

ORDINANCE NO. 2020-040

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, REPEALING ORDINANCE NO. 2018-019; AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE ATTACHED FIRST AMENDED AND RESTATED AGREEMENT BETWEEN THE CITY OF COCONUT CREEK AND EMERALD TRANSPORTATION CORPORATION TO PROVIDE CITY-WIDE WRECKER TOWING SERVICES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2018, the City issued a Request for Proposals (RFP) to establish a multi-year franchise agreement for city-wide wrecker towing services for the removal and storage of vehicles that are creating a traffic hazard, are abandoned, are disabled from a traffic accident, or for non-consensual removal of vehicles from public streets and areas within the City; and

WHEREAS, on September 27, 2018, the City Commission approved Ordinance No. 2018-019, approving a franchise agreement with Emerald Transportation Corporation to provide city-wide wrecker towing services and other related services; and

WHEREAS, during the 2020 legislative session, the Florida legislature adopted House Bill (HB) 133, signed by the Governor on September 18, 2020, which created Section 166.04465, Florida Statutes, which prohibits the imposition of certain fees upon towing companies; and

WHEREAS, Section 166.04465, Florida Statutes, permits a municipality to impose and collect a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, not to exceed 25% of the maximum towing rate to cover the cost of enforcement, including parking enforcement, by the municipalities when the vehicle or vessel is towed from public property; and

WHEREAS, pursuant to Section 166.04465, Florida Statutes, a towing business may be authorized by the City to impose and collect the administrative fee on behalf of

the municipality and remit such fee to the municipality after it is collected; and

WHEREAS, Florida law authorizes a municipality to establish maximum towing rates; and

WHEREAS, the City has evaluated the new restrictions imposed by state law and determined that a reduction in towing rates, together with the imposition of an administrative fee, pursuant to state law, provides the most equitable adjustment of the towing rate structure consistent with new state law; and

WHEREAS, the attached agreement amends and restates the agreement approved on September 27, 2018, between the City and Emerald Transportation Corporation dated October 1, 2018, consistent with the new state law; and

WHEREAS, the Emerald Transportation Corporation has agreed to the restructuring of the franchise agreement to comply with the new state law and to administer the collection and remittance of the City's towing administrative fee; and

WHEREAS, the City Commission deems it to be in the best interest of the residents of the City of Coconut Creek to repeal Ordinance No. 2018-019 and approve this First Amended and Restated Agreement with Emerald Transportation Corporation to provide city-wide wrecker towing services.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance. All Exhibits attached hereto are incorporated herein and made a specific part of this ordinance.

Section 2: Repeal. That the City Commission hereby repeals Ordinance No. 2018-019 adopted on September 27, 2018.

Section 3: Approval. That the City Commission has reviewed and hereby approves the First Amended and Restated Agreement, attached hereto and made a part hereof, between the City of Coconut Creek and Emerald Transportation Corporation to provide city-wide wrecker towing services.

Section 4: Authorization. That the City Manager, or designee, is hereby authorized to execute the agreement between the City of Coconut Creek and Emerald Transportation Corporation to provide city-wide wrecker towing services.

Section 5: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 6: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 12TH DAY OF NOVEMBER, 2020.

PASSED SECOND READING THIS 3RD DAY OF DECEMBER, 2020.

Louis Sarbone, Mayor

Attest:

Leslie Wallace May, City Clerk

| | <u>1st</u> | <u>2nd</u> |
|-----------|-----------------------|-----------------------|
| Sarbone | <u>Aye</u> | <u>Aye</u> |
| Rydell | <u>Aye</u> | <u>Aye</u> |
| Tooley | <u>Aye</u> | <u>Aye</u> |
| Belvedere | <u>Aye</u> | <u>Aye</u> |
| Welch | <u>Aye</u> | <u>Aye</u> |