



CITY OF DELRAY BEACH

OFFICE OF THE CITY MANAGER

100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7015



City Commission Information Letter

April 1, 2022

Formal Notice of Renewal to Waste Management

Consistent with guidance offered during the March 8th workshop meeting regarding solid waste collection services (and the City's current franchise agreement with Waste Management, via its acquisition of Southern Waste Systems and its franchise agreement with the City of Delray Beach), the attached notification letter was delivered to Waste Management leadership late last week; advising that the City of Delray Beach is formally exercising its contractual ability to continue solid waste collection services for an additional year, until September 30, 2023.

As it was recently determined by the Office of the City Attorney, an August 9, 2021 electronic mail message notification from Waste Management leadership to then Interim Director of Neighborhood and Community Services Sammie Walthour was not legally sufficient to formally conclude contractual services effective September 30, 2022. Direction to this effect would likewise yield the continued rate structure for both residential and commercial services for an additional one-year period as noted. However, as the franchise agreement includes a provision for an annual rate adjustment based on the consumer price index (but not to exceed 4%), we anticipate rate recalculations accordingly.

My office likewise hosted a meeting with Waste Management leadership Tuesday afternoon to discuss associated details, as well as to offer our commitment to work collaboratively as noted.

Efforts to Mitigate Impacts to Residential Neighborhoods from All-Terrain Vehicles, Dirt Bikes, and Four-Wheeler

As city administration recently experienced a surge in complaints regarding all-terrain vehicles, dirt bikes, and four-wheeler traffic in residential neighborhoods, please be advised that the Delray Beach Police Department is making operational adjustments to help mitigate respective concerns.

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April 1, 2022

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Direction to this effect includes ancillary monitoring of social media (so as to proactively respond to organized convergences of such activity), as well as to enforce applicable state statutes relative to licensure, registration, and moving violations.

Although guidance as outlined does not involve active pursuit of these vehicles, all involved remain confident that aforementioned enforcement directives will effectively discourage adverse activities. Meanwhile, Chief Sims advises the Office of the City Manager that operations and tactics to this effect will be executed in a covert fashion beginning in the coming days.

Agenda for April 4th School District/Delray Beach Education Board Coordinated Planning Meeting

As both the Office of the City Manager and that of Education Coordinator Janet Meeks prepare for this coming Monday's Delray Beach Education Board meeting (including participation and involvement from representatives of the School District of Palm Beach County), please find the attached agenda that offers opportunities for all involved to address educational facility and other related issues impacting our community.

As referenced, opportunities to this effect will be made available for the City of Delray Beach, the School District of Palm Beach County (SDPBC), and the Delray Beach Community Redevelopment Agency, with particular focus concerning the Delray Full-Service Center. Guidance to this effect will likewise involve a dialogue concerning the future use of the facility (specifically, the new construction areas), as well as the existing historic buildings. Given the pending offer from SDPBC regarding Buildings 1, 2, and 12, public commentary and resulting considerations as to how to proceed accordingly will also be made available.

Delivery of New Golf Carts

As publicly committed during the March 8th City Commission meeting, please be advised that all 140 new golf carts (first authorized for purchase by the City Commission during the February 8th regular meeting) are currently being delivered to enhance playability at both community golf courses.

SERVICE · **P**ERFORMANCE · **I**NTEGRITY · **R**ESPONSIBLE · **I**NNOVATIVE · **T**EAMWORK

City Commission Information Letter

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As referenced in the attached electronic mail message from Director of Parks and Recreation Samuel Metott, new carts were delivered to Lakeview Golf Course (60 new carts) yesterday morning, with operations and delivery as noted to begin at Delray Beach Municipal Golf Course next week (for a total of 80 additional new carts at this site).

We look forward to an enhanced player experience as a result. Meanwhile, much appreciation to Director Metott and his team for a smooth delivery process.

Calendar of Meetings, Activities, and Functions

Since last week, the Department of Development Services has hosted community meetings to gather public input and support for the City of Delray Beach Pedestrian and Bicycle Master Plan. Direction to this effect involved two sessions, Thursday, March 24th, and yesterday late afternoon, both at the Delray Beach Golf Club.

I participated in yesterday's exercise, giving me the ability to interact with both staff and external consultants involved in the project, as well as to listen to thoughts shared by residents relative to what environments would be suitable to promote and advance a more bicycle and pedestrian friendly community. Next steps in this process include a review of the community's input.

