

AN ORDINANCE

APPROVING A FRANCHISE AGREEMENT FOR THE COLLECTION OF SOLID WASTE FROM HOUSEHOLDS IN UNINCORPORATED AREAS OF THE COUNTY, AND OTHER MATTERS RELATED THERETO

WHEREAS, In 1974, County Council adopted Ordinance No. 180, codified as Section 10-16 et seq. of the Code of Ordinances of Charleston County, which established rules and regulations regarding the use and collection of solid waste in unincorporated areas of the county not serviced by a special public service district, and

WHEREAS, the Ordinance created three (3) door-to-door collection areas in the unincorporated portion of the County in Mt. Pleasant, Johns Island and North Charleston, and

WHEREAS, the Ordinance also provided for licensing of contractors to make door-to-door curbside pickups, and to bill subscribers on a quarterly basis, and

WHEREAS, the County has subsequently conducted competitive bids and awarded contracts for the collection of household garbage, construction and demolition debris and yard waste in the collection districts pursuant to the Ordinance, county solid waste department policies and other applicable laws, rules and regulations, and

WHEREAS, Council believes it to be in the best interests of the county government and the health and welfare of its citizens to reaffirm that the business of collecting and subsequently transporting, transferring, disposing and/or recycling of household solid waste generated, kept or accumulated in the collection districts previously established affects the health, safety, public welfare and quality of life of the inhabitants of the County; that the business of collecting and disposing of household solid waste is a public service and should continue to be regulated by the County; and that the use of any public street, road highway or other public property in connection with such business is of interest to the County and a proper subject of regulation, and

WHEREAS, IFB No. 4044-07B is the most recent solicitation for these services, which resulted in one bid from the incumbent contractor, with proposed fees which are reasonable, and

WHEREAS, County Council, in continuance of past precedent and practice, finds that the exclusive contract to be awarded hereunder is necessary to insure organized, cost effective, and efficient service throughout the collection districts, and

WHEREAS, in the case of Quality Towing v. the City of Myrtle Beach, 345 S.C. 156, 547 S.E. 2d 862 (2001) the South Carolina Supreme Court held that a franchise is

a special privilege, not held by citizens generally, and is a right granted by the government to particular individuals or companies which will create private profits, and

WHEREAS, the regulatory system described above and the contract to be awarded hereunder meets the above test expressed by the SC Supreme Court, and

WHEREAS, County Council's practice has been generally to award franchises by means of the adoption of an ordinance,

NOW, THEREFORE, pursuant to the authority granted to the County Council for Charleston County under the Constitution, statutes, and laws of the State of South Carolina and the ordinances of Charleston County, BE IT ORDAINED by the Charleston County Council, in meeting duly assembled, the following:

SECTION I. FINDINGS INCORPORATED

The findings above are hereby incorporated by reference a made a part of this ordinance.

SECTION II. AWARD OF FRANCHISE AGREEMENT FOR SOLID WASTE COLLECTION SERVICES

Council hereby awards a franchise agreement for solid waste collection services to Republic Services of South Carolina, LLC, d/b/a Suburban Disposal Service, pursuant to the terms and conditions of Invitation for Bids (IFB) No. 4044-07B, which are incorporated herein by reference.

SECTION III. AUTHORITY TO EXECUTE DOCUMENTS; ADMINISTRATION

The County Administrator and/or Procurement Director, as the case may be, are authorized to execute and deliver all documents and instruments necessary to memorialize the contract awarded hereunder. Termination, renewals, amendments modifications and other actions related to the contract may be accomplished pursuant to the terms of said IFB, the Charleston County Procurement Ordinance and Regulations, Charleston County Code Section 10-16 et seq., and other applicable laws rules and regulations.

SECTION IV. SEVERABILITY

If, for any reason, any part of this ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect.

SECTION V. EFFECTIVE DATE

This ordinance shall become effective immediately upon approval following third

reading.