

ORDINANCE NUMBER O- 21651 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 12 2023

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE TRANSFER OF A NON-EXCLUSIVE SOLID WASTE MANAGEMENT FRANCHISE FROM JOHN SMITH EARTHWORKS, INC., TO UNIVERSAL WASTE SYSTEMS, INC., AND AUTHORIZING A CONSENT TO ASSIGNMENT OF THE JOHN SMITH EARTHWORKS, INC. FRANCHISE AGREEMENT.

WHEREAS, by Ordinance No. O-18849, adopted September 18, 2000, the City Council granted John Smith Earthworks, Inc. (J.S. Earthworks) a Class I Franchise (Franchise) and authorized the execution of a Class I non-exclusive franchise agreement with J.S. Earthworks to provide solid waste management services within the City; and

WHEREAS, on September 20, 2000, the City and J.S. Earthworks entered into the *Class I Non-Exclusive Franchise Agreement Between the City of San Diego and John Smith Earthworks Inc. for Solid Waste Management Services*, which is on file in the Office of the City Clerk as Document No. OO-18849-8; and

WHEREAS, the J.S. Earthworks franchise agreement has been amended eleven times, including in January 2023, when the agreement and all amendments thereto were merged into one controlling document, which is on file in the Office of the City Clerk as Document No. OO-21560-1 (Franchise Agreement); and

WHEREAS, Universal Waste Systems, Inc. (UWS), a solid waste management service provider, has entered into an asset purchase agreement to acquire all assets from J.S. Earthworks and has filed a franchise application to transfer the J.S. Earthworks Franchise and assign the Franchise Agreement to UWS; and

WHEREAS, the UWS acquisition of J.S. Earthworks will result in a transfer of the Franchise as defined under San Diego Charter section 103; and

WHEREAS, the transfer of the Franchise requires City Council approval under San Diego Charter section 103, San Diego Municipal Code section 66.0120, and section 10.5 of the Franchise Agreement; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, on April 20, 2023, this item was heard at the Environment Committee, which recommended approval of the item; 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;  
NOW, THEREFORE,

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

Section 1. That the transfer of the Class I Non-Exclusive Franchise for Solid Waste Management Services from John Smith Earthworks, Inc., to Universal Waste Systems, Inc., is 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 Franchise and the Franchise Agreement, as set forth in the Consent to Assignment of Class I Non-Exclusive Franchise Agreement for Solid Waste Management Services, on file with the City Clerk as Document

No. OO- 21651 .

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

NMD:jdf  
04/21/2023  
Or. Dept.: Environmental Svcs.  
Doc. No. 3283463

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at its meeting of JUN 06 2023.

DIANA J.S. FUENTES  
City Clerk

By Connie Patterson  
Deputy City Clerk

Approved: 6/12/23  
(date)

Todd Gloria  
TODD GLORIA, Mayor

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

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

Passed by the Council of The City of San Diego on JUN 06 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
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"/>
Kent Lee	<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 JUN 12 2023

AUTHENTICATED BY:

(Seal)

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

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Connie Patterson, 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

MAY 16 2023, and on JUN 12 2023

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)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21651</u>