



MEMORANDUM

TO: Augusta Commission

THROUGH: Takiyah A Douse, Interim Administrator
Geri Sams, Procurement Director

FROM:  Hameed Malik, Ph.D., PE, Director Engineering & Environmental Services

DATE: March 22, 2023

SUBJECT: **Waste Collection Contract Service**
Waste Management Contract Extension - Amendment 2
Bid 11-112

On February 7, 2022 Augusta Commission approved and authorized Engineering and Environmental Services Director to negotiate terms of two-year extension of waste collection contract with Waste Management (WM) which was approved on January 2023. The following summarizes the contract procurement background, actions taken with respect to WM amendment 2, WM response to amendment 2 offered term, and recommended path forward..

Contract Procurement Background (Bid N0. 11-112):

Residential waste collection countywide services were procured under Bid No. 11-112. Service area consists of three zones (Zone 1, Zone 2, and Zone 3) served by two service providers (Contractor). Zone1 is presently served by WM. The City’s original contract (Agreement) was with Advance Disposal Services Augusta, LLC Delaware Limited Liability Company doing business as Advanced Disposal Services. The Agreement executed on 23rd day of August, 2012 with effective date of August 7, 2012 with the first day of service being June 1, 2013. Initial Term of the Agreement ended December 31, 2021. The Agreement includes “Renewal Terms”; “Agreement may be renewed for two (2) or more successive two (2) year terms upon mutual agreement of the parties as the rates here in (may be adjusted as provided herein) no less than sixty (60) days prior to the expiration of the Initial Term or the then current Renewal Term”.

Section 8 of the Agreement has a “Media and Capital Costs” clause. Media cost includes Internet Site, Truck Media, Pamphlets, Handouts, Advertising, Public Announcements, Other Media, Annual Media. Capital cost includes Roll-Out Carts, Management Software, Hand-Held Devices, CNG Station, Annual Survey. Media and Capital expenses are integrated in waste collection unit rate paid by the City to the Contractor.

Section 8 also contains “Unused Funds” sub-clause. This sub-clause requires “any unused funds from the activities in this Section shall be credited to Augusta on the final statement of each year”.

It is noteworthy that WM is one of three contractors submitting bids in response to Bid Number 11-112. WM scored the highest among three qualified bidders under evaluation phase. However, WM was not a successful bidder. The bid was awarded to two other qualified bidders; most likely because WM did not agree to terms of Augusta’s offered agreement.



Contract Amendment 2 -Terms Negotiation with WM

Zone2 and Zon3 service provider, Inland Services dba Orion Waste (now Coastal Waste & Recycling (Coastal)) entered into Contract Amendment2 agreement on October 12, 2021, with a second renewal term from January 1, 2024 to December 31, 2025. Terms of this amendment2 includes payment to the City for CNG Infrastructure and bring any non-contract putrescible waste collected or under its control within Richmond County and the surrounding area (the CSRA Geographical Region) to the Augusta Landfill, or any other facility designated by Augusta (Coastal Amendment2 copy attached).

The following is a sequence of taken actions.

- (1) On February 21, 2023, Engineering & Environmental Services Director (Director) transmitted Contract Amendment2 draft (Draft) to WM for review and discussion. To maintain Bid 11-112 procurement uniformity, terms identical to Costal Amendment2 were included in the Draft.
- (2) On February 23, 2023 Georgia Waste System, LLC, dba Waste Management of Augusta Hauling (GWS) responded to the director; in summary not agreeing to two key terms (Non-contracted waste flow to Augusta Landfill and Capital Cost payment) included in the Draft. In closing, GWS suggested the City issue a new RFP.
- (3) On February 24, 2023 GWS confirmed that February 23, 2023 letter is GWS final response.
- (4) Subsequently, on March 2, 2023 the Director held follow up meeting with GWS Senior Account Executive-Public Sector, George Council. The Director discussed details of Draft and rationale inclusion of both key terms that GWS objected.

Path Forward Recommendations:

Two possible options to consider.

