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**ORDINANCE NO. 44**

**AN ORDINANCE OF THE MIDWAY CITY SANITARY  
DISTRICT OF ORANGE COUNTY, CALIFORNIA,  
REGULATING THE COLLECTION, TRANSFER AND  
REMOVAL OF SOLID WASTE**

WHEREAS, the California Integrated Waste Management Act of 1989 (hereinafter the "Act") requires the Midway City Sanitary District of Orange County, California (hereinafter "District") to divert twenty-five percent (25%) of all solid waste landfill by 1995 and fifty percent (50%) by 2000; and

WHEREAS, the Board of Directors of the District (hereinafter "Board") has determined that the present system of commercial and residential bin service within the District is an inefficient system for complying with the mandates of the Act; and

WHEREAS, the Board has determined that the most inexpensive and efficient method of complying with the Act is to limit the commercial and residential bin service within the District to a single entity; and

WHEREAS, the Board believes that the public health, safety and well-being will best be served by granting an exclusive franchise for the collection, transfer and removal of solid waste; and

WHEREAS, Public Resources Code Section 49520 provides that rubbish collectors who have been Permittees for three years may continue to provide such services up to five years after

mailed notification of the District's intent to enter into an exclusive Franchise Agreement; and

WHEREAS, the Board adopted Resolution No. 783 declaring the District's intent to enter into an exclusive franchise agreement for the collection, transfer and removal of all solid waste disposed of in commercial and residential bins.

NOW, THEREFORE, the Board of Directors of the Midway City Sanitary District of

1 Orange County, California, **DOES HEREBY ORDAIN AS FOLLOWS:**

2 **Section 1: Definitions**

3 The terms used in this Ordinance are defined as follows:

4 1.1 "Bulky Waste" shall mean large, heavy or otherwise difficult to handle items,  
5 including but not limited to, stoves, refrigerators, water tanks, water heaters, tree stumps or  
6 other waste materials with weights or volumes greater than those allowed for containers.  
7

8 1.2 "Commercial Units" shall mean all commercial, industrial and institutional  
9 facilities within the District which utilize bins for disposal of solid waste.

10 1.3 "Curbside Service" shall mean that service provided solely by the District by  
11 which solid wastes in containers of less than 50 pounds are collected and disposed.  
12

13 1.4 "Dead Animals" shall mean animals or portions thereof equal to or greater than  
14 ten pounds which have died from any non-infectious cause (except those slaughtered or killed  
15 for human use). Dead animals may be included as part of the normal garbage and refuse  
16 collection only in the event that such collection is allowed and authorized by the County Health  
17 Officer.  
18

19 1.5 "Disposal Site" shall mean a solid waste facility including, but not limited to,  
20 sanitary landfills, transfer stations, material recovery facilities, and waste processing/separation  
21 centers that are licensed, permitted or approved by all governmental bodies and agencies having  
22 jurisdiction.

23 1.6 "Extremely Hazardous Waste" shall mean any hazardous waste or mixture of  
24 hazardous waste which, if human exposure should occur, may likely result in death, or disabling  
25 personal injury or illness.  
26

27 1.7 "Hazardous Waste" shall mean any waste material or mixture of wastes which are  
28 toxic, corrosive, flammable, an irritant, a strong sensitizer, which generate pressure through

1 decomposition, heat or other means, if such wastes may cause substantial personal injury,  
2 serious illness or harm to wildlife, during, or as a proximate result of any disposal of such waste  
3 or mixture of wastes. The terms "toxic", "corrosive", "flammable", "irritant", or "strong  
4 sensitizer" shall be given the same meaning as found in Health and Safety Code Section 28740  
5 et seq.

6  
7 1.8 "Multi-Residential Units" shall mean permanent buildings containing five (5) or  
8 more residential units which utilize bins for disposal of solid waste including, but not limited to,  
9 condominiums, apartment houses, hotels, motels, mobile home parks, travel trailer parks, and  
10 recreational vehicle parks.

11 1.9 "Permit Documents" shall mean the permit requirements, permit specifications,  
12 performance bonds and the actual permit.

13  
14 1.10 "Permittee" shall mean any person who has been issued a permit or license to  
15 collect, transfer, or remove solid wastes under the provisions of this Ordinance.

16 1.11 "Person" shall mean any individual, entity, partnership, corporation or business  
17 enterprise.

18 1.12 "Residential Unit" shall mean either a single-family residential unit or a duplex  
19 residential unit that requires waste collection service. A residential unit shall be deemed  
20 occupied when either water or domestic light and power services are being supplied thereto. A  
21 duplex is considered to be two attached residential units. This definition shall also apply to  
22 mobile home subdivisions where the mobile home lot is individually owned.

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24 1.13 "Solid Waste" shall mean garbage, rubbish or construction waste as herein after  
25 defined.

