

Meeting Date: July 28, 2015

Agenda Item 21

REQUESTED COMMISSION ACTION:

Consent     Ordinance     Resolution     Consideration     Workshop

SHORT TITLE OR MOTION: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REINSTATEMENT AND ADDENDUM NO. 11 TO CONTRACT FOR COLLECTION AND DISPOSAL OF SOLID WASTE BETWEEN THE CITY OF POMPANO BEACH AND WASTE MANAGEMENT INC. OF FLORIDA D/B/A SOUTHERN SANITATION SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE (NO ADDITIONAL COST).

Summary of Purpose and Why: The Public Works Department is in the process of concluding negotiations with the successful bidder (Waste Management) from the Request for Proposal (RFP) for solid waste hauling services. Due to the complex nature of procuring these services, it is necessary to extend the existing contract for the collection with Waste Management. This contract extension is through October 31, 2015. This will allow time necessary to finalize the contract.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Russell Ketchem, Solid Waste Manager
- (2) Primary staff contact: Robert McCaughan, Public Works Director Ext. 4097
- (3) Expiration of contract, if applicable: July 31, 2015
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE OR ATTACHED MEMO NUMBER
Budget	<u>7-17-15</u>	<u>Approval</u>	<u>[Signature]</u>
Public Works	<u>07/16/2015</u>	<u>Approve</u>	<u>Robert McCaughan</u>
Finance	<u>7/17/15</u>	<u>Approval</u>	<u>[Signature]</u>
City Attorney	<u>7/17/15</u>		
General Services	<u>7-17-15</u>	<u>Approve</u>	<u>Casselle DeMason for Ohs Thomas</u>

Advisory Board  
 Development Services Director  
 City Manager [Signature]

[Signature]

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1st Reading <u>7/28/2015</u>	1st Reading _____	Results: _____	Results: _____
2nd Reading <u>7/28/2015</u>	_____	_____	_____
_____	_____	_____	_____



**City Attorney's Communication #2015-1230**

July 8, 2015

**TO:** Russell Ketchem, Solid Waste Manager  
**FROM:** Mark E. Berman, Assistant City Attorney  
**RE:** Ordinance – Reinstatement and Addendum No. 11 to Waste Contract

As requested, the above-referenced Agreement has been prepared and is attached at this time along with the appropriate Ordinance captioned as follows:

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REINSTATEMENT AND ADDENDUM NO. 11 TO CONTRACT FOR COLLECTION AND DISPOSAL OF SOLID WASTE BETWEEN THE CITY OF POMPANO BEACH AND WASTE MANAGEMENT INC. OF FLORIDA D/B/A SOUTHERN SANITATION SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please feel free contact me if I may be of further assistance.



MARK E. BERMAN

/jrm  
l:cor/pw/2015-1230

Attachment

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REINSTATEMENT AND ADDENDUM NO. 11 TO CONTRACT FOR COLLECTION AND DISPOSAL OF SOLID WASTE BETWEEN THE CITY OF POMPANO BEACH AND WASTE MANAGEMENT INC. OF FLORIDA D/B/A SOUTHERN SANITATION SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Reinstatement and Addendum No. 11 to Contract for Collection and Disposal of Solid Waste between the City of Pompano Beach, Florida, and Waste Management Inc. of Florida d/b/a Southern Sanitation Service, a copy of which Reinstatement and Addendum is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Reinstatement and Addendum.

**SECTION 3.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

/jrm  
7/8/15  
L:ord/2015-415

**REINSTATEMENT AND ADDENDUM NO. 11  
TO CONTRACT FOR  
COLLECTION AND DISPOSAL OF SOLID WASTE**

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**THIS REINSTATEMENT AND ADDENDUM** is made and entered this \_\_\_\_ day of \_\_\_\_\_ 2015, by and between the **CITY OF POMPANO BEACH**, a municipal corporation of the State of Florida, hereinafter referred to as "CITY," and **WASTE MANAGEMENT INC. OF FLORIDA** d/b/a SOUTHERN SANITATION SERVICE, hereinafter referred to as the "CONTRACTOR."

**WHEREAS**, that a contract between the parties commenced on October 1, 1984, providing for the collection and disposal by CONTRACTOR of solid waste generated within the city and said Contract has been amended by Addendum No. 1 through Addendum No. 10 thereto (the "Contract"); and

**WHEREAS**, the Original Agreement, as extended, has lapsed without renewal; and

**WHEREAS**, the parties desire to reinstate and to extend the term of the Original Agreement through October 31, 2015.

**WITNESSETH:**

**IN CONSIDERATION** of the mutual terms, conditions, promises, covenants and payments herein set forth CITY and BOARD agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.
2. The Original Agreement dated October 1, 1984, and subsequently amended, copies of which are attached hereto and made a part hereof as Composite Exhibit "A," shall remain in full force and effect except as specifically amended hereinbelow.
3. The parties hereto agree to extend the Original Agreement through October 31, 2015.

4. All terms, covenants and conditions contained in the Original Agreement, with the exception of the provision for the extension, hereinabove, shall remain unchanged, and the parties agree to keep, observe and perform all covenants and conditions contained herein.

5. This Agreement shall bind the parties and their respective executors, administrators, successors and assign and shall be fully effective as though the extension had been originally included in the Agreement.

