

AM NO. 10-254 (C19)

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: December 7, 2010

SUBJECT: **APPROVAL OF AMENDMENT TO GARBAGE, RECYCLABLES AND YARD DEBRIS COLLECTION CONTRACT WITH WASTE MANAGEMENT**

I. RECOMMENDED ACTION:

Approve Contract Amendment No. 3 to the Comprehensive Garbage, Recyclables and Yard Debris Collection Contract with Waste Management.

II. DEPARTMENT CONTACT PERSONS:

Bill Campbell, Director of Public Works	425-556-2733
Ron Grant, Assistant Public Works Director/City Engineer	425-556-2742
Jerallyn Roetemeyer, Natural Resources Division Supervisor	425-556-2824

III. DESCRIPTION:

The City's collection contract with Waste Management of Washington, Inc. (WM) will expire on February 28, 2011. The existing contract contains a provision which allows the City, at its option, to extend the agreement for up to two, two-year extensions under the original terms and conditions.

To adequately determine whether to exercise this option, the City hired Epicenter Services, LLC, to do an evaluation. Epicenter is the same consultant that facilitated the contract negotiation process in 1994. Their summary, *City of Redmond's Solid Waste Collection Contract Options, March 30, 2010*, outlines possible options and ultimately recommends that the City exercise a two-year extension option with a contract amendment that would allow for some modifications without affecting contract rates. Staff presented this recommendation to the Planning and Public Works Committee on May 6, 2010, and November 4, 2010. The committee endorsed this recommendation and directed staff to bring the contract amendment to the full City Council for approval.

IV. IMPACT:

Service Delivery: This contract amendment falls under the terms and conditions of the original contract. Minor service and delivery impacts under this amendment are intended to improve customer service and options. They include:

- a. Allowing the use of smaller yard debris carts upon customer request. The current contract sets yard debris cart size at 96-gallons. Under the contemplated change, customers could request a 32-gallon or 64-gallon cart if they have less food waste/yard debris and do not want a full-sized cart.
- b. Adding additional recyclables to existing collection programs, such as plastic cups, as well as clarifying the rules for scrap metal.

Fiscal: Redmond's existing garbage rates are some of the lowest in King County compared to neighboring jurisdictions that have recently renewed their garbage contracts. If approved, garbage collection service and rates under this amendment will essentially be the same as under the existing contract. Commercial organics recycling would be provided by Waste Management at no additional charge to the customer or the City. To offset the cost for commercial organics recycling, the following changes are proposed.

- a. Establish a nominal mark up on drop box disposal fees. Under the current contract, disposal charges are directly passed through to drop-box customers without mark up.
- b. Raise the percentage rate at which the Consumer Price Index (CPI) can be applied from 70% to 100%.

Other minor changes proposed include 1) changing the current annual rate adjustment formula from an open-ended application of the Consumer Price Index to a limited range of 0 to 8%, 2) allowing Waste Management to seek payment for electronics recycling through the State electronics return program which would then be returned to the City, and 3) allowing the administrative fee to be changed by the City in any year.

V. ALTERNATIVES:

City Council could choose to not extend the current contract and begin a process to negotiate a new contract through a Request for Proposal (RFP) process. It is likely that rates will increase when the City negotiates a new contract.

ATTACHMENT A

City of Redmond and Waste Management of Washington, Inc. **Comprehensive Garbage, Recyclables and Yard Debris Collection Contract**

Contract Amendment #3

This contract amendment is made between the City of Redmond, Washington, hereafter “the City” and Waste Management of Washington, Incorporated, hereafter “Contractor.”

WHEREAS, the City and Contractor in 2003 entered into an agreement entitled “Comprehensive Garbage, Recyclables and Yard Debris Collection Contract,” hereafter “Contract,” and

WHEREAS, the City and Contractor amended that Contract in 2007 to incorporate commercial foodwaste collection; and

WHEREAS, the City and Contractor amended that Contract in 2009 to address the impacts of a negative CPI value and the need for interim funding for the City’s Commercial Foodwaste program; and

WHEREAS, the terms of that Contract expire February 28, 2011, and

WHEREAS, under the terms of the Contract, the City may extend the agreement for up to two (2) extensions, each of which shall not exceed two (2) years in duration, and

