

#56  
11/01/22

(O-2023-59)

ORDINANCE NUMBER O- 21560 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 14 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING THE EXECUTION OF  
AMENDMENTS TO THE NON-EXCLUSIVE SOLID WASTE  
MANAGEMENT FRANCHISE AGREEMENTS FOR SOLID  
WASTE COLLECTION SERVICES PROVIDED IN THE CITY  
BY PRIVATE FRANCHISED HAULERS.

WHEREAS, in September 2000, a two-tier Non-Exclusive Solid Waste Collection Franchise system was established to reflect the difference in market share served by the private franchised haulers (Franchisees); and

WHEREAS, by ordinance, the San Diego City Council (City Council) granted solid waste collection franchises to, and authorized execution of franchise agreements with, the Class I and Class II Franchisees listed on the attached Exhibit A; and

WHEREAS, the City of San Diego (City) and Franchisees entered into non-exclusive solid waste management franchise agreements, which have been amended at various times by ordinance (Agreements); and

WHEREAS, the Short-Lived Climate Pollutants Bill of 2016 (S.B. 1383) and its implementing regulations establish regulatory requirements for jurisdictions, generators, waste haulers, solid waste facilities, and other entities to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, City staff have met with the Franchisees regarding the proposed amendments; and

WHEREAS, the City and Franchisees desire to modify the Agreements to include organic waste collection services and other requirements in accordance with S.B. 1383; modify the term of the Agreements; establish a cap for third-party diversion credit allowances; restart the

timeline for determining liquidated damages for failing to meet diversion requirements; include the City's required general contract language for drug-free workplace, ADA certification and non-discrimination requirements; add and clarify definitions; and make non-substantive changes, such as deleting phased implementation dates that have already passed; and

WHEREAS, the City and the Class I Franchisees listed in the attached Exhibit A desire to merge the Agreements, including all amendments, into one controlling document titled, "Class I Non-Exclusive Franchise Agreement Between the City of San Diego and [Franchisee] For Solid Waste Management Services," attached to the Staff Report as Exhibit B; and

WHEREAS, the City and the Class II Franchisees listed in the attached Exhibit A desire to merge the Agreements, including all amendments, into one controlling document titled "Class II Non-Exclusive Franchise Agreement Between the City of San Diego and [Franchisee] For Solid Waste Management Services," attached to the Staff Report as Exhibit C; and

WHEREAS, on March 17, 2022, the Environment Committee unanimously recommended approval of this item; and

WHEREAS, under San Diego City Charter section 103, no franchise or extension thereof may be authorized except by ordinance approved by a two-thirds majority vote of City Council; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; 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 to execute, for and on behalf of the City, amendments to the franchise agreements with the Class I Franchisees listed on the attached Exhibit A, under the terms and conditions set forth in the Class I Non-Exclusive

Franchise Agreement Between the City of San Diego and [Franchisee] For Solid Waste Management Services, on file in the Office of the City Clerk as Document No. OO- 21560-1.

Section 2. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, amendments to the franchise agreements with the Class II Franchisees listed on the attached Exhibit A under the terms and conditions set forth in the Class II Non-Exclusive Franchise Agreement Between the City of San Diego and [Franchisee] For Solid Waste Management Services, on file in the Office of the City Clerk as Document No. OO- 21560-2.

Section 3. 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 4. 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/ Nicole M. Denow  
Nicole M. Denow  
Deputy City Attorney

NMD:cm  
09/27/2022  
Or.Dept: ESD  
Doc. No. 3100188

ATTACHMENT: Exhibit A, City of San Diego, Non-Exclusive Solid Waste Collection Franchisees

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 01 2022.

ELIZABETH S. MALAND  
City Clerk

By *Kristell Medina*  
Deputy City Clerk

Approved: 11/10/22  
(date)

*Todd Gloria*  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**EXHIBIT A**

**CITY OF SAN DIEGO  
NON-EXCLUSIVE SOLID WASTE COLLECTION  
FRANCHISEES**

**CLASS I  
FRANCHISEES**

Allan  
Company  
Debris Box  
Diamond Solid Waste  
Services John Smith  
Earthworks, Inc.  
Ware Disposal Co., Inc.

**CLASS II  
FRANCHISEES**

EDCO Disposal Corporation  
• Daily Disposal Service  
• EDCO Disposal Corporation  
• EDCO Waste & Recycling Services, Inc  
• Express Waste & Recycling  
• Sani-Tainer, Inc.  
• Webco Sanitation

Republic Services (Allied)  
• Dependable Disposal & Recycling  
• Republic Services (Allied)  
• Tayman Industries, Inc.

Waste Management of San Diego  
• Coast Waste Management, Inc.  
• Moor Refuse, Inc.  
• USA Waste of California, Inc.  
• Waste Management of San Diego

Passed by the Council of The City of San Diego on NOV 01 2022, by the following vote:

| Councilmembers           | Yeas                                | Nays                     | Not Present                         | Recused                  |
|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Joe LaCava               | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jennifer Campbell        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Stephen Whitburn         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Monica Montgomery Steppe | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Marni von Wilpert        | <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"/> |
| Raul A. Campillo         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Vivian Moreno            | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sean Elo-Rivera          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

Date of final passage NOV 14 2022

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Kristell Medina, 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 10 2022, and on NOV 14 2022.

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 Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21560