

## **ORDINANCE NO. 2022-38**

**AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 6, FRANCHISES, ARTICLE V, SOLID WASTE, DIVISION 1, GENERALLY, SECTION 6-276, OF THE CITY OF GREENACRES CODE OF ORDINANCES, TO CLARIFY THAT ALL RATES UNDER THE FRANCHISE AGREEMENT MAY BE AMENDED BY CITY RESOLUTION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION, RETROSPECTIVE APPLICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, by Ordinance No. 2019-08, the City of Greenacres approved the franchise agreement with Advanced Disposal Services Solid Waste Southeast, Inc. ("Advanced") for solid waste collections with an initial term of October 1, 2019 through September 30, 2024 ("Franchise Agreement");

**WHEREAS**, Section 6-276 of the City's Code of Ordinances incorporates the Franchise Agreement into the Code and addresses the terms, conditions, and continuation of the Franchise Agreement;

**WHEREAS**, the City and Advanced have previously revised the rates for the residential collections by resolution consistent with the uniform method for non-ad valorem assessments (Section 197.3632, Florida Statutes); and,

**WHEREAS**, in reviewing the proposed commercial rates for FY 2023, it was discovered that the Franchise Agreement does not specify how the commercial rates are to be amended; and

**WHEREAS**, since the commercial rates are subject to change under the Franchise Agreement, the City desires to clarify that all rates in the Franchise Agreement may be amended by City Council resolution; and,

**WHEREAS**, the City Council of the City of Greenacres finds amending Section 6-276 of the City's Code of Ordinances to address amendments to the rates set forth in the

Franchise Agreement is in the best interests of the City, its residents and all Solid Waste customers and serves a valid public purpose.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREENACRES, FLORIDA, AS FOLLOWS:**

**Section 1.** The foregoing recitals are incorporated into this Ordinance as true and correct statements.

**Section 2.** Chapter 6, Franchises, Article V, Solid Waste, Division 1, Generally, Section 6-276, of the City's Code of Ordinances, is amended as follows (underlined language is being added):

**Sec. 6-276. Award of solid waste franchise to Advanced Disposal Services Solid Waste Southeast, Inc.**

- (a) *Exclusive franchise.* The city council hereby grants to Advanced Disposal Services Solid Waste Southeast, Inc., the exclusive right during the term of this franchise to collect and haul residential and commercial solid waste, except for commercial medical waste, commercial recycling and commercial roll-off containers for construction and demolition waste from within the city municipal limits to authorized disposal facilities.
- (b) *Term of franchise.* The franchise is effective for the period October 1, 2019, to September 30, 2024. As authorized herein, the franchise may be extended for five (5) renewal periods of one (1) year each, from October 1, 2024 to September 30, 2029, which shall be approved by mutual consent of the city and Advanced Disposal Services Solid Waste Southeast, Inc.
- (c) *Conditions of the franchise.* The franchise shall continue to be conducted in accordance with the terms contained in the franchise agreement, attached hereto as exhibit 1. The franchise agreement shall remain an exhibit to this section, and shall be remanded to the custody of the city clerk who will maintain such for public inspection.
- (d) *Acceptance and commencement of the franchise.* The franchise shall be considered accepted by Advanced Disposal Services Solid Waste Southeast, Inc. upon written signature to franchise agreement by an authorized representative of Advanced Disposal Services Solid Waste Southeast, Inc., and upon approval by the city council. The franchise shall commence thereafter on October 1, 2019.
- (e) *Continuation of franchise.* The franchise shall continue uninterrupted based upon the terms and conditions of the franchise agreement attached hereto as exhibit 1.

- (f) Rates. The rates set forth in the franchise agreement may be amended by the City Council by resolution. All amendments to the rates shall be consistent with the terms and conditions of the franchise agreement.

**Section 3. Repeal of Conflicting Ordinances.**

All ordinances or parts thereof or parts of the code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 4. Severability.**

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

**Section 5. Inclusion in Code.**

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word “ordinance” may be changed to “Section”, “Article” or another word.

**Section 6. Retrospective Application.** It is the specific intent of this Ordinance to make it retrospective in application to acknowledge, confirm, and reauthorize all prior rate changes as being consistent with the terms of the Franchise Agreement whether by

resolution or other act of the City and upon the passage of this Ordinance all future rate changes shall be by City Council resolution.

**Section 7. Effective Date.**

The provisions of this Ordinance shall become effective upon adoption.

Passed on the first reading this 5<sup>th</sup> day of December, 2022.

PASSED AND ADOPTED on the second reading this 19<sup>th</sup> day of December, 2022.

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**Joel Flores**, Mayor

**Attest:**

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**Quintella Moorer**, City Clerk

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**John Sharp**, Deputy Mayor

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**Peter Noble**, Council Member, *District II*

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**Judith Dugo**, Council Member, *District III*

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**Susy Diaz**, Council Member, *District IV*

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**Paula Bousquet**, Council Member, *District V*

**Approved as to Form and Legal Sufficiency:**

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**Glen J. Torcivia**, City Attorney