


**DATE:** November 16, 2022 **FILE:** PW-22-044

**TO:** Dr. Wazir Ishmael  
City Manager

**VIA:** George R. Keller, Jr., CPPT  
Deputy City Manager

**FROM:** Charles W. Lassiter   
Interim Director, Department of Public Works

**SUBJECT:** Status of Waste Pro Contract

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**ISSUE:**

Requested report on Waste Pro contract performance.

**EXPLANATION:**

***History of Waste Pro's Current Waste Collection Contract***

On February 21, 2019, a bid for residential solid waste collection, recycling collection, commingled waste, bulk waste and yard waste collection, processing and disposal services was advertised on Bidsync. During the pre-bid conference, several solid waste companies suggested eliminating collection service from alleys behind residences throughout the City in favor of a curbside waste collection service. Members of the Hollywood City Commission indicated they were not interested in eliminating alley collection service.

On April 15, 2019, Bid F-4609-19-PB was opened. Solid waste collection service in alleys behind residences was included in the bid. Waste Pro submitted a monetary bid for all collection services. Both Republic Services of Florida and Waste Management submitted "no bid" responses. No other company submitted a bid.

On June 19, 2019, during a Special Commission Meeting, the City Commission authorized City Staff to negotiate a new contract with Waste Pro. City staff and Waste Pro eventually agreed on the terms of a new 10 year contract. The City Commission adopted Resolution No. R-2019-240 on August 28, 2019 and the new contract took effect on October 1, 2019.

## ***Past and Current Contract Performance***

The City of Hollywood initially contracted with Waste Pro in February, 2009 after the City decided to outsource its waste collection services. The contract included residential garbage collection twice a week, and the collection of recycled waste and commingled bulk and yard waste once a week. During its first 10-year contract with the City ending September 30, 2019, Waste Pro serviced 34,578 households annually, averaging just over 553,000 total collections each month, and a .39 percent monthly resident complaint rate.

Under its current contract, Waste Pro provides collection service to 34,659 households in Hollywood twice a week for garbage, once a week for yard waste, and once a month for bulk trash collection. Since the current contract went into effect on October 1, 2019, Waste Pro has averaged just over 589,000 total collections each month with a .66% monthly resident complaint rate. Data for waste collection services provided by the City of Hollywood prior to contracting in 2009 is not available.

Complaints about unsatisfactory service are common in the solid waste collection industry and occur for various reasons such as equipment failure, road closures, noise and collection staff errors or behavior. Some residents file complaints about the lack of service even though they set out their garbage carts for collection late or exceed the allowable amount of bulk or yard waste that may be collected during a single pickup. Each time a resident files a complaint with Waste Pro or City staff, a record is generated in a database/complaint system that is accessible to both Waste Pro and Public Works staff. Waste Pro is immediately notified by the system of the complaint, and Waste Pro is responsible for addressing the complaint. Pursuant to the City's contract with Waste Pro, each complaint has a specific timetable for resolution. If City staff verifies that Waste Pro has not resolved the complaint within the timeframe specified in the contract, Public Works issues Waste Pro a notice of violation that may result in a fine in accordance with the contract.

## ***Violations***

During its first contract with Waste Pro from 2009 to 2019, the City issued a total of 18 violation letters and levied \$45,650 in fines for those violations. Waste Pro paid the City \$45,650 in fines during its first contract from 2009 to 2019. When the City Commission authorized City staff to negotiate a new contract with Waste Pro in 2019, City Commission members asked City staff to incorporate stiffer, higher penalties for service violations in the new contract as City Commission members felt the prior penalty structure was too lenient to Waste Pro. Under its current contract with Waste Pro, the former Public Works Director, Peter Bieniek, issued two violation letters from October, 2019 to January, 2020, and levied \$223,579.54 in fines for those violations.

The violations for the period from October, 2019 to January, 2020, were documented and presented for approval to the former Public Works Director by Randy Stovall, the Environmental Services Superintendent, who was responsible for oversight of the Waste Pro contract. Mr. Stovall occupied the Environmental Services Superintendent position until February, 2022, when he transferred to the Procurement and Contract Compliance Division. During his tenure as the Environmental Services Superintendent he continued to document and present violations to Mr. Bieniek for approval. However, no further violation letters were approved by Mr. Bieniek.

