

**WALKER COUNTY, TEXAS**

**SOLID WASTE COLLECTION SERVICES**  
**FEASIBILITY STUDY**

**AUGUST 2003**

**FINAL REPORT**

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# **1. EXECUTIVE SUMMARY**

## **1.1 Background**

The illegal dumping of household garbage is a significant problem in unincorporated areas of Walker County (County). One reason why this problem exists is because County residents and businesses are not required to obtain solid waste collection services. While many residents and businesses within the County use the services provided by one of several private solid waste haulers, many do not. The only other viable option for residents and businesses that do not use these services is to take their waste to the City of Huntsville's transfer station. Rather than use the transfer station or subscribe to collection services, a number of entities illegally dispose of their solid waste.

To reduce the incentive for residents and businesses to illegally dispose of their solid waste, the County would like to consider implementing an organized solid waste collection program. The County believes that this is a viable option at this time because the Texas Legislature, during the 77<sup>th</sup> regular session in 2001, provided counties with the authority to collect fees for the provision of solid waste services.

## **1.2 Purpose of the Technical Study**

To address these issues, Walker County applied for and received a grant from the Houston-Galveston Area Council (H-GAC) to conduct a countywide solid waste collection feasibility study. Grant funds provided to the H-GAC are from the Texas Commission on Environmental Quality (TCEQ) Regional Solid Waste Grants Program. The County retained the services of Reed, Stowe & Yanke, a division of R.W. Beck, Inc. (RS&Y) to conduct the study to evaluate whether it would be feasible for the County to provide solid waste collection services to all residents in the unincorporated areas of Walker County.

## **1.3 Technical Study Format**

RS&Y developed this study through a progression of logical steps. RS&Y has described the evaluations and analyses completed for this study in the following chapters of the report:

- Chapter 1: Provides an executive summary of the project.
- Chapter 2: Provides an evaluation of whether there is a need to provide organized solid waste collection services within Walker County. This chapter also includes an overview of an organized solid waste collection program, as well as a discussion of its advantages and disadvantages.
- Chapter 3: Provides a description of current solid waste practices in Walker County in order to analyze whether the County or other waste haulers would be



the better entity to provide collection services through an organized collection program.

- Chapter 4: Analyzes several funding issues that Walker County will need to consider. Addressing these funding issues will be very important as the County evaluates whether to implement an organized solid waste collection program in Walker County.
- Chapter 5: Describes a number of important regulatory and policy issues associated with the provision of solid waste services within the unincorporated areas of Walker County.
- Chapter 6: Provides direction to help Walker County develop a well-designed public awareness campaign, which will be critical toward determining whether Walker County is able to implement an organized solid waste collection program.
- Chapter 7: Describes the steps that the County will need to take in order to develop and implement a process to select solid waste service providers. This chapter provides an overview of implementing a Request for Proposals process.
- Appendix A: Copy of “Survey of Private Solid Waste Collection Companies in Walker County, Texas”
- Appendix B: Documents from New Waverly concerning its bid process and results from their bid for solid waste services
- Appendix C: “Enterprise Funds for Municipal Solid Waste Services,” article by Dave Yanke of RS&Y
- Appendix D: Ordinance and Application for County Waste Hauler Permit for Trinity County, Texas
- Appendix E: Compilation of State of Texas solid waste laws and regulations affecting counties
- Appendix F: DRAFT Request for Proposals (RFP) for Walker County for a Countywide Solid Waste Collection Program

## 1.4 Key Findings and Recommendations

This section provides a summary of the key findings and recommendations developed during the course of this project.

### 1.4.1 Need for Organized Solid Waste Collection in Walker County

Based on the research completed for this study, RS&Y has estimated that approximately 25 percent of County residents are using private haulers for their collection services. The remaining 75 percent of residents are taking solid waste to a permitted transfer station or landfill, illegally dumping or burning their solid waste. While taking solid waste to a permitted transfer station or landfill is legal, it may not be a very convenient option for County residents and businesses due to the amount of time required to travel to and from the disposal facility. Remaining residents and businesses are either illegally dumping or burning their solid waste. Both of these options pose serious threats to human health and the environment.

**Organized Solid Waste Collection Recommendation No. 1:** Based on the research completed for this study, RS&Y believes that there is a substantial need for and would recommend that Walker County implement an organized countywide solid waste collection program for all residents and businesses in unincorporated areas of the County.

### 1.4.2 Service Provider Options

If the County decides to pursue an organized solid waste collection program, there would be a need for the County to determine the best manner in which to provide collection services. This includes analyzing whether the County or other service providers would be more appropriate to provide collection services. RS&Y reviewed current solid waste practices in Walker County in order to analyze who would be the best entity to provide collection services through an organized collection program. For this analysis, RS&Y conducted detailed interviews with County staff, private solid waste collection companies and City of Huntsville solid waste staff.

**Service Provider Recommendation No. 1:** In the future, Walker County should plan to rely on other solid waste operators to provide collection and disposal services for residents and businesses within the unincorporated areas of the County. The County does not have the experience, capacity, nor interest in being the provider of solid waste services. Viable options for the provision of solid waste services could potentially include private operators and the City of Huntsville.

**Service Provider Recommendation No. 2:** Regardless of whether Walker County implements an organized solid waste collection program, the County will need to adopt and enforce stricter regulations concerning the enforcement of local solid waste regulations, in particular, those that pertain to private operators.

### 1.4.3 Funding Options

RS&Y addressed several funding issues that Walker County will need to consider in order to evaluate whether to implement an organized solid waste collection program in Walker County.

**Funding Recommendation No. 1:** Securing a steady and dedicated revenue stream will be critical to the success of an organized solid waste collection program. Walker County should develop a solid waste fee in order to recover the costs of all solid waste services provided in Walker County. These fees would include the following: (1) collection and disposal, (2) enforcement, and (3) billing administration.

**Funding Recommendation No. 2:** RS&Y has developed a list of recommended billing options that Walker County can consider. These options follow, presented in the preferred order:

1. **Contract with Electric Utilities:** Walker County should contract with the electric utility companies that would be willing to provide billing services on behalf of the County. Walker County should expect to pay a reasonable fee for this service.
2. **Contract with Electric Utilities and Direct Bill:** In cases where only some of the electric utilities are willing to provide billing services on behalf of Walker County, the County should plan to provide the billing services itself or through a contractor.
3. **Charge via Annual Property Taxes:** If none of the electric utilities are willing to bill on behalf of the County, Walker County should bill for solid waste services as a part of the County's annual property tax bill. This fee would need to occur as a separate line item, based on the cost of providing and administering the service.

**Funding Recommendation No. 3:** Revenue collected by the County should be placed into an enterprise fund specifically for solid waste services.

### 1.4.4 Regulatory and Policy Issues

There are a number of important regulatory and policy issues associated with the provision of solid waste services within the unincorporated areas of Walker County. RS&Y provided an overview and evaluation of several of these key issues.

**Regulatory Recommendation No. 1:** RS&Y would recommend that Walker County make changes to its current license requirements regardless of whether the County mandates solid waste collection services in unincorporated areas of the County.

**Regulatory Recommendation No. 2:** Walker County should not provide any discounts nor exemptions for part-time residents. RS&Y would recommend that Walker County make decisions regarding whether a property would be included for organized solid waste collection services based on the property's potential for generating municipal solid waste. These types of landowners would include residences, commercial businesses and working farms.

**Regulatory Recommendation No. 3:** The County should develop and implement an approach to allow residents the opportunity to retain their existing private hauler. For

example, the County could send a letter to each resident informing them of the County's plan to contract for solid waste services for all residents. The letter would provide information on the timing and directions for residents to notify the County regarding their desire to retain their current hauler. The County should seek specific legal counsel prior to implementing this recommendation.

**Regulatory Recommendation No. 4:** Prior to issuing a Request for Proposals (RFP), Walker County will need to determine how many customers will be provided with solid waste services via the County for each precinct. If Walker County does not have sufficient resources to conduct this task in-house, the County could consider applying for a grant from the H-GAC to retain a contractor to conduct these services on behalf of the County.

**Regulatory Recommendation No. 5:** Walker County should discuss with representatives in the Texas Legislature reasons why it would be in the County's interest to eliminate Section 368.013 of the Health and Safety Code, which provides an exemption to haulers that are transporting waste in more than three counties.

#### **1.4.5 Public Awareness Campaign**

The development of a well-designed public awareness campaign will be critical toward determining whether Walker County is able to implement an organized solid waste collection program. As the County initially considers this issue, residents will likely have a number of questions regarding this initiative. Residents that already have services may question why the County is getting involved, while residents without services may feel threatened. In addition, local private waste haulers will have a strong interest in this issue.

**Public Awareness Campaign Recommendation No. 1:** Walker County should develop and implement a public awareness campaign that addresses the following issues concerning an organized collection program: reasons, benefits and implementation.

#### **1.4.6 Process to Select Service Providers**

If Walker County decides to develop an organized solid waste collection program, the County will need to develop and implement a process to select solid waste service provider(s). RS&Y would recommend that the County select private solid waste haulers through a Request for Proposals process (RFP). This chapter provides an overview of implementing an RFP process.

**RFP Recommendation No. 1:** Walker County should develop and implement an RFP to retain one or more waste haulers to provide solid waste collection services in County residents. The County could use the RFP in Appendix F.



## **2. EVALUATING THE NEED FOR AND BENEFITS OF ORGANIZED SOLID WASTE COLLECTION**

The initial step for this project was to evaluate whether there is a need to provide organized solid waste collection services within unincorporated areas of Walker County. In other words, RS&Y sought to evaluate how the existing practice of voluntary solid waste collection services is functioning. To address this issue, RS&Y completed a review of current collection practices in the County. In conducting this analysis, RS&Y addressed factors such as: the estimated percentage of residents receiving collection services, the extent of illegal dumping, the costs associated with illegal dumping, and the costs associated with providing solid waste collection services. This chapter also includes an overview of an organized solid waste collection program, as well as a discussion of its advantages and disadvantages.

### **2.1 Evaluation of Current Solid Waste Practices**

RS&Y employed multiple research methodologies to evaluate current solid waste practices in an effort to analyze whether there is a need for an organized collection program. The focus of this research was to determine the extent to which residents were legally disposing of their solid waste, compared to residents who were engaging in illegal dumping and burning of solid waste. The primary research methods employed included the following:

- Survey of private haulers in Walker County
- Interviews with private haulers in Walker County
- Interviews with Walker County officials and staff
- Field visits throughout Walker County
- Review of law enforcement efforts related to illegal dumping crimes

#### **2.1.1 Extent of Residential Collection by Private Haulers**

RS&Y conducted a survey of private haulers that are presently providing solid waste collection services in the unincorporated areas of Walker County in order to estimate the percentage of residents that are subscribing to solid waste collection services. A copy of the written survey is included in Appendix A.

In developing the survey, RS&Y recognized that some of the information that would be included in the survey is proprietary information for the private haulers. To address the need to maintain the confidentiality of this information, RS&Y signed confidentiality agreements with each survey respondent. In addition, survey results are presented in this report on an aggregated basis in order to ensure the confidentiality of individual company responses. RS&Y identified a total of eleven private haulers that are operating in the unincorporated areas of Walker County. Of these eleven, eight private haulers completed the written survey or participated in an interview, allowing RS&Y to provide the following findings:

- These eight haulers are providing collection services to approximately 2,300 of the approximately 9,000<sup>1</sup> residential households in unincorporated areas of Walker County.
- Monthly fees range from \$12 to \$20, with companies serving a larger customer base in the County typically charging a lower fee.
- All private haulers responded that they believe that at least 25 to 50 percent of residents do not have solid waste collection services; several estimated this percentage to be greater than 50 percent.
- All private haulers responded that illegal dumping and outdoor burning is a moderate problem in the County.

In addition, RS&Y also obtained information from several private haulers that is related to the issue of whether there is a need to implement an organized solid waste collection program in Walker County. Several private haulers commented that they are concerned about several equity issues, which focus on some haulers incurring costs that may not be paid by all private haulers operating in the County. These equity issues could lead to some haulers having a competitive advantage over the haulers that are complying with existing regulations. Examples of equity issues cited included the following:

- Some haulers are not paying sales tax
- Some haulers may not be disposing of solid waste in a legal disposal facility (such as at a legal landfill or transfer station)
- Some haulers have not obtained licenses from the County
- Some haulers lack the proper equipment (e.g. untarped loads)

### **2.1.2 Extent of Other Disposal Activities**

RS&Y evaluated the extent to which residents and businesses are using other means of disposing of their solid waste that primarily includes taking solid waste to a legal landfill or transfer station, or illegal dumping or burning their solid waste. RS&Y analyzed this information based on interviews, field visits and a review of existing data.

Estimating the amount of solid waste being legally disposed of by Walker County residents was difficult to project. Local disposal facilities do not track data in a manner that would allow RS&Y to estimate this amount. However, some solid waste is being taken to the City of Huntsville Transfer Station and the Polk County Landfill. A certain amount of solid waste is being illegally dumped and burned in Walker County. Due to the secretive nature of illegal dumping, it was difficult to estimate the total amount of solid waste that is being disposed of in this way. Nevertheless, RS&Y concluded that illegal dumping is a serious problem within Walker County. During the course of field visits, RS&Y observed multiple illegal dumpsites throughout the County. These sites

<sup>1</sup> This figure is based on the number of customers that the electric utilities provide services to in the unincorporated areas of Walker County. This figure includes both residential and commercial customers. Additionally, the number of households for the Cities of Riverside and New Waverly were deducted for the purpose of the analysis.

ranged from small sites that likely included garbage from a single residence to larger sites that could be commercial dumping operations. In addition, RS&Y obtained information from law enforcement personnel in Walker County regarding historical illegal dumping crimes in the County. This information indicated that the County has had a significant historical illegal dumping problem.<sup>2</sup>

RS&Y also observed that multiple residents are burning their solid waste. While the outdoor burning of solid waste is legal in counties where solid waste collection services are not mandatory, there are regulations that must be followed in order to be protective of human health and the environment. For example, RS&Y observed several locations where burning was occurring in close proximity to neighbors. While these residences are located in unincorporated areas, they are still in neighborhoods. RS&Y also observed several cases in which the ash from outdoor burning activities was dumped onto the ground. This could present a drinking water quality problem in cases where this material contaminates groundwater.

For further information regarding reasons why illegal dumping and burning is a significant problem, refer to Chapter 6.

## **2.2 Key Findings Concerning Solid Waste Practices in Walker County**

Based on the research completed for this study, RS&Y has estimated that approximately 25 percent of county residents are using private haulers for their collection services. The remaining 75 percent of residents are taking solid waste to a permitted transfer station or landfill, illegally dumping or burning their solid waste. While taking solid waste to a permitted transfer station or landfill is legal, it may not be a very convenient option for County residents and businesses due to the amount of time required to travel to and from the disposal facility. Remaining residents and businesses are either illegally dumping or burning their solid waste. Both of these options pose serious threats to human health and the environment.

RS&Y believes that there is a substantial need for Walker County to consider implementation of an organized countywide solid waste collection program for all residents and businesses in unincorporated areas of the County.

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<sup>2</sup> RS&Y would like to note that the environmental enforcement officer in Walker County has made significant progress in the effort to reduce illegal dumping in the County. However, due to the resource limitations of this one employee, the County is still incurring significant illegal dumping problems.

## **2.3 Overview of an Organized Collection Program**

An overview of the concept of an organized collection program is provided to illustrate how the system could potentially function in Walker County. In order to assist the County in beginning the process of establishing an organized collection program, RS&Y developed general guidelines for the County to utilize during program development.

The process originates with the County developing a detailed Request for Proposal (RFP) in order to receive competitive bids from either public and/or private haulers to provide collection services for residents located in rural areas of the County. The RFP will outline the overall format in which each entity will submit its proposal to the County for consideration.<sup>3</sup> RFP development is discussed in detail in Section 7.

Once the County has determined those public and/or private haulers that meet the requirements in the evaluation process, the County would then contract with one or more of the entities to provide solid waste collection service for a specified period of time.

Residents and businesses being provided with organized collection service would be required to pay the County through some type of funding option (i.e. taxation, non-ad valorem taxes, user fees, etc.) that is set up to collect fees in order to operate the program. In turn, the County would then pay each contracted hauler based on a predetermined payment allocation method (i.e. tonnage, customer counts, etc.) with fees collected from residents and businesses.

### **2.3.1 Advantages of an Organized Collection Program**

RS&Y has developed this study for the County to consider the feasibility of a countywide solid waste collection program. During the course of our analysis the project team developed a listing of advantages that may offer additional guidance for program development. Additionally, these advantages may also define other issues to be addressed during RFP and contract development.

As a result of the establishment of an organized collection program, rural residents and businesses could potentially realize increased levels of service from collection providers, the added convenience of refuse collection, and lower fees passed down by haulers achieving economies of scale. A more organized solid waste collection system could also provide residents with a viable means of legal disposal and help reduce the amount of illegal dumping. In addition, businesses located in the City of Huntsville could realize a reduction in illegal dumping occurring in dumpsters from rural residents.

The threat of burning trash and its potential negative impacts to human health and the environment could be reduced through the implementation of an organized collection program. Residents would benefit from lower levels of smoke and fire hazards produced by the decline in trash burning.<sup>4</sup>

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<sup>3</sup> RS&Y has developed a Request for Proposal (RFP) to assist the County in the procurement phase. RS&Y would like to note that the RFP should serve as a general guide and may be modified based on any additional needs the County would like to address.

<sup>4</sup> Section 6.1.3 offers additional information on the negative aspects of burning trash.

The establishment of an organized collection program would offer waste haulers the chance to reduce the overall cost of providing solid waste collection service on a per household basis within the County. This could be achieved by more efficient routing (i.e. fewer collection vehicles operating in neighborhoods and on rural roads), more efficient billing systems and increases in revenues from added customers. These savings would then be realized by residents within Walker County. **For example, if organized collection would result in decreasing the average monthly cost for services from \$1 to \$3 per customer per month, the savings over a five-year period would range from \$540,000 to \$1,620,000 for all residents over these five years.**

Based on interviews conducted with County staff and other private collection operators, several “illegal” collection service providers are operating within the County. As part of the organized collection program, the County could better monitor solid waste collection providers to verify if they are operating in compliance with applicable County laws and regulations regarding solid waste collection. This could be accomplished by the County requiring proof of the use of legal disposal facilities (transfer stations, landfills, etc.), verification that each collection provider has the necessary licenses to operate in the County, and receipts to determine if annual sales tax payments have been made.

