

ORDINANCE No. 2545

AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF ENVIRONMENTAL CONTROL; AMENDING THE FRANCHISE REGULATIONS IN SECTION 10-7.6 FOR THE CITY'S CONSTRUCTION AND DEMOLITION DEBRIS FRANCHISES SO AS TO RESERVE THE CITY'S GOVERNING BODY'S ABILITY TO GRANT SUCH FRANCHISES BY ORDINANCE WITHOUT FOLLOWING THE COMPETITIVE PROCUREMENT PROVISIONS OTHERWISE REFERENCED THEREIN, AND TO GRANT REPLACEMENT FRANCHISES BY RESOLUTION UNDER CERTAIN CIRCUMSTANCES; APPROVING AMENDMENTS TO CERTAIN CONSTRUCTION AND DEMOLITION DEBRIS FRANCHISES; MAKING OTHER PROVISIONS APPROPRIATE TO IMPLEMENT THE FOREGOING; PROVIDING RECITALS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, the governing body of the City wishes to make amendments to its franchise regulations for the Collection of Construction and Demolition Debris, and amend or grant certain franchises with respect thereto;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA THAT:

SECTION 1: Subsections Sec. 10-7.6 (a) and (d) are amended, (e) is re-lettered to (f) and amended, new (e) is created, and subsection (h) is deleted, so that such subsections of the Code of Ordinances of the City of Plantation shall be as follows:

"Sec. 10-7.6. Franchise Agreement for Collection of Construction and Demolition Debris.

- (a) No person, firm or corporation shall place and/or service roll-off containers for the collection and transport of construction and demolition (hereinafter "C&D") debris in the city without first receiving a franchise from the city to carry on such a business, ~~that has been awarded consistent with the competitive procurement requirements of chapter 2 of this Code.~~

* * *

- (d) Notwithstanding any limitation in this section otherwise, ~~t~~The city reserves the power to: (i) grant franchises by ordinance, or (ii) revoke all franchises granted pursuant to this section, to change or limit the rights granted, or to otherwise modify such franchises, in its sole discretion, by ordinance or resolution. Such action shall not be deemed a taking of a property, or an impairment of contract or right of any franchisee. It is the express intention of this section to reserve

unto the city the power, in its sole discretion, to alter the methods of C&D debris collection and disposal employed in the city, and the manner in which C&D debris services may be provided within the city.

- (e) In addition to action authorized under subsection (d), in the event after a competitive procurement takes place one or more franchisees determine to surrender or not renew a franchise, the City may, by resolution, grant a replacement franchise to another provider on the same terms and conditions so as to keep the same number of franchise participants as were contemplated when the franchises were last competitively procured, with consideration being given to those providers, if any, who may have participated in the last competitive procurement and were determined qualified but who did not submit the most advantageous proposal before consideration is given to other providers. It is the intent of the foregoing sentence to allow the granting of a replacement franchise for a reasonable time prior to the City determining to competitively procure all franchises again in the future.
- (e)f) Unless granted under subsection (d) or (e), tThe franchise(s) shall be granted only after a competitive procurement process has taken place, as provided for in chapter 2 of this Code.

* * *

- ~~(h) Respondents to the competitive procurement process chosen by the city shall be made to the city upon such form and in such manner as shall be prescribed by the in the procurement documents."~~

SECTION 2: The draft Amendment to the Construction and Demolition Franchise for Waste Management of Florida, Inc. attached hereto as Composite Exhibit "1" is hereby approved, and the Administration and City Attorney are authorized to make minor revisions to same prior to the Mayor or Chief Administrative Officer executing same.


SECTION 3: Should any section, paragraph, sentence, clause, phrase or other part of this Resolution be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Resolution as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 4: This Ordinance shall become effective immediately upon passage by the City Council after the Second Reading and Signature by the Mayor.

PASSED ON THE FIRST READING by the City Council this 9 day of March, 2016

PASSED AND ADOPTED ON SECOND READING by the City Council this 23 day of March, 2016.¹

SIGNED by the Mayor this 28th day of March, 2016.


