

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA GRANTING AN EXCLUSIVE TEN-YEAR FRANCHISE FOR CITYWIDE SOLID WASTE COLLECTION AND DISPOSAL SERVICES TO MARBORG INDUSTRIES, INC., A CALIFORNIA CORPORATION AND APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE, A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND MARBORG INDUSTRIES, INC. PROVIDING FOR MARBORG'S WAIVER OF CERTAIN COMPENSATION UNDER THE EXISTING ZONE ONE AND ZONE TWO FRANCHISE AGREEMENTS IN CONSIDERATION OF THE GRANT OF THE NEW CITYWIDE FRANCHISE TO MARBORG.

WHEREAS, On December 13, 2011, the Council of the City of Santa Barbara directed the Finance Director to enter into sole source negotiations with MarBorg Industries, Inc. ("MarBorg") for a new Solid Waste Franchise;

WHEREAS, the City and MarBorg have subsequently reached agreement on terms for a new and exclusive ten-year franchise for Citywide solid waste collection and disposal services;

WHEREAS, the terms of the new franchise include acceptable rates for customers and a reasonable profit for MarBorg, similar to what the City could likely expect to achieve through a competitive procurement process;

WHEREAS, the terms of the new franchise include desirable new services for ratepayers and the City and new diversion requirements that will help the City to meet anticipated future State mandates;

WHEREAS, on December 11, 2012, the Council of the City of Santa Barbara publicly declared its intention to grant a franchise to MarBorg through the adoption of a resolution in accordance with Section 1401 of the City Charter;

WHEREAS, a public hearing regarding the grant of the new franchise to MarBorg was noticed in a local newspaper of general circulation as required by Section 1401 of the City Charter; and

WHEREAS, on February 5, 2013, the Council of the City of Santa Barbara held a public hearing to hear any objections on the proposed ordinance to grant the new franchise to MarBorg as required by Section 1401 of the City Charter.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Section 1401 of the City Charter, the City Council of the City of Santa Barbara grants an exclusive ten-year franchise (“Franchise”) for Citywide solid waste collection and disposal services to MarBorg Industries, Inc. and authorizes the City Administrator to execute a new franchise agreement, in a form of agreement acceptable to the City Attorney, with MarBorg Industries, Inc. for said MSW services. The City Administrator is further authorized to make those revisions, amendments, and changes which he deems appropriate and which do not change the material terms of the Franchise provided that such revisions, amendments, and changes are approved as to form by the City Attorney.

SECTION 2. The Council approves and authorizes the City Administrator to execute, a Memorandum of Understanding (“MOU”) between the City and MarBorg Industries, Inc. providing for MarBorg’s waiver of certain rights and compensation under the existing 2003-2013 Zone One and Zone Two Franchise Agreements during the remaining term of those Franchises in consideration of the grant of the new City-wide franchise to Marborg.

SECTION 3. A copy of the Franchise agreement and the MOU have been made available for review by the public at the Santa Barbara City Clerk’s Office.