

RESOLUTION NO. 24-

**RESIDENTIAL WASTE PROGRAM SERVICES TENTATIVE
ASSESSMENT RESOLUTION FOR THE RESIDENTIAL WASTE
PROGRAM SERVICES ASSESSMENT AREA; RESOLUTION SETTING
THE ESTIMATED ASSESSMENT RATE FOR FISCAL YEAR 2024-2025;
AND ESTABLISHING THE LEASE FEE FOR SECOND GARBAGE ROLL
CART**

WHEREAS, Polk County Ordinance 13-069 (hereinafter the “Ordinance”), requires that the Board of County Commissioners adopt a tentative Assessment Resolution establishing the estimated assessment rate for Residential Waste Program Services Assessment to be imposed for the upcoming Fiscal Year against each parcel of Residential Property subject to the Residential Waste Program Services Assessment; and

WHEREAS, the Village of Highland Park has consented to the inclusion of all residential properties lying within its municipal limits in the Polk County Solid Waste Municipal Service Benefit Unit for the purpose of collection and disposal services; and

WHEREAS, the Town of Hillcrest Heights has consented to the inclusion of all residential properties lying within its municipal limits in the Polk County Solid Waste Municipal Service Benefit Unit for the purpose of collection and disposal services.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Polk County, Florida:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to the Ordinance,

Article VIII, Section (1), Florida Constitution, sections 125.01 and 125.66, Florida Statutes, the Polk County Home Rule Charter, Resolution No. 2014-057 (“Initial Tentative Assessment Resolution”), Resolution No. 14-085 (“2014 Final Assessment Resolution”) and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS. This Resolution constitutes the tentative Assessment Resolution as defined by the Ordinance. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance, the Initial Tentative Assessment Resolution, and the 2014 Final Assessment Resolution. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the masculine include the feminine gender. The word “shall” is always mandatory and not merely discretionary.

For purpose of this Resolution the following terms shall have the following meaning, unless the context hereof otherwise requires:

(A) **“First Garbage Roll Cart”** shall mean the initial Garbage Roll Cart assigned to each Dwelling Unit on the Assessment Property.

(B) **“Garbage Roll Cart”** shall have the same meaning as contained in the Residential Franchise Agreements.

(C) **“Second Garbage Roll Cart”** shall mean any Garbage Roll Cart assigned to a Dwelling Unit on an Assessment Property in addition to the First Garbage Roll Cart.

SECTION 3. RATIFICATION AND APPROVAL OF ASSESSMENT AREAS AND ASSESSMENT CATEGORY.

(A) The Polk County Residential Waste Program Services Assessment Area

created pursuant to the 2014 Final Rate Resolution (hereinafter the “RWPS Assessment Area”) is hereby ratified and approved to include the entire unincorporated area of Polk County and the incorporated areas of the Village of Highland Park and the Town of Hillcrest Heights.

(B) The RWPS Assessment Area shall be a municipal service benefit unit within the contemplation of Florida Statutes, Section 125.01(1)(q) and is the municipal service benefit unit in which the Village of Highland Park and the Town of Hillcrest Heights have consented to be included therein.

(C) Residential Property shall be the only category of Improved Property that is subject to the Residential Waste Program Services Assessment established by this Tentative Assessment Resolution.

SECTION 4. DESCRIPTION OF THE PROPOSED RESIDENTIAL WASTE PROGRAM SERVICES.

(A) The proposed Residential Waste Program Services for the RWPS Assessment Area shall include Solid Waste collection and disposal services, Recyclable Materials collection and processing services, Residential Waste collection and disposal services, and all facilities and programs that County furnishes or makes available to the Owners and Occupants of Assessment Property including, without limitation, household hazardous waste and community cleanup programs.