Another benefit of developing an organized solid waste collection program is transferring the burden of funding solid waste activities from the County's general fund to residents and businesses in the form of solid waste collection fees. Solid waste fees collected would provide the opportunity to recover the County's cost for environmental enforcement, Trash Bash activities as well as provide additional funding for solid waste related educational materials. In addition, the County could include a “franchise fee”<sup>5</sup> as a part of efforts to develop an organized collection program in order to generate additional revenue on behalf of the County.

Other benefits the County could realize from developing an organized collection program include:

- A decline in illegal dumpsites associated with chronic illegal dumpers
- A decline in some of the financial costs on local government budgets from clean-up activities associated with illegal dumpsites
- An increase in compliance by contracted collection providers in obtaining required permits and following codes
- Improved working relationships between contracted collection providers and the County

### **2.3.2 Disadvantages of an Organized Collection Program**

The project team identified some of the potential disadvantages facing the County due to the implementation of an organized collection program. These are discussed below.

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<sup>5</sup> Franchise fees allow local governments to recoup costs for allowing a waste hauler to operate. These fees are typically a percentage of a private operator's gross revenue generated by providing solid waste services to customers. Franchise fees are typically based on a percentage of the gross revenues. Franchise fees ranging from three to 10 percent are common within the State of Texas.

Based on interviews conducted with private haulers operating in the County, it would be difficult to develop an organized collection program in which all private haulers could continue to operate in the waste collection business. Those private collection providers that have the ability to adapt to changes in levels of service, increases in customer base, etc., and the ability to offer a lower price to the County would prosper. Larger, more efficient collection providers would benefit from the organized collection program. Smaller collection providers operating in the County could be forced out of business.

The County would be required to have a more active role in the provision of solid waste services if an organized collection program were implemented. Currently, the County oversees the permitting process for private collection operators, receipt of sales tax, environmental enforcement and annual Trash Bash activities. With program development, the County would have the added responsibility to monitor waste haulers compliance with established contract guidelines as well as oversee the collection and disbursement of collected solid waste fees.<sup>6</sup> Additionally, the County would have to verify that those individuals who have opted out of the organized program are currently being served by a legal collection provider.<sup>7</sup>

### **2.3.3 Case Study: Garland County, Arkansas**

Garland County, Arkansas has developed a mandatory collection program that requires all residents living in unincorporated areas of the county to subscribe to these services. Garland County is a predominately rural county with 55,000 residents. The program was enacted in 1998, and was a result of problems the county observed that arose from many small businesses offering solid waste collection services that were unregistered or not meeting vehicle specifications set by the county.

The county has developed three residential service zones that solid waste service providers bid on every five years. The solid waste service providers must meet the various contractual conditions developed by the county including; vehicle specifications<sup>8</sup> and be responsible for the generation and upkeep of a database of their customers. The goal of developing three residential service zones, was to give smaller solid waste service providers the opportunity to still provide services to residents in the County.

The county is responsible for the billing, which is collected on a three-month basis. The county charges \$8.50 for solid waste collection service, which is a universal charge throughout the county. The county has several enforcement mechanisms that are in place in the event a customer is delinquent for 90 days. These options include:

- A \$250.00 fine assessed to the resident by an enforcement officer;
- Attachment to the resident's personal property tax bill;

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<sup>6</sup> However, the County would be able to generate fees associated with solid waste services to pay for the County's cost of administration.

<sup>7</sup> This issue is addressed in detail in Section 5.2.3.

<sup>8</sup> A solid waste service provider must be equipped with automated side loader collection vehicle.

- If the resident fails to pay the bill on the personal property tax, it will be attached to the resident's real property tax bill.<sup>9</sup>

## **2.4 Recommendations**

**Collection Recommendation No. 1:** Walker County should develop a plan to implement an organized solid waste collection program for all residents and businesses located in the unincorporated areas of Walker County.

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<sup>9</sup> The enabling law states that at no time will the County use the collection of a solid waste bill on a real property tax bill to acquire the resident's property.

### **3. SERVICE PROVIDER OPTIONS**

If the County would pursue an organized solid waste collection program, there would be a need for the County to determine the best manner in which to provide collection services. This includes analyzing whether the County or other service providers would be more appropriate to provide collection services. RS&Y reviewed current solid waste practices in Walker County in order to analyze who would be the best entity to provide collection services through an organized collection program. For this analysis, RS&Y conducted detailed interviews with County staff, private solid waste collection companies and City of Huntsville solid waste staff.

#### **3.1 Walker County**

Many local governments effectively provide residential solid waste collection services for their community. In fact, local governments can have some advantages over the private sector in providing this service since local governments do not pay income taxes and are not required to generate a profit. Additional benefits associated with government operated collection services include increased local control over the operations and increased accountability for the quality of the services provided.

Providing residential solid waste collection services, however, requires significant levels of personnel and financial resources due to the complexities of the business. Local governments should only provide this service in cases where they are certain that they have the expertise, as well as the political will required to provide the service. The provision of this type of service requires a long-term commitment due to the high capital costs involved and the increased managerial and administrative responsibilities.

Based on analyses completed for this project, it does not appear that Walker County has any significant interest in providing solid waste collection services on behalf of residents in unincorporated areas of the County.

#### **3.2 Private Operators**

There are approximately eleven companies that are currently providing solid waste collection services to customers in unincorporated areas of Walker County. In addition, there are several other companies that would potentially have an interest in providing collection services if the County would develop an organized solid waste collection program.

Of the companies that are currently providing solid waste collection services in Walker County, a number of them provide high quality service to their customers while operating in compliance with existing regulations. Several of these companies have been providing collection services in the Walker County area for an extended period of time and have developed established businesses.



However, there are also several private haulers that do not appear to be operating in compliance with various regulations. RS&Y obtained information from interviews, surveys and written documents that indicated that several haulers may be negligent regarding the following:

- Nonpayment of State of Texas sales taxes and Federal income taxes
- Illegal disposal of solid waste
- Improper operation of solid waste collection vehicles
- Not registered with the County's solid waste permitting program

In the future, private solid waste operators could serve the primary role in providing collection services to unincorporated areas of Walker County. However, there will be a need for the County to have greater oversight regarding the operation of the businesses. Walker County effectively needs to create a level playing field for all companies that would provide solid waste collection services in the future. This issue is further addressed in Section 5.1.

### **3.3 City of Huntsville**

If Walker County moves forward with the development of an organized solid waste collection program, the County should consider the City of Huntsville as a prospective bidder. Unlike Walker County, the City of Huntsville already operates a significant solid waste utility, providing residential and commercial collection services to approximately 9,000 customers.

### **3.4 Recommendations**

**Service Provider Recommendation No. 1:** In the future, Walker County should plan to rely on other solid waste operators to provide collection and disposal services for residents and businesses within the unincorporated areas of the County. The County does not have the experience, capacity, nor interest in being the provider of solid waste services. Viable options for the provision of solid waste services could potentially include private operators and/or the City of Huntsville.

**Service Provider Recommendation No. 2:** Regardless of whether Walker County implements an organized solid waste collection program, the County will need to adopt and enforce stricter regulations concerning the enforcement of local solid waste regulations, in particular, those that pertain to private operators.

## 4. FUNDING ISSUES

RS&Y identified several funding issues that Walker County will need to consider. Addressing these funding issues will be very important as the County evaluates whether to implement an organized solid waste collection program in Walker County.

### 4.1 Potential Cost for Solid Waste Services

Determining how much it will cost to provide solid waste collection services can be a key factor in determining whether Walker County decides to mandate collection services in the County. While RS&Y cannot state what the price of an organized program would be, the project team did conduct research to provide the County with an indication of what could be expected. During interviews and surveys conducted for this study, RS&Y determined that current solid waste haulers charge \$12 to \$22 per month for solid waste services. Many of the companies interviewed for this project indicated that they could provide their services less expensively if any of the following would occur:

- Customer billing would be the responsibility of the County
- Customers served would be located in a concentrated geographic area

Another indication that services could be provided for less than the current range of \$12 to \$22 per month is based on the expectation that service providers would have a willingness to charge less through a competitive bid process.<sup>10</sup> For example, New Waverly completed a competitive bid process in 2002 for solid waste collection services. It is important to note that RS&Y would expect that the price per household would be less to provide services in New Waverly than in unincorporated areas of Walker County due to factors such as collection density, proximity to major roads and proximity to landfills and transfer stations owned/operated by bidding companies. New Waverly received three bids for once per week garbage collection services. The prices for these bids were \$7.00, \$7.25 and \$9.56 per customer per month. New Waverly also received bids for collection services for businesses. Appendix B includes information from New Waverly concerning their bid process and results.

RS&Y did contact several local and national private haulers to ask whether they could provide a cost estimate of how much they would expect that they would need to charge on a per household basis if they would provide collection services to residential customers in the unincorporated areas of Walker County. Several private haulers responded that they could only provide a general estimate at this time. They would be able to provide a specific cost (1) in responding to an official RFP and (2) after gaining a better understanding of specific conditions in Walker County that would affect solid waste collection services (e.g. number of households, population density, disposal options). Multiple private haulers provided estimates that varied from lower costs in the

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<sup>10</sup> However, due to the competitive nature of the solid waste business, individual companies were not willing to provide a specific price regarding how much they would charge if the County would seek bids.

range of \$8 to \$11 per household per month to higher costs in the range of \$15 to \$18 per household per month.

Based on interviews with multiple private haulers, RS&Y believes that there would be substantial interest from the private sector to develop proposals to provide residential solid waste collection services in Walker County. With a significant number of residents in Walker County currently paying monthly fees greater than \$18 per month, there is a significant likelihood that having the County contract for solid waste services could result in a significant cost savings for County residents.

## **4.2 Charges Included in a Fee**

If Walker County charges a fee for solid waste services, there are several components of the fee that the County could consider. Charging a fee would allow the County to recover some of its current costs through a solid waste fee, and not from the general fund. A summary of these fees is described below:

Private Hauler Collection and Disposal Services: This fee would represent the greatest amount. This amount would be equal to the amount that would be charged by a private hauler to provide collection and disposal services. Walker County could also consider including disposal costs for the annual Trash Bash as a part of this fee, which would allow this cost to be recovered through user fees, and not through the general fund.

Enforcement: Walker County currently operates an effective environmental enforcement program. The environmental enforcement officer could also be used to ensure compliance with the solid waste collection program that the County may implement. There may be a need for the County to hire an additional officer, due to the added responsibilities and sheer size of Walker County. The County could fund the costs associated with this program as a part of a solid waste fee, which would also reduce the annual financial burden on the general fund.

Billing Administration: The County could expect to incur costs related to the administration for the billing and collection of solid waste fees. These fees would be incurred by the County's Planning and Development Office. Depending on how the County would collect the fees, costs could also be incurred by the Walker County Appraisal District and/or utility providers that could collect solid waste fees on behalf of the County.

## **4.3 Funding Options**

RS&Y evaluated several options for Walker County to consider concerning how the County would bill and collect for the fees associated with providing solid waste collection services. The following section includes discussions of these options, as well as analyses.

### 4.3.1 Charge via Electric Utility Bill

In Texas, assessing a monthly utility fee for the provision of solid waste services is the most popular funding approach. This funding method provides the opportunity to secure a stable funding source that charges the direct users of the service. When solid waste fees are included as a part of a monthly utility bill along with charges for water and/or electricity, customers are much more likely to pay for the services than in cases where only solid waste fees are charged. This is the case because the utility service provided by the billing utility (e.g. an electric cooperative) can be discontinued if customers do not pay for all services provided (both electric and solid waste services).

Charging solid waste services through utility bills can be an effective way for an entity such as a county to recover fees that it may otherwise have a difficult time collecting. For example, if a county can have another utility (e.g. electric cooperative) bill for solid waste services provided by the county, the county should expect that it will recover a high percentage of fees. It is important to point out that while another utility would likely charge a fee to the County for billing services, this fee would likely be less expensive than it would be for the County to develop and administer its own billing system for solid waste services.

Senate Bill 352, which was passed into law by the 77<sup>th</sup> Legislature in 2001, provides more options for counties to require residents to receive collection services. Prior to 2001, Texas law provided counties the authority to offer and require solid waste services, and permitted them to collect fees for the service, but did not provide an effective enforcement mechanism to compel payment. Senate Bill 352 now allows a county to contract with a private or public entity, including a public utility, to collect solid waste fees.

Specific to Walker County, RS&Y researched the feasibility of various local utilities providing billing services on behalf of the County. RS&Y primarily considered water and electric utilities. Based on a review of how water services are provided in the County, RS&Y determined that it would be unfeasible to bill for solid waste collection services via water utility bills because a number of County residents receive their water from wells, which means that they do not receive a water utility bill.

RS&Y also considered the feasibility of providing billing services through electric bills. To evaluate this option, RS&Y contacted each of the four electric utility providers that provide services in Walker County. The following represents key findings from the telephone interviews conducted with representatives of each electric utility provider:

#### Entergy

- Provides electric services to approximately 2,000 customers in Walker County.
- In the future, Entergy will be subject to deregulation, which will require them to only serve as the transmission and distribution utility for customers in Walker County (this issue is further addressed later in this section of the report).

- Entergy staff did express an interest in this issue, but stated that any decision would need to be made at the corporate level. Based on this information, RS&Y provided an e-mail to Entergy to be distributed to Entergy management and staff concerning this issue.
- On a preliminary basis, Entergy staff expressed concern about the feasibility of modifying their billing system only for customers in Walker County.
- Entergy staff also mentioned that adding the solid waste fee could discourage retailer electric providers from offering services in Walker County.

#### Houston County Electric Cooperative

- Provides electric services to approximately 250 customers in Walker County.
- As an electric cooperative, will not be subject to deregulation.
- Staff expressed an interest in the idea of providing billing and collection services, mentioning that they have the necessary billing software and are interested in opportunities to enhance revenue.
- Would need to obtain approval from their Board of Directors.

#### MidSouth Cooperative

- Provides electric services to approximately 6,385 customers in Walker County.
- As an electric cooperative, will not be subject to deregulation.
- Staff expressed interest in the concept, and expect to present a proposal to their Board of Directors for approval.

#### Sam Houston Electric Cooperative

- Provides electric services to approximately 500 customers in Walker County.
- As an electric cooperative, will not be subject to deregulation.
- Staff expressed interest in the concept, but due to the low number of customers in Walker County, staff expressed that they may not have an interest in providing billing services.
- Staff said that they would be willing to present the concept to the Board of Directors, but may not expect their approval.

One way in which Walker County could try to encourage the electric utilities to provide the billing and collection services would be to discuss the amount of money that the County would be willing to pay for this service. RS&Y would assert that it would be reasonable for both Walker County and each utility for Walker County to pay between \$0.25 and \$0.50 per customer per month. In cases where an electric utility represents a lower number of customers, there may be a need to provide compensation on a minimum

total amount and not on a per customer basis. RS&Y would recommend that Walker County pay each electric utility a minimum of \$500 per month for up to 500 customers. In cases where a utility has more than 500 customers, they would be paid \$0.50 per customer per month for all customers after the first 500. Table 4-1 details how this cost structure would benefit each electric utility.

**Table 4-1. Proposed Monthly Costs for Electric Utilities to Provide Solid Waste Billing Services**

<b>Utility</b>	<b>Total Customers</b>	<b>Minimum</b>	<b>For Customers &gt; 500</b>	<b>Total</b>
Entergy	2,000	<b>\$500</b>	<b>\$750</b>	<b>\$1,250</b>
Houston County	250	<b>\$500</b>	<b>\$0</b>	<b>\$500</b>
MidSouth	6,385	<b>\$500</b>	<b>\$2,942</b>	<b>\$3,442</b>
Sam Houston	500	<b>\$500</b>	<b>\$0</b>	<b>\$500</b>
<b>Total</b>	9,135	<b>\$2,000</b>	<b>\$3,692</b>	<b>\$5,692</b>

RS&Y believes that this fee structure would be reasonable for Walker County to pay based on the amount other entities are paying to outside parties for billing services. On average, Walker County would pay \$0.62 per customer per month based on the costs described in Table 4-1. Compared to fees charged by private billing companies, this rate would be reasonable for the electric utilities. For example, the City of Huntsville recently received bids from contractors to provide billing services for the City’s solid waste and water/wastewater bills. The City expects that it will pay approximately \$0.19 per customer per month plus the cost of postage for billing services.

Walker County should also be aware of several issues that developed while RS&Y researched the potential for electric utilities to charge for solid waste services. RS&Y received varied opinions from multiple entities regarding whether SB 352 would apply to electric utilities, specifically in terms of whether an electric utility could discontinue electric service in cases where a customer would not pay for the solid waste portion of a bill. These discussions occurred with attorneys in private practice, staff at the Public Utilities Commission (PUC) and a review of testimony taken at a committee hearing held by the Texas House Committee on Environmental Regulation. While there was a question regarding the definition of a “public utility” by PUC staff and attorney’s in private practice, RS&Y reviewed the legislative intent of SB 352. Based on a review of testimony taken at the House Committee on Environmental Regulation, it was determined by RS&Y that the legislative intent of the SB 352 was to define a “public utility” to include electric and gas utilities. Walker County, as well as the electric utilities in the County, may need to discuss this issue more formally with staff at the PUC in the future in order to obtain better clarification.

Another issue related to the electric utilities involves deregulation. While the electric cooperatives have the option to not participate in deregulation, Entergy will be required. Specifically, Entergy will continue to serve as the transmission and distribution utility. Under this situation, Entergy will no longer have a direct role in providing electricity to residential customers. Instead, approximately 20 retailer electric providers will have the opportunity to compete for business from customers in the Entergy service area in Walker County. Entergy would be able to serve as the billing entity for solid waste services on behalf of Walker County. Entergy would have to rely on the retailer electric providers to bill for the services. While these retailer electric providers should be able to bill for the services, Entergy may face situations in the future where it would need to direct the retailer electric providers to disconnect a customer's electric service in cases of non-payment of solid waste services.