The total amount of service violations that occurred in October, 2019 was \$47,850, and were billed to Waste Pro in December, 2019. Waste Pro objected to the amount levied by the former Public Works Director, Peter Bieniek, who instructed Mr. Stovall and myself to review the violations that resulted in the fines. During the review, Mr. Bieniek determined that many of the violations had been resolved within a minimal timeframe from when the complaints were initially submitted. In June, 2020, the former Public Works Director sent Waste Pro a follow up letter that included a fine reduced to the amount of \$18,650 instead of the original \$47,850 for violations that occurred in October, 2019. The letter also included a monthly breakdown of fines that were levied against Waste Pro for violations that occurred between October, 2019 and January, 2020. The total amount of fines levied against Waste Pro for the first four months of the current contract was \$223,579.54.

The following is the monthly breakdown that was included in the former Public Works Director's June, 2020 letter to Waste Pro:

MONTH OF SERVICE	LIQUIDATED DAMAGES
October 2019	\$18,650.00
November 2019	\$71,429.54
December 2019	\$74,900.00
January 2020	\$58,600.00

After receiving the letter, Waste Pro again objected to the amount and threatened to terminate their performance and default on the contract. The former Public Works Director instructed Public Works staff in July, 2020 to suspend levying fines against Waste Pro. Because of the suspension, Public Works staff ceased verifying whether resident complaints had been resolved within the terms of the contract, as per Mr. Bieniek's direction. Mr. Bieniek advised Public Works staff he did not believe that penalties against Waste Pro should be punitive in nature. Mr. Bieniek also ordered Public Works staff to review the contract language and provide him with a proposed contract amendment that "clarified" how penalties are levied. Public Works staff presented Mr. Bieniek with the proposed amendment in August, 2020, which described a reduction in penalties. Mr. Bieniek proposed to Deputy City Manager, George Keller, a reduction in the fine structure, which DCM Keller rejected and instructed Mr. Bieniek to enforce the existing executed contract. Mr. Bieniek did not follow up with Public Works staff after receiving the proposed amendment, and the levying of any additional fines remained suspended through his departure from the City in September, 2022.

### **Replacement of Residential Garbage and Recycling Carts**

Waste Pro has advised that ongoing supply chain issues have negatively impacted the availability of residential garbage and recycling carts for distribution to residents. Meanwhile, the demand for cart repairs and replacements have increased due to the requirement for

vacation home rentals to have additional carts, new residences and the need to replace damaged or missing carts. Waste Pro is currently sub-contracting with a vendor to expedite the cart delivery process. The City also has made its Public Works compound directly available to residents for them to pick up carts on the first Friday of every month.

### ***Path Forward***

Public Works is taking the following measures to enhance Waste Pro's service in Hollywood to ensure accountability.

- Code Officers have been redirected to continue to monitor Waste Pro collection activities to document, validate and track contract violations so fines can be assessed, when applicable.
- Fines are being assessed to Waste Pro for liquidated damages in accordance with the City's contract.
- Monthly meetings between Environmental Services Division representatives and Waste Pro supervisory representatives have resumed to improve communications, identify and address areas of concern, and enhance customer service.
- A new Environmental Services Manager is scheduled to fill this vacancy on November 28, 2022. This position is instrumental to the Environmental Services Division and for overseeing the management of the City's contract with Waste Pro. This position has been vacant since February, 2022.
- The Environmental Services Division is working with the Office of Communication, Marketing and Economic Development and the Department of Public Utilities to develop and distribute informational flyers during the current fiscal year to educate residents about the City's waste collection program, its guidelines and their responsibilities.
- The Public Works Department staff is scheduling a meeting with Waste Pro to collect the outstanding assessed penalties.

### **RECOMMENDATION:**

For your information.

Cc: Douglas Gonzalez, City Attorney