

**FIRST AMENDMENT TO MIXED
MATERIALS & ORGANICS
COLLECTION SERVICES
CONTRACT**

Executed between

CITY OF OAKLAND

and

**WASTE MANAGEMENT OF ALAMEDA
COUNTY, INC.**

October 9, 2015



1 **FIRST AMENDMENT TO THE MIXED MATERIALS AND**
2 **ORGANICS COLLECTION SERVICE CONTRACT**

3 This First Amendment, by and between the CITY OF OAKLAND, in the state of California,
4 hereinafter referred to as "CITY" and WASTE MANAGEMENT OF ALAMEDA COUNTY, INC., a
5 California corporation, hereinafter referred to as "CONTRACTOR", (collectively referred to as
6 the "Parties") is made and entered into on October 9, 2015 (the "Effective Date).

7 **RECITALS**

8 WHEREAS, on February 20, 2015, pursuant to CITY Ordinance No. 13258 C.M.S., CITY and
9 CONTRACTOR entered into that certain Mixed Materials and Organics Collection Services
10 Contract (the "Contract"), pursuant to which CONTRACTOR commenced performance of
11 services on July 1, 2015;

12 WHEREAS, on December 9, 2014, CITY Council adopted Ordinance No. 13272 C.M.S., to
13 impose on Customers a fee pursuant to Public Resources Code section 41901, effective July 1,
14 2015;

15 WHEREAS, on October 6, 2015, CITY Council adopted Ordinance No. 13331 C.M.S.,
16 amending Ordinance No. 13258 C.M.S., which amended Ordinance No. 13253 C.M.S., to
17 among other things approve Maximum Service Rates for Mixed Materials and Organics
18 Collection Services;

19 WHEREAS, a certain one hundred sixty-four (164) SFD Customers that were exempt from
20 weekly Collection requirements as of June 30, 2015 (the "Exempt Customers"), the CITY's
21 Public Works Director pursuant to Oakland Municipal Code Section 8.28.100, shall continue to
22 receive under the same terms and conditions through June 30, 2017.

23 WHEREAS, CITY and CONTRACTOR wish to modify (a) the services specified within the
24 Contract and to be provided by CONTRACTOR and (b) the terms and conditions pursuant to
25 which CONTRACTOR provides such services, in each case in accordance with the terms and
26 conditions of this First Amendment; and

27 WHEREAS, this First Amendment has been developed by and is satisfactory to CITY and
28 CONTRACTOR.

29 NOW THEREFORE, in consideration of the mutual covenants, conditions and consideration
30 contained herein, CITY and CONTRACTOR hereby agree as hereinafter set forth:

31 The above recitals are incorporated herein by reference and are made a part of this Contract.

32

ARTICLE 1. CHANGES TO TEXT OR CONTRACT

33 The Contract modifications are as follows:

- 34 1. The above recitals are incorporated herein by reference and are made a part of this
35 Contract.
- 36 2. Exhibit 1¹ to the Mixed Materials and Organics Collection Service Contract is deleted in
37 its entirety and replaced with **Amended** Exhibit 1 as attached, and all references in the
38 Contract to "Exhibit 1" are replaced by "Amended Exhibit 1."
- 39 3. Section 6.06.2 Bins is amended as follows:
- 40 Bins, including those defined herein as Compactors are to be marked with a
41 unique identification number, labeled with the type of materials to be Collected
42 (i.e., Garbage, Organic Materials), the size in cubic yards, CONTRACTOR's
43 name and phone number and instructions for proper usage and be in good
44 working order. Labeling and graphics of the Bins shall be approved by Contract
45 Manager. Used Bins may be utilized providing they are newly painted, properly
46 marked, in good working order and free of rust and holes. ~~The initial painting,~~
47 ~~labeling and identification numbering for used bins shall be accomplished by~~
48 ~~December 31, 2015.~~ CITY retains the right to inspect any such used Bins and
49 direct CONTRACTOR to replace such used Bin if it is deemed to be not
50 acceptable. Bins shall not contain any type of advertising without the written
51 permission and approval of the Contract Manager
- 52 4. Sections 7.01.2, 7.01.3 through 7.01.3.1.3, 7.04.1, 7.01.4.2.4, 7.05.1, 7.06, 7.15 and
53 7.16.2, in Article 7 Charges and Rates are amended to replace "Franchisee Fee" with
54 "Franchise and AB939 Fees"
- 55 5. Section 7.01.6 Commercial Organics Rates is added to the Contract following Section
56 7.01.5 as follows:

