

**FINANCE DEPARTMENT
M E M O R A N D U M**

TO: Honorable Mayor and City Commission

FROM: Ambreen Bhatti, City Manager

BY: René D. Gonzalez, Finance Director

DATE: June 30, 2015

SUBJECT: Preliminary Solid Waste Assessment Rate

The City Commission instituted an assessment for solid waste collection and disposal. The program has been a great success and has helped to streamline the payment process for the waste hauler as well as expedite the payment of revenue to the City. The collection of the residential solid waste assessment for FY 2016 will follow the same uniform collection rules as it did in FY 2015. The assessment will be collected by the county and remitted to the City. Under the assessment, the residential property owner will pay a lump sum annual fee of \$216.02 with their property tax bill, which is the same as in FY 2015. The assessment will be for the fiscal year beginning October 1, 2015.

RECOMMENDATION:

The City Administration recommends Commission's consideration and approval of the attached Preliminary Solid Waste Rate Resolution reflecting an annual unit cost for residential solid waste collection of \$216.02. The resolution also schedules our City's public hearing on the solid waste assessment rate for Friday, September 11, 2015, at 5:05 p.m.

CITY OF NORTH LAUDERDALE

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH LAUDERDALE, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES AND FACILITIES AND PROGRAMS IN THE CITY OF NORTH LAUDERDALE, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE RESIDENTIAL SOLID WASTE COLLECTION SERVICES ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015; DIRECTING THE PREPARATION OF A RESIDENTIAL SOLID WASTE COLLECTION SERVICES SPECIAL ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City of North Lauderdale Ordinance No. 11-05-1250, adopted on May 31, 2011, provides for the home rule authority of the City “to impose Residential Solid Waste Collection Services Special Assessments against Residential property located within the City”, and provides findings of special benefit to real property as a result of such services; and,

WHEREAS, the City has in place a Franchise Agreement with Waste Pro of Florida, Inc. (hereinafter “Waste Pro”), pursuant to which the City provides Residential Solid Waste Collection Services to, among others, all residential properties that receive Residential Solid Waste Collection 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 Collection Services to all residential units that receive Residential Solid Waste Collection Services from the City, through its Franchise Agreement, 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 properties 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 Collection Services from the City through the Franchise Agreement 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 Collection Services provided by the City through its Franchise Agreement as defined hereinafter provide the requisite special benefit to Assessed Property such that they may be funded through a special assessment; and,

WHEREAS, City staff has reviewed the budget for Residential Solid Waste Collection Services, for residential units that receive Residential Solid Waste Collection Services from the City through the Franchise Agreement to ensure that the Residential Solid Waste Collection

Services Special Assessment meets the legal requirements for special benefit and fair apportionment; and,

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH LAUDERDALE, FLORIDA:

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

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of Ordinance No. 11-05-1250 (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 Collection Services Special Assessment Roll and directs the imposition of a Residential Solid Waste Collection Services Assessment as described hereinafter, for the Fiscal Year beginning October 1, 2015. Its purpose is to provide procedures and standards for the imposition of a Residential Solid Waste Collection Services Assessment for all Residential units that receive Residential Solid Waste Collection 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 Collection Services for these residential properties, facilities, or programs 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 and Resolution 12-06-5872 (the "Initial Assessment Resolution"). 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:

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

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

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

"Franchise Agreement" means that certain Franchise Agreement for Solid Waste and Recycling Collection and Disposal by and between the City and Waste Pro of Florida, Inc., dated November 15, 2011, as may be amended from time to time.

"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 receive residential Solid Waste Collection

Services ~~by~~ from the City through the Franchise Agreement; provided that multi-family residential properties with more than four (4) units are not included in the definition of “Residential Property” for purposes of the Residential Solid Waste Collection Special Assessment.

“Residential Solid Waste Collection Services Cost” is as defined in the Ordinance. “Costs associated with levying the special assessment” includes all costs associated with the structure, implementation, collection, and enforcement of the Residential Solid Waste Collection Services Assessment, including any service charges of the Tax Collector, or Property Appraiser, and amounts necessary to off-set discounts received for early payment of the Residential Solid Waste Collection Services Assessments pursuant to the Uniform Assessment Collection Act

"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 COLLECTION SERVICES.

(A) Upon the imposition of the Residential Solid Waste Collection Services Assessment for Residential Solid Waste Collection Services for residential properties, facilities, or programs upon Assessed Property located within the City, the City shall provide Residential Solid Waste Collection Services to such Assessed Property through the Franchise Agreement. The cost to provide such Residential Solid Waste Collection Services, facilities, or programs to residential properties, as described herein, shall be funded from the proceeds of the Residential Solid Waste Collection Services Assessments.

(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

Collection Services for properties, facilities, and programs in an amount not less than the Residential Solid Waste Collection Services 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 COLLECTION SERVICES ASSESSMENTS. Residential Solid Waste Collection Services Assessments shall be imposed against all Residential units that receive Residential Solid Waste Collection Services, as provided herein. The Cost Apportionment described herein is approved and adopted as the methodology to impose and compute the Residential Solid Waste Collection Services Assessment.