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27 a. "Garbage" shall include all kitchen and table food waste, animal waste, vegetable  
28 waste, and all household waste or residue resulting from the preparation, storage,

1 cooking, handling or treatment of food and shall also include putrescible waste  
2 as defined in California Administrative Code, Title 14, Section 17225.52 or any  
3 amendments thereto.

4  
5 b. "Rubbish" shall mean all non-putrescible waste matter or debris, manure,  
6 including combustible or non-combustible materials that result from normal  
7 household, community and business activities, including grass clippings, tree  
8 trimmings, litter, wood, plastics and similar materials, but not including bulky  
9 waste, construction or demolition waste as defined in California Administrative  
10 Code, Title 14, Sections 17225.8 and 17225.15 or any amendments thereto, nor  
11 car bodies, rocks, tree stumps or source separate materials having commercial  
12 value and intended for reuse, recycling or resale.

13  
14 c. "Construction Waste" shall mean all non-hazardous waste material and rubble  
15 resulting from the construction, alteration, repair or demolition of buildings, or  
16 from the development of real property which is customarily handled and  
17 transported by means of roll-off boxes, bodies or containers.

18  
19 1.14 "Solid Waste Collector" shall mean any person who operates collection routes for  
20 the removal of solid waste from commercial or industrial premises.

21  
22 1.15 "Transfer Station" shall include those intermediate waste handling facilities where  
23 solid wastes are transferred from hauling vehicles to a transfer vehicle and where the solid waste  
24 or portion thereof may undergo incidental processing, recycling or further handling before  
25 transportation to disposal sites or other facilities.

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27 1.16 "Transfer Vehicle" shall mean a vehicle or roll-off unit used to transport solid  
28 waste from a transfer station to a landfill, or other processing facility.

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1            **Section 2:    Solid Waste Removal Responsibility**

2            2.1    Every owner utilizing the District's curbside service shall, not less than once a  
3 week, cause to be removed all solid waste created or brought upon the property to an approved  
4 disposal facility. The District shall furnish all curbside service, both residential and commercial.  
5

6            2.2    All multi-residential units, as defined herein, shall utilize bin service either by the  
7 District or a District Permittee or Franchisee. Utilization of the District's curbside service may  
8 be allowed for good cause, but subject to the sole discretion and only upon written approval of  
9 the District's General Manager.

10           2.2.1   The ratio of bins to the number of dwelling units shall be a minimum of  
11 one for every 10 dwelling units. For good cause, the ratio may be increased to 12, but  
12 shall be in the sole discretion of the District's Refuse Foreman.  
13

14           2.2.2   Notwithstanding the provisions of Subsection 2.2.1, a sufficient number  
15 of bins shall be provided in multi-residential units, even if in excess of the minimum  
16 number required in Subsection 2.2.1, so that there is a maximum of 300 linear feet from  
17 the access door of any residential unit receiving bin service and the nearest bin.  
18

19           2.3    Every owner of a construction or demolition site shall, not less than once a week,  
20 cause to be removed all solid waste created, produced or brought upon the property to an  
21 approved disposal facility. Every person in charge of a commercial unit shall, not less than once  
22 a week, cause to be removed from the property upon which the building is located all solid  
23 waste created, produced, or brought upon the property. Reduced collection may be allowed upon  
24 written approval by the Board.  
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26           2.3.1   All solid waste in or about any residential, commercial or industrial  
27 building shall be deposited in commercial solid waste bins or suitable  
28 containers. All solid waste bins and other suitable containers shall be

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leak-proof and bins shall be covered if any garbage is placed therein.

a. No container shall exceed 32 gallons in size or have a loaded weight in excess of 50 pounds, except where mechanical loading systems are utilized.

b. No container shall be placed adjacent to a street for collection more than 24 hours prior to collection time. All containers shall be removed from the street location within 12 hours after collection and shall be maintained in an area not visible from the street.

2.3.2 Arrangements shall be made by the users of commercial and residential bins and the bin service provided for placement of the containers so as to minimize traffic, aesthetic and other problems, both on the property and for the general public.

2.4 Dead animals and bulky waste shall not be set out for collection. Bulky waste shall be collected only during District cleanups or by contractual arrangement between the business and the District.

2.5 A Permittee or Franchisee shall not place in service any container found to be in a deteriorated condition as determined by the District's Refuse Foreman.

2.6 Tree trimmings and brush shall be cut into four-foot lengths and tied in bundles not larger than 24 inches in diameter. Trimmings shall not be placed in containers.

2.7 Commercial unit pick up shall be made between the hours of 6:30 A.M. and 5:00 P.M. of any day, Monday through Saturday. Earlier or later pick up time may be authorized only upon prior written approval of the Board, which shall require the solid waste collector to notify the affected customers prior to implementing the change.