#### **4.3.2 Charge via County Issued Solid Waste Bill**

If it is unfeasible for some or all of the electric utilities to provide the billing services for Walker County, the County could consider billing customers on its own or using a contractor to provide this service. Based on research conducted with the company that provides billing services to the City of Huntsville, a \$0.45 cost per customer could be expected. The billing service provider noted that a contract could be set for a period of between one and five years where billing services, electronic billing statements noting delinquent customers<sup>11</sup> and online bill payment options for customers could be provided to the County. These services can be provided to the County on a monthly or quarterly basis by the billing company if the County so chooses. If Walker County would elect to pursue this option, the County could discuss with staff from the City of Huntsville how the City retained a company to provide billing services on its behalf.

A significant disadvantage of this option, compared to having a utility provide the service, is that the option to discontinue electric utility services for nonpayment would not exist. However, Walker County could consider placing a lien on properties that do not pay their solid waste bills in a timely manner. RS&Y would recommend that Walker County consult with the District Attorney to obtain specific legal counsel regarding the process to file such a lien.

#### **4.3.3 Individual Haulers Collect Bills**

Private haulers charging customers directly has been the billing and collection method previously used in Walker County. While this approach can be effective, it can also result in a limited number of customers using available services because participation is voluntary. Voluntary services can lead to some residents not using the services provided, possibly resulting in increases in illegal dumping.

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<sup>11</sup> The electronic billing statements can only be accessed by the County to provide the County with the billing records for residents in the County.

#### **4.3.4 Charge via Property Tax Bill**

A commonly utilized method for the billing of solid waste services is collecting fees as a part of annual property tax assessments. Some communities fund their solid waste operations through ad valorem, or property taxes. Through this approach, revenue generated from property taxes is used to fund solid waste services. However, this approach may require an increase in the effective tax rate in Walker County.

Another related option would be for Walker County to fund solid waste collection services through a non-ad valorem fee. This fee would be included on the yearly property tax bill as a line item and identified as a “non-ad valorem” fee. The fee amount would be equal to the cost of providing solid waste services on an annual basis. This would allow for the County to charge for solid waste services based on the cost of the service, instead of based on property valuations.

Costs incurred for the billing and collection of this fee could be incorporated into the annual fee in order to reimburse the Walker County Appraisal District.

If Walker County would employ this funding method, RS&Y would recommend that the County charge for the service in advance. This would allow the County to pay service providers on a periodic basis throughout the year.

#### **4.4 Establishment of an Enterprise Fund**

Enterprise funds are used to account for governmental activities or services that are operated in a manner similar to private businesses. The purpose of placing a governmental activity, such as solid waste services, in an enterprise fund is to clearly identify the costs and revenues associated with it, and prevent those items from being commingled with other expenditures in a County’s general fund. Enterprise funds can serve as mechanisms to provide stable and dedicated funding for solid waste departments. If Walker County develops a solid waste collection program, RS&Y would recommend that the County create a solid waste enterprise fund. Prior to creating an enterprise fund, RS&Y would recommend that the County consult with the District Attorney regarding any specific legal issues that would be associated with the establishment of an enterprise fund.

To further assist Walker County concerning the development of enterprise funds, RS&Y has included an article on this subject by Mr. David Yanke of RS&Y. This article is located in Appendix C.



## 4.5 Recommendations

**Funding Recommendation No. 1:** Securing a steady and dedicated revenue stream will be critical to the success of an organized solid waste collection program. Walker County should develop a solid waste fee in order to recover the costs of all solid waste services provided in Walker County. These fees would include the following: (1) collection and disposal, (2) enforcement, and (3) billing administration.

**Funding Recommendation No. 2:** RS&Y has developed a list of recommended billing options that Walker County consider. These options follow, presented in the preferred order:

1. Contract with as many of the electric utilities that would be willing to provide billing services on behalf of the County. Walker County should expect to pay a reasonable fee for this service.
2. Contract with Electric Utilities and Direct Bill: In cases where only some of the electric utilities are willing to provide billing services on behalf of Walker County, the County should plan to provide the billing services itself or through a contractor. The County may elect to use a commercial billing service company to provide this service on behalf of Walker County. In cases where the County direct bills customers, and payment is not received, the County should evaluate the legality of adding the unpaid amount as a line item for the customer's property tax bill.
3. Charge via Annual Property Taxes: If none of the electric utilities are willing to bill on behalf of the County, Walker County should bill for solid waste services as a part of the County's annual property tax bill. This fee would need to occur as a separate line item, based on the cost of providing and administering the service.

**Funding Recommendation No. 3:** Revenue collected by the County should be placed into an enterprise fund specifically for solid waste services.

## **5. REGULATORY AND POLICY ISSUES**

There are a number of important regulatory and policy issues associated with the provision of solid waste services within the unincorporated areas of Walker County. The purpose of this chapter is to provide an overview and evaluation of several of these key issues.

### **5.1 Current Solid Waste Hauler Permit**

Walker County currently requires all private solid waste haulers operating within the County to obtain an annual license. However, there is a need for Walker County to enhance its efforts concerning the enforcement of licensing requirements. Currently, several private haulers operating within the County have not obtained their licenses. This can lead to inequities among private haulers in the County because those complying with the licensing requirements are at a competitive disadvantage relative to companies that do not obtain their license.

In addition, Walker County should use these licenses as a mechanism to encourage private waste haulers to comply with existing State of Texas laws and regulations concerning the transportation and disposal of solid waste. This would allow Walker County to address multiple health and safety issues. RS&Y would recommend that Walker County consider developing a new permitting license based on one recently adopted by Trinity County. A copy of the ordinance and supporting documentation from Trinity County is included in Appendix D.

RS&Y would recommend that Walker County make changes to its current license requirements regardless of whether the County mandates solid waste collection services in unincorporated areas of the County.

### **5.2 Determine Who Would be Required to Obtain Services**

If Walker County requires all residents and businesses in unincorporated areas of the County to obtain solid waste collection services, the County will need to address several issues from residents and businesses who may contend that they should not be required to obtain collection services. A discussion of these various scenarios follows:

#### **5.2.1 Part-time Residents**

Some residents within Walker County may contend that they should be partially or completely exempt from having to participate in a solid waste collection program. Their basis for this contention would be that they are only receiving a portion of the service, and should not be required to pay for the full service. This is a policy issue that RS&Y has addressed in conducting numerous solid waste and water/wastewater studies for local governments in Texas. Based on our experience, RS&Y would recommend that Walker County **not** allow any discounts nor exemptions for any part-time residents. If Walker County would allow discounts or exemptions for part-time residents, it would be

extremely difficult to project the financial impact of this policy. In addition, developing a “part-time resident” exemption policy would prove a challenge as the County could expect a number of residents to develop various reasons why they should be entitled to a discount or exemption. Another reason to not have any discounts or exemptions involves the nature of the solid waste collection business. Waste haulers will develop their bids based on being able to serve an entire route. From an administrative perspective, it would be extremely difficult and expensive for the County to track the status of part-time residents in the County.<sup>12</sup>

### **5.2.2 Non-residential Landowners**

Walker County will need to evaluate all of the types of properties that will be subject to organized collection. While it may be clear that residential and commercial properties would be subject to organized collection services, there are some property types that would require further consideration. These primary property types would include: undeveloped land, barns and working farms. RS&Y would recommend that Walker County make decisions regarding whether a property would be included for organized solid waste collection services based on the property’s potential for generating municipal solid waste. Based on this criteria, RS&Y would recommend that the following property categories be subject to the organized solid waste collection services:

- Residential
- Commercial businesses
- Working farms

### **5.2.3 Entities that Already Have Solid Waste Services**

There are a number of residents and businesses in Walker County that are already paying for solid waste collection services. While state law permits Texas counties to mandate collection services, the law allows an exemption for any individual that is receiving solid waste disposal services from another entity. Any individual that is currently receiving solid waste services that does not want to receive services from the County’s solid waste provider must provide written documentation that the individual already is receiving solid waste services.

However, state law is unclear regarding the timing of when individuals would need to provide notification to the County that they wish to keep their current provider. RS&Y would recommend that the County consult with the District Attorney to obtain clarification regarding interpretation of this legislation. RS&Y did research whether any state agency, including the Texas Commission on Environmental Quality, has developed any rules regarding the implementation of this legislation. No agency has or plans to develop any rules related to this legislation.

RS&Y would also recommend that Walker County advise any individual who wants to retain his current solid waste provider, that the solid waste provider must be in

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<sup>12</sup> The same logic that is used by water/wastewater utilities in denying exemptions for part-time residents could be used for solid waste services. The logic is that there is a fixed cost incurred by a water/wastewater or solid waste utility, regardless of whether the service is used part-time or year round. Therefore, the customer must pay for the right of having that service available at any time.

compliance with the County's licensing requirements for waste haulers. RS&Y would also expect that some County residents and businesses may initially elect to remain with their current hauler, but may later change their mind if the County's fee is less expensive than the current price they are paying.

Walker County may also want to inform County residents that there will be a likelihood that their cost for solid waste services would decrease when the County retains a waste hauler to provide collection services to all residents in the County. This could encourage these residents to participate in the County's program.

### **5.3 Determine the Number of Customers**

Prior to issuing a Request for Proposals (RFP), which is discussed in Section 7, Walker County will need to determine how many customers will be provided with solid waste services via the County for each precinct. As discussed in Section 5.2, the County **may** eliminate some residents based on whether they are part-time residents, non-residential landowners and/or already have solid waste services.

Determining the number of households within the County will require some data analyses and field work by County staff. Data from the Walker County Appraisal District can serve as a starting point for evaluating the number of households that would be served. However, there will be a need to conduct further analyses to determine which properties are located in each of the four County precincts. There will also be a need for the County to verify the status of some properties in the field. This will primarily involve determining how many households are located on properties classified as multi-family properties.

If Walker County does not have sufficient resources to conduct these tasks in-house, the County could consider applying for a grant from the H-GAC to retain a contractor to conduct these services on behalf of the County.

### **5.4 State Solid Waste Laws and Regulations**

RS&Y identified several state laws and regulations that could have an impact on Walker County's efforts to develop and implement a an organized solid waste collection program. This section includes summaries of these various laws and regulations. RS&Y would emphasize that Walker County should seek specific legal counsel if the County has any questions directly related to how these laws and regulations would impact potential future activities in Walker County. Appendix E includes a compilation of these solid waste laws and regulations. Laws and regulations included in this appendix include the following:

- Health and Safety Code - Chapter 364. County Solid Waste: Confers the power of solid waste regulation to counties, giving them authority to operate as necessary for the collection and disposal of solid waste.

- Texas Administrative Code Title 30 - Rule §330.32: Outlines Collection and Transportation Requirements. States that haulers must be responsible for ensuring all solid waste is properly disposed of at an authorized facility, must maintain documentation for at least three years that describes the nature of the waste disposed of, and describes the transporter special route permit process that is necessary to operate a collection vehicle.
- Health and Safety Code - Chapter 368. County Regulation of Transportation of Waste: Defines counties' authority to license and regulate waste haulers operating in their jurisdiction.

RS&Y has identified several key laws and regulations that could specifically impact Walker County's efforts to develop an organized solid waste collection program. A discussion of these laws and regulations follow.

#### **5.4.1 General Provisions for Counties Concerning Solid Waste**

Regulations at the state and local level dictate how private haulers operate their collection services in the State of Texas. Chapter 364 of the Health and Safety Code confers the power of solid waste regulation to counties: giving them authority to operate as necessary for the collection and disposal of solid waste. In doing so, counties can exercise the option to allow private companies to provide for the collection and disposal of solid waste.

Subchapter C, §364.031 states that the contract drawn between public entities and private haulers must allow for equitable service to all customers in the area, must provide the method for collection, and any other provisions or requirements that they see necessary and proper for the operation of collection services.

#### **5.4.2 Funding Mechanisms**

A county may fund solid waste collection through the use of tax funds, through the issuance of bonds dedicated to instituting solid waste collection services, or collection fees prescribed to entities receiving the benefits of collection services. These provisions are outlined in Chapter 364 of the Health and Safety Code, §364.033 and §364.034. These sections reflect the changes that were included as a part of Senate Bill 352, which was adopted in 2001.

#### **5.4.3 Collection and Transportation Requirements**

Along with each county's specific set of regulations or agreements, haulers must also operate within the limits of the Texas Administrative Code Title 30. Rule §330.32 outlines the collection and transportation requirements of a private solid waste hauler. This section states that haulers must be responsible for ensuring all solid waste is properly disposed of at an authorized facility, must maintain documentation for at least three years that describes the nature of the waste disposed of, and describes the transporter special route permit process that is necessary to operate a collection vehicle.

#### 5.4.4 Exemptions for Certain Waste Haulers

Section 368.013 of the Health and Safety code outlines the exemptions and conditions that apply to waste haulers that operate in a county. The provisions of the code express that haulers that are transporting waste on behalf of a municipality or other governmental entity or operating regularly in more than three (3) counties are not required to hold a waste hauler license required by a county.

In addition, the county has the right to require waste haulers who transport waste to have a waste hauler license if the hauler deposits any part of that waste in a county other than the county in which all or part of the governmental entity is located.

### 5.5 Recommendations

**Regulatory Recommendation No. 1:** RS&Y would recommend that Walker County make changes to its current license requirements regardless of whether the County mandates solid waste collection services in unincorporated areas of the County.

**Regulatory Recommendation No. 2:** Walker County should not provide any discounts nor exemptions for part-time residents. RS&Y would recommend that Walker County make decisions regarding whether a property would be included for organized solid waste collection services based on the property's potential for generating municipal solid waste. These types of landowners would include residences, commercial businesses and working farms.

**Regulatory Recommendation No. 3:** The County should develop and implement an approach to allow residents the opportunity to retain their existing private hauler. For example, the County could send a letter to each resident informing them of the County's plan to contract for solid waste services for all residents. The letter would provide information on the timing and directions for residents to notify the County regarding their desire to retain their current hauler. The County should seek specific legal counsel prior to implementing this recommendation.

**Regulatory Recommendation No. 4:** Prior to issuing a Request for Proposals (RFP), Walker County will need to determine how many customers will be provided with solid waste services via the County for each precinct. If Walker County does not have sufficient resources to conduct this task in-house, the County could consider applying for a grant from the H-GAC to retain a contractor to conduct these services on behalf of the County.

**Regulatory Recommendation No. 5:** Walker County should discuss with representatives in the Texas Legislature reasons why it would be in the County's interest to eliminate Section 368.013 of the Health and Safety Code, which provides an exemption to haulers that are transporting waste in more than three counties.

## **6. DEVELOPMENT OF A PUBLIC AWARENESS CAMPAIGN**

The development of a well-designed public awareness campaign will be critical toward determining whether Walker County is able to implement an organized solid waste collection program. As the County initially considers this issue, residents will likely have a number of questions regarding this initiative. Residents that already have services may question why the County is getting involved, while residents without services may feel threatened. In addition, local private waste haulers will have a strong interest in this issue. Walker County will need to develop a public awareness campaign that addresses the following issues:

- Why is an organized collection program necessary?
- What are the benefits of an organized collection program?
- How will Walker County implement an organized collection program?

This chapter of the report contains sections that detail how the County can address these issues.

### **6.1 Necessity of an Organized Solid Waste Collection Program**

The fundamental reasons why an organized solid waste collection program is necessary are based on the hazards and negatives associated with illegal dumping and outdoor burning. This section provides further detail regarding these issues. This information has been organized in an outline format to provide an opportunity for Walker County officials to use this information as part of a public awareness campaign that could include public presentations, newspaper advertisements/articles, public service announcements (PSAs) and brochures.

#### **6.1.1 Hazards and Negatives Associated with Illegal Dumping**

- Health Risks
  - Drinking water quality issues related to runoff pollution (especially areas with private wells)
  - Habitat/breeding grounds for mosquitoes, rats and other pests
  - Direct contact exposure to sharp objects, medical wastes, caustic substances, and fire (especially a risk for children playing in the areas)
- Environmental Risks
  - Groundwater and surface water contamination
  - Air pollution from open burning
  - Impact on wildlife and aquatic habitat
- Financial Costs
  - Financial burden on taxpayers

- County funds \$65,000 annually from the general fund for costs associated with illegal dumping (law enforcement costs and annual Trash Bash events)
- Some residents rely on the Trash Bash as their primary means of disposal, which results in other County residents having to subsidize those that do not pay for service
- Diversion of local staff and equipment resources from other public needs (public works staff, police, and public attorneys)
- Private sector business costs through the illegal use of dumpsters
- Private property owner cleanup costs
- Lost disposal revenues at permitted public and private disposal facilities (illegally dumped waste bypasses billing system)
- Reduced local government sales tax revenue
- Aesthetic Costs
  - Offensive sights and smells
  - Negative perceptions of community values of residents
  - Negative perceptions of capital investment value by potential new businesses
  - Property devaluation and potential loss of opportunities to develop land and attract additional business opportunities (e.g. tourism)

### **6.1.2 Hazards and Negatives Associated with Burning**

- A U.S. Environmental Protection Agency study found that a single household burn barrel may release as many toxic chemicals as a large municipal incinerator.
- Products and packages containing vinyl are extremely dangerous when burned. They produce hydrogen chloride gas that combines with water to form hydrochloric acid in human lungs. Burning also produces toxic dioxin chemicals.
- Children are particularly susceptible to the toxins released by burn barrels. They absorb up to six times the amount of byproducts that adults absorb from the same air.
- Burning releases at least seven known cancer-causing agents into the air, including one believed to be a major factor in lung cancer.
- Open burning has been linked to a host of health problems, including Sudden Infant Death Syndrome (SIDS), asthma attacks and other respiratory ailments.



## **6.2 Benefits of an Organized Collection Program**

In order to implement an organized collection program, Walker County will need to gain the support of the public and obtain input from private haulers that may have an interest in providing collection services within Walker County. As part of its public awareness campaign, Walker County should focus on explaining the benefits of an organized collection program. Many of these specific benefits have been explained in Section 2.3.1, “Advantages of an Organized Collection Program.”

In terms of presenting this portion of the public awareness campaign, RS&Y would recommend that Walker County conduct public meetings to inform the community about the upcoming program. These meetings could also serve as a forum to answer questions and obtain input from waste haulers that may have an interest in providing collection services.

