

**CITY OF RIVIERA BEACH CITY COUNCIL  
AGENDA ITEM SUMMARY**

MEETING DATE: November 16, 2011

AGENDA ITEM SUMMARY NO. L11-112-1

- AWARDS / PRESENTATIONS / PETITIONS
- CONSENT
- PUBLIC HEARING
- ORDINANCE ON SECOND READING
- PUBLIC HEARING
- ORDINANCE ON FIRST READING

- REGULAR
- RESOLUTION
- DISCUSSION & DELIBERATION
- BOARD APPOINTMENT
- WORKSHOP

**SUBJECT:** Consideration of the First Amendment to the Solid Waste and Recycling Collection Franchise Agreement with Waste Management.

**RECOMMENDATION / MOTION:** Approve the First Amendment to Franchise Agreement.

**DEPARTMENTAL APPROVAL REVIEW & DATE**

Assistant City Manager	Library - N/A
• City Attorney <i>PAE 11/10/11</i>	Marina - N/A
• City Clerk <i>CA</i>	Police - N/A
Community Development - N/A	Public Works - N/A
• Finance <i>KA</i>	Purchasing - N/A
Fire - N/A	Recreation & Parks - N/A
Human Resources - N/A	Water & Sewer - N/A
Information Technology - N/A	Other - N/A

APPROVED BY CITY MANAGER: *Ruth C. Jones*

DATE: 11-10-11

<b>Originating Dept.</b> City Attorney's Office <i>Panel H. Ry</i>	<b>Costs:</b> <u>\$0.00</u> <b>Current FY:</b> _____ <b>Funding Source:</b> <input type="checkbox"/> Capital Improvement <input type="checkbox"/> Operating <input type="checkbox"/> Other:  <b>Budget Account Number:</b> N/A	<b>City Council Actions:</b> <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/conditions <input type="checkbox"/> Denied _____ <input type="checkbox"/> Tabled to _____ <input type="checkbox"/> Referred to Staff _____
<b>User Dept.</b> City Council		
<b>Advertised:</b> Date: Paper: <input checked="" type="checkbox"/> Not Required  <b>Affected Parties</b> <input type="checkbox"/> Notified <input checked="" type="checkbox"/> Not Required		<b>Attachments:</b> 1. Resolution 2. 1 <sup>st</sup> Amendment to Solid Waste and Recycling Collection Franchise Agreement

**BACKGROUND/SUMMARY:** On February 2, 2011, the City Council approved Resolution No.: 13-11 entering into a Solid Waste and Recycling Collection Franchise Agreement with Waste Management Inc. of Florida, for a five year term. The Agreement provides, in section 23.3, that Waste Management will contribute \$90,000 per year to the City for Community Benefits. The City Council adopted resolution number 63-11 on May 11, 2011, which set out the Policy for Community Benefits. Nevertheless, the Palm Beach County Commission on Ethics, at the request of the Mayor, rendered an opinion on October 7, 2011, which requires an amendment to the Franchise Agreement and Policy. The new Policy sets out the parameters for the expenditure of funds donated by Waste Management. Specifically, all requests for donations have to be approved by the City Council prior to disbursement and the funds have to be included in the City's budget. The First Amendment is consistent with the Ethics opinion and the Policy.

Staff recommends that the First Amendment to the Franchise Agreement be adopted.

**Item No. 9**

EXHIBIT A-1

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures					
Operating Costs	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
External Revenues	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Program Income (City)	_____	_____	_____	_____	_____
In-Kind Match (City)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
NO. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget?			Yes <u>X</u>	No _____	
Budget Account No.: Fund _____	Dept/Division _____		Org. _____	Object _____	Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: Pamela H. By

III. REVIEW COMMENTS

A. Finance Department and/or Purchasing/Intergovernmental Relations/Grants Comments:

Kaun  
Finance Department

\_\_\_\_\_  
Purchasing and Grants

B. Other Department Review:

\_\_\_\_\_  
Department Director

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE REVISION TO THE COMMUNITY BENEFITS SECTION 23.3 OF THE SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT WITH WASTE MANAGEMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City and Waste Management are parties to that certain Solid Waste and Recycling Collection Franchise Agreement entered into on February 2, 2011; and

**WHEREAS**, the Franchise Agreement provides in section 23.3 that Waste Management will contribute \$90,000 per year to the City for community benefits; and

**WHEREAS**, the City Council adopted resolution number 63-11 on May 11, 2011, which set out the Policy for Community Benefits which was consistent with the Agreement; and

**WHEREAS**, on October 7, 2011, the Palm Beach County Commission on Ethics, at the request of the Mayor, rendered an opinion on the Policy which necessitates a change to the Policy and the Agreement; and

**WHEREAS**, Waste Management and the City have agreed to amend the Franchise Agreement so that it is not inconsistent with the Commission's Opinion.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:**

**SECTION 1.** That the City Council approves the revision to section 23.3 of the Franchise Agreement with Waste Management as set out in the First Amendment.