Enclosures:

Letter to Southern Waste Systems, LLC/Waste Management – Notice of Renewal/Accompanying Material
Agenda for April 4, 2022 Education Board Meeting
Electronic Mail Message from Sam Metott and Accompanying Photographs – New Golf Carts
Calendar for Business Week of March 28, 2022

CM/Documents/City Commission Information Letter 25



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March 24, 2022

Charles Gusmano
President and CEO
Southern Waste Systems LLC
2380 College Avenue
Davie, FL 33317

Subject: Notice of Renewal Pursuant to Section 3.2 of the Exclusive Franchise Agreement between City of Delray Beach, Florida (the “City”) and Southern Waste Systems, LLC for the Collection of Solid Waste and Recyclable Material (the “Agreement”)¹

Dear Mr. Gusmano²:

Please accept this correspondence as the City of Delray Beach’s notice of intent to exercise its option to renew the above-referenced Agreement in accordance with Article 3, Term of this Agreement, Section 3.2, City’s Option to Renew the Agreement (the “Renewal Notice”). As you are aware, the current term of the Agreement is scheduled to expire on September 30, 2022 and the City desires to exercise its right to renew the Agreement for an additional one year period.

Pursuant to Section 3.2, “the City shall have the right to renew this Agreement for an additional one (1) year period, unless the Contractor gives written notice to the City Manager that the Contractor is not willing to renew this Agreement and such notice is delivered at least three hundred and sixty (360) calendar days before the end of the current term of the Agreement.” The City notes that the email correspondence sent by Waste Management Inc. of Florida (“Waste Management”) on August 9, 2021 indicating its nonrenewal of the current contract (the “Correspondence”) failed to comply with the notice provisions of the Agreement. Article 74, Notice to Parties, of the Agreement requires that notice be sent via (a) hand delivery, (b) registered or certified mail, or (c) telecopy to the City Manager with a copy to the City Attorney. Further, Section 3.2 requires the Contractor to provide written notice *to the City Manager* that the Contractor does not wish to renew the Agreement. The Correspondence sent via email to the Director of Community Improvement was not in compliance with both Article 74 and Section 3.2 of the Agreement. The failure to comply with these provisions of the Agreement renders the purported notice of non-renewal emailed on August 9, 2021 invalid and unenforceable.

Accordingly, in furtherance of the City’s timely election to renew the Agreement for an additional one-year period, the Agreement shall continue through and including September 30, 2023, subject to the

¹ An Assignment of Exclusive Franchise Agreement was executed on December 14, 2015 wherein Southern Waste Systems, LLC, assigned its interest in the Exclusive Franchise Agreement to Waste Management Inc. of Florida.

² The Notice provision pursuant to Article 74 has not been amended to reflect the “appropriate people and places for delivering notice and other documents” on behalf of Waste Management Inc. of Florida. Thus, this Renewal Notice is sent in strict compliance with the contractor’s designees as originally provided by Southern Waste Systems, LLC.

conditions and limitations that are contained therein. For your convenience, Amendment No. 5 to the Agreement has been enclosed for your review and execution.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Terrence R. Moore, ICMA-CM
City Manager

Enclosure

cc: John Casagrande, Vice President of Business Development
Ellen Smith, Government Affairs
Sammie Walthour, Director of Neighborhood and Community Services
Lynn Gelin, City Attorney



CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444

AMENDMENT NO. 5 TO
SOLICITATION NO. 2014-38
SOLID WASTE AND RECYCLING COLLECTION
FRANCHISE AGREEMENT

WASTE MANAGEMENT INC. OF FLORIDA

CITY OF DELRAY BEACH
AMENDMENT NO. 5 TO
SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT

THIS AMENDMENT NO. 5 to the Solid Waste and Recycling Collection Franchise Agreement dated March 9, 2015, by and between City of Delray Beach, a municipal corporation of the State of Florida (hereinafter referred to as "City"), and Waste Management Inc. of Florida (hereinafter referred to as "Waste Management") a Florida Corporation authorized to do business in the State of Florida, is entered into this ____ day of _____, 20__.

WITNESSETH:

WHEREAS, the Franchise Agreement dated March 9, 2015, was initially issued to Southern Waste Systems, LLC, and later assigned to Waste Management on December 14, 2015; and

WHEREAS, Section 3.2 of the Agreement authorizes the City the right to renew the Agreement for a maximum of five (5) one-year terms; and

WHEREAS, the City elects to exercise its first one-year renewal the Agreement; and

WHEREAS, the City Commission finds that renewing the Agreement is in the best interest of the City of Delray Beach.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The recitations set forth above are incorporated herein.
2. Article 3, TERM OF THIS AGREEMENT, Section 3.1, INITIAL TERM OF FRANCHISE AGREEMENT, is amended as follows:

3.1 INITIAL TERM OF FRANCHISE AGREEMENT

This Agreement shall take effect and be binding upon the parties from the Effective Date until the date when this Agreement terminated or expires. The initial term of this Agreement shall begin on the Effective Date and continue through and including September 30, ~~2022~~ 2023, unless this Agreement is terminated earlier.

