Organics CU05 for the processing of organic material for an initial term of ten years to begin January 1, 2021, for a total estimated contract value of \$1,870,000.00 for the first year, and also authorized an Agreement for Organics Processing Facility Development with Atlas Organics Development, LLC, an affiliate, with payment of \$5,528,749.00 for the permanent infrastructure improvements and sorting equipment to be constructed and installed on the City’s Nelson Gardens Landfill for processing of the organic material (the Facility).

In the FY2020 Annual Budget, the City Council had approved an infrastructure project by the Solid Waste Management Department (SWMD) in the amount of \$300,000.00, to construct the electrical infrastructure needed for a proposed electric tub grinder at the Nelson Gardens Landfill. Through their current contract, Atlas is installing an electric tub grinder and additional electrical equipment at the Nelson Gardens Landfill for the Facility. The City has requested that Atlas also install the electric tub grinder infrastructure in conjunction with the Facility development.

As provided in Attachment I to this Amendment (August 4, 2020, Atlas Organics letter to SWMD, Re: Electrical Installation Budget), Atlas has agreed to modify the Scope of Services to add the electric tub grinder infrastructure. As authorized by Ordinance 2020-10-29-\_\_\_\_\_, the Compensation to Contractor shall increase the contract value by an additional \$300,000.00 for these additional tasks.

This **Amendment One** to the Agreement modifies the Scope and Compensation Sections and is entered into by and between City and Contractor, acting by and through their designated representatives. The undersigned hereby agree to modify said Agreement as follows:

1. Page 3, Article III Scope of Services, section 3.3, is amended by adding a new paragraph, after the first paragraph, to read:

As provided by Attachment I to Amendment One, the City and Atlas agreed to bring high voltage electric power to the facility that will require an approximately 700 foot extension of power, transformer, switchgear, and necessary materials needed to control the electrical equipment. Atlas will provide the design, permitting, installation and all necessary work to upgrade the power for this facility.

2. Page 4, Article IV Compensation to Contractor, section 4.1, is amended by adding the underlined and deleting the ~~strikethrough~~ to read:

4.1 As authorized by the Ordinance, and in consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, total budget sums shall not exceed payment of \$5,828,749.00 ~~5,528,749.00~~ to Atlas Organics for the infrastructure improvements and sorting equipment to be constructed on the Facility for processing of the organic material, as total compensation.

3. This Amendment One to the Agreement shall not prejudice any present or future rights, remedies, benefits, or powers belonging to or accruing to the Parties under the terms of the Agreement herein amended.

4. Except as provided otherwise herein, the Agreement shall remain unaffected, unchanged, and unimpaired by reason of the foregoing Amendment One.

**EXECUTED and AGREED to as of the dates indicated below.**

**CITY OF SAN ANTONIO**

**ATLAS ORGANICS  
DEVELOPMENT, LLC**

\_\_\_\_\_  
(Signature)

**Printed**                      **David Newman**

**Name:**

**Title:**                      **SWMD Director**

**Date:**                      \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**Printed**

**Joseph Mc Millan**

**Name:**

**Title:**                      **President**

**Date:**                      \_\_\_\_\_

**Approved as to Form:**  
**Andrew Segovia**  
**City Attorney**

\_\_\_\_\_  
**By: Assistant City Attorney**



# ATLAS ORGANICS

August 4, 2020

City of San Antonio Solid Waste Management Dept.  
Attn: Mr. David Newman, Director  
4410 W Piedras Drive  
San Antonio, TX, 78228

Re: Electrical Instillation Budget

Dear Mr. Newman,

Under our current contract executed June 9, 2020, Atlas will be providing an electric grinder, electric shredders, a sorting line, and associated equipment to support the compost operation by removing the contamination. As negotiated, the City would facilitate and assist with the electrical infrastructure needs for this equipment. As such, the City and Atlas agreed to bring high voltage electric power to the facility that will require an approximately 700 foot extension of power, transformer, switchgear, and necessary materials needed to control the electrical equipment. Atlas will provide the design, permitting, installation and all necessary work to upgrade the power for this facility. The City will agree to increase Atlas contract by \$300,000 for this effort.

Sincerely,



Joseph McMillin  
President  
Atlas Organics, Development, LLC

Cc: Jorge Montezuma, Jarrett Bond, Chelsie McNicol

Atlas Organics Development, LLC.  
PO Box 5065 • Spartanburg, SC 29304 • Tel: 864-278-2322

***Attachment One to Amendment One - Organics Processing Facility Development Agreement***