**SECTION 2.** That the Mayor and City Clerk are authorized to execute the First Amendment on behalf of the City.

**SECTION 3.** That this resolution shall take effect immediately upon its passage and approval by the City Council.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

\_\_\_\_\_  
BILLIE E. BROOKS  
CHAIR PRO TEM

\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

\_\_\_\_\_  
DAWN S. PARDO  
COUNCILPERSON

\_\_\_\_\_  
SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

J. DAVIS \_\_\_\_\_

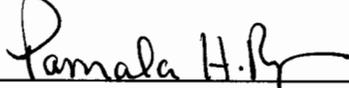
B. BROOKS \_\_\_\_\_

C. THOMAS \_\_\_\_\_

D. PARDO \_\_\_\_\_

S. LOWE \_\_\_\_\_

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, CITY ATTORNEY

DATE: 11/10/11

## **FIRST AMENDMENT TO THE SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT**

This First Amendment to the Solid Waste and Recycling Collection Franchise Agreement is made this \_\_\_\_ day of \_\_\_\_\_ 2011, by and between the City of Riviera Beach, Florida (“City”) and Waste Management Inc. of Florida (“Contractor”).

**WHEREAS**, the City and Contractor are parties to that certain Solid Waste and Recycling Collection Franchise Agreement (the “Agreement”) entered into on February 2, 2011; and

**WHEREAS**, the Agreement provides, in section 23.3, that Waste Management will contribute \$90,000 per year to the City for community benefits; and

**WHEREAS**, the City Council adopted resolution number 63-11 on May 11, 2011, which set out the Policy for Community Benefits which was consistent with the Agreement; and

**WHEREAS**, the Palm Beach County Commission on Ethics, at the request of the Mayor, rendered an opinion on October 7, 2011, on the Policy which necessitates a change to the Policy and therefore to the Agreement; and

**WHEREAS**, Waste Management and the City Council hereby amend the Agreement as follows.

**NOW, THEREFORE**, upon material consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Community Benefits Section of the Agreement as follows.

**Section 1.** That Section 23.3 of the Agreement is amended as set out below:

### **23.0. FRANCHISE FEE, ADMINISTRATIVE FEE AND COMMUNITY BENEFITS**

\* \* \*

#### **FROM:**

23.3 As a community benefit to the City, Contractor agrees to contribute the sum of \$90,000 to the City per year for use by elected officials for public purposes. The City Council shall determine by resolution what types of community services will qualify for the program. Forty-five thousand dollars (\$45,000) will be made available for use on October 1<sup>st</sup> and April 1<sup>st</sup> of every year until expiration of this Agreement and any renewals. Payment will be made by the Contractor, on behalf of the City, directly to the entity designated by the City Council. On an annual basis, Contractor will provide a written report and an oral presentation to the City Council of all community benefits and any additional monetary and in-kind services, made by Contractor.

**TO:**

23.3 As a community benefit to the City, Contractor agrees to contribute the sum of \$90,000 to the City per year for use by elected officials for public purposes. The City Council shall create a Community Benefits Policy for the expenditure of funds donated by Contractor. Forty-five thousand dollars (\$45,000) will be made available for use on October 1<sup>st</sup> and April 1<sup>st</sup> of every year until the expiration of this Agreement and any renewals. Payment will be made by the Contractor, directly to the City, and the expenditure of funds for public purposes will be made only after approval of the City Council. After approval, the City's Finance Department will make payment to the appropriate organization, and the City will send a letter to the organization acknowledging Contractor as the donor of the funds. The City agrees to consult with Contractor whenever it develops or amends its Community Benefits Policy. The City hereby acknowledges that any amendment to the Policy will not conflict with the terms of this Agreement.

**Section 2.** In all other respects, the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this First Amendment to Solid Waste and Recycling Collection Franchise Agreement on the day and date first above written.

CITY OF RIVIERA BEACH, FLORIDA

WASTE MANAGEMENT INC. OF  
FLORIDA

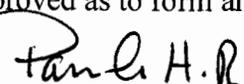
By: \_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

By: \_\_\_\_\_  
TIMOTHY B. HAWKINS  
VICE PRESIDENT

Attest:

By: \_\_\_\_\_  
CARRIE E. WARD, MMC  
CITY CLERK

Approved as to form and legal sufficiency

By:  \_\_\_\_\_  
PAMALA H. RYAN  
CITY ATTORNEY