

RESOLUTION NO. 2006-13

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING RESOLUTION NO. 2003-148, AND AMENDING COMMERCIAL
HAULER REFUSE FEES**

WHEREAS, the City Council of the City of Elk Grove adopted Ordinance No. 44-2005 on January 11, 2006, (the "Ordinance") which authorizes the City Council to establish Commercial Hauler Refuse Fees (as defined in the Ordinance) payable by Commercial Haulers (as defined in the Ordinance and Section 6.20.600 of the Elk Grove Municipal Code) from time to time by resolution, in accordance with the terms of the Ordinance. The City Council finds and declares that the Commercial Refuse Hauler Fees are established to fund costs, including without limitation, of:

- (1) Administration and enforcement of solid waste contracts, ordinances and the Elk Grove Municipal Code,
- (2) Implementation of solid waste programs required by law (including the City's Source Reduction and Recycling Element, Household Hazardous Waste Element and Non-disposal Facility Element),
- (3) Mitigation of infrastructure impacts related to solid waste program implementation,
- (4) Protecting and promoting the public health and welfare with respect to solid waste, including without limitation, putrescible wastes that may attract vectors, vermin and otherwise comprise a nuisance, and
- (5) Any other costs incurred by the City in accordance with law.

WHEREAS, the City Council wishes to repeal Resolution No. 2003-148 entitled RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ESTABLISHING COMMERCIAL REFUSE HAULER FEES adopted August 6, 2003 (defined in this Resolution as the "2003 Resolution") in which the Commercial Hauler Refuse Fees were initially established at 8% of gross receipts, and replace that Resolution with this Resolution, in which an increasing scale of Commercial Hauler Refuse Fees are newly established to create incentives for Commercial Haulers to divert from disposal Commercial/Industrial Solid Waste (defined as "solid waste" in Public Resources Code Section 40191),

including Construction and Demolition Waste (defined as solid waste comprised of materials such as concrete, brick, wood and other rubble and debris resulting

from renovation, construction and demolition of buildings and other improvements), but

excluding any solid waste collected under a residential collection franchise with the City

which Commercial/Industrial Solid Waste the Commercial Hauler collects within the City in amounts established, calculated and corroborated as provided in this Resolution; and

WHEREAS, the City Council wishes to prescribe how diversion is measured and corroborated and how the Commercial Refuse Hauler Fee is calculated.

NOW, THEREFORE, BE IT RESOLVED AND DIRECTED by the City Council of the City of Elk Grove:

(1) 2003 Resolution Repealed. The 2003 Resolution is repealed in its entirety effective as of the date of this Resolution.

(2) Commercial Hauler Refuse Fee. The City may monthly charge and collect from each Commercial Hauler the Commercial Refuse Hauler Fees in an amount equal to the percentage of the Gross Receipts of the Commercial Hauler scheduled on the following table, at the time, in the form and manner and as otherwise provided in Section 6.20.600 of the Elk Grove Municipal Code:

<i>% of Collected Tonnage that is comprised of Diverted Tonnage</i>	% of Gross Receipts
30% or greater	8%
27% or greater but less than 30%	9%
24% or greater but less than 27%	10%
21% or greater but less than 24%	12%
18% or greater but less than 21%	14%
15% or greater but less than 18%	16%
12% or greater but less than 15%	18%
9% or greater but less than 12%	20%
6% or greater but less than 9%	25%
3% or greater but less than 6%	30%
Less than 3%	35%

The percentage of Gross Receipts will not be interpolated between the whole numbers indicated on the table. For example, if Diverted Tonnage comprises 13% of Collected Tonnage, then the Commercial Refuse Hauler Fee is 18%.

Commercial Haulers will quarterly calculate their Diverted Tonnage (as defined in Section (4) of this Resolution), Collected Tonnage (as defined in Section (5) of this Resolution) and the percent of Collected Tonnage comprised of Diverted Tonnage, which calculations the City may corroborate in accordance with Section (6) of this Resolution. That quarterly diversion calculation determines the amount of the Commercial Refuse Hauler Fee payable on the first day of the third month of the succeeding quarter and of the first and second months of the next succeeding quarter. For example, if a Commercial Hauler diverts not 30% but only 20.2% of Commercial/Industrial Solid Waste during any quarter (for example, Jan 1 – March 31), then on the first day of the third month of the succeeding quarter (for example June 1) and of the first and second months of the succeeding quarter (for example, July 1 and August 1), the Commercial Hauler will pay City a Commercial Refuse Hauler Fee equal to 14% of the Commercial Hauler's Gross Receipts. Note: for the first five months of this program (for example, Jan 1 – May 31) the Commercial Refuse Hauler Fee will remain at the historical 8 %, performance results be become effective on the sixth month of the program.

