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MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
CC: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: COMMERCIAL HAULER LICENSE AGREEMENT WITH WASTE MANAGEMENT
DATE: MARCH 12, 2024

As the City Council will recall, the City's refuse ordinance was amended at the end of 2023, with an effective date of 4/1/24. One of the requirements of the new ordinance was that each hauler would need to have a hauler license agreement in place prior to 4/1/24.

Currently, the City only has two active refuse haulers which are Lakers New Prague Sanitary Inc. (Residential and Commercial) and Waste Management of Minnesota Inc. (Commercial only).

At the City Council meeting on March 4, 2024, the agreements for Lakers were approved, leaving only Waste Management for their commercial hauling to enter into an agreement.

Attached for the City Council's review is the commercial hauler license agreement with Waste Management. Per the new refuse ordinance, the agreement is written for a three-year period of time and will expire on 3/31/2027.

Recommendation(s)

Staff recommends that the City Council approve the attached Commercial Hauler License Agreement with Waste Management.

COMMERCIAL HAULER LICENSE AGREEMENT

THIS COMMERCIALHAULER LICENSE AGREEMENT (the "Agreement") is entered into this 18th day of March, 2024, by and between the City of New Prague, a Minnesota municipal corporation (hereinafter, the "City"), and Waste Management of Minnesota Inc., a business corporation (hereinafter, the "Hauler").

WITNESSETH:

WHEREAS, consistent with Chapter 53 of the City Code of the City of New Prague, the City and the Hauler desire to enter into this Agreement for licensed commercial garbage and refuse collection within the City; and

WHEREAS, both the City and Hauler have concluded that it is in the best interests of both parties to enter into the following Agreement, including the terms and conditions hereinafter set forth, to ensure that all hauling activities performed by the Hauler in the City are conducted in accordance with all applicable requirements.

NOW, THEREFORE, the parties hereto do mutually agree as set forth below:

A. Terms and Conditions for License.

1. Consistent with Chapter 53 of the City Code of the City of New Prague and Minnesota statutes, the City has issued or will issue Hauler a license to collect garbage and refuse in the City, as provided in this Agreement. All such services shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professional waste haulers providing similar services.
2. The Hauler acknowledges that the license to collect and haul garbage within the City is expressly conditioned on Hauler strictly adhering to all requirements, terms and conditions contained in this Agreement, Chapter 53 of the City Code of the City of New Prague, and any other applicable state and local law.
3. The Hauler must file with the city administrator evidence of (i) commercial liability insurance with minimum amounts equal to the City's tort liability limits set forth in Minnesota Statutes, chapter 466, as amended; (ii) commercial automobile liability insurance covering all owned, hired, and nonowned automobiles with minimum amounts equal to the City's tort liability limits set forth in Minnesota Statutes, chapter 466, as amended; and (iii) workers' compensation as required under state law. Any insurance policy required under this section shall remain in full force and effect at all times that the Hauler is licensed by the City. All policies shall contain a provision requiring the City to be notified at least 30 days prior to the expiration or cancellation of any insurance policy. Failure to carry the required insurance shall be grounds for termination of the license and this Agreement.
4. In the interest of maintaining healthful and sanitary conditions in the City, the City

may specify and assign certain areas and times for scheduled pick up on dates as determined by the City.