SECTION 5. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. It is hereby ascertained, determined and declared that the Residential Waste Program Services funded by the Residential Waste Program Services Assessment provide a special benefit to the Assessment Property based upon

the legislative determination stated in Section 1-2 of the Ordinance and that the Assessment Property will be benefited by the County's provision of Residential Waste Program Services to the Dwelling Units located thereon in an amount not less than the Residential Waste Program Services Assessment for such Assessment Property. Such special benefits include, without limitation, providing a safe and cost effective method for Owners and Occupants to properly dispose of the Residential Waste and Recyclable Materials generated on the Assessment Property; supporting Assessment Property Owners and Occupants health, safety, and welfare through the uniform delivery and availability of the Residential Waste Program Services; promoting environmentally responsible use and enjoyment of Assessment Property; and protecting Assessment Property values.

Neither the size nor the value of the Residential Property determines the scope of the required Residential Waste Program Services needed. The potential demand for Residential Waste Program Services is driven by the existence of a Dwelling Unit on the Assessment Property. Apportioning the Residential Waste Program Services Costs for collection on a per Dwelling Unit basis and disposal on a per Dwelling Unit and per Second Garbage Roll Cart basis is required to avoid cost inefficiency and unnecessary administration and is a fair and reasonable method of apportionment.

The Division's determination that the annual average Residential Waste generated by a Dwelling Unit can be disposed of through the use of the First Garbage Roll Cart along with the disposal of Bulk Waste and Horticultural Trash as provided in the Residential Franchise Agreements is hereby confirmed.

It is hereby ascertained, determined and declared that Residential Waste Program Services disposal costs are established in part based on the cost to dispose of the annual average weight of Residential Waste generated by a Dwelling Unit having one assigned Garbage Roll Cart, and that having a Second Garbage Roll Cart assigned to a Dwelling Unit evidences that the Dwelling Unit consistently generates Residential Waste in amounts above the annual average weight generated by a Dwelling Unit which only has a First Garbage Roll Cart assigned to the Dwelling Unit. Accordingly, it is fair and reasonable to assess an additional Assessment against an Assessment Property to pay for the costs to dispose of the additional Residential Waste being generated at those Dwelling Units assigned a Second Garbage Roll Cart.

It is hereby ascertained, determined and declared that the Apportionment Methodology contained in Section 6 of this Tentative Assessment Resolution is fair and reasonable.

Adoption of this Resolution constitutes a legislative determination that all parcels assessed derive a special benefit, as set forth in the Ordinance and this Tentative Resolution, and a legislative determination that the assessments are fairly and reasonably apportioned among the properties that receive the special benefit from such services.

SECTION 6. APPORTIONMENT METHODOLOGY.

(A) It is hereby acknowledged that the apportion methodology contained in this Section 6 is to be applied in the calculation of the estimated Residential Waste Program Services Assessment by using the estimated rates established in Section 7 of this Tentative Assessment Resolution.

(B) The Residential Waste Program Services Costs shall be apportioned on a per Dwelling Unit basis for collection and on a per Dwelling Unit and a Second Garbage Roll Cart basis for disposal among the Assessment Properties as follows:

- (1) Except for Assessment Property exempted in this subparagraph, to determine the Residential Waste Program Services Assessment for collection, the estimated Residential Waste Program Services Assessment rate for collection established in Section 7 shall be multiplied by the number of Dwelling Units located on the Assessment Property. Assessment Property for which the Owner has received approval to be exempt from Residential Collection Service in accordance with Section 5-17 of the Ordinance shall be exempt from the Residential Waste Program Services Assessment rate for collection.
- (2) To determine the Residential Waste Program Services Assessment for disposal the estimated Residential Waste Program Services Assessment rate for disposal established in Section 7 (B) (2) shall be multiplied by the number of Dwelling Units located on the Assessment Property.
- (3) An additional Residential Waste Program Services Assessment shall be assessed against those Assessment Properties which have been assigned a Second Garbage Roll Cart. To determine the additional estimated Residential Waste Program Services Assessment to these properties, the rate for disposal established in Section 7 (B) (3) shall be multiplied by the number of Second Garbage Roll Carts assigned to the Assessment Property.

