

## **RESOLUTION NO. 2011-53**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK APPROVING AN EXTENSION OF 120 DAYS TO THE TEMPORARY DEBRIS BOX FRANCHISE AGREEMENTS WITH ROHNERT PARK DISPOSAL, INC. AND INDUSTRIAL CARTING**

**WHEREAS**, on November 13, 2001, the City Council adopted Resolution No. 2001-234, selecting Empire Waste Management, Industrial Carting and Rohnert Park Disposal, Inc. as the companies to be licensed by agreements to provide Temporary Debris Box Services in the City of Rohnert Park;

**WHEREAS**, the term of the franchise agreements commenced upon the City's award of the contracts and continued in full force until June 30, 2008, with the possibility of three, one-year extensions to June 30, 2011;

**WHEREAS**, Empire Waste Management ceased doing business in Sonoma County in January, 2008;

**WHEREAS**, there remain only two Temporary Debris Box Service providers licensed by agreement with the City of Rohnert Park;

**WHEREAS**, the City Council approved Resolution No. 2008-45 on March 25, 2008, extending the franchise agreements with Rohnert Park Disposal, Inc. and Industrial Carting for a one-year term that expired on June 30, 2009;

**WHEREAS**, the City Council approved Resolution No. 2009-34 on April 14, 2009, extending the franchise agreements for an additional one-year term that expired on June 30, 2010;

**WHEREAS**, the City Council approved Resolution No. 2009-117 on October 27, 2009, extending the franchise agreements for a final, one-year term that is set to expire on June 30, 2011;

**WHEREAS**, Resolution 2009-117 was adopted on October 27, 2009 for a final, one-year extension of the temporary debris box franchise agreements with Rohnert Park Disposal, Inc. and Industrial Carting, thereby extending the term of the agreements to June 30, 2011;

**WHEREAS**, the City desires to extend the franchise agreements with Rohnert Park Disposal, Inc. and Industrial Carting for an additional 120 days;

**WHEREAS**, extension of the franchise agreements will provide City staff with adequate time to prepare a request for proposals and select a temporary debris box hauler(s); and

**WHEREAS**, during the 120-day extension period, the City intends to work with a consultant to assist staff in developing a request for proposals, managing the bid process, and

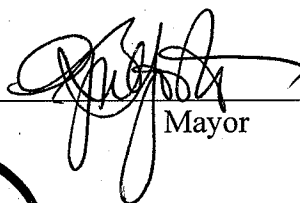
generating an agreement that incorporates key terms and conditions to attain City diversion goals, maintain reasonable rates, and provide for adequate performance, enforcement and reporting.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rohnert Park that it does hereby authorize and approve an extension of 120 days to the Temporary Debris Box franchise agreements with Rohnert Park Disposal, Inc. and Industrial Carting.

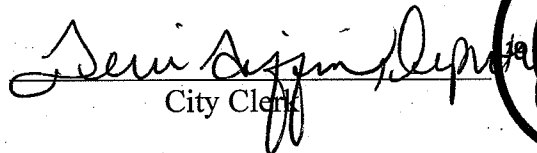
**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized and directed to execute a Second Amendment to the Temporary Debris Box Franchise Agreements with Rohnert Park Disposal, Inc. and Industrial Carting, in substantially similar form to the amendments attached hereto as Exhibit A, subject to minor modifications by the City Attorney.

**DULY AND REGULARLY ADOPTED** this 28<sup>th</sup> day of June, 2011.

**CITY OF ROHNERT PARK**

  
\_\_\_\_\_  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
City Clerk



AHANOTU: <u>AYE</u> CALLINAN: <u>AYE</u> MACKENZIE: <u>AYE</u> STAFFORD: <u>AYE</u> BELFORTE: <u>AYE</u> AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)
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**SECOND AMENDMENT TO THE TEMPORARY DEBRIS BOX FRANCHISE  
AGREEMENT WITH ROHNERT PARK DISPOSAL, INC.**

This Second Amendment to the Agreement between the City of Rohnert Park ("City") and Rohnert Park Disposal, Inc. ("Franchisee") for a contract extension ("Second Amendment") is entered into as of the 1st day of July, 2011, ("Effective Date"), by and between City and Franchisee.

**RECITALS**

- A. City and Franchisee are parties to that certain Agreement entitled "*Agreement by and between Rohnert Park Disposal Inc. and Industrial Carting*" dated May 25, 2007 and authorized through Resolution No. 2001-234 approved by the City Council on November 13, 2001(Agreement).
- B. On June 26, 2007 the City Council approved Resolution No. 2007-234 authorizing the First Amendment to the Agreement to change the franchise fee for temporary debris box service.
- C. On March 25, 2008 the City Council approved Resolution No. 2008-45 approving a one year extension to the Agreement for a termination date of June 30, 2009.
- D. On April 14, 2009 the City Council approved Resolution No. 2009-34 approving a second, one year extension to the Agreement for a termination date of June 30, 2010.
- E. On October 27, 2009 the City Council approved Resolution No. 2009-117 approving a third, one year extension to the Agreement for a termination date of June 30, 2011.
- F. City and Franchisee now desire to enter into this Second Amendment to extend the Agreement for an additional period of 120 days.

**AGREEMENT**

NOW, THEREFORE, in consideration of the following mutual promises, the parties hereby amend the Agreement as follows:

- 1. Section 3, Term of Franchise. Section 3 is hereby amended to extend the term of the Agreement for an additional one hundred and twenty (120) days to October 31, 2011.
- 2. Agreement in Effect. Except as amended by this Second Amendment and all previous Amendments, the Agreement shall remain in full force and effect.
- 3. Counterpart Signatures. This Second Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this Second Amendment as of the date first written above.

**CITY OF ROHNERT PARK:**

**CONSULTANT:**

By: \_\_\_\_\_ / \_\_\_\_\_  
Gabriel A. Gonzalez, City Manager (Date)  
Per Resolution No. 2011-53 adopted by the Rohnert Park City  
Council at its meeting of June 28, 2011.

By: \_\_\_\_\_ / \_\_\_\_\_  
Name: \_\_\_\_\_ (Date)  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_ / \_\_\_\_\_  
Name: \_\_\_\_\_ (Date)  
Title: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**SECOND AMENDMENT TO THE TEMPORARY DEBRIS BOX FRANCHISE  
AGREEMENT WITH INDUSTRIAL CARTING**

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By: \_\_\_\_\_ / \_\_\_\_\_  
Name: \_\_\_\_\_ (Date)  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_ / \_\_\_\_\_  
Name: \_\_\_\_\_ (Date)  
Title: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney