

ORIGINAL

**MIXED MATERIALS & ORGANICS
COLLECTION SERVICES
CONTRACT**

Executed between

CITY OF OAKLAND

and

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

July 1, 2015

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ARTICLE 7. CHARGES AND RATES

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7.12 Delinquent Service Accounts.

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7.12.1 SFD invoices shall be delinquent when they are unpaid on the forty-fifth (45th) day of the quarterly billing cycle. CONTRACTOR may charge late fees as set forth in Section 7.13.1 and take such action as is legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services

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7.12.2 MFD invoices shall be delinquent when they are unpaid on the last day of the monthly billing cycle. CONTRACTOR may charge late fees as set forth in Section 7.13.1 and take such action as is legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services in accordance with the process set forth below.

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7.12.3 Commercial invoices shall be delinquent when they are unpaid on the last day of the monthly billing cycle. CONTRACTOR may charge late fees as set forth in Section 7.13.1 and take such action **as is** legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services in accordance with the process set forth below.

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7.13 Delinquent Service Account Termination Process. CONTRACTOR may implement the following service termination process for SFD, MFD and Commercial Customers whose accounts are delinquent.

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7.13.1 CONTRACTOR may charge a delinquent Customer a late fee which is the greater of Five Dollars (\$5.00) or one and one half (1.5) percent per month (not compounded). CONTRACTOR may take such action as is legally available to collect or cause collection of such past due amounts.

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7.13.2 CONTRACTOR may issue a delinquency notice at any point after the account becomes delinquent. Sections 7.13.2.1 through 7.13.12 outline processes regarding notification and cure of such delinquencies and associated issues, including without limitation regarding notification and collection of delinquencies, termination of service, and CITY's option to subscribe to service on behalf of delinquent SFD and MFD property owners to whom CONTRACTOR has terminated service and to impose special assessments against delinquent properties to recover the costs of such service. With respect to the timelines related to the delinquency notices and hearings set forth in Sections 7.13.2.1 through 7.13.12, CITY reserves the right to modify the timelines by written policy adopted by the City Administrator, or his or her designee, after consultation with CONTRACTOR.

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7.13.2.1 Delinquency notice will be sent to the property owner and billing address.

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7.13.2.2 Delinquency notice will include information on hearing scheduled approximately fifteen (15) calendar days after date of the notice to dispute the non-payment.

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7.13.2.3 Delinquency notice will specify that failure to pay the bill may result in termination of service and that CITY will deem lack of service to be a nuisance.

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7.13.2.4 For SFD and MFD Customers, delinquency notice will further provide that CITY may, in order to abate the nuisance, subscribe on behalf of the property owner at the property owner's expense beginning with the next billing cycle and impose as special assessment against the property on which the nuisance is maintained.

Mixed Materials and Organics Collection Services Contract

1377 7.13.3 CONTRACTOR, subject to its compliance with the requirements
1378 of Section 7.13, has the right to terminate service if the bill remains unpaid on the forty-fifth
1379 (45th) day after issuing the delinquency notice.

1380 7.13.4 CONTRACTOR and CITY will hold hearing concerning
1381 delinquent bills on the date specified in the delinquency notice (typically the sixtieth (60th) day
1382 of the billing cycle).

1383 7.13.5 Following the hearing (typically the sixty-first (61st) day of the
1384 billing cycle), CONTRACTOR, on CITY'S behalf, will send final delinquency notice to property
1385 owner, billing address, and Service Address for the accounts with a past due balance notifying
1386 them that service will be terminated by CONTRACTOR on the ninetieth (90th) day of the billing,
1387 if CONTRACTOR does not receive payment, and that CITY may declare the failure to maintain
1388 service for the property a nuisance. For SFD and MFD Customers, the final delinquency notice
1389 shall further provided that CITY may (a) subscribe to service on the property owner's behalf at
1390 the property owner's expense to abate the nuisance; and (b) impose a special assessment on
1391 the property for the costs associated with abating the nuisance.

1392 7.13.6 No sooner than the first day of the next billing cycle,
1393 CONTRACTOR shall provide CITY a list of properties (Service Addresses) to which it will stop
1394 service for non-payment. The list is to be produced in the form and format approved by CITY
1395 and include, at a minimum, the Customer name, Service Address and billing address,
1396 assessor's parcel number (APN), Customer service level (i.e., number and size of Containers,
1397 frequency of Collection), and Customer billing rate for the next billing cycle.

1398 7.13.7 The next business day following its receipt of the list described in
1399 Section 7.13.6, or as soon as reasonably practicable thereafter, CITY will elect, with respect to
1400 SFD and MFD Service Addresses only, whether to declare the conditions on the property to be
1401 a nuisance and subscribe to service on behalf of property owner at the property owner's
1402 expense to abate nuisance.

1403 7.13.8 Approximately ten (10) days following its election under Section
1404 7.13.7, CITY will confirm status of delinquent accounts with CONTRACTOR and, for those
1405 properties for which CITY has subscribed on behalf of the property owner, imposes a special
1406 assessment on those properties that are still delinquent. CITY will provide notice to property
1407 owner (as determined from County Assessor's or Recorder's records) by certified mail.

1408 7.13.9 Upon receipt of proceeds from the special assessment, CITY will
1409 forward the portion of the special assessment attributable to CONTRACTOR billing to
1410 CONTRACTOR. CITY'S financial liability to CONTRACTOR for payment for services rendered
1411 when CITY declares a nuisance and subscribes on behalf of the property owner is limited to
1412 the proceeds of such special assessments.

1413 7.13.10 CONTRACTOR can require that in order to reestablish service
1414 the Customer must pay any past-due amounts. However, CONTRACTOR shall not be
1415 required to address any outstanding assessment before resuming service, but CONTRACTOR
1416 shall promptly notify CITY of the initiation of service.

1417 7.13.11 CONTRACTOR may require a credit card, or at the discretion of
1418 the Service Recipient, a deposit equal to one billing cycle's payment, be maintained on file for
1419 any Customer whose account went into ninety (90) day delinquency.

1420 7.13.12 CITY will continue to subscribe on Customer's behalf and impose
1421 special assessments for each billing cycle until it is notified by CONTRACTOR that Customer
1422 has cleared delinquent account with CONTRACTOR and subscribed to service throughout

1423 the period in which CITY has subscribed on behalf of the property owner, CONTRACTOR shall
1424 bill CITY and send a copy of such bill to the property owner and the last known billing address
1425 for the Customer. The bill shall indicate that CONTRACTOR has terminated service as a result
1426 of Customer's non-payment, that as a result CITY has declared the property a nuisance due to
1427 the Customer's failure to maintain service, that CITY has subscribed to service on behalf of the
1428 property owner at the property owner's expense to abate the nuisance, and that CITY will
1429 impose a special assessment for the costs of abating the nuisance, and that the Customer may
1430 avoid the imposition of further special assessments by paying its delinquent balances with
1431 CONTRACTOR and reinstating its account.