57 From October 1, 2015 through June 30, 2016, the Maximum Service Rates for
58 Commercial Organics Materials Subscription Collection Services, specifically
59 limited to those Maximum Service Rates set forth in Amended Exhibit 1 for the
60 Collection of Commercial Organic Materials Carts, Additional Commercial
61 Organic Materials Carts and Commercial Organic Materials Bins, for each type
62 and size of Container and each service frequency, shall be seventy percent
63 (70%) of the Maximum Service Rates for Collection Services performed for
64 Commercial Customers with respect to Mixed Materials for the same type and
65 size of Container and the same service frequency. Beginning with the Contract
66 Year starting July 1, 2016, and for each subsequent Contract Year, the Maximum
67 Service Rates for Commercial Organics Materials Subscription Collection
68 Services, specifically limited to those Maximum Service Rates set forth in
69 Amended Exhibit 1 for the Collection of Commercial Organic Materials Carts,
70 Additional Commercial Organic Materials Carts and Commercial Organic
71 Materials Bins, for each type and size of Container and each service frequency,

¹ All references to Exhibits herein refer to the Exhibits to the Contract unless specifically set forth otherwise herein.

72 shall be seventy-five percent (75%) of the Maximum Service Rates for Collection
73 Services performed for Commercial Customers with respect to Mixed Materials
74 for the same type and size of Container and the same service frequency. The
75 Maximum Service Rates for Organic Materials shall be established pursuant to
76 the immediately preceding sentence for each Contract Year after the Maximum
77 Service Rates for Mixed Materials have been fully calculated for such Contract
78 Year, including application of all adjustments under Sections 7.01.2, 7.01.3,
79 7.01.4, 7.16 and 7.17 for such Contract Year. Accordingly, notwithstanding
80 anything to the contrary in this Article 7, Maximum Service Rates for Commercial
81 Organics Materials Subscription Collection Services, specifically limited to those
82 Maximum Service Rates set forth in Amended Exhibit 1 for the Collection of
83 Commercial Organic Materials Carts, Additional Commercial Organic Materials
84 Carts and Commercial Organic Materials Bins, shall not be further adjusted
85 pursuant to Section 7.01.2, 7.01.3 7.01.4, 7.16 or 7.17.

86 6. Section 7.13.1 is amended as follows:

87 CONTRACTOR may charge a delinquent Customer a late fee which is the
88 greater of Five Dollars (\$5.00) or one and one half (1.5) percent per month (not
89 compounded). CONTRACTOR may take such action as is legally available to
90 collect or cause collection of such past due amounts. **CONTRACTOR may**
91 **continue to charge the late fee to Customer provided for by this Section**
92 **7.13.1 during the period when CITY has subscribed on behalf of the**
93 **property owner to abate the nuisance but in no case shall the late fee be**
94 **charged to CITY.**

95 7. Section 7.13.10 is amended as follows:

96 CONTRACTOR can require that in order to reestablish service the Customer
97 must pay any past-due amounts, **including (a) any late fees charged by**
98 **CONTRACTOR pursuant to Section 7.13.1 for delinquent invoices (both on**
99 **regularly invoiced amounts and amounts subject to special assessment)**
100 **and (b) amounts subject to special assessment imposed by CITY pursuant**
101 **to Section 7.13.8 for which proceeds have not yet been received.** However,
102 CONTRACTOR shall not be required to address any outstanding assessment
103 before resuming service, but CONTRACTOR shall promptly notify CITY of the
104 initiation of service.

