

RESOLUTION NO. 23-040

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED PROPOSED FOURTH AMENDMENT TO CONTRACT WITH WASTE MANAGEMENT OF FLORIDA, INC. (WMI) FOR AMENDMENTS TO ADJUST RESIDENTIAL COLLECTIONS RATES, THE HAUL-OUT RATE AND TO MODIFY THE BASIS FOR DETERMINING THE ANNUAL FUEL RATE ADJUSTMENTS; AUTHORIZING NECESSARY BUDGET TRANSFERS AND ADJUSTMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS UPON CONSENT OF THE CITY ATTORNEY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on May 6, 2014, the City Commission awarded the bid of Waste Management Inc. (WMI) of Florida in response to ITB 14-009, and on June 25th, 2014 a Contract was executed for the collection, transfer and disposal of solid waste and recyclable materials and transfer station operation; and

WHEREAS, in Resolution No. 14-254, the City Commission approved a First Amendment to Contract, in Resolution No. 16-048 the City Commission approved a Second Amendment to Contract and in Resolution 21-259 the City Commission approved a third amendment to Contract amending solid waste and recycling collection service rates and certain provisions for residential and commercial units; and

WHEREAS, in Resolution 21-267, the City's contract with WMI was renewed for an additional four years, pursuant to the current contract and amendments, effective January 1, 2022; and

WHEREAS, in May, 2022, WMI submitted a request for certain proposed changes to the contract, to compensate for extraordinary increases in fuel costs, and a modification to the basis for determining the annual fuel rate adjustment. City staff negotiated terms with WMI, and recommends approval of the changes set forth in the attached Fourth Amendment to the Solid Waste Collections Contract; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Commission hereby approves the attached proposed Fourth Amendment to Contract between the City and Waste Management of Florida, Inc. for adjustments to the residential collections rate, the haul-out rate and to modify the basis for determining the Annual Fuel Rate Adjustment, retroactive to January 1, 2023.

Section 2: That necessary budget transfers from Unrestricted Reserves, Other Uses Account No. 403-3401-534-9900 in a total amount of up to \$219,340.00, are hereby authorized to Residential Collections, Professional Services Account No. 403-3404-534-3400 (\$69,332.00), Recycling Operations Account 403-3407-534-3400 (\$15,698.00) and to Hauling and Disposal Account No. 403-3405-534-3400 (\$134,400.00) to cover the rate increases. Any related budget transfers or adjustments are hereby authorized.

Section 3: That the City Manager is authorized to execute any necessary documents to enact these adjustments, upon consent of the City Attorney.

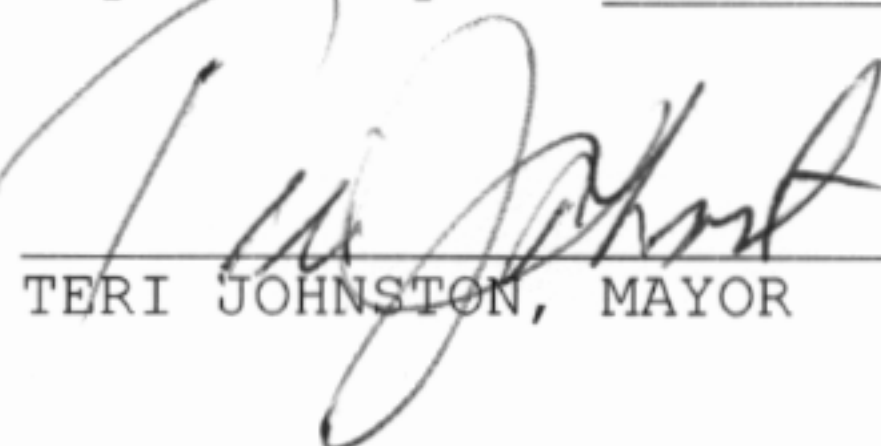
Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this 7th day of February, 2023.

Authenticated by the Presiding Officer and Clerk of the
Commission on 8th day of February, 2023.

Filed with the Clerk on February 8, 2023.

| | |
|------------------------------|------------|
| Mayor Teri Johnston | <u>Yes</u> |
| Vice Mayor Sam Kaufman | <u>Yes</u> |
| Commissioner Lissette Carey | <u>Yes</u> |
| Commissioner Mary Lou Hoover | <u>Yes</u> |
| Commissioner Clayton Lopez | <u>Yes</u> |
| Commissioner Billy Wardlow | <u>Yes</u> |
| Commissioner Jimmy Weekley | <u>Yes</u> |


TERI JOHNSTON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

EXECUTIVE SUMMARY

Date: January 23, 2023

To: Patti McLauchlin, City Manager

From: Kelly Crowe, Utilities Director

Cc: Todd Stoughton, Assistant City Manager
Ron Ramsingh, Interim City Attorney
Christina Bernaldi, Finance Director

Subject: Approval of a Fourth Amendment to the Solid Waste Collections Contract with Waste Management, Inc. To Increase the Residential Collections Rate, Increase the Haul-Out Rate and Modify the Basis for Determining the Annual Fuel Rate Adjustment.

Action Statement

Approve a fourth contract amendment between Waste Management, Inc (WM) and the City of Key West (CKW) to allow for an additional residential rate increase, haul-out rate increase and a modification to the basis for determining the annual fuel rate adjustment. Authorize the City Manager to execute the amendment and any necessary budget transfers.

Background

Waste Management, Inc. (WM) is the City of Key West's (City) contract waste hauler. WM provides services for residential and commercial collection, disposal and hauling of trash, recycling and yard waste. Per Resolution 21-267, WM's contract was extended for a four-year period effective January 1, 2022. There are three prior amendments to the contract with WM approved by the City Commission: Resolution 14-254, 16-048 and 21-259.

In late February 2022, the effects of inflation as well as overseas conflict produced an unprecedented spike in fuel costs. Fuel costs are an important component of the rate adjustments allowed in Exhibit 2 of the contract with WM and represent 5% of the total residential rate. The benchmark used for fuel costs is the Lower Atlantic (PADD 1C) No. 2 Diesel Ultra Low Sulfur Diesel (0-15 ppm) Retail Prices published by the Energy Information Administration (EIA Fuel Index). For comparison, the cost per gallon of diesel in June 2021 was \$3.18; in June 2022, the cost per gallon was \$5.73. Considering WM hauls approximately 48,000 tons of waste each year from the Key West Transfer

Station to the WM facility in Pembroke Pines (approximately 150 miles); fuel costs have had a significant impact on WM's operations.

WM approached Utilities staff about opportunities for relief and requested a rate increase due to extraordinary conditions. After reviewing the contract and the fuel costs, staff believed an increase was warranted.

WM proposed increases:

- Residential rates¹: \$15.86 (current, effective 10/1/22) per month/account plus an additional \$0.78² fuel increase; \$16.64 per month/account.
- Commercial recycling: Processing fee of \$4.50/ton.
- Haul-out rate: Additional \$4.00/ton.

During negotiations, staff had the commercial recycling increase removed from consideration as an increase in recycling cost is counter to our Strategic Plan efforts to increase commercial recycling activity.

City counter-proposal:

- Residential rates: \$15.86 (current, effective 10/1/22), plus \$0.45 fuel increase³ and \$0.20 labor increase⁴; \$16.51 per month/account.
 - Amend the basis for the fuel rate adjustment in Exhibit 2 of the contract. See discussion below.
 - No additional commercial recycling processing fee.
 - Agree to an additional \$4.00/ton for haul-out⁵.
 - Comply with the following conditions:
 - Complete all measures that are outstanding from the 2021 contract amendment
 - Charge for bulk waste items in excess of twice per year collection (up to 2 cubic yard each)
 - Collect scheduled bulk waste from any site receiving weekly trash service
 - Collect all canned, non-contractor generated yard waste (up to 10 cans per pick up)
 - Recycling weights and receipts hauled out shall be shared with the City monthly
1. This is the rate the City pays WM for collection of residential service. The rate that is assessed to residents is not affected.
 2. The original request was for 2.5% and \$1.00/month per house. Rates were increased by 2.5% per the contract on 10/1/22. The \$0.78 represents the net increase per WM's request.
 3. City fuel increase value is based on the EIA Fuel Index for the current year from February 2022-August 2022.
 4. WM increased their employee housing allowance by \$250/employee. This translates to \$0.80/month/account. The City agrees to a 25% share or \$0.20 of the additional housing allowance.
 5. Haul-out is currently \$83.71/ton. The \$4.00/ton represents a 4.8% increase which is similar to the increase in the tipping fee that was implemented by the City on 10/1/22. This is also consistent with the increase in the amount of \$4.06/ton that Monroe County presented on June 15, 2022 and approved on July 20, 2022.

With respect to the fuel increase in Exhibit 2, staff's proposal seeks to correct an issue with the original basis for the fuel adjustment. The adjustment is calculated based on the EIA Fuel Index from February to January of the most recent year. WM increases their rates annually in October of each year, so there is a nine (9) month gap between the basis for adjustment and implementation. As observed in 2022, the average cost per gallon of No.2 Diesel was \$5.06 from February to October.

The average cost of No.2 Diesel from February 2021 to January 2022 (per the rate calculation) was \$3.25 per gallon. In staff's opinion, the rate adjustment for fuel needs to be accounted for as close to real time as possible. Per the current contract, WM will not be able to recuperate their fuel costs until October 2023 which is more than a year after they were impacted by the costs.

To reflect the current fuel costs more accurately, staff proposes that the City grant WM their fuel increase of \$0.45 for 2022 based on the average cost from February 2022 through August 2022 and modify the time period for fuel cost adjustments to September through August. This time period will be consistent with the start of the fiscal year and will allow WM to have a more accurate fuel assessment. It should be noted that the City will benefit when fuel prices decrease. A decrease in fuel prices will result in a decrease in rates.

Purpose and Justification

The City of Key West entered into a contract extension with WM for a four (4) year period beginning in January 2022. Extraordinary fuel costs have impacted all industries where transportation is a key element for a business to function. Transportation is vital for WM to perform their contractual obligations for collections and hauling. WM has been functioning in an environment of high fuel prices without an ability to adjust their service charges. Their only recourse is to request a contract amendment to account for the additional costs.

Staff believes that the amendment to Exhibit 2 to allow for a more accurate cost basis for fuel will obviate the need for future contract amendments.

Strategic Plan: Cleanliness, Priority 5; Goal 2; Action 1; Coordination and Communication with Waste Management

Financial

The portions of the cost increase that directly affect the City are the residential collection rates and haul-out rates. The residential rates are what WM charges the City only. There will not be an additional cost burden applied to residents as a result of this increase.

The following is a summary of the individual rate increases and total costs attributed to each account:

Residential Collections

| | Account | Current (House/Month) | Proposed (House/Month) | Total Increase |
|-----------------|------------------------|--------------------------|---------------------------|-----------------|
| Curbside Pickup | 4033404-5343400 | \$12.99 | \$13.52 | \$69,332 |
| Recycling | 4033407-5343400 | \$2.87 | \$2.99 | \$15,698 |
| Totals | | \$15.86 | \$16.51 | \$85,030 |

Haul-out

| | Account | Current (ton) | Proposed (ton) | Total Increase |
|------------|------------------------|---------------|----------------|------------------|
| Disposal | 4033405-5343400 | \$83.71 | \$87.71 | \$120,000 |
| Yard Waste | 4033405-5343400 | \$69.65 | \$73.65 | \$14,400 |
| Totals | 4033405-5343400 | | | \$134,400 |

The cost increase will result in an increase of

- \$69,332 for Residential Collections, Professional Services (Account 403-3404-534-3400)
- \$15,698 for Recycling Operations (Account 403-3407-534-3400)
- \$134,400 for Hauling and Disposal (Account 403-3405-534-3400)

The rates are retroactive to January 1, 2023 as are the total cost increases. The increases will be funded from Reserves, Other Uses (Unrestricted Reserve) Account 403-3401-534-9900.

