

RESOLUTION NO. 23-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA AUTHORIZING A SECOND AMENDMENT TO THE AGREEMENT WITH ATHENS SERVICES FOR RESIDENTIAL AND RECYCLING SERVICES

WHEREAS, the current exclusive franchise agreement for residential refuse and recycling services was entered into on July 1, 2014 to provide services to residential units and the City's facilities and on October 16, 2018, the City approved a First Amendment to the Agreement between the City of Commerce and Calmet Services (Calmet), Inc. for residential and recycling services to extend the Agreement term by four years to June 30, 2023; and

WHEREAS, on January 11, 2022, the City Council approved the Assignment of the Exclusive Franchise Agreement between the City and Calmet to Athens Services (Athens); and

WHEREAS, the Agreement allows for an annual review by City and Contractor during the term of the Agreement with respect to the service and rate structure and rate adjustment and for negotiations in good faith to reach an equitable adjustment in the service and/or contract rates with final decision by the City Council; and

WHEREAS, on April 12, 2022, the City received a letter from Calmet requesting a rate increase of 9.57% for both CPI and disposal cost increases, which equates to \$86,383.53 from the prior monthly rate of \$78,839.36 and was subsequently approved effective July 1, 2023; and

WHEREAS, on January 17, 2023, Athens Services submitted a letter to the City Manager requesting an extension of their contract due to expire on June 30, 2023; and

WHEREAS, on February 21, 2023, City Council directed staff at a regular meeting to engage in negotiation discussions to potentially return to the City Council with a Second Amendment to the Agreement in the near future; and

WHEREAS, on April 14, 2023, Athens submitted a letter to the City Manager requesting an annual rate adjustment of 6.19% per the current Agreement allowances; and

WHEREAS, since this time, staff and Athens representatives have been discussing the City's needs, CalRecycle's unfunded mandate SB 1383 for residential organic recycling and the cost of services; and

WHEREAS, on June 8, 2023, the Little Hoover Commission released a report recommending a temporary suspension of SB1383 implementation until the State of California can consider modifications based on their recommendations; and

WHEREAS, staff recommends that the City Council authorize a Second Amendment to the Agreement with the following terms:

- a. New 5-year term effective July 1, 2023 with a one-time 5-year extension to be approved by City Council upon mutual consent of both parties; and
- b. Rate increase of 6.19% for both CPI and disposal increases; and
- c. Basis of annual rate increase Section 17. Compensation (B) and (C) of existing Agreement to be replaced with a Trash CPI +1% instead of existing language which separates increases, one for CPI (B) and one for tipping fees (disposal cost increases) (C) as approved by City Council for future rate adjustments.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE, DECLARE AND DETERMINE AS FOLLOWS:

Section 1. The City Council of the City of Commerce hereby finds and declares that the foregoing recitals are true and correct, and incorporates them herein as findings and as a substantive part of this Resolution.

Section 2. That the City Council of the City of Commerce authorizes the Mayor to execute the Second Amendment with Athens Services in a form approved by the City Attorney.

Section 3. New 5-year term effective July 1, 2023 with a one-time 5-year extension to be approved by City Council upon mutual consent of both parties.

Section 4. Authorizes a 6.19% contract increase for Athens for the 2023-2024 Fiscal Year under the existing residential waste hauling services agreement.

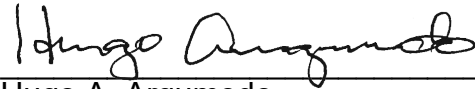
Section 5. Authorizes the basis of future annual rate increases Section 17. Compensation (B) and (C) of existing Agreement to be replaced with a Trash CPI +1% instead of existing language which separates increases, one for CPI (B) and one for tipping fees (disposal cost increases) (C) as approved by City Council for future rate adjustments.

Section 6. The Mayor is authorized to execute this Resolution for and on behalf of the City of Commerce.

Section 7. The City Clerk shall certify to the adoption of this Resolution.

Section 8. This Resolution shall take full force and effect immediately upon adoption by the City Council.

PASSED, APPROVED AND ADOPTED this 27th day of June, 2023.



Hugo A. Argumedo
Mayor

ATTEST:



Lena Shumway
City Clerk