MAYOR

ATTEST:


CITY CLERK

REQUESTED BY: _____ APPROVED _____ DATE _____

DEPT. OK: _____

ADMIN. OK: _____

ATTY. OK:  3/24/2016
AS TO FORM ONLY

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Ordinance was received by the Office of the City Clerk and entered into the Public Record this 28 day of March, 2016.


Susan Slattery, City Clerk

[1031]9001-96317

¹ Note: At Second Hearing and after the proposed Ordinance's title was read, the City Council determined not to enact Sections 1 and 2 of the proposed Ordinance, but to enact the balance of the proposed Ordinance's sections, and to revise the title and renumber the sections of the enacted Ordinance accordingly.

EXHIBIT "1"

2016 AMENDMENT TO FRANCHISE AGREEMENT
FOR CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION

This Amendment to Franchise Agreement for Construction and Demolition Debris Collection ("Agreement") is made and entered into this 28th day of March, 2016, between City of Plantation, a municipal corporation organized under the laws of the State of Florida, (hereinafter referred to as the "City") and Waste Management Inc. of Florida, a Florida Profit Corporation (hereinafter referred to as the "Contractor").

WHEREAS, the Contractor and City executed a Non-Exclusive Franchise for the Collection of Construction and Demolition Debris in 2009 which contained an initial two (2) year term and which was renewable; and,

WHEREAS, the Non-Exclusive Franchise has been renewed and extended three (3) times: (1) the first, by a letter of April 4, 2011 for a two (2) year term to April 1, 2013; (2) the second, by an Amendment to Franchise Agreement to September 30, 2015; and (3) the third, by an Amendment to Franchise Agreement to September 30, 2016; and,

WHEREAS, City Ordinance No. 2482 became effective on June 13, 2013 and clarified that existing franchises can be modified by Resolution or Ordinance, and that only the initial term of the City's C&D Franchises be limited to a two (2) year period; and,

WHEREAS, the parties wish to make another extension of the Franchise;

NOW, THEREFORE, in Witnesseth of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged the parties agree as follows:

Section A. Section 4.0 of the Franchise Agreement is revised to read as follows:

"Article IV: Term

4.0 Subject to the termination privileges set forth in Article X hereof, the franchise, license or permit herein granted shall be extended from October 1, 2016 to September 30, 2018. Thereafter, the Franchise may be renewed or extended by mutual agreement of the parties."

Section B. In all other respects, the Franchise Agreement, and all prior extensions thereto, shall remain in full force and effect.

Section C. This Amendment to Franchise Agreement for Construction and Demolition Debris Collection is authorized by City Ordinance No. 2545.

IN WITNESS WHEREOF, the City and Contractor set their hands and seal this 28th day of March, 2016.

CITY OF PLANTATION
A Florida Municipal Corporation

By: Diane Veltri Bendekovic
Diane Veltri Bendekovic, Mayor
Plantation City Hall
400 N.W. 73rd Avenue
Plantation, Florida 33317

Attest: Susan K. Slattery
Susan Slattery, City Clerk

(City Seal)

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing Agreement was acknowledged before me this 28 of March, 2016 by DIANE VELTRI BENDEKOVIC and SUSAN SLATTERY, who is personally known to me to be the Mayor and City Clerk, respectively of the City of Plantation, and who executed the foregoing on behalf of Plantation and who did (did not) take an oath.

WITNESS my hand and official seal this 28 day of March, 2016.

Mary F. Leeds
Printed Name of Notary

My commission expires:



(notary seal)

My commission number is:

Waste Management Inc. of Florida, a Florida Profit Corporation

By:

Timothy Hawkins, President

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Timothy Hawkins as President of Waste Management Inc. of Florida, a Florida Profit Corporation, personally known to me to be the person described above OR who produced _____ (type of identification) and type of identification), and who acknowledged before me that they executed the same on behalf of Waste Management Inc. of Florida, a Florida Profit Corporation .

WITNESS my hand and official seal in the State and County last aforesaid this 11th day of April, 2016.

My Commission expires:

Susan Christa Johnson
NOTARY PUBLIC



SUSAN CHRISTA JOHNSON
MY COMMISSION # FF 065349
EXPIRES: January 29, 2018
Bonded Thru Budget Notary Services

(printed name or stamp)

NOTARY SEAL