- (1) Zone 2 and Zone 3 served by Coastal. Explore possibility of expanding Costal Services to Zon1 for period January 1, 2024 to December 31, 2025.
- (2) Develop new contract document and Initiate Request for Qualifications (RFQ) for Zone1 service area for new ten-year term (January 1, 2024 to December 31, 2033). Also, qualified firm(s) for serving Zone 2 and Zones for eight-year initial term effective January 1, 2026.

Should you require additional information, please do not hesitate to contact me at (706)796-5068.

Thank you.

/hm

Attachment – WM Contract -Amendment2 Draft
Coastal Contract- copy of Executed Amenment2
GWS Response Letter dated February 23, 2023
Waste Collection Contract-Section 8 – Media and Capital Cost

ATTACHMENTS

- 1) WM Contract-Amendment2 Draft
- 2) Coastal Contract-Copy of executed Amendment2
- 3) GWS Response Letter Dated February 23, 2023
- 4) Waste Collection Contract-Section 8-Media and Capital Cost

WM Contract-Amendment2 Draft

SECOND AMENDMENT TO AUGUSTA, GEORGIA SOLID WASTE AND RECYCLABLES COLLECTION AGREEMENT

THIS SECOND AMENDMENT to the Augusta, Georgia Solid Waste and Recyclables Collection Agreement with an effective date of August 7, 2012 (the "Agreement"), by and between Augusta, Georgia ("Augusta") and Waste Management, Inc. ("Waste Management"), hereinafter collectively referred to as the "Parties," is made and entered into this _____ day of _____, 2023 to be effective as of 12:01 a.m. of January 1, 2024.

WHEREAS, the Parties agree to the following terms and conditions and expressly agree that if any of the following terms and conditions conflict with any of the terms and conditions of the Agreement, then, notwithstanding any term in the Agreement, the following terms and conditions govern and control the rights and obligations of the parties.

NOW, THEREFORE, in consideration of the Parties agreeing to amend their obligations in the existing Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both Parties agree to amend the Agreement as follows:

1. Section 2.1 **Performance Commencement** is hereby amended to add the following as the last sentence of Section 2.1:

The Parties are exercising _the Second Renewal Term of January 1, 2024 to December 31, 2025 in the manner as provided in this Section 2.1 of the Augusta, Georgia Solid Waste and Recyclables Collection Agreement.

2. Section 7.3 **Non-Contracted Waste** is hereby amended as follow:
replaced in entirety with following:

Contractor agrees to bring any non-contract putrescible waste collected or under its control within Richmond County and the surrounding areas (the CSRA Geographical Region) to the Augusta Landfill, or any other facility designated by Augusta.

3. Section 7.4 **Additional Non-Contracted Waste** is hereby amended to read as:
The Contractor, with Augusta's prior approval, may market Augusta's landfill in an effort to generate additional revenue for both the Contractor and Augusta. Negotiated disposal pricing must be approved by the Augusta Commission.

4. Section 8.2 **Capital Costs** is hereby amended to add the following as Section 8.2.6 **Additional Capital Costs**.

The Parties hereby mutually agree that the Contractor Shall make payments in the amount of \$55,909.49 per month during the First Renewal Term from January 1, 2023 to December 31, 2023, and the Second Renewal Term from January 1, 2024 to December 31, 2025.

5. Section 20.14 **Notices** is hereby amended to read as:
Any notice required herein shall be given by certified mail to:

For Augusta:

City Administrator
535 Telfair Street, Suite 910, Augusta, GA 30901

Director Environmental Services
4330 Deans Bridge Road, Blythe, GA 30806

For Waste Management:

???

????

6. Section 20.12 **Modifications and Waiver** is hereby amended to read as:
The parties must mutually agree upon any changes in the Agreement and must be incorporated by written amendments to the Agreement. The Augusta Commission shall have authority to amend the Agreement.

This agreement constitutes the entire agreement of the parties regarding the subject matter hereof and may be modified only by a written agreement signed by both parties.

7. Section 20.28 1(b) **Force Majeure** is hereby amended to read as:

If and to the extent such failure or delay is caused, directly or indirectly by fire, flood, hurricanes, earthquakes, storms, lighting, epidemic (**excluding COVID**), war, riot, civil disturbance, sabotage, and government actions.

8. All other terms of the Augusta, Georgia Solid Waste and Recyclables Collection Agreement shall remain in full force and effect.
9. This Agreement Amendment is not effective until fully executed by all Parties.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the date first written above.

