

ORDINANCE NO. 2569

AN ORDINANCE OF THE CITY OF CHULA VISTA ADDING CHAPTER  
8.23 ENTITLED "WASTE MANAGEMENT FRANCHISE" TO THE CHULA  
VISTA MUNICIPAL CODE

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Section 8.23.010 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.010 Definitions.

Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meaning assigned to them in the following definitions (unless in the given instance, the context wherein they are used shall clearly import a different meaning):

- A. "Aluminum" means recoverable aluminum materials such as used beverage containers, siding, screening, and other manufactured items.
- B. "Bulky Waste" means large items of solid waste such as White Goods, furniture, large auto parts, trees, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
- C. "Buy-back Center" means a facility which pays a fee for the delivery and transfer of ownership to the facility of source separated materials for the purpose of recycling, mulching or composting.
- D. "City" shall mean the City of Chula Vista, a municipal corporation of the State of California in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- E. "Collection" means the act of collecting Solid Waste materials, or Recyclables at Residential, commercial, industrial, or governmental sites, and hauling it to a facility for processing, transfer, disposal or burning.
- F. "Contract or Franchise Agent(s)" means any person or entity designated by the City Council pursuant to Article XII of the City Charter and Chula Vista Municipal Code, Chapter 8.24, as being responsible for administering, directing, supervising, collecting, operating and/or providing for the disposal or transfer of refuse, or the collection and/or processing of Designated Recyclables.
- G. "Curbside Collection" means the collection of Designated Recyclables from the Residential waste stream from the curb or alleyway. May include single-family, Multi-family residences and mobile home trailer courts that receive curbside collection of refuse or that are otherwise specially designated as having curbside collection.
- H. "Designated Recycling Collection or Storage Location" means a place designated by the City Manager in conjunction with the Contract or Franchise Agent(s) for pick up or storage of recyclables segregated from other waste material. Designated Recycling Collection or Storage Locations include, but are not limited to, the curbside of a Residential neighborhood; the service alley, loading dock, or basement of a commercial enterprise or Multi-family complex.

- I. "Designated Recycling Containers" ("Containers") shall mean those containers or receptacles designated by the City Manager or its Contract or Franchise Agent for pick-up or storage of Designated Recyclables.
- J. "Designated Recyclables" means materials that are recyclable, reclaimable, and/or reusable within the following categories of Residential, commercial and industrial and as defined more specifically herein within each category. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other Residential, commercial, or industrial Solid Waste for purposes of being recycled for resale and/or reuse, and placed at a Designated Recycling Collection or Storage Location or in a Designated Recycling Container for the purpose of collection and processing, or any such Designated Recyclables materials collected under a Mixed Waste Processing program.
- K. "Exterior Recycling Containers" means Designated Recycling Containers to be used for outside storage of Franchised Recyclables.
- L. "Franchised Recyclables" means any Residential Recyclables, as defined herein and by CVMC Chapter 8.25, placed in Designated Recycling Containers placed at Designated Recycling Collection or Storage Location(s) to be collected by the Grantee, excluding yard waste.
- M. "Garbage" means all kitchen and table waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food stuffs, except organic wastes separated therefrom and used in composting in accordance with Chula Vista Municipal Code Chapter 8.25, Section 8.35.090.
- N. "Glass Bottles and Jars" means food and beverage containers made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, Division 12.1 (commencing with Section 14500) of the California Public Resources Code, as well as glass jars and bottles without redeemable value ("scrap"), but excluding household, kitchen, and other sources of non-container glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products that are not bottles or jars.
- O. "Grantee" shall mean Laidlaw Waste Systems, Inc. and its lawful successors or assigns.
- P. "Gross Receipts" shall mean all gross operating revenues received by Grantee from the collection and disposal of refuse or collection and sale of recyclable materials.
- Q. "Interior Recycling Containers" means a small (approximately 6 gallon) Designated Recycling Container to be provided to each eligible residential customer in the Multi-family Recycling program.
- R. "Landfill" means a disposal system by which solid waste is deposited and compacted before burial in a specially prepared area which provides for environmental monitoring and treatment.
- S. "Mixed Waste Processing" means a system of recovering recyclables from the mixed waste stream through separation at a processing facility, transfer station, Landfill, or other such facility instead of separation at the waste generation source.
- T. "Multi-family" means a structure or structures containing a total of 3 or more dwelling units in any vertical or horizontal arrangement on a single lot or building site.

- U. "Newspaper" means newsprint-grade paper including any inserts that come in the paper, and excluding soiled paper, all magazines, and other periodicals, telephone books, as well as all other paper products of any nature.
- V. "Nuisance" means anything which is injurious to human health, or is indecent or offensive to the senses, and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood, or any number of persons, although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing, or disposal of Solid Waste, compost, and/or Designated Recyclables.
- W. "Plastic Bottle" means a plastic container with narrow neck or mouth opening smaller than the diameter of the container body, used for containing milk, juice, soft drinks, water, detergent, shampoo or other such substances intended for household or hospitality use; to distinguish from non-bottle containers (e.g., deli or margarine tub containers) and from non-household plastic bottles such as those for containing motor oil, solvents, and other non-household substances.
- X. "Processing" means the reduction, separation, recovery, conversion, or Recycling of Solid waste.
- Y. "Recycling" shall mean any process by which materials which would otherwise become Solid Waste are collected (source separated, commingled, or as "mixed waste"), separated and/or processed and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.
- Z. "Refuse" means Garbage and Rubbish.
- AA. "Removal" means the act of taking Solid Wastes or Designated Recyclables from the place of generation either by the Contract or Franchise Agent(s), or by a person in control of the premises.
- BB. "Removal Frequency" means frequency of removal of Solid Wastes or Recyclables from the place of generation.
- CC. "Residential" for purposes of this Chapter, means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including single and multiple family dwellings, apartment-hotels, boarding and lodging houses. Residential does not include short-term residential uses, such as motels, tourist cabins, or hostels which are regulated as Hospitality establishments as defined in Sub-Section U of CVMC Chapter 8.25.
- DD. "Residential Recyclables" means those specific recyclable materials from Residential Solid Waste (single family and multi-family) including, but not limited to, Aluminum, Glass Bottles and Jars, Newspaper, Plastic Bottles, Tin and Bi-Metal Cans, White Goods, and Yard Waste.
- EE. "Rubbish" means non-putrescible solid wastes such as ashes, paper, yard clippings, glass, bedding, crockery, plastics, rubber by-products or litter. Such materials that are designated as Recyclable or Compost may be exempt from categorizing as rubbish provided such materials are handled, processed and maintained in a properly regulated manner.
- FF. "Salvaging or Salvageable" means the controlled and/or authorized storage and removal of Solid Waste, Designated Recyclables or recoverable materials.
- GG. "Scavenging" means the uncontrolled and/or unauthorized removal of Solid Waste, Designated Recyclables or recoverable materials.

- HH. "To Segregate Waste Material" means any of the following: the placement of Designated Recyclables in separate Containers; the binding or bagging of Designated Recyclables separately from other waste material and placing in a separate container from Refuse, or the same Container as Refuse; the physical separation of Designated Recyclables from other waste material (either at the generating source, Solid Waste transfer station, or processing facility).
- II. "Solid Waste" means all putrescible and nonputrescible solid, semi-solid and liquid wastes, such as Refuse, Garbage, Rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, also includes liquid wastes disposed of in conjunction with Solid Wastes at Solid Waste transfer/processing stations or disposal sites, but excludes: sewage collected and treated in a municipal or regional sewage system or materials or substances having commercial value or other importance which can be salvaged for reuse, Recycling, composting or resale.
- JJ. "Storage" means the interim containment of Solid Wastes, Yard Wastes, or Recyclables in an approved manner after generation and prior to disposal, Collection or processing.
- KK. "Streets" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said City, including state highways now or hereafter established within said City.
- LL. "Tin and Bi-Metal Cans" means any steel food and beverage containers with a tin or Aluminum plating.
- MM. "Transfer or Processing Station" means those facilities utilized to receive Solid Wastes and to temporarily store, separate, convert, or otherwise process the Solid Waste and/or Recyclables.
- NN. "Unit" means an individual residence contained in a Residential Multi-family complex.
- OO. "White Goods" means kitchen or other large enameled appliances which includes, but is not limited to, refrigerators, washers, and dryers.
- PP. "Yard Wastes" means leaves, grass, weeds, and wood materials from trees and shrubs from single family and multi-family Residential sources (to include landscape haulings from residential sources).

SECTION II: That Section 8.23.020 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.020 Purpose.

The franchise to collect and dispose of Refuse and to collect Residential Recyclables, excluding Yard Waste, from single family and Multi-family dwellings within the City of Chula Vista in the manner and on the terms herein specified and to use for such purposes the Streets, ways and places within said City is hereby granted to Laidlaw Waste Systems, Inc. its successors and assigns.

SECTION III: That Section 8.23.030 is hereby added to the Chula Vista Municipal Code to read as follows:

**Sec. 8.23.030 Term.**

The franchise term shall be extended for the term of five (5) years from and after the current termination date of September 4, 1987 or until the state or some municipal or public corporation duly authorized by law shall purchase by voluntary agreement all property actually used and useful in the exercise of said franchise, or until said franchise shall be forfeited for noncompliance with its terms as provided herein. In addition, the Grantee shall have two five-year renewal options if the Grantee is not in breach of this ordinance and has performed in the manner found satisfactory by the City. The five-year extension and the two five-year options are conditioned upon the Grantee constructing a new operating service facility within the City of Chula Vista within fifteen years (15) months of the adoption of this ordinance. Said facility including land and improvements to cost approximately \$1.5 million. During such term, grantee shall have the exclusive right to collect and dispose of all refuse created, accumulated or produced within the City of Chula Vista.

**SECTION IV:** That Section 8.23.040 is hereby added to the Chula Vista Municipal Code to read as follows:

**Sec. 8.23.040 Consideration.**

The Grantee of said franchise shall during the term thereof pay to the City four and one-half percent (4½%) of the gross annual receipts of said grantee. City is authorized to increase said fee up to a maximum amount of ten percent (10%). Beginning April 1, 1986, the franchise fee shall be increased by one-half percent (½%) and one-half percent (½) each year thereafter until it reaches a maximum of ten percent. It is understood that any increase in the franchise fee by the City shall be cause for the Grantee to increase charges in order to "pass through" the cost of the franchise fee.

**SECTION V:** That Section 8.23.050 is hereby added to the Chula Vista Municipal Code to read as follows:

**Sec. 8.23.050 Reports, Dates of Payment and City Audit.**

The Grantee shall file with the Director of Finance of said City on a monthly basis commencing August 1, 1982, and monthly thereafter, a duly verified statement showing in detail the total gross receipts of such Grantee during the preceding month or fractional month from the collection and disposal of refuse within said City. Grantee shall pay to said City within fifteen (15) days after the time of filing of such statement, in lawful money of the United States, the aforesaid percentage of its gross receipts for such month, or such fractional month, covered by such statement. Any neglect, or omission or refusal by Grantee to file such verified statement or to pay such percentage at the time and in the manner specified shall be grounds for the declaration of a forfeiture of this franchise and all rights of Grantee hereunder.

**SECTION VI:** That Section 8.23.060 is hereby added to the Chula Vista Municipal Code to read as follows:

**Sec. 8.23.060 Compliance with Laws.**

Grantee shall comply with all laws and regulations of the State of California and the City of Chula Vista. Further Chapter 8.24 of the Chula Vista Municipal Code is expressly made a part of this franchise and it is incorporated herein by reference as if set forth in full. Grantee and City agrees to be bound

by all provisions of such ordinance, or any amendments thereto, or other ordinances that might affect the collection or disposal of refuse in the City. It is understood that said ordinances are intended to be minimum standards and that higher standards and regulations may be required under the franchise.

SECTION VII: That Section 8.23.070 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.070 Obligations of Grantee.

Grantee undertakes and agrees, for the consideration hereinafter mentioned, to furnish: all labor, equipment, and vehicles (including adequate equipment and vehicles in a standby capacity to provide the service herein required in the event of a breakdown of equipment); insurance and bonds necessary to insure the efficient and timely picking up, collecting, removing and disposing of City refuse; and to collect, pick up, remove and dispose of, all refuse which is generated or accumulated by or upon all property within the City during the time that this franchise is in effect, except as herein otherwise provided and subject to and in accordance with the terms and provisions hereof.

The collection and removal of said refuse by Grantee shall be, at all times during the term of this franchise performed to the satisfaction of the City Manager or his delegate who shall have the right to issue orders, directions and instructions to grantee from time to time with respect to the collection, transportation, and removal of refuse, the performance of Grantee's services hereunder, and the Grantee's compliance with the provisions of the ordinances of the City of Chula Vista as they now exist or may from time to time be amended, and Grantee agrees to comply therewith. Such collection and removal of refuse shall be done in a prompt, thorough, lawful and workmanlike manner.

Grantee shall submit a detailed plan of operation prior to beginning of his work pursuant to this franchise. It shall describe the routes to be established and shall contain details regarding servicing schedule, the equipment to be used, and alternate procedures to be followed in the event of severe weather or equipment failures.

Grantee shall provide and maintain at his own expense, a solid waste collection system capable or providing service to all entities in the City requiring, or required to avail itself of said service. Not less than one regular weekly collection shall be provided to each residential unit. Grantee shall provide bins as required for commercial customers or whenever other customers of Grantee request their use. Each bin shall be placed in an accessible, outside location on a hard surface according to individual agreement.

Grantee shall provide collection vehicles and equipment in amounts adequate to perform in accordance with its operational plan. Initially, and throughout the franchise term, the average age of all regularly assigned collection vehicles must be not more than four (4) years, and all must be radio controlled. Collection vehicles, containers, and other contractor furnished equipment must comply with the standards set forth in the Chula Vista Municipal Code.

All refuse collected by Grantee shall become the property of Grantee immediately upon the collection thereof, and shall be forthwith removed and transported by Grantee to an approved place of disposal, which shall be provided, arranged for or furnished by Grantee.

In the event Grantee fails, refuses, or neglects to collect and dispose of refuse set out or placed for collection at the time and in the manner herein required, City may collect and dispose of the same or cause the same to be collected and disposed of and Grantee shall be liable for all expenses incurred in connection therewith. Such remedy of City shall be cumulative and in addition to any and all other

remedies it may have in the event of such failure, refusal or neglect of Grantee. The collection and disposal of refuse by City or by others as aforesaid shall not be deemed an election of remedies which shall preclude City from availing itself of additional remedies for Grantee's breach of contract.

The following shall be considered legal holidays for purposes of this agreement: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Any other days must have prior written approval from the City. When a regularly scheduled residential collection falls on a legal holiday, the collection for that day and succeeding days of that week shall be rescheduled one day later. Holiday disruptions of commercial collections shall be handled in a manner mutually agreeable to the Grantee and individual customers.

Grantee agrees to provide and maintain litter containers for the use of the general public for public areas such as plazas and rights-of-way other than parks and those publicly owned facilities maintained by the city as specifically designated by resolution of the city and to empty and dispose of the contents as necessary.

Grantee shall prepare and furnish to all customers not less than four (4) days prior to the beginning of, or change in service, schedules setting forth the days on which the collections shall be made. Notice shall be in such form as is first approved by the City Manager or his delegate.

**SECTION VIII:** That Section 8.23.080 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.080 Disposal Requirements.

Grantee shall be obligated as set forth hereinabove to provide for the collection and the disposal of all refuse within the City of Chula Vista; provided, however, Grantee shall undertake the disposal of said refuse in accordance with specific direction of City if at any time during the period of this franchise, City shall determine that the public interest requires a disposal program differing from that which the Grantee has established.

**SECTION IX:** That Section 8.23.090 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.090 Rates for Collection.

A. Basis for Future Modifications.

The rate charged to, and to be paid by waste removal ratepayers ("Ratepayers") in the City of Chula Vista, shall be those as may from time to time be established by Council resolution determined in accordance with the provisions of this Section. The rates to be charged at the time of the codification of this ordinance amending this section shall be those established by Resolution No. 16301, adopted on August 27, 1991.

B. Rate Modification Procedure.

Either Party may, upon filing a notice of intention to modify rates ("Notice of Intention") which contains accurate and complete information satisfactorily supporting any increase requested, forty five (45) days in advance ("Notice Period") with the other Party, modify rates subject to the following conditions and limitations:

1. Contents of Notice of Intention.

The Notice of Intention shall demonstrate for each type of service (residential, commercial), the existing rate; that portion of said rate charged for the purpose of reimbursing the Grantee for Grantee's landfill costs ("Landfill Rate Component"), that portion of said rate charged for the purpose of paying the required franchise fees imposed under the authority of this Ordinance ("Franchise Fee Rate Component"), and that portion of said rate charged for all other purposes ("Other Rate Component"); the amount of modification in each Component of the rate that is being sought; the amount of the modification in the entire rate being sought; the amount of the new Rate Component; the amount of the new rate after the proposed modification; and the justification for said proposed modification.

2. "Other Rate Component" Changes.

The proportion of modification to the "Other Rate Component" shall be limited by the proportion of change since grantee's last rate increase in the San Diego area Consumer Price Index for all urban consumers as compiled by the United States Department of Labor, Bureau of Labor Statistics for the latest twelve-month period for which statistics are available. In no event shall the amount of the increase exceed six percent (6%) of the service Rates.

- a. In the event that the Consumer Price Index referred to in Paragraph (2) above shall no longer be published, then another similar generally recognized index may be substituted upon approval by the City Manager.

3. "Landfill Rate Component" Changes.

The proportion of modification to the Landfill Rate Component shall not exceed the proportion of change since grantee's last rate increase in the rate charged by the County of San Diego to Grantee for "tipping fees" at the Otay Landfill, or if the Otay Landfill has been closed, at the next closest operating landfill, for the latest twelve-month period.

4. Franchise Fee Rate Component Changes.

The proportion of modification to the Franchise Fee Rate Component shall not exceed the proportion of change in the Franchise Fee that is or may be required by law to be paid to the City of Chula Vista.

5. Increase Approval Hierarchy.

Annual modifications which constitute rate increases shall be subject to the review and written approval of the City Manager, unless the City Council shall, within 20 days ("Public Hearing Option Period") after the commencement of the Notice Period set the rate modification request for public hearing, in which case said rate increases shall be subject to, and not instituted until, the review and written approval of the City Council after said public hearing.

6. No Public Hearing Approval Procedure.

If the City Council has not set a public hearing during the Public Hearing Option Period, the City Manager shall notify grantee in writing of his approval or denial of the increase within five (5) days of the end of the Public Hearing Option Period.



7. Notice to Grantee of Public Hearing Approval Procedure.

The City Council shall have the unilateral right to require a hearing for any rate increase at its discretion. If the City intends to require a public hearing, it shall notify grantee within five (5) days after the end of the Public Hearing Option Period.

8. Automatic Approval.

In the absence of any written communication from the City Manager or Council within five (5) days after the end of the Public Hearing Option Period to the contrary, a modification representing a rate increase is deemed approved.

9. Frequency of Rate Increase Requests.

No more than one such increase may be implemented in any one calendar year although grantee shall have at any time the right to submit a request to the City Council for additional rate relief at any time extraordinary expenses are incurred.

C. Senior Rate Schedules.

The City Council of the City of Chula Vista may at anytime, by amending Chapter 8.24 of the Chula Vista Municipal Code, establish a program for preferential rates for senior citizens or other classifications which are deemed to be in the public interest.

D. Variable Rate Structure.

Grantee agrees to discuss with the City the concept, design and implementation of a change in rate structure from a fixed rate to a rate structure which would vary based on the number and size of containers, or such other basis which the City believes would provide an incentive for waste reduction.

**SECTION X: That Section 8.23.100 is added to the Chula Vista Municipal Code to read as follows:**

**Sec. 8.23.100 Insurance and Performance Bond.**

Grantee agrees, at Grantee's own expense, to carry comprehensive public liability and automobile liability insurance coverage during the full term of this franchise, with City also named as an additional insured thereunder, covering liability for bodily injuries, death and property damage, arising out of or in connection with the operations of Grantee, under this franchise in an amount not less than \$1,000,000 for injuries including death to any one person and in an amount not less than \$5,000,000 for any one accident or occurrence, and property damage in an amount not less than \$200,000. Grantee further agrees to carry, at Grantee own expense, workers' compensation insurance in accordance with the laws of the State of California. All of said insurance policies, or certificates thereof, shall be deposited by Grantee with the City Manager together with endorsements or statement from the insuring companies providing that such policies will not be subject to cancellation, modification or reduction of the limits of the policy until ninety (90) days after written notice to the City by registered or certified mail. Such policies shall guarantee payment of any final judgment rendered against Grantee or the City within the coverage provided, irrespective of the financial condition of, or any acts or omission of, said Grantee. All of said policies shall be subject to the approval of the City Attorney.

Grantee shall secure and deliver to the City Manager a twelve (12) month performance bond in the amount of \$1,000,000 to secure the full, true and faithful performance of all their terms, obligations and conditions of this franchise on the part of Grantee. Grantee shall present said bond together with a certificate from the surety showing payment in full for such bond, to the City Manager prior to the commencement of operations pursuant hereto and provide a one-year renewal and certificate of payment prior to the start of each year of this agreement.

In the event of the termination or cancellation of the insurance or bond required hereunder or the failure of Grantee to provide such other insurance and/or bond as hereinabove provided, prior to the effective date of such cancellation or termination, this franchise may be suspended or terminated forthwith by City, by written notice thereof to Grantee. Any such suspension shall be for such period or periods as the City Manager from time to time may determine. No liability or obligation shall be incurred by City in favor of Grantee by virtue of any such notice or notices or from any such suspension or termination. In the event of such suspension or termination by City upon the failure of Grantee to secure and maintain on file said insurance and/or bond during the full term of this franchise, Grantee shall be liable for any and all damages suffered by City arising out of such suspension or termination.

SECTION XI: Section 8.23.110 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.110 Hold Harmless.

Grantee of the franchise granted hereby shall indemnify, save and hold harmless, City and any officers and employees thereof against and from all damages, judgments, decrees, costs and expenditures which City, or such officer or employee, may suffer, or which may be recovered from, or obtainable against City, or such officers or employee, for, or by reason of, or growing out of or resulting from the exercising by Grantee of any or all of the rights or privileges granted hereby, or by reason of any act or acts of Grantee or its servants or agents in exercising the franchise granted hereby, and Grantee shall defend any suit that may be instituted against City, or any officer or employee thereof, by reason of or growing out of or resulting from the exercise by Grantee of any or all of the rights or privileges granted hereby, or by reason of any act or acts of Grantee, or its servants or agents, in exercising the franchise granted hereby. This hold harmless clause shall apply to any extension of the franchise.

SECTION XII: That Section 8.23.120 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.120 Obligations of City.

Except as hereinafter otherwise provided, Grantee shall have the sole right to pick up, gather, and remove refuse generated by residential, and commercial, or industrial property within the City except as otherwise provided in Section 8.24.080 of the Municipal Code and any other amendments thereto by the City until such time as this franchise is terminated as herein provided. City will not let any contract to, or enter into any contract with, any other person, firm, or corporation for the performance of the services herein required to be performed by Grantee, except as expressly otherwise herein provided, as long as this franchise is in effect.

City shall protect Grantee's rights to such exclusive contract by proper ordinances, and by reasonable enforcement thereof. Grantee and Grantor hereby expressly except herefrom the picking up, gathering,

and removal of refuse pursuant to a competitively bid contract between the Sweetwater Union High School District and an authorized City trash franchisee.

**SECTION XIII:** That Section 8.23.130 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.130 Miscellaneous.

The failure of either party at any time to require performance by the other of a provision hereof, shall in no way affect the right of such party entitled to performance to enforce the same thereafter. Nor shall the waiver of either party of any breach of any provisions hereof be construed to be a waiver of such provisions or of any succeeding breach thereof.

Any notice that may be given to Grantee under or with respect to this franchise shall be deemed to have been given when delivered to Grantee or to an officer of Grantee, personally or when sent to Grantee by registered or certified mail, postage prepaid, addressed to Grantee at:

Laidlaw  
881 Energy Way  
Chula Vista, CA 91911

City reserves the right to determine, in the exercise of its powers to provide for the public health and welfare, whether technological or other changes materially affect the necessity of or level of the service provided for hereunder, and, in such case, the level of service hereunder shall be adjusted by City, and this franchise shall be reviewed and revised accordingly.

**SECTION XIV:** That Section 8.23.140 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.140 Forfeiture.

This franchise is granted upon each and every condition herein contained, and shall ever be strictly construed against Grantee. Nothing shall pass by the franchise granted hereby to Grantee unless it be granted in plain and unambiguous terms. Each of said conditions is a material and essential condition to be granting of the franchise. If Grantee shall fail, neglect or refuse to comply with any of the conditions of the franchise granted hereby, and if such failure, neglect or refusal shall continue for more than thirty (30) days after written demand by the City Manager for compliance therewith, then City, by the City Council, in addition to all rights and remedies allowed by law, thereupon my terminated the right, privilege and franchise granted in and by this ordinance, and all the rights, privileges and the franchise of Grantee granted hereby shall thereupon be at an end. Thereupon and immediately, Grantee shall surrender all rights and privileges in and to the franchise granted hereby. No provision herein made for the purpose of securing the enforcement of the terms and conditions of the franchise granted hereby shall be deemed an exclusive remedy or to afford the exclusive procedure for the enforcement of said terms and conditions, but the remedies and procedure outlined herein or provided, including forfeiture, shall be deemed to be cumulative.

**SECTION XV:** That Section 8.23.150 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.150 Authority for Grant.

Notwithstanding any other provision herein contained, this franchise is granted solely and exclusively under Sections 1200, 1201, 1202, 1203, 1204, 1205 and 1206 of Article XII of the Charter of the City of Chula Vista and no other authority.

SECTION XVI: That Section 8.23.160 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.160 Effective Date.

This ordinance shall become effective thirty days after its final passage unless suspended by a referendum petition filed as provided by law.

SECTION XVII: That Section 8.23.170 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.170 Publication Costs.

The Grantee of said franchise shall pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting thereof; such payment to be made within thirty (30) days after the City shall have furnished such Grantee with a written statement of such expense.

SECTION XVIII: That Section 8.23.180 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.180 Written Acceptance.

The franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by the Grantee with the City Clerk.

SECTION XIX: That Section 8.23.190 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.190 Publication.

The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in the Chula Vista Star News, a newspaper of general circulation published and circulated in said City.

SECTION XX: That Section 8.23.200 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.200 Special Events.

Grantee agrees to cooperate with the City in carrying out special events to improve community appearance.

**SECTION XXI:** That Section 8.23.210 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.210 Residential Curbside Recycling Services.

Grantee agrees to implement residential curbside recycling services to all single family homes as follows:

- A. **Exclusivity** - The City grants to Grantee the exclusive right to collect Recyclable Materials deposited at the curbside of single-family dwellings in such containers ("Designated Recycling Container"; or alternatively ("Container") as are herein required to be provided within the City limits, to include all residences receiving refuse collection and disposal services described in the following paragraph B.(1). This does not exclude duly licensed non-profit organizations and community groups from conducting recycling programs for the purpose of raising funds, nor does it exclude private individuals from selling or otherwise disposing of their own recyclable material. However, once materials have been placed at the curb in a Designated Recycling Container provided by the Grantee, the material ("Franchised Recyclables") becomes one of the subject matters of this grant of franchise.
- B. **Obligations of Grantee.**
  1. **Collection** - Grantee shall collect and remove all Franchised Recyclables which are placed in a Designated Recycling Container at the curbside on public streets, from all single-family residences. Grantee shall collect the Franchised Recyclables once each week, regardless of weather conditions. Collection will be on the same day of the week as the regularly scheduled trash collection day. Grantee and City will mutually agree to any changes in collection day. Grantee will notify residents of any changes in the collection day by distributing a flyer no later than two weeks prior to the affected day.
  2. **Containers** - Grantee shall purchase and distribute recycling containers to be used by each eligible residential customer included in the program. The type and cost of container to be used, or changes of container type shall be approved by the City prior to purchase and distribution. Grantee shall retain ownership of the containers. Each residence eligible to participate in the program will receive one container. If Grantee determines that the volume of recyclable material exceeds the capacity of the one container, additional containers shall be provided at no cost to the resident. Replacement of containers that are stolen and/or damaged shall be made at no cost to the resident at Grantee's discretion. Grantee will be responsible for keeping records and making them available to the City regarding additional containers requested, and the reason for the request, e.g. damaged, stolen, needed to handle residence recyclables beyond capacity of one container.
  3. **Transportation of Materials** - Grantee shall transport collected recyclable materials to a central collection point and shall retain responsibility for the sale of such materials in a timely and efficient manner, so as to yield the highest possible market value for the material.

4. Missed Pick-Ups - In case of a missed pick-up called in by a resident, Grantee shall, where possible, provide collection within 24 hours. If unable to accommodate due to inadequate notice, the materials shall be picked up on the next scheduled collection day and resident is to be so notified. Information on missed pick-ups shall be logged by Grantee and shall be available to the City.
5. Public Awareness Program - The Grantee will prepare an Introductory Packet of information regarding the Citywide Single-Family Curbside Recycling Program, approved in advance by the City, and will distribute such packet with the recycling containers to each eligible residence. The packet shall include, but not be limited to: a) An informational brochure that details the program elements and describes how they can participate; and b) doorknob hangers or other methods encouraging use of the recycling container and explaining the program.

The Grantee will assist with media events, make presentations to community groups and businesses on an as needed basis, and attend County wide meetings related to recycling, speaking on the City's Curbside Recycling Program if needed. The Grantee also agrees to assist in developing incentives to increase participation and tonnage collected, and to encourage involvement of community and youth groups.

The Grantee and the City agree that the main purpose of an aggressive public education program is to increase participation and diversion. Beginning in the second year, if, in the City's judgment, it is reasonably determined that the public education effort has not resulted in high enough program interest, the Grantee will perform reasonable public education activities at the City's direction at a cost not to exceed \$.10 of the monthly billing.

6. Local Manager - The Grantee shall at all times during the term of this agreement have a local manager charged with the responsibility for supervision of the recycling operations and obligations of the Grantee.
- C. Obligations of City - The City shall have lead responsibility for directing the development and expenditures of the Public Awareness Program as provided in paragraph B.(5). The City also agrees to take such steps as may be reasonably necessary to protect recyclable materials placed at the curbside for collection by Grantee under the terms of this Agreement and shall deliberate upon the merits of enacting and reasonably enforcing an anti-scavenging ordinance.
- D. Funding and Rates for Collection.
1. Funding Sources - The residential curbside collection program will be funded by four sources: a monthly recycling fee to all eligible residents; revenue from the sale of collected recyclable material; savings in disposal cost of material diverted from the landfill; and grant funds when available and awarded.

(a) A monthly recycling fee charged to eligible residents is the primary source of funding for this program. In general, it will be allocated equally among the customer base receiving said recycling service and will be determined by the Grantee's operating expenses directly attributable to the recycling program, less: revenue received from the sale of collected recyclable material, the savings realized in disposal costs of material diverted from the landfill, and application of grant funds. Specific fee information is outlined in paragraph D.(2) below.

(b) All collected recyclable material will be sold at fair market value and revenues obtained from such sales shall be retained by Grantee as an offset against operating expenses.

- (c) Recyclable materials collected in the program will be diverted from disposal in the landfill, thereby resulting in a cost savings to Grantee ("Landfill Diversion Credit"). On a monthly basis, Grantee will determine the recycled material tonnage collected and the resulting Landfill Diversion Credit and will credit this savings during the first year of operation as an offset against operating expenses. When reevaluating program costs in subsequent years, the City agrees to consider Landfill Diversion Credits of less than 100%. The amount will be subject to negotiation and the intent is to provide an economic incentive for the Grantee towards increased participation and program success.
  - (d) Any grant funds received will be applied to the costs of the program when award is noticed or during the next rate review procedure if the award takes place once a specific rate has been determined, with the intent of directly reducing the monthly fee to the homeowner.
2. Rates for Collection - It is the City's intent to ensure that the rates charged to the citizens for the recycling program are appropriate and equitable. Based on experience gained in the City's pilot curbside and other recycling programs, the recycling fee for the first period of operations will be \$1.10 per month, billed quarterly in the same manner as the trash collection fee. The monthly fee of \$1.10 per residence will be the established fee for the period beginning February 1, 1991 through March 31, 1992.

Specific rate review procedures will be prepared by the City and will be used with the concurrence of the Grantee in consideration of all requests for rate adjustments by the Grantee. Rate review will include adjustments for actual sale of materials and landfill diversion credits in previous period compared to original estimated amounts. Shortfalls or overages will be used in determining rates for upcoming periods. Rate review will be conducted annually beginning in January 1992, and will be concluded prior to the notification deadline for the 45 day notice of the annual CPI increase for refuse collection as referenced in Section 9 of the franchise as amended by Ordinance No. 2104, Rates for Collection. An increase in rates for recycling services will be subject to the same limitations and conditions for refuse collection rates listed in Section 9.

By amending Chapter 8.24 of the Chula Vista Municipal Code, the City may establish a program for preferential rates for senior citizens or other classifications which are deemed to be in the public interest. The program parameters and rate structure will be determined by the City with the concurrence of the Grantee which concurrence shall not be unreasonably withheld.

All changes to a preferential rate will be subject to the rate review and notification procedures referenced in this paragraph as well as the limitations and conditions for refuse collection rates listed in Section of Ordinance No. 2104.

- E. Reports - Grantee shall file with the City written quarterly and annual reports of Grantee's performance under this agreement as follows:
- 1. Quarterly Project Reports - Within fifteen (15) working days after the last day of each quarter, Grantee shall submit a quarterly project report to include but not be limited to the following:
    - (a) Summaries of tonnage of all recyclable materials recovered, by material.
    - (b) Summaries of tonnages of all recyclable materials sold, by material.
    - (c) Market price for all recyclable materials collected from the curbside and sold by Grantee. The weight receipts shall be available for inspection by the City.

- (d) Resident participation rates in terms of weekly set-out counts.
  - (e) Overall assessment of performance during the quarter.
  - (f) Discussion of problems and noteworthy experiences in program operation.
  - (g) Recommendations to increase tonnage of recyclable materials recovered.
2. Annual Report - On or before July 31 of each year of the term of this agreement, Grantee shall submit a fiscal year-end annual report to include but not be limited to the following:
- (a) A collated summary of the information contained in the quarterly reports, and a summary of the participation rates and tonnages of recovered material.
  - (b) A report of public awareness activities and their impact on participation and recovered volumes.
  - (c) A report of highlights and other noteworthy experiences, measures taken to resolve problems, increase efficiency and household participation.
  - (d) Additional information as necessary to meet State and/or Federal mandated reporting requirements.
- F. Performance Standards - This Agreement for curbside recycling services is subject to the performance standards and franchise conditions detailed in Section 8.23.140 Forfeiture. While it is the intent of Section 21 to describe specific recycling collection services to be provided by the Grantee in addition to existing refuse collection and disposal services, Grantee agrees that acceptable performance of recycling services will be considered severable from this agreement.
- G. Additional Franchise Fee - The Grantee, as part of the consideration of this agreement, agrees to pay to the City an additional franchise fee at a rate consistent with that paid for refuse collection and detailed in Section 8.23.040 Consideration. This rate will begin at seven percent (7%) of the annual receipts collected by said Grantee within the City of Chula Vista from residents for the recycling program within the City. Beginning April 1, 1991, the franchise fee shall be increased by one-half percent (½%) and one-half percent (½%) each April thereafter until it reaches a maximum of ten percent. It is understood that any increase in the franchise fee by the City shall be cause for the Grantee to increase charges in order to "pass through" the cost of the franchise fee.
- H. Term - It is the intent of the City that the term for the provision of Residential Curbside Recycling Services shall be to the year 2002, subject to a two year notice of cancellation by the City without cause which cannot be tendered sooner than the end of the third year. The services remain cancelable for cause at any time.
- I. Recycling Program Expansion - It is the City's intention to develop a comprehensive recycling program to reduce the amount of material being disposed of in County landfills and to comply with the mandates of the California Integrated Waste Management Act of 1989 (AB 939). Both parties hereby agree that the City may not go out to bid for the expansion of this recycling program to other land uses (e.g., multiple family, commercial, industrial) or other recyclable materials (e.g., yard waste, etc.) until after the City has met and conferred with Grantee with regard to its intent to do so. If separate amendments to the agreement for refuse collection and disposal are not negotiated between the City and the Grantee, the City may go out to separate bid.



**SECTION XXIII:** That Section 8.23.230 is hereby added to the Chula Vista Municipal Code to read as follows:

**Sec. 8.23.220 Residential Multi-family Recycling Services.**

Grantee shall provide Residential Recycling services to all Multi-family dwellings within the territory of the City as follows:

**A. Exclusivity** - The City grants to Grantee, for the term herein specified and subject to such terminations herein allowed, the exclusive right to collect Residential Recyclables, excluding Yard Waste, deposited in Designated Recycling Containers (or alternatively, "Containers") located at Designated Recycling Collection or Storage Location(s) as may be identified on each Multi-family residential parcel within the City. This grant of exclusive license is not intended and does not preclude duly licensed non-profit organizations and community groups from conducting recycling programs for the purpose of raising funds, nor does it preclude a person from selling or otherwise disposing of their own Recyclables at a Buy-back Center or for donation, so long as said collection, donation or sale does not occur at the Designated Recycling Collection or Storage Location. However, once the Residential Recyclables have been placed in the Designated Recycling Containers provided by the Grantee, the material ("Franchised Recyclables") becomes one of the subject matters of this grant of franchise. The Grantee agrees to cooperate with the City in reaching a modification to this ordinance to the extent required by law at anytime it should be deemed necessary in the future.

**B. Obligations of Grantee.**

1. **Implementation Schedule** - Grantee shall commence and diligently implement this franchise Citywide from the date of this franchise so that all multi-family residential complexes in the City have Recycling Collection service by October 1, 1993 in accordance with the City's mandatory recycling ordinance, Chapter 8.25 of the Chula Vista Municipal Code.
2. **Collection** - Grantee shall furnish said labor, services, materials and equipment required to perform this franchise.