WHEREAS, Section 6.15 of the Contract provides that the City and Contractor may negotiate in good faith the provision of additional services which may be authorized by written amendment; and,

WHEREAS, the City would like to extend the Contract with various modifications that, among other things, clarify collected Recyclables, stabilize Commercial Foodwaste funding, expand the range of Yard Debris Carts provided to Customers, and modify the CPI adjustment formula, upon the terms set forth herein; and

NOW, THEREFORE, in consideration of these mutual benefits and promises, the parties hereby agree as follows:

1. Contract Amendment #2 dated January 25, 2010 is hereby replaced and superceded by this Amendment #3. For purposes of clarification, the \$25,000 fee paid to the City during 2010 under Amendment #2, shall not carry forward beyond December 31, 2010.
2. The City hereby exercises the first two-year extension option of the Contract, thereby extending the term of the Contract through February 28, 2013, and retains its option to exercise the second two-year extension in the future, in accordance with Section 1 of the original Contract.
3. The Commercial Foodwaste services described in Amendment #1 to this Contract shall be provided without limit to all requesting Commercial Customers at no additional charge to the Customer or the City; provided, however, that in the event the total number of Commercial Foodwaste customers increases by more than 200% above the baseline customer account level in place as of November 1, 2010, then the Contractor may seek a rate adjustment under the Contract to compensate Contractor for its increased costs, and such a request for adjustment (supported by Contractor with cost documentation) shall not be unreasonably withheld by the City.
4. The following sections of the Contract shall be added, replaced or modified as indicated:

Revised Definition: Recyclables: The word “Recyclables” means aluminum cans; corrugated cardboard; glass containers; Mixed Paper; motor oil, newspaper; recyclable plastic containers that have contained non-hazardous products including cold drink cups; polycoated cartons; scrap electronics, Scrap Metals; textiles, tin cans; and such other materials that the City determines to be recyclable.

Revised Definition: Scrap Metals: The term “Scrap Metals” means ferrous and non-ferrous metals not to exceed two (2) feet in any direction and thirty-five (35) pounds in weight per piece, including small appliances that are primarily metal. Eligible small appliances include but are not limited to: newer microwaves with flat “touch control” surfaces, toaster ovens, blenders (bottom only), curling irons, kitchen hand mixers, food processors, metal coffee pots, irons, waffle irons, etc. Examples of Scrap Metals include engine parts, tire rims, bike parts, hinges, door locks, short pieces of metal pipe, barbeques.

Revised Definition: Yard Debris Cart: The term “Yard Debris Cart” means a City-owned or Contractor-provided 35, 64 or 96-gallon wheeled cart provided to all Single-family Residences and to subscribing Multifamily Complexes and Commercial Customers for the purpose of containing and collecting Yard Debris.

2.1.15.2 Garbage, Recyclables and Yard Debris Carts (First paragraph only is replaced with following, remainder of section is unrevised):

The Contractor shall provide 20-, 35-, 64- and 96-gallon Garbage Carts for the respective level of Garbage collection; 35-, 64- or 96-gallon Recyclables Carts; and 35-, 64- or 96-gallon Yard Debris Carts. All carts shall be manufactured from a minimum of 10 percent (10%) and up to 25 percent (25%) post-consumer recycled plastic, with a lid that will accommodate a Contractor affixed screening or label. Carts shall be provided to requesting customers within seven (7) days of the customer’s initial request. All wheeled cart colors shall be approved in writing by the City prior to the Contractor ordering a cart inventory. All carts must have materials preparation instructions and telephone and website contact information printed on a sticker on the lid. The initial distribution of Recycling Carts shall not be screened, molded-in, molded-on, imprinted, or otherwise labeled, with the Contractor’s logo or company name.

3.1.3 Drop-Box Disposal Surcharge (New Section)

The Contractor shall invoice Drop-Box Garbage Customers the direct disposal amount charged by King County increased by five percent (5.0%). The Contractor shall retain the first fifty-thousand dollars (\$50,000.00) of annual revenue generated by the five percent surcharge. Amounts collected in excess of fifty-thousand dollars (\$50,000.00) from the surcharge shall be remitted to the City annually, minus the amount the Contractor pays in State business and occupation tax on all collected excess revenue related to the surcharge.