## **6.3 Implementing an Organized Collection Program**

If Walker County elects to implement an organized collection program, there will be a need to provide information to waste haulers that may have an interest in bidding on the contract and to the public that would be provided with solid waste collection services. In providing information to prospective bidders, Walker County should follow the County’s and/or State of Texas’ standard procedures concerning the development and issuance of a Request for Proposal.

Communicating with the public will be very important from two perspectives. First, as discussed in Section 5.2, Walker County will need to identify residents that plan to retain their existing solid waste collection provider. This will need to occur prior to issuing the RFP, so that Walker County will be able to state the number of customers to be provided with solid waste collection services. Second, Walker County will need to notify residents about the solid waste services that will be provided. This information, which should be mailed to each affected resident, should include the following information:

- Start date for collection services
- Price for the service and billing method
- Services that will be included
- Day of the week when services will be provided
- How garbage should be set out
- What materials cannot be accepted (tires, car batteries, etc.)

## **6.4 Recommendations**

**Public Awareness Campaign Recommendation No. 1:** Walker County should develop and implement a public awareness campaign that addresses the following issues concerning an organized collection program: reasons, benefits and implementation.

## **7. PROCESS TO SELECT SERVICE PROVIDERS**

If Walker County decides to develop an organized solid waste collection program, the County will need to develop and implement a process to select solid waste service provider(s). RS&Y would recommend that the County select private solid waste haulers through a Request for Proposals process (RFP). This chapter provides an overview of implementing an RFP process.

### **7.1 Development of an RFP Process**

Numerous local governments in the United States have used RFPs to select one or more waste haulers to provide solid waste collection services in its area of jurisdiction. Walker County could develop an RFP to select one or more waste haulers to provide solid waste collection services in unincorporated areas of the County.

#### **7.1.1 Advantages and Disadvantages of an RFP Process**

Local governments can realize multiple benefits by using an RFP process to select an entity to provide solid waste services. Potential advantages associated with an RFP process include the following:

- Competition among waste haulers may result in reduced cost of service for the provision of solid waste services.
- Additional factors such as increased route density, long-term security based on the length of contact and guaranteed collection of fees by the County may also result in lower costs for customers.
- Customers could realize a reduced cost in the provision of solid waste services
- The selection process is based on a set of defined criteria, which should allow for an equitable decision in the selection process.

Potential disadvantages associated with an RFP process could include the following:

- The process to select private operators could result in some existing private operators losing their residential collection business in Walker County.
- Walker County could be subject to public scrutiny from businesses that would not receive the collection contract and from residents that do not want to pay for solid waste collection services.

#### **7.1.2 Development of a Request for Proposals (RFP)**

If Walker County elects to retain waste haulers through an RFP process, there will be a number of issues that the County will need to consider. RS&Y would recommend that Walker County refer to an H-GAC reference document, “Contracting for Solid Waste Services” for more specific details regarding how the County could successfully complete a process to develop an RFP and select contractors.

RS&Y has developed a set of issues that RS&Y would recommend that Walker County include as a part of an RFP, if the County goes through an RFP process. These issues follow:

#### Define General Service Requirements for Selected Contractor(s)

Walker County should identify the general service requirements that it will require from any contractor(s) selected to provide residential solid waste collection services in Walker County. RS&Y would recommend that these requirements include, but not be limited to, the following:<sup>10</sup>

1. Dispose of all solid waste at a legal disposal facility, such as a transfer station or landfill
2. Maintain receipts from all legal disposal facilities for a period of three years
3. Provide quarterly reports to Walker County documenting customer counts, tonnage collected and proof of legal disposal
4. Maintain a defined amount of insurance<sup>11</sup>
5. Operate in compliance with all state and federal laws

#### Specific Geographic Areas to be Bid

Walker County staff will need to identify the specific areas of Walker County where solid waste collection services would be provided. RS&Y would recommend that Walker County identify separate zones for prospective bidders to submit bids. RS&Y would recommend that Walker County identify four separate zones based on the county precincts. This would provide an opportunity for Walker County to select from one to four private haulers to provide solid waste collection services.

#### Number of Customers per Zone

Walker County will need to determine how many residential customers will be included in each of the geographic areas that will be included in the bid. This could involve conducting specific counts in each zone. In addition, Walker County will need to account for whether any residential customers will elect to retain their current solid waste provider, as discussed in Section 5.2.3.

#### Level of Service to be Provided

Walker County will need to define how it will expect waste haulers to provide collection services. The County will need to determine the following:

1. Material to be Collected: Garbage, brush/bulky, and/or recycling

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<sup>10</sup> RS&Y would recommend that Walker County refer to Trinity County's Application for Waste Hauler Permit for further detail on requirements for waste haulers. A copy of this document has been included in Appendix D.

<sup>11</sup> Walker County should consult with specific legal counsel to determine the type and amount of insurance that it would require from contractors.

2. Frequency of Service: Once or twice per week collection
3. Method of Setout: Bags/cans provided by the resident or carts may be provided by the contractor, but is not a requirement
4. Collection Point: Roadside or backyard service

RS&Y would recommend that the County have once per week garbage collection, which would be collected in bags and/or cans provided by the resident. Carts may be provided at the discretion of contractors, but is not a requirement. Brush/bulky item collection could be offered on a quarterly basis, with defined limits on the amount of material that could be setout for collection. The collection point for all material should be on the roadside. No recycling services should be included as a part of this RFP process.<sup>12</sup>

### Selection Criteria

Walker County will need to define the criteria that the County will use to select one or more contractors. RS&Y would recommend that this selection include minimum requirements that all prospective bidders would be required to meet in order to be considered. These minimum standards should include, but not be limited to, the following:

1. At least five years of experience providing residential solid waste collection services in Texas.
2. For waste haulers that provided waste collection services in Walker County, provide proof that waste collected in 2002 was disposed of at a legal transfer station or landfill. Submittal of tipping fees receipts will be acceptable.
3. For waste haulers that provided waste collection services in Walker County, provide proof that required State of Texas sales taxes have been paid. Submittal of sales tax receipts for 2002 will be acceptable.
4. Proof of performance bond, insurance and indemnification.

For bidders that meet the minimum standards, RS&Y would recommend that the bidders be evaluated based on the following additional criteria:

1. Listing of experience in providing solid waste collection services in unincorporated areas within the State of Texas. Consideration will be given to companies that have experience within Walker County.

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<sup>12</sup> RS&Y would recommend that Walker County coordinate with the City of Huntsville regarding the provision of recycling services in unincorporated areas of Walker County using drop-off centers. The City of Huntsville is considering expanding its recycling program, and could coordinate efforts with Walker County to potentially provide recycling services in unincorporated areas of Walker County. Under this scenario, Walker County would be responsible for its proportional costs of administering the recycling program, but these costs could be included as a part of the rate charged to customers in Walker County for solid waste services.

2. Description of how the company will have the capacity (equipment, staffing, working capital, etc.) to provide collection services within the County for the length of the contract.
3. References from current and/or previous customers.
4. Price on a per household basis.
5. Performance measures.

**As stated above, a portion of the selection criteria should be based on price. RS&Y would recommend that the County ask prospective bidders to provide separate prices on a cost per household basis for each precinct. The County should also ask prospective bidders to identify how much they would discount their price if they would receive a contract to provide collection services to two, three or four zones.**

#### Length of Contract and Basis for Cost Increases

Walker County will need to specify the length of contract. RS&Y would recommend that the length of the contract be for a period of five years, with an option for the County to extend the contact for another five years. Walker County will also need to specify the basis for future increases in rates on an annual basis. RS&Y would recommend that these price increases be based on annual increases in the Consumer Price Index.

#### Basis for Payments to Contractors

Waste haulers that are selected to provide collection services will need to submit invoices to the County detailing collection costs for a set period of time. RS&Y would recommend that Walker County require that the contractor(s) submit invoices on a quarterly basis. The basis for each invoice will be the cost per customer times the number of customers for the three month period. Contractor(s) will also be required to submit customer lists and proof of legal disposal for collected waste.

#### County Responsibilities

Walker County will need to define the responsibilities it will have concerning the provision of a countywide solid waste collection program. RS&Y would expect the County's responsibilities to include the following:

1. Walker County will be responsible for collecting fees from individual customers.
2. Walker County will provide initial notice to individual customers regarding when collection services will begin, day of the week for services and services to be provided.

#### Franchise Fee

Walker County could include a franchise fee as a part of the RFP. This would require that selected contractors pay a defined percentage of their gross revenue to the

County. RS&Y would recommend that this amount be equal to five percent of the gross revenue.

### **7.1.3 RFP for Walker County**

RS&Y has developed a **DRAFT** RFP for Walker County to consider using as it decides whether to implement a countywide solid waste collection program. RS&Y would like to note that there are several issues that Walker County will need to address before the County could finalize and issue the RFP. A summary of these issues follows:

1. Walker County will need to develop a detailed map showing precinct boundaries that should be included with the RFP.
2. Walker County will need to develop an accurate count of the number of households within each precinct to be serviced. The number of predetermined households will be used as a guide for reconciliation of household counts provided by each contracted refuse collection provider.
3. The **DRAFT** RFP does not take into account refuse collection services for commercial customers located in rural areas. The County should consider developing an RFP specifically designed for commercial refuse collection services.

A copy of the RFP has been included in Appendix F.

## **7.2 Recommendations**

**RFP Recommendation No. 1:** Walker County should develop and implement an RFP to retain one or more waste haulers to provide solid waste collection services in County residents. The County could use the RFP in Appendix F.

## APPENDIX A

## **APPENDIX B**





# Walker County

## Legend

 Huntsville Transfer Station

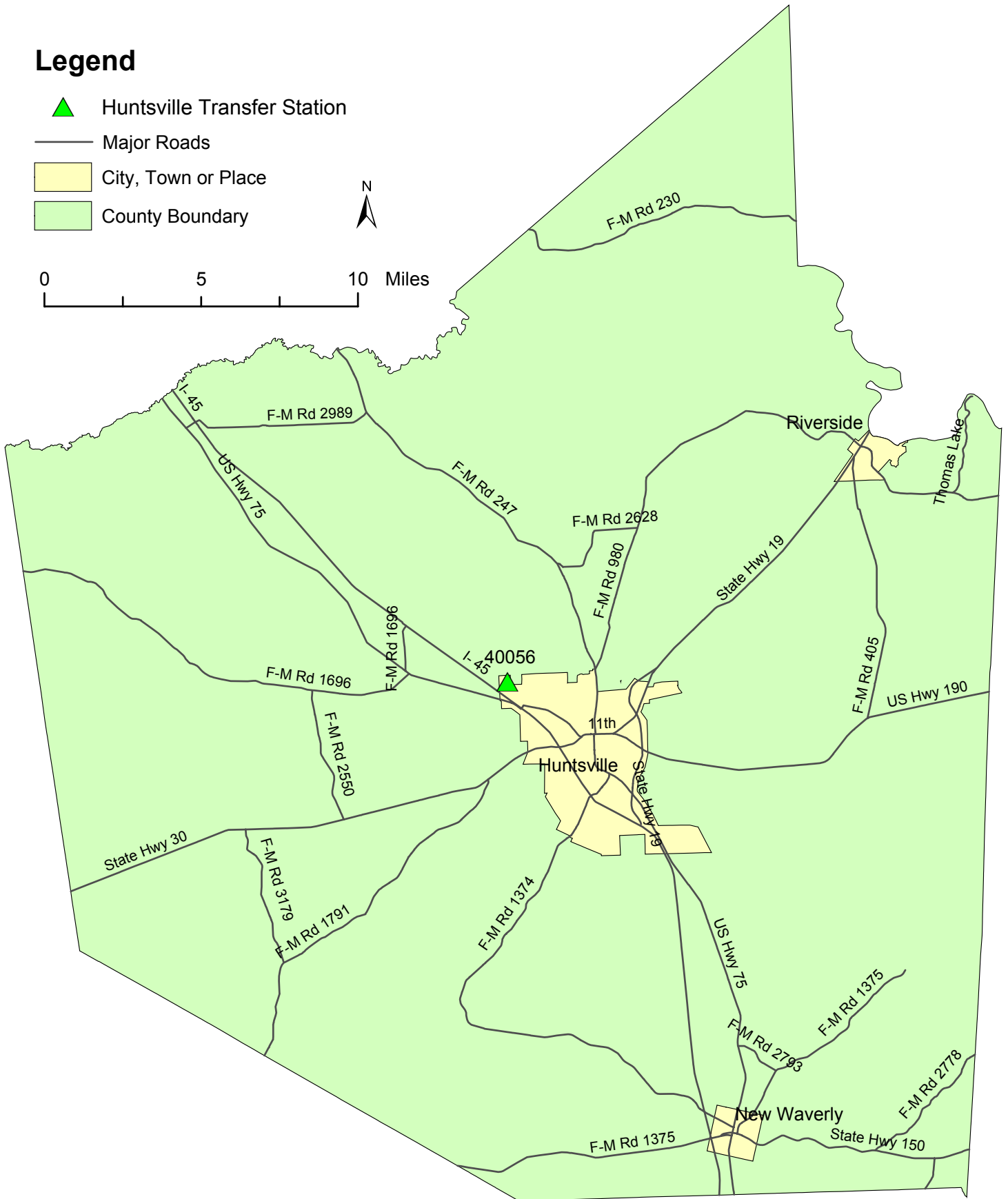
 Major Roads

 City, Town or Place

 County Boundary



0 5 10 Miles



## APPENDIX C

## Survey of Private Solid Waste Collection Companies in Walker County, Texas

The following questions are related to how your company provides solid waste collection services within Walker County. **Note that all survey results will remain confidential.**

Name: \_\_\_\_\_ Company: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

1. Approximately how many customers do you serve in unincorporated areas of Walker County?

Residential \_\_\_\_\_ Commercial \_\_\_\_\_

2. List the names of counties where your company provides solid waste collection services?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Describe the services offered to **residential** customers in Walker County.

a. For garbage collection services:

i. What is the collection frequency: \_\_\_\_\_

ii. What materials are collected: \_\_\_\_\_

b. For recycling collection services:

i. What is the collection frequency: \_\_\_\_\_

ii. What materials are collected: \_\_\_\_\_

c. How much do you charge residents per month for solid waste collection services?

\_\_\_\_\_

d. Do you include sales tax in the rate?

\_\_\_\_\_ yes                      \_\_\_\_\_ no

e. Describe any other residential services provided, if any:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

i. Are the costs for these services included in the base charge?

\_\_\_\_\_ yes                      \_\_\_\_\_ no

4. Allocate the monthly charge for residents to the following categories (estimates are fine):

Category	Amount or Percentage
Collection	
Disposal	
Billing	
Administration	

5. What is the distance (number of miles) for your average residential solid waste collection route?

\_\_\_\_\_ Miles

6. Estimate the percentage of households, located in the areas where you provide solid waste collection services, that have collection services from a private company.

\_\_\_\_ 0-25%      \_\_\_\_ 26-50%      \_\_\_\_ 51-75%      \_\_\_\_ 75-100%

7. How extensive of a problem is illegal dumping, as a result of residents not subscribing to a solid waste collection service?

\_\_\_\_ Severe      \_\_\_\_ Moderate      \_\_\_\_ Minimal      \_\_\_\_ None

8. How extensive of a problem is outdoor burning, as a result of residents not subscribing to a solid waste collection service?

\_\_\_\_ Severe      \_\_\_\_ Moderate      \_\_\_\_ Minimal      \_\_\_\_ None

9. Describe the services offered to **commercial** customers in Walker County.

- a. For garbage collection services:

i. What is the collection frequency: \_\_\_\_\_

ii. What materials are collected: \_\_\_\_\_

- b. For recycling collection services:

i. What is the collection frequency: \_\_\_\_\_

ii. What materials are collected: \_\_\_\_\_

- c. How much do you charge businesses per month for solid waste collection services?

\_\_\_\_\_

- d. Describe any other commercial services provided, if any:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- i. Are the costs for these services included in the base charge?

\_\_\_\_ yes      \_\_\_\_ no

10. Describe how you bill residential and/or commercial customers?

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11. Which landfill or transfer station are you using for disposal? How much is the tipping fee?

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12. Do you keep records of your disposal costs?

\_\_\_\_\_ yes                      \_\_\_\_\_ no

13. List the type(s) of collection equipment that you use to provide solid waste collection services in Walker County:

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**The following questions are being asked to provide input regarding how the County could implement a program for mandatory solid waste collection services. Describe how your company would like for the County to address the following:**

14. What is the minimum number of years that your company would consider in contracting with the County to provide solid waste collection services to residents in the unincorporated areas of Walker County?

\_\_\_\_\_ 1 year                      \_\_\_\_\_ 7 years  
\_\_\_\_\_ 3 years                      \_\_\_\_\_ longer than 7 years  
\_\_\_\_\_ 5 years

15. Walker County is considering dividing the County into various service zones.

a. What is the maximum number of customers that you would be able to serve per day with existing equipment and personnel?

\_\_\_\_\_ less than 1,000                      \_\_\_\_\_ 3,001 to 4,000  
\_\_\_\_\_ 1,001 to 2,000                      \_\_\_\_\_ 4,001 to 5,000  
\_\_\_\_\_ 2,001 to 3,000                      \_\_\_\_\_ more than 5,001

- b. If you would be willing to purchase additional vehicles and hire more personnel, list the number of customers you could serve per day given the additional equipment and personnel?

\_\_\_\_\_ less than 1,000

\_\_\_\_\_ 3,001 to 4,000

\_\_\_\_\_ 1,001 to 2,000

\_\_\_\_\_ 4,001 to 5,000

\_\_\_\_\_ 2,001 to 3,000

\_\_\_\_\_ more than 5,001

16. Given your company's current cost to provide collection services in Walker County, please answer the following questions:

- a. How would you expect costs to change if all customers served would be located in a concentrated geographic area?

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- b. How would you expect costs to change if all customer billing would be the responsibility of the County?

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- c. How would you expect costs to change if Walker County provides notice regarding level of service provided and day when service will be provided?

