

ORDINANCE NO. 2018-07

AN ORDINANCE OF THE CITY OF RIESEL, TEXAS GRANTING FRONTIER ACCESS, LLC AN EXCLUSIVE FRANCHISE FOR RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL, COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL INDUSTRIAL SOLID WASTE COLLECTION AND DISPOSAL, AND COLLECTION AND DISPOSAL OF CONSTRUCTION AND DEMOLITION WASTE WITHIN THE CORPORATE LIMITS OF THE CITY OF RIESEL, TEXAS, AND ANY AREAS HEREAFTER ADDED TO THE CITY BY ANNEXATION; ESTABLISHING THE TERM OF THE FRANCHISE; REQUIRING THAT ALL OCCUPIED RESIDENTIAL COMMERCIAL, AND INDUSTRIAL STRUCTURES IN THE CITY BE SERVED WITH SOLID WASTE COLLECTION AND DISPOSAL SERVICES AND SUBSCRIBE THERETO; PROHIBITING ANY PERSON OTHER THAN THE FRANCHISEE FROM CONDUCTING OR ATTEMPTING TO CONDUCT THE BUSINESS OF SOLID WASTE COLLECTION AND DISPOSAL SERVICES WITHIN THE CITY OF RIESEL; APPROVING MUNICIPAL SOLID WASTE AND CONSTRUCTION AND DEMOLITION WASTE AGREEMENT BETWEEN THE CITY AND FRONTIER ACCESS, LLC AND INCORPORATING THE SAME HEREIN ALONG WITH THE RATES AND RATE ADJUSTMENT PROCEDURES THEREIN; PROVIDING FOR A FANCHISE FEE; PROVIDING FOR A BILLING FEE; MAKING VIOLATION OF THE ORDINANCE AN OFFENSE PUNISHABLE BY A FINE NOT TO EXCEED \$2,000, AND MAKING EACH DAY OF VIOLATION A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the collection, removal, and proper disposal of solid waste generated within the City of Riesel is essential to the health, safety and welfare of the City's residents; and

WHEREAS, establishing uniform collection governed by specific rules and contractual terms best serves the public purpose of protection of the health, safety and welfare of residents, and having a single provider would allow for better control and assessment of wear and tear on the City's streets by heavy collection equipment; and

WHEREAS, pursuant to Texas law the City Council has the authority to grant a solid waste collection and disposal franchise within its corporate limits; and

WHEREAS, the City Council finds and determines that granting of a solid waste collection and disposal franchise as provided by this Ordinance is in the best interest of the City of Riesel and the health, safety and general welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS that:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein and made findings of fact.

2. Grant of Franchise. **FRONTIER ACCESS, LLC** is hereby GRANTED an exclusive franchise for:

- a) Residential solid waste collection and disposal;
- b) Commercial solid waste collection and disposal;
- c) Industrial solid waste collection and disposal, and
- d) Construction and Demolition Waste collection and disposal.

within the corporate limits of the City of Riesel, Texas as it now exists, or as it may expand during the term of this franchise by annexation, and **FRONTIER ACCESS, LLC** is GRANTED the right to use the City's streets, alleys, and thoroughfares for the purpose of providing such services (hereinafter "Franchise").

3. Conditions of Franchise. The Municipal Solid Waste Agreement between the City and **FRONTIER ACCESS, LLC** (hereinafter "Franchisee") is hereby APPROVED and shall be attached hereto as Appendix A, and is incorporated by reference herein as if set out verbatim.

4. Term of Franchise. Five (5) years starting on January 1, 2019 and ending at Midnight on December 31, 2023 (hereinafter "Term"). Said Term is subject to earlier termination as set forth in the provisions of Appendix A, attached hereto and incorporated by reference herein.

5. Solid Waste Collection and Disposal Services Required. Every occupied residential, commercial, or industrial structure within the City, and every service address for purposes of City water and/or sewer services within the City must be served by a solid waste collection and disposal service. The Franchisee shall be the only approved provider of solid waste collection and disposal services within the City during the Term of this Franchise. The City shall bill customers for solid waste collection and disposal services of the Franchisee as part of the City's utility billing. Roll Off customers must contract directly with the Franchisee for solid waste collection and disposal services and will be billed directly by the Franchisee. Each customer's billing shall include the Franchisee's base fee for the service (as adjusted from time-to-time), the City's billing fee (where the City is the billing entity), the municipal franchise fee, and any other charges required by law, if any.

