

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

**Date:** November 18, 2020

**To:** Jason E. Brown, County Administrator

**From:** Vincent Burke, PE, Director of Utility Services

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

**Subject:** Waste Management Franchise Agreement Renewal Option

**Descriptions and Conditions:**

The Indian River County (IRC) Solid Waste Disposal District (SWDD) is responsible for providing for the collection, transportation, and disposal services for regulated solid waste in unincorporated Indian River County as well as recycling services throughout Indian River County. Per authority granted by the State of Florida Legislature, Indian River County has granted hauling franchises as far back as 1961 starting with Rural Sanitation, which through various changes and acquisitions became Republic Services of Florida, LP, doing business as Treasure Coast Refuse, which provided hauling services until September 30, 2015, to our southern franchise area. Similarly, another franchise was initiated as far back as 1975 to Indian River Sanitation which later was assigned to Waste Management, Inc., of Florida (WMIF), which provided hauling services until September 30, 2015, to the northern franchise area. These historical franchises were not issued through a procurement process.

On April 8, 2014, the SWDD Board approved a work order to Kessler Consulting, Inc. (KCI) to prepare a Solid Waste & Recyclables Collection Services Request for Proposal (RFP), which was approved to be issued on December 16, 2014. The RFP was published on January 6, 2015. This was a historical first for Indian River County, and it was complex in terms of the various decisions that it afforded SWDD to evaluate and select. Here is a list of the key changes:

- 1) An option to issue two separate franchise areas or a single franchise area;
- 2) An option to maintain subscription services or go to universal or mandatory collection service;
- 3) An option to maintain twice a week garbage collection or go to once a week garbage collection;
- 4) An option for residents to use their own garbage cans or for the hauler to provide a standardized cart with three available sizes;
- 5) An option to maintain the existing dual stream recycling program using 18-gallon blue bins or to switch to single stream recycling and for the hauler to provide a standardized cart with three available sizes; and finally
- 6) The term was set to an initial term of seven (7) years with an optional three (3) year renewal term.

On February 20, 2015, bids were opened and proposals were received from four (4) qualified waste haulers. On April 21, 2015, after several public hearings and evaluation by the selection committee, the SWDD Board entered into a Franchise Agreement for the Solid Waste and Recyclables Collection with WMIF (the "Franchise Agreement"). On October 1, 2015 ("Commencement Date"), WMIF started

providing 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 has to notify WMIF by September 30, 2021, of the intent to renew or not renew the Franchise Agreement.

The Franchise Agreement grants WMIF exclusive collection service for residential and commercial solid waste collection 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 ( $\geq 15$  CY) in size within unincorporated IRC. In essence, the Franchise Agreement stipulates the services and the rates to our residential and commercial customers. For example, the single family subscription rate at the start of the Franchise Agreement was \$9.68 per month and is currently at \$10.14 per month (a 4.75% increase over 5 years) and is paid directly by subscription customers to WMIF on a quarterly basis (\$30.42 per quarter or \$121.68 per year). This includes the once-a-week garbage collection in either a 35-gallon, 64-gallon or 96-gallon cart using compressed natural gas (CNG) vehicles. The subscription service also includes once-a-week yard waste collection and bulk waste pick-up on an as-needed basis. A complete summary of all of the rates including the annual increases are provided in Exhibit A.

In addition to the exclusive collection of C&D in  $\geq 15$  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. Our Franchise Agreement limits the rate charged by WMIF to be less than the rate charged for servicing a solid waste container of equal size and frequency. For example, if the cost to service a 4 CY container once a week for garbage at a commercial business is \$85.80 per month, then the cost to service the same size and frequency for a recycling container has to be less than \$85.80.

The Franchise Agreement includes Article 6.6, which is a provision for universal residential collection service (or mandatory collection). SWDD reserved the right to implement mandatory collection within the Urban Service Area (USA) of the Solid Waste Franchise Area at any time during the term of the Franchise Agreement. There was an initial incentive to implement mandatory collection within the first three (3) years where the annual adjustment was set to 75% change in the CPI. After September 30, 2018, the adjustment to the mandatory collection rate was based on the 100% change in the CPI. Accordingly, on July 17, 2019, the SWDD Board discussed and voted to include the costs for six (6) months of mandatory garbage collection (starting April 1, 2020) within unincorporated IRC areas on the preliminary Truth in Millage Rate (TRIM) notices issued by the IRC Property Appraiser. Although WMIF agreed to universal residential collection rate for mandatory collection within the urban service area of \$8.19 per residential unit, which was a 19% decrease to the current subscription customers, they also clarified that the rate outside the urban service area would be \$14.54 per residential unit, which was 43% higher than the current rate of \$10.14 per month. They did offer to keep this rate to the agreed subscription rate; however, they requested the following contractual changes that neither staff nor the SWDD Board supported:

- Waiver of Administrative Charges related to cart deployment, re-routing, and understanding the contract is still complex to the residents with having mandatory and non-mandatory services, the specific performance standard violations include:
  - Failure to resolve missed pickups or complaints with the specified time frame
  - Failure to repair, replace, or deliver a container or roll cart within three (3) days of notification
- Vehicle and Collection Equipment General Requirements, such as frontline vehicle maximum age, as we explore truck inventory availability
- Redefine ancillary services such as overflowing commercial containers
- Radio Frequency Identification (RFID) requirement/asset management review of what is currently being reviewed by the County, and in what manner and benefit
- Article 2.3 Renewal Option changed from sole option of SWDD to mutually agreed by SWDD and Franchisee

WMIF publicly stated that they supported staff's recommendation to have the Franchise Agreement expire after the initial term of seven years.