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**Please complete and return the survey by October 11, 2002**

**Please return it in the post-paid envelope or fax it to (512) 450-0515.**

**Thank you for completing the survey.**

## APPENDIX D

# CITY OF NEW WAVERLY

DAN UNDERWOOD, MAYOR

SEP 19 2002

Councilmembers  
Gene Bartee  
Barbara Falk  
Danny Freeman  
Vincent Paulsel  
Gerald Slott

September 17, 2002

Mr. Scott Pasternak  
5806 Mesa Dr, Ste 310  
Austin, TX 78731

Re: Solid Waste Bids

Dear Mr. Pasternak:

Attached you will find information you requested regarding the recent solid waste bids received by our City.

Browning-Ferris Industries  
Ray Bell (713) 635-6666  
8101 Little York  
Houston, TX 77016

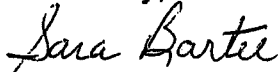
Republic Waste Services  
Curtis Lacy, Public Sector (713) 849-0400  
10554 Tanner Road  
Houston, TX 77041

Waste Management  
Terry Woodson *(Ms.) This info supplied by S. Bartee (936) 442-4234*  
2749 N. Loop 336 East  
Conroe, TX 77301

Waste Disposal Service  
Steve Dickey (936) 295-3580  
Mr. Dickey is the local contractor I mentioned to you.

If we can be of further service, please feel free to call. Rosemary Bartee or Kelly LeGeune can assist you if I am not in the office.

Yours truly,





	Browning-Ferris	Republic Waste	Waste Mgmt.
Amt per household	\$9.56	\$7.00	\$7.25
Amt per cubic yard (on dumpster)	\$16.85	\$11.30	\$20.79
Change out dumpster	\$0.00	\$0.00	\$0.00
Lock Devise	\$0.00	\$50./1time	\$10./month
#Pickup per week	One	One	One
Contract Length	5 yrs.	36months	3-5 yrs.
Roll-offs Semi Annual Cleanup	Yes \$125 for del \$305 30yd \$345 40yd	Yes N/C up to (2) 40yd	Yes Disposal charge only
Sludge removal 1 removal annually	526.41	385.00	600.00

# **CITY OF NEW WAVERLY**

**DAN UNDERWOOD, Mayor**

**Councilmembers:**  
Gene Barte  
Barbara Falk  
Danny Freeman  
Vincent Paulsel  
Gerald Slott

## **BID NOTICE**

City of New Waverly, TX, will receive proposals and bids for solid waste management within the city limits of New Waverly. Sealed proposals and bids addressed to Mayor Dan Underwood, P.O. Box 753, New Waverly, TX 77358-0753 or hand delivered to City Hall, 200 Gibbs St., New Waverly, TX will be received until 1:00 p.m. on Friday, July 26, 2002. Such bids and proposals shall be opened on said date. The City Council will evaluate bids and proposals on Tuesday, August 13, 2002, 7:00 p.m.

Pricing contained in the proposal and bid shall be considered to be the lowest price available to include all costs to provide the service required by the City.

The City Council reserves the right to reject any or all proposals and bids or to waive any irregularities or informalities in proposals and bids received. The Council reserves the right to accept the proposal or bid that will in the Council's opinion best serve the interest of the City regardless of whether such proposal is the lowest submitted. All proposals and bids will be retained by the City and will not be returned to the bidder.

# CITY OF NEW WAVERLY

DAN UNDERWOOD, MAYOR

Councilmembers  
Gene Barte  
Barbara Falk  
Danny Freeman  
Vincent Paulsel  
Gerald Slott

June 28, 2002

## INFORMATION RELATING TO BID FOR SOLID WASTE SERVICE

We have an average of 332 households with weekly hand pickup each month.

At the present time we have the following containers:

<u>Container Size</u>	<u>Number</u>	<u>Frequency</u>
2 yd	19	1 time weekly
3 yd	3	"
4 yd	10	"
6 yd	10	"
8 yd	1	"
3 yd	1	2 times weekly
4 yd	1	"
6 yd	9	"
6 yd	1	3 times weekly

**SOLID WASTE BID SPECIFICATIONS**

1. Amount per household (hand pickup) \_\_\_\_\_

2. Amount per cubic yard on containers \_\_\_\_\_

Initial set up for containers \_\_\_\_\_

Fee to change out containers \_\_\_\_\_

Charge for locking device for container \_\_\_\_\_

3. Number of pickups per week \_\_\_\_\_

4. Holidays observed \_\_\_\_\_

5. Length of contract required \_\_\_\_\_

6. Will your company provide roll-offs for semi-annual city-wide cleanups, if requested? \_\_\_\_\_ If yes, what will be your charge for this service?

7. What will be your policy on "heavy" pickup, i.e., refrigerators, bulky items not considered normal household items? \_\_\_\_\_

**What limits of insurance do you carry?**

Workers Compensation \_\_\_\_\_

Employer's Liability \_\_\_\_\_

Bodily Injury Liability \_\_\_\_\_

except Automobile \_\_\_\_\_

Property Damage Liability \_\_\_\_\_

except Automobile \_\_\_\_\_

Automobile Bodily Injury \_\_\_\_\_

Liability \_\_\_\_\_

Automobile Property Damage \_\_\_\_\_

Liability \_\_\_\_\_

## APPENDIX E

# Enterprise Funds For Municipal Solid Waste Services

**T**hose municipalities that remain in the solid waste business have watched the evolution of an increasingly complex and dynamic industry. The implementation of Subtitle D and the increased competition from private collection and landfill operators make it essential that cities operate their solid waste utilities as cost-effectively and efficiently as possible.

One tool available to a city intent on increasing the operating and reporting efficiencies associated with its solid waste utility is the "enterprise fund." Cities have found that the recording and monitoring of solid waste services within an enterprise fund can provide a city with numerous benefits. The pur-

By David S. Yanke  
Reed-Stone & Co., Inc.

pose of this paper is to provide the reader with an overview of enterprise funds and the benefits a city may receive from placing its solid waste utility in such a fund. The four steps that a city should follow in converting to a solid waste enterprise fund will then be described.

## Enterprise Funds

Enterprise funds are used to account for governmental activities or services that are operated in a manner similar to private businesses. The purpose for placing a governmental activity (such as a solid waste utility) in an enterprise fund is to clearly identify the costs and revenues associated with that governmental activity or service, and prevent those items from being commingled with other expenditures in the city's general fund. By segregating the costs that are specifically associated with solid waste activities, city officials are able to better manage and monitor the financial performance of the city's various solid waste programs.

An important characteristic of enterprise funds is their dependence on service fees and charges to support the

operations. For instance, in establishing a solid waste enterprise fund, it is essential that the user fees (tipping fees, customer charges, etc.) be sufficient to support the costs incurred by the city's solid waste utility. By separating the solid waste utility from the general fund, and by establishing cost-of-service-based user fees to recover the costs associated with providing the service, it is easier to track the relationship of the revenues generated by the user fees with the expenditures of the city's solid waste utility.

While enterprise funds have been more often associated with a city's water and wastewater utility, cities are beginning to realize that their solid waste utility has many of the operational characteristics that justify the creation of an enterprise fund.

I recently visited with a number of Texas city officials about this question. Virtually all of them said the primary reason they established a solid waste enterprise fund was that the city's solid waste activities were heavily dependent upon user fees to support the service and therefore justified being operated on a "stand alone basis." Other reasons given for the establishment of a solid waste enterprise fund include the following:

"it provided for increased accountability"

"it's easier to monitor expenditures and therefore control costs"

"the solid waste utility is more like a business and should be in

an enterprise fund rather than the general fund"

"it's easier to explain rate increases to the citizens"

One city mentioned that in the early 1980's, when tax revenue was tight, the city council wanted to operate as many of the city's services as possible on a user fee basis. By establishing the city's solid waste utility in an enterprise fund, it was easier to monitor the city's solid waste budget and verify that cost-of-service-based user fees were developed that were sufficient to recover the costs associated with operating the solid waste utility. Virtually every one of the cities I surveyed said that a significant advantage in operating a solid waste enterprise fund is that it assisted the city in knowing its true cost of providing solid waste services and thus enabled the city to establish cost-of-service-based user fees that allowed for the full recovery of the solid waste utility's operating and capital costs.

Two cities also mentioned that by operating their solid waste utility in an enterprise fund they found it easier to access the capital markets. Two major advantages were: 1) the ability to show the financial advisor and the rating agencies a reliable revenue stream sufficient to fund the solid waste utility's operating costs and service the new debt issue (through the use of user fees); and 2) the ability to provide the financial advisor and rating agencies with audited financial statements for the solid waste utility (which are completed by the city's auditor as part of the city's annual audit). One of the cities added that the solid waste enterprise fund enabled the city to issue revenue bonds and therefore avoid the more time-consuming process associated with issuing general obligation bonds.

It is interesting to note that while solid waste enterprise funds are just now starting to gain more attention at the national level, numerous cities in

Texas have had solid waste enterprise funds for a number of years. Of the seven Texas cities I interviewed, the majority of them have had their solid waste enterprise fund in place for over ten years.

It is important to emphasize that solid waste enterprise funds are not just for "larger" cities that have multi-million dollar solid waste budgets and complex solid waste operations. Of the seven cities that participated in my survey, only one was over 250,000 in population. The remaining cities were in the 20,000 to 120,000 population range. Solid waste enterprise funds are practical management tools for cities of all sizes. The feasibility of an enterprise fund is not driven by the size of the city, but rather by the need for a better cost accounting of a city's solid waste services.

### Converting to an Enterprise Fund

Once a city has made the decision to move its solid waste utility from the

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### *THANK YOU TEXAS!*

Water/Wastewater  
CATV

Electric  
Telecom

Gas  
Solid Waste

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*Providing Public Sector Services*

**Dallas 214-680-1880**

**Austin 512-479-0991**

general fund into a separate solid waste enterprise funds the city must prepare a workplan that will allow the city to undertake and complete a successful conversion to an enterprise fund. As part of this plan there are four major steps that the city must complete in order to achieve a successful conversion. The steps are as follows:

1. Identity and Capture Source Data
2. Establish Internal Controls
3. Design Reports to Collect and Manage Information
4. Provide for an Ongoing Review of the Process

This section will provide cities with an overview of the four steps that must be completed, and will describe why each step is critical to the development of an effective enterprise fund. In addition, the critical objectives that must be accomplished during each step will be described. This is not meant to serve as a comprehensive outline of all the individual tasks and activities that must be completed during each step, since every city operates in an environment unique unto itself. However, using the information provided here, each city can determine for itself the specific tasks and activities that must be completed in order to achieve the objectives associated with each step.

### 1. Identify and Capture Source Data

The first step in establishing a solid waste enterprise fund is to identify and then capture all necessary data that the city desires to report in the solid waste enterprise fund. It is in this step that the city will need to identify the costs (salaries, equipment, fuel, etc.), as well as the assets and liabilities that will be transferred to the solid waste enterprise fund.

In visiting with cities that have already completed the conversion to a solid waste enterprise fund, I

found that the transfer of expenditures was a relatively easy step. For most of the cities, the conversion consisted of changing the prefix of the account number to designate that the particular cost was now recorded in a solid waste enterprise fund instead of in the general fund. Some cities provided an additional level of detail by creating departments within the solid waste enterprise fund. For instance,

the salaries of all solid waste employees, instead of being listed in the general fund, were now categorized in the appropriate solid waste department (e.g. collection, landfill operations, recycling, yard waste) within the solid waste enterprise fund.

One of the more detailed components, and sometimes the most difficult to accurately assign to the solid waste

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utility, are the vehicle costs. However, if a city is currently tracking vehicle expenditures in an internal services fund, the city is probably already monitoring and recording costs by vehicle. This makes the transfer of vehicle costs to specific solid waste departments within the solid waste enterprise fund an easier process.

Once the city has identified all of the direct solid waste costs, it is important for the city to realize that the full cost of operating the solid waste utility has not been determined unless the indirect costs have been identified as well. Indirect costs represent services that are provided to the city's solid waste department by other departments within the general fund. Examples of such indirect costs would include the billing function within the accounting or finance department, the purchasing department that issues purchase orders for solid waste items, and the city manager's department and his or her time associated with solid waste activities. It is important that the city recognize these indirect costs in the solid waste enterprise fund.

An issue which has recently gained a great deal of attention in the solid waste industry is the topic of full cost accounting. Full cost accounting for solid waste is defined as the identification of all direct and indirect costs associated with a city's solid waste services. During this first step in the creation of a solid waste enterprise

fund, when all of the necessary source data is being collected, it would be wise for the city to review its solid waste costs and make sure the city is capturing all the costs associated with providing solid waste services. To assist cities and counties in determining the full cost of providing solid waste services, the Texas Natural Resource Conservation Commission (TNRCC) retained Reed-Stowe & Co., Inc.; Camp Dresser & McKee; and Yvette Thompson, P.E. in August 1994 to develop a Municipal Solid Waste Services Full Cost Accounting Workbook. The workbook was completed in April 1995.

It is recommended that cities creating a solid waste enterprise fund review this workbook to ensure that they are capturing all necessary costs. The workbook also describes some of the indirect cost allocation methodologies available to cities, as well as how to allocate costs between various solid waste programs. (For a copy of the Municipal Solid Waste Services Full Cost Accounting Workbook, contact TNRCC Publications at (512) 239-0028 and request document RG-127).

For many cities, the biggest challenge incurred during conversion to an enterprise fund is the identification of the fixed assets that are to be transferred to the solid waste enterprise fund. This step includes not only physically identifying all solid waste

assets, but also determining the useful life and accumulated depreciation associated with each asset. Cities converting to a solid waste enterprise fund should plan on budgeting sufficient time to be sure that all solid waste assets can be identified and properly recorded.

## 2. Establish Internal Controls

Once the city has identified all solid waste-related expenditures, as well as all assets and liabilities, the next step is to ensure that appropriate internal controls are put in place to protect the city's solid waste assets. With the creation of a new enterprise fund, it is important for the city to ensure that all changes in operating procedures (disbursement of funds, collection of funds, and so on) be identified so the necessary safeguards may be installed. This will not only protect the city's assets from potential misuse, but will also protect city employees from either being tempted to misappropriate funds or being falsely accused of such activities.

If a city has always placed a high priority on ensuring that adequate internal controls are in place to safeguard the city's assets, the review and implementation of internal controls for the solid waste enterprise fund should be a relatively easy and straightforward process. If the city's internal controls have historically been less than adequate, this would be a good time to review not only the internal controls which should be implemented for the solid waste enterprise fund, but also for all of the city's functions.

In identifying the internal controls that should be established for the solid waste enterprise fund, it is important that the city provide for an adequate separation of duties. For instance, the person who approves the payment of a purchase order should not also be responsible for issuing the check for payment. Likewise, the city should ensure that adequate revenue-collection controls are put in place at the city's landfill and/or transfer station. Once the internal controls have been implemented, it is important that they be documented in



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the city's policy and procedures handbook so the city employees who will be dealing with the internal controls will have a reference guide as to the proper procedures.

To ensure that proper and adequate internal controls are put in place for the city's solid waste enterprise fund, it is recommended that the city visit with its internal auditor. The city's auditor should be able to review the enterprise fund's activities and physical operations to make sure that proper internal controls are implemented.

### 3. Design Reports to Collect and Manage Information

The third step in converting to a solid waste enterprise fund is to make sure that reports designed for use with the enterprise fund not only collect the necessary information but also provide city staff with the information that will help them effectively manage the city's solid waste utility. There are two types of reports that the city will need to gen-

erate in order to manage its solid waste utility: "financial reports" and "operational reports."

Financial reports are used to monitor the overall financial performance of the solid waste utility. They are also used to provide a detailed listing of expenditures within the solid waste utility and to monitor the assets associated with providing solid waste services. Examples of financial reports would include, but are not limited to:

- monthly profit and loss statements
- monthly listing of expenditures by account
- fixed asset reports
- annual budgets
- annual financial statements
- income statements
- balance sheets
- statement of changes in fund equity
- statement of cash flows

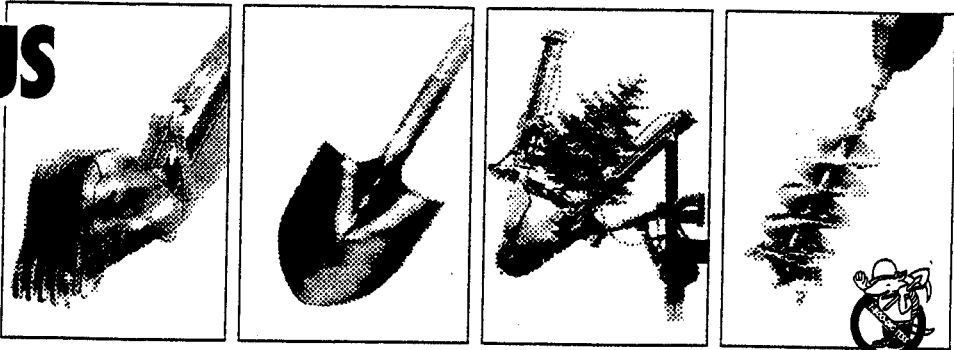
The generation of these financial reports is a fairly straightforward process, since many of the accounting

software packages used by cities are designed to assist in gathering the data necessary to generate these reports. In addition, the city's auditor will require the city to gather certain standardized financial information for preparation of the city's annual financial statements.

The second set of reports that the city will need to generate are the operational reports. While most cities prepare and maintain financial reports that are consistently of a high quality, there tends to be a much larger fluctuation in the variety and quality of operational reports generated by cities. The purpose of operational reports is to assist the city in reviewing the operations of the solid waste utility and to identify either favorable or unfavorable trends. Examples of some of the reports that can aid the city in monitoring its solid waste utility include:

**Vehicle Maintenance Report:** This report will allow the city to track (on either a monthly, quarterly, or

**DANGEROUS WEAPONS**  
**CALL BEFORE YOU DIG!**  
2 WORKING DAYS NOTICE  
**1-800-DIG-TESS**  
TEXAS EXCAVATION SAFETY SYSTEM



3M Media

annual basis) the amount of money spent on maintaining each solid waste vehicle. It should also track the mileage, so an average cost per mile can be determined. This information can be used by city staff to aid in deciding whether it is more cost-effective to purchase a new vehicle or maintain the old vehicle.

**Solid Waste/Recyclables/Yard Waste Report:** This report can be prepared as either one or three individual reports. The purpose of this report is to track (on either a daily or monthly basis) the materials collected by the city. These materials may be recorded on either a weight or volumetric basis. In addition, if tipping fees are collected at the landfill, transfer station, or material recovery facility (MRF), those revenues should be recorded as well.

