

**SPECIAL MEETING OF THE CITY COUNCIL  
SATURDAY, APRIL 1, 2023 10:00 A.M.**

**BE IT REMEMBERED** that a Special Meeting of the City Council of Jackson, Mississippi, was called by a majority of the City Council Members and notices having been placed by the Clerk of Council at 9:01 a.m. Friday, March 31, 2023 in the Clerk of Council's Office, electronic notifications to all Council Members, on the City's website and on the public bulletin board in City Hall, relative to: (1) Order authorizing the Mayor to execute the contract and related documents with Richard's Disposal, Inc. to provide Solid Waste Collection and Hauling services for a six (6) year term commencing April, 1, 2023 with four (4) one (1) year extension options. The meeting was convened in the Council Chambers located at 219 S. President Street at 10:00 a.m. on April 1, 2023 being the first Saturday of said month, when and where the following things were had and done to wit:

Present: Council Members: Ashby Foote, Council President, Ward 1; Angelique Lee, Council Vice President, Ward 2; Kenneth I. Stokes, Ward 3; Brian Grizzell, Ward 4; Vernon Hartley, Ward 5; Aaron Banks, Ward 6 and Virgi Lindsay, Ward 6. Directors: Mayor Chokwe Antar Lumumba, Safiya Omari, Chief of Staff; Shanekia Mosley-Jordan, Clerk of the Council, Sabrina Shelby, Chief Deputy Clerk of Council and Catoria Martin, City Attorney.

Absent: None.

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The meeting was called to order by **President Foote**.

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**ORDER AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND RELATED DOCUMENTS WITH RICHARD'S DISPOSAL, INC. TO PROVIDE SOLID WASTE COLLECTION AND HAULING SERVICES FOR A SIX (6) YEAR TERM COMMENCING APRIL 1, 2023 WITH FOUR (4) ONE (1) YEAR EXTENSION OPTIONS.**

**WHEREAS**, the Solid Waste Division of the Department of Public Works first issued a Request for Proposals for Solid Waste Collection Services to replace the existing Agreement for Solid Waste Services that was set to expire on September 30, 2020; and

**WHEREAS**, the results of the Request for Proposals issued in 2020, were that it would be less expensive for the City to exercise the remaining one-year optional renewal in its existing Agreement for Solid Waste Collection Services; and

**WHEREAS**, consequently, the Mayor presented to the City Council and the City Council approved a one-year extension to the Agreement for Solid Waste Services with Waste Management of Mississippi, Inc.; and

**WHEREAS**, in early 2021, the Solid Waste Division issued another Request for Solid Waste Collection Services; and

**WHEREAS**, the evaluation committee recommended the proposal of FCC Environmental Services as the most qualified proposal; and

**WHEREAS**, the Solid Waste Division of the Department of Public Works negotiated an agreement with FCC Environmental Services and presented the agreement with FCC to the City Council for approval on August 9, 2021; and

**WHEREAS**, the City Council voted against awarding an agreement for solid waste collection services to FCC Environmental Services at two different meetings on August 9, 2021 and August 19, 2021, and did not express any interest in further negotiating an agreement with FCC Environmental Services; and

**WHEREAS**, after August 19, 2021, the Mayor approached both remaining proposers, Richard's Disposal, Inc. and Waste Management of Mississippi about negotiating an agreement; and

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**WHEREAS**, the time to perform the services was approximately one month away and Richard's Disposal, Inc. stated that it would not have sufficient time to begin providing garbage collection services on such short notice; and

**WHEREAS**, the Mayor attempted to negotiate an agreement with Waste Management of Mississippi for a term shorter than the maximum six years, but Waste Management of Mississippi refused to negotiate any term shorter than the maximum; and

**WHEREAS**, as a result of litigation filed by the City Council against the Mayor in September 2021, the Mayor and the City Council eventually reach an agreement to approve a six-month emergency agreement with Waste Management of Mississippi to provide solid waste collection services at a monthly cost of \$808,035.00, an increase of \$239,178.36 per month from the prior monthly cost of \$568,856.64; and

**WHEREAS**, on October 21, 2021, the City began soliciting proposals for solid waste collection and hauling services, with four options: 1) once per week collection without a cart; 2) twice per week collection without a cart; 3) once per week collection with a 96-gallon cart; and 4) twice per week collection with a 96-gallon cart; and