5. The term of this license and this Agreement shall be for three years, from April 1, 2024 through March 31, 2027, unless terminated earlier as provided herein, and with an option to extend this license and Agreement for an additional three-year time period in the sole discretion of the City.
 6. A schedule of rates to be charged during the licensed period was contained in the Hauler's license application and is attached hereto as Exhibit A. Any requested change to such rates during the license term shall be submitted to the City in writing at least 90 days in advance, and such changes shall be subject to review and approval by the City. A request for such rate increases shall include all information necessary to support the proposed adjustment, as well as any other information requested by the City including comparative rates in surrounding communities.
 7. The Hauler's pickup schedule will be approved by the City, in its sole discretion. The pickup day schedule is listed in Exhibit B. Any requested schedule changes shall be submitted in writing to the City for consideration by the City Council. The Hauler shall bear all costs involved in notifying customers of any approved schedule changes.
- B. Compliance. The Hauler's operations and activities shall be in compliance with all laws, statutes, ordinances, executive orders, or regulations promulgated by a governmental authority having jurisdiction. The Hauler shall procure, at its own expense, any licenses, permits and other rights that may be required by other state and local entities for the provision of services contemplated by this Agreement.
- C. License Fee. The fee for this license shall be as provided in the City's fee schedule. Failure to pay the license fee shall be grounds for termination of the license and this Agreement. In determining the amount of the license fee, the City shall include all costs incurred by the City to administer the license and to enforce City Code provisions relating to refuse collection.
- D. Missed Pick-Ups/Customer Complaints. Whenever a customer notifies the Hauler, or the City, of a location which did not receive scheduled service, the Hauler shall service such location no later than the day following the customer notification. All customer complaints made to the Hauler shall be answered promptly and courteously, and a record of said complaints shall be maintained by the Hauler and provided to the City upon demand. The Hauler shall meet with City staff, as requested, to address any customer complaints regarding performance of refuse collection, hauling or disposing.
- E. Assignability. The license issued by the City and this Agreement may not be assigned or transferred in whole or in part by the Hauler unless the City gives its approval prior to any proposed assignment or transfer. Any attempt to assign or transfer the license in whole or in part without prior approval of the City shall be grounds for termination of the license and this Agreement.

- F. Suspension or Revocation. The license and Agreement may be suspended or terminated by the City, in its sole discretion, pursuant to the provisions related to license suspension and revocation contained in Chapter 53 of the City Code of the City of New Prague.
- G. Hold Harmless and Indemnification; No Waiver by the City. The Hauler agrees to defend, indemnify and hold the City, its officials, employees, agents and contractors harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission (including without limitation professional errors or omissions) of the Hauler, its agents, employees, or subcontractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of the Hauler fully to perform, in any respect, all obligations under this Agreement. By issuing this license or entering into this Agreement, the City does not waive its entitlement to any immunities under Minnesota statutes, case law or common law.
- I. Severability. If any clause, sentence or section of this license and Agreement is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.
- I. Subcontractors. The Hauler shall not enter into subcontracts for services provided under this license and this Agreement without the express written consent of the City.
- J. Records Access. The Hauler shall provide the City and the state auditor access to any books, documents, papers, and records which are directly pertinent to the license or this Agreement, for the purpose of making audit, examination, excerpts, and transcriptions, for six years after final payments and all other pending matters related to this license and this Agreement are closed.
- K. Data Practices Act Compliance. Data provided to the City concerning this matter and/or under this Agreement shall be administered in accordance with Minnesota Statutes, Chapter 13, and all data shall be maintained in accordance with statutory guidelines. The parties acknowledge that this Agreement is public data.
- L. Choice of Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.
- M. Entire Agreement. This Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between City and Hauler, and supersedes any other written or oral agreements between City and Hauler. This Agreement can only be modified in writing signed by both parties.
- N. Execution in Counterparts. This Agreement may be executed in counterparts by the parties hereto.

[Signature page to follow]

IN WITNESS WHEREOF, the City and Hauler have approved and executed this Agreement as of the day and year first written above.

THE CITY

Dated: _____, 20__.

By: _____
Duane J. Jirik, Mayor

Dated: _____, 20__.

By: _____
Joshua M. Tetzlaff, City Administrator

THE HAULER

Dated: March 1, 2024.

By: WM

Its: Michael Rigney, District Mgr.

EXHIBIT A

Hauling Rates for License Term

Commercial rates negotiated with commercial customers based on weight/volume/number of pickups required per week/dumpster location.

EXHIBIT B

Pick-Up Schedule

Pickup can occur any weekday and is set upon agreement with commercial customer.