3. Except as provided herein, all other terms and conditions of the Franchise Agreement remain in full force and effect and are hereby confirmed. The Franchise Agreement, Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4 and this Amendment No. 5 represent the entire understanding between the parties on the issues contained herein, either written or oral, and may only be amended by written instrument signed by both parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City and Contractor hereto have executed this Amendment as of the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

BY: _____
Shelly Petrolia, City Mayor

Approved as to form for legal sufficiency:

Lynn Gelin, City Attorney

WASTE MANAGEMENT INC. OF FLORIDA

By: _____

Printed Name

Title

(SEAL)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 20__, by _____ (name of person), as _____ (type of authority) for _____ (name of party on behalf of whom instrument was executed).

Personally known ___ OR Produced Identification
Type of Identification Produced _____

Notary Public – State of Florida

Copy to: City Attorney
City of Delray Beach
200 N.W. 1st Avenue
Delray Beach, FL 33444
Telephone: (561) 243-7090
Facsimile: (561) 278-4755

As to Contractor: Charles Gusmano
President and CEO
Southern Waste Systems LLC
2380 College Avenue
Davie, FL 33317
Phone: (954) 615-4139
E-mail: cgusmano@southernwastesystems.com

Copy to: John Casagrande
Vice President of Business Development
Southern Waste Systems LLC
2380 College Avenue
Davie, FL 33317
Phone: (954) 444-7457
E-mail: jcasagrande@southernwastesystems.com

Both parties reserve the right to designate a different representative or representatives in the future, or to change the address(es) for notice, by providing written notice to the other party of such change.

75. COOPERATION WITH THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General, which is authorized to review City contracts and records. The City has entered into an agreement with Palm Beach County for the services of the Inspector General. The Contractor shall fully cooperate with the Inspector General and shall provide access to the Contractor's records in the manner provided herein for the City to inspect such records. Failure to cooperate with the Inspector General, or interfering with or impeding any investigation of the Inspector General, shall be a violation of County Ordinance 2009-049 and shall be punishable pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

76. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the City that:

- (a) The Contractor is a corporation existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida, and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.



City of Delray Beach

100 N.W. 1st Avenue
Delray Beach, FL 33444

Advisory Board Agenda Education Board

Monday, April 4, 2022

5:30 PM

Arts Warehouse
313 NE Third Street,
Delray Beach 33444

Regular Meeting

1. Call to Order

2. Roll Call

3. Approval of Agenda

4. Introductions

A City Manager - Terrence R. Moore, ICMA-CM

5. Presentations

A. Delray Beach Education Overview

B. School District of Palm Beach County Education Overview

6. Discussion

A. Education Board

B. City Commission/CRA

C. School District

7. Comments by Public

8. Recommendation by Education Board

9. Adjournment

Terrence R. Moore

From: Metott, Samuel
Sent: Friday, April 1, 2022 8:08 AM
To: Terrence R. Moore
Subject: New Golf Carts
Attachments: 20220331_092318.jpg; 20220331_092247.jpg

Good Morning Terrence,

Please see the attached images of our new golf cart fleet arriving at Lake View Golf Club yesterday. We anticipate receiving the additional fleet for Delray Beach Golf Club sometime next week.

Please let me know if you have any questions and thank you to the City Commission and Administration for their support on this project.

Sincerely,

Sam Metott



Samuel R. Metott, C.P.R.E.
Director of Parks & Recreation
City of Delray Beach
Parks & Recreation Department
50 NW 1st Avenue
Delray Beach, FL 33444
P: [561-243-7251](tel:561-243-7251)
MetottS@MyDelrayBeach.com

PUBLIC RECORDS NOTE: Florida has a very broad public records law. Most written communications to or from local officials, employees, or the general public regarding city business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.