**IN WITNESS OF THE FOREGOING**, the parties have set their hands and seals the day and year first above written.

**"CITY":**

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved by:

\_\_\_\_\_  
GORDON B. LINN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**"CONTRACTOR":**

Witnesses:

**WASTE MANAGEMENT INC. OF FLORIDA**  
a Florida corporation

\_\_\_\_\_

By: \_\_\_\_\_

Print Name

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_

Title: \_\_\_\_\_

Print Name

(SEAL)

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_ as \_\_\_\_\_ of WASTE MANAGEMENT INC. OF FLORIDA, a Florida corporation on behalf of the corporation. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

GBL/jrm  
7/8/15  
L:agr/pw/2015-1229

A CONTRACT BETWEEN THE  
CITY OF POMPANO BEACH  
AND  
BROWARD DISPOSAL,  
A SUBSIDIARY OF WASTE MANAGEMENT, INC. OF FLORIDA

FOR  
COLLECTION AND DISPOSAL  
OF  
SOLID WASTE

OCTOBER 1, 1984  
THROUGH  
SEPTEMBER 30, 1989

## CONTRACT

The City of Pompano Beach, a municipal corporation of the State of Florida, Broward County, Florida, shall hereinafter be referred to as "the City" and Broward Disposal, a division of Waste Management of Florida, Inc., shall hereinafter be referred to as "the Contractor".

Now, therefore, in consideration of the mutual covenants, agreements and considerations contained herein, the City and Contractor hereby agree as hereinafter set forth:

1. EXCLUSIVE RIGHT

The City grants to the Contractor the continued exclusive right and obligation to provide solid waste collection services within the City boundaries, present and future. Contractor agrees to commence servicing any newly annexed areas within twenty-four (24) hours after official written notification by the City.

2. TERM

The term of this Contract shall be for a five (5) year period beginning October 1, 1984, and terminating September 30, 1989.

3. OPTION TO RENEW

The parties hereto may extend this Contract for subsequent five (5) year renewal terms by mutual consent in writing at least

120 days prior to the expiration of the current term or extension thereof. This Contract may be terminated by either party hereto at the end of the initial term or any extension thereof by giving written notice not less than 120 days prior to the expiration of the then current term.

4. SERVICES

A. Residential and Commercial: All persons occupying or maintaining a place of residence in single, duplex or triplex family dwelling, multiple dwelling and commercial establishments shall be provided regular solid waste collection services at least two (2) times per week under this Contract; provided, however, in the event garbage is not part of the solid waste generated at a commercial establishment, collection shall occur as deemed necessary and as determined between the Contractor and the commercial customer. All units are required to receive such service. The City in its discretion may adjust the required weekly pick-up for bulk containers.

B. BULK COLLECTION:

(1) Twice (2) a year, the Contractor shall at no charge provide bulk containers at three (3) locations designated by the City for the purpose of permitting the residents of the City to bring to the containers and to dispose of their bulk items. These containers will remain at the designated sites for two (2) days. Thereafter, the Contractor shall, at no charge, properly dispose of all such items which are deposited into the containers during such periods. The City shall be responsible for notifying the residents of the place and date of such free

bulk service.

(2) The City shall at all other times continue to pick up bulk items on a daily basis for the fee it establishes.

C. Collection of City Buildings:

(1) The Contractor shall collect the solid waste at all City buildings pursuant to rates hereafter set forth. However, the City shall be entitled to a credit of \$1,000.00 per month on each bill.

(2) The Contractor shall supply the City's Public Works Department at no charge one (1) 15 cu. yd. roll-out container.

(3) The City shall be given a credit by Contractor of \$10,000.00 per year towards the costs incurred by the City in disposing of waste at the Waste Management of Florida, Inc. landfill.

5. HOURS

A. Residential: Collections shall be made in residential areas beginning at 7:00 a.m., with no service on Sunday, except in the time of emergency or to maintain schedules due to holidays.

B. Commercial: Collections shall be made between the hours of 6:00 a.m. and 9:00 p.m., with the exception of shopping centers and primarily business and industrial centers, where collections at other hours at night or early morning do not disturb the immediate residential area.

6. SPILLAGE AND LITTER

The Contractor shall not litter premises in the process of making collections, but it shall not be required to collect any waste material that has not been placed in approved containers or in a manner not herein provided. During hauling, all solid waste shall be contained, tied or enclosed so that leaking, spilling or blowing are prevented. In the event of spillage by the Contractor, the Contractor shall promptly clean up the litter.

7. APPROVED CONTAINERS

Amounts and types of solid waste placed in containers for collection shall be stored in approved containers which are defined and described in Paragraph 15 of this Contract.

8. UNAPPROVED CONTAINERS

The Contractor shall not be required to collect solid waste unless it is in approved containers, except as provided for in special haul services.

9. SPECIAL MATERIALS

The Contractor shall provide haul service for materials not routinely generated in residential areas. Said materials, i.e. construction debris, animal bedding, or other unusual materials shall be stored and placed in a manner approved by the City and the Contractor.

10. EXTRA-ORDINARY MATERIALS

Hazardous wastes, body wastes, dead animals, abandoned vehicles, vehicle parts, large equipment and parts thereto will not be collected by the Contractor unless specifically requested by the generator and agreed to by the Contractor.

11. COLLECTION EQUIPMENT

The Contractor shall have on hand at all times, in good working order, such equipment as shall permit the Contractor, adequately and efficiently, to perform its duties hereunder.

Equipment shall be purchased from nationally known and recognized manufacturers of garbage collection and disposal equipment. Garbage collection equipment shall be of the enclosed, loadpacker type and all equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. The Contractor shall have available to it at all times, reserve equipment which can be put into service and operation within two (2) hours of any breakdown. Such reserve equipment shall substantially correspond, in size and capacity, to the equipment used by the Contractor to perform its duties hereunder.

12. OFFICE

The Contractor shall establish and maintain an office within the City of Pompano Beach where such service may be applied for and complaints can be made. It shall be equipped with sufficient telephones, shall have a responsible person in charge during collection hours, and shall be open during normal business hours, Monday through Friday 8:30 a.m. to 5:00 p.m., and Saturday 8:30 a.m. to 12:00 p.m. All complaints received shall be expeditiously handled in the manner set forth in Paragraph 23 hereafter.

13. TITLE TO WASTE

Contractor shall have vested title to all solid waste materials generated and picked up by the Contractor within the

city limits of the City. The City shall have the right to direct the site of disposal of all solid wastes collected by the Contractor under this Contract.

14. DISPOSAL

All solid waste for disposal shall be hauled to a site or facility legally empowered to accept it for treatment or disposal as approved by the appropriate governing agencies.

15. DEFINITIONS

A. Types of Structures Serviced:

(1) Business -- shall mean and include all retail, professional, wholesale and industrial facilities and any other commercial enterprises offering goods or services to the public.

(2) Commercial -- shall mean and include all transient multi-dwellings and businesses.

(3) Duplex -- shall mean and include a detached two-family structure designed or intended for occupancy by two (2) families.

(4) Industrial -- shall mean establishments generating waste accumulation of metal, metal products, minerals, chemicals, rock, cement, asphalt, tar, oil, grease, glass, crockery, rubber, tires, bottles, cans, lumber, sawdust, wastes from animal packing or slaughterhouses or other materials usually created by industrial enterprises.

(5) Multi-dwelling -- shall mean and include any building or structure containing four (4) or more contiguous living units and intended exclusively for residential single persons or families. Each unit of a multi-dwelling shall be

considered a separate dwelling unit for purposes of billing, unless the multi-dwelling uses a bulk container.

(6) Residence -- shall mean and include a detached single-family structure designed or intended for occupancy by one person or by one family. Each trailer in a non-containerized area shall be deemed a "residence", each pad space shall be deemed a single-family structure.

(7) Triplex -- shall mean and include a detached three-family structure designed or intended for occupancy by three (3) families.

B. Other Terms:

(1) Container -- shall mean and include any detachable metal container designed or intended to be mechanically dumped into the packer-type garbage truck used by Contractor and varying in size from one (1) to eight (8) cubic yards.

(2) Garbage -- shall mean and include all waste and accumulation of animal, fruit or vegetable matter that attends of any nature whatsoever, which is subject to decay, putrefaction, and the generation of noxious and offensive gases or odors or which may serve as breeding or feeding material for flies or other germ-carrying insects.

(3) Garbage Can -- shall mean and include any cylindrical, light-gauge steel, plastic or galvanized receptacle, closed at one end and opened at the other, furnished with a top or lid and appropriate lifting device and of not more than thirty-two

(32) gallon capacity and not weighing more than sixty (60) pounds when full; it shall also mean plastic bags or liners not exceeding thirty (30) pounds gross weight securely tied at the top.

(4) Hazardous Materials -- shall mean wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics and those designated by Federal, State and local law, ordinance or regulation.

(5) Horticultural Trash -- shall mean accumulation of lawn, grass, or shrubbery cuttings, or clippings and dry leaf rakings, palm fronds, small tree branches, (which shall not exceed four (4) feet in length and four (4) inches in diameter), bushes, or shrubs, green leaf cuttings, coconuts, fruits, or other matter usually created as refuse in the care of lawns and yards, except large branches, trees, or bulky or non-combustible materials not susceptible to normal loading and collection in load-packer type sanitation equipment used for regular collections from domestic households. Tree trimmings and palm fronds shall be tied in bundles not exceeding four (4) feet in length, not weighing over fifty (50) pounds and placed at the curb for pickup.

(6) Non-containerized Business -- shall mean and include any business, apartment or other structure whose garbage and trash is deposited and collected by means other than a container.

(7) Receptacle -- shall mean any can, container or other waste holder as defined herein or which is required or

permitted to be used for the collection or disposal of solid waste under this Contract.

(8) Special Material -- shall mean those bulky materials or other special wastes that are not stored in standard storage containers and cannot be picked up by a normally used collection vehicle.

(9) Solid Waste -- shall mean any garbage, trash, or other material defined herein or which is required or permitted to be collected or disposed of under this Contract.

#### 16. CHARGES AND RATES

For any services required to be performed under this Contract, the charges shall not exceed the rates as fixed or provided by this Contract or any agreed change hereto. For solid wastes collected in the manner herein provided, the rates shall not exceed the following:

##### A. Garbage and Horticultural Trash:

(1) Residence, duplex and triplex without bulk containers:

Residence	7.25 per month for 2 cans 2 times per week
Duplex	6.90 per month for 2 cans 2 times per week
Triplex	6.57 per month for 2 cans 2 times per week

(2) Residence, duplex, triplex and multiple dwellings with

a) noncompactor-type bulk containers \$2.75 per cubic yard per pickup plus rental and maintenance charges as set out in Schedules A, B, C.

b) compactor-type bulk containers \$9.35 per compacted cubic yard plus rental and maintenance charges as set out in Schedules A, B, C.

