

OFFICE OF THE CITY CLERK
2008 MAR - 6 PM 2:18

OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. 81149 C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A SETTLEMENT AGREEMENT WITH WASTE MANAGEMENT OF ALAMEDA COUNTY (WMAC) TO PROVIDE THE CITY EIGHT MILLION TWO HUNDRED THIRTY THOUSAND DOLLARS (\$8,230,000.00) IN ADDITIONAL SERVICES AND CUSTOMER AND CITY REIMBURSEMENTS IN LIEU OF LIQUIDATED DAMAGES AND ALL OTHER CLAIMS BY THE CITY, AND DISMISSING RELATED PENDING LITIGATION AGAINST WMAC, IN CONNECTION WITH THE RECYCLING AND GARBAGE SERVICE DISRUPTION IN JULY 2007

WHEREAS, the Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services between the City of Oakland and Waste Management of Alameda County (WMAC) provides for standards for collection services; and

WHEREAS, on July 2, 2007 WMAC locked out its collection and long-haul drivers, represented by International Brotherhood of Teamsters Local 70, which caused collection service disruptions; and

WHEREAS, on July 12, 2007 the City Attorney filed a complaint with Alameda County Superior Court for breach of contract and violation of the Municipal Code provisions seeking an injunction; and

WHEREAS, on July 26, 2007 an agreement between WMAC and Teamsters Local 70 was reached and the following week collection services were corrected; and

WHEREAS, on September 6, 2007, the Public Works Agency (PWA) served WMAC formal notice of the City's intent to assess liquidated damages pursuant to the Franchise Agreement for failure to provide collection services meeting Franchise Agreement standards during the month of July; and

WHEREAS, on September 27, 2007, the City was noticed by WMAC that it would provide residential customer rebates for the month of July 2007, to be reflected on the customers October 1, 2007 bill; and

WHEREAS, WMAC states that it has provided service credits to Oakland residential customers for the month of July totaling \$3,032,000; and

WHEREAS, on October 2, 2007 Council authorized staff to enter discussions with WMAC seeking compensatory damages and additional programs and services in-lieu of liquidated damages; and

WHEREAS, WMAC has offered a settlement package of services in the amount of \$4,860,814 over five years and to pay the City compensatory damages in the amount of \$337,221; now, therefore, be it

RESOLVED: the City Council authorizes the City Administrator to enter into a settlement agreement with WMAC whereby WMAC provides the City services in the amount of \$4,860,814 over five years and agrees to pay the City within thirty days of the effective date of this resolution compensatory damages in the amount of \$337,221; and be it

FURTHER RESOLVED: the City Administrator or her designee is authorized to carry out any financial actions necessary to carry out the intent of this resolution, including accepting and appropriating compensatory damages in the sum of \$337,221, to reimburse operating departments for the unanticipated expenses incurred due to the lockout; and be it

FURTHER RESOLVED: the services to be provided the City pursuant to the Settlement Agreement will be incorporated as amendments to WMAC's franchise agreement with the City; and be it

FURTHER RESOLVED: the City Attorney shall dismiss the pending litigation filed in regards to this matter; and be it

FURTHER RESOLVED: that a copy of this resolution shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 18 2008, 20

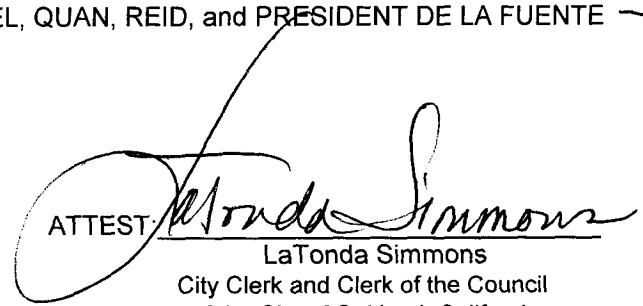
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California