

CITY OF WESTLAKE

RESOLUTION NO. 2022- 16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE SERVICES IN THE CITY OF WESTLAKE, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022; DIRECTING THE PREPARATION OF A RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City of Westlake Ordinance No. 2021-02 , as adopted, provides the authority for the City to impose Residential Solid Waste Services Special Assessments against Residential property located within the City, and provides findings of special benefit to Residential property as a result of such services; and,

WHEREAS, the City has in place an Agreement with Advanced Disposal Services/Solid Waste Southeast, Inc., dated July 22, 2019 (hereinafter the "Contract"), pursuant to which the City provides Residential Solid Waste Services to, among others, all residential properties that receive Residential Solid Waste Services within the City; and,

WHEREAS, the City believes it is in the best interests of the residents and residential properties owners to collect funds for the costs of the City's Residential Solid Waste Services to all residential units that receive Residential Solid Waste Services by the City, through its Contract, through the levy and collection of a special assessment, as such will eliminate direct quarterly or monthly billing and charges to residents, permit the payment for the services on an annual basis along with property taxes and other special assessments, reduce the administrative costs of the Residential Solid Waste Collection Program to the City, and ensure that all properties that receive Residential Solid Waste Services from the City through the Contract pay for such so that no property is over-charged by virtue of the failure of other properties to pay for such; and,

WHEREAS, Residential Solid Waste Services provided by the City through its Contract as defined hereinafter provide the requisite special benefit to Assessed Property such that they may be funded through a special assessment; and,

WHEREAS, City Administration has reviewed the budget for Residential Solid Waste Services, for residential units that receive Residential Solid Waste Services by the City through the Contract, to ensure that the Residential Solid Waste Services Special Assessment meets the legal requirements for special benefit and fair apportionment; and,

WHEREAS, the City Council determines that it is fair and equitable to levy and collect a non-ad valorem special assessment to fund the Residential Solid Waste Services provided by the City through its Contract, consistent with the methodology and allocation as provided hereinafter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA:

SECTION 1. RECITALS. The foregoing "WHEREAS" clauses are hereby ratified and confirmed by the City Council and incorporated herein by this reference.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of Ordinance No. 2021-02 (the "Ordinance"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 3. PURPOSE. This Resolution constitutes the Preliminary Assessment Resolution as defined in the Ordinance which initiates the process for developing the Residential Solid Waste Services Special Assessment Roll and directs the imposition of a Residential Solid Waste Services Special Assessment as described hereinafter, for the Fiscal Year beginning October 1, 2022. Its purpose is to provide procedures and standards for the levy and collection of a Residential Solid Waste Services Special Assessment for all Assessed Properties that receive Residential Solid Waste Services under the general home rule powers of a municipality to impose special assessments, and to authorize a procedure for the funding of Residential Solid Waste Services providing special benefits to Assessed Properties within the City.

SECTION 4. DEFINITIONS. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this Resolution, the following terms shall have the following meanings unless the context hereof otherwise requires:

"Assessed Property" means Tax Parcels with an Improvement Code of Residential Property that contain Dwelling Units that have obtained Certificates of Occupancy from the City, and which receive Residential Solid Waste Services provided by the City

"Assessment Coordinator" means the person designated by the City to administer the City's Residential Solid Waste Services, or such person's designee.

"Contract" means that Agreement with Advanced Disposal Services/Solid Waste Southeast, Inc., dated July 22, 2019, as may be amended from time to time.

"Cost Apportionment" means the apportionment of the Residential Solid Waste Services Assessed Cost among all Assessed Properties that receive Residential Solid Waste Services pursuant to the apportionment methodology described in Section 8 of this Preliminary Assessment Resolution.

"Estimated Residential Solid Waste Services Special Assessment Rate Schedule" means that rate schedule attached hereto as Appendix "A" and hereby incorporated herein by reference, specifying the Residential Solid Waste Services Assessed Costs determined in Section 9 of this Preliminary Assessment Resolution and the estimated Residential Solid Waste Services Special Assessments established in Section 9 of this Preliminary Assessment Resolution.

