

ORDINANCE 3285-23

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING AN AMENDMENT OF THE SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE AGREEMENT BETWEEN THE CITY OF WINTER PARK AND WASTE PRO OF FLORIDA, INC.; PROVIDING TERMS, CONDITIONS AND OTHER PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Winter Park, Florida (the "City") entered into a Solid Waste and Recyclables Collection Franchise Agreement Between the City and Waste Pro of Florida, Inc. (the "Agreement"), which requires Waste Pro to collect certain types of Solid Waste and Recyclable Materials for the City for a seven (7) year term commencing on October 31, 2016 and terminating on October 29, 2023; and

WHEREAS, the City and Franchisee have determined that that certain provisions of the Agreement require clarity or revision and it is in the best interest of the City and Waste Pro to do so at this time; and

WHEREAS, the City finds that the provisions in the attached Amendment will promote the public health, safety, and welfare, and are in the public interest; and

WHEREAS, the City, pursuant to the authority granted by Article VIII, Section 2, Florida Constitution (1968, as amended), Section 166.021, Florida Statutes, Section 180.14, Florida Statutes, and Chapter 403, Part IV, Florida Statutes, may grant to private companies or corporations the privilege or franchise for the collection and disposal of solid waste, other waste, and recyclable material for such term of years and upon such conditions and limitations as may be deemed expedient and for the best interest of the City; and

WHEREAS, Section 2.11(b)(4) of the Charter of the City authorizes the granting, renewing or extending of a franchise; and

WHEREAS, after due and proper review, evaluation, and consideration of this amendment submitted, the city finds that it is expedient and in the best interest of the City to adopt the attached Amendment of Solid Waste and Recyclables Collection Franchise ("Franchisee"), for the collection and delivery for disposal of solid waste, yard waste, bulk waste, recyclables, and construction and demolition debris (collectively "Waste") from residents, businesses, and other entities within the municipal boundaries of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF
THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this Ordinance as the findings of the Winter Park City Commission.

Section 2. Amendment of Franchise Agreement. The City of Winter Park hereby approves the Amendment of Solid Waste and Recyclables Collection Franchise Agreement between the City of Winter Park and Waste Pro of Florida, attached hereto and incorporated herein as **Exhibit "A"** (the "Amendment"). The Mayor and City Clerk are hereby authorized to execute the Amendment on behalf of the City of Winter Park.

Section 3. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED and ADOPTED this 27th day of September, 2023.

CITY OF WINTER PARK

Phillip M. Anderson, Mayor

Attest:

Rene Cranis, City Clerk

EXHIBIT A

AMENDMENT OF SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE AGREEMENT BETWEEN CITY OF WINTER PARK AND WASTE PRO OF FLORIDA, INC.

This Amendment of Solid Waste and Recyclables Collection Franchise Agreement Between City of Winter Park, Florida and Waste Pro of Florida, Inc., is dated this ____ day of _____, 2023, by and between the City of Winter Park, a Florida municipal corporation (the "City"), located at 401 Park Avenue South, Winter Park, Florida 32789, and Waste Pro of Florida, Inc., a Florida corporation ("Franchisee"), located at 2101 West State Road 434, Suite 305, Longwood, Florida 32779.

RECITALS

WHEREAS, the City and Waste Pro entered into that certain Solid Waste and Recyclables Collection Franchise Agreement Between City of Winter Park, Florida and Waste Pro of Florida, Inc. (the "Agreement"), which requires Waste Pro to collect certain types of Solid Waste and Recyclable Materials for the City for a seven (7) year term commencing on October 31, 2016 and terminating on October 29, 2023; and

WHEREAS, the City and Franchisee have determined that that certain provisions of the Agreement require clarity or revision and it is in the best interest of the City and Waste Pro to do so at this time; and

WHEREAS, the City finds that the provisions in this Amendment will promote the public health, safety, and welfare, and are in the public interest.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Franchisee agree that they shall be bound by and shall comply with the following provisions of this Amendment:

SECTION 1. The City and Franchisee agree that the Recitals set forth above are accurate and correct.

SECTION 2. The capitalized words and phrases used in this Amendment are defined in the Agreement.

SECTION 3. The City and Franchisee agree to amend the Agreement to extend the Initial Term provided in Article 2 of the Agreement for three (3) years from October 30, 2023, to October 29, 2026. The City and Franchisee agree that the Initial Term of the Agreement can be further extended by mutual agreement of the parties.