(3) Multiple dwellings of four (4) or more units without

- bulk containers \$5.18 per unit per month
- (4) Commercial establishments without bulk containers \$10.00 per month for two garbage receptacles plus 5.00 per month for each additional garbage receptacle.
- (5) Trailer Parks. The charge for collections shall be \$7.01 per month per pad space for each trailer park. Trailer parks using bulk containers shall pay the rental and maintenance charges as set out in Schedule A, B, and C, plus \$2.75 per cubic yard per pickup of the bulk containers. The charges provided in this chapter for trailer parks shall be billed at the end of each month to the operator of the trailer park.
- (6) Bulk Containers. The charges for bulk containers shall be billed to and payable by the owner or lessee of the building or buildings which the bulk container services or the person requesting the collection service. However, where one bulk container serves more than one building and the buildings are owned or leased by different persons, the owners or lessees shall determine among themselves who shall be responsible for the payment for the service charge.
- (7) Commercial Business with:
- a) noncompactor-type bulk containers \$3.26 per cubic yard per pickup plus rental and maintenance charges as set out in Schedules A, B, C.
- b) compactor-type bulk containers \$11.08 per compacted cubic yard plus rental and maintenance charges as set out in Schedules A, B C.

(8) In the event the City determines, after notice and hearing, the Contractor is charging a customer a rate lower than that set out in this Agreement, after the effective date of the rates in this Agreement, said rate shall then be applied to all customers in that particular category for comparable service.

B. Non-accessible Locations: Buildings, either residential

or commercial in nature, so constructed as to be non-accessible by normal collection equipment shall be subject to rates negotiated between the Contractor and the building owners and/or tenants.

C. Special Haul Service: For items requiring special handling due to size, weight, type of material, or method of placement, the charges are to be negotiated between Contractor and generator prior to collection. If agreement cannot be reached, the matter may be submitted to the City, and the City's decision shall be binding.

D. Disposal Fees: Fees charged by any legally empowered facility to accept solid waste are subject to change and any increase or decrease thereof may be passed down to customers subject to the City's approval, which approval shall not be unreasonably withheld. Contractor agrees it will not submit a request to the City for an increase in rates due to a change in disposal fees until after October 1, 1986, unless such a request is necessitated by extraordinary circumstances.

E. Effective Date: The rates agreed upon in this Contract shall become effective as of February 1, 1984.

#### 17. LOCATION

All solid waste, both residential and commercial, shall be placed at a location, prior to scheduled collection, that is readily accessible to the Contractor's personnel.

A. Residential: Household garbage must be in receptacles which shall be placed at a single backdoor collection point. Horticultural trash must be in receptacles or tied in bundles and placed at a single collection point within six (6) feet of the

curb.

B. Commercial: Bulk containers shall be kept on the premises in a place near the street, readily accessible to the collection vehicle. Non-containerized business shall have refuse in approved receptacles which shall be placed at a single collection point, readily accessible to the collection crew and vehicle.

18. CHANGE IN COST OF DOING BUSINESS

Beginning on and after October 1, 1986, the fees or compensation payable to the Contractor for the third and subsequent years of the term hereof shall be adjusted upward or downward to reflect changes in the cost of doing business, measured by fluctuations in the Transportation Index as a component of the Consumer Price Index (CPI), as published by the U.S. Department of Labor, Bureau of Labor Statistics for the U.S. City Average. At the start of the third year (October 1, 1986) of the Contract and every year thereafter, the fees or compensation shall be increased or decreased by a percentage amount of 80% of the percentage change (as computed over a twelve month period) in the Transportation Index but not to exceed 7% in any one year computed as follows:

For the Contract year beginning October 1, 1986, the net change shall be the difference between the Transportation Index for June, 1985 and the Transportation Index for June, 1986. Adjustment for subsequent contract years shall be based upon the latest June Transportation Index figures available, i.e.: the

adjustment for the contract year beginning October 1, 1987 shall be based upon the difference between the Transportation Index for June, 1986 and the Transportation Index for June, 1987. Computations shall be made similarly each year thereafter.

If, for example, the Transportation Index for June, 1985 is "30" and it is "32.25" in June of 1986, the net percentage change for this period is an increase of 7.5%. Eighty (80%) percent of that net percentage change is 6%. Hence, since this latter figure is less than the maximum 7% increase for any one year, each fee and compensation under the Contract for the contract year beginning October 1, 1986 would be increased by 6%.

#### 19. UNUSUAL COSTS

Provision is made in paragraph 18 of adjust the base fees payable to the Contractor annually by fluctuations in the Transportation Index.

A. Unusual Costs or Changes: The Contractor may petition the City for rate adjustments at reasonable times on the basis of unusual changes in its cost of doing business; such as, but not in limitation, revised laws, ordinances, or regulations; or changes in disposal sites or rates.

B. Designation of Disposal Site: The City shall have the right to designate any licensed disposal site located within Broward County for the disposal of solid waste collected by the Contractor under this Contract. Should the City designate a site other than the North Broward Landfill site presently utilized by the Contractor, as for example, a resource recovery site located in Broward County, then the charges under this Contract shall be

changed to reflect the differences (whether an increase or decrease) between the disposal charges at the prior site as previously approved by the City under this Contract and those in effect at the new site at the time of any such site change.

C. Renegotiation by the City:

(1) The City, at its option, may request to renegotiate any term of this Contract and the Contractor agrees to participate in any such renegotiation. If a renegotiation of the rate structure is requested, the parties agree that one factor to be considered in such renegotiation shall be the rates in effect at that time in other cities in Broward County for the same or similar services.

