

AGENDA ITEM

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

Deadline for Submission - Wednesday 9 a.m. following the prior BCC Meeting

August 5, 2014

BCC MEETING DATE

TO: Michael D. Wanchick, County Administrator

DATE: July 9, 2014

FROM: Neal Shinkre, P.E, Director of Public Works

PHONE: (904) 209-0266

SUBJECT OR TITLE: First Amendment to the Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste – Republic Services of Florida

Legal Review

<u> </u> BUSINESS ITEM	<u> </u> BONDS	<u> </u> PUBLIC HEARING	<u> </u> ORDINANCE	()
<u> X </u> CONSENT AGENDA	<u> </u> APPOINTMENTS	<u> </u> BID AWARD	<u> X </u> RESOLUTION	(DMM)
<u> </u> WORKSHOP	<u> </u> REPORT	<u> </u> EX PARTE COMMUNICATIONS	<u> X </u> CONTRACT	(DMM)
			<u> </u> BONDS	()

BACKGROUND INFORMATION: (Attach additional pages if necessary)

On May 20, 2014, the St. Johns County Board of County Commissioners (BCC) approved the amended and restated franchise agreement for the collection and transportation of residential waste with Republic Services of Florida. The agreement extended the contract term to July 31, 2024 and provided the County several benefits including over \$8.3 million in savings, provision of semi-automated single stream recycling services via larger containers and use of Compressed Natural Gas that would provide additional savings of over \$1.5 million.

After further review, Republic Services realized that the agreement did not contain certain terms as they may have originally intended. Consequently, they have proposed new terms that provide similar monetary benefit to the County, however, restated in a modified rate structure. Overall, the proposed rate structure allows Republic Services three years to provide rate savings to the County compared to two years in the prior approved agreement. In turn, the County will receive an increased economic benefit of approximately \$300,000 over the contract term.

Staff recommends approval of this amendment.

1. IS FUNDING REQUIRED? YES X NO **2. IF YES, INDICATE IF BUDGETED** YES NO

IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED

OMB REVIEW ()

INDICATE FUNDING SOURCE - **LIST ACCOUNT TITLE & NUMBER:** None Required

SUGGESTED MOTION/RECOMMENDATION/ACTION: Motion to adopt Resolution 2014- authorizing the County Administrator, or his designee, to execute the first amendment to the amended and restated franchise agreement for the collection and transportation of residential waste between St. Johns County and Republic Services of Florida, LP; accepting the terms of the agreements; providing for severability; and providing an effective date.

Administration: DL Initials

 X **FORWARDED TO BCC** X **SUPPORTING MATERIAL ATTACHED**

RESOLUTION NO. 2014-__

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE THE “FIRST AMENDMENT TO AMENDED AND RESTATED FRANCHISE AGREEMENT FOR THE COLLECTION AND TRANSPORTATION OF RESIDENTIAL WASTE,” ON BEHALF OF THE COUNTY, WITH REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on May 20, 2014, the Board of County Commissioners (“Board”) of St. Johns County (“County”) held a duly noticed public hearing and concluded that it is in the public interest to enter into an “Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste” (“Agreement”) with Republic Services of Florida, Limited Partnership, L.P. (“Contractor”); and

WHEREAS, on June 2, 2014, the Board’s duly authorized representative executed the Agreement with the Contractor; and

WHEREAS, the Contractor subsequently realized that the Agreement did not contain the exact terms of the proposal that the Contractor intended to offer to the County; and

WHEREAS, the Contractor has offered new terms to the County that provide additional economic benefits to the County; and

WHEREAS, the Contractor’s new terms have been incorporated into the “First Amendment to Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste” (“First Amendment”), which is attached hereto; and

WHEREAS, after considering the relevant issues at a public hearing on August 5, 2014, the Board concluded that the First Amendment provides economic benefits to the public and, therefore, it is in the public interest to enter into the First Amendment with the Contractor.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. The recitals set forth above are incorporated into the body of this resolution and are adopted as findings of fact.

Section 2. The County Administrator, or his designee, is authorized to execute the First Amendment with Republic Services of Florida, Limited Partnership, on behalf of the County, for the purposes mentioned above.

Section 3. If any provision of this resolution shall be held or deemed to be illegal, inoperative or unenforceable, the same shall not affect any other provision or cause any other provision to be invalid, inoperative or unenforceable to any extent whatsoever.

Section 4. To the extent that there are typographical or administrative errors or omissions in the First Amendment that do not change the tone, tenor, or concept of this resolution, the First Amendment may be revised without subsequent approval of the Board of County Commissioners.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this _____ day of _____, 2014.

By: _____
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

**FIRST AMENDMENT TO
AMENDED AND RESTATED FRANCHISE AGREEMENT
FOR THE COLLECTION AND TRANSPORTATION
OF RESIDENTIAL WASTE**

This "First Amendment to Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste" ("First Amendment") is made and entered into this ____ day of _____, 2014, by and between St. Johns County, a political subdivision of the State of Florida ("County"), and Republic Services of Florida, Limited Partnership, a Delaware limited partnership, which is licensed to do business in Florida ("Contractor").

