ORDINANCE NO. 678

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING THE FRANCHISE AGREEMENTS WITH UNIVERSITY PLACE REFUSE SERVICES, INC., AND HAROLD LEMAY ENTERPRISES, INC. (DBA LAKEWOOD REFUSE) TO STREAMLINE THE IMPLEMENTATION OF CONTRACTUALLY REQUIRED RATE ADJUSTMENTS

WHEREAS, the City of University Place has established a solid waste utility; and

WHEREAS, the City contracts with University Place Refuse Services, Inc. to provide solid waste services within University Place under an existing Franchise Agreement, and has granted a franchise to Harold LeMay Enterprises, Inc. (DBA Lakewood Refuse) to continue to provide solid waste services in areas it served prior to incorporation; and

WHEREAS, the Franchise Agreements contain certain automatic annual rate adjustments; and

WHEREAS, the City, University Place Refuse Services, Inc., and Harold LeMay Enterprises, Inc. (DBA Lakewood Refuse) desire to amend the Franchise Agreements to streamline the implementation of such contractually required rate adjustments; and

WHEREAS, this clarification does affect any material term of the Franchise Agreements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. <u>Amendment of Agreements</u>. Section 17.3.3 of the Franchise Agreements with University Place Refuse Services, Inc., and Harold LeMay Enterprises, Inc. (DBA Lakewood Refuse) are hereby amended as described in Exhibits A and B.

Section 2. <u>Severability</u>. If any one or more sections, subsections or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 3. <u>Effective date</u>. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect five days after publication.

avier H. Figueroa, Mayor

PASSED BY THE CITY COUNCIL ON DECEMBER 5, 2016.

ATTEST:

Emelita Genetia, City Clerk

APPROVED AS TO FORM

Steve Victor, City Attorney

Published: 12/07/16 Effective Date: 12/12/16

AMENDMENT TO FRANCHISE AGREEMENT

This Amendment to Franchise Agreement amends the Agreement that was effective the 1st day of January, 2010, between the City of University Place, a Washington municipality ("City"), and University Place Refuse Service, Inc., a Washington corporation ("the Company").

The City wishes to update the contract language related to CPI increases as provided for under Section 17.3 of the Franchise Agreement. The City and the Company agree that Section 17.3.3 of the Franchise Agreement shall be amended to read:

17.3.3 The increase under this Section 17.3 shall be made automatically each year to the Base Rates in effect at the time of the adjustment and shall be effective on March 1 of the year after the year of the Adjustment Date unless the Company elects, in writing, to defer an increase until the following year. Under no circumstances shall the increase in the Base Rates under this Section 17.3 in any year be more than 5% unless upon agreement with the City, the Company has deferred an increase from the preceding year. When the Company elects to realize an agreed-upon deferred increase to Base Rates under this Section 17.3 the applicable percentage increase in the Index for the year in which an increase in Base Rates was deferred shall be added to the percentage change in the Index for the following year to determine the adjustment to the Base Rates.

All other provisions of the Franchise Agreement of January 1, 2010, shall remain the same.

Executed on the dates written below. COMPANY: CITY: UNIVERSITY PLACE REFUSE SERVICE, CITY OF UNIVERSITY PLACE INC. Printed Name: _____ Printed Name: Stephen P. Sugg Title: Title: City Manager Address: 2601 S. 35th Street, #200 Address: 3715 Bridgeport Way W. Tacoma, WA 98402 University Place, WA 98466-4456 Date: _____ Date: Approved as to form:

Steve Victor, City Attorney

AMENDMENT TO FRANCHISE AGREEMENT

This Amendment to Franchise Agreement amends the Agreement that was effective the 1st day of January, 2010, between the City of University Place, a Washington municipality ("City"), and Harold Lemay Services, Inc., a Washington corporation ("the Company").

The City wishes to update the contract language related to CPI increases as provided for under Section 17.3 of the Franchise Agreement. The City and the Company agree that Section 17.3.3 of the Franchise Agreement shall be amended to read:

17.3.3 The increase under this Section 17.3 shall be made automatically each year to the Base Rates in effect at the time of the adjustment and shall be effective on March 1 of the year after the year of the Adjustment Date unless the Company elects, in writing, to defer an increase until the following year. Under no circumstances shall the increase in the Base Rates under this Section 17.3 in any year be more than 5% unless upon agreement with the City, the Company has deferred an increase from the preceding year. When the Company elects to realize an agreed-upon deferred increase to Base Rates under this Section 17.3 the applicable percentage increase in the Index for the year in which an increase in Base Rates was deferred shall be added to the percentage change in the Index for the following year to determine the adjustment to the Base Rates.

All other provisions of the Franchise Agreement of January 1, 2010, shall remain the same.

Executed on the dates written below. COMPANY: CITY: UNIVERSITY PLACE REFUSE SERVICE, CITY OF UNIVERSITY PLACE INC. By: By: Printed Name: Stephen P. Sugg Printed Name: Title: City Manager Title: Address: 2601 S. 35th Street, #200 Address: 3715 Bridgeport Way W. University Place, WA 98466-4456 Tacoma, WA 98402 Date: Approved as to form: Steve Victor, City Attorney