(2) If at any time the City chooses to require the Contractor to assume the billing to, and collection from, customers who are now billed by the City, the Contractor shall do so after receipt of at least ninety (90) days written notice from the City. The fee to be charged by the Contractor shall be negotiated between the City and the Contractor prior to the Contractor commencing said billing service, but in no event shall the Contractor charge more than seventy-five (75) cents per unit, per month for such billing service. The City agrees to assist the Contractor in every way to insure that the bills which are sent by the Contractor are paid. Contractor shall bill customers in the same manner it bills the same type of customer it has in other cities.

20. BILLING

A. Non-Containerized Residential Accounts: Contractor shall bill the City for services rendered within ten (10) days following the end of the month and the City shall pay the Contractor on or before the 25th day following the end of said month. Said billing and payments shall be based upon the units being serviced as of the 15th of each said month, excluding the containerized accounts and trailers. The City shall send a certified statement to the Contractor attesting to the units on or before the 25th of the month to be billed and the City shall verify said statement. The units shall be multiplied by the price rates and schedules set forth in paragraph 16. Multiple dwellings of four (4) or more units without bulk containers shall be permitted to have the option of being charged at the per unit rate as set out in paragraph 16(A)(3) or at the garbage receptacle rate as set out in paragraph 16(A)(4).

B. Containerized Accounts, Multiple Dwellings: Contractor shall bill multiple dwelling accounts for services, container rental, and maintenance charges according to Schedules A, B and C herein set forth plus Two Dollars and Seventy Five Cents (\$2.75) per cubic yard per pick-up for loose solid waste and Nine Dollars and Thirty Five Cents (\$9.35) per cubic yard per pick-up for compacted waste.

C. Commercial Establishments: Contractor shall bill commercial accounts for services, container rental, and maintenance charges according to Schedules A, B, and C herein set forth plus Three Dollars and Twenty Six Cents (\$3.26) per cubic yard per pick-up for loose solid waste and Eleven Dollars

and Eight Cents (\$11.08) per cubic yard per pick-up for compacted waste.

D. Trailer Parks: Contractor shall bill operator of trailer park Seven Dollars and One Cent (\$7.01) per trailer pad per month.

E. Purchase of Bulk Containers: Any customer serviced by the Contractor may purchase a bulk container if:

(1) The customer agrees to hold the Contractor harmless from any damage to or caused by said container; and

(2) The container complies and is compatible with at least the same minimum requirements prescribed by this Contract for the same type of containers, if owned by the Contractor; and

(3) The customer provides a certificate of insurance naming the Contractor a co-insured on said container; and

(4) The customer in writing acknowledges and agrees that the Contractor is not responsible in any way for the container's repair or maintenance.

SCHEDULE "A"

<u>Container Size</u>	<u>Monthly Rental and Maintenance Charge</u>
2 cubic yards	<u>\$11.11</u>
3 cubic yards	<u>\$13.89</u>
4 cubic yards	<u>\$16.67</u>
6 cubic yards	<u>\$19.44</u>
8 cubic yards	<u>\$22.22</u>

The Contractor shall provide no collection service for bulk containers greater than eight (8) cubic yards. Collection of all such containers must be privately contracted for by the user

thereof.

SCHEDULE "B"

Additional charge for short rollout of containers, size 2-4 cubic yards

1 x per week	\$11.11 per month per container
2 x per week	\$22.22 per month per container
3 x per week	\$33.33 per month per container
4 x per week	\$44.44 per month per container
5 x per week	\$55.55 per month per container
6 x per week	\$66.66 per month per container

Additional charge for "long" or inclined rollouts, size 2to4 cubic yards

1 x per week	\$16.67 per month per container
2 x per week	\$33.33 per month per container
3 x per week	\$50.00 per month per container
4 x per week	\$66.66 per month per container
5 x per week	\$83.33 per month per container
6 x per week	\$99.99 per month per container

Any container requiring casters shall be charged an additional Three Dollars and Thirty-three Cents (\$3.33) per month maintenance, per container.

SCHEDULE "C"

Rental charges for compactor type bulk containers

<u>Container size</u>	<u>Monthly Rental and Maintenance Charge</u>
2 cubic yards	<u>\$33.33</u>
3 cubic yards	<u>\$41.66</u>
4 cubic yards	<u>\$50.55</u>
6 cubic yards	<u>\$58.33</u>
7 cubic yards	<u>\$66.66</u>

21. NEW AND DISCONTINUED SERVICE

A. The Contractor shall commence service at any location within the Contract area upon written notice from the Public Works Department.

B. The Contractor shall discontinue collection service at any location when set forth in a written notice sent by the City. Upon further written notification by the City, the Contractor shall resume service.

C. The Contractor shall discontinue collection service at any residence, duplex, triplex or non-containerized multiple dwelling whenever the City determines that any residence, duplex, triplex or non-containerized multiple dwelling will remain continuously unoccupied for a period of no less than three (3) months. In such event, the City shall notify the Contractor, in writing, to discontinue service at any such residence, duplex, triplex or non-containerized multiple dwelling and all charges for collection service at that location will thereafter be abated until the City directs, in writing, the Contractor to resume all collection services and the Contractor does so.

D. If any dispute should arise as to how many units are actually being serviced, e.g. how many units in any duplex are being serviced, it shall be the responsibility of the City to investigate and determine the actual number and thereafter inform the Contractor in writing.