6. Billing Fee and Franchise Fee. The City Billing Fee and the Municipal Franchise Fee are set at the percentages and calculated and collected in accordance with the terms of the Municipal Solid Waste Agreement (attached hereto as Appendix A and incorporated by reference herein). The City's Billing Fee is hereby set at 6%. The Municipal Franchise Fee is hereby set at 5%.

7. Billing. Billing shall be conducted as set out in Attachment A.

8. Franchisee Service Expectations, and Enforcement Provisions. The scope, extent, and expectations of the Franchisee's services and enforcement provisions, are as set forth in the Municipal Solid Waste Agreement (attached hereto as Appendix A and incorporated by reference herein).

9. Collection Days and Times.

9.1 Collection of Residential Waste and from Commercial Customers whose property is immediately adjacent to Residential Units shall begin no earlier than 7:00 A.M. and shall generally not extend beyond 7:00 P.M. No collection shall be made on Sunday. Collection of Commercial Waste shall be collected at such hours as may be determined by Franchisee. No collection shall be made on Sunday, unless requested by a Customer and agreed to by Franchisee.

9.2 Holidays: Make-up collection for residential routes that occur on specified holidays, which will typically be one day after the holiday and may include a Saturday. Collections for all Customers the week of a Holiday shall be pushed out by one day if a Holiday falls on a regular collection day. Collection days are subject to change by action of the City Council. Any change will be communicated to customers well in advance of going into effect.

10. Customer Rules and Responsibilities.

10.01 Containers

(a) Each owner, occupant, tenant or lessee using or occupying any building, dwelling unit, or structure shall utilize receptacle(s) approved by the city for the storage and collection of refuse, other than brush and bulk, and no other container(s). Refuse receptacle(s) shall be issued by the city's authorized collector and shall remain at the address where delivered and shall not be removed from the premises by any person(s). Markings and identification on the refuse containers shall not be defaced, altered, or removed. No permanent markings shall be made on the containers by the owner, occupant, tenant or lessee.

(b) Refuse receptacle(s) shall be maintained by the owner, occupant, tenant or lessee of the premises in good, clean and sanitary condition. Any refuse receptacle(s) that are damaged shall be repaired or replaced by the city's authorized collector at no charge to the owner, occupant, tenant or lessee. Refuse receptacle(s) lost or stolen shall be replaced by the city's authorized collector, at the expense of the owner, occupant, tenant or lessee. Such fees, as approved by city council, will be assessed to the owner, occupant, tenant or lessee's city utility bill.

(c) Items placed outside the carts, other than bulk and brush on its designated day, will not be collected. If dwelling unit regularly exceeds the limitation, the owner, occupant, tenant or lessee of the dwelling unit may be required to acquire additional carts. The cost for any additional refuse receptacle(s) will be a monthly charge as set forth in Attachment A.

(d) All refuse receptacle(s) shall be kept clean and sanitary and in good repair in accordance with the applicable health and sanitation codes of the city, county, state and other applicable laws and regulations.

(e) Should any citizen be unable to comply with these requirements and need reasonable accommodation pursuant to the Americans with Disabilities Act, or otherwise the citizen must submit a written application to the City Secretary. With the City Secretary's authorization special accommodations will be set in place.

10.02 Placement for Collection.

(a) Except for brush and bulk on its designated day, all refuse must be placed inside the refuse receptacle(s), without undue compaction or overfilling, and allowing the lid to close. Refuse will not be picked up if the refuse receptacle(s) lid is not closed flat or if the refuse is placed outside refuse receptacle(s). No refuse shall be placed on top of the refuse receptacle(s).

(b) Carts and brush/bulk shall be placed for collection at curbside, no further than thirty-six (36) inches from the edge of the roadway and a minimum of six feet from any vehicle or mailbox. Carts must be closed in such a manner as to reasonably protect the enclosed refuse from the elements, from flies and other insects and from animals.