By January 30th of each year, the Contractor shall provide the City with:

1. a log listing each Drop-Box haul showing date, customer, tonnage of each load and amount of surcharge collected for the prior year as well as the total amount of surcharge collected during the prior year; and
2. payment to the City of all amounts collected by the Contractor during the prior year in excess of fifty-thousand dollars (\$50,000), minus the State B&O tax, as described above. The payment may be made via check or electronically to the account specified by the City.

3.2.2 E-scrap Rebate (New Section)

The City and Contractor agree that the scrap electronics provisions contained in this contract are intended to provide Customers with a convenient collection e-scrap collection service to complement Washington State’s e-scrap recycling program. City Customers pay for the cost of collection through their rates. City Customers purchasing new electronics by implication also pay for the State’s e-scrap program through the costs embedded in the price of new electronics. Accordingly, the Contractor will recover the recycling fees associated with the collected electronics, and agrees to refund those monies to the City annually, by January 30th of each year.

3.2.3 Changes to Administrative Fee (New Section)

The administrative fee amount may be changed by the City in any year, provided that the change is synchronized with the annual Contractor rate modification described in Section 3.3 and that the Contractor's rates are adjusted accordingly to pass through any changes in the administrative fee such that the Contractor remains whole. The City shall notify the Contractor of the new administrative fee for the following year by September 1st, and the Contractor shall itemize and include the appropriate adjustment in its Rate Adjustment Statement provided October 1st of each year. In the event that the administrative fee is adjusted, either up or down, the Contractor shall add or subtract an amount equivalent to the state business and occupations tax (1.8% in 2010), as may be adjusted from time to time by the State of Washington, to the rate adjustment calculation to keep the Contractor whole.

3.3.1 Annual CPI Modification (Replace entire section)

The Contractor's collection service charges, excluding waste disposal fees, for each level of service shall increase or decrease each year by one hundred percent (100%) of the annual percentage change in the Consumer Price Index for the Seattle-Tacoma-Bremerton Metropolitan Area for Urban Wage Earners and Clerical Workers, all items (Revised Series) (1982-84=100) prepared by the United States Department of Labor, Bureau of Labor Statistics, or a replacement index. Adjustments shall be based on the twelve (12) month period ending June 30th of the previous year, except for the January 1, 2011 adjustment which shall be based on the twenty-four (24) month period ending June 30th of the 2010 as outlined in paragraph 5 of Contract Amendment #2.

Annual adjustments shall neither be negative nor greater than eight percent. In the event the CPI index series decreases year-on-year, the service component of Customer rates shall remain unchanged. In the event that the CPI index series increases year-on-year more than eight percent, the increase in the service component of Customer rates shall be capped at eight percent.

Adjustments to the Contractor's collection service charge shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when making adjustments.

Rates shall be adjusted annually, beginning January 1, 2011. The Contractor shall submit to the City for review and approval a Rate Adjustment Statement, calculating the new rates for the next year, on or by October 1st of each year. The City shall have thirty-one (31) days to approve or disapprove the new rates. On City approval, the new rates shall take effect on January 1st of the following year, and customers shall be notified by November 15th, forty-five (45) days prior to the new rate. Should ratepayers not receive notification by November 15th, due to missed deadlines by the Contractor or rate disapproval by the City, implementation of the new rates shall be delayed by one month without opportunity for recovery of lost revenue.

3.3.5 Change in B&O Tax Rate (new section)

The Washington State legislature recently enacted a temporary increase in the business and occupations tax rate applicable to the services provided by Contractor under this Contract. As part of its rate adjustment calculation for the contract year beginning January 1, 2011, Contractor may adjust its rates under this Contract to compensate Contractor for the increased costs it will incur as a result of the new B&O tax rate. In the event the legislature enacts future adjustments to the prevailing B&O tax rate (upward or downward), such adjustments shall be factored into the Contractor's annual rate adjustment calculation, in addition to the other adjustment items set forth under this Section 3.3.

5. In all other respects the Contract shall remain in full force and effect.

Dated this _____ day of _____, 2010

WASTE MANAGEMENT OF WASHINGTON, INC.

CITY OF REDMOND

By _____

By _____
John Marchione, Mayor

Name _____

ATTEST:

Title _____

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney