

**Indian River County, Florida
Solid Waste Disposal District
Board Memorandum**

Date: June 27, 2022

To: Jason E. Brown, County Administrator

From: Sean C. Lieske, Director of Utility Services

Prepared By: Himanshu H. Mehta, PE, Managing Director, Solid Waste Disposal District

Subject: 2nd Amendment and Renewal to Franchise Agreement with Waste Management, Inc., of Florida

Descriptions and Conditions:

On April 21, 2015, the Indian River County (IRC) Solid Waste Disposal District (SWDD) Board entered into a Franchise Agreement with Waste Management, Inc., of Florida (WMIF) for Solid Waste and Recyclables Collection (the "Franchise Agreement"). On October 1, 2015 ("Commencement Date"), WMIF started providing the contractual services detailed below. The First Amendment to the Franchise Agreement, which related to the annual Consumer Price Index (CPI) adjustment process with an annual cap of 3%, was approved by SWDD on October 4, 2016.

The initial term of the Franchise Agreement is for a period of seven (7) years beginning on the Commencement Date and terminating on September 30, 2022. At the sole option of SWDD, the Franchise Agreement may be renewed for one (1) additional term of three (3) years under the same terms and conditions as the initial term, including amendments. SWDD had to notify WMIF by September 30, 2021, of the intent to renew or not renew the Franchise Agreement. SWDD staff issued our intent to renew on September 20, 2021.

The Franchise Agreement grants WMIF exclusive collection service for residential and commercial solid waste within unincorporated IRC, the exclusive collection of residential recyclables within the recycling franchise area (which includes unincorporated IRC, City of Sebastian, City of Fellsmere, City of Vero Beach, and the Town of Orchid), and an exclusive collection of construction and demolition (C&D) debris in containers fifteen cubic yards and greater (≥ 15 CY) in size within unincorporated IRC.

In addition to the exclusive collection of C&D in ≥ 15 CY containers, the Franchise Agreement grants WMIF the non-exclusive collection of C&D in containers less than fifteen cubic yards (< 15 CY) in size within unincorporated IRC. WMIF is also able to provide recycling services to commercial properties, but this is considered an open market service by the State of Florida, and as such, it is not exclusive to WMIF.

On May 9, 2022, staff received a request from WMIF to modify the franchise agreement to remove Article 3.1 (c) for the exclusive collection of C&D in ≥ 15 CY containers. On June 14, 2022, the SWDD Board approved the request by WMIF to modify the Franchise Agreement to remove the exclusivity of C&D roll-

off services in unincorporated IRC, directed staff to modify the County Ordinance as necessary, and to return with an amendment to the franchise agreement. A notice of public hearing for approval of the County Ordinance modification on July 12, 2022 was announced at the July 5, 2022, Board of County Commission (BCC) meeting.

The purpose of this agenda item is to obtain SWDD Board approval of the 2nd amendment and renewal to the WMIF Franchise Agreement.

Analysis:

Staff and WMIF have reached consensus on the changes identified in the 2nd Amendment and Renewal Agreement.

Staff supports the request by WMIF to remove the exclusive nature of C&D from our franchise agreement and renewal of the term through September 30, 2025.

Funding:

The majority of the services provided in the Franchise Agreement are directly paid by residential subscription customers or by commercial customers. The exception is the payment for the residential recycling services, which is paid to WMIF by SWDD. The annual cost for Fiscal Year (FY) 2021/2022 was \$2,900,000. Funding, in the amount of \$3,100,000, for these recyclables collection services is budgeted in the SWDD recycling account for FY 2022/2023 under SWDD/CC & Recycling/Other Contractual Services, Account No. 41125534-033490, which is funded from SWDD assessments and user fees.

DESCRIPTION	ACCOUNT	AMOUNT
SWDD/CC & Recycling/Other Contractual Services – FY 22/23	41125534-033490	\$3,100,000

Recommendation:

Staff is requesting that the Board approve the following:

1. Approve the 2nd Amendment and Renewal Agreement with Waste Management, Inc., of Florida; and
2. Authorize the Chairman to execute to execute the same, as presented.

Attachments:

1. 2nd Amendment and Renewal Agreement with WMIF