

SECOND AMENDMENT TO CONTRACT

This Second Amendment to Contract is entered into this 19th day of February, 2016, by and between the City of Key West, Florida, a municipal corporation (hereinafter the "CITY") and Waste Management Inc. of Florida, a Florida corporation (hereinafter "WMI").

WITNESSETH

WHEREAS, On February 19, 2004 the City Commission approved a 20-year contract establishing Waste Management to provide municipal solid waste hauling and disposal services for the City of Key West. (Resolution 04-082). This contract governs the hauling of the City's solid waste from the Transfer Station in Rockland Key, to approved disposal sites where the waste is typically converted to energy, with limited waste landfilled. The contract has an initial 7-year term, a renewal 7-year term, and a final 6-year renewal term.

This contract was initiated after the City made the decision to close the former Waste-to-Energy site on Stock Island, and convert the facility to a temporary transfer station while the new site on Rockland Key was being constructed. The RFP for this contract was developed in conjunction with the City's Solid Waste Technical Advisory Committee, which sought to develop a solid waste site for a minimum 20-year period. The City's comprehensive plan also requires the City to provide solid waste collection, hauling, and disposal services to our residential and commercial customers, and our capacity and ability to provide solid waste services is a key concurrency requirement to accommodate development plans.

WHEREAS, on February 2nd, 2011, the City Commission approved the first amendment to the contract which modified the contract by adding the following paragraph after the third paragraph of Section 5.6:

Notwithstanding the provisions of the preceding paragraphs, the Contractor shall not divert the City's Acceptable Waste from the two waste-to-energy facilities to the Contractor's three landfills for a period greater than fourteen days without giving Notice to the City and without the City's written approval.

WHEREAS, CITY and WMI desire to amend certain provisions of the Contract to add an additional disposal site to the list of approved disposal sites.

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, CITY and WMI agree to modify the Contract as follows:

RECITALS: That the above recitals are true and correct and made a part hereof;

Section 1: Paragraph 5.6 of the Contract is hereby deleted in its entirety and replaced with the following:

Section 5.6 The Disposal Facility

The Contractor shall accept all of the Acceptable Waste delivered to the Transfer Station and shall dispose of all such Acceptable Waste at one or more of the following Disposal Facilities: (a) the waste-to-energy facility operated by Wheelabrator Technologies, Inc. ("Wheelabrator"), located at 4400 South State Road 7, Fort Lauderdale, Florida; (b) the waste-to-energy facility operated by Wheelabrator and located at 2600 N.W. 48th Street, Pompano Beach, Florida; (c) the Palm Beach Renewable Energy Facility No.2 located at 7501 N. Jog Road, West Palm Beach, FL 33412 (d) the Contractor's Central Landfill, located at 2700 N.W. 48th Street, Pompano Beach, Florida; (e) the Contractor's Medley Landfill, located at 9350 N.W. 89th Avenue, Medley, Florida; and (f) the Contractor's Okeechobee Landfill, which is located at 10800 N.E. 128th Avenue, Okeechobee, Florida. The Contractor shall not take the City's Acceptable Waste to any other facility unless the Commission gives its prior written approval for the use of a different Disposal Facility. The Commission may withhold its approval of any other Disposal Facility, at its sole discretion.

From the Commencement Date until February 1, 2014, the City's Acceptable Waste shall be delivered to one or both of the waste-to-energy facilities operated by Wheelabrator in Broward County or the Palm Beach Renewable Energy Facility in West Palm Beach. After February 1, 2014, the Contractor shall deliver the City's Acceptable Waste to the waste-to-energy facilities for as long as the waste-to-energy facilities have capacity to receive the City's Acceptable Waste. The Contractor shall not displace the City's use of the waste-to-energy facilities to accommodate a Person that is located outside of Broward County, unless that Person has the right to use the waste-to-energy facilities pursuant to a written contract that was in effect prior to the Effective Date of this Agreement. If the Contractor concludes that it will not have capacity at the waste-to-energy facilities to receive the City's Acceptable Waste, then the Contractor shall give the City at least 6 months advance Notice of the Contractor's plan to change the Disposal Facility that the Contractor uses for the disposal of the City's Acceptable Waste.

Notwithstanding the provisions of the preceding paragraphs, the Contractor shall not divert the City's Acceptable Waste from the three waste-to-energy facilities to the Contractor's three landfills for a period greater than fourteen days without giving Notice to the City and without the City's written approval.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Contract on the date first written above.

CITY OF KEY WEST, FLORIDA

By: _____
Jim Scholl, City Manager

ATTEST:

Cheryl Smith, City Clerk

WASTE MANAGEMENT INC. OF
FLORIDA

By: _____
Timothy B. Hawkins, President

Witness

Witness