**WHEREAS**, on November 8, 2021, the City Attorney presented to the City Council during its work session and later provided the City Council with a memorandum explaining the Request for Proposal time-line, which was critical given the six-month emergency contract, and the weighting of the RFP factors as follows:

- Technical Proposal (30%)
  - o Innovative approach to encourage and maintain a sustainable solid waste system- 10%
  - o Plan for performing the required services- 20%
- Service Provider's Presentation/Interview: (25%)
  - o Experience in providing similar services- 10%
  - o Qualifications and Key Personnel- 10%
  - o References- 5%
- EBO Plan and commitment to exceeding MBE and FBE participation goals (10%)
- Fee proposal (35%)
  - o How cost compares to other proposals in this algebraic equation: ((Lowest Priced Proposal divided by Service Provider's Price) multiplied by 35) equals the number of points/percentages assigned. Lowest priced proposal gets 35 points; and

**WHEREAS**, the November 8, 2021 memorandum also explained how the technical proposals would be evaluated through a blind-scoring process, and

**WHEREAS**, the weighting of the Fee proposal at 35% and its weighting as the most important factor was based on the requirements for State of Mississippi governmental units, Miss. Code Ann. § 31-7-413(2)(a), and is considered a best practice for municipal governments; and

**WHEREAS**, on or after November 8, 2021, no City Council members recommended amendments to the RFP process; and

**WHEREAS**, the Mayor held town halls between November 8, 2021 and December 2, 2021 following the issuance of the RFP to explain the process to the public and to receive input regarding preferences for garbage collection services; and

**WHEREAS**, in response to the solicitation, on November 23, 2021, the City received proposals from: Waste Management of Mississippi, Inc., FCC Environmental Services, LLC, and Richard's Disposal; and

**WHEREAS**, an Evaluation Committee consisting of three City of Jackson Public Works Department employees and three members of the City's executive team reviewed the proposals submitted; and

**WHEREAS**, the Evaluation Committee reviewed and scored the technical proposals without knowing the identity of the proposers, which accounted for thirty percent (30%) of the total score; and

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**WHEREAS**, the Evaluation Committee then heard presentations from the proposers and rated their experience in providing similar services, their qualifications and key personnel, and their references, which accounted for twenty-five percent (25%) of the total score, and evaluated each proposer's Equal Business Opportunity ("EBO") Plan, which accounted for ten percent (10%) of the total score; and

**WHEREAS**, the Mayor reviewed the results of the Evaluation Committee's scores and rankings for each service option, along with the pricing provided by the vendors without knowing the order in which the vendors ranked for each service option; and

**WHEREAS**, on January 4, 2022, the Mayor presented the City Council with an Order that allowed the City Council to recommend to the Mayor its preferred service option; and

**WHEREAS**, the City Council amended the Order to eliminate the once per week collection options; and

**WHEREAS**, the City Council further amended the Order to express its preference that the Mayor review the two remaining service options, twice per week with a 96-gallon cart and twice per week without a 96-gallon cart, and the most advantageous proposal received for those options, then select the proposal he wished to pursue in negotiations; and

**WHEREAS**, the Mayor selected the lowest priced most qualified proposer of the two highest scored options for twice per week collection and the company providing this proposal with whom to negotiate; and

**WHEREAS**, negotiations were conducted with Richard's Disposal, Inc., which was also less expensive than the highest rated proposal for twice per week collection without a cart; and

**WHEREAS**, as a result of the RFP evaluation scores and the January 4, 2022 recommendations from the Jackson City Council, a contract with Richard's Disposal, Inc. was presented for approval January 18, 2022 and February 1, 2022; and

**WHEREAS**, at its February 4, 2022 Special Meeting, the City Council voted to retain outside counsel, Roy Campbell of the law firm of Bradley Arrant Boulton Cummings LLP, to determine if a conflict of interest existed between the City Council and Office of the City Attorney; and

**WHEREAS**, in response, the City Attorney provided Mr. Campbell the Request for Proposals, the Evaluation scoring sheets, relevant City Council Orders, and the state law and municipal ordinances upon which she relied in advising the Mayor and City Council; and

**WHEREAS**, Mr. Campbell met with the City Council at their Special Meeting on February 10, 2022 and provided them with a memorandum setting forth his opinion that he did not perceive a conflict of interest between the City Council and the Office of the City Attorney and that the City Council had been appropriately advised by the Office of the City Attorney; and