"Improvement Codes" mean the building use codes (also known as DOR codes) assigned by the Property Appraiser to Tax Parcels within the City.

"Residential Property" means those Tax Parcels with a Code Description designated as Single-Family "Residential" within the Improvement Codes and those otherwise designated as "Residential" within the Improvement Codes that are Collection Units that receive curbside Residential Solid Waste Services by the City through the Contract.

"Tax Parcel" means a parcel of property located within the City to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

SECTION 5. PROVISION AND FUNDING OF RESIDENTIAL SOLID WASTE SERVICES.

(A) Upon the imposition of the Residential Solid Waste Services Special Assessment for Residential Solid Waste Services upon Assessed Property located within the City, the City shall provide Residential Solid Waste Services to such Assessed Property through the Contract. The cost to provide

such Residential Solid Waste Services to Assessed Properties, as described herein, shall be funded from the proceeds of the Residential Solid Waste Services Special Assessment.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the City will be benefited by the City's provision of Residential Solid Waste Services in an amount not less than the Residential Solid Waste Services Special Assessment imposed against such parcel, computed in the manner set forth in this Preliminary Assessment Resolution.

SECTION 6. IMPOSITION AND COMPUTATION OF RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS. Residential Solid Waste Services Special Assessments shall be imposed against all Assessed Properties that receive Residential Solid Waste Services, as provided herein. The Cost Apportionment described herein is approved and adopted as the methodology to impose and compute the Residential Solid Waste Services Special Assessment.

SECTION 7. LEGISLATIVE DETERMINATIONS OF AUTHORITY, SPECIAL BENEFIT AND FAIR APPORTIONMENT. The City Council incorporates and adopts the legislative findings relating to the Residential Solid Waste Services within the Ordinance, and makes the following additional legislative findings.

7.1 Section 403.706(1), Florida Statutes, provides that the City is responsible to collect and transport solid waste from within its boundaries to a solid waste disposal facility.

7.2 To fulfill its obligations, the City entered into the Contract.

SPECIAL BENEFIT

7.3 The City provides Residential Solid Waste Services to the Assessed Properties through its Contract. All Assessed Properties receive Residential Solid Waste Services, and therefore are required to receive the City's Residential Solid Waste Services through the City's Contract.

7.4 The special benefit provided to the Assessed Properties as a result of the provision of Residential Solid Waste Services by the City through its Contract, and as a result of the Residential Solid

Waste Services Special Assessment include by way of example and not limitation, the availability and use of Residential Solid Waste Services by the owners and occupants of the Assessed Properties, the enhancement of environmentally responsible use and enjoyment of developed residential properties in the City, the protection of public health and safety, ensuring sanitary collection and disposal of solid waste from residential units in the City, a potential increase in value to property, and better service to landowners and tenants.

7.5 The City's provision of Residential Solid Waste Services through its Contract possesses a logical relationship to the use and enjoyment of the Assessed Properties by:

7.5.1 protecting and potentially increasing the value of the Assessed Properties by providing solid waste services;

7.5.2 enhancing the environmentally responsible use of residential land in the City;

7.5.3 protecting the health of intended occupants in the use and enjoyment of Assessed Properties by ensuring the proper collection and disposal of solid waste from the Assessed Properties;

7.6 Commercial properties, and multi-family residential properties in the City that do not receive curbside collection services, are not specially benefited by the City's Residential Solid Waste Services funded by the Residential Solid Waste Collection Special Assessment in that those properties receive volume-based Solid Waste Services. Given the fact that commercial properties, and residential properties with containerized collection services receive Solid Waste Services on a volume basis, it is not possible to determine the exact annual costs that can be apportioned to each property; therefore, it is not possible to ensure that an assessment levied upon these properties can be fairly apportioned. As a result, it is fair and reasonable not to levy a special assessment for the funding of residential Solid Waste Services upon those properties.

IMPOSITION AND COLLECTION

7.7 The Residential Solid Waste Services Special Assessments to be imposed pursuant to this Resolution shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

7.8 The Residential Solid Waste Services Special Assessment imposed pursuant to this Resolution is imposed by the City Council of the City of Westlake, not the Palm Beach County Board of County Commissioners, Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution, and pursuant to the City's agreements with such entities, shall be construed as ministerial.

7.9 So long as the Residential Solid Waste Services Special Assessment is levied, the Assessed Properties will no longer be billed directly by the City for the Residential Solid Waste Services they receive from the City through the Contract.

APPORTIONMENT

7.10 The size or the value of the Residential Property does not determine the scope of the required solid waste services. The potential demand for Residential Solid Waste Services is driven by the existence of a Residential unit.

7.11 Apportioning the Residential Solid Waste Assessed Costs for Residential Solid Waste Services attributable to Assessed Properties on a per Residential unit basis is required to avoid cost inefficiency and unnecessary administration and is a fair and reasonable method.

7.12 Because commercial properties, and multi-family residential properties that are containerized collection do not benefit from the provision of Residential Solid Waste Services by the City through the Contract, the Residential Solid Waste Services Assessed Costs are not apportioned to those properties.

SECTION 8. COST APPORTIONMENT METHODOLOGY. The Contract provides for an annual charge to the Assessed Properties for the Residential Solid Waste Services provided by the City through its Contract. The Residential Solid Waste Services Assessed Costs include other costs associated with the Residential Solid Waste Collection Special Assessment, including a factor for early payment of tax bills, which are then allocated to the Assessed Properties in addition to the annual charge in the Contract to determine the Assessment Amount. The Assessment Amount is then multiplied by the number of Residential units on such Tax Parcel. For the Fiscal Year commencing October 1, 2022, the annual charge for Assessed Properties shall be 280.60 per Residential Unit, as reflected in Appendix "A."

Interim special assessments are authorized to be levied upon Assessed Properties at the time of issuance of certificates of occupancy by the City. The assessment amount due at the time of issuance of a certificate of occupancy shall be pro-rated on a monthly basis, and pursuant to a schedule created by the Assessment Coordinator and available in the building department. The interim assessment will also include the estimated assessment for the full following fiscal year in order to recover the costs of providing Residential Solid Waste Services to the Assessed Property until such time as the special assessment is placed on a future property tax bill. The Assessment Coordinator is authorized to address issues where an Interim Assessment is collected and an annual assessment is levied on a property tax bill for the same Dwelling Unit for the same period of time to ensure no overpayments for the Residential Solid Waste Services provided by the City.

SECTION 9. DETERMINATION OF RESIDENTIAL SOLID WASTE SERVICES ASSESSED COSTS; ESTABLISHMENT OF ANNUAL RESIDENTIAL SOLID WASTE SERVICES ASSESSMENT RATES.

(A) The Residential Solid Waste Collection Service Assessed Costs to be assessed and apportioned among Assessed Properties pursuant to the Cost Apportionment for the Fiscal Year commencing October 1, 2022, is the amount determined in the manner described in Section 8 above. The Estimated Residential Solid Waste Services Special Assessment Rate Schedule is attached hereto as Appendix A. The approval of

the Estimated Residential Solid Waste Services Special Assessment Rate Schedule by the adoption of this Preliminary Assessment Resolution determines the amount of the Residential Solid Waste Services Assessed Costs.

(B) The estimated Residential Solid Waste Services Special Assessments specified in the Estimated Residential Solid Waste Services Special Assessment Rate Schedule are hereby established to fund the Residential Solid Waste Services Assessed Costs determined to be assessed in the Fiscal Year commencing October 1, 2022.