105 8. Section 7.18.8 is renumbered 7.18.8.1.

106 9. Section 7.18.8 Franchise and AB939 Fees is added to the Contract as follows:

107 The total of the franchise fee, as set forth in Section 7.18.8.1 and the AB939 fee
108 as set forth in Section 7.18.8.2 for the fiscal year July 1, 2015, through June 30,
109 2016, shall be in the initial amount of Twenty-five Million Thirty-four Thousand
110 Dollars (\$25,034,000). So long as the AB939 fee or any portion thereof is
111 remitted to CITY the franchise fee otherwise payable under the Contract shall be
112 reduced by an equal amount. In the event that the AB939 fee, or any portion of
113 it, is invalidated or CITY or CONTRACTOR is prevented from collecting the

114 AB939 fee, or any portion of it, CONTRACTOR shall be obligated to pay the
115 franchise fee in a sufficient amount to make the annual revenue from the AB939
116 fee and the franchise fee equal to the amount of franchise fee otherwise payable
117 under the MM&O Contract.

118 10. Section 7.18.8.1 Franchise Fee is amended to read as follows:

119 The franchise fee for the fiscal year July 1, 2015, through June 30, 2016, shall be
120 the initial franchise fee of Twenty-five Million Thirty-four Thousand Dollars
121 (\$25,034,000) **less those AB939 fees paid to CITY by CONTRACTOR during**
122 **that period as set forth in Section 7.18.8.** The franchise fee for the next fiscal
123 year and each subsequent fiscal year shall be adjusted annually by the
124 percentage change in the annual average of the Franchise Fee cost indicator
125 (Series ID: cuura422sa0 Consumer Price Index, All urban Consumers, All Items,
126 San Francisco-San Jose-Oakland, CA) as set forth in Section 2 of Exhibit 2 to
127 this Contract except that in no year shall the franchise fee adjustment be less
128 than zero (0) percent. Notwithstanding the foregoing, no adjustment shall be
129 implemented for a particular fiscal year if CONTRACTOR's Gross Receipts for
130 the prior calendar year were less than the calendar year previous to that, but not
131 including any calendar years prior to July 1, 2015. Such determination of
132 whether or not CONTRACTOR's Gross Receipts for the prior calendar year were
133 less than the calendar year previous to that shall be based on the results of a
134 Gross Receipts review to be performed by a qualified firm under contract to
135 CITY. CITY shall have the final responsibility and discretion for the selection of
136 the firm but shall seek and consider comments and recommendations from
137 CONTRACTOR. CONTRACTOR shall be responsible for, and shall upon
138 request by CITY promptly pay, the cost of the review up to a maximum of
139 Twenty-five Thousand Dollars (\$25,000), adjusted annually by the annual CPI
140 cost indicator (Series ID: cuura422sa0 Consumer Price Index, All Urban
141 Consumers, All Items, San Francisco-San Jose-Oakland, CA) as set forth in
142 Exhibit 2. The franchise fee **payable** for each fiscal year, **which shall be the**
143 **franchise fee as adjusted in the manner set forth in this Section less the**
144 **AB939 fees to be paid for that same fiscal year,** shall be divided into twelve
145 (12) equal payments, and paid monthly no later than the twentieth (20th) day of
146 each month for the preceding month except that the first franchise fee payment
147 will be due no later than August 15, 2015.