**SECTION 7. DETERMINATION OF RESIDENTIAL WASTE PROGRAM
SERVICES ASSESSED COSTS; ESTABLISHMENT OF PRELIMINARY
RESIDENTIAL WASTE PROGRAM SERVICES ASSESSMENT RATE.**

(A) For the Fiscal Year beginning October 1, 2024, the estimated Residential Waste Program Services Assessed Costs for collection is \$39,594,250.00, the estimated Residential Waste Program Services Assessed Costs for disposal is \$11,984,410.00 and the estimated Residential Waste Program Services Assessed Costs for Second Garbage Roll Cart disposal is \$234,500.00.

(B) The estimated Residential Waste Program Services Assessment rate to be assessed and apportioned among the Assessment Property in accordance with Section 6 of this Tentative Resolution to generate the estimated Residential Waste Program Services Assessed Costs are hereby established as follows for the purpose of this Tentative Rate Resolution:

(1) Residential Waste Program Services Assessment rate of \$264.21 per Dwelling Unit for collection of Residential Waste as provided in the Residential Franchise Agreement.

(2) Residential Waste Program Services Assessment rate of \$73.00 per Dwelling Unit for disposal of any First Garbage Roll Cart assigned to the Assessment Property along with disposal of Bulk Waste and Horticultural Trash.

(C) No Residential Waste Program Service Assessment shall be imposed upon any parcel that meet the following requirements:

(1) *Election of commercial classification.*

- i. The owner of Residential Property who elects to have such property classified as commercial property for the purpose of this Residential Waste Program Service Assessment are exempt provided:
 - 1. That the Residential Property consists of either an apartment complex with less than ten (10) units within the same building or two (2) or more contiguously located single-family Dwelling Units, and which are owned by the same person; or that such extraordinary circumstance exists that it would be manifestly unfair to require such Residential Property to utilize Residential Collection Service.
 - 2. That the Residential Property is contiguous to Commercial Property owned by the same person who owns the Residential Property in question and the Solid Waste generated from such Commercial Property and adjoining Residential Property is collected pursuant to an agreement with a Commercial Franchise Holder to provide Commercial Collection Service.
- ii. In order for an owner of Residential Property to be eligible to have such Residential Property classified as commercial property for the Fiscal Year beginning October 1, 2024, such owner must file an application with the Division before August 1, 2024. The application shall be on forms provided by the Division.

- iii. The Division shall review the application and, if the requirements of this Section are satisfied, shall approve the request to be classified as commercial property. Any Residential Property which has been classified as commercial property pursuant to this Section shall be removed from the Annual Residential Waste Program Services Assessment Roll.
- iv. All Owners of Residential Property which has been classified as commercial property for the purposes of this exemption shall utilize a Commercial Franchise Holder to provide Commercial Collection Service and such collection shall be by the use of a commercial Container.
- v. Each Residential Property which has been classified as commercial property pursuant to this Section shall be so classified for one year only and the Owner shall be required to file a new application to obtain commercial classification in each subsequent fiscal year.
- vi. Any Person who is denied a request to be classified as commercial property shall have a right of review to the Board. Such request for review shall be filed with the Division within thirty (30) days of notification of the denial of the request for commercial classification. Failure to file such a request for review within the time permitted shall be deemed to be a waiver of the right. The Board shall review the denial within sixty (60) days of the filing of the request for review.

(2) *Hardship Assistance Exemption.* A County resident who is living below or close to the poverty level and is at risk of losing title to their home as result of the imposition of a Residential Waste Program Services Assessment is exempt from the Residential Waste Program Services Assessment provided that the Owner of Residential Property has obtained a Hardship Assistance Exemption for the Fiscal Year beginning October 1, 2024, by filing an application with the Division before August 1, 2024. The application shall be on forms provided by the Division.

- i. Any person who is denied a request for a Hardship Assistance Exemption shall have a right of review to the Board. Such request for review shall be filed with the Division within thirty (30) days of notification of the denial of the request for Hardship Assistance Exemption. Failure to file such a request for review within the time permitted shall be deemed to be a waiver of the right. The Board shall review the denial within sixty (60) days of the filing of the request for review.