(C) The estimated Residential Solid Waste Services Special Assessments established in this Preliminary Assessment Resolution shall be the estimated assessment rates applied by the Assessment Coordinator in the preparation of the updated Residential Solid Waste Services Special Assessment Roll for the Fiscal Year commencing October 1, 2022, as provided in Section 10 of this Preliminary Assessment Resolution.

SECTION 10. ANNUAL RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT ROLL.

(A) The Assessment Coordinator is hereby directed to prepare, or cause to be prepared, a Residential Solid Waste Services Special Assessment Roll for the Fiscal Year commencing October 1, 2022, in the manner provided in this Preliminary Assessment Resolution. The Assessment Coordinator shall apportion the estimated Residential Solid Waste Collection Service Assessed Cost to be recovered through Residential Solid Waste Services Special Assessments in the manner set forth in this Preliminary Assessment Resolution. A copy of this Preliminary Assessment Resolution, the Ordinance, and the Residential Solid Waste Services Special Assessment Roll shall be maintained on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Residential Solid Waste Services Special Assessment Roll proposed for the Fiscal Year commencing October 1, 2022 be in printed form if the amount of the Residential Solid Waste Services Special Assessment for each parcel of property can be determined by the use of a computer terminal available to the public.

(B) It is hereby ascertained, determined, and declared that the method of determining the Residential Solid Waste Services Special Assessments for the City's Residential Solid Waste Services as set forth in this Preliminary Assessment Resolution is a fair and reasonable method of apportioning the Residential Solid Waste Services Assessed Cost among parcels of Assessed Property located within the City, as the methodology and apportionment assures that no property is assessed an amount greater than the benefit which it receives from the Residential Solid Waste Services provided by the City through its Contract.

SECTION 11. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 6:00 p.m., on September 6, 2022, in City of Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida, 33470, at which time the City Council will receive and consider any comments on the Residential Solid Waste Services Special Assessment from the public and affected property owners and consider imposing the Residential Solid Waste Services Special Assessment and collecting such assessments on the same bill as ad valorem taxes.

SECTION 12. NOTICE BY PUBLICATION. The Assessment Coordinator shall publish notice of the public hearing authorized by Section 11 hereof, in the manner and time provided within the Ordinance. The notice shall be published no later than August 17, 2022, in substantially the form attached hereto as Appendix B.

SECTION 13. NOTICE BY MAIL. The Assessment Coordinator shall also ensure timely notice by mail, in the manner and time provided within the Ordinance. The notice shall be mailed no later than August 17, 2022, in substantially the form attached hereto as Appendix C.

SECTION 14. PROOF OF NOTICE. The Assessment Coordinator may provide proof of such notice by affidavit, if any is required pursuant to the Ordinance or Resolution.

SECTION 15. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the City from the Residential Solid Waste Services Special Assessments will be utilized for the provision of Residential Solid Waste Services, facilities, and programs by the City, through its Contract, as described herein.

SECTION 16. CONFLICT. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 17. SEVERABILITY. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 18. EFFECTIVE DATE. This Preliminary Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED AND APPROVED by City Council for the City of Westlake, on this 5th day of July, 2022.

City of Westlake
JohnPaul O'Connor, Mayor

Zoie Burgess, City Clerk

Approved as to Form and Sufficiency
City Attorney

APPENDIX A

**ESTIMATED RESIDENTIAL SOLID WASTE SERVICES
ASSESSMENT RATE SCHEDULE**

SECTION A-1 DETERMINATION OF RESIDENTIAL SOLID WASTE SERVICES ASSESSED COSTS. The estimated Residential Solid Waste Services Assessed Costs to be assessed for the Fiscal Year commencing October 1, 2022, is \$358,326.20.