March 28, 2022 - April 3, 2022

| March 2022 | | | | | | | April 2022 | | | | | | | |
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| 20 | 21 | 22 | 23 | 24 | 25 | 26 | | 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 27 | 28 | 29 | 30 | 31 | | | | 24 | 25 | 26 | 27 | 28 | 29 | 30 |

Monday, March 28

- 12:00am Summer Internship Program 2022 →
- 12:00am Duane ooo →
- 8:00am - 9:00am Begin CIL (CM Office)
- 9:00am - 9:30am Mayor mtg w/CM, CA & Others Re: Direction Concerning Golf Course P3 Proposal Process (Mayor's Office - Conference Room) - Rangel, Delores
- 10:00am - 11:30am Mayor mtg w/CM Moore Re: Agenda & Updates (1st Floor Conference Room) - Rangel, Delores ↻
- 10:00am - 11:00am Mayor/CM Agenda Review for the 4/5 Commission Meeting (City Hall 1st Floor Conference Room) - Conference Room - Commission Chambers
- 1:30pm - 2:30pm VM Johnson mtg w/CM, CA & Others Re: Direction Concerning Golf Course P3 Proposal Process (Commission)
- 3:00pm - 4:30pm VM Johnson Mtg w/CM Moore Re: Agenda & Updates (Commission Conference Room) - Rangel, Delores ↻

Tuesday, March 29

- ← Summer Internship Program 2022 →
- ← 12:00am Duane ooo
- 9:00am - 9:30am OIG Report (City Manager's Office) - Inglese, Cathy
- 10:00am - 11:00am Alley Paving Considerations in this Vicinity (211 NW 15th Ave, Delray Beach) - Vega, Brenda
- 2:00pm - 3:00pm Follow Up Direction Regarding Solid Waste Collection Services (Conference Room - City Manager) - Vega, Brenda
- 3:30pm - 4:30pm Compile Information Letter Report - New Golf Cart Delivery (CM Office) - Terrence R. Moore
- 4:30pm - 6:30pm Various (Various)

Wednesday, March 30

- ← Summer Internship Program 2022 →
- Brenda 1/2 day
- Missie ooo
- 7:30am - 8:30am Kiwanis Club of Delray Beach (Delray Beach Golf Club (2200 Highland Ave, Delray Beach, FL 33445)) ↻
- 9:00am - 10:00am Compile Information Letter Report - Efforts to Mitigate Inappropriate ATV, Dirt Bikes, Four Wheeler Traffic in
- 10:00am - 11:00am Considerations Regarding Regional Chess Event in Delray Beach (Delray Beach City Hall Office of the City
- 11:00am - 12:00pm Reorganization Considerations Regarding Purchasing (CM Office) - Terrence R. Moore
- 2:00pm - 3:00pm Compile Information Letter Report - Formal Notice of Renewal to Waste Management (CM Office) - Terrence R.
- 4:00pm - 4:30pm CM Moore/Chief Tomey 1:1 (City Manager's
- 5:00pm - 7:00pm Various (Various)

Thursday, March 31

- ← Summer Internship Program 2022 →
- 9:00am - 10:00am Chief Keith Tomey Annual Performance Evaluation (CM Office) - Terrence R. Moore
- 10:00am - 11:00am Discuss Collaborative Solutions with Various Involved Departments re: Barrier Island Accessibility (Conference Room - City Hall 1st Floor) - Vega, Brenda
- 11:30am - 12:30pm Compile Information Letter Report - Agenda for School District/Delray Beach Education Board Coordinated Planning Meeting (CM Office) - Terrence R. Moore
- 2:00pm - 3:30pm Various (Various) ↻
- 3:00pm - 4:00pm Compile and Deliver (CM Office)
- 4:00pm - 6:00pm City of Delray Beach Pedestrian and Bicycle Master Plan Public Meeting (Delray Beach Golf Club, 2200 Highland Avenue, Unit A, Delray Beach FL) - Cheryl Scott

Friday, April 1

- ← Summer Internship Program 2022 →
- 7:30am - 9:00am Finalize CIL (CM Office) ↻
- 8:30am - 9:00am Parker Zelle (CM Office)
- 9:00am - 10:00am Comm. Boylston mtg w/CM, CA & Others Re: Guidance and Direction Concerning Golf Course P3 Proposal Process (City Manager's Office) - Rangel, Delores ↻
- 10:00am - 10:30am DVM Frankel mtg w/CM, CA & Others Re: Direction Concerning Golf Course P3 Proposal Process (City
- 10:30am - 2:30pm Various (Various)
- 1:00pm - 2:00pm DELRAY BEACH > Tourism Master Plan - Financial, Business Intelligence & Staffing Committee Mtg.
- 4:00pm - 5:00pm Biweekly City Attorney (CM Office) - Moore, Terrence ↻
- 5:30pm - 6:00pm ICMA CoachConnect Session with Desmond Jeffries

Saturday, April 2

- ← Summer Internship Program 2022 →
- 10:00am - 11:00am Delray Beach Tennis Center (Clay Court #8) ↻
- 11:30am - 1:30pm Various, CIL Notes, etc. (CM Office)

Sunday, April 3

- ← Summer Internship Program 2022 →