

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 847  
Committee Substitute Favorable 5/5/93

Short Title: Charlotte Sludge Facilities.

(Local)

Sponsors:

Referred to:

April 12, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO  
AUTHORIZE THE CONSTRUCTION, DESIGN, AND OPERATION OF  
SLUDGE MANAGEMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Subchapter E, Chapter IX of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965, as amended, is further amended by adding a new section to read:

"Sec. 9.87. Construction, Design, and Operation of Sludge Management Facilities.

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this section:

- (1) 'Sludge' means any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.
- (2) 'Sludge management' means purposeful, systematic control of the generation, storage, collection, transport, treatment, processing, recovery, and disposal of sludge.
- (3) 'Sludge management facility' means land, personnel, and equipment used in sludge management.
- (4) 'Storage' means the containment of sludge in a manner which does not constitute disposal.
- (5) 'City' means the City of Charlotte.

1 (b) To acknowledge the highly complex and innovative nature of sludge  
2 management technology for processing sludge, the relatively limited availability of  
3 existing and proven proprietary technology involving sludge management facilities, the  
4 desirability of a single point of responsibility for the development of facilities, and the  
5 economic and technical utility of contracts for sludge management which include in  
6 their scope combinations of design, construction, operation, management, and  
7 maintenance responsibilities over prolonged periods of time and that in some instances  
8 it may be beneficial to the City to award a contract on the basis of factors other than cost  
9 alone, including, but not limited to, facility design, operational experience, system  
10 reliability, long-term operational costs, compatibility with sludge production facilities,  
11 environmental impact, and operation guarantees, this section establishes special  
12 procedures for the construction, design, and operation of sludge management facilities.  
13 Accordingly, and notwithstanding the provisions of Article 8 of Chapter 143 of the  
14 General Statutes, or any other general, special, or local law, a contract entered into  
15 between the City and any person pursuant to this section may be awarded in accordance  
16 with the following provisions for the award of a contract based upon an evaluation of  
17 proposals submitted in response to a request for proposals prepared by or for the City.

18 The City shall give notice that it is requesting proposals as follows: Proposals shall  
19 be invited by advertisement at least one week before the time specified for the opening  
20 of said proposals in a newspaper having general circulation in the City. The  
21 advertisement shall state the time and place where the request for proposals may be had,  
22 and the time and place for opening of the proposals, and shall reserve to the city the  
23 right to reject any or all such proposals. All proposals shall be opened in public.  
24 Proposals shall be sealed if the invitation to propose so specifies. Nothing in this  
25 paragraph limits the City from publicizing the request for proposals by other means, or  
26 from directly soliciting proposals.

27 (c) The City shall require in its request for proposals that each proposal to be  
28 submitted shall include:

- 29 (1) Information relating to the experience of the proposer on the basis of  
30 which said proposer purports to be qualified to carry out all work  
31 required by a proposed contract; the ability of the proposer to secure  
32 adequate financing; and proposals for project staffing, implementation  
33 of work tasks, and the carrying out of all responsibilities required by a  
34 proposed contract;
- 35 (2) A proposal clearly identifying and specifying all elements of cost  
36 which would become charges to the City, in whatever form, in return  
37 for the fulfillment by the proposer of all tasks and responsibilities  
38 established by the request for the proposal for the full lifetime of a  
39 proposed contract, including, as appropriate, but not limited to, the  
40 cost of planning, design, construction, operation, management, and/or  
41 maintenance of any facility; provided, that the City may prescribe the  
42 form and content of such proposal and that, in any event, the proposer  
43 must submit sufficiently detailed information to permit a fair and  
44 equitable evaluation of such proposal; and

1           (3) Such other information as the City may determine to have a material  
2 bearing on its ability to evaluate any proposal in accordance with this  
3 section.

4           (d) Proposals received in response to such request for proposals may be  
5 evaluated on the basis of a technical analysis of facility design, operational experience  
6 of the technology to be utilized in the proposed facility, system reliability and  
7 availability, efficiency, environmental impact and protection, required staffing level  
8 during operation, projection of anticipated revenues from the materials produced by the  
9 facility, net cost to the City for operation and maintenance of the facility for the duration  
10 of time to be established in the request for proposals, and upon such other factors and  
11 information as the City determined to have a material bearing on its ability to evaluate  
12 any proposal, which factors were set forth in said request for proposal.

13           (e) The City may make a contract award to any responsible proposer selected  
14 pursuant to this section based upon a determination that the selected proposal is more  
15 responsive to the request for proposals and may thereupon negotiate a contract with said  
16 proposer for the performance of the services set forth in the request for proposals and  
17 the response thereto. Such determination shall be deemed to be conclusive.  
18 Notwithstanding other provisions of Article 8 of Chapter 143 of the General Statutes, or  
19 any other general, local, or special law, a contract may be negotiated and entered into  
20 between a City and any person selected as a responsible proposer hereunder which may  
21 provide for, but not be limited to, the following:

22           (1) A contract, lease, rental, license, permit, or other authorization to  
23 design, construct, operate, and maintain such a sludge management  
24 facility, upon such terms and conditions for such consideration and for  
25 such term or duration, not to exceed 40 years, as may be agreed upon  
26 by the City and such person;

27           (2) Payment by the City of a fee or other charge to such person for  
28 acceptance, processing, management, and disposal of sludge;

29           (3) An obligation on the part of the City to deliver or cause to be delivered  
30 to a sludge management facility guaranteed quantities of sludge; and

31           (4) The sale, utilization, or disposal of any form of material or residue  
32 resulting from the operation of any sludge management facility.

33           (f) The construction work for any facility or structure which is ancillary to the  
34 sludge management facility and which does not involve storage and processing of  
35 sludge or the recovery of useful or marketable forms of materials from sludge at the  
36 sludge management facility, shall be procured through competitive bidding procedures  
37 as described in Article 8 of Chapter 143 of the General Statutes. Such ancillary  
38 facilities shall include, but shall not necessarily be limited to, the following: roads,  
39 water and sewer lines to the facility limits, transfer stations, scale house, administration  
40 buildings, and residue and bypass disposal sites."

41           Sec. 2. This act is effective upon ratification.