148 11. Section 7.18.8.2 AB939 Fee is added to the Contract as follows:

149 AB939 Fee. The AB939 fee for the fiscal year July 1, 2015, through June 30,
150 2016, shall be Three Million Two Hundred Forty Thousand Dollars (\$3,240,000).
151 The AB939 fee for the next fiscal year and each subsequent fiscal year shall be
152 adjusted annually by the percentage change in the annual average of the AB930
153 cost indicator (Series ID: cuura422sa0 Consumer Price Index, All urban
154 Consumers, All Items, San Francisco-San Jose-Oakland, CA) as set forth in
155 Section 2 of Exhibit 2 to this Contract except that in no year shall the AB939 fee
156 adjustment be less than zero (0) percent. Notwithstanding the foregoing, no
157 adjustment shall be implemented for a particular fiscal year if CONTRACTOR's

158 Gross Receipts for the prior calendar year were less than the calendar year
159 previous to that, but not including any calendar years prior to July 1, 2015. Such
160 determination of whether or not CONTRACTOR's Gross Receipts for the prior
161 calendar year were less than the calendar year previous to that shall be based
162 on the results of a Gross Receipts review to be performed by a qualified firm
163 under contract to CITY. CITY shall have the final responsibility and discretion for
164 the selection of the firm but shall seek and consider comments and
165 recommendations from CONTRACTOR. CONTRACTOR shall be responsible
166 for, and shall upon request by CITY promptly pay, the cost of the review up to a
167 maximum of Twenty-five Thousand Dollars (\$25,000), adjusted annually by the
168 annual CPI cost indicator (Series ID: cuura422sa0 Consumer Price Index, All
169 Urban Consumers, All Items, San Francisco-San Jose-Oakland, CA) as set forth
170 in Exhibit 2. The AB939 fee payable for each fiscal year, shall be divided into
171 twelve (12) equal payments, and paid monthly no later than the twentieth (20th)
172 day of each month for the preceding month except that the first AB939 fee
173 payment will be due no later than August 15, 2015. CONTRACTOR shall allocate
174 the AB939 fee to MM&O Customers in a manner that is proportionate to the
175 amount of service provided and that is consistent with its existing CITY-approved
176 rate structure. CONTRACTOR shall submit for CITY's review and approval a
177 proposed method of allocating the AB939 fee to MM&O Customers.

178 12. Section 9.01.1.1 Minimum Capacity is amended as follows:

179 Minimum Capacity. CONTRACTOR shall provide Mixed Materials Container
180 sizes and with Collection frequencies such that the total weekly capacity of Mixed
181 Materials Collection Service is equal to the number of Dwelling Units in the SFD
182 multiplied by twenty (20) gallons. **Notwithstanding the foregoing, if (i) the**
183 **owner of any SFD with two (2) Dwelling Units and his or her immediate**
184 **family occupy more than one (1) Dwelling Unit in such SFD and (ii) CITY**
185 **provides CONTRACTOR with written verification of such occupancy not**
186 **less frequently than annually, the minimum Mixed Materials Container**
187 **capacity for such two (2) Dwelling Unit SFD shall be reduced by twenty (20)**
188 **gallons.** The size and number of the Container(s) and the frequency (above the
189 minimum) of Collection shall be determined by the SFD Customer. However, the
190 size and frequency shall be sufficient to meet the minimum capacity set forth in
191 this Section 9.01.1.1 and to provide that no Mixed Materials need be placed
192 outside the appropriate Container on a regular basis. CONTRACTOR shall
193 make commercially reasonable efforts to update and maintain an accurate count
194 of Dwelling Units in all SFD, including but not limited to using available parcel
195 data information, site surveys, and other methods, so that SFD are provided and
196 billed for no less than the minimum capacity Mixed Materials Collection Service.

197 13. Section 9.01.1.4 Vacancy Stops for SFDs with More than One Dwelling Unit is
198 added to the Contract following Section 9.01.1.3 as follows:

199 Vacancy Stops for SFDs with More than One Dwelling Unit. For any SFD that
200 has (i) more than one (1) Dwelling Unit, and (ii) Collection Service to the Dwelling
201 Units is subscribed to by the property owner or their agent and (iii) where a
202 Dwelling Unit in such SFD is vacant, the property owner or their agent may, by

203 written notice to CONTRACTOR reduce minimum weekly capacity of Mixed
204 Materials Collection Service under Section 9.01.1.1 by twenty (20) gallons on
205 account of such vacancy of such Dwelling Unit for up to, but not more than, sixty
206 (60) days in the aggregate for such Dwelling Unit in each Contract Year.