1           2.8    Multi-residential and residential unit pick up shall be made between the hours of  
2 7:00 A.M. and 5:00 P.M. of any day, Monday through Saturday. Earlier or later pick up time  
3 may be authorized only upon prior written approval of the Board, which shall require the solid  
4 waste collector to notify the affected customers prior to implementing the change.  
5

6           **Section 3:   Exclusive Franchise/Provision for Interim Permits**

7           3.1    The Board hereby declares that it is necessary and is in the interest of public  
8 health, safety, welfare and the convenience of the residents and businesses of the District, to  
9 provide for the collection, transfer and removal of commercial and residential bin solid waste  
10 in the District by exclusive franchise.

11           3.2    The Franchisee shall comply with all applicable provisions of this Ordinance, any  
12 amendments thereto, and all applicable implementing resolutions provided for by this Ordinance.

13           3.3    The Board hereby reserves the right to determine by resolution, the exclusive  
14 Franchisee and the terms and conditions of the franchise agreement.

15           3.4    The adoption of Resolution No. 783 and subsequent mailing to all District solid  
16 waste collectors provided notice to all District solid waste collectors previously authorized to  
17 collect, transfer and remove solid waste within the District's boundaries that exclusive solid  
18 waste handling services are to be provided. District solid waste collectors who are legally  
19 providing solid waste handling service may continue to provide such services for up to five years  
20 from the date of the adoption of Resolution No. 783.

21           3.5    District Permittees who qualify under Section 3.4 to continue to provide solid  
22 waste handling service for up to five years, but who are not selected as the Franchisee, shall  
23 obtain an annual permit from the District. The terms and conditions for such permit are set forth  
24 in Section 5.  
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26           3.6    The Board reserves the right to establish the annual permit fees by resolution.  
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**Section 4: Prohibitions**

4.1 No person shall collect, transfer or remove solid waste in the District without a valid permit issued by the District or a franchise agreement with the District. Upon the effective date of the franchise agreement, only the Franchisee will be authorized to collect commercial and residential bin solid waste from new business in the District. Businesses which in the future locate in structures completed and existing as of the effective date of this Ordinance shall not constitute new business for the purposes of this Section.

4.2 Exempted from the foregoing prohibition are the following:

4.2.1 A person may haul solid waste generated from his own residence.

4.2.2 A business may remove commercial or industrial solid waste produced in the course of its own business, if the business utilizes only its own employees and equipment. Such a business shall not be required to obtain a permit, but is required to use equipment meeting the standards set forth in this Ordinance.

4.2.3 Construction contractors, subcontractors, building remodeling contractors and demolition contractors, may haul their own construction debris and waste provided they utilize only their own employees and equipment.

4.2.4 The Midway City Sanitary District.

**Section 5: Permits**

5.1 Issuance of Permits.

5.1.1 Until five (5) years from the effective date of Resolution No. 783, the Board hereby establishes a permit system to regulate the collection, transfer, and removal of solid waste by granting permits to qualified applicants who meet the standards set forth in this Ordinance, and to



1 revoke permits where a Permittee has failed to meet those standards or has  
2 violated the laws or ordinances applicable to solid waste collection,  
3 transfer and removal.

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5 5.1.2 Any permit issued under this Ordinance may be revoked or suspended by  
6 the Board for cause. In such instances, a written notice of revocation or  
7 suspension shall first be delivered in person or by certified mail to the  
8 Permittee's business address. Such notice shall state the grounds for  
9 revocation or suspension.

10 5.2 Existing District Solid Waste Collectors.

11 A solid waste collector who is lawfully providing solid waste collection, transfer, or  
12 removal services in the District on the effective date of Resolution No. 783, and who holds a  
13 valid permit or license issued by the District, shall be granted a renewable annual permit or  
14 license for a period of five (5) years from the adoption of Resolution No. 783, provided that  
15 such solid waste collector otherwise qualifies for a permit by meeting all applicable requirements  
16 of this Ordinance.

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18 5.3 Performance Bond

19 A Permittee or Franchisee may be required, at the Board's discretion, to furnish a  
20 performance bond as security for the faithful performance of the permit or franchise, as  
21 applicable. Said performance bond shall be in the amount as set forth in Section 6.7.1 of this  
22 Ordinance.

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24 5.4 Applications for Renewal of Permit

25 5.4.1 Annual applications for renewal of an existing permit for the collection,  
26 transfer, or removal of solid waste, shall be submitted to the Board upon  
27 forms provided by the District at least thirty (30) calendar days prior to  
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1 the end of the calendar year and shall contain such information as required  
2 by this Ordinance. An application for a District permit by a current  
3 District solid waste collector authorized to operate within the District shall  
4 be deemed to be an application for renewal of an existing permit.  
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6 5.4.2 The annual fee for renewing existing permits shall be as established by  
7 resolution of the Board. Transfer vehicles will be permitted in  
8 conjunction with permitted transfer stations and shall be deemed to have  
9 satisfied the need and necessity requirement.

10 5.5 Revocation of Permits.

11 A permit may be revoked or suspended by the Board whenever the Permittee has violated  
12 a material provision of this Ordinance or State rules or regulations, or is in non-compliance with  
13 a resolution of the Board or for failure of performance as defined in Section 6.9 of this  
14 Ordinance. In such instance, a written notice of intended revocation or suspension as proposed  
15 by the Board shall first be delivered in person or by certified mail to the business address of the  
16 Permittee appearing on the permit application. The written notice shall state the grounds for the  
17 proposed revocation or suspension.  
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19 5.6 Appeals.

20 A Permittee may appeal any proposed suspension or revocation by filing a written request  
21 for a hearing before the Board with the Secretary of the Board not more than thirty (30) calendar  
22 days after notice of the suspension or revocation has been given. Upon receipt of a written  
23 request for a hearing, the Board shall set the matter for public hearing on a date not more than  
24 sixty (60) calendar days following receipt of such written request and shall give the applicant  
25 or Permittee and the Board, at least thirty (30) calendar days written notice of the time, date,  
26 and place of the hearing. The Board shall issue its written decision and findings on the appeal  
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1 within fifteen (15) working days after the close of the hearing. Such decision shall be final.

2 **Section 6: Specifications**

3 6.1 **Type of Service Provided.**

4 A Permittee or Franchisee shall provide collection service for all commercial or multi-  
5 residential units on their respective collection routes on a frequency as contained in Section 2.1  
6 of this Ordinance and in accordance with a schedule proposed and published by the Permittee  
7 or the Franchisee.  
8

9 6.1.1 A Permittee or Franchisee shall be required to collect all solid waste as  
10 herein defined, from each commercial or multi-residential unit on its  
11 collection routes without regard to the amount of solid waste which may  
12 be placed out for collection by the occupants of the unit.  
13

14 6.1.2 A Permittee or Franchisee shall provide bin collection service for  
15 commercial and multi-residential units pursuant to the requirements of this  
16 Ordinance.  
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18 6.1.3 In order to prevent problems of traffic, noise, wear and tear on the  
19 highway, or other problems having the potential to adversely affect health,  
20 or safety, the Board reserves the right to regulate the routes, intervals,  
21 delivery points, and times for collection by all Permittees and the  
22 Franchisee.

23 6.2 **Operation.**

24 A Permittee or Franchisee shall take all steps as may be reasonable and necessary in  
25 order to assure that the collection of solid waste is completed in a timely and efficient manner.  
26

27 A Permittee or Franchisee shall maintain customer relations phone lines from 8:00 a.m. to 5:00  
28 p.m., Monday through Friday, and during hours of service on Saturdays if any solid waste

1 collection service is provided on Saturday. The number of local phone lines provided shall be  
2 sufficient to adequately serve the public.

3 6.2.1 Holidays.

4 For the purpose of this Ordinance, the following days shall be holidays:

- 5 a. New Year's Day (January 1st)  
6 b. Memorial Day (4th Monday in May)  
7 c. Independence Day (July 4th)  
8 d. Labor Day (1st Monday in September)  
9 e. Thanksgiving Day (4th Thursday in November)  
10 f. Christmas Day (December 25th)

11 Whenever Christmas, New Year's Day or Independence Day falls on a  
12 Sunday, the holiday shall include the following Monday. Additional  
13 holidays will be observed whenever landfills, transfer stations, or any  
14 disposal sites are closed. In the event a holiday falls upon a normal  
15 collection day, the permittee shall make adequate provisions for the  
16 collection of solid waste to be made at least once during the week in  
17 which the holiday occurs. Such collection of solid waste after the holiday  
18 may be delayed by one (1) day for the remainder of the week.

19 6.2.2 Handling of Complaints.

20 Prior to the issuance of an annual permit pursuant to this Ordinance, a  
21 Permittee or Franchisee shall file with the Board, a written procedure to  
22 resolve complaints. Each Permittee and Franchisee shall directly receive  
23 and fully process all complaints associated with the service provided.  
24 Each Permittee and Franchisee shall give prompt, courteous attention to  
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all complaints and resolve them to the satisfaction of the Board.

a. Each Permittee and Franchisee shall maintain a written log of all complaints (oral or written), listing the following information:

- (1) the date and time the complaint was received;
- (2) the complainant's name, address and telephone number;
- (3) the date and time of the incident which is being complained of;
- (4) the nature of the problem; and
- (5) the date and a description of the final action taken on the complaint;

b. The complaint log shall be available for inspection by the Board or its designee at all reasonable times. Records of complaints and dispositions shall be kept a minimum of two (2) years and shall be submitted to the Board upon request.

6.2.3 Hauling.

All solid waste collected by a Permittee or Franchisee shall be so contained, tied or enclosed to prevent leaking, spilling or blowing.