As a result, on August 13, 2019, the SWDD Board approved staff recommendation to refrain from implementing mandatory collection until October 1, 2022, which is the termination of the initial term of the Franchise Agreement.

Although we are 22 months away from the initial termination period, and we are 10 months away from the contractual requirement to notify WMIF of our intent to renew or not renew, staff believes it is imperative that we discuss these options and receive direction from the SWDD Board at this time in order to allow sufficient time to go through a procurement process and award a new franchise agreement with rates for mandatory collection, if that is the direction of the SWDD Board. Time is of the essence in terms of getting mandatory collection rates approved by the SWDD Board at the first preliminary budget hearing in July 2021 so that three (3) months of mandatory collection are included on the TRIM notices for the tax bills that are issued for January 1, 2022, to December 31, 2022.

Therefore, the purpose of this agenda item is to obtain SWDD Board direction on either to renew or not renew the WMIF Franchise Agreement.

### **Analysis:**

The option to renew the Franchise Agreement for an additional three (3) years is consistent with County Ordinance Section 204.13 – "Terms and conditions of franchises", which sets the limit to a total of ten (10) years. This renewal option also allows our residents that subscribe for curbside collection to maintain one of the lowest rates for this type of service within our county and surrounding counties. As further discussed below, a review of recent bids for these types of services has shown a dramatic increase in rates submitted by waste haulers.

One of the primary reasons that the SWDD Board should consider mandatory collection is due to the identification that there are residents who are using their residential recycling carts for garbage service. Based on field audits, complaints from neighbors, and from verification by the county code enforcement division, there are cases of residents that do not subscribe for garbage service and instead use their recycling cart for their garbage. If just a few carts contain garbage, this comingling has the potential to contaminate the entire collection route. In the past, this has led our recycling processor to reject our recyclable materials. Going to mandatory garbage collection would not eliminate recycling contamination, but it certainly would provide

the necessary framework for the residents to not use the recycling carts for garbage service. Please note that our current processor, St. Lucie County, has not rejected any of our recycling materials. Another reason to consider mandatory collection is to potentially reduce litter and illegal dumping and create an overall improvement to the proper collection and disposal of waste within the urban service area of unincorporated Indian River County.

A procurement process would also allow us to explore other options such as services for carted yard waste and bulk yard waste pick-up using a claw truck, which is currently not available in our community. Bulk garbage pick-up at multi-family apartments and condominiums is also not currently available. Although not recommended, a request for rates to go back to twice-a-week garbage collection could also be obtained. A provision to require a local customer service call center and a local education coordinator could also be obtained. A provision to provide à la carte residential food waste collection, cleaning of residential carts, collection of household waste and e-waste could also be obtained, if the services are warranted.

The inherent risk in going out to bid is that prices could go up for our residential, commercial and industrial customers. Staff is concerned that by pursuing a new franchise agreement, the rates will escalate based on industry trends and current rates both within and outside Indian River County.

Currently, unincorporated IRC residents and City of Fellsmere subscription customers have the lowest rate in the area for once-a-week subscription garbage collection rate of \$10.14 per month. The following table compares in-county and outside of county rates.

In-County Rate Comparison

Location	Rate	Description
Unincorporated County	\$10.14	1x week garbage, subscription collection
City of Fellsmere	\$10.14	1x week garbage, subscription collection
City of Sebastian	\$12.17	2x/week garbage, subscription collection
City of Vero	\$15.35	2x/week garbage, mandatory collection
Town of Orchid	\$18.74	2x/week garbage, mandatory collection
Town of Indian River Shores	\$18.93	2x/week garbage, mandatory collection

Out of County Rate Comparison: Includes Monthly recycling rates

Example: For Indian River County = \$10.14/mo. garbage + \$2.67/mo. recycling = \$12.81

Location	Rate	Description
Indian River County-unincorporated	\$12.81	1x week garbage, subscription + recycling
St. Lucie County	\$14.10	2x week garbage, mandatory collection
Brevard County	\$16.19	2x/week garbage, mandatory collection
Martin County	\$16.64	2x/week garbage, mandatory collection
City of Palm Bay	\$23.50	2x/week garbage, mandatory collection
Sarasota County	\$15.55	1x/week garbage, mandatory collection
Charlotte County	\$18.91	1x/week garbage, mandatory collection