(D) Any shortfall in the expected Residential Waste Program Services Assessment proceeds due to any hardship assistance or exemption from payment of the Residential Waste Program Services Assessments required by law or authorized by the Board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid from proceeds or funds derived from the Residential Waste Program Services Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the Board is improper or otherwise adversely

affects the validity of the Residential Waste Program Services Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Residential Waste Program Services Assessment upon each affected Assessment Property in the amount of the Residential Waste Program Services Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Assessment Property by the Board.

(E) The estimated Residential Waste Program Services Assessments rates established in this Tentative Rate Resolution shall be the estimated assessment rates applied by the County Manager in the preparation of the updated Annual Residential Waste Program Services Assessment Roll for the Fiscal Year commencing October 1, 2024 as provided in Section 8 of this Tentative Resolution.

SECTION 8. UPDATED ANNUAL ASSESSMENT ROLL

(A) The County Manager is hereby directed to update the Annual Residential Waste Program Services Assessment Roll for the Fiscal Year commencing October 1, 2024, in the manner provided in the Ordinance.

(B) The County Manager shall apportion the estimated Residential Waste Program Services Costs to be recovered through the Residential Waste Program Services Assessment in the manner set forth in this Tentative Rate Resolution.

(C) A copy of the Ordinance, this Tentative Rate Resolution, and the updated Annual Residential Waste Program Services Assessment Roll shall be maintained on file in the office of the Clerk and open to public inspection. The foregoing shall not be construed to require that the updated Annual Residential Waste Program Service

Assessment Roll be in printed form if the amount of the Residential Waste Program Service Assessment for each Assessment Property can be determined by the use of a computer terminal available to the public.

(D) It is hereby ascertained, determined, and declared that the method of determining the Residential Waste Program Service Assessment as set forth in this Tentative Rate Resolution is a fair and reasonable method of apportioning the Residential Waste Program Services Costs among parcels of Assessment Property located within the Assessment Area created herein.

SECTION 9. AUTHORIZATION OF PUBLIC HEARING. A public hearing shall be established by a separate action by the Board, at which time the Board will receive and consider comments on the Residential Waste Program Services Assessment from the public and affected property owners and consider imposing the Residential Waste Program Services Assessment for the Fiscal Year commencing October 1, 2024 and the collection of such assessments on the same bill as ad valorem taxes.

SECTION 10. NOTICE BY PUBLICATION. The County Manager is hereby directed to provide notice by publication of the public hearing established by the Board in the manner and time provided in the Ordinance.

SECTION 11. NOTICE BY MAIL. Pursuant to Section 200.069, Florida Statutes, and with agreement of the Property Appraiser, the Board elects to combine notice of the public hearing established by the Board with the truth-in-millage notification required pursuant to Section 200.069, Florida Statutes. Such mailed notice shall be in the form required by section 200.069, Florida Statutes, and consistent with the Uniform

Assessment Collection Act and the Ordinance for the purpose of imposing Residential Waste Program Services Assessment for the Fiscal Year beginning October 1, 2024.

SECTION 12. METHOD OF COLLECTION. It is hereby declared that the Residential Waste Program Services Assessment imposed on the Assessment Property in the Assessment Area created herein shall be collected and enforced pursuant to the Uniform Assessment Collection Act for the Fiscal Year beginning October 1, 2024.

SECTION 13. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the County from the Residential Waste Program Services Assessment shall be used for Residential Waste Program Services. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used to fund Residential Waste Program Services.

SECTION 14. SECOND CART LEASE FEE

A one-time non-refundable lease fee of \$67.00 is hereby established for any Second Garbage Roll Cart assigned to an Assessment Property between October 1, 2024 and September 30, 2025. This is a one-time non-refundable lease fee and shall not be collected in subsequent years. Only upon written request the Division shall assign no more than one (1) Second Garbage Roll Cart to a Dwelling Unit which must remain with the assigned Dwelling Unit until removed by the County.

SECTION 15. EFFECTIVE DATE. This Tentative Rate Resolution shall take effect immediately upon its passage.

ADOPTED this 2nd day of July, 2024.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

Stacy M. Butterfield, CLERK

POLK COUNTY, FLORIDA

By: _____

Deputy Clerk

By: _____

Bill Braswell, Chairman