If a Commercial Refuse Hauler does fully not timely pay its Commercial Refuse Hauler Fee in accordance with Section 6.20.600c of the Elk Grove Municipal Code, then that Commercial Refuse Hauler must pay late payment charges in accordance with Section 6.20.600f of the Elk Grove Municipal Code. For example, if the City's audit of Commercial Refuse Hauler's records or reports in accordance with Section 6.20.610b of the Elk Grove Municipal Code ascertained a payment shortfall, then the Commercial Refuse Hauler must pay the prescribed late charges.

(3) Calculation and example of Commercial Hauler Refuse Fee. Calculation of the Commercial Refuse Hauler Fees will be truncated at 4 decimal places. Fractions less than \$0.01 will not be rounded up to the next \$0.01.

Should Commercial Haulers choose to include amounts equal to the Commercial Refuse Hauler Fee in their charges to their customer, an example calculation of a hypothetical invoice for a customer service charge, fee or rate of \$500, follows:

Commercial Hauler's customer service fee or rate / [100% - Commercial Refuse Hauler

Fee %] = amount Commercial Hauler invoices customer
\$500 / [100% - 8%] = amount Commercial Hauler invoices customer
\$500 / 0.92 = amount Commercial Hauler invoices customer
\$543.48 = amount Commercial Hauler invoices customer

In this example, the amount of Commercial Refuse Hauler Fees that Commercial Hauler pays to the City would be as follows:

$$\$543.48 \times 8\% = \$43.48$$

This example is provided only as a guide and does not obligate Commercial Haulers to include Commercial Refuse Hauler Fees in their customer service charges, fees or rates. How Commercial Haulers collect their customer service charges, fees or rates is the decision of the Commercial Hauler as may be agreed between the Commercial Haulers and their customers.

(4) “Diversion Tonnage”. The amount of diverted Commercial/Industrial Solid Waste (“Diversion Tonnage”) is equal to:

1. the tons of Commercial/Industrial Solid Waste that a Commercial Refuse Hauler collects in the City and delivers to a materials recovery facility or a site or other facility that does not report disposed tonnage to the California Integrated Waste Management Board (CIWMB) or other State of California board, department or agency, minus
2. the tons of residue remaining after processing that Commercial/Industrial Solid Waste that a facility allocates to the City and reports to the CIWMB in compliance with disposal reporting requirements in accordance with applicable law.

(5) “Collection Tonnage”. The amount of Commercial/Industrial Solid Waste that a Commercial Hauler collects in the City (“Collection Tonnage”) is equal to the aggregate amount of that Commercial/Industrial Solid Waste that the Commercial Hauler delivered to solid waste management facilities and that those solid waste management facilities report to the CIWMB in compliance with disposal reporting requirements under applicable law.

(6) Corroboration of Tonnages. Contractor will calculate, and City may corroborate, tonnages by written documentation acceptable to City, including, without limitation: weigh tickets; invoices; bills of lading; receipts from recyclables transporters, shippers,

brokers, beneficiators, remanufacturers and purchasers or other users; and disposal reports to the CIWMB or other State of California board, department or agency.

Documentation is subject to allocation adjustment in accordance with Section (7) of this Resolution if a Commercial Hauler commingles in a single waste collection vehicle or container tonnage collected in the City with tonnage collected outside the City.

Commercial Haulers will provide City with copies of documentation within 7 days of City's direction.

(7) Allocation of Commingled Materials. If a Commercial Hauler commingles in a single waste collection vehicle the tonnage that the Commercial hauler collected in the City with tonnage that the Commercial Hauler collected outside the City, then the Commercial Hauler will determine Collection Tonnage as follows.

The total weight of a collection vehicle's load in tons will be divided by:

1. the aggregate cubic yard capacity (Commercial Route Capacity) of containers that a Commercial Hauler collects with that vehicle in the City, plus
2. the aggregate cubic yard capacity (Other Route Capacity) of containers that the Commercial Hauler collects with that vehicle outside the City,

based on its written records of customers' service, including customer service subscription orders and invoices. The conversion ratio for carts that have capacities measured in gallons rather than cubic yards, is 200 gallons to one cubic yard.

The resulting average tons/cubic yard will be multiplied by the Commercial Route Capacity.

Upon City direction, the Commercial Hauler will promptly supply City with documentation supporting allocation calculations, including route collection maps and sheets, and totals of containers by size and capacity. If City disagrees with the allocation calculations, it may correct the calculations. The Commercial Hauler will be bound by those corrections.

(8) Definitions. Capitalized terms used in this Resolution not otherwise defined in this Resolution, have the meaning defined in the Ordinance.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 25th day of January 2006.



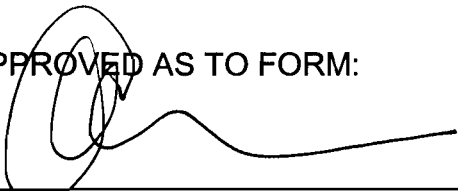
RICK SOARES , MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY



**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2006-13**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 25th day of January, 2006 by the following vote:

AYES 5: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary

NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:



**Peggy E. Jackson, City Clerk
City of Elk Grove, California**