AUGUSTA, GEORGIA

Date:

Garnett L. Johnson, as its Mayor

Attest: _____
Lena J. Bonner, Clerk of Commission

WASTE MANAGEMENT, INC.

Date:

(Print) _____
as its _____

Coastal Contract-Copy of executed Amendment2

**SECOND AMENDMENT TO AUGUSTA, GEORGIA SOLID WASTE AND
RECYCLABLES COLLECTION AGREEMENT**

THIS SECOND AMENDMENT to the Augusta, Georgia Solid Waste and Recyclables Collection Agreement with an effective date of August 7, 2012 (the "Agreement"), by and between Augusta, Georgia and Inland Waste Solutions (f/k/a Inland Service Corporation) d/b/a/ Orion Waste (hereinafter collectively referred to as the "Parties"), is made and entered into this 12th day of October, 2021 to be effective as of 12:01 a.m. on January 1, 2024.

WHEREAS, the Parties agree to the following terms and conditions and expressly agree that if any of the following terms and conditions conflict with any of the terms and conditions of the Agreement, then, notwithstanding any term in the Agreement, the following terms and conditions govern and control the rights and obligations of the parties.

NOW, THEREFORE, in consideration of the Parties agreeing to amend their obligations in the existing Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both Parties agree to amend the Agreement as follows:

1. **Section 2.1 Performance Commencement** is hereby amended to add the following as the last sentence of Section 2.1:

The Parties are exercising the Second Renewal Term of January 1, 2024 to December 31, 2025 in the manner as provided in this Section 2.1 of the Augusta, Georgia Solid Waste and Recyclables Collection Agreement.

2. **Section 8.2.5 Additional CNG Infrastructure** is hereby amended to add the following as the last sentence Section 8.2.5:

The Parties hereby mutually agree that Contractor shall continue such payments in the amount of \$55,909.49 per month during First Renewal Term from January 1, 2022 to December 31, 2023, and the Second Renewal Term from January 1, 2024 to December 31, 2025.

3. **Section 7.3 Non-Contract Waste** is hereby amended to add the following as subsection (c):

c. Contractor agrees to bring any non-contract putrescible waste collected or under its control within Richmond County and the surrounding areas (the CSRA Geographical Region) to the Augusta Landfill, or any other facility designated by Augusta.

4. All other terms of the Augusta, Georgia Solid Waste and Recyclables Collection Agreement shall remain in full force and effect.

5. This Agreement Amendment is not effective until fully executed by all Parties.

6. This Consent may be executed in two or more identical counterparts, which, when delivered, shall constitute one in the same instrument and shall be enforceable as if all Parties had executed a single document. To expedite the execution of this Consent, the Parties agree that this Consent may be signed by hand or by electronic means on the signature line of this document. The Parties agree that all such signatures shall be fully binding and that the counterpart signatures may be transmitted by mail, hand delivery, email and/or by any other electronic method to the other party or counsel of record for the party and will have the same binding effect as any original ink signature. It is further agreed that this Consent shall be fully effective when signed by all Parties hereto.

[THIS SECTION INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the date first written above.

AUGUSTA, GEORGIA

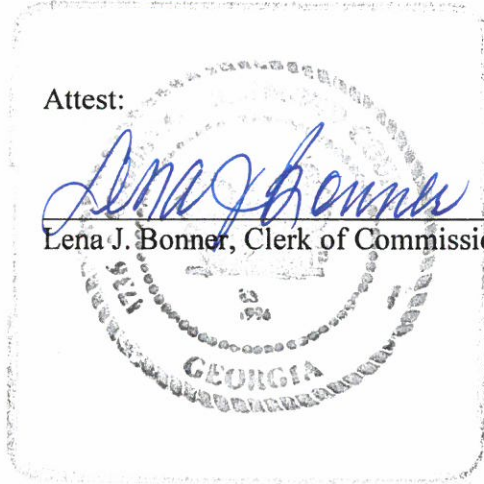
Date: October 12, 2021

W

[Signature]
Hardie Davis, Jr., Mayor

Attest:

[Signature]
Lena J. Bonner, Clerk of Commission



INLAND WASTE SOLUTIONS

Date: OCTOBER 11, 2021

[Signature]

As its: DEAN KATTLER, CEO

GWS Response Letter Dated February 23, 2023



WM Augusta Hauling

208 Prep Phillips Drive
Augusta, Georgia 30901-1700

February 23, 2023

VIA EMAIL AND CERTIFIED MAIL

Hameed Malik, Ph.D., PE
Director Engineering & Environmental Services
Engineering Administration
452 Walker Street, Suite 110, Augusta, GA 30901
(706) 796-5040

Re: Draft agreement between; Georgia Waste Systems, LLC & City of Augusta, GA

Dear Doctor Malik,

Georgia Waste Systems, LLC, dba Waste Management of Augusta Hauling (“GWS”) received your proposed draft extension agreement via email on February 21st, 2023. This new draft was unexpected, since per your earlier request on January 19th, and at prior meetings, GWS sent you a proposed amendment for the City’s consideration on January 31st. Now, you inform us in your February 21st email that our draft amendment was never going to be considered by the City due to a prior decision by the Commission, despite significant time and effort spent preparing this draft per your request.

Notwithstanding the foregoing, GWS has reviewed your proposed draft amendment, and respectfully cannot agree to the proposed terms for the following reasons:

- ***Section 7.3 Non-Contracted Waste-*** *Contractor agrees to bring any non-contract putrescible waste collected or under its control within Richmond County and the surrounding areas (the CSRA Geographical Region) to the Augusta Landfill, or any other facility designated by Augusta.*

GWS strenuously objects to any form of flow control mandates for waste volumes. The original Agreement gave GWS the right, **but not the obligation**, to bring Augusta non-contract waste collected, or under its control, where economically feasible, in the areas surrounding Richmond County. GWS cannot agree to modify this provision such that it makes such waste diversion mandatory. Further, there is legal precedent which deems such flow control provisions unlawful.

- ***8.2.6 Additional Capital Costs.*** *The Parties hereby mutually agree that the Contractor Shall make payments in the amount of \$55,909.49 per month during the First Renewal*



WM Augusta Hauling

208 Prep Phillips Drive
Augusta, Georgia 30901-1700

*Term from January 1, 2023, to December 31, 2023,
and the Second Renewal Term from January 1, 2024,
to December 31, 2025.*

GWS cannot absorb any other imposed costs by the City. In the past 24-months, our company has experienced exponential cost increases from the CDL Driver Shortages, Lagging Pandemic Effects, and other Inflationary down-stream cost pressures. Agreeing to this proposed agreement modification would equate to GWS providing its services to Augusta at a loss, which it is unable to do.

In closing, GWS will honor our existing agreement with the City through December 31st, 2023. It was our great hope to come to a mutually beneficial arrangement with respect to an extension of the pre-existing Agreement, but failing that, we suggest the City issue a new RFP, which will allow GWS and other vendors to fairly participate and be considered for waste collection services to the City.

Respectfully,

A handwritten signature in blue ink, appearing to read 'George Council'.

George Council
Senior Account Executive Public Sector
(803) 600-8721

cc : Michael J. Holbrook, Public Sector Director, SA
Eric Wakefield, Operations Director, SA
Christina Deangelis, Senior Legal Counsel

Waste Collection Contract-Section 8-Media and Capital Cost

1273
1274 Disposal of Recyclables will be provided by Augusta at no charge to the Contractor for all
1275 materials delivered to the Designated Recycling Facility.
1276

1277 **7.2.3 Damages**

1278 If the Contractor delivers Recyclables to the landfill, Damages in the amount of five hundred
1279 dollars (\$500.00) per incident will be assessed.
1280

1281 **7.3 Non-Contract Waste**

1282
1283 Beginning on the Effective Date, the Contractor servicing Designated Collection Area 1 has the right to
1284 bring Augusta non-contract waste collected, or under its control, where economically feasible, in the areas
1285 surrounding Richmond County. The Contractor shall pay Augusta the standard volume based disposal
1286 rates from 0-5000 tons per month. The Contractor shall pay Augusta \$17.00 dollars per ton on the 5001-
1287 10,000 tons per month. After that the standard volume based disposal rates shall apply.
1288