22. PAYMENTS TO CONTRACTOR

All payments due to the Contractor by the City shall be made

out of funds under the control of the City in its public capacity. No commission member nor officer of the City of Pompano Beach is or will be held personally liable for any such payment to the Contractor under any circumstances whatsoever.

23. COMPLAINTS

All complaints received by the Contractor by 12:00 noon shall be resolved the same work day. The Contractor agrees to make all reasonable and expeditious efforts to resolve every complaint. The Contractor shall prepare a form or maintain a register in its Pompano Beach office, on a form approved by the City, on all complaints and indicate the disposition of each. Such records shall be available for City inspection at all times during business hours. The form shall indicate the day and the hour on which the complaint was received and the day and the hour on which it was resolved. When a complaint is received after 12:00 noon or on the day preceding a holiday or on a Saturday after 12:00 noon, it shall be serviced on the next working day.

24. NOTIFICATION OF CUSTOMERS

The Contractor and City shall agree as to which will notify all customers about complaint procedures, rates, regulations and day(s) of collection.

25. ROUTES AND SCHEDULES

The Contractor shall periodically provide the City with schedules of residential collection routes and keep such information current at all times. In the event of changes in routes or schedules that will alter the day of pickup, the Contractor shall notify each customer affected by mail or news

media not less than one (1) week prior to the change.

26. CONTRACTOR'S PERSONNEL

A. The Contractor shall assign a qualified person or persons to be in charge of its operations in the City and shall give the name or names to the City; information regarding experience shall also be furnished.

B. The City has the right to require that the Contractor's collection employees wear a clean uniform or shirt bearing the Contractor's name.

C. Each employee shall, at all times, carry a valid driver license for the type of vehicle being driven.

D. The City may request the dismissal of any employee of the Contractor who violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.

E. The Contractor shall provide operating and safety training for all personnel.

F. Wages of all employees of the Contractor shall equal or exceed the minimum hourly wages established by Local, State or Federal governments.

G. No person shall be denied employment by the Contractor for reasons of race, sex, age, creed, national origin or religion.

27. COLLECTION SERVICES

For the collection of horticultural trash and solid waste from residences, multi-dwellings, businesses and other establishments in the City of Pompano Beach, the Contractor shall

do and perform the following:

A. Furnish residential solid waste and horticultural trash collection service to all persons occupying or maintaining a place of residence in single, duplex, or triplex family dwellings within the Contract area. Two (2), thirty-two (32) gallon cans of solid waste shall be collected at the back door two (2) times per week and an unlimited number of cans or properly bundled and tied bags of horticultural trash shall be collected, if placed within six (6) feet of the curb, at least twice each week. The said collections shall be made beginning at 7:00 a.m., with no service on Sundays, except in time of emergency or to maintain schedules due to holidays. Where underground cans exist, and after dumping by the Contractor, the Contractor agrees to properly replace each can and to reclose each lid covering it.

B. Furnish to commercial establishments, including but not limited to multi-dwellings, institutions, business and industrial units operated or carried on in the Contract area, commercial solid waste and horticultural trash collection service two (2) times per week if garbage is part of the solid waste generated, and if not, as is deemed necessary and as established between the Contractor and the customer. Where necessary to protect the public health, the City shall have the authority to require more frequent collections and require the user to pay for such additional service. The City in its discretion may adjust the required weekly pick-up for bulk containers.

C. The Contractor may sell containers at a reasonable price or furnish containers for a reasonable rental or maintenance fee

to all businesses and other establishments which generate more than two (2) cubic yards of refuse per week, which containers shall be picked up and emptied at such times as shall insure adequate and sanitary refuse removal services at such locations.

D. Deposit all horticultural trash and solid waste collected hereunder in approved sites or facilities legally empowered to accept it as approved by the County and State agencies.

E. All solid waste required to be collected by the Contractor under subparagraphs (A) and (B) hereof shall be placed in garbage cans, containers or bags. All residences, noncontainerized businesses and noncontainerized multi-dwellings shall provide garbage cans in such number as to receive and retain, without spillage, solid waste accumulation of four (4) days from each such residence, business or dwelling unit.

F. All routing and scheduling of trucks used by the Contractor for the pickup of trash and solid waste from cans or containers shall be left to the discretion of the Contractor. The schedule of pickups during each week shall be spaced as reasonably equal as possible so as to assure maximum efficiency of operation and to accomplish the purposes of this Contract.

G. All garbage cans at residences, noncontainerized businesses and noncontainerized multi-dwellings shall be readily accessible to the Contractor's crew. All containers at containerized businesses or containerized multi-dwellings shall be readily accessible by the collection vehicle and not blocked.

H. The Contractor shall not be required to, but may, pick up solid waste on legal holidays.

I. Employees of the Contractor shall not be required to expose themselves to the danger of being bitten by vicious dogs in order to perform their duties hereunder.

J. Under no circumstances will the Contractor be obligated to supply garbage cans for noncontainerized residences, multi-dwellings, businesses or other establishments.

K. Contractor agrees to cooperate with the City to replace all containers off all public right-of-way.

L. The Contractor shall make collections of solid waste and horticultural trash with as little disturbance as possible. Garbage cans shall be thoroughly emptied and left at the premises where they are found. Solid waste may be transferred from garbage cans to tubs, hampers, or other receptacles in carrying solid waste to collection trucks or other solid waste removal equipment.

#### 28. CLASSIFICATION FOR BILLING PURPOSES

The billings for the categories of structures to be serviced under this Contract (i.e., for single family residences, duplex, triplex, and multi-dwellings) shall be classified so as to be consistent with the City's zoning code.