Grantee shall provide Collection and Removal services for all Franchised Recyclables subject to the provisions of this ordinance which are placed in Designated Recycling Containers at Designated Recycling Collection or Storage Locations, as defined by the City of Chula Vista Municipal Code Chapter 8.25, segregated from Refuse, separated by commodity as outlined herein, from all Multi-family residences. Grantee shall collect the Franchised Recyclables not less than once per week and provide any additional Collection as shall be necessary to prevent overflow of the Exterior Recycling Containers, regardless of weather conditions. Collection will be on regularly scheduled days as shall be arranged with the building property owner, manager or designated agent thereof. The Grantee and the City will mutually agree to any changes in Collection schedule frequencies or Removal Frequency. Grantee will notify the building property owner, manager or, designated agent thereof, of any changes in Collection day(s) by written notification no later than two weeks prior to the affected day, to be enforced nine months from the date of this ordinance.

Design of Collection vehicles shall be done to limit the contamination and maximize the resale value of collected Franchised Recyclables. Any and all changes to the established means of Collection of Franchised Residential Recyclables, as herein outlined, shall be notified to the City in advance, including any changes in the way that the Franchised Residential Recyclables are collected (separated and/or commingled), design of vehicles, etc.

3. Containers - Grantee shall purchase and distribute Designated Recycling Containers, to include the following:

- a. Interior Recycling Containers. An appropriate Container to be used inside the Residential Unit, shall be provided to each eligible Residential customer included in the Multi-family Recycling program. The type of Container to be used or changes of Container type shall be approved by the City prior to purchase and distribution. Grantee shall retain ownership of the Containers.

Replacement of Containers that are stolen and/or damaged shall be made at no cost to the resident at Grantee's discretion, up to one per Unit. If a Unit requires an additional Interior Recycling Container beyond the maximum of two allowed, the property owner, manager or designated agent thereof, may purchase additional interior Containers from the Grantee at a cost not to exceed the market price of the Container and a reasonable handling charge.

Grantee will be responsible for keeping records and making them available to the City regarding additional Containers requested, and the reason for the request, e.g., damaged, stolen, needed to handle residence recyclables beyond capacity of one Container, etc.

- b. Exterior Recycling Containers. An appropriate Container(s) shall be provided for use at each Multi-family complex that meets the space restraints and Collection needs of the respective complex and the residents therein. Said Containers may include 90 gallon carts on wheels, 2 cubic yard bin or 3 cubic yard bin. Each container shall conform to the following: slots in lids for placement of beverage containers (circular holes of appropriate sizes) and newspaper (narrow slots of appropriate size); plastic containers should include recycled plastic content; be fire resistant; be of durable quality and warranty; be heat stamped or labeled for commodity; be clearly labeled on the lids and the front facing of the bin, in Spanish and English (with graphics) as to the Designated Recyclable(s) and "No Trash"; be clearly labeled with the Grantee's name and phone number.

Grantee agrees to provide to each Multi-family complex at least one Exterior Recycling Container per complex for commingled hard recyclables (Aluminum cans, Glass Bottles and Jars, Plastic Bottles and Tin and Bi-Metal Cans) and one Exterior Recycling Container for Newspapers or alternatively at least one, 2- or 3- yard divided bin that effectively separates commingled hard recyclables from Newspapers. To the extent possible, Exterior Recycling Containers will be required to be placed adjacent to or near the Refuse Collection containers.

4. Transportation and Marketing of Franchised Recyclables - Grantee shall transport collected Franchised Recyclables to a central collection and Processing point and shall retain responsibility for the sale of such materials in a timely and efficient manner, so as to yield the highest possible market value for the Franchised Recyclables as collected and in accordance with any Processing contract held by the Grantee. No noncontaminated Franchised Recyclables shall be Landfilled, unless approved by the City. Should market failure occur for one or more material types, only the City Manager (or designee) of the City of Chula Vista may decide not to collect the affected material. All written contracts, if any, with processors, recyclers or other buyers of Franchised Recyclables shall be submitted to the City.

Franchised Recyclables that are contaminated due to the placement of Refuse in a Designated Recycling Container, or inclement weather that leaves the Franchised Recyclables unmarketable, may be landfilled. The Grantee shall retain a record of such occurrences and report said occurrences to the City on a quarterly basis. Should contamination occur more than twice at a

single complex said complex shall be notified. Should contamination occur at a complex three or more times, the complex shall be notified and charged the necessary disposal fee for dumping the contaminated recyclables as Refuse at the Landfill.

5. Missed Pick-ups - In case of missed pick-up called in by a property manager, owner or designated agent thereof, Grantee shall, where possible, provide Collection within 24 hours. If unable to accommodate due to inadequate notice, the Franchised Recyclables shall be picked-up on the next scheduled collection day and the property manager is to be notified. If the Designated Recycling Containers are overflowing or otherwise creating a Nuisance as a consequence of a missed pick-up, the Grantee is required to provide Collection within 48 hours of notification of missed pick-up. Information on missed pick-ups shall be logged by Grantee and shall be available to the City.
6. Public Awareness Program - The parties hereto agree to work diligently to formulate promotional plans and/or advertising to encourage Recycling in the City and thereby maximize the mutual benefits of this ordinance. The Grantee, in conjunction with the City, is responsible for promotion, education and outreach activities related to the program. The Grantee will prepare an Introductory packet of information regarding the Citywide Multi-family Recycling program and will distribute such packet with the Interior Recycling Containers to each eligible residence. The packet shall include, but not be limited to: a) an informational notice, appropriate for hanging on refrigerator or other location indoors, that details all program elements, Recyclables to be collected, how residents can participate, use of the Interior Recycling Container, proper placement of Recyclables in Exterior Recycling Containers, the City's mandatory recycling ordinance and recycling hotline phone number; b) posters that can be placed in complex laundry rooms, pool areas and other public locations that explain the program, materials to be collected, description of program elements, the City's mandatory recycling ordinance and recycling hotline phone number.

All promotional materials shall be developed with the City's Conservation Coordinator's or other designated City employee's advise and consultation, from the first step in development, through the final printing and distribution of materials. No materials shall be developed or distributed without the approval of the Conservation Coordinator or other designated City employee. All Introductory Materials shall be fully translated into Spanish, unless otherwise approved by the City. All subsequent materials shall be fully or at least partially translated into Spanish, unless otherwise approved by the City. All program materials shall utilize graphic representation of Designated Recyclables.

The Grantee shall provide to the City a detailed outline of program promotional materials to be developed and outreach activities to be conducted in advance of program implementation. The Grantee will participate in community and school outreach activities during the initial phase of program implementation and provide ongoing outreach activities, to include, but not be limited to, Multi-family tenant and owner associations, community events, media events, make presentations to community groups and businesses on an as needed basis and as directed by the City, and attend County-wide meetings related to recycling, speaking on the City's Multi-family Recycling Program if needed and directed by the City. The Grantee also agrees to reasonably assist in developing incentives to increase participation and tonnage collected, and to encourage involvement of community and youth groups.

The Grantee and the City agree that the main purpose of an aggressive public education program is to increase participation and diversion, as well as limiting contamination of Franchised Recyclables. Beginning in the second year, if, in the City's judgement, it is reasonably determined that the public education effort has not resulted in high enough Program

interest, the Grantee will perform reasonable public education activities at the City's direction at a cost to the Grantee not to exceed \$.10 per Unit per month. If needed, as part of the educational activities as determined by the City with input from the Grantee, the Grantee will develop incentives to increase participation, such as, offering rewards for complexes that have high participation levels and high tonnage levels.

The Grantee agrees to provide technical assistance to property owners, managers or designated agent thereof and work with the City to provide said technical assistance for Program design and implementation. The Grantee agrees to work with the City to provide ongoing Program monitoring services and quality control to prevent contamination of materials and encourage participation to property managers, to include on-site visitations, as deemed necessary by the Grantee and/or the City.

The Grantee will provide to the City a quarterly accounting of all outreach activities conducted during the previous quarter. The Grantee will also provide an accurate accounting of all costs associated with Program outreach, to include, but not be limited to, costs for designing of outreach materials, printing of outreach materials, etc.

7. Local Manager - The Grantee shall at all times during the term of this ordinance have a local manager charged with the responsibility for supervision of the recycling operations and obligations of the Grantee and agrees to provide, at a minimum, one (1), half-time person directly assigned to the Multi-family Recycling Program, whose duties are to include: promotional material development and distribution; program monitoring (including on-site visitations); educational outreach to school children; community outreach.
  8. Anti-scavenging - The Grantee agrees to provide information to all property owners, managers or designated agents thereof regarding the City's anti-scavenging ordinance and how to report scavenging occurrences. The Grantee agrees to inform all of its employees of the City's anti-scavenging ordinance on a regular basis and how said employees shall report scavenging occurrences.
- C. Obligations of the City - Subject to the provisions of Paragraph B5 of this ordinance, the City shall have lead responsibility for directing the development and expenditures of the public awareness activities for the Multi-family Recycling Program. The City also agrees to take such steps as may be reasonably necessary to protect the Franchised Recyclables placed in the Designated Recycling Collection or Storage Containers placed in the Designated Recycling Collection Location(s) for collection by Grantee under the terms of this ordinance and shall reasonably enforce the City's anti-scavenging ordinance (CVMC, No. 2492).

If during the initial period of the franchise, or any extension thereof, the City discontinues the separate collection of multi-family recyclables and reverts to a Mixed Waste Processing system for commingled collection of waste and recyclables, the City agrees to allow a rate adjustment to permit the Grantee to recover the loss incurred on the sale of vehicular equipment specifically purchased to meet the Grantees obligations under this ordinance. Such loss will be calculated by deducting the realizable market value of the equipment from the reasonably depreciated book value of the equipment at the time of the sale of equipment.

D. Funding and Rates for Collection

1. Funding Sources - The Residential Multi-family Recycling Program will be funded by four sources: a monthly recycling fee to all eligible residents (to be billed to the property manager or resident, as with refuse billings); Net revenues from the sale of collected recyclable material;

savings in disposal cost of material diverted from the landfill; grant funds when available and awarded.

