

ORDINANCE NO. 2018-042

AN ORDINANCE WAIVING COMPETITIVE BIDDING AND GRANTING AN EXCLUSIVE FRANCHISE TO WORLD WASTE RECYCLING, INC., A FLORIDA CORPORATION, FOR THE COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS, FOR A TERM BEGINNING UPON EXECUTION OF THE EXCLUSIVE FRANCHISE AGREEMENT BY THE PARTIES AND ENDING ON SEPTEMBER 30, 2019, WITH AN AUTOMATIC RENEWAL TERM BEGINNING ON OCTOBER 1, 2019 AND ENDING ON SEPTEMBER 30, 2023, AND SUBSEQUENT RENEWALS AT THE OPTION OF THE PARTIES, FOR A TERM OF ONE YEAR EACH, WITH A CUMULATIVE DURATION OF ALL SUBSEQUENT RENEWALS, AFTER THE FIRST RENEWAL TERM, NOT TO EXCEED A TOTAL OF FIVE YEARS; APPROVING THE TERMS OF THE EXCLUSIVE FRANCHISE IN SUBSTANTIAL CONFORMITY WITH THE AGREEMENT ATTACHED HERETO AND MADE A PART HEREOF AS APPENDIX 1, INCLUDING THE UNIFORM RATES FOR STANDARD COLLECTION SERVICES AND RATE ADJUSTMENTS; AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, TO EXECUTE THE EXCLUSIVE FRANCHISE AGREEMENT ON BEHALF OF THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATIONS HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah, Florida, wishes to enter into a contract with a private company for the collection of the recyclable materials that are set out by the City's residents; and

WHEREAS, the City has contacted the companies that are best-positioned to serve the City and has negotiated aggressively to obtain the best terms, conditions, and prices for the services the City is seeking;

WHEREAS, World Waste Recycling, Inc. ("World Waste"), has offered the best combination of terms, conditions, and prices to the City; and

WHEREAS, World Waste currently collects recyclable materials from more than 150,000 residents of Miami-Dade County ("County"); and

WHEREAS, World Waste has the experience, equipment, and personnel necessary to collect recyclable materials from the City's residents in compliance with the terms, conditions, and prices in the Exclusive Franchise Agreement ("Agreement") that is attached hereto in Appendix 1; and

WHEREAS, automated collection services will be used to collect recyclable materials from approximately 90% of the residential customers in the City; and

WHEREAS, under the Agreement, the initial rate for automated collection service will be \$2.09 per household per month, which is less than the rate (\$2.10) charged to County residents by World Waste; and

WHEREAS, the remaining City customers will receive manual collection service for \$2.98 per household per month; and

WHEREAS, World Waste wishes to provide and the City wishes to procure World Waste's services, subject to the terms, conditions, and prices in the Agreement (Appendix 1); and

WHEREAS, pursuant to Section 2-816 of the City of Hialeah Code of Ordinances, the "city council may waive competitive bidding, if not inconsistent with state law, when it finds that it is impracticable or not advantageous to the city to utilize competitive bidding"; and

WHEREAS, the City Council finds that it is not advantageous to the City to utilize competitive bidding in this case; and

WHEREAS, the City Council finds that waiving competitive bidding and granting an exclusive franchise to World Waste Recycling, Inc., subject to the terms and conditions contained in the Exclusive Franchise Agreement, is in the public interest and will protect the public health, safety and welfare; and

WHEREAS, the City Council finds that the franchise granted herein properly balances the City's desire to provide excellent, environmentally-sound collection services to the City's residents and the City's desire to minimize the cost of such services.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby waives competitive bidding and grants an exclusive franchise to World Waste Recycling, Inc., a Florida corporation, for the collection of residential recyclable materials, for a term beginning upon the execution of the Exclusive Franchise Agreement by the parties and ending on September 30, 2019, with an automatic renewal term beginning on October 1, 2019 and ending on September 30, 2023, and subsequent renewals at the option of the parties, for a term of one year each, with a cumulative duration of all subsequent renewals, after the first renewal term, not exceeding a total of five years.

Section 3: The City Council hereby approves the terms of the exclusive franchise in substantial conformity with the Exclusive Franchise Agreement attached hereto and made a part hereof as "Appendix 1" and hereby authorizes the Mayor and the City Clerk, as attesting witness, to sign the Exclusive Franchise Agreement on behalf of the City.

Section 4: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to

exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

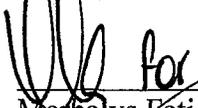
PASSED and ADOPTED this 22 day of May, 2018.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

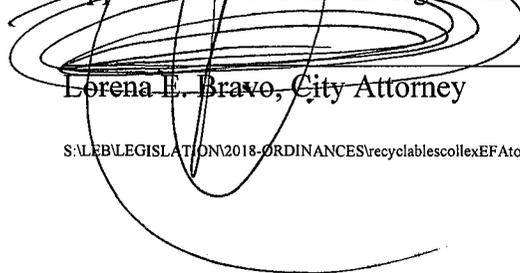
Attest:

Approved on this 24 day of MAY, 2018.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez and Cuenca-Fuente voting "Yes" and Garcia-Martinez absent.