

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS, GRANTING AN EXCLUSIVE FRANCHISE AGREEMENT FOR THE COLLECTION, HAULING, RECYCLING AND DISPOSAL OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS TO PROGRESSIVE WASTE SOLUTIONS OF TX, INC; PROVIDING THE TERMS AND CONDITIONS OF THE FRANCHISE GRANT; ESTABLISHING A TERM OF THE FRANCHISE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council finds Section 10.01 of the City of Pflugerville City Charter requires the right of use of city public property can be transferred only by Ordinance”; and,

WHEREAS, the City Council finds Section 10.02 of the City of Pflugerville City Charter authorizes the City Council to grant, renew, or extend franchises of public utilities operating in the city and may be amended by the City Council with the agreement of the franchise holder; and,

WHEREAS, the City Council finds that Section 10.03 of the City of Pflugerville City Charter requires this Ordinance be read at three consecutive City Council meetings and that final action shall not occur until at least twenty-eight days after first reading, and that within ten (10) days after the first reading of the ordinance, the caption of the ordinance and a statement indicating where and how to obtain copies of the full ordinance shall be published on the city’s official website or other electronic media that is readily accessible to the public; and,

WHEREAS, the City Council finds that Chapter 52, generally governs solid waste and shall continue to apply to Residential Customers, subject to the provisions of this Ordinance; and,

WHEREAS, the City Council finds the rates and service options currently in place are expiring, and

WHEREAS, the City Council finds that granting, approving and adopting the agreement attached to this ordinance for the collection, hauling, recycling and disposal of municipal solid waste and recyclable materials is necessary to ensure the public health, safety and welfare of the public.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Section 1: Incorporation

That the above and foregoing premises are true and correct and are incorporated herein and made part of this ordinance for all purposes.

Section 2: Definitions

Except where the context clearly indicates a different meaning, or are otherwise defined in the Exclusive Franchise Agreement attached and incorporated herein for all purposes, the definitions appearing in Chapter 52, Section 52.01 of the City of Pflugerville, Texas Code of Ordinances are applicable to this Ordinance. Undefined words and phrases will have their common and ordinary meaning.

Section 3: Grant of Franchise.

In accordance with Section 10 of the Home Rule Charter, the city hereby authorizes the City Manager to execute the attached Exclusive Franchise Agreement and grants to Progressive Waste Solutions of TX, Inc. d/b/a WC of Texas, its successors and assigns (the “Company”) consent to operate within the city or to occupy or use the streets of the city to provide the services as defined in the agreement subject to the terms and conditions contained therein and hereby incorporates the agreement as if recited verbatim, as the attached Exclusive Franchise Agreement dated February 1, 2018.

Section 4: Acceptance.

Within fifteen (15) days of the effective date of this Ordinance, Company must file with the city a written acceptance of this franchise.

Section 5: Effective Date.

This Ordinance will be read at three consecutive regular city council meetings. The Ordinance will be effective after final passage, which may not occur until at least 28 days after first reading. Within ten days after first reading of this Ordinance, the caption of the Ordinance and a statement indicating where and how to obtain copies of the full ordinance shall be published on the city’s official website or other electronic media that is readily accessible to the public.

Section 6: Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 7: Savings.

That all rights and privileges of the City of Pflugerville are expressly saved as to any and all violations of the provisions of any Ordinance affecting solid waste collection and disposal services, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts, if any.

PASSED AND APPROVED this 12th day of September, 2017.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

Charles E. Zech, City Attorney
Denton Navarro Rocha Bernal & Zech PC