207 14. Section 9.01.10 Low Income Senior Discount is added to the Contract follows:

208 Low Income Senior Discount. For the first Contract Year, CITY shall fund One
209 Hundred Thousand Dollars (\$100,000) for a low income senior discount program,
210 and for each Contract Year commencing on or after July 1, 2016,
211 CONTRACTOR shall fund up to One Hundred Thousand Dollars (\$100,000) for
212 such low income senior discount program, which amount shall not be subject to
213 adjustment over the term of the Contract. CITY and CONTRACTOR shall work
214 together cooperatively to establish and implement a program whereby SFD
215 Customers age sixty (60) years and older, and who (i) are eligible for the CARE
216 program operated by Pacific Gas and Electric Company and (ii) complete a
217 written application verifying such information ("Qualifying Senior SFD
218 Customers"), may receive assistance toward payment of up to twelve and one
219 half (12.5) percent, or such other amount as may be set at the sole discretion of
220 CITY, of their invoices for SFD Collection Services, exclusive of Temporary Roll-
221 Off Box Collection Service, extra SFD Bulky Goods Collection Service and
222 Contamination Surcharges ("Senior Payment Assistance"). If the aggregate
223 value of Senior Payment Assistance at the full rate for all Qualifying Senior SFD
224 Customers in any Contract Year would be equal to or less than the maximum
225 funding amount of One Hundred Thousand Dollars (\$100,000), then
226 CONTRACTOR shall provide Senior Payment Assistance to all Qualifying Senior
227 SFD Customers at the maximum rate. If CONTRACTOR determines that the
228 aggregate value of Senior Payment Assistance at the full rate for all Qualifying
229 Senior SFD Customers in any Contract Year may exceed the maximum funding
230 amount of One Hundred Thousand Dollars (\$100,000), then CONTRACTOR
231 shall notify CITY of such determination and promptly thereafter CITY and
232 CONTRACTOR shall meet and confer to discuss appropriate reductions to the
233 maximum Senior Payment Assistance rate or appropriate additional
234 requirements for Qualifying Senior SFD Customers for such Contract Year so as
235 to provide reasonably appropriate payment assistance within the maximum
236 funding commitment. If the amount funded by either CITY or CONTRACTOR
237 any Contract Year is less than One Hundred Thousand Dollars (\$100,000), no
238 portion of the unfunded amount shall roll over into funding for Senior Payment
239 Assistance in any subsequent Contract Year.

240 15. Section 10.01.3 Accessibility is amended as follows:

241 Accessibility. CONTRACTOR shall Collect all Mixed Materials and Organic
242 Materials Containers that are readily accessible to CONTRACTOR's crew and
243 vehicles and not blocked. However, CONTRACTOR shall provide "push
244 services" and "key services" as necessary during the provision of MFD Collection
245 Services. Push services shall include, but not be limited to, dismounting from the
246 Collection vehicle, moving the Bins or Carts from their storage location for

247 Collection and returning the Bins or Carts to their storage location. Push
248 services may include unlocking and relocking the Bin or enclosure. Key services
249 shall include the provision of a master lock and key by CONTRACTOR to the
250 Service Address for the convenience of CONTRACTOR. CONTRACTOR shall
251 be compensated for providing “push services” and or “key services” in
252 accordance with the approved Maximum Service Rates as provided in **Amended**
253 Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.
254 **CITY and CONTRACTOR shall meet and confer and use reasonable efforts**
255 **to work together to insure that protocols for identifying with specificity: (i)**
256 **the actions required of MFD Customers to avoid incurring charges for push**
257 **service, and (ii) the methodology for applying push charges to MFD**
258 **Customers with multiple Containers and/or frequency of service are**
259 **developed no later than November 25, 2015, provided, however, that CITY**
260 **agrees that charges for push services may be based on a per-Container,**
261 **per-day service.**