6.2.4 Disposal.

All solid waste collected by a Permittee or Franchisee shall be hauled to a disposal site as defined herein. The District reserves the right to designate a disposal site by resolution.

6.2.5 Weather and Conditions.

Each Permittee and Franchisee shall be responsible for providing solid waste collection services in all weather and road conditions, provided it

1 can be undertaken safely and within reasonable expectations, and shall  
2 make reasonable efforts, including but not limited to, the use of additional  
3 trucks and personnel, to continue to provide reliable service. A Permittee  
4 or Franchisee shall advise the Board if collection services cannot be  
5 carried out as required by this Ordinance. Solid waste collection services  
6 shall be provided as close to the same time and same day each week as is  
7 reasonably possible.  
8

9 6.2.6 Labor Disputes.

10 In the event of war, riot, strike and/or labor disputes, during which time  
11 a Permittee or Franchisee is unable to perform services under the terms  
12 of this Ordinance and as a result thereof, a public hazard or public  
13 nuisance is deemed to exist as determined by the District, then, a  
14 Permittee or Franchisee shall permit the District to temporarily assign or  
15 lease, at District's risk, the Permittee's or Franchisee's collection and  
16 disposal vehicles, on such schedules and in such numbers as are  
17 determined to be necessary by the District, to continue service and to  
18 eradicate the health hazard or nuisance. All costs thereof which would  
19 have been incurred by a Permittee or Franchisee had it not been for the  
20 war, riot, strike and/or labor dispute, including cost of the operation,  
21 maintenance of the vehicles, insurance, costs of laborers or drivers, other  
22 help employed in rendering collection and disposal services, shall be  
23 payable by Permittee and the Franchisee to the District and may be  
24 deducted from any monies due the Permittee or the Franchisee.  
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1           6.3    Equipment and Personnel.

2           Each Permittee and Franchisee shall provide an adequate number of vehicles and crew  
3 members for regular collection services. Each Permittee and Franchisee shall designate, on  
4 forms supplied by the District, the number of vehicles to be assigned along with personnel  
5 necessary to operate and support the vehicles.  
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7           6.3.1   Maintenance Yard.

- 8                   a.    Collection and transfer vehicle parking/service yards shall be  
9                            maintained in a clean and safe condition.
- 10                   b.   Parking areas shall be clearly delineated and vehicles not in service  
11                            shall be clearly identified.
- 12                   c.   Vehicle and container washing facilities shall adequately drain to  
13                            an approved subsurface disposal system. The entire lot shall be  
14                            adequately sloped for drainage control.
- 15                   d.   All solid waste containers stored at the yard shall be kept in a  
16                            clean and empty condition.  
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18           6.3.2   Containers.

- 19                   a.   Each Permittee and Franchisee shall place and maintain, on the  
20                            outside of all commercial and industrial containers of more than  
21                            one (1) cubic yard capacity, in legible letters and numerals, not  
22                            less than three (3) inches in height, the Permittee's firm name or  
23                            DBA and telephone number.
- 24                   b.   Each Permittee and Franchisee shall, at all times, keep such  
25                            containers and lids leak-proof and in good repair.
- 26                   c.   It shall be the responsibility of the user of the containers to provide  
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1 a clean and safe area for the storage thereof and to maintain such  
2 area and containers in a clean and safe condition acceptable to the  
3 District.  
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5 6.3.3 Vehicles.

- 6 a. Each vehicle shall have clearly visible, on each side, the identity  
7 and telephone number of the Permittee or exclusive Franchisee, in  
8 a size of not less than three (3) inches.  
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10 b. All vehicles shall be kept in good repair, good serviceable order,  
11 recently painted with an acceptable appearance, not leaking oil or  
12 other fluids and maintained in a condition acceptable to the  
13 District.  
14 c. All vehicles must meet OSHA requirements (including backup  
15 alarms) and be equipped with communication equipment capable  
16 of communicating with the Permittee's or Franchisee's office.  
17 d. Vehicles shall carry a shovel, broom, fire extinguisher and first aid  
18 kit.  
19 e. Each Permittee and Franchisee shall cause their respective  
20 collection vehicles to be inspected by the California Highway  
21 Patrol annually, and a report of said inspection shall be provided  
22 to the Board upon request.  
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24 6.4 Indemnity.

- 25  
26 6.4.1 Each Permittee and Franchisee shall, at all times, act as an independent  
27 contractor, and neither a Permittee nor a Franchisee, their respective  
28 agents or employees, shall be considered agents or employees of the



1 District. Further, a Permittee and a Franchisee, their respective agents or  
2 employees, shall have no authority to bind the District, in any manner or  
3 on any matter, whatsoever.  
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5 6.4.2. Each Permittee and Franchisee shall defend, indemnify, and hold  
6 harmless, the District, its officers, agents, and employees from any and  
7 all claims, demands, expenses, costs, suits, actions, legal proceedings, and  
8 attorneys' fees incident to any work done in the performance of their  
9 permit or franchise, arising out of willful or negligent acts or omissions  
10 of the Permittees, Franchisee, their respective officers, agents, and  
11 employees; provided, however, that a Permittee or Franchisee shall not  
12 be liable for any suits, actions, legal proceedings, claims, demands,  
13 damages, costs, expenses and attorneys' fees, arising out of the sole  
14 willful or negligent act or omission of the District, its officers, agents, or  
15 employees.  
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17 6.4.3. Each Permittee and Franchisee shall defend, indemnify, and hold  
18 harmless, the District, its officers, agents, servants and employees, from  
19 and against any and all suits, actions, legal proceedings, claims, demands,  
20 damages, losses, costs, expenses and attorneys' fees, incident to, or  
21 arising out of the application for, the issuance of, or operations conducted  
22 under, any permit issued or applied for or any exclusive franchise award  
23 pursuant to this Ordinance.  
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25 6.5 License and Taxes.  
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27 Each Permittee and Franchisee shall maintain at their respective own expense, all  
28 required licenses and permits and shall promptly pay all taxes required by the City, County,

1 State and Federal government.

2 6.6 Insurance.

3 6.6.1 Each Permittee and Franchisee shall, at all times during the term of the  
4 permit or franchise agreement, as applicable, maintain in full force and  
5 effect Employer's Liability Insurance, Worker's Compensation Insurance,  
6 Public Liability and Property Damage Insurance, including liability  
7 coverage. All insurance shall be by insurers and for policy limits  
8 acceptable to the District. Before commencement of any service under  
9 this Ordinance, a Permittee or Franchisee shall furnish the District with  
10 certificates of insurance, or other evidence satisfactory to the District,  
11 indicating that the required insurance has been procured and is in force.  
12 The certificates shall name the District as an additional insured and shall  
13 contain the following express obligation:  
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16 "This is to certify that the policies of  
17 insurance described herein have been  
18 issued to the insured for whom this  
19 certificate is executed and are in  
20 force at this time. In the event of  
21 cancellation or material change in a  
22 policy affecting the certificate  
holder, thirty (30) calendar days  
prior written notice will be give the  
certificate holder and additional  
insured."

23 6.6.2 The certificates for Public Liability Insurance and Property Damage  
24 Insurance shall provide that the coverage afforded is primary and not  
25 contributing.  
26

27 6.6.3 For the purposes of obtaining and maintaining a permit or a franchise,  
28 each Permittee and Franchisee shall carry insurance of the types and with

1 the minimum limits as specified by resolution of the Board.

2 6.6.4 As an alternative to the above, a Permittee or Franchisee may qualify with  
3 a bona fide plan of self-insurance containing at least the following four  
4 components:

5 a. The company shall have an actuarial study done by a Big Eight  
6 C.P.A. firm, at least every two (2) years, which study projects the  
7 same levels of insurance as stated in the resolution for insurance  
8 requirements.

9  
10 b. The company shall fund a separate, trackable fund for  
11 self-insurance on its financial statements.

12 c. The company shall fund the actuarial contribution at 100% of a  
13 reasonable confidence level.

14 d. The company shall submit to the Board the actuarial study and  
15 supporting documentation to show adequate levels of funding.  
16

17 6.6.5 In the event a Permittee's or Franchisee's insurance coverage fails or  
18 lapses, the permit or franchise issued shall terminate immediately, and the  
19 Permittee or Franchisee shall be deemed in default.  
20

21 6.6.6 Each Permittee and Franchisee shall have a duty to promptly notify the  
22 District's General Manager of any cancellation or non-renewal of  
23 insurance coverage.

24 6.7 Bonds.

25 6.7.1 Security Bond. A Permittee or Franchisee may be required to  
26 furnish and pay for a corporate surety bond as security for performance  
27 under the permit or franchise. The amount of the bond shall be the  
28

1 average of two-months expected gross income, or \$25,000, whichever is  
2 greater. The Board shall have the right to require a surety bond in the  
3 above-described amount, such right to be dependent upon the reasonable  
4 need thereof, as may be determined by the Board. If so determined, the  
5 premium shall be paid at the sole expense of the Permittee or Franchisee.  
6

7 6.7.2 Authorized Company. The surety on the bond shall be a company  
8 acceptable by the District and shall be a corporate surety company  
9 authorized to do business in the State of California.

10 6.8 Power of Attorney.

11 Attorneys-in-fact who sign performance bonds or permit bonds must file with each bond,  
12 a certified, effectively dated copy of their power of attorney.  
13

14 6.9 Failure to Perform.

15 6.9.1 A Permittee or the Franchisee shall be deemed to have failed to perform  
16 in the following circumstances:

- 17 a. Failure to provide the services indicated; or  
18  
19 b. Bonafide complaints, by phone or in writing, and subsequent  
20 District investigation that verifies significant failure to provide  
21 adequate service; or  
22  
23 c. Failure to comply with the terms of this Ordinance, a District  
24 regulation, state or federal law; or  
25  
26 d. A decision by the Board, after a meeting with a Permittee or the  
27 Franchisee, outlining problems deemed to be unacceptable.  
28

6.9.2 A Permittee or Franchisee shall be given a specified three (3) month  
probationary period during which the problems, outlined in writing by the

1 District, must be resolved to the satisfaction of the Board. The criteria  
2 used by the District in evaluating a Permittee's or Franchisee's  
3 performance during this probationary period shall be the following:

- 4 a. Continuing complaints (has the Permittee or Franchisee solved the  
5 problem?); or  
6  
7 b. Responsiveness by a Permittee or Franchisee (how quickly and  
8 with what quality and degree of effort did a Permittee or  
9 Franchisee resolve the problem?)

10 6.10 Insolvency.

11 If, at any time during the term of a permit, or during the term of the franchise  
12 agreement, a Permittee or Franchisee becomes "insolvent", as hereinafter defined, then the  
13 permit or franchise, as applicable, and the rights and privileges granted thereby, shall  
14 immediately cease without notice and without suit or other proceedings. For purposes of this  
15 section, "insolvent" shall mean any one of the following events:

17 6.10.1 Bankruptcy proceedings as commenced by or against a Permittee  
18 or Franchisee, their respective parent corporations or owners;

19 6.10.2 The appointment of a receiver for any property of a Permittee or  
20 Franchisee, their respective parent corporations or owners; or

21 6.10.3 Assignment, whether voluntary or involuntary, for the benefit of  
22 a Permittee's or Franchisee's creditors or creditors of the  
23 Permittee's or Franchisee's parent corporations or owners.  
24

25 6.11 Transferability of Permit.

26 No assignment or transfer, whether voluntary or involuntary, of the permit issued under  
27 this Ordinance or a franchise agreement permitted by this Ordinance or any right thereunder,  
28

1 shall be made in whole or in part by a Permittee or Franchisee without the express, prior,  
2 written views and consent of the Board. A decision on such transferability by the Board shall  
3 rest within the sole discretion of the Board and shall be rendered within sixty (60) calendar days  
4 of receipt of such request by a Permittee or Franchisee.  
5

6 6.12 Hazardous Waste.

7 6.12.1 A permit obtained under this Ordinance shall not authorize the  
8 collection, handling, or disposal of hazardous or extremely  
9 hazardous waste.

10 6.12.2 In the event that a Permittee or Franchisee collects or hauls  
11 hazardous or extremely hazardous waste, the Permittee or  
12 Franchisee shall immediately notify, by telephone and in writing,  
13 the Board, the Orange County Health Officer and the local fire  
14 agency. The following information shall be provided:

- 15 a. Name, address, and telephone numbers of the collector.  
16  
17 b. Name, address, and telephone number of the facilities from  
18 which the hazardous or extremely hazardous waste was  
19 collected.  
20  
21 c. A description of the type of hazardous or extremely  
22 hazardous waste collected.  
23  
24 d. Location at which the hazardous or extremely hazardous  
25 waste is being held.

26 6.12.3 Cost of removal shall be borne by the generator and/or party  
27 placing the hazardous waste out for removal as determined by the  
28 Board. Where the generator and/or party placing the hazardous

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waste out for removal cannot be identified, cost of removal, transportation and disposal shall be in accordance with applicable hazardous waste and materials laws and regulations.

6.13 Financial Records.

6.13.1 A Permittee or Franchisee shall make its financial records available to the Board, or its designee, at reasonable times for purposes relevant to performance under a permit, franchise or this Ordinance.

6.13.2 A Permittee or Franchisee shall provide audited financial statements by a Certified Public Accountant as may be requested by the Board for purposes relevant under a permit, franchise or this Ordinance.

Section 7: Rates

7.1 A Permittee or Franchisee shall not charge in excess of the monthly rates for commercial or multi-residential bin collection, removal and disposal in the District, as may be established from time to time by resolution of the Board.

7.2 Rates for any service not covered by a resolution of the Board shall be submitted initially to the Board for approval, prior to the scheduling and performance of such service. Billing for said special services shall be by the Permittee or Franchisee. Said services, if of a continuing nature, shall be included, as soon as practicable, in a resolution of the Board.