**WHEREAS**, the City Council continued to indicate that it would not award a contract to Richard's Disposal, Inc. pursuant to Miss. Code Ann. § 31-7-13(r) under the terms of the request for proposals process; and

**WHEREAS**, the Mayor determined that based on the requirements of awarding a solid waste collection contract pursuant to Miss. Code Ann. § 31-7-13(r) and the lack of a permanent agreement to provide garbage collection services, constituted an emergency that required the issuance of an emergency declaration; and

**WHEREAS**, the Mayor negotiated an emergency agreement for solid waste collection with Richard's Disposal on the same terms and at the same price as the existing emergency agreement with Waste Management of Mississippi; and

**WHEREAS**, since February 2022, much litigation has ensued amongst the City Council and Mayor about the emergency agreement with Richard's Disposal; and

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**WHEREAS**, during the ensuing litigation, former Mississippi Supreme Court Justice Jess Dickinson, sitting by appointment of the Mississippi Supreme Court, issued a final judgment that held, in pertinent part, as follows:

- a. The Council has no authority to negotiate and/or execute a contract for the collection of residential solid waste, absent the existence of the exceptions in Miss. Code Ann. §21-8-19;
- c. The Mayor has the authority to find independent contractors/vendors who can provide necessary emergency services and present contracts to the Council for approval.
- d. Only the Mayor may negotiate a contract for solid waste disposal on behalf of the City of Jackson.
- e. Whether a contract binding the City of Jackson for solid waste disposal is negotiated through the RFP process or pursuant to emergency authority under Miss Code Section 33-15-17(b), the contract is not a binding contract that is enforceable against the City of Jackson unless and until it has been properly approved by the Council...

and

**WHEREAS**, neither the Mayor nor the City Council appealed the final judgment of that court and the Mississippi Supreme Court cited the court's opinion in *Lumumba v. City Council*, 2022-CA-00855-SCT, ¶3 (March 9, 2023); and

**WHEREAS**, pursuant to later litigation in federal court, under an agreement between the City Council and Richard's Disposal, the City Council agreed to pay Richard's Disposal, Inc. the amount of \$808,035.00 per month for the months the garbage collections services had been previously provided and to pay \$808,035.00 per month through the end of the month the Mississippi Supreme Court decided litigation regarding the Mayor's power to veto a negative vote of the City Council or March 31, 2023, whichever happened earlier; and

**WHEREAS**, in *Lumumba v. City Council*, 2022-CA-00855-SCT, (March 9, 2023) the Mississippi Supreme Court issued a final judgment that held, in pertinent part, "[b]ecause the Mayor in a mayor-council municipality may not, in his limited legislative power, veto an action or measure not undertaken by the City Council and because no statutory authority exists allowing him to do so, we affirm the judgment of the trial court," and

**WHEREAS**, the agreement between the City Council and Richard's Disposal will expire on March 31, 2023; and

**WHEREAS**, on March 7, 2023, the Mayor sent correspondence to all three respondents to the October 2021 RFP, Waste Management of Mississippi, Inc., FCC Environmental Services, LLC, and Richard's Disposal requesting 1) confirmation of whether they would honor their prices for twice per week collection both with and without a garbage cart and 2) whether their prices for twice per week collection both with and without a garbage cart would decrease, remain the same, or increase if responding to an RFP from the City within the next six months; and

**WHEREAS**, both Waste Management of Mississippi, Inc. and FCC Environmental Services, LLC responded to the first question by stating: FCC Environmental Services, LLC cannot honor the pricing given in our response from October 2020...; and Waste Management of Mississippi, Inc. responded to the first question by stating: "It is our view that the 2021 RFP for the City of Jackson Solid Waste Collection is no longer in effect ..."; and

**WHEREAS**, Richard's Disposal, Inc. responded to the first question by stating "RDI will honor the prices for twice-per-week collection with and without garbage carts and related service provided in its response to the City of Jackson's October 21 Request for Proposals for Solid Waste Collection Services..."; and

**WHEREAS**, consequently, as a result of the two other proposers stating that they would not honor their pricing from the October 2021 RFP and Richard's Disposal, Inc. stating that it would honor its prices, Richard's Disposal, Inc. is the only proposer who responded in the affirmative that it would honor the October 2021 pricing; and

