

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	December 7, 2015
	<b>Agenda Item No.</b>	<b>29</b>
	<b>Roll Call No.</b>	<b><u>15-2064</u></b>
	<b>Communication No.</b>	<b><u>15-640</u></b>
	<b>Submitted by:</b>	<b>Jonathan A. Gano, Public Works Director</b>

**AGENDA HEADING:**

Approving Amendment #2 of Contract for the Single-Stream Recyclables Processing Services with Mid-America Recycling, LLC (formerly known as to Midland Recycling-Lincoln, LLC).

**SYNOPSIS:**

Recommend Council approval of amendment to the contract between the City of Des Moines and Midland Recycling, LLC and authorizing the City Manager to negotiate and execute amendment to the processing contract to Midland Recycling Group for a five (5) year extension for processing solid waste recyclables at the Recycling Processing Center located at 2742 E Market Street, Des Moines, Iowa.

**FISCAL IMPACT:**

Amount: Projected revenue of \$150,000 annually

Funding Source: E151; PW250432-Curbside Recycling, Solid Waste Operations Fund page 228

**ADDITIONAL INFORMATION:**

The Public Works Department provides a number of services including the curbside collection and processing of recyclable materials. The public works department entered into a processing contract with Mid-America Recycling, LLC under Roll Call No. 08-1271 dated July 14, 2008. The contract allowed for an initial seven (7) year period beginning December 6, 2008 and ending December 31, 2015, with up to two (2) additional five (5) year renewals at the City’s discretion.

On May 18, 2015, by Roll Call No. 15-0828, the City Council consented to the assignment of the Contract by and between the City of Des Moines and GreenStar Mid-America Recycling, LLC for Single Stream Solid Waste Recyclables Processing Services for the Public Works Department to Mid America Recycling, LLC and authorized the City Manager to execute an amendment on behalf of the City to the Contract.

The Public Works Director has notified Mid America Recycling, LLC that the City desires to extend the contract period for an additional five (5) year period. The City and the Contractor desire to amend the Contract to, among other items, renew the term of the Contract to December 31, 2020, clarify the processing fee process, and to adjust the payment formula as described in Exhibit A.

The parties agree that the Contract shall be amended as follows;

1. Section A shall be amended by adding the following definitions:

Glass Residue or Glass Residual: Shall mean the non-recyclable glass byproduct of Recycling. Glass Residue does not include Contaminants or Process Residue.

Process Residue: Shall mean the non-recyclable byproduct of the Recycling process. Processing Residue does not include Contaminants or glass residue.

2. Section E shall be amended by deleting “and for Contaminants” in the first sentence and by adding the following at the end of the first paragraph:

The monthly reports described in Section B.6 shall contain a contaminants line item to account for the percentage of the Single-Stream recyclable Materials that was presorted according to the annual audit and determined by mutual agreement of the City and the Contractor to be non-recyclable. The quantity in this line item will be adjusted based on the annual audits. The City will receive zero revenue for this category and will not be charged a disposal fee but will pay a Processing Fee. The City’s public education program rebate will not be paid on the total inbound volume of this category. The line item listed as “Glass Residual” will be added to the mixed glass commodity.

Processing Fees will be reviewed annually and may be adjusted annually on July 1 of each subsequent year beginning on July 1, 2017 by mutual agreement of the parties, with any increase limited to no more than the percentage increase of the consumer price index (CPI) (Midwest Region) as published by the US Department of Labor, Bureau of Statistics for the preceding month of April.

3. Section H.4(c) shall be amended by providing that, from January 1, 2016 until December 31, 2020 and subsequent renewal term, if any, Contractor shall provide a Performance Bond, to assure performance of payment obligations under the Contract in the form attached hereto as Attachment 1 in the amount of \$1,000,000.00 in lieu of the irrevocable letter of credit. Contractor agrees to maintain said performance bond in continuous effect during the term of this Contract, including any renewal thereof. The irrevocable letter of credit issued to the City pursuant to the first amendment may be revoked by the Contractor upon the effective date of the performance bond acceptable to the City.
4. Exhibit A shall be amended by deleting in its entirety and replacing it with the new attached Exhibit A effective August 1, 2015.
5. Pursuant to Section D of the Contract, the parties agree to renew the Contract for an additional term from January 1, 2016 until December 31, 2020. At the City’s sole option, this Contract may be renewed for one (1) additional five (5) year term.
6. Except as amended above the terms of the Contract shall remain in effect.
7. This amendment shall be in full force and effect on August 1, 2015.

The Public Works Director recommends authorizing the City Manager to negotiate toward the execution of a mutually acceptable amended Agreement (“Amended Agreement”) to be executed prior to December 31, 2015.

**PREVIOUS COUNCIL ACTION(S):**

Date: May 18, 2015

Roll Call Number: [15-0828](#)

Action: [Assignment](#) of contract for single-stream recyclables processing services with GreenStar Mid-America Recycling, LLC to Mid America Recycling, LLC and authorizing City Manager to negotiate and execute assignment agreement and amendment to contract. ([Council Communication No. 15-270](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: July 14, 2008

Roll Call Number: [08-1271](#)

Action: [Single-Stream Recyclables Processing Contract with Mid-America Recycling, LLC.](#) ([Council Communication No. 08-413](#)) Moved by Kiernan to adopt. Motion Carried 6-1. Nays: Coleman.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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