**Labor Report:** This report will allow the city to monitor the level of labor expenditures and the total hours worked by solid waste employees. Among other things, this report will allow the city to monitor the level of employee overtime. This report will help city staff identify early on if there is an adverse trend with regard to overtime. An increase in overtime can be due to either seasonal fluctuations, changeover to different solid waste equipment, or some other factor. However, early identification of this problem can lead to finding a solution before the problem escalates. If the problem is solved quickly, it can also help avoid a potential increase in employee turnover due to "burnout" resulting from excessive overtime.

During the design of the reports, it is important that the city staff meet with their computer programmers and auditors. Whatever reports the city proposes creating, it is critical that the city's programmers (either "in-house" staff or consultants) are capable of designing the reports, given the city's current financial reporting system. In addition, city staff should visit with the city's auditor to make sure the reports generated will satisfy the auditor's needs when it comes time to prepare the city's audited financial state-

ments. Finally, in creating the operational reports, city staff should visit with the appropriate solid waste managers to see what reports will help them to better manage the city's solid waste utility.

#### 4. Provide for an Ongoing Review of the Process

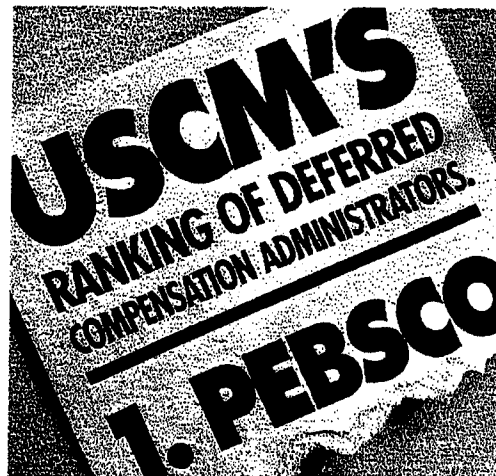
Once the city has its solid waste enterprise fund operational, it will be critical that the city monitor its performance. This will include monitoring the entire process to make sure the system is accomplishing the following goals:

1. The system is capturing and recording the necessary information (Step 1);
2. The internal controls are in place and performing adequately (Step 2); and

3. The reports are compiling the necessary financial and operational data and helping managers in the operation of the solid waste utility (Step 3).

During the initial year or two after the solid waste enterprise fund has been operational, it is important that the city review the enterprise fund's performance to make sure it is successfully meeting the three goals stated above.

The city's solid waste enterprise fund operates in a competitive environment. Therefore, it is critical that the enterprise fund be constantly reviewed to ensure the information being collected and provided to the city staff is helping them to comply with all appropriate regulations, and is helping the city's solid waste utility operate as efficiently as possible in a very competitive solid waste market. \*



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## APPENDIX F

AN ORDINANCE

AN ORDINANCE REGULATING AND LICENSING COMMERCIAL TRASH HAULERS, ESTABLISHING A REVIEW BOARD, AND PROVIDING A PENALTY.

WHEREAS, Section 368.012 of the Texas Health & Safety Code allows the Commissioners Court to regulate and license commercial waste haulers, and the Trinity County Commissioners Court has adopted regulations therefor:

NOW, THEREFORE, BE IT ORDERED by the Commissioners Court of Trinity County, Texas:

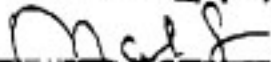
SECTION 1. That all commercial waste haulers not otherwise exempt, who transport waste in unincorporated areas of Trinity County are hereby required to submit an Application in the form promulgated by Trinity County along with a fee of \$50.00 per year; a county map outlining the beginning and termination of the hauler's route; and an executed Surety or Property Bond in the amount of \$500.00.

SECTION 2. Any person who shall violate any of the provisions of this Ordinance as outlined in Exhibit "A", 1 - 10 of the "Application for Trinity County Solid Waste Hauler License" attached hereto as Exhibit "A" and made part of this order or shall fail to comply therewith or with any of the requirements thereof shall be deemed guilty of a Class "C" misdemeanor, and each day of which all the elements of the offense exist shall constitute a separate and distinctive offense.

SECTION 3. A Board of Review shall be established with authority to conduct hearings for suspension or revocation of a waste hauler's license, pursuant to Section 368.012, of the Health & Safety Code of the State of Texas and the "Grounds established for Suspending or Revoking a Waste Hauler License" attached hereto as Exhibit "B" and made a part of this order. The Board of Review will have five (5) members appointed by the Commissioners Court. Board of Review members shall serve at the pleasure of Commissioners Court without remuneration.

SECTION 4. This Ordinance shall become effective on December 31, 2002.

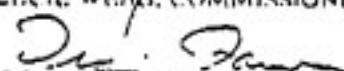
ADOPTED this the 5<sup>th</sup> day of September, 2002.

  
MARK EVANS, COUNTY JUDGE

  
GROVER "TIGER" WORSHAM, COMMISSIONER PCT. 1

  
BILL BURDETTE, COMMISSIONER PCT. 2

  
CECIL WEBB, COMMISSIONER PCT. 3

  
TRAVIS FORCST, COMMISSIONER PCT. 4

GROUND ESTABLISHED FOR SUSPENDING OR REVOKING WASTE HAULER PERMIT  
EXHIBIT "B"

1. Three (3) or more convictions for violating any of the provisions of the ordinance or state laws pertaining to litter/solid waste and the Health & Safety Code for a period on one (1) fiscal year.
2. In the event a grievance is filed in a court of law due to the operations of the company.
3. If three (3) times in one (1) fiscal year, stored or held trash or waste on any vehicles(s), trailer(s), property, or any other location in a manner which constitutes or creates a health hazard or public nuisance.
4. Five (5) formal complaints during one (1) fiscal year. Complaints must be formal complaints, signed and dated by the complainant. All complaints must be investigated and verified pursuant to the formal complaint.
5. Vehicle(s) not having insurance and registration, or inspection and drivers not having valid Texas Drivers license during term of permit.
6. If found guilty in a court of proper jurisdiction for disposal of litter/solid waste at a site that is not an state approved solid waste site.

Violations listed above will be submitted, along with any evidence, to the Board of Review for their consideration. Board of Review will make determination for suspension or revocation of permit.

# APPLICATION FOR TRINITY COUNTY WASTE HAULER PERMIT

Applicant's Name

Home Telephone

Mailing Address

City, State and Zip

Physical Address (if different)

City, State and Zip

Applicant's Drivers License No.

State of Issue

Business Name

Business Telephone

Business Address (if different)

City, State and Zip

I, \_\_\_\_\_ of \_\_\_\_\_  
(Applicant's Name) (Title) (Business Name)

do certify by my signature below that the operator (s) of the vehicle (s) described on the drivers information form and the vehicle in-service form will not pick up hazardous, Class I industrial non-hazardous, infectious or any other waste not permitted in a Type I landfill. I further certify that I:

1. Will unload all trash collected on my route only at a state permitted facility;
2. Will maintain all receipts from the landfill(s) I use for a period of one (1) year;
3. Will pick up trash on my route on a regular basis (to be determined by the applicant), but not more than seven (7) days between pickup;
4. Will maintain my equipment in a clean and sanitary manner to prevent loss of liquid or solid waste;
5. The load shall be fully enclosed and at vehicle speeds exceeding 30 miles per hour shall be completely covered and the covering firmly secured so as to prevent spillage or loss of load;
6. Will promptly remove all spillage of waste resulting from my collection operation;
7. Will promptly remove all spillage of waste that may occur along my collection route or during transportation to an approved landfill;
8. Will not store or hold trash or waste on any vehicle(s), trailer(s), property, or any other location in a manner which constitutes or creates a health hazard or public nuisance;
9. Will within twenty-four (24) hours of issuance of permit, affix my company name, telephone number, and waste hauler permit number on both sides and rear of vehicle(s), trailer(s) used to transport commercial solid waste in such a way as to be clearly visible at all times. Letters and numbers shall be clearly legible, not in the manner of graffiti, or a height not less than three inches, and a color sufficiently different from the body of the vehicle so as to be clearly legible from a distance of 100 feet; and
10. Will comply with all applicable state laws.

*NOTE: Permits shall be \$50.00 annually. Prior to expiration, license shall be considered for renewal. A completed application must contain: (1) check or money order for permit fee, (2) money map with route information clearly highlighted, (3) \$500 surety property bond or comparable bank letter of credit, and (4) proof of vehicle insurance.*

Signature of Applicant

Date

Return all information to the Trinity County Judge's Office, P. O. Box 457, Crockett, Texas 75845 or fax (936) 642-1046

## TRINITY COUNTY WASTE HAULER DRIVER INFORMATION

**Driver 1**

Last Name	First Name	Middle Initial
Address	City	State & Zip
Date of Birth	Operator License #	State

**Driver 2**

Last Name	First Name	Middle Initial
Address	City	State & Zip
Date of Birth	Operator License #	State

**Driver 3**

Last Name	First Name	Middle Initial
Address	City	State & Zip
Date of Birth	Operator License #	State

**Driver 4**

Last Name	First Name	Middle Initial
Address	City	State & Zip
Date of Birth	Operator License #	State

**Driver 5**

Last Name	First Name	Middle Initial
Address	City	State & Zip
Date of Birth	Operator License #	State

*The County Judge's Office shall be promptly notified, in writing, by the permit holder of any changes in the driving staff, such as new drivers or drivers no longer employed. This record must always be current as well as accurate.*



TRINITY COUNTY WASTE HAULER VEHICLE(S)/TRAILER(S) IN-SERVICE FORM

Vehicle 1

Year	Make	Model	Color	License Number
VIN #		Description		
Trailer Manufacturer		License #	Color	Type

Vehicle 2

Year	Make	Model	Color	License Number
VIN #		Description		
Trailer Manufacturer		License #	Color	Type

Vehicle 3

Year	Make	Model	Color	License Number
VIN #		Description		
Trailer Manufacturer		License #	Color	Type

Vehicle 4

Year	Make	Model	Color	License Number
VIN #		Description		
Trailer Manufacturer		License #	Color	Type

Vehicle 5

Year	Make	Model	Color	License Number
VIN #		Description		
Trailer Manufacturer		License #	Color	Type

*The County Judge's Office shall be promptly notified, in writing, by the permit holder of any changes in the driving staff, such as new drivers or drivers no longer employed. This record must always be current as well as accurate.*

Return all information to the Trinity County Judge's Office, P. O. Box 457, Groveton, Texas 75845 or fax (936) 642-1046

## APPENDIX G

## **SUBCHAPTER B. COUNTY SOLID WASTE MANAGEMENT**

### **§ 364.011. County Adoption of Solid Waste Rules**

(a) Subject to the limitation provided by Sections 361.151 and 361.152 (Solid Waste Disposal Act), a commissioners court by rule may regulate solid waste collection, handling, storage, and disposal in areas of the county not in a municipality or the extraterritorial jurisdiction of a municipality.

(b) A county, in making any rules, including those under the licensing power granted by Chapter 361 (Solid Waste Disposal Act), may not impose an unreasonable requirement on the disposal of the solid waste in the county not warranted by the circumstances.

(c) A rule adopted under this section may not authorize an activity, method of operation, or procedure that is prohibited by Chapter 361 (Solid Waste Disposal Act) or by rules of the Texas Natural Resource Conservation Commission.

(d) A county may institute legal proceedings to enforce its rules.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.034, eff. Aug. 12, 1991.

### **§ 364.012. Prohibiting Solid Waste Disposal in County**

(a) The county may prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare.

(b) To prohibit the disposal of municipal or industrial solid waste in a county, the commissioners court must adopt an ordinance in the general form prescribed for municipal ordinances specifically designating the area of the county in which municipal or industrial solid waste disposal is not prohibited.

(c) An ordinance required by Subsection (b) may be passed on first reading, but the proposed ordinance must be published in a newspaper of general circulation in the county for two consecutive weeks before the commissioners court considers the proposed ordinance. The publication must contain:

(1) a statement of the time, place, and date that the commissioners court will consider the proposed ordinance; and

(2) notice that an interested citizen of the county may testify at the hearing.

(d) A public hearing must be held on a proposed ordinance before it is considered by the commissioners court, and any interested citizen of the county shall be allowed to testify.

(e) The commissioners court of a county may not prohibit the processing or disposal of municipal or industrial solid waste in an area of that county for which:

(1) an application for a permit or other authorization under Chapter 361 has been filed with and is pending before the commission; or

(2) a permit or other authorization under Chapter 361 has been issued by the commission.

(f) The commission may not grant an application for a permit to process or dispose of municipal or industrial solid waste in an area in which the processing or disposal of municipal or industrial solid waste is prohibited by an ordinance, unless the county violated Subsection (e) in passing the ordinance. The commission by rule may specify the procedures for determining whether an application is for the processing or disposal of municipal or industrial solid waste in an area for which that processing or disposal is prohibited by an ordinance.

(g) The powers specified by this section may not be exercised by a county with respect to areas to which Section 361.090 applies.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.035, eff. Aug. 12, 1991; Acts 1999, 76th Leg., ch. 570, § 5, eff. Sept. 1, 1999.

### **§ 364.013. County Authority**

A county may:

(1) acquire, construct, improve, enlarge, repair, operate, and maintain all or part of one or more solid waste disposal systems;

(2) contract with a person to collect, transport, handle, store, or dispose of solid waste for that person;

(3) contract with a person to purchase or sell, by installments for a term considered desirable, all or part of a solid waste disposal system;

(4) enter into an operating agreement with a person, for the terms and on the conditions considered desirable, for the operation of all or part of a solid waste disposal system by that person or by the county; and

(5) lease to or from a person, for the term and on the conditions considered desirable, all or part of a solid waste disposal system.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.014. Acquisition of Property**

(a) A county may acquire by purchase, lease, gift, condemnation, or any other manner and may own, maintain, use, and operate property or an interest in property necessary or convenient to the exercise of the powers and purposes provided by this chapter.

(b) The power of eminent domain is restricted to the county and may be exercised in the manner provided by law.

(c) A county may not exercise the power of eminent domain to acquire real property under this section if that power conflicts with a corporation's power of eminent domain as provided by law.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.015. Dumping or Garbage Disposal Grounds**

The commissioners court shall determine the consideration to be paid to acquire real property on which to locate dumping or garbage disposal grounds. In determining where to locate dumping or garbage disposal grounds, the commissioners court shall consider:

(1) the convenience of the people to be served; and

(2) the general health of, and the annoyance to, the community to be served by the dumping or garbage disposal grounds.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.016. Cost of Certain Required Alterations**

The relocation, raising, rerouting, changing of grade, or altering of construction of a highway, railroad, electric transmission line, telegraph or telephone property or facility, or pipeline made necessary by the actions of a county shall be accomplished at the sole expense of the county, which shall pay the cost of the required activity as necessary to provide comparable replacement, minus the net salvage value of any replaced facility.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **SUBCHAPTER C. SOLID WASTE MANAGEMENT SYSTEMS AND SERVICES CONTRACTS**

#### **§ 364.031. Public Agency Contracts**

(a) A public agency may contract with another public agency or a private contractor for the other public agency or private contractor to:

(1) make all or part of a solid waste disposal system available to a public agency, a group of public agencies, or other persons; and

(2) furnish solid waste collection, transportation, handling, storage, or disposal services through the other public agency's or private contractor's system.

(b) The contract may:

(1) be for the duration agreed on by the parties;

(2) provide that the contract remains in effect until bonds issued or to be issued by either public agency and refunding bonds issued for those original bonds are paid;

(3) contain provisions to assure equitable treatment of parties who contract with the other public agency or private contractor for solid waste collection, transportation, handling, storage, or disposal services from the same solid waste disposal system;

(4) provide for the sale or lease to or use by the other public agency or private contractor of a solid waste disposal system owned or to be acquired by the public agency;

(5) provide that the other public agency or private contractor will operate a solid waste disposal system owned or to be acquired by the public agency;

(6) provide that the public agency is entitled to continued performance of services after the amortization of the other public agency's or private contractor's investment in the disposal system during the useful life of the system on payment of reasonable charges, reduced to take into consideration the amortization; and

(7) contain any other provisions and requirements the other public agency or private contractor and the public agency determine to be appropriate or necessary.

(c) The contract must provide the method to determine the amount the public agency will pay to the other public agency or private contractor.

(d) A municipality may provide in its contract that the other public agency or private contractor has the right to use the streets, alleys, and public ways and places in the municipality during the term of the contract.

(e) This section does not expand the authority granted to a county under Section 364.013.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 486, § 1, eff. June 12, 1995.

### **§ 364.032. Public Agency Payments**

(a) Public agency payments to a county for solid waste collection, transportation, handling, storage, or disposal services may be made from income of the public agency's solid waste disposal fund as provided by the contract between the county and the public agency. The payments are an operating expense of the fund, and the revenues of the fund are to be applied toward those payments.

(b) Public agency payments to be made under the contract may be made from revenues of the public agency's water, sewer, electric, or gas system or a combination of utility systems.

(c) Unless the ordinance or resolution authorizing the outstanding bonds of the public agency expressly reserves the right to accord contract payments a position of parity with, or a priority over, the public agency's bond requirements, the payments under a contract are subordinate to amounts required to be paid from the revenues of the utility system for principal of and interest on bonds of the public agency that are:

(1) outstanding at the time the contract is made; and

(2) payable from those revenues.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.033. Alternative Payment Procedure Using Tax Funds**

(a) A contract between a public agency and a county that is authorized by the public agency's governing body is an obligation against the public agency's taxing power to the extent provided by the contract if:

(1) the public agency holds an election according to applicable procedure provided by Chapter 1251, Government Code, relating to the issuance of bonds by a municipality; and

(2) at the election, it is determined that the public agency's governing body may levy an ad valorem tax to make any payments required of the public agency under the contract.

(b) Except for the levy of a tax under this section, an election is not required for the exercise of a power granted by this chapter.

(c) Only qualified voters of the public agency are entitled to vote at an election held under this section, and except as otherwise provided by this section and by Chapter 1251, Government Code, the Election Code governs an election under this section.

(d) If the alternative procedure for payment provided by this section is followed, payments under the contract may be:

(1) payable from and are solely an obligation against the taxing power of the public agency; or

(2) payable both from taxes and from revenues as provided by the contract.