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**WHEREAS**, prior to the commencement of litigation and the Mayor's Emergency Proclamation, under the terms of the request for proposal process, Richard's Disposal, Inc. proposed to provide solid waste collection and hauling services consistent with the Request for Proposals, including twice per week collection and the purchase of and delivery to 45,000 sanitation customers of a 96-gallon trash cart for a monthly cost of \$756,000.00; and

**WHEREAS**, Richard's Disposal, Inc. will own the carts throughout the term of the Agreement and will transfer said carts to the City at the end of the initial term of the Agreement; and

**WHEREAS**, Richard's Disposal, Inc. will be responsible for replacing carts that are damaged through no fault of the customer and replacing up to one stolen cart; and

**WHEREAS**, Richard's Disposal, Inc. will charge customers \$90.00 to replace a cart they willfully damage or destroy, or more than one stolen cart replacement, which is the cost of the cart to Richard's Disposal, Inc.; and

**WHEREAS**, Richard's Disposal, Inc. also proposed to collect garbage from City facilities at a weekly cost of \$1085.00 and to provide roll-off containers for special events at a cost of \$250.00 per container and a delivery charge of \$50.00 and to remove illegal/noncompliant dumping on an as-needed weekly basis, not to exceed six (6) instances per month, at a cost of \$150.00 per hour or \$1,200.00 per day, whichever is less; and

**WHEREAS**, the cost of the services under the proposed contract will be indexed annually, beginning on October 1, 2023, either up or down, on the United States Bureau of Labor Statistics All Urban Consumers, Southern Region, Consumer Price Index, in a percent not to exceed 5% annually either up or down; and

**WHEREAS**, the initial term of the contract will be for six (6) years with four (4) one-year extension options, each at the sole discretion of the City.

**IT IS, THEREFORE, ORDERED** that the Mayor is authorized to execute a contract and related documents with Richard's Disposal, Inc. to provide solid waste collection and hauling services consistent with the terms set forth in this order, with the Request for Proposals, and Richard's Disposal, Inc.'s Proposal, twice each week with a 96-gallon cart, at a monthly cost of \$756,000.00, for an initial term of six (6) years commencing on April 1, 2021, with four (4) one-year extension options, each such option being at the sole discretion of the City; and further said contract will provide for the collection of garbage from City facilities at a weekly rate of \$1,085.00 and will provide roll-off containers for special events at a cost of \$250.00 per container and a delivery charge of \$50.00 and to remove illegal/noncompliant dumping on an as-needed weekly basis, not to exceed six (6) instances per month, at a cost of \$150.00 per hour or \$1,200.00 per day, whichever is less.

**Council Member Grizzell moved adoption; Vice President Lee seconded.**

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**President Foote recognized Catoria Martin, City Attorney and Deidra Jones, Representative of Richard's Disposal Inc., who provided a brief overview of said item.**

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**President Foote recognized Council Member Stokes who moved; seconded by Council Member Hartley to follow the rules for standard requirement of occupancy and decorum in the Council Chamber.**

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Thereafter, **President Foote**, called for a vote on said motion:

Yeas – Hartley and Stokes.  
Nays – Grizzell, Lee and Lindsay.  
Abstention – Banks and Foote.  
Absent – None.

**Note:** Said item failed due to lack of majority vote.

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**President Foote** recognized **Council Member Stokes** who moved; seconded by **Council Member Hartley** to amend said order to replace Richard’s Disposal Inc. with Waste Management. The motion failed by the following vote:

- Yeas – Hartley and Stokes.
- Nays – Foote, Grizzell, Lee and Lindsay.
- Abstentions – Banks.
- Absent – None.

**Note:** Said item failed due to lack of majority vote.

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After a thorough discussion, **President Foote**, called for a vote on said item:

- Yeas – Grizzell, Lee and Lindsay.
- Nays – Banks, Foote and Hartley.
- Abstention – Stokes.
- Absent – None.

**Note:** Said item failed due to lack of majority vote.

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There were no reports/announcements provided during the meeting.

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There being no further business to come before the City Council, it was unanimously voted to adjourn until the Special Council Meeting at 3:00 p.m. on April 10, 2023. At 10:30 a.m., the Council stood adjourned.

**PREPARED BY:**

*Shanekia Mosley-Spencer*  
CLERK OF COUNCIL

**APPROVED:**

*Chris Foote*, 4/25/2023  
COUNCIL PRESIDENT    DATE

*Chris Foote*  
MAYOR

**ATTEST:**

*Angela Harris*  
CITY CLERK

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