

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 171
HOUSE BILL 847

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.

(b) To acknowledge the highly complex and innovative nature of sludge management technology for processing sludge, the relatively limited availability of existing and proven proprietary technology involving sludge management facilities, the desirability of a single point of responsibility for the development of facilities, and the economic and technical utility of contracts for sludge management which include in their scope combinations of design, construction, operation, management, and maintenance responsibilities over prolonged periods of time and that in some instances it may be beneficial to the City to award a contract on the basis of factors other than cost alone, including, but not limited to, facility design, operational experience, system reliability, long-term operational costs, compatibility with sludge production facilities, environmental impact, and operation guarantees, this section establishes special procedures for the construction, design, and operation of sludge management facilities. Accordingly, and notwithstanding the provisions of Article 8 of Chapter 143 of the

General Statutes, or any other general, special, or local law, a contract entered into between the City and any person pursuant to this section may be awarded in accordance with the following provisions for the award of a contract based upon an evaluation of proposals submitted in response to a request for proposals prepared by or for the City.

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

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

- (1) Information relating to the experience of the proposer on the basis of which said proposer purports to be qualified to carry out all work required by a proposed contract; the ability of the proposer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;
- (2) A proposal clearly identifying and specifying all elements of cost which would become charges to the City, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for the proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to, the cost of planning, design, construction, operation, management, and/or maintenance of any facility; provided, that the City may prescribe the form and content of such proposal and that, in any event, the proposer must submit sufficiently detailed information to permit a fair and equitable evaluation of such proposal; and
- (3) Such other information as the City may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section.

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

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

- (1) A contract, lease, rental, license, permit, or other authorization to design, construct, operate, and maintain such a sludge management facility, upon such terms and conditions for such consideration and for such term or duration, not to exceed 40 years, as may be agreed upon by the City and such person;
- (2) Payment by the City of a fee or other charge to such person for acceptance, processing, management, and disposal of sludge;
- (3) An obligation on the part of the City to deliver or cause to be delivered to a sludge management facility guaranteed quantities of sludge; and
- (4) The sale, utilization, or disposal of any form of material or residue resulting from the operation of any sludge management facility.

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of June, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives