

## SECOND READING AND ADOPTION

ORDINANCE NO. \_\_\_\_\_

ORDINANCE OF THE CITY OF CHULA VISTA GRANTING A WASTE MANAGEMENT FRANCHISE RENEWAL TO ALLIED WASTE SYSTEMS, INC. (DBA REPUBLIC SERVICES OF CHULA VISTA) ON THE TERMS PRESENTED UNTIL JUNE 30, 2024 WITH TWO OPTIONS TO EXTEND UNTIL JUNE 30, 2031 AND JUNE 30, 2039, RESPECTIVELY, SUBJECT TO THE CITY'S DETERMINATION OF SATISFACTORY PERFORMANCE AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, City is a charter city within the meaning of California Constitution Article 11, Section 3 and 5 and has reserved its powers pursuant to California Public Resources Code Section 4000 et seq. to grant an exclusive solid waste and recyclable franchise; and

WHEREAS, in 1982, pursuant to Article XII of the City Charter and Chapter 8.24 of the Chula Vista Municipal Code, City granted a solid waste disposal franchise ("Original Franchise") to Chula Vista Sanitary Service ("CVSS"); since 1982, the Original Franchise has been assigned on various occasions, most recently to Allied Waste Services, Inc., dba Republic of Chula Vista ("Republic"); and

WHEREAS, since 1982, the Original Franchise has been amended as follows: (1) Ordinance No. 2104, adopted February 28, 1985; (2) Ordinance No. 2332, adopted September 12, 1989; (3) Ordinance No. 2427, adopted December 4, 1990; (4) Ordinance No. 2429, adopted December 11, 1990; (5) Ordinance No. 2475, adopted September 3, 1991; (6) Ordinance No. 2562, adopted July 20, 1993; (7) Ordinance No. 2569, adopted September 21, 1993; (8) Ordinance No. 2741, adopted August 11, 1998; and (9) Ordinance No. 02792, adopted on July 13, 1999; and

WHEREAS, Ordinance No. 02792, among other things, extended the term of the Original Franchise, as amended, through June 30, 2007. Pursuant to the terms thereof, City and Republic subsequently exercised their rights to extend the term of the Original Franchise, as amended, through June 30, 2015.

WHEREAS, in 2013, City staff and Republic entered into negotiations for the further extension of the Original Franchise, as amended, ultimately reaching agreement on terms to be presented to the City Council for consideration.

WHEREAS, on July 8, 2014, pursuant to Resolution No. 2014-129, the City Council approved a resolution of intention to consider the renewal of the Original Franchise, as amended, on the terms presented in that certain Amended and Restated Solid Waste Collection, Recycling and Disposal Franchise Agreement (hereinafter referred to as the "Franchise"), and set a public hearing for such purpose for July 22, 2014 at 2:00 p.m.

WHEREAS, on July 22, 2014, a duly notice public hearing was held on the proposed Franchise, and all public testimony was reviewed and considered by the City Council, including the City Manager's recommendation to approve the Franchise.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

**Section I.** In accordance with Chula Vista Municipal Code Section 8.23.070, Republic's performance under the Original Franchise, as amended, is hereby deemed satisfactory for purposes of renewing such franchise, without inviting bids or proposals therefore, pursuant to the terms and conditions of the new Franchise presented by City Staff. Any and all protests or objections presented to the granting of the Franchise are hereby overruled.

As of the Effective Date of this ordinance, and upon Republic's written acceptance thereof, the City Council of the City of Chula Vista does hereby grant a Franchise to Republic through June 30, 2024 in accordance with the terms and conditions of the Franchise, a copy of which is on file in the office of the City Clerk,

The Mayor of the City of Chula Vista is hereby authorized to execute the Franchise on behalf of the City of Chula Vista in substantially the form presented, with such minor, non-substantive, modifications as may be approved or required by the City Attorney.

### **Section II. Severability**

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

### **Section III. Construction**

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

### **Section IV. Effective Date**

This Ordinance shall take effect and be in force on the thirtieth day after its final passage ("Effective Date").

### **Section V. Publication**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

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Richard Hopkins  
Director of Public Works

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Glen R. Googins  
City Attorney