



# City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

479-575-8323 TDD -

479-521-1316

## Text File

**File Number: 2014-0449****Agenda Date:** 11/6/2014**Version:** 1**Status:** Agenda Ready**In Control:** City Council**File Type:** Resolution**Agenda Number:** A. 7

A RESOLUTION TO EXERCISE THE FIVE YEAR OPTION TO RENEW THE AGREEMENT WITH WASTE MANAGEMENT OF ARKANSAS, INC. FOR SOLID WASTE TRANSFER AND DISPOSAL SERVICES

**WHEREAS**, on November 3, 2009, the Fayetteville City Council passed Resolution No. 224-09 which approved a five year contract, subject to the annual appropriation of sufficient funds by the City Council, with two successive five year options to renew; and

**WHEREAS**, both Waste Management of Arkansas, Inc. and the City now desire to exercise the first five year option to renew pursuant to Section 1 the Agreement; and

**WHEREAS**, the City Administration recommends that the City Council authorize renewal of the next five year term to this Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby agrees that it is the best interest of our citizens to exercise, along with Waste Management of Arkansas, Inc., the option to renew the original Agreement for a second five year period under the terms of the original Agreement and authorizes Mayor Jordan to sign the first amendment to the Agreement.

City of Fayetteville Staff Review Form

2014-0449

Legistar File ID

11/6/2014

City Council Meeting Date - Agenda Item Only  
 N/A for Non-Agenda Item

Jeff Coles

10/15/2014

Recycling & Trash Collection /  
 Transportation Services Department  
 Division / Department

Submitted By

Submitted Date

Action Recommendation:

Approval of a 5 year term contract renewal with Waste Management of Arkansas for hauling and disposal of municipal waste.

Budget Impact:

Various		Recycling and Trash Collection	
Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	Yes	Item Cost	
Budget Adjustment Attached?	No	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution # 224-09

Original Contract Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Comments: The current budget and item cost cells have been left blank due to the fact that funds for the hauling and disposal of municipal waste are budgeted in various programs and multiple accounts within the Recycling & Trash Collection Fund. Also, because this contract renewal spans multiple years, future year budgets are unknown at this time.



## CITY COUNCIL AGENDA MEMO

### MEETING OF NOVEMBER 6, 2014

**TO:** Mayor and City Council

**THRU:** Terry Gulley, Transportation Services Director  
Don Marr, Chief of Staff

**FROM:** Jeff Coles, Director of Recycling and Trash Collection

**DATE:** October 15, 2014

**SUBJECT: Waste Management Contract Renewal**

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#### **RECOMMENDATION:**

Staff recommends the approval of a 5 year term contract renewal with Waste Management of Arkansas for hauling and disposal of municipal waste

#### **BACKGROUND:**

In November of 2009, the City Council passed Resolution 224-09 approving a contract with Waste Management of Arkansas for the hauling and disposal of municipal waste from the City's transfer station. The term of the of the original contract was for 5 years and included provision for the option to renew for 2 successive 5 year terms upon mutual written agreement.

#### **DISCUSSION:**

Having completed the first 5 year contract in a successful manner, both parties are in agreement to exercise the provision of the contract to extend for an additional 5 year term, from December 1, 2014 until November 30, 2019.

#### **BUDGET/STAFF IMPACT:**

Funds for hauling and disposal services are budgeted in the Recycling and Trash Collection Fund.

#### **Attachments:**

Original Contract  
Renewal Document

## City of Fayetteville, Arkansas Bid 09-61, Solid Waste Transfer and Disposal Services Contract

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This Agreement is made and entered into this 3rd day of November, 2009, by and between the City of Fayetteville, Arkansas and Waste Management of Arkansas, Inc.

### Terms & Conditions

WITNESSETH: In consideration of the terms and conditions set forth below, which constitute good and enforceable consideration, it is agreed:

1. **TERM OF AGREEMENT:** The agreement is to take effect and continue and remain in full force and effect for a period of five (5) years, and such period shall commence on December 1st, 2009 or on the date the contract is approved by the Fayetteville City Council. The parties shall have the option to renew this agreement for two (2) successive five (5) year terms upon mutual written agreement. The option to renew can be made effective by written notification from either party to the other party no later than ninety (90) days prior to the expiration of the contract term. This contract will be subject to the annual appropriation of sufficient funds for this contract in the budget by the Fayetteville City Council.