As described at the onset of this agenda item, SWDD performed a thorough procurement process that was new for our staff and our residents due to the complexity of changes. Although there was a challenging transition in 2015; WMIF has provided and continues to provide a cost effective collection service for our residents. The local management team has taken a proactive approach to addressing issues as they arise, and the overall communication has improved dramatically. This collaboration has improved

our public events and recycling pick-up at public parks and beaches. WMIF staff has been responsive, both with customers and in the field, providing continuity of service through Covid-19 and during pre/post emergency response during storms and hurricanes. It is staff's opinion from a financial, logistical, and operational perspective, that an extension to the franchise agreement for the full allowed 10 years would be in the best interest of Indian River County. SWDD Board could direct staff to open negotiations with WMIF to see if they are open to providing mandatory collection services as part of the existing franchise agreement.

Please note, maintaining the current franchise agreement through September 30, 2025, also aligns with the current recycling processing agreement with St. Lucie County.

As mentioned above, time is of the essence if the SWDD Board would like to institute mandatory garbage collection starting October 1, 2022, as staff needs to start the procurement process by January 2021 in order to get results to the SWDD Board for approval at the preliminary budget hearing in July 2021. This in turn would allow for staff and the Property Appraiser to start working on the TRIM notices that would go out in August 2021 with the final tax bill issued in November 2021. This would be for the January 2022 through December 2022 assessment fees, which would potentially include three months of collection fees for October 2022, November 2022, and December 2022. A similar process would occur starting July 2022 that would include a full 12 months of collection services for the 2023 calendar year.

In summary, here are the options for Board consideration:

1. Direct staff to attempt to negotiate with WMIF to see if we can come to a resolution on the rates for mandatory collection within the urban service area and a subscription rate for outside the urban service area.
2. Keep things as they are and direct staff to inform WMIF of our intent to renew the franchise agreement through September 30, 2025
3. If the SWDD Board would like to explore mandatory collection prior to 2025, then direct staff to inform WMIF of our intent to not renew the franchise agreement.

### **Funding:**

This is an update to the SWDD Board and does not require any funding approval at this time.

### **Recommendation:**

Staff is requesting that the Board consider option 2: Direct staff to maintain current services and authorize staff to notify Waste Management, Inc., of Florida, of our intent to renew the Franchise Agreement for an additional three (3) years from October 1, 2022 to September 30, 2025.

### **Attachments:**

1. Exhibit A – Summary of Collection Rates by WMIF

## EXHIBIT A

### SUMMARY OF RATES BY WASTE MANAGEMENT

Residential Unit	FY2015/16 Rate	FY2016/17 Rate	FY2017/18 Rate	FY2018/19 Rate	FY2019/20 Rate	FY20/21 Rate
<b>CPI Adjustment</b>	N/A	N/A	1.51%	1.88%	1.31%	N/A
Single Family Subscription	\$9.68	\$9.68	\$9.83	\$10.01	\$10.14	\$10.14
Single Family Universal/mo. *	\$7.73	\$7.73	\$7.85	\$8.05	\$8.19	\$8.19
Billed Cubic Yard	\$4.73	\$4.73	\$4.80	\$4.89	\$4.95	\$4.95
Billed Cart Service	\$9.46	\$9.46	\$9.60	\$9.78	\$9.91	\$9.91
Container Maintenance Fee	\$100.00	\$100.00	\$101.51	\$103.42	\$104.77	\$104.77
15 Yard Open Top Per Pull *	\$155.00	\$155.00	\$157.34	\$160.30	\$162.40	\$162.40
20 Yard Open Top Per Pull *	\$170.00	\$170.00	\$172.57	\$175.81	\$178.11	\$178.11
30 Yard Open Top Per Pull *	\$205.00	\$205.00	\$208.10	\$212.01	\$214.79	\$214.79
40 Yard Open Top Per Pull *	\$235.00	\$235.00	\$238.55	\$243.03	\$246.21	\$246.21
Compactor - 20 cubic yards *	\$245.00	\$245.00	\$248.71	\$253.38	\$256.70	\$256.70
Compactor - 30 cubic yards *	\$245.00	\$245.00	\$248.71	\$253.38	\$256.70	\$256.70
Compactor - 40 cubic yards	\$245.00	\$245.00	\$248.71	\$253.38	\$256.70	\$256.70
Single Family Recycling/mo.	\$2.55	\$2.55	\$2.59	\$2.64	\$2.67	\$2.67
Multi-Family Recycling/mo.	\$2.04	\$2.04	\$2.07	\$2.11	\$2.14	\$2.14
Commercial Compactor	\$14.19	\$14.19	\$14.40	\$14.67	\$14.86	\$14.86
Exchange Solid Waste Cart	\$30.00	\$30.00	\$30.00	\$30.00	\$30.00	\$30.00
Additional Solid Waste Cart	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00
Reinstate Service Charge	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00

\* Per the Agreement, after October 1, 2018, the rates for Universal Collection listed are calculated at 100% of the change in CPI.