

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DECLARING ITS INTENTION TO AMEND THE TEN-YEAR EXCLUSIVE FRANCHISE FOR CITYWIDE SOLID WASTE COLLECTION AND DISPOSAL SERVICES IN THE CITY GRANTED BY THE CITY TO MARBORG INDUSTRIES, INC., A CALIFORNIA CORPORATION, ON FEBRUARY 12, 2013 BY CITY ORDINANCE NO. 5608.

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

WHEREAS, the City staff and MarBorg subsequently reached agreement on the terms for a new ten-year Citywide municipal solid waste franchise and the proposed franchise was duly noticed for a public hearing in accordance with the public noticing requirements of City Charter section 1401 for a public hearing on February 5, 2013;

WHEREAS, the terms of the new City/MarBorg solid waste franchise were approved by the City Council on February 5, 2013 and the required City ordinance, Ordinance No. 5608, was introduced on that date and duly adopted by the Council on February 12, 2013 – hereinafter referred to as the “Franchise”;

WHEREAS, the City staff and MarBorg now understand and agree that a revision and clarification is appropriate with respect to an exhibit of the Franchise which establishes the municipal solid waste diversion requirements and goals mandated by the Franchise;

WHEREAS, the City and MarBorg desire to amend the Franchise to reflect a clarification of the MarBorg municipal solid waste diversion requirements;

WHEREAS, Section 1401 of the Charter of the City of Santa Barbara requires the City Council to publicly declare its intention to grant or amend a franchise and to state the character of the franchise amendment and the terms and conditions under which the franchise will operate, and to fix a specific date and time where persons having an interest in the franchise agreement may be heard by the City Council, and any objection to the franchise agreement may be expressed.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. Pursuant to Section 1401 of the City Charter, the City Council of the City of Santa Barbara declares its intention to hold a public hearing on Tuesday, November 19, 2013 at 2:00 pm in the City Council Chambers of the Santa Barbara City Hall located at 735 Anacapa St., Santa Barbara, CA 93101 to consider amending the existing ten-year franchise with MarBorg Industries, Inc. for solid waste collection and disposal services Citywide with respect to diversion requirements.

SECTION 2. Any and all persons having an interest in the proposed franchise amendment or any objection to the proposed franchise amendment will be heard by the City Council on that date, and any objection to the franchise amendment may be expressed at such hearing prior to a City Council determination on the franchise amendment and the possible introduction of an ordinance authorizing the amendment to the franchise.

SECTION 3. The terms and conditions of the proposed franchise amendment are generally described in the attached Exhibit "A" dated October 29, 2013.

SECTION 4. In accordance with Section 1401 of the City Charter, the City Clerk is hereby directed to publish this Resolution (along with the attached exhibit) at least once within fifteen (15) days of its adoption in the official newspaper.

Terms and Conditions to be Amended

October 29, 2013

I. Section 2A of Exhibit 4 is revised to read:

MarBorg will increase the annual percentage of Source-Separated Recyclable Material, Greenwaste and Foodscraps collected in Carts, Cans, Dumpsters, scheduled Roll-Off Boxes and compactors for all Customer classes by at least 0.3% per Contract Year during the first five Contract Years.

II. Section 2C of Exhibit 4 is revised to read:

MarBorg will be deemed to be in compliance with the Minimum Diversion Requirement Citywide provided that the following equation yields a value of greater than or equal to 0.3% for any given Contract Year throughout the first five Contract Years:

$$\frac{(\text{Annual Diversion Rate Citywide at the end of the Current Contract Year minus the Baseline Diversion rate})}{(\text{Total Number of Contract Years since July 1, 2013})}$$

Initial compliance with the Minimum Diversion Requirement Citywide will be calculated 24 months after the Effective Date and every twelve months thereafter for the five-year compliance period.