

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA OF ITS INTENTION TO CONSIDER GRANTING A WASTE MANAGEMENT FRANCHISE RENEWAL TO ALLIED WASTE SERVICES (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 SETTING THE PUBLIC HEARING TO CONSIDER SAME FOR JULY 22, 2014.

WHEREAS, IN 1999, the City granted an Amended and Restated Solid Waste and Recycling Franchise Agreement to Republic; and

WHEREAS, concurrently a mutually beneficial Otay Landfill Expansion Agreement was approved; and

WHEREAS, with the passage of time (completed milestones, operational changes, etc.), growth of the City and changes in pending regulations, City staff and Republic have negotiated updates to the language with enhancements to components; and

WHEREAS, the following represents a summary of the scope of the new proposal with other key provisions of the franchise remaining:

1. Term:

The proposed Franchise Renewal takes the last year of the current agreement along with the two, eight year contract extensions and restructures them so that Republic may commit the capital necessary to meet the needs of our growing City and be in compliance with State solid waste and greenhouse gas emissions reduction requirements.

The initial term shall commence September 2014 and end June 30, 2024, unless extended or earlier terminated per the terms of the agreement. Republic will have the first option to extend the term for another seven (7) years (2031) on the same terms and conditions, provided the City Manager reasonably determines that Republic has satisfactorily performed and is in full compliance with the agreement and applicable law. City also can extend the term in its discretion if for any reason Republic elects not to.

The City is provided one (1) additional eight (8) year extension option at its sole discretion subject to earlier termination by Republic in the event the Otay Landfill closes.

2. Franchise Fee and Bonus Payments:

In consideration of the City's grant of the Franchise Renewal, Republic will pay to the City 20% of Republic's gross receipts as a Franchise Fee. (The previous Franchise Fee was 10%). City reserves the option to increase the Franchise Fee to 25% commencing July 1, 2015 if either party extends the Franchise until 2031. Per industry standard, Republic has the right to pass through this franchise fee to ratepayers. Republic must also pay the City an annual "bonus fee". This provision is carried over from the 1999 agreement. The current fee is \$962,823.86. The fee increases by 3% per year. Republic is prohibited from passing through the bonus fee to ratepayers.

3. Free Disposal for City Business:

The City will not be charged disposal for materials generated by city crew, contractors or sub-contractors performing work for the City and taken to the Otay Landfill up to a maximum of 5% of the total materials collected (the total tonnage of solid waste, recyclable materials and green waste) in the City. Any amount over the 5% will be billed to the City. This is an increase in free tonnage that was previously based upon 5% of the amount of solid waste only collected in the City. Within this 5% cap on tonnage, the Franchise Renewal also allows City-designated educational, medical or sports oriented non-profits building facilities within the City to take advantage of this fee disposal benefit for their construction and demolition disposal.

4. New Recycling Programs:

Pilot programs and innovative services which may entail new collection methods or processes may be directed by the City to meet applicable laws.

5. Bulky Waste Items:

Residents may call in 24 hours in advance of their service day to get next day service on free bulky item collection. This was previously a 48 hour requirement.

6. Customer Service:

Telephones will be attended by live customer service representatives from 8:00 am to 6:00 pm Monday through Friday, and 8:00 am to noon on Saturday. This increased the available time from 5:30 pm to 6:00 pm is to allow time for residents to return home and call in any service issues.

7. Recycling Education:

Republic will pay \$110,000 annually for the Recycling Education Program and will escalate this amount 1% per year. This is a \$41,000 increase over the existing contract.

8. Rate Adjustment Formula:

The rates for Large Quantity Generators and Small Quantity Generators will take effect beginning July 1, 2015, and September 1, 2015, respectively and each annual anniversary thereafter.

The Maximum Rates for General Services shall increase in an amount not to exceed the product of the previous year's Rate multiplied by 100 percent (up from 66.7% under the 1999 agreement) of the Consumer Price Index for the previous calendar year increase. The CPI of the San Diego Area for All Urban Consumers (all items) will be used. (Rate x CPI = Adjusted Rate.)

Significant ratepayer protections from the 1999 agreement remain unchanged. For example at no time will the Small Quantity Generator rate exceed 90% of the average for San Diego County for the same level of service, after governmental pass through fees have been removed. Moreover, if Republic offers a lower rate within the County, under a franchise for similar services, it is required to offer that lower rate in Chula Vista.

9. Otay Landfill Agreement:

In tandem with the Franchise Renewal, an Amended and Restated Otay Landfill Expansion Agreement has been negotiated with Republic and its affiliate, Otay Landfill, Inc. This agreement provides additional benefits to the citizens of Chula Vista. A default by Republic under the Landfill Agreement will also constitute a default under the Franchise Renewal.

- Free Compost Material for Chula Vista Residents –

Republic will provide three, free, compost events per calendar year to Small Quantity Generators. Each event will be provided 150 cubic yards of compost free to City residents and non-landscaping, Small Quantity Generator businesses on a first come, first serve basis, up to 150 cubic yards per event.

- Landfill Capacity for Chula Vista Residents –

As the landfill begins to reach capacity, Republic will hold back space within the landfill to guarantee Chula Vistans will have landfill space until, at a minimum, year 2028.

- Future Resource Recovery Park –
Upon closure of the Otay Landfill, a minimum of 20 acres up to 30 acres will be develop for a Resource Recovery Park for solid waste handling, transfer and/or processing to serve the City and other jurisdictions. A Resource Recovery Park may co-locate reuse, recycling composting processing and related manufacturing and retail businesses in a central location with the goal to work towards zero discarded materials to landfill disposal.
- Landscaping –
Upon closure the landfill will be contoured to resemble the surrounding mountains. The slopes of the landfill will be re-vegetated with the goal of creating a habitat for native species, plants and wildlife. It will not look like an engineered mountain.

WHEREAS, in accordance with Section 1201 of the City Charter, the City Council shall adopt a resolution declaring its intention to grant a franchise and shall schedule a public hearing for the consideration of such grant.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, that it does set a public hearing for 2:00 pm on July 22, 2014 in the Council Chambers, 276 Fourth Ave, Chula Vista, CA at which the City Council intends to consider granting to Republic Services a Waste Management Franchise renewal on the terms and conditions set forth above as more specifically provided in the Franchise Renewal Agreement.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista that the City Clerk is hereby authorized and directed to publish, at least once within fifteen days after the passage of this resolution and at least ten days prior to the date of the hearing, appropriate notice of such hearing.

Presented by

Approved as to form by

Richard Hopkins
Director of Public Works

Glen R. Googins
City Attorney