

**CITY OF BUCKLEY, WASHINGTON
WASHINGTON**

ORDINANCE NO. 09-21

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AMENDMENT NO. 1 TO THE FRANCHISE AGREEMENT DATED JUNE 22, 2021, WITH MURRAY'S DISPOSAL COMPANY, INC. FOR THE SOLID WASTE, RECYCLABLES AND YARD WASTE COLLECTION SERVICES, EXTENDING THE FRANCHISE UNTIL JULY 31, 2029.

This First Amendment to the Agreement for the Collection and Disposal of Solid Waste, Recyclables and Yard Waste (the "First Amendment") is entered into this 1st day of August 2021, by and between Murrey's Disposal Company, Inc. (the "Contractor") and the City of Buckley (the "City").

RECITALS:

WHEREAS, the City and Contractor's predecessor-in-interest. entered into that certain Agreement for the Collection and Disposal of Solid Waste, Recyclables and Yard Waste dated November 1, 2016 (the "Agreement") to provide collection, hauling, and disposal services garbage and recycle collection throughout the City (as such terms are defined in the Agreement);

WHEREAS, by that certain Assignment and Assumption dated _____, the Agreement was subsequently assigned by D.M. Disposal Co., Inc. to Contractor though through scrivener's error, the date of the Agreement was incorrectly stated as February 9, 1999 rather than; and

WHEREAS, the City and the Contractor mutually desire to amend the existing Agreement as further described herein.

AGREEMENT:

NOW, THEREFORE, and in consideration of these premises and such other lawful consideration, the receipt and sufficiency of which each of the parties hereto acknowledge, the parties agree as follows:

1. Term. Upon execution of this First Amendment, the first sentence of Section 3 shall be deleted in its entirety and replaced with the following:

"The term of this Agreement shall commence on November 1, 2016 and shall expire on July 31, 2029 (the "Agreement Term")."

2. Annual CPI Adjustment Freeze. Notwithstanding anything to the contrary contained in the Agreement, there shall be no annual CPI adjustment on March 1, 2022. The annual CPI adjustment contained in Section 8(a) of the Agreement shall resume on March 1, 2023.

3. Billing / Customer Service. Effective as of August 1, 2021, Section 7 of the Agreement shall be deleted and replaced with the following:

"a) Contractor will bill all residential customers bi-monthly and all other customers monthly at the rates specified in Exhibit A, along with any applicable City franchise fees and/or other municipal fees or taxes, if any, as are now or later established by the City. Contractor shall also perform all customer service functions under this Agreement. Contractor will also assess the Washington Refuse Collection Tax on all solid waste services on a bi-monthly basis for residential customers and monthly for all other customers and remit such state excise tax amounts to the State. Contractor separately identify on each customer's bill the imposition of any utility tax that has been established by the City on solid waste collection services and Contractor shall be allowed to recover by pass through any attrition in net revenue caused by the "tax on tax" effect of the gross-up of revenues to absorb utility and/or business and occupation taxes which are assessed on the gross revenues of the Contractor.

b) The time period covered by the bill provided by the Contractor will be the present and prior month based on the date the bill is received by the customer. The time period covered will be stated in the bill. The charge for any special services not covered in Exhibit A will be determined by mutual agreement of the parties hereto.

c) The Contractor shall bill customers directly for solid waste and recyclables which exceed the customer's current subscribed level of service.

d) The Contractor shall provide billing services for solid waste and recyclables without proration for partial months. The minimum proration period shall be one month.

e) The Contractor shall provide a City administered Low-Income and Low-Income Disability Discount with the collection and disposal services required under this Franchise for the rates set forth in the Service Rate Schedule attached hereto and incorporated herein as Exhibit A, as the same may be adjusted in accordance with this Section. Qualifications for City Residents are set by the City under Buckley Municipal Code Title 14.16 Low-Income Senior and Low-Income Disability Utility Discounts. Any amendments to the current City Buckley Municipal Code Title 14.16 Qualifications or Rates shall be mutually agreed upon in writing by the Contractor and City before approved or administered.

f) The bills provided by the Contractor shall be due in accordance with guidelines established by the Contractor. If a bill remains unpaid after forty-five (45) calendar days from the bill date, a late notice shall be mailed to the customer and shall include a 1.5% penalty (minimum \$1.00). If the bill remains unpaid after sixty (60) calendar days from the date of the invoice, service will be terminated.

g) A fee of \$25.00 will apply to all customers stopped for non-payment to re-establish service, plus applicable taxes, if any.

h) A fee of \$25.00 will be assessed on all checks returned by a financial institution for insufficient funds plus applicable taxes, if any.

i) A fee of \$25.00 shall be assessed for redelivery of carts/receptacles where the customer had requested suspension or termination of service or where the service was suspended for non-payment by customer.

j) Customers whose service is terminated and restarted within one year after the termination of their prior service shall be assessed a service restart fee.

k) A property owner shall not be held responsible for payment of any fees or charges under this Agreement if they are not the customer.”

4. Reaffirmation. The parties hereby reaffirm their agreement with all the terms and provisions of the Agreement as amended by this First Amendment.

5. Entire Agreement. The Agreement and this First Amendment represents the entire agreement among the parties with respect to the matters that are the subject hereof

6. Counterparts; Facsimile Signatures. This First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall collectively constitute one and the same instrument representing this First Amendment between the parties hereto, and it shall not be necessary for the proof of this First Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this First Amendment as of the date first written above.

CITY OF BUCKLEY

MURREY'S DISPOSAL COMPANY, INC.

By: Pat Johnson
Title: Mayor
Date: 07/14/2021

By: _____
Title: _____
Date: _____

ATTEST
By: Treva Percival
Title: City Clerk

ATTEST
By: _____
Title: _____

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 2. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved this 13th day of July 2021.

Pat Johnson
Pat Johnson, Mayor

Attest:
Treva Percival
Treva Percival, City Clerk

APPROVED AS TO FORM:
Phil Olbrechts
Phil Olbrechts, City Attorney

PUBLISHED: 7/21/2021
EFFECTIVE: 7/26/2021