WHEREAS, on May 20, 2014, the Board of County Commissioners ("Board") held a duly noticed public hearing and concluded that it is in the public interest to enter into an "Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste" ("Agreement") with the Contractor; and

WHEREAS, on June 2, 2014, the Board's duly authorized representative executed the Agreement with the Contractor; and

WHEREAS, the Contractor subsequently realized that the Agreement did not contain the terms of the proposal that the Contractor intended to offer to the County; and

WHEREAS, the Contractor has offered new terms to the County that provide additional economic benefits to the County; and

WHEREAS, the County and Contractor are willing to accept the new terms and conditions contained herein; and

WHEREAS, the Board considered this First Amendment at a duly noticed public hearing on August 5, 2014 and concluded that this First Amendment is in the public interest.

NOW, THEREFORE, in consideration of the mutual covenants contained in this First Amendment and the other good and valuable consideration provided by the Parties to each other, the receipt and sufficiency of which are hereby acknowledged, the County and the Contractor agree to be bound by and comply with all of the terms and conditions of this First Amendment, as set forth below.

SECTION 1. Section 9.2 (CPI Adjustment) of the Agreement is hereby amended in the manner shown below:

Once each year, the County shall adjust the Contractor's Rates, upward or downward, to reflect the percentage change in the consumer price index (CPI) that occurred during the preceding twelve months. However, the CPI adjustment shall not exceed four percent (4%) in any one year (i.e., the CPI adjustment shall not be greater than four percent (4%) of the Rate in effect immediately before the adjustment occurs). The CPI adjustments shall be based on the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area.

Each CPI adjustment shall take effect on October 1; however, there shall be no CPI adjustment in October 2014. The first CPI adjustment shall take effect on October 1, 2015~~4~~. The CPI adjustment shall reflect the percentage change in the CPI, measured from April 1st in the previous calendar year to March 31st of the calendar year in which the adjustment will occur. The percentage change in the CPI shall be calculated by using the following formula:

PC equals CPI 1, divided by CPI 2, minus 1.0, multiplied by 100

Where:

PC is the percentage change in the CPI from one year to the next

CPI 1 is the CPI index number for the most recent April (e.g., April 2015~~4~~)

CPI 2 is the CPI index number for April in the year before CPI 1 (e.g., April 2014~~3~~)

Notwithstanding the foregoing provisions of this Section 9.2, the CPI adjustments that shall take effect on October 1, 2015, 2016, and 2017, shall be

calculated in a different manner. Specifically, after the CPI adjustments for October 1, 2015, 2016, and 2017, are ~~is~~ calculated in accordance with the procedures described above, the amount of the increase or decrease in the Rates shall be reduced by an additional two percent (2%). For example, if the CPI adjustment for October 1, 2015~~6~~ is calculated to increase the Rates by three percent (3%), the actual CPI adjustment shall only increase the Rates by one percent (1%). Similarly, if the CPI adjustment for October 1, 2015~~6~~ is calculated to increase the Rates by one-half of one percent (0.5%), the actual CPI adjustment shall reduce the Rates by one and one-half percent (1.5%).

SECTION 2. Section 9.11 (Diesel Fuel Adjustment Fee) of the Agreement is hereby amended in the manner shown below:

* * * * *

The "Base Fuel Price" (BFP) will be set at \$2.94
~~3.2251~~ per gallon, beginning August ~~April~~ 1,
2014.

* * * * *

SECTION 3. Exhibit D (Contractor's Rates) of the Agreement shall be amended in the manner shown below:

* * * * *

1 DAY A WEEK COLLECTION OF GARBAGE: \$6.79 ~~6.54~~,
beginning August 1, 2014

1 DAY A WEEK COLLECTION OF RECYCLABLES: \$3.37 ~~3.12~~,
beginning August 1, 2014

1 DAY A WEEK COLLECTION OF YARD WASTE: \$1.69,
beginning August 1, 2014

TOTAL: \$11.85 ~~11.35~~, beginning August 1, 2014

* * * * *

SECTION 4. The preceding sections of this First Amendment show the changes that are being made to the Agreement. In this First Amendment, additions to the Agreement are underlined and deletions are shown with stricken text (e.g., ~~strike-throughs~~).

SECTION 5. The Agreement shall remain in full force and effect, except as explicitly revised in this First Amendment.

IN WITNESS WHEREOF, the County and the Contractor have executed this First Amendment as of the date first written above.

ATTEST: BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY

Clerk

By: _____

_____, Chair

APPROVED AS TO FORM AND
CORRECTNESS:

COUNTY ATTORNEY'S OFFICE

CONTRACTOR

By: _____

(Print or Type Name and Title)

Witness

Signature of Witness

Print or Type Name of Witness

Witness

Signature of Witness

Print or Type Name of Witness