Recommendation

Staff recommends approving a fourth contract amendment between Waste Management, Inc (WM) and the City of Key West (CKW) to allow for an additional residential rate increase, haul-out rate increase and a modification to the basis for determining the annual fuel rate adjustment. Authorize the City Manager to execute the amendment and any necessary budget transfers.

FOURTH AMENDMENT TO CONTRACT

This Fourth Amendment to Contract is entered into this 13 day of February 2023, 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 the 6th day of May, 2014, the City Commission of the City of Key West, Florida, passed Resolution No. 14-134, selecting the response of WMI to Invitation to Bid #14-009, which was the lowest responsive bid for the 2-1-1 service option, commercial solid waste franchise, recyclables/yard waste processing and transfer station operation; and

WHEREAS, CITY and WMI entered into a Contract on the 25th day of June, 2014, (the "Contract"), pertaining to the collection, transfer and disposal of solid waste and recyclable materials and transfer station operation; and

WHEREAS, in Resolution No. 14-254, the City Commission approved a First Amendment to Contract, and in Resolution No. 16-048 the City Commission approved a Second Amendment to Contract amending the requirements for: RFID technology, the requirement for CITY to provide garbage and Recycling carts, costs of repair of carts, software, service verification, and weekly reports; and

WHEREAS, in Resolution 21-259 the City Commission approved a contract amendment for WMI to exercise its first 4 year extension to become effective January 1, 2022; and

WHEREAS, WMI has realized a sharp increase in diesel fuel prices for their trucks that were the result of national inflation coupled with the war in Ukraine; and

WHEREAS, CITY and WMI desire to amend the Contract to provide for WMI to recoup the increased amount has been spent fueling their trucks; and

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: Exhibit 2 as attached to the Waste Management contract dated May 6, 2014 is hereby amended to modify the dates during which fuel adjustments are computed.

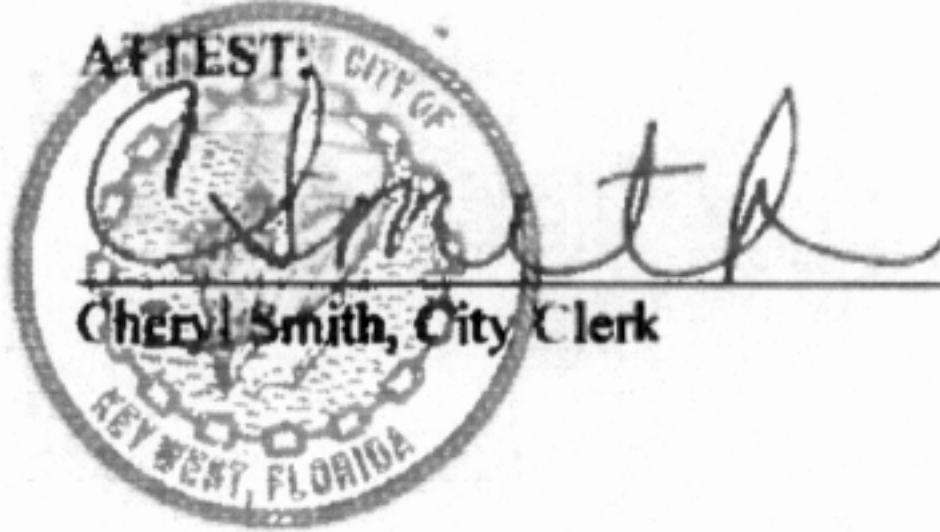
Section 2: Except as modified herein, the Contract shall remain in full force and effect.