7.3 A Permittee or Franchisee may deny services to a customer for non-payment of customer's billing or customer's failure to substantially comply with the requirements of this Ordinance. No such service shall be terminated until an account is at least sixty (60) days delinquent and at least one written warning of possible termination has been sent to the customer

1 at least fifteen (15) days prior to such termination. This Subsection does not preclude a  
2 Permittee or Franchisee from obtaining other remedies such as delinquent charges and interest.  
3 The Permittee or Franchisee, as applicable, shall notify the Board, in writing, of any service  
4 termination including a copy of the written notice to the customer.  
5

6 7.4 The District reserves its right to establish at any future time, a system of  
7 comprehensive collection and designate the permit collection areas to be included within the  
8 comprehensive collection area and to establish and set rates in said areas. In the event a  
9 comprehensive collection area is established, a delinquent account fund may be established in  
10 such area(s) and initially used for the payment of delinquent accounts and collection thereon.  
11

12 **Section 8: Right of Further Regulation Reserved**

13 The District hereby reserves its right to regulate or further regulate aspects of solid waste  
14 handling including, but not limited to, frequency of collections, means of collection and  
15 transportation, delivery points, levels of services, charges and fees, nature, location, and extent  
16 of providing solid waste handling services, whether such services are to be by means of  
17 non-exclusive franchise, contract, license, permit or otherwise, either with or without  
18 competitive bidding, or, if in the opinion of the Board, the public health, safety and well-being  
19 so require, by partially exclusive or wholly exclusive franchise, contract, license, permit or  
20 otherwise, either with or without competitive bidding, and authority to provide such solid waste  
21 handling services may be granted under such terms and conditions as are prescribed by the  
22 Board pursuant to resolution or ordinance.  
23

24 **Section 9: Violations**

25 Violation by any person, whether holding a permit or not, or by any customer, owner,  
26 occupant or agent, of a customer or user of solid waste services of any of the provisions of this  
27 Ordinance, constitutes an infraction. Upon conviction thereof, the person or entity shall be  
28



1 subject to a fine of One Hundred Dollars (\$100.00) for the first offense; Two Hundred Dollars  
2 (\$200.00) for the second violation within one (1) year and Three Hundred Fifty Dollars  
3 (\$350.00) for each additional violation within the same one (1) year period. The fourth and  
4 additional violations within the same one (1) year period, shall each constitute a misdemeanor  
5 and shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), or six (6)  
6 months in jail, or both. Payment of any penalty provided herein shall not relieve a person, as  
7 defined, of the responsibility of correcting the conditions constituting the violation. Each day  
8 of violation shall be treated and considered as a separate and distinct offense.  
9

10 **Section 10: Public Nuisance Declaration**

11 In addition, any violation of this Ordinance which constitutes a public nuisance may be  
12 abated by the Board or its designee, irrespective of any other remedy hereinabove provided.  
13

14 **Section 11: Severability**

15 If any clause, provision, sentence, or paragraph of this Ordinance, or the application  
16 thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such  
17 invalidity shall not affect the other provisions of this Ordinance which shall still be in effect, and  
18 to its end, it is hereby declared that the provisions of this Ordinance are severable.  
19

20 **Section 12: Repeal of Previous Ordinances**

21 All motions, resolutions and ordinances, and parts thereof, inconsistent with this  
22 Ordinance are hereby repealed to the extent of such inconsistency and no further.  
23

24 **Section 13: Effective Date**

25 This Ordinance shall take effect thirty (30) days after the date of adoption.  
26

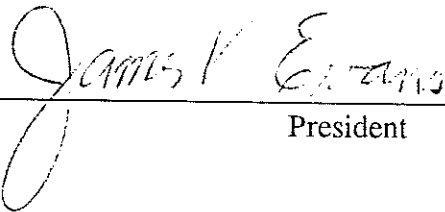
26 **ADOPTED, SIGNED AND APPROVED** this 7<sup>th</sup> day of January,

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President

ATTEST:

  
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Secretary/Assistant Secretary

(DAD:ej ♦ :SV1611)  
1/3/92

1 **CERTIFICATION**

2 I, Grace P. Epperson, Secretary of the Midway City Sanitary District of Orange County,  
3 California, do hereby certify that the foregoing Ordinance No. 44 was duly adopted at a regular  
4 meeting of the Board of Directors of said District, held on the 7<sup>th</sup> day of January,  
5 1992, by the following vote of the members of the Board:  
6

7 **AYES:** Directors Epperson, Pace, Evans

8 **NOES:** None

9 **ABSENT:** Directors Kirkpatrick, Rice

10 and I further certify that James Evans, as President, and Grace P. Epperson, as Secretary,  
11 signed and approved said Ordinance on the 7<sup>th</sup> day of January, 1992.  
12

13 *Grace P. Epperson*  
14 Secretary

15 (District Seal)  
16  
17

18  
19 **STATE OF CALIFORNIA** )  
20 ) ss.  
21 **COUNTY OF ORANGE** )

22 I, Grace P. Epperson, Secretary of the Midway City Sanitary District of Orange County,  
23 California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No.  
24 44, passed and adopted by the Board of Directors of said District at a regular meeting thereof  
25 held on the 7<sup>th</sup> day of January, 1992.

26 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official Seal

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28 ///

1 of said District this 7<sup>th</sup> day of January, 1992.

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*Grace B. ...*  
Secretary

**(District Seal)**