

**RESOLUTION NO. 2-27-2018**

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**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MALAGA COUNTY WATER DISTRICT RATIFYING THE APPROVAL OF THE A FIRST AMENDMENT TO THE SOLID WASTE AND RECYCLING FRANCHISE AGREEMENT BETWEEN THE MALAGA COUNTY WATER DISTRICT AND INDUSTRIAL WASTE AND SALVAGE FOR SOLID WASTE COLLECTION, GREEN WASTE COLLECTION, RECYCLING SERVICES EFFECTIVE AUGUST 1, 2016 AMENDED BY THE BOARD OF DIRECTORS ON DECEMBER 12, 2017.**

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**WHEREAS**, on August 23, 2016, the Board of Directors of the Malaga County Water District approved an Agreement between the Malaga County Water District (“District”) and Orange Avenue Disposal, Inc. dba, Industrial Waste and Salvage (“IWS”) making IWS the exclusive solid waste enterprise to provide Residential and Commercial solid waste collection and disposal services within the District’s boundaries; and

**WHEREAS**, the Board of Directors did, on August 23, 2016, pursuant to Water Code §§31138 and 31139 exclude Commercial and Industrial Customers from its Sanitation Services except for Commercial waste generated from uses incidental to Residential Properties; and

**WHEREAS**, Malaga Ordinance Code §5.01.040 permits, but does require the District to provide solid waste handling services by contract pursuant to Water Code §31140; and

**WHEREAS**, Public Resources Code §40059 allows, notwithstanding any other provision of law, a Special District to provide solid waste handling services by means of exclusive franchise by resolution without competitive bidding; and

**WHEREAS**, the District hereby determines and finds that the public health, safety and welfare require and further determines that roll-off solid waste handling services are best provided by exclusive franchise to be awarded to IWS without competitive bidding pursuant to Public Resources Code §40059; and

**WHEREAS**, on December 12, 2017, the Board of Directors approved the Amendment of the Agreement with IWS to provide roll-off solid waste collection and disposal services as the District’s exclusive franchisee under the Agreement by unanimous vote as set forth in the approved minutes of meeting; however the Resolution approving the Amendment was inadvertently left off the agenda; and

**WHEREAS**, the inclusion of Commercial and Industrial Roll-Off solid waste collection and disposal services as part of the services provided by the District will require certain

Amendments to the Solid Waste and Recycling Franchise Agreement between the Malaga County Water District and Industrial Waste and Salvage for solid waste collection, green waste collection, recycling services effective August 1, 2016 (“Agreement”); and

**WHEREAS**, said Amendments to the Agreement are included in the First Amendment to the Solid Waste and Recycling Franchise Agreement between the Malaga County Water District and Industrial Waste and Salvage for solid waste collection, green waste collection, and recycling services effective August 1, 2016 (the “Amendment”) a copy of which is attached hereto and incorporated by this reference herein as Attachment 1.

**WHEREAS**, this Resolution ratifies the approval of the Amendment by the Board of Directors on December 12, 2017, by Resolution as required by Public Resources Code §40059 effective December 12, 2017, the date the Board approved such Amendment as reflected in the meeting minutes of that date.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Malaga County Water District as follows:

1. That the foregoing recitals are true and correct and are incorporated by this reference herein as though fully set forth at this point.
2. That the Board of Directors of the Malaga County Water District pursuant to §§31138 and 31139 of the California Water Code excludes, from mandatory solid waste and collection and disposal service as required by Section 5.01.030 of the Malaga County Ordinance Code Commercial and Industrial solid waste collection and disposal for Customers utilizing small (less than 10 cubic yards) debris bins. Mandatory service pursuant to Section 5.01.030 of the Malaga County Water District Ordinance Code will be required from the District or the District’s contract provider for all solid waste collection and disposal services within the District for Residential Customers, Commercial and Industrial Customers utilizing Roll-Off bins, and construction and demolition debris, with the exception of construction and demolition debris generated and disposed of by Property Owner as set forth in Ordinance Code Section 5.01.070(B).
3. The Board of Directors of the Malaga County Water District hereby ratifies the approval of the Amendment as approved by the Board on December 12, 2017, a true and correct copy is attached hereto as Attachment 1 to this Resolution pertaining to IWS being the exclusive provider of solid waste handling service for the District as set forth in the Agreement as amended by the Amendment and ratifies the President of the Board of Directors signing of that Amendment on behalf of the District.

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Passed and adopted by the Board of Directors of the Malaga County Water District at their meeting held on this 27<sup>th</sup> day of February 2018, by the following vote:

AYES:

NOES:

ABSENT:

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Charles Garabedian, Jr., President  
Malaga County Water District

ATTEST:

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James D. Anderson, General Manager-  
Secretary of the Board of Directors  
Malaga County Water District