SECTION 7. LEGISLATIVE DETERMINATIONS OF AUTHORITY, SPECIAL BENEFIT AND FAIR APPORTIONMENT. The City Commission adopts the following legislative findings relating to the Residential Solid Waste Collection Services special assessment:

AUTHORITY

7.1 Pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City Commission has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law and such power may be exercised by the enactment of City ordinances or resolutions.

7.2 The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are

not relevant to the imposition of assessments related to Residential Solid Waste Collection Services, facilities or programs.

7.3 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.

7.4 To fulfill its obligations, the City entered into a Franchise Agreement with Waste Pro for the collection and transport of solid waste from, among others, single-family residential properties, and certain multi-family residential properties that receive Residential Solid Waste Collection services, within the City.

SPECIAL BENEFIT

7.5 The City provides Residential Solid Waste Collection Services to the Assessed Properties through its Franchise Agreement. All Assessed Properties receive Residential Solid Waste Collection Services, and therefore are required to receive the City's Residential Solid Waste Collection Services through the City's Franchise Agreement.

7.6 The special benefit provided to the Assessed Properties as a result of the provision of Residential Solid Waste Collection Services by the City through its Franchise Agreement, and as a result of the Residential Solid Waste Collection Services Assessment include by way of example and not limitation, the availability and use of Residential Solid Waste Collection 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.

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

7.7.1 protecting and potentially increasing the value of the residential units by providing solid waste collection services;

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

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

7.8 Commercial properties, and multi-family residential properties in the City with more than four (4) units, are not specially benefited by the City's Residential Solid Waste Collection Services funded by the Residential Solid Waste Collection Special Assessment in that those properties receive volume-based Solid Waste Collection services. Moreover, given the fact that commercial properties, and residential properties with more than four (4) units receive Solid Waste Collection 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 Collection services upon those properties, and the costs of such services shall be collected by the City by other means.

IMPOSITION AND COLLECTION

7.10 The Residential Solid Waste Collection Services Assessments to be imposed

pursuant to this Preliminary Assessment Resolution shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

7.11 The Residential Solid Waste Collection Services Assessment imposed pursuant to this Preliminary Assessment Resolution is imposed by the City Commission of the City of North Lauderdale, not the Broward County Board of County Commissioners, Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Preliminary Assessment Resolution, and pursuant to the City's agreements with such entities, shall be construed as ministerial.

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

APPORTIONMENT

7.13 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 Collection Services is driven by the existence of a Residential unit.

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

7.15 Because commercial properties, and multi-family residential properties with more than four (4) units do not benefit from the provision of Residential Solid Waste Collection Services by the City through the Franchise Agreement, the Residential Solid Waste Collection Services Assessed Costs are not apportioned to those properties.

7.16 Unoccupied Residential units in the City may not receive residential Solid Waste

Collection Services during such time as the Residential unit is unoccupied. The City cannot know which Residential units are unoccupied at the time the assessments are levied. Therefore, it is fair and reasonable to impose the special assessment on all Residential units designated on the Improvement Codes and which are expected to or actually receive Residential Solid Waste Collection Services. Upon payment of the special assessment, should an owner of an Assessed Property provide documentation deemed acceptable to the City verifying that its Residential unit was unoccupied for a portion of the Fiscal Year commencing on October 1, 2015, the City will refund a pro-rated amount of the paid assessment. "Unoccupied" shall mean a minimum continuous period of three (3) months. It is fair and reasonable to impose this minimum period of time in order to balance the City's administrative costs associated with a review of documentation and potential refunding with the fairness to owners of Assessed Residential units, and unoccupied Residential units derive some benefit from the provision of Residential Solid Waste Collection Services to neighboring Residential units, which avoids blight and health and safety issues associated with the accumulation of solid waste in the surrounding areas and neighborhood.

SECTION 8. COST APPORTIONMENT METHODOLOGY. The Franchise Agreement provides for an annual charge to the Assessed Properties for the Residential Solid Waste Collection Services provided by the City through its Franchise Agreement. The Residential Solid Waste Collection Services Assessed Costs include other costs associated with the Residential Solid Waste Collection Special Assessment, which are then allocated to the Assessed Properties in addition to the annual charge in the Franchise Agreement 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, 2015, the annual charge per Residential Unit in the City is **\$ 216.02.**

SECTION 9. DETERMINATION OF RESIDENTIAL SOLID WASTE COLLECTION ASSESSED COSTS; ESTABLISHMENT OF ANNUAL RESIDENTIAL SOLID WASTE COLLECTION 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, 2015, is the amount determined in the manner described in Section 8 above, and in the Estimated Residential Solid Waste Collection Services Assessment Rate Schedule, attached hereto as Appendix A. The approval of the Estimated Residential Solid Waste Collection Services Assessment Rate Schedule by the adoption of this Preliminary Assessment Resolution determines the amount of the Residential Solid Waste Collection Services Assessed Costs.