1289 a. The tons being charged at the reduced rate will factor into the standard volume based rates
1290 tonnages.
1291

1292 b. Augusta shall be entitled to the same CPI Adjustment as afforded the Contractor in Section 12.3.
1293 All the same general conditions of adjustment shall apply with the exception that Augusta does
1294 not have to provide notice as required under Section 12.3.1 (b).
1295

1296 **7.4 Additional Non-Contract Waste**

1297 The Contractor, with Augusta's prior approval, may market Augusta's landfill in an effort to generate
1298 additional revenues for both the Contractor and Augusta. Negotiated disposal pricing must be approved
1299 by the Environmental Services Director and Augusta's Administrator.
1300

1301 **SECTION 8 – MEDIA AND CAPITAL COSTS**

1302
1303 **8.1 Media Design and Distribution**

1304 Between the Effective Date and the Start Date, the Contractor shall provide a Media Design and
1305 Distribution firm capable of designing, distributing, and producing the following items. The estimated
1306 expense per Designated Collection Area awarded is \$75,000.00. The schedule of such services shall be
1307 coordinated with Augusta to insure a timely implementation.
1308

1309 **8.1.1 Internet Site**

1310 This shall include the acquiring and hosting of the domain name "augustasolidwaste.com". The
1311 website shall be interactive and capable of providing fill-able forms, customer service
1312 information, and educational items, at a minimum. The content will be coordinated, specified,
1313 and approved by Augusta. Said domain name will be transferred to free and clear to Augusta at
1314 the termination of this Agreement.
1315

1316 **8.1.2 Truck Media**

1317 The Media firm will design, produce, and install various vehicle media and wraps as approved by
1318 Augusta. The Contractor shall bear all costs for the production and installation of media items on
1319 their collection vehicles. All vehicles shall state that they are fueled by CNG". See Section 6.6.1
1320 for details.
1321

1322 **8.1.3 Pamphlets, Handouts, Advertising, Public Service Announcements**

1323 The Media firm will be capable of designing pamphlets, handouts, large advertising pieces (such
 1324 as newspaper advertisements and billboards), as well as Public Service Announcements at the
 1325 direction and approval of Augusta.
 1326

1327 **8.1.4 Other Media**

1328 Augusta may utilize the funds for other media which may include newspaper advertisement,
 1329 billboards, or other forms of advertisement or public relations as Augusta deems appropriate.
 1330

1331 **8.1.5 Annual Media**

1332 The Contractor will provide additional funds in the amount of \$50,000 per year per Designated
 1333 Collection Area for updates to the media items, as well as additional media items as Augusta
 1334 deems appropriate.
 1335

1336 **8.2 Capital Costs**

1337 Between the Effective Date and the Start Date, the Contractor shall provide the following items per
 1338 Designated Collection Area awarded.
 1339

1340 **8.2.1 Roll-Out Carts**

1341 The Contractor awarded Designated Collection Area One (1) and Designated Collection Area
 1342 Two (2) shall each provide:

- 1343 1. 8,000 96-gallon Cascade Engineering Roll-Out Carts to Augusta. Such Roll-Out Carts
 1344 will be the same specification as Augusta currently owns. These Roll-Out Carts shall
 1345 include in their cost, the RFID Chip, and Assembly and Delivery. These shall be
 1346 provided prior to the Start Date.
- 1347 2. 1,000 96-gallon Cascade Engineering Recyclables Carts. Such Recyclables Carts will be
 1348 the same specification as Augusta currently owns. Those Recyclables Carts shall include
 1349 in their cost, the RFID Chip, In-mold recycling label and delivery to Augusta's Solid
 1350 Waste Facility. These shall be provided prior to the Start Date.
- 1351 3. At a mutually agreeable time, 2,000 96-gallon Cascade Engineering Roll-Out Carts to
 1352 Augusta. Such Roll-Out Carts will be the same specification as Augusta currently owns.
 1353 These Roll-Out Carts shall include in their cost, the RFID Chip and delivery to Augusta's
 1354 Solid Waste facility.
- 1355 4. At a mutually agreeable time, 2,500 96-gallon Cascade Engineering Recyclables Carts.
 1356 Such Recyclables Carts will be the same specification as Augusta currently owns. Those
 1357 Recyclables Carts shall include in their cost, the RFID Chip, In-mold recycling label and
 1358 delivery to Augusta's Solid Waste Facility.
 1359