(e) If the alternative procedure of public agency payment to a county for disposal services provided by this section is not followed, the county or a holder of county bonds is not entitled to demand payment of the public agency's obligation from funds raised or to be raised by taxation.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, § 8.270, eff. Sept. 1, 2001.

**§ 364.034. Solid Waste Disposal Service; Fees**

(a) A public agency or a county may:

- (1) offer solid waste disposal service to persons in its territory;
- (2) require the use of the service by those persons;
- (3) charge fees for the service; and
- (4) establish the service as a utility separate from other utilities in its territory.

(b) A fee for a service provided under this section may be collected by:

- (1) the county;
- (2) a private or public entity that contracts with the county to provide the service; or
- (3) another private or public entity that contracts with the county to collect the fees.

(c) A county may contract with a public or private utility to collect a fee for a service provided under this section. The contract may:

- (1) require the billing of the fee within the bill for other utility services;
- (2) allow a fee to be paid to the utility for billing and collecting the fee;
- (3) require a system of accounting for fees collected by an entity other than the county; and
- (4) contain other terms as agreed to by the parties.

(d) To aid enforcement of fee collection for the solid waste disposal service:



(1) a county or the public or private entity that has contracted with the county to provide the service may suspend service to a person who is delinquent in payment of solid waste disposal service fees until the delinquent claim is fully paid; and

(2) a public or private utility that bills and collects solid waste disposal service fees under this section may suspend service of that utility, in addition to the suspension of solid waste disposal service, to a person who is delinquent in the payment of the solid waste disposal service fee until the delinquent claim is fully paid.

(e) This section does not apply to a person who provides the public or private entity, public agency, or county with written documentation that the person is receiving solid waste disposal services from another entity.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1238, § 1, eff. Jan. 1, 2002.

### **§ 364.035. Public Agency Duty to Adjust Rates Charged**

(a) A public agency shall establish, maintain, and adjust the rates charged by the public agency for solid waste disposal services if:

(1) the public agency executes a contract with a county under this chapter; and

(2) the payments under the contract are to be made either wholly or partly from the revenues of the public agency's solid waste disposal fund.

(b) The revenues of the public agency's solid waste disposal fund, and any taxes levied in support, must be sufficient to pay:

(1) the expense of operating and maintaining the solid waste disposal service or system; and

(2) the public agency's obligations to the county under the contract and in connection with bonds issued or that may be issued that are secured by revenues of the solid waste disposal service or system.

(c) A contract between a public agency and a county may require the use of consulting engineers and financial experts to advise the public agency whether and at what time rates are to be adjusted under this section.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.036. Authority to Provide Disposal Services to More Than One Person**

A contract or group of contracts under this chapter may provide that:

(1) a county may render concurrently to more than one person services relating to the construction or operation of all or part of a solid waste disposal system; and

(2) the cost of the services will be allocated among the several persons as determined by the contract or group of contracts.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

## **SUBCHAPTER D. BONDS**

### **§ 364.051. Authority to Issue Bonds**

(a) To acquire, construct, improve, enlarge, and repair all or part of a solid waste disposal system, a county may issue bonds payable:

(1) from and secured by a pledge of all or part of the revenues to accrue under a contract entered into under this chapter; and

(2) from other income pledged by the county.

(b) Pending issuance of definitive bonds, a county may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of the definitive bonds.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.052. Terms; Form**

(a) Bonds issued under this chapter must be in the form and denomination and bear the rate of interest prescribed by the commissioners court.

(b) The bonds may be:

(1) sold at a public or private sale at a price and on the terms determined by the commissioners court; or

(2) exchanged for property or an interest in property determined by the commissioners court to be necessary or convenient to the purposes authorized by this chapter.

(c) The bonds are investment securities under Chapter 8, Business & Commerce Code.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.053. Approval and Registration**

(a) A county may submit bonds that have been authorized by the commissioners court and any record relating to their issuance to the attorney general for examination as to their validity. If the

bonds state that they are secured by a pledge of proceeds of a contract between the county and a public agency, the county may submit to the attorney general a copy of the contract and the proceedings of the public agency authorizing the contract.

(b) If the attorney general finds that the bonds have been authorized and any contract has been made in accordance with state law, the attorney general shall approve the bonds and contract and the comptroller shall register the bonds.

(c) Following approval and registration, the bonds and the contract are incontestable.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.054. District Bond Validation by Suit**

(a) As an alternative for, or in addition to, the procedure provided by Section 364.053, the board of directors of a district may validate its bonds by filing suit under Chapter 1205, Government Code.

(b) The interest rate and sale price of the bonds need not be fixed until after the termination of the validation proceedings or suit.

(c) If the proposed bonds recite that they are secured by the proceeds of a contract made by the district and one or more public agencies, the petition must allege that fact and the notice of the suit must mention that allegation and each public agency's fund or revenues from which the contract is payable.

(d) The suit is a proceeding in rem, and the judgment is res judicata as to the validity of the bonds and any contract and the pledge of revenues.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, § 8.271, eff. Sept. 1, 2001.

#### **§ 364.055. Investment and Use of Proceeds**

(a) The commissioners court may set aside from proceeds of a bond sale:

(1) interest to accrue on the bonds;

(2) administrative expenses to the estimated date when the solid waste disposal system will become revenue producing; and

(3) reserve funds created by the resolution authorizing the bonds.

(b) Proceeds from the sale of bonds may be invested, pending their use, in the securities or time deposits as specified by the resolution authorizing the issuance of the bonds or the trust indenture securing the bonds.

(c) The earnings on the investments may be applied as provided by the resolution or trust indenture.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.056. Refunding of Bonds**

A county may refund bonds issued under this chapter on terms and conditions and bearing the rate of interest prescribed by the commissioners court.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 364.057. Legal Investments; Security for Deposits**

(a) Bonds issued under this chapter are legal and authorized investments for:

(1) a bank;

(2) a savings bank;

(3) a trust company;

(4) a savings and loan association;

(5) an insurance company;

(6) a fiduciary;

(7) a trustee; and

(8) a sinking fund of a municipality, school district, or any other political corporation or subdivision of the state.

(b) The bonds may secure the deposits of public funds of the state or of a political subdivision of the state. The bonds are lawful and sufficient security for those deposits in an amount up to their face value, if accompanied by all appurtenant unmatured coupons.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

## **CHAPTER 364. COUNTY SOLID WASTE**

### **SUBCHAPTER A. GENERAL PROVISIONS**

#### **§ 364.001. Short Title**

This chapter may be cited as the County Solid Waste Control Act.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.002. Purpose**

The purpose of this chapter is to authorize a cooperative effort by counties, public agencies, and other persons for the safe and economical collection, transportation, and disposal of solid waste to control pollution in this state.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 364.003. Definitions**

In this chapter:

- (1) "Composting" has the meaning assigned by Chapter 361 (Solid Waste Disposal Act).
- (2) "District" means a district or authority created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution.
- (3) "Public agency" means a district, municipality, regional planning commission created under Chapter 391, Local Government Code, or other political subdivision or state agency authorized to own and operate a solid waste collection, transportation, or disposal facility or system.
- (4) "Sanitary landfill" has the meaning assigned by Chapter 361 (Solid Waste Disposal Act).
- (5) "Solid waste" has the meaning assigned by Chapter 361 (Solid Waste Disposal Act).
- (6) "Solid waste disposal system" means a plant, composting process plant, incinerator, sanitary landfill, or other works and equipment that are acquired, installed, or operated to collect, handle, store, treat, neutralize, stabilize, or dispose of solid waste, and includes the sites.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, § 124, eff. Sept. 1, 1991.

**§ 364.058. Adjustment of Rates and Changes to Maintain Adequate Revenue**

If bonds are outstanding, the commissioners court shall establish, maintain, and collect rates and charges for services furnished or made available by the solid waste disposal system adequate to:

- (1) pay maintenance and operation costs of and expenses allocable to the solid waste disposal system and the principal of and interest on the bonds; and
- (2) provide and maintain funds created by the resolution authorizing the bonds.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

## **CHAPTER 368. COUNTY REGULATION OF TRANSPORTATION OF WASTE**

### **SUBCHAPTER A. TRANSPORTERS OF GREASE TRAP, SAND TRAP, AND SEPTIC WASTE**

#### **§ 368.001. Regulatory Program**

The commissioners court of a county may establish a program regulating transporters of grease trap, sand trap, and septic waste.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.002. Participation by Municipality in Regulatory Program**

The commissioners court may enter into a contract with a municipality that provides the terms and conditions under which the municipality may participate in the regulatory program.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.003. Permits**

The commissioners court of a county may:

- (1) require a permit for trucks that transport grease trap, sand trap, and septic waste, including trucks serving unincorporated areas of the county;
- (2) by order establish guidelines and procedures for issuing permits to trucks that transport grease trap, sand trap, and septic waste; and
- (3) issue a single permit number that allows a municipality participating in the county regulatory program the option to add to that permit number a suffix unique to the municipality.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.004. Inspections**

The commissioners court of a county may:

- (1) coordinate with municipalities the inspection of trucks that transport grease trap, sand trap, and septic waste;
- (2) by order establish guidelines and procedures to coordinate truck inspections; and
- (3) assess an inspection fee sufficient to cover the cost to the county of providing the inspection service.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 368.005. Contracts**

The commissioners court of a county may contract with a person to provide a service that is part of the regulatory program.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 368.006. Forms**

The commissioners court of a county may develop a single manifest form with a uniform manifest registration and numbering system to be used by the county and each participating municipality.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

## **SUBCHAPTER B. REGULATION AND LICENSING OF WASTE HAULERS**

### **§ 368.011. Definitions**

In this subchapter:

(1) "Waste" means:

(A) animal and vegetable waste materials resulting from the handling, preparation, cooking, or consumption of food;

(B) discarded paper, rags, cardboard, wood, rubber, plastics, yard trimmings, fallen leaves, brush materials, and similar combustible items; and

(C) discarded glass, crockery, tin or aluminum cans, metal items, and similar items that are noncombustible at ordinary incinerator temperatures.

(2) "Waste hauler" means a person who, for compensation, transports waste by the use of a motor vehicle.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 368.012. County Licensing and Regulation**

To protect the public health, safety, or welfare, the commissioners court of a county with a population of less than 375,000 may by ordinance:

(1) require a waste hauler who transports waste in unincorporated areas of the county to be licensed by the county;



- (2) establish requirements for obtaining and renewing a waste hauler license;
- (3) impose a license issuance or renewal fee in an amount that generates annually the approximate amount of revenue needed to fund the licensing program for a year;
- (4) establish standards governing the transportation of waste in unincorporated areas of the county;
- (5) establish grounds for suspending or revoking a waste hauler license; and
- (6) prescribe any other provisions necessary to administer the licensing program.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 426, § 1, eff. May 29, 1997.

### **§ 368.013. Exemptions for Certain Waste Haulers**

(a) This subchapter does not apply to an entity that transports:

- (1) material as part of a recycling program; or
- (2) salt water, drilling fluids, or other waste associated with the exploration, development, and production of oil, gas, or geothermal resources.

(b) Except as provided by Subsection (c), a county may not require a waste hauler license to be held by a waste hauler:

- (1) while transporting waste on behalf of a municipality or other governmental entity; or
- (2) operating regularly in more than three counties.

(c) A county may require a waste hauler who transports waste on behalf of a municipality or other governmental entity to have a waste hauler license if the hauler deposits any part of that waste in a county other than the county in which all or part of the municipality or other governmental entity is located.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

### **§ 368.014. Bond or Other Financial Assurance**

(a) An applicant for a waste hauler license must execute a surety bond or provide other financial assurance that is payable for the use and benefit of the county or any other person harmed by the waste hauler's actions.

(b) The bond or other financial assurance must be in an amount the commissioners court considers necessary or desirable according to the risk of harm associated with the operation of the waste hauling business.

(c) A bond executed under this section must comply with the insurance laws of this state.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.015. Fees**

Fees or other money received by a county under the licensing program shall be deposited to the credit of the general fund of the county.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.016. Conflict With Other Regulations**

If a requirement or standard established under Section 368.012 conflicts with state law, a rule adopted under state law, or a municipal ordinance or charter, the stricter provision prevails.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.017. Injunction**

A county is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an ordinance the county adopts under this subchapter.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

#### **§ 368.018. Criminal Penalty**

(a) If a county ordinance adopted under this subchapter defines an offense for a violation of the ordinance, the offense is a Class C misdemeanor.

(b) A separate offense occurs on each day on which all the elements of the offense exist.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

## Chapter 413 – Local Government Code

### § 413.052. Authority to Establish Board

(a) The commissioners court of a county by order adopted at a regular meeting of the court may establish a county utility system board to operate and manage the county's:

- (1) wastewater collection and treatment system;
- (2) water supply and distribution system; or
- (3) solid waste collection and disposal system.

(b) The board is responsible for the operation and management of each utility system that is:

- (1) owned or being acquired by the county; and
- (2) placed under its control under Subsection (a).

## **Chapter 413 – Local Governmental Code**

### **§ 413.066. Authority to Issue Ad Valorem Tax Obligations**

(a) The board may not incur or issue an obligation that is payable, in whole or in part, from ad valorem taxes.

(b) The commissioners court of the county by order may authorize on behalf of the board the issuance of obligations payable in whole or in part from ad valorem taxes to acquire, improve, repair, or extend the county's wastewater collection system, treatment system, water supply and distribution system, or solid waste collection and disposal system.

(c) An order under Subsection (b) must be adopted at a regular meeting of the commissioners court.

(d) If the obligations authorized under this section are payable from ad valorem taxes and revenue, the board must also approve the issuance of the obligations.

# Texas Administrative Code

<b>TITLE 30</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>PART 1</b>	<b>TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
<b>CHAPTER 330</b>	<b>MUNICIPAL SOLID WASTE</b>
<b>SUBCHAPTER C</b>	<b>MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORTATION</b>
<b>RULE §330.32</b>	<b>Collection and Transportation Requirements</b>

(a) Municipal solid waste containing putrescibles shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Collection should be made more frequently in circumstances where vector breeding or harborage potential is significant.

(b) Transporters of municipal solid waste shall be responsible for ensuring all solid waste they collect is unloaded only at facilities authorized to accept the type of waste being transported. Off-loading at an unauthorized location or at a facility not authorized to accept such waste is a violation of this subchapter. Allowable wastes at a particular solid waste management facility may be determined by reviewing the following regulations as applicable:

(1) §330.41 of this title (relating to Types of Municipal Solid Waste Facilities);

(2) §§330.111-330.134 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites);

(3) §§330.150-330.159 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites);

(4) §§312.1-312.101 of this title (relating to Sewage Sludge Use and Disposal); and

(5) §330.5(e) of this title (relating to General Prohibitions).

(c) All transporters of solid waste shall maintain records for at least three years to document that waste was taken to an authorized municipal solid waste facility. Upon request of the executive director or of a local government with jurisdiction, a transporter is responsible for providing adequate documentation regarding the destination of all collected waste including billing documents to prove that the proper disposal procedure is being followed.

(d) Each transporter delivering waste to a solid waste management facility shall provide documentation to the operator that he has so arranged his routes to eliminate nonallowable wastes from the loads he transports to that facility. This documentation shall also state that the transporter will remove any nonallowable wastes disposed of by him immediately after their discharge or that, at the option of the disposal facility operator, he will pay any applicable surcharges to have the disposal facility operator accomplish the required immediate removal for him.

(e) At any time that nonallowable wastes are discovered in a load of waste being discharged at a municipal solid waste facility, the transporter shall immediately take all necessary steps to determine the origin and alter his routes to assure that in the future such wastes are either not collected by him or are taken to a facility approved to accept such wastes.

(f) Each transporter of waste in enclosed containers or enclosed vehicles to a Type IV municipal solid waste landfill facility (MSWLF) facility shall obtain a route special permit for each such route he proposes to take to a Type IV landfill. For the purposes of this subsection, route refers to

those business establishments from which the transporter has contracted to collect waste. The application for a transporter route special permit shall be submitted to the executive director on a form provided by the commission and shall include all information requested thereon and any additional information considered necessary by the applicant or additional information as may be requested by the commission.

(1) The application for a transporter route special permit shall include the following information:

(A) the applicant name, company name, mailing address, street address, city, state, ZIP code, name and title of the contact person, and telephone number for the transporter;

(B) the name, permit number, mailing address, street address, city, state, ZIP code, name and title of a contact person, and telephone number for the receiving MSWLF facility;

(C) information on the hauling vehicle, which shall include as a minimum the license number, vehicle identification number, year model, make, capacity of vehicle in cubic yards, and rated compaction capability in pounds per cubic yard;

(D) route information, which shall include as a minimum the collection frequency, the day of the week the route is to be collected, and the day and time span within which the route is to arrive at the landfill;

(E) business establishment information, which shall be provided for each establishment on a separate form provided by the executive director, or a computer facsimile thereof, and shall include as a minimum: route order, transporter name, collection frequency, the expected day and time of collection, establishment contact person, establishment name, establishment mailing address, establishment street address, city, state, ZIP code, telephone number, a description of activities associated with the establishment with particular emphasis on food handling and products sold or handled that could end up in the waste stream; and

(F) an alternate contingency disposal plan to include alternate trucks to be used or alternate disposal facilities.

(2) The application at the time of submittal must be accompanied by the required \$100 application fee.

(3) A maintenance fee of \$100 for each transporter route special permit will be due every three months following the date of issuance. Failure to submit timely payment of the maintenance fee eliminates the option of disposal of these wastes at a Type IV landfill until the fee is paid.

(4) This subsection does not apply if the waste load is from a single collection point that is a stationary compactor permitted in accordance with §330.25 of this title (relating to Requirements for Stationary Compactors) or municipal vehicles permitted under subsection (g) of this section.

(5) Each transporter delivering waste to a Type IV landfill in accordance with this subsection shall provide to the on-site commission inspector a trip ticket in the typical form provided by the commission prior to discharging his load.

(g) Special residential and municipal collection routes where enclosed containers or enclosed vehicles are used to collect and transport brush or construction-demolition wastes and rubbish to Type IV landfills shall obtain a special permit for each municipal route he proposes to take to the Type IV landfill. Disposal of household waste is prohibited in Type IV facilities. For the purposes of this subsection, route refers to those residences from which the transporter has contracted to collect brush or construction-demolition waste and rubbish. The application for a municipal route special permit shall be submitted to the executive director on a form provided by the commission for each truck or container to be used and shall include all information requested thereon and any additional information considered necessary by the applicant or additional information as may be requested by the executive director.