- a. A monthly recycling fee, charged to eligible residents is the primary source of funding for this program. In general, it will be allocated equally among the customer base, as determined by Section D.2 below, receiving said Recycling Collection services and will be determined by the Grantee's operating expenses directly attributable to the recycling program, less: revenues received from the sale of the collected Recyclables net of processing and brokering fees, the savings realized in disposal costs of material diverted from the landfill and any grant funds received for the program.
  - b. All collected Recyclables will be sold at fair market value, as outlined in Section B.3 above, and net revenues obtained from such sales shall be retained by Grantee as an offset against operating expenses. The City shall be notified of significant changes in fair market values in writing as part of the quarterly reporting requirements.
  - c. Recyclables collected in the Program will be diverted from disposal in the landfill, thereby resulting in a cost savings to the Grantee ("Landfill Diversion Credit"). On a monthly basis, Grantee will determine the recycled material tonnage collected and the resulting Landfill Diversion Credit based on the landfill disposal cost approved by Council for refuse collection rates and will credit this savings during the first year of operation as an offset against operating expenses. When reevaluating program costs in subsequent years, the City agrees to consider Landfill Diversion Credits of less than 100 percent. The amount will be subject to negotiation and the intent is to provide an economic incentive for the Grantee towards increased participation and program success.
  - d. Any grant funds received will be applied to the costs of the Program when award is noticed or during the next rate review procedure if the award takes place once a specific rate has been determined, with the intent of directly reducing the monthly fee to the rate payer.
2. Rates for Collection - it is the City's intent to ensure that the rates charged to the citizens for the Multi-family Recycling Program are appropriate and equitable. The monthly fee of \$1.50 per unit will be the established fee for the period of July 1, 1993 through March 31, 1994, billed in the same manner as the refuse collection fee.

Specific rate review procedures will be used by the City which are consistent with the procedures used for normal Refuse Collection. Rate review will consider adjustments for actual sale of Recyclables and Landfill Diversion Credits in previous period compared to original estimated amounts. Shortfalls or overages will be used in determining rates for upcoming periods. Rate review will be conducted as referenced in Section 9 of the Franchise as amended, including the amendment created by Ordinance No. 2104, Rates for Collection. An increase in rates for Multi-family Recycling services will be subject to the same limitations and conditions for Refuse Collection rates listed in Section 9.

- E. Record Keeping and Reports - Grantee agrees to accurately record collection data sufficient to comply with the reporting requirements delineated below and shall file with the City written quarterly and annual reports of Grantee's performance under this ordinance as follows:
  1. Quarterly Program Reports - Within fifteen (15) working days after the last day of each quarter, Grantee shall submit a Quarterly Program report to include, but not be limited to, the following:

- a. Tonnage summaries of all Franchised Recyclables Recovered, by material and including a revenue statement of all sales of Franchised Recyclables from the Program, by material.
  - b. Market price for all Recyclables collected from the Multi-family Recycling Program and sold by the Grantee and/or its processor assignee. The weight receipts and market value for material at the time sold shall be available for inspection by the City.
  - c. Total number of customers served in the Program and resident participation rates in terms of an overall Program average. Any increases to the number of customers serviced shall also be reflected.
  - d. Discussion of problems and noteworthy experiences in the Program operation, to include specifically contamination occurrences, listed by complex. Grantee agrees to monitor each complex at least once per year in order to reflect general participation by complex residents, contamination problems, other problems and assess need for additional public outreach activities.
  - e. Report of all education and community outreach efforts conducted during the quarter.
  - f. Overall assessment of performance during the quarter.
  - g. Recommendations to increase tonnage of Franchised Recyclable materials recovered.
2. Annual Report - On or before July 31 of each year of the term of this ordinance, Grantee shall submit a fiscal year-end annual report to include, but not be limited to, the following:
- a. A collated summary of the information contained in the quarterly reports and a summary of the average overall Program participation rates and tonnages of recovered Franchised Recyclables.
  - b. Discussion of problems and noteworthy experiences in the Program operation, measures taken to resolve problems, increase efficiency and Program participation. Number of complaints listed by type of complaint, i.e., missed pick-up, quality of service, etc., that occurred during the year.
  - c. Report of all education and community outreach efforts conducted during the year and a discussion of their general impact on participation and recovered tonnages.
  - d. Overall assessment of performance during the year.
  - e. Recommendations to increase tonnage of recyclable materials recovered.
  - f. Additional information as necessary to meet State and/or Federal mandated reporting requirements.
- F. Performance Standards - This ordinance for Residential Multi-family Recycling services is subject to the performance standards and franchise conditions detailed in Section 14 Forfeiture of the franchise (ordinance No. 1993). While it is the intent of Section 22 to describe specific Multi-family Recycling collection services to be provided by the Grantee in addition to existing refuse collection and disposal services, Grantee agrees that unacceptable performance of recycling services will be considered severable from its other obligations under the Franchise.

Every reasonable effort must be made by the Grantee to maintain high levels of participation in order to reach the City's established diversion goals and assist in meeting the diversion standards set out in Assembly Bill 939 and the City and County's Mandatory Recycling Ordinances.

- G. Additional Franchise Fee - The Grantee, as part of the consideration of this ordinance, agrees to pay to the City an additional franchise fee at a rate consistent with that paid for refuse collection and detailed in Section 4 Consideration of the Franchise, as amended by Ordinance 2104. This rate will begin at eight percent (8%) of the annual Gross Receipts collected by said Grantee within the City of Chula Vista from residents for the Multi-family Recycling Program within the City, and increase by one-half (1/2) percent in accordance with the refuse and single-family recycling franchise fee increases. However, said franchise fee increase must be approved by City Council. It is understood that any such increase in the franchise fee by the City shall be cause for the Grantee to increase charges in order to "pass through" the cost of the franchise fee.
- H. Term - it is the intent of the City that the term for the provision of Residential Multi-family Recycling Services shall be to the year 2002, subject to a two year notice of cancellation by the City without cause which cannot be tendered sooner than the end of the third year. The services remain cancelable for cause at any time.

**SECTION XXIV: That Section 8.23.230 is hereby added to the Chula Vista Municipal Code to read as follows:**

**Sec. 8.23.230 Residential Yard Waste Recycling Services.**

Grantee shall provide Yard Waste Recycling services to all Single-family Residences and those Multi-family dwellings not serviced by Curbside Collection or by landscapers who haul yard waste from the Multi-family dwelling ("Specified Multi-Family"), on the following terms and conditions:

- A. Exclusivity - The City grants to Grantee, for the term herein specified and subject to such terminations herein allowed, the exclusive right to collect Yard Waste, deposited in Designated Yard Waste Recycling Containers (or alternatively, "Containers") and/or bundles located at Designated Recycling Collection or Storage Location(s) as may be identified for Single-family households and by Specified Multi-family dwellings. This grant of exclusive license is not intended and does not preclude duly licensed landscape contractors, non-profit organizations and community groups from conducting recycling programs for the purpose of raising funds, nor does it preclude a person from selling or otherwise disposing of their own Yard Waste through a landscape contractor, self-haul or composting, so long as said collection, donation or sale does not occur at the Designated Recycling Collection or Storage Location. However, once the Yard Waste has been placed in the Designated Recycling Containers or at a Designated Recycling Collection or Storage Location, the material ("Franchised Recyclables") becomes one of the subject matters of this grant of franchise. The Grantee agrees to cooperate with the City in reaching a modification to this Section to the extent required by law at anytime it should be deemed necessary in the future.
- B. Obligations of Grantee.
  - 1. Implementation Schedule - Grantee shall commence and diligently implement this franchise Citywide from the date of this franchise so that all single-family residences and Specified Multi-Family residential complexes in the City have Yard Waste Recycling Collection service by December 1, 1993.

2. Collection - Grantee shall furnish said labor, services, materials and equipment required to perform this franchise. Grantee shall provide Collection and Removal services for all Yard Waste which is placed in Designated Recycling Containers or in bundles, at Designated Recycling Collection or Storage Locations, as defined by the City of Chula Vista Municipal Code Chapter 8.25, segregated from Refuse, from all Single-family and Specified Multi-Family residences. Grantee shall offer collection of Yard Waste not less than once per week and provide any additional Collection as shall be necessary to prevent overflow of the Exterior Recycling Containers at specified Multi-family Residences. Collection will be on regularly scheduled Refuse Collection days or as negotiated with the City for Single-family residences and as shall be arranged with the building property owner, manager or designated agent thereof for Specified Multi-family complexes. The Grantee and the City will mutually agree to any changes in Collection schedule frequencies or Removal Frequency.

Design of Collection vehicles shall be done to limit the contamination and maximize the salvageable value of the collected Yard Waste. Any and all changes to the established means of Collection of Franchised Residential Recyclables, as herein outlined, shall be notified to the City in advance.

Acceptable materials for collection include all Yard Waste as herein defined, excluding palm fronds, treated or processed wood or lumber, Bulky Waste or any other materials as shall be determined by the City as to not be Salvageable. All acceptable Yard Waste shall be void of nails, wire, rocks, dirt or any other material that is not considered Yard Waste.

3. Containers - Grantee shall purchase and distribute, or otherwise arrange for the distribution of, Designated Recycling Containers, to include the following:
  - a. Yard Waste Recycling Container. A Container on wheels (approximately 65 gallons) to be used for the collection of Yard Waste shall be offered to each eligible Residential customer for purchase or rent. Grantee shall distribute Containers to all customers requesting use of said Containers. The type of Container to be used or changes of Container type shall be approved by the City prior to purchase and distribution. Grantee shall retain ownership of the Containers unless the customer pays in full for the Container, as specified herein.

Paper (kraft) or plastic bags will not be acceptable in the program, unless negotiated between the City and the Grantee. Properly bundled materials, such as tree limbs shall be included in the Collection, as herein defined. Acceptable bundles shall be no longer than four (4) feet in length, no more than eighteen (18) inches in diameter, or no heavier than forty (40) pounds. Bundles may be tied with string or twine only; no wire, plastic or other material may be used. Residents may provide their own "refuse" can-like Container for the purpose of storing the Yard Waste for Collection. This Container must be of the type acceptable by the City for the Collection of Refuse, in accordance with City ordinances. No Container shall be more than 35 gallons in size and weigh more than fifty (50) pounds when used for Storage of Yard Waste for Collection. All Containers used for the Storage of Yard Waste shall be kept so that operational performance allows for maximum hauler Collection efficiency.

Grantee will be responsible for keeping records and making them available to the City regarding additional Containers requested, and the reason for the request, e.g., damaged, stolen, etc.

- b. Exterior Recycling Containers. An appropriate Yard Waste Collection and Storage Container(s) shall be provided for use at each Multi-family complex that meets the space



restraints and Collection needs of the respective complex and the residents therein. Said Containers may include 90 gallon carts on wheels, 2 cubic yard bin or 3 cubic yard bin. Each container shall conform to the following: plastic containers should include recycled plastic content; be fire resistant; be of durable quality and warranty; be heat stamped or labeled for commodity; be clearly labeled on the lids and the front facing of the bin, in Spanish and English (with graphics) as to the Designated Recyclable(s) and "No Trash"; be clearly labeled with the Grantee's name and phone number.

- c. Compost bins. The Grantee agrees to offer Compost Bins to all residents. The Grantee shall arrange for a mechanism that allows for bins to be ordered through the Grantee and sold to residents at the bulk purchasing cost (including shipping and a reasonable handling and administration charge). Compost bin types to be considered should be sturdy and proven state-of-the-art compost design. The Grantee may choose to offer residents a choice of two different models, e.g., one "open composting system" and one "closed." Bins should be composed of scrap waste wood and/or recycled plastic content. Residents shall be allowed to purchase the bins through an ordering system designed by the Grantee, with assistance from the City, that allows for wide distribution of the ordering mechanism (e.g., mail order coupons) to a majority of Chula Vista residents. The franchisee will work with the City to establish and implement the bin ordering system.

The Grantee will work with the City to provide information to the residents on bin delivery and/or pick-up specifics, and on the use of the composting bins, once received. Bins may be dropped or shipped to a central location in the City for pick-up by residents from that site, provided residents are properly notified as to the pick-up point, or as an alternative bins may be delivered directly to residential dwellings.

4. Transportation and Marketing of Franchised Recyclables - Grantee shall transport collected Franchised Recyclables to a central collection and Processing point and shall retain responsibility of the materials, so as to yield the highest possible Salvageable value for the Franchised Recyclables as collected and in accordance with any Processing contract held by the Grantee. No noncontaminated Franchised Recyclables shall be Landfilled, unless approved by the City. Should the collected Yard Waste be unsalvageable, only the City Manager (or designee) of the City of Chula Vista may decide not to collect the affected Yard Waste material. All written contracts, if any, with processors, recyclers or other brokers of Franchised Recyclables shall be submitted to the City.

Franchised Recyclables that are contaminated due to the placement of Refuse in a Designated Recycling Container, or inclement weather that leaves the Franchised Recyclables unsalvageable, may be landfilled. The Grantee shall retain a record of such occurrences and report said occurrences to the City on a quarterly basis. Should contamination of Franchised Recyclables occur at a Single-family or Multi-family complex, said residence shall be notified. Should contamination occur three or more times, said residence shall be notified that they are in violation of CVMC Chapter 8.25 and that said residence is subject to penalties therein described.

In order to allow for the Yard Waste Program to fully assist the City in meeting its AB 939 obligations, the City is interested in having the collected Yard Waste processed for compost or mulch (not biofuel). To this end, the City reserves the right to direct the Grantee to transport the collected materials to a duly permitted composting facility in the South Bay area, if it deems it to be in the best interest of the City. The City will negotiate with the Grantee to allow for the most equitable and beneficial processing of the collected yard waste. City staff will assist in the marketing of material to the extent practical and feasible.

5. Missed Pick-ups - In case of missed pick-up called in by a Single-family Resident or Multi-family complex property manager, owner or designated agent thereof, Grantee shall, where possible, provide Collection within 24 hours. If unable to accommodate due to inadequate notice, the Franchised Recyclables shall be picked-up on the next scheduled collection day and Single-family Resident or Multi-family complex owner, property manager or designated agent thereof is to be notified. If the Designated Recycling Containers are overflowing or otherwise creating a Nuisance as a consequence of a missed pick-up, the Grantee is required to provide Collection within 48 hours of notification of missed pick-up. Information on missed pick-ups shall be logged by Grantee and shall be available to the City.
6. Public Awareness Program - The parties hereto agree to work diligently to formulate promotional plans and/or advertising to encourage Recycling in the City and thereby maximize the mutual benefits of this ordinance. The Grantee, in conjunction with the City, is responsible for promotion, education and outreach activities related to the program. The Grantee will prepare an introductory packet of information regarding the Citywide Yard Waste Recycling program and will distribute such packet to each eligible residence and Specified Multi-family complex owners, property managers or designated agent thereof. The packet shall include, but not be limited to: a) an informational notice, appropriate for hanging on refrigerator or other location indoors, that details all program elements, how residents can participate, proper placement of Yard Waste in Containers or Bundles, the City's mandatory recycling ordinance and recycling hotline phone number; and, b) a general information brochure on composting;

A "pay as you go" sticker designed with a tear-off portion to allow the Yard Waste Collection driver to remove the tear-off portion once the materials are collected shall also be made available to Program participants. The Grantee, with assistance from the City, shall arrange for distribution of the stickers through at least two retail outlets, the Grantee's business location, and other locations, as necessary, to be negotiated.

All promotional materials shall be developed with the City's Conservation Coordinator's or other designated City employee's advise and consultation, from the first step in development, through the final printing and distribution of materials. No materials shall be developed or distributed without the approval of the Conservation Coordinator or other designated City employee. All Introductory Materials shall be fully translated into Spanish, unless otherwise approved by the City. All subsequent materials shall be fully or at least partially translated into Spanish, unless otherwise approved by the City. All program materials shall utilize graphic representation of Designated Recyclables. The franchisee will be required to distribute the City's composting guide (upon resident request) and other City developed yard waste related informational materials; the City will provide copies of guides and City developed materials at no cost to the negotiated franchisee.

The Grantee shall provide to the City a detailed outline of program promotional materials to be developed and outreach activities to be conducted in advance of program implementation. The Grantee will participate in community and school outreach activities during the initial phase of program implementation and provide ongoing outreach activities, to include, community events, media events, make presentations to community groups and businesses on an as needed basis and as directed by the City, and attend County-wide meetings related to recycling, speaking on the City's Yard Waste Recycling Program if needed and directed by the City. The Grantee also agrees to reasonably assist in developing incentives to increase participation and tonnage collected, and to encourage involvement of community and youth groups. All such Yard Waste Program outreach may be conducted in conjunction with the other franchised Recycling programs, upon approval by the City.

The Grantee and the City agree that the main purpose of an aggressive public education program is to increase participation and diversion, as well as limiting contamination of Franchised Recyclables. Beginning in the second year, if, in the City's judgement, it is reasonably determined that the public education effort has not resulted in high enough Program interest, the Grantee will perform reasonable public education activities at the City's direction at a cost to the Grantee to be agreed upon by the City and added to the cost of the Program fee, not to exceed \$.10 per Unit per month. If needed, as part of the educational activities as determined by the City with input from the Grantee, the Grantee will develop incentives to increase participation, such as, offering rewards for program participants that have high participation levels and high tonnage levels.

The Grantee agrees to work with the City to provide ongoing Program monitoring services and quality control to prevent contamination of materials and encourage participation to property managers, to include on-site visitations, as deemed necessary by the Grantee and/or the City.

The Grantee will provide to the City a quarterly accounting of all outreach activities conducted during the previous quarter. The Grantee will also provide an accurate accounting of all costs associated with Program outreach, to include, but not be limited to, costs for designing of outreach materials, printing of outreach materials, etc.

7. Local Manager - The Grantee shall at all times during the term of this ordinance have a local manager charged with the responsibility for supervision of the recycling operations and obligations of the Grantee and agrees to provide, at a minimum, one (1), quarter-time person directly assigned to the Yard Waste Program, whose duties are to include: promotional material development and distribution; program monitoring (including on-site visitations); educational outreach to school children; community outreach and reporting duties.
  8. Anti-scavenging - The Grantee agrees to provide information to all property owners, managers or designated agents there of regarding the City's anti-scavenging ordinance and how to report scavenging occurrences. The Grantee agrees to inform all of its employees of the City's anti-scavenging ordinance on a regular basis and how said employees shall report scavenging occurrences.
- C. Obligations of the City - Subject to the provisions of Paragraph B5 of this ordinance, the City shall have lead responsibility for directing the development and expenditures of the public awareness activities for the Yard Waste Recycling Program.

The City agrees to reasonably enforce all Program specifications. This includes the following: that Single-family residents and Multi-family complexes are allowed to place up to five containers (to be no more than 35 gallons in size each) and/or bundles at the Designated Collection Location per "pay-as-you-go" sticker; the City's mandatory recycling ordinance requirements as they pertain to Yard Waste and as described herein; and, Yard Waste Container specifications.