(B) The estimated Residential Solid Waste Collection Services Assessments specified in the Estimated Residential Solid Waste Collection Services Assessment Rate Schedule are hereby established to fund the specified Residential Solid Waste Collection Services Assessed Costs determined to be assessed in the Fiscal Year commencing October 1, 2015.

(C) The estimated Residential Solid Waste Collection Services 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 Collection Services Special Assessment Roll for the Fiscal Year commencing October 1, 2015, as provided in Section 10 of this Preliminary Assessment Resolution.

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

(A) The Assessment Coordinator is hereby directed to prepare, or cause to be prepared, a

Residential Solid Waste Collection Services Special Assessment Roll for the Fiscal Year commencing October 1, 2015, 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 Collection Services 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 Collection 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 Collection Services Special Assessment Roll proposed for the Fiscal Year commencing October 1, 2015 be in printed form if the amount of the Residential Solid Waste Collection Services 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 Collection Services Assessments for the City's Residential Solid Waste Collection Services as set forth in this Preliminary Assessment Resolution is a fair and reasonable method of apportioning the Residential Solid Waste Collection 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 Collection Services provided by the City through its Franchise Agreement.

SECTION 11. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 5:05 p.m., on September 11, 2015, in City Commission Chambers of North Lauderdale City Hall, 701 Southwest 71st Avenue, City of North Lauderdale, Florida, at which time the City Commission will receive and consider any comments on the

Residential Solid Waste Collection Services Assessment from the public and affected property owners and consider imposing the Residential Solid Waste Collection Services Assessment and collecting such assessments on the same bill as ad valorem taxes.

SECTION 12. NOTICE BY PUBLICATION. The City Manager, or her designee, 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 22, 2015, in substantially the form attached hereto as Appendix C.

SECTION 13. NOTICE BY MAIL. The City Manager, or her designee, shall also ensure timely notice by use of the TRIM notice forwarded annually by the Property Appraiser's Office to the Owner of each parcel of Assessed Property within the City, at least twenty (20) days prior to the public hearing, as required by the Ordinance, and the Uniform Assessment Collection Act.

SECTION 14. PROOF OF NOTICE. The City Manager, or her designee, 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 Collection Services Assessments will be utilized for the provision of Residential Solid Waste Collection Services, facilities, and programs by the City, through its Franchise Agreement, 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 ADOPTED BY THE CITY COMMISSION OF THE CITY OF NORTH LAUDERDALE, FLORIDA, THIS 30th DAY OF JUNE, 2015.

MAYOR JACK BRADY

ATTEST:

VICE MAYOR JERRY GRAZIOSE

PATRICIA VANCHERI, City Clerk

APPROVED AS TO LEGAL FORM
BY CITY ATTORNEY:

SAMUEL S. GOREN, ESQUIRE

SSG:MDC

APPENDIX A

ESTIMATED RESIDENTIAL SOLID WASTE COLLECTION SERVICES ASSESSMENT RATE SCHEDULE

SECTION A-1 DETERMINATION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES ASSESSED COSTS. The estimated Residential Solid Waste Collection Services Assessed Costs to be assessed for the Fiscal Year commencing October 1, 2015, is **\$ 1,818,240.**

SECTION A-2 ESTIMATED RESIDENTIAL SOLID WASTE COLLECTION SERVICES ASSESSMENTS. The estimated Residential Solid Waste Collection Services Assessments to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment Methodology to generate the estimated Residential Solid Waste Collection Services Assessed Cost for the Fiscal Year commencing October 1, 2015, are hereby established as follows for the purpose of this Preliminary Assessment Resolution:

RESIDENTIAL UNITS: **\$ 216.02 PER UNIT**

APPENDIX B

FORM OF NOTICE TO BE PUBLISHED

To be published no later than August 22, 2015



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

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

The hearing will be held at 5:05 p.m., on September 11, 2015, in City Commission Chambers of North Lauderdale City Hall, 701 Southwest 71st Avenue, City of North Lauderdale, Florida, 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 Commission within 20 days of this notice. If a person decides to appeal any decision made by

the City Commission 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 (954) 597-4706, at least seven days prior to the date of the hearing.

The assessment for each parcel of residential property that receives Residential Solid Waste Collection Services from the City will be based upon the total number of Residential units attributed to that parcel, at the amount of \$216.02 per unit.

Copies of the Assessment Ordinance, the Preliminary Assessment Resolution and the Preliminary Residential Solid Waste Collection Services Special Assessment Roll are available for inspection at the City Clerk's Office, North Lauderdale City Hall, 701 Southwest 71st Avenue, North Lauderdale, Florida.

The assessments will be collected by the Tax Collector on the ad valorem tax bill to be mailed in November 2015, 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 Finance Director of the City of North Lauderdale, at (954) 597-4714, Monday through Friday between 8:00 a.m. and 5:00 p.m.

CITY CLERK

CITY OF NORTH LAUDERDALE.