#### 29. BANKRUPTCY

It is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, then this Contract shall terminate effective on the day and at the time the bankruptcy petition is filed.

30. ARBITRATION

In addition to any other remedy provided hereunder, the City, at its option, may use arbitration to resolve any controversy or claim arising out of or relating to this Contract if arbitration is elected by the City. Any controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event arbitration is elected by the City, such controversy or claim shall be submitted to one arbitrator selected from the National Panel of The American Arbitration Association.

31. RIGHT TO REQUIRE PERFORMANCE

The failure of the City at any time to require performance by the Contractor of any provision hereof shall in no way affect the right of the City thereafter to enforce same. Nor shall waiver by the City of any breach of any provisions hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

32. LAW TO GOVERN

This Contract shall be governed by the laws of the State of Florida both as to interpretation and performance.

33. COMPLIANCE WITH LAWS

The Contractor shall conduct operations under this Contract in compliance with all applicable laws.

34. SEVERABILITY

Umbrella Liability -- \$1,000,000 combined single limit to protect itself, its agents, and its employees from claims for damages for personal injury, including wrongful and accidental death, and property damage which may arise from operation under the Contract, whether such operations be performed by itself or its employees. The policy or policies shall name the City as an additional insured and shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City thirty (30) days notice in writing.

While no minimum policy period will be required by the City, it is expected that long-term policies will be utilized in order to obtain lower premiums. Insurance shall include all documents issued by all insurance companies licensed to do business in this State.

39. INDEMNITY

The Contractor will defend, indemnify, save harmless, and exempt the City, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees resulting from injury to persons or damage to property arising out of work done in the performance of this Contract. The City reserves the right to retain counsel of its choice at its own expense, or, in the alternative, approval of counsel obtained by the Contractor.

40. ASSIGNMENT AND SUB-LETTING

No assignment of the Contract or any right accruing under

If any provision of the Contract shall be declared illegal, void, or unenforceable by a court of competent jurisdiction, or in an arbitration proceeding, the other provisions shall not be affected but shall remain in full force and effect.

35. PERMITS AND LICENSES

The Contractor shall obtain, at his own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect.

36. PERFORMANCE BOND

The Contractor shall furnish to the City a Performance Bond for the faithful performance of this Contract and all obligations arising hereunder in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00). It shall be executed by a surety company licensed to do business in the State of Florida and on the list of surety companies approved by the Treasurer of the United States.

37. WORKERS' COMPENSATION INSURANCE

The Contractor shall provide and maintain during the life of the Contract, Workers' Compensation Insurance, in accordance with the laws of the State of Florida, for all its employees. A Certificate shall be filed with the City by the insurance carrier showing such insurance to be in force at all times.

38. LIABILITY INSURANCE

The Contractor shall provide and maintain during the life of the Contract, Automotive Public Liability and Property Damage Insurance and Umbrella Coverage in the following amounts:

Automotive Public Liability -- \$500,000 combined single limit  
Property Damage -- \$500,000 per any one claim

this Contract shall be made in whole or part by the Contractor without the express written consent of the City Commission. In the event of any assignment, the assignee shall assume the liability of the Contractor.

41. BOOKS AND RECORDS

The Contractor shall keep records of solid wastes collected and charges therefor, and the City shall have the right to review those records.

42. POINT OF CONTACT

All dealings, contacts, notices, etc., between the Contractor and the City shall be directed by the Contractor to the City Manager, City of Pompano Beach, 101 S.W. First Avenue, Pompano Beach, Florida 33061 and by the City to the Manager, Broward Disposal, a Division of Waste Management, Inc. of Florida, 201 N.W. Twelfth Avenue, Pompano Beach, Florida 33060.

43. NOTICE

A letter addressed and sent by certified, return receipt requested, United States Mail to either party at its business address shown hereinabove shall be sufficient notice whenever required for any purpose in this Contract.

44. EFFECTIVE DATE

This Contract shall become effective, and the Contractor shall begin collection of the solid wastes as covered herein, October 1, 1984. However, the newly agreed upon charges and rates, as set forth herein, shall become effective as of February 1, 1984. All accounts which have been billed after February 1, 1984, which have been calculated at the higher rate in effect

under the Contract in existence immediately prior to February 1, 1984, shall be given a credit equal to the difference between the old rate actually charged and the new rate that should have been charged beginning February 1, 1984.

45. MODIFICATION

This Contract constitutes the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect, unless done so in writing in a document of equal dignity hereto, and signed by the parties hereto.

46. LIQUIDATED DAMAGES

As a breach of the service provided by this Contract would cause serious and substantial damage to the City and its occupants, and the nature of this Contract would render it impracticable or extremely difficult to fix the actual damage sustained by the City by such breach, it is agreed that, in case of breach of service, the City may elect to collect liquidated damages for each such breach and the Contractor will pay the City, as liquidated damages and not as penalty, the amounts set forth below; such sums being agreed as the amount which the City will be damaged by the breach of such service. An election to seek such remedies shall not be construed as a waiver of any legal remedies the City may have as to any subsequent breach of service under this Contract.

A truck beginning residential collections prior to 7:00 a.m.	\$50.00 per day
Failure to collect missed pickup within	\$20.00 each -- not

the time set forth in paragraph 23

to exceed 10  
complaints per truck  
per day

Repetition of complaints on a route after notification, e.g. to replace cans or detachable container in designated location, spilling, not closing gate, crossing planted areas, or similar violations.

