

Mayor and Council Communication

DATE: 11/09/21

M&C FILE NUMBER: M&C 21-0860

LOG NAME: 23WM RESIDENTIAL COLLECTION 12 YEAR EXTENSION - \$478,800,000

SUBJECT

(ALL) Approval of a Term Sheet Authorizing the Second Extension and Restatement of City Secretary Contract No. 28358 E-1 with Waste Management of Texas, Inc., for Collection of Residential Garbage, Refuse and Bulky Waste, Recyclables, Certain Commercial Solid Waste, Yard Waste, Construction and Demolition and Large Brush With an Approximate 12 Year Renewal Period to End April 1, 2033 for an Estimated Contract Cost of \$478,800,000

RECOMMENDATION:

It is recommended that the City Council approve the attached term sheet authorizing the terms and conditions for the Second Extension and Restatement of City Secretary Contract No. 28358 E-1 with Waste Management of Texas, Inc., for collection of residential garbage, refuse and bulky waste, recyclables, certain commercial solid waste, yard waste, construction and demolition and large brush with an approximate 12 year renewal period to end April 1, 2033.

DISCUSSION:

On November 5, 2002, Mayor and Council Communication (M&C) C-19340, the City Council authorized City Secretary Contract No. 28358 (Contract) for the collection of residential garbage, refuse and small bulky waste, recyclables, certain commercial solid waste, yard waste, construction and demolition and large brush, and large bulky waste with Waste Management of Texas, Inc. (Waste Management), which commenced on April 1, 2003. The initial contract was for a 10 year term with three 10 year renewal options. On January 15, 2013 the City Council authorized City Secretary Contract No. 28358-E1 (First Extension and Restatement) for the collection of residential garbage, refuse and bulky waste, recyclables, certain commercial solid waste, yard waste, construction and demolition and large brush which expires on March 31, 2023 and allows for the remaining two options to renew, each for a 10 year term.

In anticipation of the expiration of the current Contract term, City Staff and Waste Management have negotiated in good faith the following terms and conditions as stated in the attached Term Sheet, which Code Compliance management, as well as the City's consultant, Burns & McDonnell, recommends that the City Council approve:

- Waste Management shall waive the annual cost adjustment for Fiscal Year 2022. The waiver of the cost adjustment is projected to save the City approximately \$18.5 million over the term of the proposed 12 year extension.
- Waste Management has agreed to the customer service performance standard for Priority One Collections and Collection Day route completion as shown in the term sheet and agrees to strive towards having less than the individual quarterly goals for all four (4) solid waste services, and to target a one-time 20% reduction of Priority One Collections for Garbage and Recycling Cart collection services and a one-time 10% reduction of Priority One Collections for Yard Waste and Bulky Waste.
- The parties have agreed to revise the methodology to reimburse Waste Management for Storm Event Debris.
- Effective with the Fiscal Year 2023 (i.e., the October 1, 2022 through September 30, 2023 period) Cost Adjustment, the parties agree to change the current Cost Adjustment indices, their measurement, and their allocation to the CPI-U (Series ID: CUUR0000SEHG02) Garbage and Trash Collection at 90% and the EIA Natural Gas Texas Commercial (N3020TX3.M) index at 10%, from what is currently in the Contract ,as amended.
- The parties agree to change the 12 month index measurement period in determining the annual Cost Adjustment to be April 1 to March 31.
- The Liquidated Damages stated in the Contract shall be amended to reflect the agreed upon service performance standard and the current administrative costs to the City for failure to perform by Waste Management.
- The Second Extension and Restatement shall be for a period of approximately 12 years and shall expire on April 1, 2033.

Waste Management has agreed to make other amendments to the Contract such as:

- Performing an upgrade to all Automated Side Load (ASL) residential Garbage and Recycling collection vehicles, including Knight Waste Services residential ASL collection vehicles by installing vehicle cameras and image recognition software, known as the SmartTruck™ system technology, to help verify that Waste Management's performance of service adheres to the terms of the Contract and to assist the City in its enforcement of its Solid Waste ordinances by May 1, 2022.
- Reimbursing the City for the cost of repairing or replacing a garbage or recyclables storage cart due to damage caused by Waste Management.

Upon execution of the Term Sheet, the parties shall negotiate in good faith a Second Extension and Restatement of the Contract to incorporate these terms and conditions, as approved by City Council. Upon satisfaction of the City Manager that the Second Extension and Restatement meet the intent of the Term Sheet, the parties shall execute the agreement and the new term shall begin.

The estimated cost for these collection services for Fiscal Year 2022 is \$39,900,000, which includes waiving the annual cost adjustment. The estimated value of this Contract over the 12 year term is \$478,800,000. The estimated contract amount does not constitute a not to exceed limit on the contract, as the unit prices paid to Waste Management are adjusted annually by the cost adjustment, growth of the City, storm events and

other variable factors.

M/WBE - Waste Management agrees to maintain its initial M/WBE commitment of 25% that it made on the original Contract and extend and maintain the same M/WBE commitment of 25 percent to all prior amendments up to and inclusive of this Second Extension and Restatement. Therefore, Waste Management remains in compliance with the City's M/WBE Ordinance and attests to its commitment by its signature on the Acceptance of Previous M/WBE Commitment form executed by an authorized representative of its company.

RENEWAL OPTIONS - This Contract may be renewed for up to one remaining consecutive ten year term at the City's option. This action does not require specific City Council approval provided that the City Council has appropriated sufficient funds to satisfy the City's obligations during the renewal term and provided all terms and conditions remain the same.

A Form 1295 is not required because: This contract will be with a publicly-traded business entity or a wholly-owned subsidiary of a publicly-traded business entity: Waste Management

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendation funds are available in the operating budget, as appropriated, in the Solid Waste Fund. Prior to an expenditure being incurred, the Code Compliance Department has the responsibility to validate the availability of funds.

Submitted for City Manager's Office by: Valerie Washington 6199

Originating Business Unit Head: Brandon Bennett 6322

Additional Information Contact: David B. Carson 6336

Expedited