2. **SCOPE OF SERVICE:** The Contractor shall be responsible for the performance of all services reasonably necessary to provide for the proper disposal of all of the residential and commercial waste generated within the City of Fayetteville. Goods and services to be provided by Contractor under the terms of this agreement shall include but not be limited to the following:

- a) Transporting of all solid waste shall be so contained, tied, or enclosed, that leaking, spilling or blowing of waste is prevented. All solid waste received at the Fayetteville Transfer Station will be transported to a permitted and approved disposal site within twenty-four hours after receipt of said solid waste. The City of Fayetteville, as the Transfer Station operator, shall be responsible to load transport trailers with solid waste payload weights no greater than that required to reach gross vehicle weight limitations set by law. However, in the interest of efficiency, the operator is responsible to load solid waste in such a way that a standard "walking floor" trailer with a capacity of 115 cubic yards will contain a minimum of 20 tons of solid waste.
- b) The Contractor shall provide an adequate number of vehicles, trailers and back up equipment maintained in good physical condition and working order, all labor, supervision, equipment, maintenance, fuel and necessary supplies to insure the daily systematic and orderly performance of all services specified in the contract within the required time frame.
- c) The Contractor will guarantee to the City of Fayetteville that Contractor's transport tractors, trailers and any other equipment used in the transport of accepted solid waste will be maintained in a mechanically sound, clean and uniformly painted manner at all times. There will be sufficient spare equipment available to insure daily loading transport, and disposal of all waste received at said Transfer Station within the allotted time frame. All equipment provided by the Contractor will be properly licensed and permitted by appropriate District, City, County & State authorities as required. Additionally, transport tractors will be marked with the name and telephone number of the contractor on each side of the vehicle.
- d) Preparation of required reports to all government agencies, if applicable, with copies to City of Fayetteville.
- e) Contractor shall provide to the City of Fayetteville documented proof of disposal for each load. Such documentation shall be provided to the City of Fayetteville with each invoice.

3. **FEES:** The prices and rates bid by the successful bidder shall be firm for the first two (2) years of the contract. After the first 2 years of the contract, adjustments shall be made as follows: The cost per ton rate shall be adjusted beginning December 1, 2011, by using the difference in the United States Department of Labor Index For Goods and Services from September 2010 through August 2011. This adjustment using subsequent annual USDL Index for Goods and Services numbers shall be used in December 2012 and December 2013. This inflationary index or a full renegotiation of rates by the parties may be used for subsequent renewals of the contract beyond the first five year period.

Payment shall be on a cost per ton basis. Measurement shall be from the City of Fayetteville's outbound scale numbers.

4. **SECURING FOR PERFORMANCE – BID SECURITY:** The Contractor responsible for the transportation and disposal of solid waste received at the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of said portion of the Contract. Said surety bond shall be in the amount of twenty five percent (25%) of the total bid price for the first year of the contract. Said surety bond after the first year shall be for twenty five percent (25%) of the previous year contracted volume.

The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond.

The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

5. **QUANTITIES:** The City of Fayetteville makes no warranties as to the quantities of solid waste available for transfer and disposal. The City of Fayetteville during the term of this contract shall deliver to City of Fayetteville's Transfer Station all of the municipal, residential and commercial solid waste streams collected by the City of Fayetteville except recyclable waste recycled as such.

6. **DISPOSAL SITES:** Contractor shall provide evidence satisfactory to the City of Fayetteville that the Contractor shall at all times have a commitment for adequate landfill air space adequate to exceed the projected needs of the waste to be disposed of hereunder during the term of the contract but in any case not less than 10 years. Disposal site will be in compliance with EPA Regulations, Subtitle "D" and any future subtitles or regulations required of said site. Prior to any change by the contractor of disposal site the Contractor shall provide documentation to the City of Fayetteville that such site meets specifications hereunder.

7. **REPRESENTATION OF THE CITY OF FAYETTEVILLE:** The City of Fayetteville represents that the City of Fayetteville's Transfer Station is properly and fully permitted as a solid waste transfer station by all applicable governmental authorities.