262 16. Section 11.01.3 Accessibility is amended as follows:

263 Accessibility. CONTRACTOR shall Collect all Mixed Materials and Organic
264 Materials Containers that are readily accessible to CONTRACTOR'S crew and
265 vehicles and not blocked. However, CONTRACTOR shall provide “push
266 services” and “key services” as necessary during the provision of Commercial
267 Collection Services. Push services shall include, but not be limited to,
268 dismounting from the Collection vehicle, moving the Bins or Carts from their
269 storage location for Collection and returning the Bins or Carts to their storage
270 location. Push services may include unlocking and relocking the Bin or
271 enclosure Key services shall include the provision of a master lock and key by
272 CONTRACTOR to the Service address for the convenience of CONTRACTOR.
273 CONTRACTOR shall be compensated for providing “push services” and or “key
274 services” in accordance with the approved Maximum Service Rates as provided
275 in **Amended** Exhibit 1 or as may be adjusted in accordance with the terms of this
276 Contract. **CITY and CONTRACTOR shall meet and confer and use**
277 **reasonable efforts to work together to insure that protocols for identifying**
278 **with specificity: (i) the actions required of Commercial Customers to avoid**
279 **incurring charges for push service, and (ii) the methodology for applying**
280 **push charges to Commercial Customers with multiple Containers and/or**
281 **frequency of service are developed no later than November 25, 2015,**
282 **provided, however, that CITY agrees that charges for push services may be**
283 **based on a per-Container, per-day service.**

284 17. Section 12.02 Street Litter Container Service is amended as follows:

285 During the term of this Contract, CONTRACTOR shall Collect and maintain those
286 street litter Containers as are set forth in Exhibit 4 to this Contract. CITY may
287 modify Exhibit 4 as needed, by providing written notice to CONTRACTOR, but
288 such modification shall not increase the number of street litter Containers by
289 more than ten (10) per Contract Year. This service shall include **once per day**
290 daily emptying of street litter Containers, including liners and enclosures, and

291 removal of debris atop or around Container, on Monday through Friday, and
292 monitoring and emptying of Containers on Saturday ~~and Sunday~~, as directed by
293 CITY.

294 18. Sections 12.02.1, 12.02.2 and 12.02.3 are deleted from the Contract without
295 replacement.

296 19. Section 12.02.4 is renumbered 12.02.1, and Section 12.02.5 is renumbered
297 12.02.2.

298 20. Section 12.07 CITY Delivered Materials is amended as follows:

299 CITY Delivered Materials. CONTRACTOR shall accept up to ~~seven thousand~~
300 ~~five hundred (7,500)~~ **three thousand seven hundred fifty (3,750)** Tons of
301 material (the "Tonnage allowance") during the period July 1, 2015 through
302 ~~September 30~~ **December 31, 2015** at no charge to CITY. **For the period from**
303 **October 1, 2015 through June 30, 2016, CONTRACTOR shall accept up to**
304 **nine thousand three hundred seventy-five (9,375) Tons of material at no**
305 **charge to CITY. For the second Contract Year, the Tonnage allowance**
306 **shall be twelve thousand five hundred (12,500) Tons.** Beginning calendar ~~with~~
307 ~~the Contract year 2016~~ **Year starting July 1, 2017**, and each subsequent
308 ~~calendar year~~ **Contract Year**, the Tonnage allowance shall be ~~fifteen thousand~~
309 ~~(15,000)~~ **ten thousand three hundred (10,300)** Tons. In any calendar
310 ~~year~~ **Contract Year**, CITY shall be allowed to deliver dirt and debris, Garbage,
311 Recyclable Materials, Organic Materials and Bulky Goods above the Tonnage
312 allowance, but not more than the unused Tonnage allowance from the prior two
313 (2) Contract Years, at no charge to CITY. Source Separated Recyclable
314 Materials delivered to CONTRACTOR's facilities shall not count toward the
315 Tonnage allowance established pursuant to this Section. CITY shall make
316 reasonable efforts to deliver materials properly separated to facilitate Processing
317 where feasible such as with park landscaping green waste. CONTRACTOR
318 shall be compensated for those Tons that exceed the Tonnage allowance for any
319 ~~calendar year~~ **Contract Year**, except as otherwise provided in this Section. Such
320 compensation shall be based on the per Ton fee for Disposal at the Disposal
321 Facility.

