

RESOLUTION NO. 2021-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING AMENDMENT NO. 3 TO THE CITY'S AGREEMENT WITH WASTE MANAGEMENT OF TEXAS, INC. FOR THE COLLECTION OF WASTE AND RECYCLABLES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS FOR SUCH AMENDMENT; APPROVING THE AUTOMATIC FIVE-YEAR RENEWAL TERM OF SAID AGREEMENT WITH WASTE MANAGEMENT OF TEXAS, INC.; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City and Waste Management of Texas, Inc. executed a Municipal Solid Waste Collection and Transportation Agreement which took effect on March 1, 2017, and an Amendment No. 2, signed on or about October 10, 2017 (collectively, the "Agreement"); and

WHEREAS, the facility accepting recyclables for Waste Management of Texas, Inc. has discontinued its service; and

WHEREAS, Waste Management of Texas, Inc. and the City desire to amend the terms of the Agreement to provide for the changed condition and additional terms relating to the City's recyclables as set forth in the proposed Amendment No. 3 attached to this Resolution as **Exhibit "A"** and incorporated herein by reference for all purposes; and

WHEREAS, the City Council also intends for the Agreement, as amended, to automatically renew for an additional five-year term, under the terms and conditions as set forth in the Agreement, Amendment No. 2, and Amendment No. 3.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

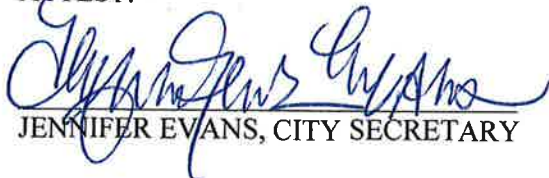
SECTION 1: That Amendment No. 3 to the Agreement with Waste Management of Texas, Inc., is hereby approved, and the City Manager is authorized to execute the necessary documents to enter into such Amendment under the terms and conditions set forth therein.

SECTION 2: That the City Council approves the automatic renewal of the Agreement with Waste Management of Texas, Inc., for an additional five-year term, under the terms and conditions as set forth in the Agreement, Amendment No. 2, and Amendment No. 3.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **8th** day of **February, 2021**.

ATTEST:


JENNIFER EVANS, CITY SECRETARY


BOB BRUGGEMAN, MAYOR

6:25 p.m.

**Amendment No. 3 to
Municipal Solid Waste Collection
And Transportation Agreement**

The City of Texarkana, Texas (“City”) and Waste Management of Texas, Inc. (“Contractor”), both acting by and through their duly authorized representatives, desire to amend, as more particularly set forth below, the Municipal Solid Waste Collection and Transportation Agreement between the City and Contractor, which took effect on March 1, 2017, and Amendment 2, signed on or about October 10, 2017 (collectively, the “Agreement”).

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, and pursuant to Section 23 of the Agreement, the parties agree to amend the Agreement as follows:

1. Section 5.08 (iii)(a) of the Agreement as set out in Amendment No. 2, and entitled “Additional Services,” is hereby replaced with the following language:
 - (a) Contractor shall provide the City with 100, 30-yard Roll-Off Bin hauls annually (January 1 through December 31) for house demolition, neighborhood cleanups, or other City projects. In lieu of 30-yard Roll Off Bins hauled by Contractor, City may substitute hauls by City trucks and count those hauls as part of the 100 total. The designated annual time frame under Amendment 2 remains as a Calendar Year January 1 through December 31.
2. Contractor has requested an increase in Base Rates in the Agreement due to the decision of the third-party facility that was processing the Residential Recyclables to cease accepting and processing those materials. Contractor requested an increase in the Base Rates of \$3.42 per Residential Unit per month to offset the increase in its costs for handling Residential Recyclable Materials. The City and Contractor have agreed to the following language to compensate Contractor for the increase in its costs:

The City has approved an increase to the current Base Rates (\$20.82) by \$3.42 per Residential Unit per month for the collection of Residential Waste and Recyclable Materials on the following conditions:

- (a) One-half, or \$1.71, of the Residential Unit per month increase shall take effect on the date Contractor begins transporting Residential Recyclable Materials it collects within the City to one of the Material Recovery Facilities (“MRF”) that Contractor owns. Contractor expects such transportation to its MRF to begin on or before October 1, 2021 so long as it has received all necessary local and state approvals for the transfer station Contractor will use in providing the Residential Unit recycling services. Contractor shall provide City written notice once such transportation of Recyclable Materials to Contractor’s own MRF has commenced. If Contractor fails to commence the transportation of Residential Recyclable Materials to one of its MRF

facilities for processing by October 1, 2021, then City shall be released from the exclusivity provisions set forth in the Agreement as it pertains to the collection of Recyclable Materials and City shall be free to contract directly with another provider to provide Recyclable collection, transportation and processing services. In such event, City will have the right, but not the obligation, to allow Contractor to continue to collect, transport and dispose of such Recyclable Materials until such time as the City may contract directly with another provider. If the collection and processing of Recyclable Material ends, City shall be entitled to a reduction in the base residential rate of \$6.40 per month per household.

- (b) In the event transportation of the Recyclable Materials has commenced as set forth above, the remaining \$1.71 of the increase to Base Rates attributed to the transportation and processing of Recyclable Materials to Contractor's MRF shall be implemented effective October 1, 2022.
- (c) The increase set forth in Paragraph 2 of this Amendment does not supersede or supplant Contractor's entitlement to adjust its Base Rates in 2021 as prescribed in sections 9.01 and 9.02 of the Agreement.

4. A new section 5.03(e) is added to the Agreement as follows:

Contractor agrees to provide City with reports on a monthly basis detailing the percentage of unacceptable Recyclable Material (contamination rate). Contractor shall tag any Customer recyclable containers that are contaminated instructing the Customer of acceptable materials. In the event the continued level of contamination in the Recyclable Materials has the effect of substantially increasing Contractor's cost, or if there is a change in law, or a substantial change in market conditions, Contractor has the right to submit documentation evidencing such and petition the City for consideration of those additional costs of handling and processing Recyclable Materials. Both parties agree to engage in good faith negotiations to resolve this issue within 90 days after the City receives written notice of the change in conditions. Contractor acknowledges any changes are subject to City Council approval. Nothing herein shall be construed to require or create an obligation on City to pay Contractor for the increased costs in the event the parties cannot reach a mutual agreement.

5. Nothing contained herein shall be deemed to amend or modify the Agreement, except as expressly set forth herein. In the event of a conflict between the terms of the Agreement and this Amendment No. 3, the terms of this Amendment No. 3 shall control.

EFFECTIVE AS OF THE date last signed below.

CITY:

Texarkana, Texas

CONTRACTOR:

Waste Management of Texas, Inc.

By: Shirley Jaster
Title: City Manager
Date: 2-10-2021

By: [Signature]
Title: PRESIDENT
Date: 2-7-21