8. **DEFAULT AND TERMINATION:** Upon breach by either party to this Contract of any of its material terms and conditions, the non-breaching party shall deliver written notice to the breaching party of said breach. If the breaching party fails to cure the breach within sixty (60) days, the non-breaching party shall be entitled to declare that the breaching party is in default and the contract terminated.

9. **GENERAL SPECIFICATIONS:** The terms and conditions of this Contract include each and every general specification set forth hereinafter.

10. **ADMINISTRATIVE PROVISIONS:** This agreement constitutes the entire agreement between the parties and there are no representations, warranties, promises, covenants, agreements or contracts except as set forth herein. This agreement may not be amended except as set forth in writing and signed by authorized representatives for both parties. This agreement shall be construed under the laws of the State of Arkansas, and shall inure to the benefit of the parties hereto, their successors, assigns and representatives. This agreement may be assigned by


either party only with the prior written consent of the other party, which consent shall not be unreasonably withheld. The persons signing on behalf of the respective parties hereto warrant that they have full and proper authority to execute this agreement on behalf of the parties so represented.

11. **FREEDOM OF INFORMATION ACT:** City of Fayetteville contracts and documents prepared while performing City of Fayetteville contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

12. **ATTACHMENTS:** Bid documents referencing Bid 09-61, Solid Waste Transfer and Disposal Services and contractors bid submittal in response to Bid 09-61.

13. **JURISDICTION AND VENUE:** This agreement shall be interpreted and enforced pursuant to Arkansas law. Jurisdiction and venue shall be in Washington County, Arkansas.

IN AGREEMENT with the provisions set out above, we sign our names below on this the 3rd day of November, 2009.

By:   
CONTRACTOR  
TRACEY SHRADER  
Printed Name and Title

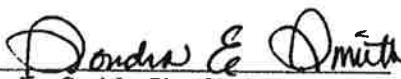
CITY OF FAYETTEVILLE, ARKANSAS

By:   
LIONELD JORDAN  
Mayor

ATTEST:

By:   
Company Secretary  
Renee Torres  
Printed Name and Title

ATTEST:

By:   
Sondra Smith, City Clerk





**FIRST AMENDMENT TO THE CITY OF FAYETTEVILLE, ARKANSAS SOLID WASTE  
TRANSFER AND DISPOSAL SERVICES CONTRACT**

This First Amendment to the City of Fayetteville, Arkansas Solid Waste Transfer and Disposal Services Contract (hereafter the "Amendment") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Fayetteville (the "City"), and Waste Management of Arkansas, Inc. (the "Contractor").

**WITNESSETH:**

**WHEREAS**, the City of Fayetteville and the Contractor have heretofore entered into a certain Agreement for Solid Waste Transfer and Disposal Services, dated on or about November 3, 2009 (the "Contract"), whereby Contractor was granted the exclusive right to provide solid waste transfer and disposal within the City of Fayetteville, as more particularly set forth in the Contract; and

**WHEREAS**, the City and Contractor desire to modify the Contract, as more particularly set forth below.

**NOW, THEREFORE**, for and in consideration of the good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties hereto agree as follows:

1. The City and Contractor agree to extend the term of the Contract for five additional years from December 1, 2014, so that the new Contract termination date is November 30, 2019. This Contract is subject to the annual appropriation of sufficient funds for this Contract in the budget by the Fayetteville City Council.
2. Nothing contained herein shall be deemed to amend or modify the Contract dated November 3, 2009, except as expressly set forth herein. In the event of a conflict between the terms of the Contract and this Amendment, the terms of this Amendment shall control.

**IN WITNESS WHEREOF**, this Amendment has been executed as of the date first set forth above.

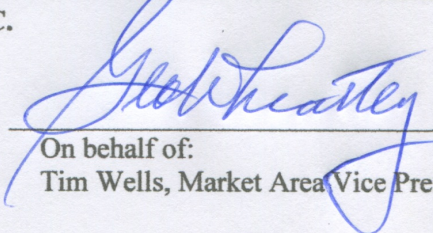
**CITY:**

**CITY OF FAYETTEVILLE, ARKANSAS**

By: \_\_\_\_\_  
Lioneld Jordan, Mayor

**CONTRACTOR:**

**WASTE MANAGEMENT OF ARKANSAS,  
INC.**

By:   
On behalf of:  
Tim Wells, Market Area Vice President

Attest: \_\_\_\_\_  
Sondra Smith, City Clerk