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

CITY OF KEY WEST, FLORIDA

By:

Patti McLauchlin
Patti McLauchlin, City Manager



Coleen Hankton
Witness

Kelly Ann Hylton
Witness

WASTE MANAGEMENT OF
FLORIDA, INC.

By:

David Myhan
David Myhan, President

EXHIBIT 2 – RATE ADJUSTMENTS

Collection Fee Component

Beginning October 1, 2015 and the same date of each subsequent year during the term of the Contract excluding the final Contract year, the collection component of service rates and the Contractor's Fee used in determining Recyclables revenue shall be adjusted as follows.

- a. CPI Adjustment (rounded to the nearest cent): Ninety-five percent (95%) of the rate shall be adjusted based on the seventy-five percent (75%) of the change, rounded to the nearest hundredth of a percent, in the Consumer Price Index between the month of ~~February-August~~ in the previous year and the month of ~~February-August~~ in the current year. The CPI will be the Consumer Price Index for ~~All Urban Consumers: Water and Sewer and Trash Collection Services in U.S. City Average~~ ~~the All Urban Consumers, U.S. City Average, All Items — not seasonally adjusted~~ (Series ID: CUUR0000SEHGCUUR0000SA0).
- b. Fuel Adjustment (rounded to the nearest cent): Five percent (5%) of the rate shall be adjusted based on the percentage change, rounded to the nearest hundredth of a percent, in the Fuel Price between the average monthly fuel price from ~~February~~ ~~September through January-August~~ in the year prior, and the average monthly fuel price from ~~February-September~~ ~~through January-August~~ of the most current twelve (12) months. The Fuel Index will be the Lower Atlantic (PADD 1C) No. 2 Diesel Ultra Low Sulfur Diesel (0-15 ppm) Retail Prices (cents per gallon). If the Contractor utilizes CNG collection vehicles, the exhibit will be revised accordingly. In such case, the Fuel Index will be the Henry Hub Gulf Coast Natural Gas Spot Price (dollars per million BTU/7.17 dge), provided by the U.S. Energy Information Administration and accessible at <http://www.eia.gov/dnav/ng/hist/mgwhhdd.htm>
- c. The total adjustment to the collection element of the service rates in any given year shall not exceed two and one half percent (2.5%) of the previous year's rates, rounded to the nearest cent.
- d. If the source of the CPI or Fuel Price is discontinued or substantially altered, the City may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

SAMPLE CALCULATION

Assumptions (for illustrative purposes only).

Current collection fee component (CF) = \$8.00

- | | |
|---|---|
| • CPI in February 2012 (CPI1) = 227.663 | • Average monthly Fuel Price Feb-Jan previous year (FP1) = 3.800 |
| CPI in February 2013 (CPI2) = 232.166 | Average monthly Fuel Price Feb-Jan most recent year (FP2) = 3.924 |
| 75% of % Change in CPI = 1.48% | % Change in Fuel Price = 3.26% |

New Collection Fee Component =

Current Collection Fee (CF) + [0.95 x CF x 0.75 x % Change in CPI] + [0.05 x CF x % Change in FP]

$$\begin{aligned} &= \$8.00 + [0.95 \times \$8.00 \times 0.75 \times ((\text{CPI2}-\text{CPI1})/\text{CPI1})] + [0.05 \times \$8.00 \times ((\text{FP2}-\text{FP1})/\text{FP1})] \\ &= \$8.00 + [\$7.60 \times 0.0148] + [\$0.40 \times 0.0326] \\ &= \$8.00 + (\$0.11) + (\$0.01) \\ &= \$8.12 \end{aligned}$$

Maximum Rate Adjustment = \$8.00 + (\$8.00 x 2.5%) = \$8.20

Therefore the new Collection Fee Component = \$8.12

Disposal Fee Component

The disposal fee components of Commercial Collection Service rates shall be adjusted as calculated by the City if and when the tipping fee charged at the City Transfer Station changes.