

ORDINANCE 2024-05

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING ORDINANCE 2014-21 AND PROVIDING FOR A SECOND RENEWAL OF THE TERM OF THE FRANCHISE AGREEMENT; PROVIDING FOR AN AMENDMENT TO THE FRANCHISE AGREEMENT; PROVIDING FOR AMENDED SERVICE RATES; PROVIDING FOR AMENDED SERVICE RATE ADJUSTMENTS; PROVIDING THAT ALL OTHER TERMS AND CONDITIONS OF ORDINANCE 2014-21 SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key (the "Town") adopted Ordinance 2014-21 on June 30, 2014, granting an exclusive franchise to Waste Management, Inc. of Florida, (the "Franchisee") for collection and disposal of solid waste, yard trash, and residential recyclable materials within the corporate limits of the Town of Longboat Key; and

WHEREAS, the Town and Franchisee entered into a Franchise Agreement for Solid Waste Services effective as of July 1, 2014 (the "Franchise Agreement"), a copy of which is attached as Exhibit "A" to Ordinance 2014-21; and

WHEREAS, Article 1 of the Franchise Agreement specifies that the term of the Franchise Agreement may be renewed for up to two (2) additional terms of three (3) years each; and

WHEREAS, the Town agreed to a First Amendment to the Franchise Agreement exercising the first renewal period effective August 1, 2021, and terminating on June 30, 2024; and

WHEREAS, the Town and Franchisee have agreed to a Second Amendment to the Franchise Agreement, an executed copy of which is attached hereto as Exhibit "A," to address the second and final renewal period from July 1, 2024 through June 30, 2027 and to further modify certain other terms of the Franchise Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA THAT:

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. The Franchise Agreement between the Town and the Franchisee shall be renewed for a second additional term commencing on July 1, 2024, and terminating on June 30, 2027.

SECTION 3. The Franchise Agreement, attached as Exhibit "A" to Ordinance 2014-21, shall be amended in accordance with the Second Amendment to the Franchise Agreement, attached and incorporated into this Ordinance 2024-05 as Exhibit "A."

SECTION 4. Except as specifically modified and superseded herein, the remaining terms and conditions of Ordinance 2014-21 shall remain in full force and effect.

SECTION 5. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 6. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 7. This Ordinance shall be codified and made part of the official Code of Ordinances of the Town of Longboat Key.

SECTION 8. This Ordinance shall be created and shall become effective upon its adoption and approval as prescribed by law. This Ordinance shall take effect upon second reading in accordance with law and the Charter of the Town of Longboat Key.

Passed on the first reading the _____ day of _____, 2024.

Adopted on the second reading and public hearing the _____ day of _____, 2024.

Kenneth Schneier, Mayor

Attest:

Trish Shinkle, Town Clerk

Attachment:

Exhibit "A" – Second Amendment to Franchise Agreement

**SECOND AMENDMENT TO
FRANCHISE AGREEMENT FOR SOLID WASTE SERVICES**

THIS SECOND AMENDMENT TO FRANCHISE AGREEMENT FOR SOLID WASTE SERVICES (hereinafter, the "Amendment") is hereby entered into as of the Amendment Effective Date defined below, between the **Town of Longboat Key, Florida** (hereinafter, the "Town"), and **Waste Management, Inc., of Florida** (hereinafter, the "Franchisee").

WHEREAS, the Town and Franchisee entered into a Franchise Agreement for Solid Waste Services effective as of July 1, 2014 (the "Franchise Agreement"), a copy of which is attached as Exhibit "A" to Ordinance 2014-21; and

WHEREAS, Article 1 of the Franchise Agreement specifies that the term of the Franchise Agreement may be renewed for up to two (2) additional terms of three (3) years each; and

WHEREAS, the Town desires to renew the Franchise Agreement with the Franchisee for an additional and final term of three (3) years commencing on July 1, 2024, and terminating on June 30, 2027; and

WHEREAS, Franchisee has petitioned the Town for rate adjustments as part of this final renewal, such adjustment being due to extraordinary regional and national negative economic effects of inflation; and

WHEREAS, the Town and Franchisee mutually desire to amend the Franchise Agreement to address these matters and to further modify certain other terms of the Franchise Agreement as set forth herein.

NOW, THEREFORE, the Town and the Franchisee hereby agree as follows:

1. The term of the Franchise Agreement is extended for an additional term of three (3) years commencing on July 1, 2024, and terminating on June 30, 2027, unless terminated sooner as provided for under the terms of the Franchise Agreement.
2. The amended "Exhibit A Service Rates" attached hereto and incorporated herein shall be effective July 1, 2024.
3. The amended "Exhibit D Service Rate Adjustments" attached hereto and incorporated herein related to Consumer Price Index ("CPI") and Fuel cost adjustments shall be effective July 1, 2024. CPI and Fuel adjustments for this final renewal period shall not be considered during the first year of the renewal term. Further, it is agreed that Section A.3 of Exhibit D of Ordinance 2014-21 is amended as follows:

The total adjustment to the collection fee component of the service rates in any given year shall not exceed three percent (3%) of the previous year's collection fee component of that rate.

4. Section 23.2 Notice of the Franchise Agreement shall be replaced in its entirety as follows:

All notices required or contemplated by this Agreement shall be personally served, mailed, postage prepaid, and return receipt requested, addressed to the parties as follows:

To Town: Howard N. Tipton

Town Manager
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

With Copies to: Maggie Mooney
Town Attorney
Persson, Cohen & Mooney, P.A.
6853 Energy Court
Lakewood Ranch, FL 34240

Isaac Brownman
Public Works Director
Town of Longboat Key
600 General Harris St
Longboat Key, FL 34228

To Franchisee: David Myhan
President
Waste Management, Inc., of Florida
1800 N. Military Trail, Suite 201
Boca Raton, FL 33431

With Copies to: Legal Department
Waste Management, Inc., of Florida
1800 N. Military Trail, Suite 201
Boca Raton, FL 33431

5. The Effective Date of this Amendment shall be July 1, 2024.
6. All other terms and conditions of the Franchise Agreement, except as specifically amended by this Amendment, shall continue in full force and effect throughout the term of the Franchise Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Second Amendment to Franchise Agreement for Solid Waste Services as of the day and year last written below. The Town and the Franchisee have signed this Second Amendment in two originals in counterpart. One counterpart each has been delivered to the Town's Purchasing Manager and to the Franchisee.

Attest:
As to Franchisee

FRANCHISEE
Waste Management, Inc., of Florida

By: _____
Signature

By: _____
Signature (Authorized Representative)

Date: _____

Print Name: _____

Print Title: _____

Date: _____

Attest:

As to Town of Longboat Key, Florida

Trish Shinkle, Town Clerk

Date _____

Seal:

Review of Amendment as to Form

By: _____
Maggie D. Mooney, Esq., Town Attorney

TOWN

Town of Longboat Key, Florida

By: _____
Howard N. Tipton, Town Manager

Date: _____