\$4.00 each -- not to exceed 10 complaints per truck per day

Such liquidated damages as the City shall elect to collect will be deducted from the monthly payments due the Contractor.

#### 47. DEFAULT OF CONTRACT

Should the Contractor abandon, delay unnecessarily in the performance of, or in any manner refuse or fail to comply with any of the terms of this Contract or neglect or refuse to comply with the instructions of the Public Works Director relative thereto, the Public Works Director shall notify the Contractor, in writing, of such abandonment, delay, refusal, failure, or neglect and direct him to comply with all provisions of the Contract. A copy of such written notice is to be mailed to the surety on the Performance Bond and delivered to the City Manager. The City Manager shall hear the matter at open session within ten (10) days after receipt of such written notice from the Director and shall, not less than five (5) days prior to the date of such hearing, notify the Contractor and the surety on the Performance Bond of the date and place thereof. The Contractor agrees to be present at such hearing and show cause why the Contractor has abandoned, delayed, refused, failed or neglected to comply with the terms of the Contract.

Should the Contractor fail to appear or fail to show cause

why it has abandoned, delayed, refused, failed or neglected to comply with the terms of the Contract to the satisfaction of the City Manager, the City Manager may, with the consent of the City Commission by resolution, declare a default of the Contract and notify the Contractor and the surety on the Performance Bond of such declaration of default or the City Manager may take such other action as he or she may deem advisable.

Upon receipt by the Contractor of such declaration of default, the Contractor agrees that it will discontinue the work, whereupon the surety on the Performance Bond shall, within ten (10) days of such declaration of default, assume the work the City Manager has ordered discontinued by Contractor and proceed to perform the same at its own cost and expense.

Upon such declaration of default, all payments remaining due the Contractor at the time of default, less amounts due the City from the Contractor and less all sums due the City for damage suffered or expenses incurred by reason of default, shall be due and payable to such surety. Thereafter, the surety shall receive monthly payments equal to those that would have been paid the Contractor had such Contractor continued to perform the Contract.

If such surety fails to perform, the City Manager may complete the Contract, or any part thereof, either by day labor or by reletting a Contract for the same, to procure other vehicles, equipment and facilities necessary for the completion of the Contract, and to charge the cost of same to the Contractor or the surety, or both, together with the costs incident thereto.

In the event the City Manager completes the Contract at a

lesser cost than would have been payable to the Contractor under such Contract, if the same had been fulfilled by said Contractor, then the City shall retain such differences. Should such cost to the City be greater, the Contractor or surety, or both, shall be liable for and pay the amount of such excess to the City.

48. ANNEXED AREAS

In those areas annexed into the City, commercial establishments that are parties to existing solid waste collection contracts may be permitted to finish the term of that Contract but shall not renew said existing Contract, nor may any Contract run longer than two (2) years from the effective date of the annexation. Proof as to the term of an existing Contract shall be provided by the commercial establishment to the City.

IN WITNESS WHEREOF, the City and the Contractor have executed this Contract on the respective date(s) below each signature.

CITY OF POMPANO BEACH, FLORIDA  
a municipal corporation

(CITY SEAL)

by: Emma Lou Olson  
Mayor

Attest:

by: James P. Sobel  
City Manager

Jan Beffore  
Deputy City Clerk

Approved as to form:

Donald Cahill  
City Attorney

5/23/84  
Date

BROWARD DISPOSAL, a Division of  
Waste Management, Inc. of Florida  
a Florida Corporation

(CORPORATE SEAL)

by: William P. Sullivan  
President

Attest:

Anthony Correnti  
Asst. Secretary

\_\_\_\_\_  
Date

5-10-84

ACKNOWLEDGMENT OF CONTRACTOR

STATE OF FLORIDA     )  
                                  )    ss..  
COUNTY OF BROWARD    )

On this 21<sup>st</sup> day of May, 1984, before me personally came and appeared W.P. Sullivan and A. Corrente to me known, who being by me duly sworn, did depose and say that they reside at Broward County, Florida and that they are the President and <sup>Asst</sup> Secretary, respectively, of Waste Management of Florida, Inc., the corporation described in and which executed the foregoing instrument; that they know the seal of said corporation; that one of the impressions affixed to said instrument is an impression of such seal; that they are the proper officials of said corporation designated to execute such Contract; that they have authority to do so; that they executed the same for and in behalf of said corporation; and that their act is the act and deed of said corporation.

WITNESS my hand and official notarial seal at St. Lauderdale, Florida the day and year above written.

Kathleen E. Kallbach  
Notary Public

Notary Public, State of Florida  
My Commission Expires: **My Commission Expires April 9, 1985**  
Bonded Three Troy Fain - Insurance, Inc.

ACKNOWLEDGEMENT OF CITY

STATE OF FLORIDA    )  
                          ) SS..  
COUNTY OF BROWARD )

I HEREBY CERTIFY that on this 23 day of May, 1984, personally appeared before me Emmabow Olsen, Mayor, James E. Sadulund, Acting City Manager, and Jean Bejones, Deputy City Clerk, respectively, of the City of Pompano Beach, a municipal corporation of Florida, and they acknowledged that they executed the foregoing instrument as the proper City officials of the City of Pompano Beach, Florida, and the same is the act and deed of said City of Pompano Beach, in the State and County aforesaid, this 23 day of May, 1984.

Shirley H. Meredith  
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES DEC 31 1985  
BONDED THRU GENERAL INS. UNDERWRITERS