1360 The Contractor awarded Designated Collection Area Three (3) shall provide, prior to the Start
 1361 Date, spare parts from Cascade Engineering. This shall include 30 pallets of wheels and axles, as
 1362 well as 200 bars, and 200 Recyclables Cart lids. All items will be of a size and type to match the
 1363 existing Augusta inventory.
 1364

1365 **8.2.2 Management Software**

1366 A one-time fee of \$100,000 for software licensing, set up, and integration will be provided at the
 1367 inception of the contract per Designated Collection Area. Each contract year thereafter, \$50,000
 1368 will be provided for ongoing licenses, technology support, and programming per Designated
 1369 Collection Area.
 1370

1371 **8.2.3 Hand-Held Solutions**

1372 Three portable Windows CE-based hand-held devices will be provided to Augusta for their use in
 1373 support and management of this Contract per Designated Collection Area. The devices will be
 1374 capable of integrating with the on-board vehicle units and will be equipped with RFID readers,
 1375 signature capture, and the ability to enter data. This shall include the cost of any monthly access
 1376 or service fees.

1377
 1378 **8.2.4 CNG Station**

1379 The Contractor awarded Designated Collection Area One (1) and Designated Collection Area
 1380 Two (2) shall design and build a CNG station for the use under this Agreement. Such station
 1381 shall be designed with Augusta's input. For Designated Collection Area One (1), a one-time fee
 1382 of \$2,650,000.00, for Designated Collection Area Two (2), a one-time fee of \$2,650,000.00, for
 1383 the development of CNG and LFG infrastructure, at an Augusta identified location and
 1384 constructed by a mutually-agreed upon contractor. The CNG stations shall be operational by
 1385 January 18, 2013, and on or before that date, the title to such property, equipment and
 1386 improvements shall be transferred to Augusta, free and clear. Specifications for the construction
 1387 of the station shall be provided once the Contract is awarded.

1388
 1389 **8.2.5 Additional CNG Infrastructure**

1390 The Contractor awarded Designated Collection Area Two (2) and Designated Collection Area
 1391 Three (3) shall provide an additional \$2,650,000.00 for Augusta's use. Such funds shall be paid
 1392 in the fifty fourth (54) month of the Agreement.

1393 **8.3 Annual Survey**

1394 An annual customer satisfaction survey that will be administered by a professional survey company
 1395 selected by Augusta and paid for by the Contractor. This survey will target areas where service problems
 1396 or poor participation are observed, and for the purpose of this Contract is valued at \$15,000.00 per
 1397 Designated Collection Area.

1398 Augusta will evaluate the results of the survey in conjunction with the profile of the key performance
 1399 measures to determine the overall performance of the Contractor. Augusta will review the results of the
 1400 Monthly Performance Summary with the Contractor on at least a quarterly basis and the Contractor
 1401 agrees to implement measures as necessary to improve areas identified as requiring improvement. The
 1402 Contractor recognizes that these results will be compiled by Augusta and may be presented internally or
 1403 publically.

1404
 1405 Contractor acknowledges that its performance relative to the Monthly Performance Summary shall not be
 1406 construed to mean that the Contractor is meeting its performance obligations as required by this
 1407 Agreement. Should the Contractor not comply with any other material provision of this Agreement,
 1408 Augusta may declare the Contractor in default notwithstanding its performance levels relative to the
 1409 Monthly Performance Summary.

1410
 1411 **8.4 Unused Funds**

1412 Any unused funds from the activities in this Section shall be credited to Augusta on the final statement of
 1413 each year.

1414
 1415 **SECTION 9 - CUSTOMER SERVICE**

1416
 1417 **9.1 Requests for Service**

1418 Augusta's Customer Care Center is responsible for receiving Customer inquiries, Requests for Service,
 1419 and complaints related to service in the Service Area. Upon receipt of a call requiring follow-up by the
 1420 Contractor, the Customer Care Center will prepare a Request for Service form and send such forms