If during the initial period of the franchise, or any extension thereof, the City discontinues the separate collection of multi-family recyclables and reverts to a Mixed Waste Processing system for commingled collection of waste and recyclables, the City agrees to allow a rate adjustment to permit the Grantee to recover the loss incurred on the sale of vehicular equipment specifically purchased to meet the Grantees obligations under this ordinance. Such loss will be calculated by deducting the realizable market value of the equipment from the reasonably depreciated book value of the equipment at the time of the sale of equipment.

D. Funding and Rates for Collection.

1. Funding Sources - The Residential Yard Waste Recycling Program will be funded by four sources: a monthly recycling fee to all eligible residents (to be billed to the property manager or resident, as with refuse billings); Net revenues from the sale of collected Yard Waste material, at such time as the market provides revenues for Yard Waste; savings in disposal cost of material diverted from the landfill; grant funds when available and awarded.
  - a. A monthly recycling fee, charged to eligible residents is the primary source of funding for this program. In general, it will be allocated equally among the customer base, as determined by Section D.2 below, receiving said Recycling Collection services and will be determined by the Grantee's operating expenses directly attributable to the recycling program, less: any such revenue that shall be received from the sale of the collected Recyclables at such time that the market allows, the savings realized in disposal costs of material diverted from the landfill and any grant funds received for the program.
  - b. All collected Recyclables will be marketed at fair salvageable value, as outlined in Section B.3 above, and any such net revenues as shall be obtained from such sales shall be retained by Grantee as an offset against operating expenses. The City shall be notified of significant changes in fair salvageable values in writing as part of the quarterly reporting requirements.
  - c. Recyclables collected in the Program will be diverted from disposal in the landfill, thereby resulting in a cost savings to the Grantee ("Landfill Diversion Credit"). On a monthly basis, Grantee will determine the recycled material tonnage collected and the resulting Landfill Diversion Credit based on the landfill disposal cost approved by Council for refuse collection rates and will credit this savings during the first year of operation as an offset against operating expenses. When reevaluating program costs in subsequent years, the City agrees to consider Landfill Diversion Credits of less than 100 percent. The amount will be subject to negotiation and the intent is to provide an economic incentive for the Grantee towards increased participation and program success.
  - d. Any grant funds received will be applied to the costs of the Program when award is noticed or during the next rate review procedure if the award takes place once a specific rate has been determined, with the intent of directly reducing the monthly fee to the rate payer.
2. Rates for Collection - It is the City's intent to ensure that the rates charged to the citizens for the Yard Waste Recycling Program are appropriate and equitable. The City hereby establishes the following fees and charges for Residential Yard waste services, based on using the service, using the service with a resident's own container, or using the service with a Laidlaw-provided container, either rented or purchased. These fees and charges are subject to change by the Council by resolution from time to time as the Council determines necessary. The Council directs that the below listed fees and charges shall be placed in the City's Master Fee Schedule, and any amendments hereto shall be by resolution amending said Master Fee Schedule:

Optional Service Levels. Each Item below is in the alternative:

- |  |        |
|--|--------|
| 1. Charge if Resident is Not Using System* | \$0.00 |
|--|--------|

2. Subscription Services, Monthly Fee with Rental
  - A. For Laidlaw Container Rental \$1.00
  - B. For Weekly Collection Services\*\*\* \$2.00\*\*

Total Monthly Fee for Services With Rental \$3.00
3. Subscription Services, Monthly Fee with Purchase of Container.
  - A. For Weekly Collection Services\*\*\* \$2.00
  - B. One-Time Laidlaw Container Purchase Price \$50.00-\$70.00\*
4. Pay-As-You Go Services, Sticker Purchases
  - A. For 5 cans or bundles per Sticker \$1.00

**Notes to Service Charges**

- \* Requires composting of yardwaste (consistent with rules and regulations for composting in Sections 8.25.040 and 8.25.090) or self-haul. Yardwaste may no longer be put in regular trash.
- \*\* Purchase of Laidlaw Container Required If Resident Desires Not to Rent Laidlaw Container. See Item 3 Below.
- \*\*\* Service price entitles Resident to put out weekly 1 Laidlaw container (65 gal) and up to 6 bundles in addition to the Laidlaw container.

Specific rate review procedures will be used by the City which are consistent with the procedures used for normal Refuse Collection. Council intends to provide annual reviews of the aforementioned fees and charges, and currently intends that same shall occur on or about May 31st of each year. Rate review will consider adjustments for actual sale of Recyclables and Landfill Diversion Credits in previous period compared to original estimated amounts. Shortfalls or overages will be used in determining rates for upcoming periods. Rate review will be conducted as referenced in Section 9 of the Franchise as amended, including the amendment created by Ordinance No. 2104, Rates for Collection. An increase in rates for Yard Waste Recycling services will be subject to the same limitations and conditions for Refuse Collection rates listed in Section 9.

- E. Record Keeping and Reports - Grantee agrees to accurately record collection data sufficient to comply with the reporting requirements delineated below and shall file with the City written quarterly and annual reports of Grantee's performance under this ordinance as follows:
  1. Quarterly Program Reports - Within fifteen (15) working days after the last day of each quarter, Grantee shall submit a Quarterly Program report to include, but not be limited to, the following:
    - a. Tonnage summary of all Franchised Recyclables Recovered, by material and including a revenue statement of all sales of Franchised Recyclables from the Program, by material.

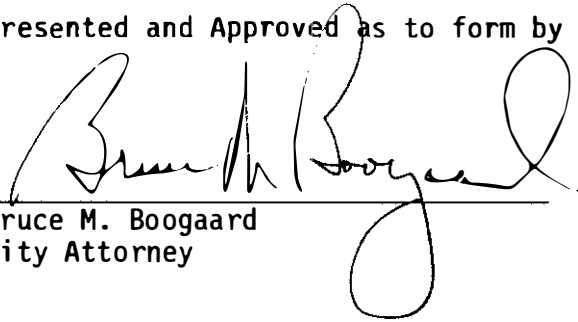
- b. Salvageable value for all Recyclables collected from the Yard Waste Recycling Program by the Grantee and/or its processor assignee. The weight receipts and salvageable value for material at the time processed shall be available for inspection by the City.
  - c. Total number of customers served in the Program and resident participation rates in terms of an overall Program average. Any increases to the number of customers serviced shall also be reflected.
  - d. Discussion of problems and noteworthy experiences in the Program operation, to include specifically contamination occurrences, listed by Residence. Grantee agrees to monitor Program participation to reflect general participation by residents, contamination problems, other problems and assess need for additional public outreach activities.
  - e. Report of all education and community outreach efforts conducted during the quarter.
  - f. Overall assessment of performance during the quarter.
  - g. Recommendations to increase tonnage of Franchised Recyclable materials recovered.
2. Annual Report - On or before July 31 of each year of the term of this ordinance, Grantee shall submit a fiscal year-end annual report to include, but not be limited to, the following:
- a. A collated summary of the information contained in the quarterly reports and a summary of the average overall Program participation rates and tonnages of recovered Franchised Recyclables.
  - b. Discussion of problems and noteworthy experiences in the Program operation, measures taken to resolve problems, increase efficiency and Program participation. Number of complaints listed by type of complaint, i.e., missed pick-up, quality of service, etc., that occurred during the year.
  - c. Report of all education and community outreach efforts conducted during the year and a discussion of their general impact on participation and recovered tonnages.
  - d. Overall assessment of performance during the year.
  - e. Recommendations to increase tonnage of recyclable materials recovered.
  - f. Additional information as necessary to meet State and/or Federal mandated reporting requirements.
- F. Performance Standards - This ordinance for Residential Yard Waste Recycling services is subject to the performance standards and franchise conditions detailed in Section 14 Forfeiture of the franchise (Ordinance No. 1993). While it is the intent of Section 23 to describe specific Yard Waste collection services to be provided by the Grantee in addition to existing refuse collection and disposal services, Grantee agrees that unacceptable performance of recycling services will be considered severable from its other obligations under the Franchise.

Every reasonable effort must be made by the Grantee to maintain high levels of participation in order to reach the City's established diversion goals and assist in meeting the diversion standards set out in Assembly Bill 939 and the City and County's Mandatory Recycling Ordinances.

- G. Additional Franchise Fee - The Grantee, as part of the consideration of this ordinance, agrees to pay to the City an additional franchise fee at a rate consistent with that paid for refuse collection and detailed in Section 4 Consideration of the Franchise, as amended by Ordinance 2104. This rate will be set at eight percent (8%) of the annual Gross Receipts collected by said Grantee within the City of Chula Vista from residents for the Yard Waste Recycling Program within the City unless increased by resolution of the City Council. It is understood that any such increase in the franchise fee by the City shall be cause for the Grantee to increase charges in order to "pass through" the cost of the franchise fee.
- H. Term - it is the intent of the City that the term for the provision of Residential Yard Waste Recycling Services shall be to and until October 21, 2002, subject, however, to the right of the City to cancel same upon giving a two year notice of cancellation by the City without cause which cannot be tendered sooner than the end of the third year from the date of the adoption of the ordinance enacting this Section. The services remain cancelable for cause at any time.

SECTION XXI: This ordinance shall take effect and be in full force and effect on the thirtieth day from and after its adoption.


Presented and Approved as to form by

A handwritten signature in black ink, appearing to read "Bruce M. Boogaard", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Bruce M. Boogaard  
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this ~~21<sup>st</sup>~~<sup>5<sup>th</sup></sup> day of September, 1993, by the following vote:

AYES: Councilmembers: Fox, Horton, Moore, Rindone, Nader  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None  
ABSTAIN: Councilmembers: None

  
\_\_\_\_\_  
Tim Nader, Mayor

ATTEST:

  
\_\_\_\_\_  
Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2569 had its first reading on September 14, 1993, and its second reading and adoption at a regular meeting of said City Council held on the 21th day of September, 1993.

Executed this 21th day of September, 1993.

  
\_\_\_\_\_  
Beverly A. Authelet, City Clerk