SECTION A-2 ESTIMATED RESIDENTIAL SOLID WASTE SERVICES ASSESSMENTS. The estimated Residential Solid Waste Services Special Assessments to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment Methodology to generate the estimated Residential Solid Waste Services Assessed Cost for the Fiscal Year commencing October 1, 2022, are hereby established as follows for the purpose of this Preliminary Assessment Resolution:

\$ 280.60 PER RESIDENTIAL UNIT

APPENDIX B

FORM OF NOTICE TO BE PUBLISHED

To be published no later than August 17, 2022

INSERT MAP OF CITY

**NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR COLLECTION OF RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS**

Notice is hereby given that the City Council of the City of Westlake will conduct a public hearing to consider imposing Residential Solid Waste Services Special Assessments upon Residential Units that receive Residential Solid Waste Services, for the provision by the City of Residential Solid Waste Services to such properties within the City of Westlake.

The hearing will be held at 6:00 p.m., on September 6, 2022, in City of Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, City of Westlake, Florida, 33470 for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Clerk of the City at (561) 530-5880, at least seven days prior to the date of the hearing.

The assessment for each parcel of residential property that receives Residential Solid Waste Services from the City will be based upon the total number of Residential units attributed to that parcel. The annual assessment shall be \$280.60 per Residential Unit.

Copies of the Assessment Ordinance, the Initial Assessment Resolution, the Preliminary Assessment Resolution and the Residential Solid Waste Services Special Assessment Roll are available for inspection at the City Clerk's Office, Westlake City Hall, 4001 Seminole Pratt Whitney Road, Westlake,

Florida, 33470.

The assessments will be collected by the Tax Collector on the ad valorem tax bill to be mailed in November 2022, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property, which may result in a loss of title.

If you have any questions, please contact the City Clerk at (561) 530-5880, Monday through Friday between 9:00 a.m. and 4:00 p.m.

CITY CLERK

CITY OF WESTLAKE.

APPENDIX C

FORM OF MAILED NOTICE

[INSERT DATE], 2022

[Name]

[Address]

Westlake, Florida 33470

RE: *Tax Parcel #*

**CITY OF WESTLAKE, FLORIDA
NOTICE OF HEARING TO IMPOSE AND PROVIDE
FOR RESIDENTIAL SOLID WASTE SERVICES - NON-AD VALOREM ASSESSMENTS**

Dear Property Owner:

As required by Section 197.3632, Florida Statutes, and City of Westlake Ordinance No. 2021-02, notice is given by the City of Westlake that a special assessment for Residential Solid Waste Services using the tax bill collection method may be levied by the City of Westlake on your property for the fiscal year October 1, 2022 - September 30, 2023.

The purpose of this assessment is to collect the Residential Solid Waste Services Special Assessment benefiting property located within the City of Westlake. The total Residential Solid Waste Services Special Assessment revenue to be collected within the City of Westlake is \$358,326.20. The Residential Solid Waste Services Special Assessment is based on the number of Residential Units that receive curbside Residential Solid Waste Services, including curbside collection of solid waste and recyclable materials on your property. The special assessment is \$280.60 per Residential Unit. Your property has ___ Residential Units. The total special assessment for your property is \$_____.

A public hearing will be held at 6:00 p.m. on September 6, 2022, in City of Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida 33470, for the purpose of receiving public comment on the proposed assessment. You and all other affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's office at (561) 530-5880, at least three days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action at the above hearing (including the method of apportionment,

the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Residential Solid Waste Services Special Assessment Ordinance, the Initial Assessment Resolution, the Preliminary Assessment Resolution, and the assessment roll are available for inspection at Westlake City Hall - City Clerk's Office, 4001 Seminole Pratt Whitney Road, Westlake, Florida 33470.

The Residential Solid Waste Services non-ad valorem assessment amount shown on this notice for the above parcel will be collected on the ad valorem tax bill mailed in November 2022. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions regarding your Residential Solid Waste Services Special Assessment, please contact the City Clerk at (561) 530-5880, Monday through Friday between 9:00 a.m. and 4:00 p.m.

*** * * * * THIS IS NOT A BILL * * * * ***