- (1) The application for a municipal route special permit shall include the following information:
  - (A) the applicant name, title, mailing address, street address, city, state, ZIP code, name and title of a contact person, and telephone number for the transporter;
  - (B) the name, permit number, mailing address, street address, city, state, ZIP code, name and title of a contact person, and telephone number for the receiving MSWLF facility;
  - (C) information on the hauling vehicle, which shall include as a minimum the license number, vehicle identification number, year model, make, capacity of vehicle in cubic yards, and rated compaction capability in pounds per cubic yard;
  - (D) route information, which shall include as a minimum the collection frequency, the day of the week the route is to be collected, and the day and time span within which the route is to arrive at the landfill;
  - (E) a description of the wastes to be transported;
  - (F) a signed and notarized certificate from the city that states: I [name] \_\_\_\_\_, [title] \_\_\_\_\_, of the City of \_\_\_\_\_ in \_\_\_\_\_ County, certify that the contents of the vehicle described above will not enter a Type IV landfill unless it is free of putrescible, household, hazardous, Class I industrial nonhazardous, infectious, or any other waste not allowable in a Type IV landfill.
- (2) The application at the time of submittal must be accompanied by the required \$50 application fee.
- (3) Each municipal route must be documented by a trip ticket in the typical form provided by the executive director that is provided to the landfill operator prior to discharging the load at the landfill.
- (4) A municipal route special permit shall be issued for one year and must be renewed annually prior to the date of expiration by submitting a renewal fee in the amount of \$50. Failure to submit timely payment of the renewal fee eliminates the option of disposal of these wastes at a Type IV landfill until a new or renewed special permit is issued.
- (h) Change requirements for transporter route or special municipal route special permits are as follows.
  - (1) A change of a transporter route special permit or municipal route special permit must be submitted any time any information within the original application is to be changed, including the list of establishments for a transporter route.
  - (2) An application to change an existing transporter route special permit or municipal route special permit must include all of the same documentation required of an original application.

## APPENDIX H



Walker County, Texas

Request for Proposals (RFP)  
RFP # 01-2003

Refuse Collection Services

Released on July 2, 2003

Proposals Due on August 29, 2003 by 12:00 Noon (CST)

## General Information

Walker County (the County) is planning to enter into one or more agreements with a limited number of qualified refuse collection services providers. Entities selected by the County will compete with one another to provide refuse collection services to rural residents located within the County.

The County will select service providers in a two-step process. The first step in the process will be to determine which providers meet the County's minimum qualifications. The second step will be to rank those providers that have met the minimum qualification and determine if they meet the additional criteria set forth by the County.

Instructions for the preparation of proposals are presented below. The deadline for receipt of proposals is 12:00 noon, Central Standard Time (CST), August 29, 2003. A pre-bid conference will take place on Wednesday, July 16, 2003. An open forum will be held at the pre-bid conference to clarify any questions with regard to proposals and their development. Proposer(s) will submit five copies of the proposal in a sealed envelope and addressed as follows:

Refuse Collection Services  
RFP # 01-2003

Name: Mr. Andrew Isbell  
Director of Planning and Development -  
Walker County  
Address: 1010 University Avenue  
Huntsville, Texas 77340

The County plans to adhere to the following procurement schedule to the extent possible. Changes to the procurement schedule shall be at the sole option of the County.

<b>Preliminary Procurement Schedule</b>	
<b>Activity</b>	<b>Date</b>
RFP Document First Available	July 2, 2003
Pre-Bid Conference	July 16, 2003
RFP Due	August 29, 2003
RFP Award	September 30, 2003
Commencement of Service	January 1, 2004

## **Background**

Walker County is in the process of developing a mandatory collection program where rural residents will be required to have collection services provided to them by a contracted collection operator. The purpose of this RFP is to select those qualified collection operators to contract with the County for refuse collection services.

Currently, rural residents located throughout the County may individually contract with private haulers for refuse collection services. While many residents and businesses within the County use the services provided by one of several private solid waste haulers, many do not. The only other viable option for residents and businesses that do not use these services is to take their waste to the City of Huntsville’s transfer station. Rather than use the transfer station or subscribe to collection services, a number of entities illegally dispose of their solid waste.

### **Overview of the Mandatory Collection Program in Walker County**

In order for the County to begin the process of establishing a mandatory collection program, certain operational objectives must be developed in order to foster a better oversight of solid waste practices in the County. The following discusses an overview of how the program will potentially function.

The County has determined specific geographic areas that each collection provider has the opportunity to submit a proposal on. The four (4) County precincts will separate the geographic areas to be proposed on. Each collection provider has the opportunity to propose on one, two, three, or four precincts. Each proposer will only need to complete one proposal.

Once contracts are awarded each contracted collection provider will be responsible for awarded precinct(s). The County shall determine the number of residential customers to be included within each precinct.<sup>1</sup> Each collection provider has the potential to be responsible for more than one-zones customers.<sup>2</sup>

Upon fulfilling the contract requirements, the collection provider will submit an invoice to the County detailing the collection costs for a set period of time. Invoices will be based on the cost per customer times the number of customers for a three month period. The collection provider shall submit invoices to the County on a quarterly basis.

The County will be responsible for the collection of solid waste fees from residents and payment to each contracted collection provider.

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<sup>1</sup> Each contracted collection provider will also submit a list of customers their responsible for and that list will be reconciled with the County’s predetermined count.

<sup>2</sup> Residents that remain with their current collection provider may be located in a different zone in which that collection provider is not responsible for.

## **I. General Service Requirements**

### **Proposer to Make Examination**

Each Proposer shall make its own examination, investigation and research regarding the proper method of doing the work, all conditions affecting the work to be done, the labor, equipment and materials, and the quantity of the work to be performed.

**The Proposer(s) assumes the risk of all conditions foreseen or unforeseen and agrees to continue the work without additional compensation under whatever circumstances may develop other than as herein provided.**

### **Agreement Terms (Contract)**

It is expected that the agreement(s) will become effective in September 30, 2003. Contractors shall begin collection services on January 1, 2004. The initial term shall therefore commence upon the signing of the agreement and terminate on December 31, 2008, but shall be extended until December 31, 2013, provided the Contractor has met specified performance requirements. In the event the extensions are granted the agreement will terminate on December 31, 2013. The County will make payment to Contractors only after the collection services have begun as specified in the agreement.

### **Transition Schedule**

The time between the formal agreement signing and January 1, 2004 is intended to allow the Contractor sufficient time to order equipment, prepare necessary routing changes, obtain permits and licenses, establish/build facilities, begin the public awareness campaign as part of the Contractor's transition program, and coordinate with the County's public awareness campaign.

### **Minimum Level of Services**

The Contractor(s) shall provide weekly collection of residential solid waste. Collection of brush and bulky items will be provided on a quarterly basis. Collection carts can be provided at the discretion of the Contractor, but are not a requirement for contract performance. The Contractor will be required to repair and/or replace those carts, as necessary, if carts are provided to County residents.

### **Collection Schedules**

Regular residential solid waste collection shall be provided to each resident on the same day each week between the hours of 7:00 a.m. – 6:00 p.m. Brush and bulky collections shall be provided quarterly between the hours of 7:00 a.m. – 6:00 p.m. The following shall provide the Proposer(s) with defined limits of brush and bulky collection.

Collection service providers shall limit the volume of material that residents set out for a single collection. Brush limitations shall be based on linear or cubic feet with requirements for cutting and bundling material. Brush is to be bundled and cut into lengths no more than four feet. The total volume of brush collected can not exceed 10 linear feet. Bulky items shall be limited based on volume (i.e. cubic feet) or the number of items set out for collection.

**Method of Disposal**

The Contractor shall deliver all appropriate residential solid waste collected under the agreement to a legal disposal facility such as a landfill or transfer station.

The Contractor shall maintain receipts for a period of three (3) years from each type of legal disposal facility utilized and must submit receipts with each invoice to the County for payment and verification of legal disposal.

**Franchise Fee**

The Contractor will be required to pay a franchise fee to the County. The franchise fee percentage shall be five percent (5%). This amount will be deducted from the payments that the County makes to the contractor for providing solid waste services.

## II. General Instructions to Bidder

This Section of the RFP is intended to serve as a guide for preparing and submitting the proposal. The County reserves the right to reject any proposal that does not comply with these instructions. All RFP-related communication with the County prior to the pre-bid conference must be through Mr. Andrew Isbell, Director of Planning and Development for Walker County. Communication to the Mr. Isbell should be in writing by fax, e-mail, or mail to:

Refuse Collection Services  
RFP # 01-2003

Name: Mr. Andrew Isbell  
Director of Planning and Development -  
Walker County

Address: 1010 University Avenue  
City of Huntsville, Texas 77340

Fax: (936) 436-4938

E-mail: [wcutility@totalzone.com](mailto:wcutility@totalzone.com)

### Pre-Bid Conference

The pre-bid conference will be held at 9:00 a.m. CST, on Wednesday, July 16, 2003, at the Walker County Planning and Development office, located at 1010 University Avenue. At this time, any Proposer may ask questions to the County for clarification on the format of the proposal and its contents.

### Proposal Submission Date

The proposal submission date and time is 12:00 noon (CST) on August 29, 2003. Any proposal received after 12:00 noon (CST) on such date will be rejected. The County reserves the right to issue addenda that extend the original due date for the proposal should it be determined, in the County's opinion, to be in the best interest of the County.

### Confidentiality

Responses to the RFP become the property of the County. Each Proposer shall identify any information submitted in the bidding process that is considered by it to be confidential or proprietary. Walker County shall not disclose, outside the bidding process, at any time either during or subsequent to the bidding process any such designated confidential or proprietary information, unless such disclosure will not cause competitive harm, or such information was known to Walker County prior to its submission by the Proposer(s).

### **III. Instructions for Preparing the Proposal**

#### **Proposal Format**

The proposal shall be typewritten on 8 1/2 x 11 inch white paper. Staple and/or binder clips shall secure pages. All pages are to be consecutively numbered. If a form is provided and additional forms are needed the form may be copied.

Responses must be complete and unequivocal. In instances where a response is not required, or is not applicable a response such as “no response required” or “not applicable” is acceptable.

#### **Number of Proposals**

One (1) unbound original and four (4) bound copies of the proposal shall be submitted in printed format to the County.

#### **Organization of the Proposal**

##### **Cover Letter**

All proposals must be accompanied by a cover letter that clearly indicates the name and title as well as the mailing and e-mail addresses, and telephone and fax numbers of the Proposer’s contact person.

A written statement that the Proposer(s) acknowledges and agrees that no enforceable contractual relationship arises until the County signs the contract, that no action shall lie to require the County to sign such contract at any time, and that the Proposer(s) waives all claims to damages, lost profits, costs, expenses, etc., as a result of the County not signing such contract.

A written statement must be provided by the Proposer(s) acknowledging the validity of the proposal contents including proposed rates and pricing for a period of one hundred and eighty (180) calendar days.

##### **Description of Company**

Proposer(s) shall supply details of ownership of their companies and a general description of any ownership or operating agreements, contractual agreements or relationships with owners or operators of landfills, transfer stations, etc. located in Texas.

##### **Experience and General Qualifications**

Proposer(s) shall provide information demonstrating that it has the necessary experience to implement and provide comprehensive collection services. A description of the relevant qualifications and experience of the firm and key personnel shall also be provided. Describe relevant experience of the company for the last five years with regards to refuse collection services and any other types of services offered.

### **Collection and Disposal Operations Plan**

The Proposer(s) shall provide a detailed work plan for providing applicable collection services. The work plan must address and include those items as specified below.

#### **Quality Assurance and Quality Control Plan (Performance Measures)**

The Proposer shall provide a quality assurance and quality control plan. The plan shall include details on how and who will implement the plan. Performance measures must address missed collections, spillage and property damage. In addition, the Proposer must address collection times, routing, and noise levels.

#### **Public Awareness Plan**

The Proposer(s) shall provide a detailed public awareness plan that specifies the methods and resources to be used for notifying residents of service times for refuse collection as well as brush and bulky collection. The Proposer(s) shall advertised (at a minimum) a week in advance to residents for brush and bulky collection.

#### **Customer Services Plan**

A detailed customer service plan that specifies customer service operations.

#### **Collection Operations Plan**

A detailed collection operations plan that presents the specific collection programs that will be implemented. This should include:

- The method of collection.
- Staffing requirements (The number of crew members required per vehicle and their responsibilities).
- Office and operations yard location.
- Response/replacement and repair time for vehicles on route. If provided, container (collection carts) maintenance program.
- Arrangements for material disposal, including the name and location of facilities, the method for disposal or processing, and the tip or processing fees.
- Additional equipment, staff, offices, cleaning and maintenance facilities, etc.
- Health and safety management procedures.
- Additional material that the Proposer feels is required to ensure a smooth transition and superior program performance.

#### **Equipment Inventory**

The Proposer(s) shall provide an equipment inventory or list of equipment to be utilized. This inventory should include a detailed listing of the Proposer's equipment and all accessories by type, and anticipated remaining useful life and capacity of each collection vehicle as of the date of the inventory.

The Proposer(s) shall provide a schedule regarding maintenance and cleaning of vehicles.



### IV. Rate Information

Please note, rates as submitted below will represent the maximum rates authorized to be charged by the Proposer(s) to the County for the services detailed in the agreement. These rates are the maximum rates for refuse collection service that will take effect when services are implemented. **All rates will include costs for collection and disposal activities.** Each Proposer(s) may submit a bid on one, two, three or four precincts.

Monthly Rate on a Per Household Basis by Precinct	
Geographic Zone	Rate (\$)
Precinct 1	
Precinct 2	
Precinct 3	
Precinct 4	

In cases where a Proposer(s) has submitted a bid for more than one precinct, indicate how much of a percentage discount, if any would be provided if the Proposer would be selected to serve two, three or four precincts.

Percentage Discount for Multiple Precincts	
Number of Zones	Percentage (%) Discount
Two Zones	
Three Zones	
Four Zones	

#### Local Consideration

Walker County will adopt a local preference program for those Proposer(s) located within the County. To qualify as a local business, the business must have permanent offices within the geographic boundaries of Walker County and must credit all sales taxes paid resulting from this RFP to the Walker County office location.

ATTACH THIS SHEET TO PROPOSAL

**Performance Bond**

A performance bond is required from the successful Proposer(s) at the time of execution of the contract. The Proposer(s) shall furnish the required performance bond with corporate surety in the amount equal to 100 percent of the annual contract sum. The Proposer(s) shall pay all premiums chargeable for the bond. The bond shall be valid and non-cancelable for the period of the Contract and shall be renewed upon Contract renewal or extension.

**Insurance Requirements**

The successful Proposer(s) shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from, or in connection with Proposer’s performance of work or services under this agreement. Proposer’s performance of work or services shall include performance by the Proposer, his agents, representatives, employees and sub-contractors. The cost of such insurance shall be included in the Proposer’s proposal.

**Indemnification**

To the fullest extent permissible by law, Proposer(s) shall save, indemnify and hold harmless the County, its agents, employees, consultants, officers, directors, affiliates, subsidiaries, insurers, and assigns from and against all claims, demands, causes of action, damages, suits, losses, costs, fines, penalties and assessments of every kind and character, including but not limited to attorney’s fees, asserted by any person (including without limitation, the County employees) or entity in any way.

**Permits, Licenses and Sales Tax and Tipping Fee Receipts**

Each Proposer(s) shall furnish copies of all necessary permits, licenses, annual sales tax and tipping fee receipts to the County to show compliance with State and County rules and regulations.

Those Proposer(s) currently providing refuse collection services within Walker County shall provide the County with annual sales tax and tipping fee receipts from the calendar year (January - December) 2002, in order to qualify for local preference.

**References**

The Proposer(s) must provide a minimum of two (2) clients that the County may contact to conduct a reference check. The County would prefer that these clients be some form of local government, such as a city, county or special district. The Proposer(s) must be providing or have provided similar services as requested herein for the last five (5) years.

## **V. Disqualification of Proposer**

### **More than One Proposal**

No more than one proposal for the work described in the RFP will be considered from any single corporation, partnership, individual, or joint venture. Reasonable grounds for believing that any corporation, partnership, individual or joint venture is interested in more than one bid for the work may cause the rejection of all Proposer(s) in which such corporation, partnership, individual, or joint venture is interested.

### **Collusion**

If there are reasonable grounds for believing that collusion exists among any of the Proposers, the bids submitted by such participants will not be considered.

### **Default**

If a Proposer is or has been in default on a contract with Walker County, or in the payment of monies due to the County, its proposal may not be considered.

### **Deficiencies**

Walker County expressly reserves the right in its sole and absolute discretion to disqualify any Proposer(s) that submits a proposal that contains omissions, alternations, or irregularities of any kind that may tend to make the proposal incomplete, nonconforming, indefinite, or ambiguous as to its meaning, including but not limited to conditional surety and insurance commitment letters, or submits an unsigned or improperly signed proposal.

## **VI. Proposal Evaluation Process**

Proposals submitted by the Proposer(s) will be judged through the evaluation process described in this section. The selected Proposer(s) will be chosen based on the outcome of this evaluation. The following steps for proposal evaluation and selection will be used:

### **Step I (Minimum Qualifications)**

1. Five (5) years experience providing residential solid waste collection services.
2. Proof of legal disposal.
3. Proof of payment of annual sales tax.
4. Proof of performance bond, insurance and indemnification.

### **Step II (Additional Criteria)**

1. Experience providing collection services in unincorporated areas in Texas. Consideration will be given to collection providers that have experience within Walker County.
2. Collection operations plan.
3. References from current and/or previous clients.
4. Price on a per household basis and the discounted price for multiple zones.
5. Quality assurance and quality control plan (Performance Measures).

Proposals will be checked for both meeting the minimum qualifications and verification of accuracy and integrity of information submitted. Proposer(s) may be asked to attend personal interviews to discuss their proposals and/or to provide additional information in writing at the County's request. Proposals that meet the minimum qualifications will then be checked for meeting the additional criteria.