

ORDINANCE NUMBER O- 21252 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 30 2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE TRANSFER AND CONSENT TO ASSIGNMENT OF NON-EXCLUSIVE SOLID WASTE COLLECTION FRANCHISES FROM WASTE MANAGEMENT, INC., DBA BDC SPECIAL WASTE SERVICES TO USA WASTE OF CALIFORNIA, INC., DBA BDC SPECIAL WASTE SERVICES; FROM WASTE MANAGEMENT, INC., DBA EMERALD WASTE AND RECOVERY, INC. TO USA WASTE OF CALIFORNIA, INC., DBA EMERALD WASTE AND RECOVERY; AND FROM WASTE MANAGEMENT, INC., DBA RELIABLE WASTE TO USA WASTE OF CALIFORNIA, INC., DBA RELIABLE WASTE.

WHEREAS, by Ordinance No. O-19180, adopted on May 20, 2003, the City Council authorized the execution of a new Class II non-exclusive franchise agreement with Waste Management Inc., dba BDC Special Waste Services (BDC) to provide solid waste management services within the City (BDC Franchise); and

WHEREAS, on July 1, 2003, the City and BDC entered into a Class II Non-Exclusive Franchise Agreement for Solid Waste Management Services (BDC Agreement), which is on file in the Office of the City Clerk as Document No. OO-19180-2 A through J; and

WHEREAS, the BDC Agreement has since been amended seven times; and

WHEREAS, the parties became aware of a discrepancy in the name of the legal entity that holds the BDC Franchise, and the City determined that a Franchise Transfer is necessary to correct that discrepancy; and

WHEREAS, USA Waste of California, Inc., dba BDC Special Waste Services (USA BDC) has filed a franchise application to transfer the BDC Franchise from BDC to USA BDC

and assign the BDC Agreement, as amended, to USA BDC (Consent to Assignment of BDC);
and

WHEREAS, by Ordinance No. O-19180, adopted on May 20, 2003, the City Council authorized the execution of the Class I non-exclusive franchise agreement with Emerald Waste and Recovery, Inc. (Emerald), to provide solid waste management services within the City (Emerald Franchise); and

WHEREAS, on July 1, 2003, the City and Emerald entered into the Class I Non-Exclusive Franchise Agreement between the City of San Diego and Emerald Waste and Recovery, Inc., for Solid Waste Management Services (Emerald Agreement), which is on file in the Office of the City Clerk as Document No. OO-19180-1 A through J; and

WHEREAS, by Ordinance No. O-20029, adopted on March 11, 2011, the City Council authorized the transfer of the Emerald Franchise to Waste Management of California, Inc., dba Emerald Waste and Recovery, a Class II non-exclusive franchise, for the collection and management of solid waste; and

WHEREAS, the Emerald Agreement has been amended seven times; and

WHEREAS, the parties became aware of a discrepancy in the name of the legal entity that holds the Emerald Franchise, and the City determined that a Franchise Transfer is necessary to correct that discrepancy; and

WHEREAS, USA Waste of California, Inc., dba Emerald Waste and Recovery (USA Emerald) has filed a franchise application to transfer the Emerald Franchise from Waste Management of California, Inc. to USA Emerald and assign the Emerald Agreement, as amended, to USA Emerald; and

WHEREAS, by Ordinance No. O-19180, adopted on May 20, 2003, the City Council authorized the execution of a new Class II non-exclusive franchise agreement with Waste Management, Inc., dba Reliable Waste (Reliable) to provide solid waste management services within the City (Reliable Franchise); and

WHEREAS, on July 1, 2003, the City and Reliable entered into the Class II Non-Exclusive Franchise Agreement between the City of San Diego and Reliable Waste, for Solid Waste Management Services (Reliable Agreement), which is on file in the Office of the City Clerk as Document No. OO-19180-2 A through J; and

WHEREAS, the Reliable Agreement has since been amended seven times; and

WHEREAS, the parties became aware of a discrepancy in the name of the legal entity that holds the Reliable Franchise, and the City determined that a Franchise Transfer is necessary to correct that discrepancy; and

WHEREAS, USA Waste of California, Inc., dba Reliable Waste (USA Reliable) has filed a franchise application to transfer the Reliable Franchise from Reliable to USA Reliable and assign the Agreement, as amended, to USA Reliable; and

WHEREAS, the Consent to Assignment of the BDC Franchise, the Emerald Franchise, and the Reliable Franchise will result in a transfer of a franchise as defined under San Diego Charter section 103; and

WHEREAS, the transfer of a franchise requires City Council approval under San Diego Charter section 103, San Diego Municipal Code section 66.0120, and article 10.5 of the franchise agreements; and

WHEREAS, under San Diego charter section 103, no franchise transfer may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; and

WHEREAS, this item was heard by the Environment Committee on September 24, 2020, which unanimously recommended approval of these transfers; NOW, THEREFORE,

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

Section 1. That the transfer of the Class II Non-Exclusive Franchise for Solid Waste Management Services from Waste Management Inc., dba BDC Special Waste Services to USA Waste of California, Inc., dba BDC Special Waste Services is hereby approved.

Section 2. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, a consent to the assignment of the BDC Special Waste Services Franchise and the franchise agreement, as set forth in the Consent to Assignment of Class II Non-Exclusive Franchise Agreement for Solid Waste Management Services, on file with the City Clerk as Document No. OO- 21252 -1

Section 3. That the transfer of the Class II Non-Exclusive Franchise for Solid Waste Management Services from Waste Management Inc., dba Emerald Waste and Recovery to USA Waste of California, Inc., dba Emerald Waste and Recovery is hereby approved.

Section 4. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, a consent to the assignment of the Emerald Waste and Recovery Franchise and the franchise agreement, as set forth in the Consent to Assignment of Class II Non-Exclusive Franchise Agreement for Solid Waste Management Services, on file with the City Clerk as Document No. OO- 21252 -2

Section 5. That the transfer of the Class II Non-Exclusive Franchise for Solid Waste Management Services from Waste Management, Inc., dba Reliable Waste to USA Waste of California, Inc., dba Reliable Waste is hereby approved.

Section 6. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, a consent to the assignment of the Reliable Waste Franchise and the franchise agreement, as set forth in the Consent to Assignment of Class II Non-Exclusive Franchise Agreement for Solid Waste Management Services, on file with the City Clerk as Document No. OO- 21252-3

Section 7. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 8. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ David L. Krypel
David L. Krypel
Deputy City Attorney

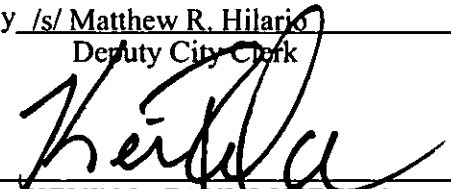
DLK:hm
September 25, 2020
Or.Dept:ESD
Doc. No.: 2489077

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 10/27/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilario
Deputy City Clerk

Approved: 10/29/2020
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(NOTE: The date of final passage is October 30, 2020, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signautre of approval.)

Passed by the Council of The City of San Diego on OCT 27 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<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"/>
Chris Cate	<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"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 30 2020

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 , 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

OCT 13 2020, and on OCT 30 2020.

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 , Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21252