322 21. Section 12.08 Illegal Dumping Notification and Collection is amended as follows:

323 CONTRACTOR shall direct its Collection vehicle drivers to note (i) the addresses
324 of any premises at which the driver observes that Garbage, Mixed Materials,
325 Recyclable Materials, and/or Organic Materials Material is accumulating; and (ii)
326 the address, or other location description, at which Garbage, Mixed Materials,
327 Recyclable Materials, and/or Organic Materials has been dumped in an
328 apparently unauthorized manner. CONTRACTOR shall deliver the address or
329 description to CITY within three (3) Work Days of such observation.
330 CONTRACTOR shall also provide Collection services at up to **(a) twenty-five**
331 **(25) locations per Work Day through June 30, 2017, and (b) thirty (30)**
332 **locations per Work Day from and after July 1, 2017, in each case** of up to three
333 (3) cubic yards of such illegally dumped materials per location provided,

334 however, CONTRACTOR shall not be required to collect materials not safely
335 accessible by Collection vehicles and/or personnel.

336 22. Section 15.01 Oakland Office is amended as follows:

337 Oakland Office. During the term of this Contract CONTRACTOR shall maintain
338 an office in the Service Area **where Customers can pay their bills or make**
339 **service requests or inquiries in person.** CONTRACTOR's office shall provide
340 toll-free telephone **and email** access **for service related issues** to CITY
341 residents **at the regional call center identified in Section 16.02,** and shall be
342 located ~~where Customers can pay their bills or make service requests or inquiries~~
343 ~~in person.~~ The office shall be open and staffed from 8:00 a.m. to 6:00 p.m. on
344 Work Days, except for designated holidays. The office shall have a responsible
345 person in charge who is familiar with the specific Collection Services provided by
346 CONTRACTOR to CITY. CONTRACTOR shall equip the office with a direct
347 terminal connection to the customer service system operated at
348 CONTRACTOR's call center.

349 23. Section 16.02 CONTRACTOR's Customer Service Center and Telephone and Email
350 Access is amended as follows:

351 CONTRACTOR's Customer Service Center and Telephone and Email Access.
352 CONTRACTOR shall **continue to** maintain a Customer center ~~in Alameda~~
353 ~~County~~ **at its regional call center or thereafter at such other regional call**
354 **center as determined by CONTRACTOR in its sole discretion** that provides
355 toll-free telephone and email access to residents and businesses of CITY, and is
356 staffed by trained and experienced Customer Service Representatives (CSRs).
357 Such Customer service center shall have responsible persons in charge during
358 Collection hours, and shall be open 8:00 a.m. to 6:00 p.m. **Pacific time** on
359 regularly scheduled ~~Collection Work~~ Days (Monday through Friday) and when
360 SFD or MFD Collection Services are scheduled to be provided on Saturday; and
361 be staffed with a sufficient number of CSRs and equipped with sufficient
362 telephone and email capacity to address the expected call volume received.
363 Provisions satisfactory to CITY for addressing call volume in excess of expected
364 levels and after hour calls and messages shall be provided. **CSR's assigned to**
365 **respond to questions and concerns from Oakland Customers shall be**
366 **thoroughly trained to understand the specific terms and conditions of the**
367 **Oakland Collection Services Contract and shall maintain a high level of**
368 **customer service.**

369 24. Section 17.01.3 Community Outreach Budget is amended as follows:

370 Community Outreach Budget. CONTRACTOR shall be required to allocate or
371 spend no more than One Million Dollars (\$1,000,000) in the first calendar year of
372 the Contract, to implement the transitional outreach plan, and not more than Five
373 ~~Hundred Thousand Dollars (\$500,000)~~ **Two Hundred Thousand Dollars**
374 **(\$200,000)** per calendar year thereafter to implement the annual outreach plan.
375 **CONTRACTOR may use up to Fifty Thousand Dollars (\$50,000) of the 2015**
376 **Community Outreach budget for the first calendar year to assist individual**

377 Customers with adopting methods to avoid imposition of charges for push
378 services and to assist MFD Customers with same day service for Mixed
379 Materials and Organics Collection. If, as of the date of execution of the
380 First Amendment, the Community Outreach budget for the first calendar
381 year has already been allocated such that less than Fifty Thousand Dollars
382 (\$50,000) remains that can be allocated toward push charge avoidance per
383 the immediately preceding sentence, then the balance of such Fifty
384 Thousand Dollars (\$50,000) will be accelerated by CONTRACTOR from the
385 Community Outreach budget for the second calendar year for such
386 purposes, and the remaining Community Outreach budget for the second
387 calendar year shall be reduced by the amount of such acceleration. All
388 such expenditures require prior approval from CITY unless included in CITY-
389 approved outreach plan. CITY and CONTRACTOR may mutually agree to
390 perform joint CommunityPublic Outreach activities using all or some of the
391 annual CommunityPublic Outreach budget. Public relations activity costs
392 cannot be applied to the CommunityPublic Outreach budget. At the end of the
393 calendar year, any funds in the approved annual Community eOutreach budget
394 that remain unspent shall be carried forward to the following calendar year.
395 However, in the event CONTRACTOR has unspent funds at the end of three (3)
396 consecutive calendar years, the unspent funds shall be deposited in the Rate
397 Stabilization Fund.

398

ARTICLE 2. FURTHER AMENDMENT

399 No modification, amendment, or supplement to this First Amendment or the Contract as
400 modified by this First Amendment will be binding on the parties unless it is made in writing, duly
401 authorized by CONTRACTOR and CITY, and signed by both parties.

402

ARTICLE 3. ENTIRE AMENDMENT; NO OTHER MODIFICATIONS

403 This First Amendment contains the entire understanding of the Parties with respect to the
404 subject matter hereof and supersedes all prior and contemporaneous agreements and
405 commitments with respect thereto. Except as expressly modified by this First Amendment, all
406 the terms and conditions of the Contract shall remain in full force and effect, unmodified, and
407 apply to this First Amendment as though set forth herein, including, but not limited to, disputes,
408 applicable law and venue provisions.

409

ARTICLE 4. HEADINGS

410 Headings in this document are for convenience of reference only and are not to be considered
411 in any interpretation of this First Amendment.

412

ARTICLE 5. LEGAL REPRESENTATION

413 Each of the parties has received the advice of legal counsel prior to signing this First
414 Amendment. The parties agree no provision or provisions may be subject to any rule of
415 construction based upon any party being considered the party "drafting" this First Amendment.

416

ARTICLE 6. EFFECTIVE DATE

417 This First Amendment shall become effective at such time as it is properly executed by CITY
418 and CONTRACTOR.

419

ARTICLE 7. COUNTERPARTS

420 This First Amendment may be executed in counterparts with each counterpart being interpreted
421 as an original, and all of which, taken together, shall constitute one and the same instrument.
422 IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this First Amendment on
423 the day and year first written above.

424 CITY OF OAKLAND
425

WASTE MANAGEMENT OF ALAMEDA
COUNTY, INC.

426 By: _____
427 Sabrina B. Landreth
428 City Administrator

By: _____
Barry Skolnick
President

429 _____
430 Date

Date

431 _____
432 City of Oakland Business License Number

433 **The foregoing Contract has been reviewed and approval is recommended:**

434 Ordinance No. 13331 C.M.S.

435 Approved by City Council

436 APPROVED AS TO FORM:

437 _____
438 Celso Ortiz
439 City Attorney
440 2533038.1

Date

