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## CITY COUNCIL WORKSHOP ITEM CITY OF FAIR OAKS RANCH, TEXAS

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AGENDA TOPIC: Solid Waste Franchise Agreement  
DATE: February 1, 2024  
DEPARTMENT: Public Works  
PRESENTED BY: Carole Vanzant, CPM, TRMC, Assistant City Manager, Community Services

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### **INTRODUCTION/BACKGROUND:**

The City's exclusive franchise agreement for the collection, hauling, and disposal of residential garbage and refuse waste with Republic Services expires September 30, 2024. A common best practice among cities is an exclusive solid waste collection, disposal, and recycling system. Outsourcing provides benefits inclusive of decreased cost of service, reduction in the number of collection vehicles, and innovative approaches and techniques. Chapter 363 of the State of Texas Health & Safety Code authorizes a municipality to grant a franchise for solid waste collection and disposal. Article 13.02 of the Fair Oaks Ranch Code of Ordinances - Solid Waste establishes the City's program of service as authorized by the State of Texas.

Primary options to consider for FY 2024-25 and subsequent years include the following:

- Direct staff to exercise the City's option to renew the current agreement for two years, inclusive of negotiating enhancements and contract amendments.
- Direct staff to solicit proposals (RFP) for solid waste collection services with the goal of advancing a new franchise agreement starting October 1, 2024. The City is not required to solicit proposals for solid waste collection and disposal services.
- Direct staff to negotiate a new agreement with a specific service provider.

### ***Historical Perspective***

- The City of Fair Oaks Ranch executed a five-year exclusive franchise agreement with Republic Services in 2005.
- The agreement was extended in 2010 for an additional five-years and again in 2015 and 2016 for one-year terms.

### ***Current Agreement***

- In 2017, the City solicited proposals for solid waste collection services. Three proposals were received.
- On October 1, 2017, the City entered into a new five-year exclusive franchise agreement with BFI Waste Services of Texas, LP d/b/a Allied Waste Services of San Antonio//Republic Services of San Antonio for the collection, hauling and disposal of solid waste for residential properties in the city.
- Key differentiators driving the selection to contract with Republic Services included the following:
  - Reduced monthly rate for the citizens without extra containers (less than one third have extra carts).

- Inclusion of an annual household hazardous waste community event (new service) provided by Republic Services.
- No subcontracting of operations; 100% performed by Republic Services.
- Twice per year bulk/brush pick-up, inclusive of new operational efficiencies (lessons learned) within defined sectors, proactive public outreach, and a staging area provided by Republic Services.
- Enhanced education and community outreach inclusive of additional mailers, smart technology (Apps) and web site pushes.
- Institutional knowledge of our community with a proven performance history and in-kind services.
- Minimal transition and interruption.
- The agreement expiring September 30, 2022 prescribed the following renewal option:
  - *“The City, at its sole discretion, shall have the option to renew this Agreement for up to two (2) additional two (2) year terms. There is no guarantee to the Contractor that the City will exercise this option to continue this Agreement beyond the initial five-year period. Both parties, in writing, shall agree to each extension.”*
- After providing a two-month extension of the Agreement, on November 17, 2022, the City Council approved the First Amendment to the 2017 Exclusive Franchise Agreement for a term of two years, expiring September 30, 2024.

**Exhibit A** attached includes Ordinance 2022-14 consisting of the First Amendment Agreement and the 2017 Franchise Agreement.

***Next Steps***

- Republic Services has notified the City of its interest in exercising the second option to renew the agreement for two years. Staff recommends the City exercise its option to renew the agreement for another two years.
- If City Council decides to advance efforts to renew the current agreement, staff will work with Republic Services and the city attorney to solidify terms and conditions. A Second Amendment to the existing agreement will be brought back to Council for consideration and possible action.
- Staff’s recommendation to move forward with renewal efforts is based on the following:
  - The advantage of renewing our agreement includes seamless continued service and established base service rates for two years.
  - The current agreement guarantees an increase no greater than the lesser of the Consumer Price Index (CPI) or 3.0%. In recent years, the City has maintained stable rates during years with high inflation (CPI).
  - Republic Services has performed well and provided enhanced services, including covering the cost of 2018-2022 shortages associated with the annual Household Hazardous Waste Collection event and waiving the 2019 service rate increase as shown on the following two charts:

**Household Hazardous Waste Collection**

| Event Year                         | 2018      | 2019     | 2020      | 2021     | 2022     | 2023     |
|------------------------------------|-----------|----------|-----------|----------|----------|----------|
| Total Cost of Event                | \$92,300  | \$32,494 | \$43,897  | \$39,840 | \$38,422 | \$43,475 |
| Republic Services Commitment       | \$20,000  | \$20,000 | \$20,000  | \$20,000 | \$20,000 | \$20,000 |
| City of Fair Oaks Ranch Commitment | \$10,000  | \$10,000 | \$10,000  | \$10,000 | \$10,000 | \$20,000 |
| Shortage                           | -\$62,300 | -\$2,494 | -\$13,897 | -\$9,840 | -\$8,422 | -\$3,475 |

**Service Rates**

|          | Actual Service Monthly Rate | CPI   | % Increase         |
|----------|-----------------------------|-------|--------------------|
| FY 17-18 | 20.05                       |       |                    |
| FY 18-19 | 20.65                       | 3.17% | 3.00%              |
| FY 19-20 | 20.65                       | 3.70% | 0.00% <sup>1</sup> |
| FY 20-21 | 21.25                       | 2.92% | 2.92%              |
| FY 21-22 | 21.87                       | 2.92% | 2.92%              |
| FY 22-23 | 22.96                       | 3.90% | 5.00% <sup>2</sup> |
| FY 23-24 | 23.65                       | 5.22% | 3.00%              |

<sup>1</sup> Republic Services waived the 2019 service rate increase.

<sup>2</sup> Rate adjustment includes 3% annual cap plus 2% franchise fee increase as authorized in the First Amendment Agreement

- The contractor effectively addresses customer issues.
  - i. Missed services typically are resolved by end of day or the following morning.
  - ii. A storage area at City Hall allows for quicker delivery of bins to new customers.

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

The City receives a negotiated franchise fee of 5%, which is budgeted at \$32,500 for FY 2023-24. The contractor bills directly to customers (residents) for residential solid waste services.

**LEGAL ANALYSIS:**

TBD subject to Council direction

**RECOMMENDATION/PROPOSED MOTION:**

Staff needs direction on proceeding with one of the following options:

*Option 1 (staff recommendation):*

Exercise the City’s option to renew the current agreement, inclusive of negotiating enhancements (anticipated timeframe for completion - up to four months from tonight’s meeting).

*Option 2:*

Solicit proposals (RFP) for solid waste collection services with the goal of advancing a new franchise agreement beginning October 1, 2024 (anticipated timeframe for completion – up to six months from tonight's meeting).

*Option 3:*

City Council names a specific service provider they desire to negotiate a new agreement with (anticipated timeframe for completion - up to four months from tonight's meeting).