SECTION 4. The provisions of Article 12, Section 12.15 of the Agreement are hereby amended to clarify the Service Validation System as follows:

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12.15 Franchisee will be required to provide, populate, and maintain a web-based tracking system. The tracking system will be Trac EZ or an equivalent system. Franchisee, City and Residents will have the ability to enter complaints, requests and compliments. Tickets will be tracked and closed out to ensure that all items are addressed. Franchisee's tracking system shall be capable of providing proof that services have been completed. This will be done through Third Eye or an equivalent camera system. Pictures will be made available upon request to address service issues that may arise during the course of servicing this Agreement. Franchisee's tracking system shall include an asset management database through which Franchisee shall be responsible for reporting and tracking the movement of all Roll Carts used for Residential Collection Service, including deliveries, removals, exchanges, repairs, warranty recovery, and any other information necessary to manage cart assets, subject to City approval. The initial database must be populated and uploaded into the web-based Service Verification Database no later than seven (7) Days following the Commencement Date. All database adjustments must be made within forty-eight (48) hours of physical inventory exchange and completion of work order. The service verification system shall be able to generate reports as needed on residential Roll Cart activity including maintenance and inventory reports. If a cart is swapped out, data for the cart removed and the cart replaced is to be provided. Data fields shall include, but not be limited to:

- a. Work order number, date, and status
- b. Roll Cart type (garbage or recycling)
- c. Residential Customer name/ID and address

Franchisee shall provide necessary access to the City of the Franchisee's web-based tracking and asset management system and work with the City to develop regular reports.

SECTION 5. Article 16, Subsection 16.2.2.2 is hereby amended to read as follows:

On October 1, 2017 and October 1 of each subsequent year during the term of this Agreement, service fees shall be adjusted in specified in Exhibit 5.

SECTION 6. Exhibit 5 of the Agreement is hereby amended as follows:

EXHIBIT 5 - CALCULATION OF RATE ADJUSTMENT

On October 1, 2023 and 2024, rates will be adjusted according to **Exhibits 1 and 3** to the 2023 Amendment of Solid Waste

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and Recyclables Collection Franchise Agreement between City of Winter Park and Waste Pro of Florida, Inc., which exhibits are attached to such amendment and incorporated herein. Effective October 1, 2025 rates will be adjusted as follows: Ninety percent (90%) of the rate adjustment shall be based on the change in the average monthly Consumer Price Index (CPI) from July through June in the prior year (CPI1) and the average monthly CPI from July through June in the current year (CPI2). The index used shall be the CPI for All Urban Consumers, South Urban Region – Garbage and Trash Collection; All Items, not seasonally adjusted, 1982-1984=100 reference base, published by the United States Department of Labor, Department of Labor Statistics (Series ID = CUUR0000SEHG02).

Ten percent (10%) of the rate adjustment shall be based on the percentage change in the average monthly fuel price from July through June in the prior year (F11) and the average monthly fuel price from July through June of the most recent year (F12). Fuel prices shall be based on the Lower Atlantic (PADDIC) No. 2 Diesel Ultra Low Sulfur Diesel (0-15 ppm) Retail Prices (dollars per gallon) published by the United States Energy Information Administration.

If any of the designated indices are discontinued or substantially altered, the City may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

The total rate adjustment is rounded to the nearest hundredth of a percent.

EXCEL FORMULA FOR CALCULATING RATE ADJUSTMENT

$$\text{Rate Adjustment(\%)} = \text{ROUND} \left(\left(\left(\frac{\text{CPI2} - \text{CPI1}}{\text{CPI1}} \right) * 0.90 \right) + \left(\left(\frac{\text{F12} - \text{F11}}{\text{F11}} \right) * 0.10 \right), 4 \right)$$

Where:

"CPI1" = averaged published monthly CPI from July through June of the year prior to CPI2.

EXHIBIT A

and frequency of service, terms, and conditions provided in this Agreement at a more favorable rate schedule than those provided to the City in this Agreement, Franchisee agrees that it shall reduce its rates charged to the City so as to be no more and no less than those rates charged to that similarly sized municipality.

SECTION 9: The City and the Franchisee agree that all of the provisions in the Agreement shall remain in full force and effect, without change, except for the provisions that are expressly revised, amended or added pursuant to this Amendment. The City and Franchisee may amend this agreement upon mutual written consent.

SECTION 10: As part of this amendment, Waste Pro also agrees to the following:

- Replace all shared trash compactors used in the Center St. Corridor with new or refurbished ones at the renewal date.
- Replace all cardboard containers to slat style at the renewal date.
- Addition of trash compactor at West Meadow under terms and conditions of the existing contract
- Waste Pro is committed to reducing emissions within the municipalities they operate in. In its sustainable endeavors with the City of Winter Park, Waste Pro and the City reserve the right to amend this contract upon mutual agreement should additional opportunities arise to reduce the carbon footprint.

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IN WITNESS WHEREOF, the City and the Franchisee have made and executed this Amendment to the Agreement, as attested to by the signature of their duly authorized officers or representatives, as of the day and year first above written.

Attest:

CITY OF WINTER PARK, FLORIDA

Name _____
Title _____

By: _____
Phil Anderson
Mayor

Attest:

WASTE PRO OF FLORIDA, INC.

Name _____
Title _____

By: _____
Erik Sankey
Regional Vice President