

(O-2014-92)

ORDINANCE NUMBER O- 20358 (NEW SERIES)

DATE OF FINAL PASSAGE APR 03 2014

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING A FOURTH AMENDMENT TO
THE CLASS I NON-EXCLUSIVE FRANCHISE AGREEMENT
WITH DAILY DISPOSAL SERVICES, INC., FOR SOLID
WASTE MANAGEMENT SERVICES.

WHEREAS, in late 2011 and early 2012, the City Treasurer's Office performed audits of franchise fees and AB 939 fees that Daily Disposal Services, Inc., [Daily] was required to pay the City pursuant to its Class I Non-Exclusive Franchise Agreement for Solid Waste Management Services [Franchise] and applicable City ordinances and resolutions; and

WHEREAS, the audit revealed a significant underpayment of fees over several years for which the City made a claim against Daily and which Daily disputed; and

WHEREAS, the parties ultimately negotiated a resolution of the City's claims which was memorialized in a settlement agreement approved by the City Council in July 2013; and

WHEREAS, during the period that the City's claim for the underpaid fees remained unresolved, the City did not grant any annual extensions to Daily's Franchise; and

WHEREAS, the settlement agreement contemplates that after its execution and Daily's payment of initial sums due under the agreement (both of which conditions have been satisfied), the Environmental Services Department would recommend approval of amendments to Daily's Franchise consistent with those that had been granted to the City's other franchised haulers over the last three fiscal years; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor or his designee is authorized and directed to execute, for and on behalf of the City, the Fourth Amendment to the Class I Non-Exclusive Franchise Agreement

for Solid Waste Management Services between the City and Daily Disposal Services, Inc., under the terms and conditions set forth in the Fourth Amendment, on file with the City Clerk as Document No. OO- 20358.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Grace C. Lowenberg
Grace C. Lowenberg
Deputy City Attorney

GCL:mb
02/18/14
Or.Dept:ESD
Doc.No:730033

I hereby certify that the foregoing ordinance was passed by the Council of the City of San Diego, at its meeting of MAR 18 2014

ELIZABETH S. MALAND, City Clerk

By Karen Chenshaw
Deputy City Clerk

Approved: 4/2/14
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAR 18 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherrri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 2 (Vacant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 03 2014

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By Karen Orendse, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 04 2014, and on APR 03 2014

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By Karen Orendse, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20358</u>