(c) Rules regarding Bulky Items and Bulky Waste are included in Attachment A.

10.03 Time limits for leaving on streets.

Owners, occupants, tenants or lessee of residences shall not place refuse for collection on any city street or public right-of-way more than 12 hours prior to the scheduled day of collection, nor shall refuse receptacle(s) be permitted to remain on city streets or public rights-of-way more than 12 hours after the scheduled day of collection, except that where alleys exist and collection is made from the alley, permanent containers may be placed and stored in a sanitary manner.

This is a summary of key Customer Rules and Responsibilities. Additional information is contained in Appendix A hereto. The Franchisee will provide a brochure, approved by the City, on Customer Rules and Responsibilities, contact information, and other helpful information prior to or near the beginning of service.

11. Unauthorized Use of Receptacles

11.1 The placing of garbage, trash, rubbish or any article, thing or material in any commercial type garbage container by any person other than the person who pays the monthly service charge for collection of garbage from that container is prohibited.

11.2 The placing of garbage, trash, rubbish or any article, thing or material in any commercial type garbage container (exclusive of litter barrels or cans) located on any public property is prohibited.

11.3 The placing of household garbage, trash or rubbish in any litter barrel or can located on public property is prohibited.

12. Customer Service. The City is committed to assuring that its Franchisee provides reliable and responsible solid waste collection and disposal services. The Franchisee shall provide

means for customer contact and handling of customer complaints which at a minimum comport with those set forth in Appendix A hereto.

13. Non-Discrimination. The Franchisee shall not discriminate in the provision of solid waste collection and disposal services against any customer on the basis of race, color, national origin, gender, disability, or other prohibited consideration.

14. Compliance with Law. Franchisee shall comply with all applicable federal, state, and local laws and regulations in the collection, transportation, and disposal of solid waste. Title to solid waste passes to the Franchisee immediately upon collection.

15. Prohibition Against Any Person or Entity Conducting the Business of Solid Waste Collection and Disposal Services within the City Other Than the Franchisee.

15.1 Prohibition. It shall be unlawful for any person or entity other than the Franchisee to conduct or attempt to conduct the business of solid waste collection and disposal within the City during the Term of this Franchise and such is expressly prohibited.

15.2 Violation an Offense. Violation of the prohibition contained in Subsection 15.1 above is an offense punishable by a fine not to exceed \$2,000.00.

15.3 Defense. It shall be a defense to prosecution hereunder if the Franchisee does not provide the type of solid waste removal and disposal services necessary for the undertaking under the Franchise.

15.3 Each Day of Violation a Separate Offense. Each day of violation shall be considered and treated as a separate offense.

16. Failure to Subscribe to Solid Waste Collection and Disposal Services..

16.1 Prohibition. All occupied residential and commercial structure must subscribe to and be served by solid waste collection and disposal services that are in accordance with this Ordinance.

16.2 Violation an Offense. Violation of the prohibition set forth in Subsection 12.1 above is an offense punishable by a fine not to exceed \$2,000.00.

16.3 Each Day of Violation a Separate Offense. Each day of violation shall be considered and treated as a separate offense.

17. Repeal of Conflicting Ordinances or Conflicting Provisions Thereof. This Ordinance repeals and replaces any conflicting ordinances or portions thereof.

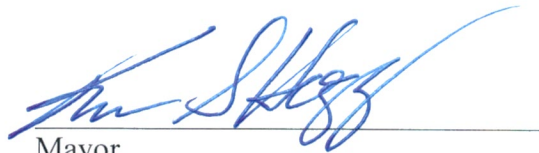
18. Severability Clause. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

19. Effective Date. This ordinance shall become effective upon passage and publication of its caption. The City Secretary is directed to publish the caption of this Ordinance in the Official Newspaper of the City.

20. Open Meeting. It is found and declared that the City Council meeting at which this Ordinance has been adopted was open to the public and was noticed and held in accordance with Chapter 551 of the Government Code.

PASSED AND APPROVED on the 13th day of November, 2018.



Mayor
City of Riesel, Texas


City Secretary

