

ORDINANCE NO. ____-2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, APPROVING A SOLID WASTE FRANCHISE AGREEMENT BETWEEN THE CITY OF COCOA AND WASTE MANAGEMENT OF FLORIDA, INC., ATTACHED HERETO; ESTABLISHING SOLID WASTE SERVICE CHARGES AS PROVIDED BY SECTION 9-37 OF THE CITY OF COCOA CODE OF ORDINANCES; PROVIDING FOR ANNUAL INCREASES IN SERVICE CHARGERS EQUAL TO THE CONSUMER PRICE INDEX FOR GARBAGE AND TRASH; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2(b) of the Florida Constitution, municipalities have governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law ("Municipal Home Rule Authority"); and

WHEREAS, Article XV of the City Charter authorizes the City Council to adopt franchise agreements by Ordinance and Section 9-37 of the Cocoa Code provides that the City may establish and collect service charges for inspecting, collecting, hauling and disposing of solid waste, special waste, sludge, construction and demolition debris or any other waste; and

WHEREAS, Ordinance 39-2006, adopted by the City Council on January 9, 2007, adopted a Solid Waste Agreement ("Agreement") between the City and Contractor and awarded Contractor a franchise to provide for the collection and disposal of bulk trash, refuse, vegetative waste, and recyclable materials; and

WHEREAS, the Agreement expires on September 30, 2021; and

WHEREAS, the parties have mutually agreed to execute a new agreement for seven (7) years with mutually agreed upon extensions; and

WHEREAS, the parties mutually agree to the adoption of newly establish rates and contractual terms and obligations between the City and Contractor;

WHEREAS, the City establishes rates between the City and Customer to include Franchise and Administrative Fees;

WHEREAS, the City and Contractor have established automatic annual service and price index charge adjustments to keep pace with the rates and charges the City may owe to the Contractor; and

WHEREAS, the City Council finds that this Ordinance serves a public purpose

and is in the best of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

Section 1. Incorporation of Recitals. The foregoing recitals are affirmed and incorporated as part of this resolution.

Section 2. Establishment of new Solid Waste Agreement and Rates. The City Council hereby approves the new Solid Waste Agreement between the City of Cocoa and Waste Management Inc. of Florida, attached hereto as Exhibit A, and fully incorporated herein by this reference. The City Council's approval of the new Agreement shall also serve to expressly adopt the rates for solid waste services set forth therein.

Section 3. Establishment of Customer Fees. The City Council hereby approves a continuation of the previously established administrative fees and a franchise fee equal to 10% of the cost of the solid waste service charged to the City by the Contractor on the customer's water bill, as shown as part of Exhibit B.

Section 4. Service Charge Adjustment. Service charges shall be annually adjusted automatically based on the Consumer Price Index for Garbage and Trash (G&T), Series ID CUUR0000SEHG02, (DEC 2003=100) Index with a maximum adjustment of 3% per calendar year.

Section 5. Garbage Only Accounts. Garbage Only accounts that are not affiliated with a specific water account will be assessed a deposit equal to two (2) times the average monthly garage service charge which will be refunded upon termination of the account. Existing Garbage only accounts with excellent credit history, as determined by the Finance Director, will be grandfathered in.

Section 6. Repeal of Prior Inconsistent Ordinances and Resolutions. All ordinances or resolutions or parts of ordinances and resolutions in conflict herewith are repealed to the extent of the conflict.

Section 7. Incorporation into the Code. The City Clerk, in consultation with the City Attorney and Public Works Director, is hereby authorized and directed to incorporate all or portions of the Agreement adopted hereunder into the City Code, Sections 9-21 and 9-22, in a manner similar to the existing provisions under 9-21 and 9-22. Any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical,

typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 8. Severability. Should any section or provision of this resolution, or any portion hereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

Section 9. Effective Date. This Ordinance shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida. However, the new Agreement and rates shall become effective October 1, 2021.

ADOPTED by the City Council of the City of Cocoa, Florida, in a Regular meeting assembled on the 14th day of September, 2021.

Michael C. Blake, Mayor

ATTEST:

Carie Shealy, MMC, City Clerk

Exhibit A – Solid Waste Contract

Exhibit B – Customer Rates