

RESOLUTION NO. 22-03-26

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING THE FOURTH AMENDMENT TO THE AGREEMENT BETWEEN ADVANCED DISPOSAL SERVICES SOLID WASTE SOUTHEAST, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE RESIDENTIAL AND COMMERCIAL SOLID WASTE, YARD WASTE AND RECYCLING COLLECTION AND DISPOSAL SERVICES (EXCLUDING COMMERCIAL RECYCLING AND ROLL-OFF SERVICES); AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") has retained the services of Advanced Disposal Services Solid Waste Southeast, Inc. ("Advanced Disposal") for residential and commercial solid waste, yard waste and recycling collection and disposal services (excluding commercial recycling and roll-off services); and

WHEREAS, the Village Attorney has prepared a Fourth Amendment to the Agreement between Advanced Disposal and the Village (the "Amendment") to amend Paragraph 5.3.7 to add language regarding number of collections required per week for commercial customers with large roll-off self-contained compactors and adding Paragraph 5.9 creating a billing option for grouped residential dwelling units to be treated as commercial customers; and

WHEREAS, Advanced Disposal has agreed to provide the services described in the Amendment; and

WHEREAS, the Village Council finds that approval of the Amendment attached hereto is in the best interest of the Village.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Amendment. The Village Council hereby approves the Fourth Amendment to the Agreement between Advanced Disposal and the Village (the "Amendment") to revise Section 5.3.7 and to add Section 5.9 of the Agreement, copies of which are attached as Exhibit "A," together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Authorization of Village Officials. The Village Manager and/or his/her designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Amendment.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the Amendment.

Section 5. Execution of Amendment. The Village Manager is authorized to execute the Amendment on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Amendment and to execute any extensions and/or amendments to the Amendment, subject to the approval as to form and legality by the Village Attorney.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

Motion to adopt by Councilman David Webb, seconded by Mayor Pete Bacheler.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

| | |
|---------------------------------|-----|
| Mayor Pete Bacheler | YES |
| Vice Mayor Henry Rosenthal | NO |
| Councilman Mark Gregg | YES |
| Councilman Joseph B. Pinder III | NO |
| Councilman David Webb | YES |

PASSED AND ADOPTED THIS 31st DAY OF MARCH, 2022.



PETE BACHELER, MAYOR

ATTEST:



STEPHANIE CONDE, ACTING VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR
THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS:



ROGET V. BRYAN, VILLAGE ATTORNEY

FOURTH AMENDMENT
TO AGREEMENT FOR
RESIDENTIAL AND COMMERCIAL SOLID WASTE, YARD WASTE AND
RECYCLING COLLECTION AND DISPOSAL SERVICES

BETWEEN
ISLAMORADA, VILLAGE OF ISLANDS
AND
ADVANCED DISPOSAL SERVICES SOLID WASTE SOUTHEAST, INC.

THIS AMENDMENT to the Agreement (the "Fourth Amendment") is made between **ADVANCED DISPOSAL SERVICES SOLID WASTE SOUTHEAST, INC.**, a Florida corporation ("Advanced Disposal"), and **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation (the "Village").

WHEREAS, Advanced Disposal and the Village entered into a certain Agreement for Solid Waste, Yard Waste and Recycling Collection and Disposal Services (the "Agreement") effective January 1, 2014; and

WHEREAS, the parties entered into a First Amendment to modify Exhibit "B" to the Agreement effective April 20, 2017; and

WHEREAS, the parties entered into a Second Amendment to modify Exhibits "A," "B," and "C" to the Agreement to update pricing to reflect increases for prior CPI adjustments, to revise pricing for increased disposal costs and to revise language relating to CPI increases effective October 1, 2018, October 1, 2019, October 1, 2020 and future years; and

WHEREAS, the parties entered into a Third Amendment to modify the hours of collection; and

WHEREAS, the parties desire to enter into this Fourth Amendment to modify collection frequency for large roll-off self-contained compactors and adding a billing option for grouped residential dwelling units to be treated as commercial customers.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Fourth Amendment, Advanced Disposal and the Village agree as follows.

Section 1. **Amendment to Agreement.** The Agreement is amended to read as follows:

5.3.7 Commercial Customers/Perishables. Any Commercial Customer that generates Solid Waste of a perishable type, including but not limited to, restaurants, bars, fishing tours and bait shops, shall have a minimum of three (3) collections per week, unless otherwise approved in writing by the Village Manager. All perishable waste must be placed in leak-proof plastic bags prior to placement in the container. Commercial Customers with large roll-off self-contained compactors are to be collected a minimum of one (1) day per week. Grouped Residential Dwelling Units treated as Commercial Customers pursuant to Section 5.9 require a minimum collection of two (2) days per week.

5.9 Billing Option for Grouped Residential Dwelling Units to be treated as Commercial Customer. In some instances, condominium/homeowners associations (HOAs) meeting the definition of Residential Customer pursuant to Section 1.24 would prefer to be treated as a Commercial Customer under Section 1.7 to minimize or avoid garbage trucks entering the respective neighborhoods to collect trash, recycling and yard waste. In this case, the HOAs may request a commercial account and receive an appropriately sized dumpster with recycling bins and location for disposal of yard waste and request to be removed from the non-ad valorem assessment roll. After these HOAs have made contact with Contractor to set up the commercial account and be billed directly by Contractor for services, the HOA shall submit a request in writing to the Village to be removed from the non-ad valorem tax roll for solid waste assessments for residential services. Depending on the effective date of the change, the Village will refund pro-rated solid waste assessment amounts to the individual homeowners comprising the HOA. Should the HOA want to revert back to individualized residential services as a Residential Customer, the request should be submitted to the Village by August 1 of any year to go into effect October 1. Determination of preference among residential dwelling units comprising the HOAs as to billing option as Residential or Commercial Customer is the responsibility of the units comprising the HOAs. If the HOA chooses to be billed as a Commercial Customer, then once the Contractor is notified by the HOA, the Contractor will begin providing one invoice to the HOA as the bill for the entire community (no individual dwelling unit invoicing is permitted).

Section 2. No Further Modifications. All other terms and conditions of the existing Agreement not in conflict or superseded by this Fourth Amendment shall remain in full force and effect as if set for the herein.

Section 3. Effective Date. This Fourth Amendment shall be effective upon full execution by all parties.

IN WITNESS WHEREOF, there parties execute this Fourth Amendment on the respective dates under each signature: The Village, signing by and through its Village Manager, attested to by its Village Clerk, and by Advanced Disposal by and through its principal.

Attest:

ISLAMORADA, VILLAGE OF ISLANDS

Stephanie Conde
Stephanie Conde, Acting Village Clerk

By: Maria T. Bassett
Maria T. Bassett, Acting Village Manager

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS,
FLORIDA, ONLY

Date: 4/4/2022

[Signature]
Roget V. Bryan, Village Attorney

ADVANCED DISPOSAL SERVICES
SOLID WASTE SOUTHEAST, INC.

Colleen Hamilton
Witness

By: David M. Myhan
Signature

[Signature]
Witness

David M. Myhan, President
Title

April 5, 2022
Date