

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

ORDINANCE OF THE CITY OF CHULA VISTA GRANTING A WASTE MANAGEMENT FRANCHISE RENEWAL TO ALLIED WASTE SERVICES, INC. (DBA REPUBLIC 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"); 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; and (8) Ordinance No. 2741, adopted August 11, 1998; and

WHEREAS, on May 12, 1987, pursuant to City Council Resolution No. 13019, City approved an assignment of the Original Franchise to Laidlaw Waste Systems, Inc. ("Laidlaw"); and

WHEREAS, on June 17, 1997, pursuant to City Council Resolution No. 18705, City conditionally approved Laidlaw's assignment of the Original Franchise, as amended, to (Allied Waste Services, dba Pacific Waste Services; and

WHEREAS, on August 26, 1997, pursuant to City Council Resolution No. 18763, City approved a month to month extension of the Original Franchise pending further review and consideration of Pacific Waste Services' requested five year renewal; and

WHEREAS, on August 8, 1998, the City Council approved a franchise renewal with Pacific Waste Services on the terms and conditions of the then current franchise agreement; and

WHEREAS, the then current franchise agreement expired on September 4, 2002 and in anticipation of the end of that agreement, staff negotiated with Pacific Waste Services to develop the terms and conditions for a renewal; and

WHEREAS, on June 22, 1999 pursuant to City Council Resolution No. \_\_\_\_\_, City approved an Amended and Restated Solid Waste and Recyclables Franchise Agreement to Allied Waste Services, dba Pacific Waste Services through September 7, 2007, which was extended to June 30, 2015; and

WHEREAS, during the time from 1999 to 2007 Allied Waste changed its dba to Republic Services of Chula Vista; and

WHEREAS, the Amended and Restated Solid Waste and Recyclables Franchise Agreement expires on June 30, 2015; and

WHEREAS, On July 8, 2014, pursuant to City Council Resolution No. \_\_\_\_\_ City approved a resolution of intention to consider the adoption of a Franchise Renewal and set a public hearing for such purpose for July 22, 2014 at 2:00 pm; and

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

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 current Franchise is hereby deemed satisfactory for purposes of renewing such franchise 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.

Upon Republic's written acceptance thereof, the City Council of the City of Chula Vista does hereby grant a Franchise Renewal to Republic of Chula Vista through June 30, 2024 in accordance with the terms and conditions of the Franchise Renewal Agreement, 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 Renewal Agreement 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.

**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