

# 12499

  
 OFFICE OF THE CITY ATTORNEY  
 OAKLAND

2003 MAY 22 PM 4: 27

**AMENDMENT TO ORDINANCE NO. 11820 C.M.S.  
 INCREASING CITY FEES BY 5.34 PERCENT PAID BY WASTE  
 MANAGEMENT OF ALAMEDA COUNTY TO THE CITY OF OAKLAND  
 AND INCREASING BY 5.34 PERCENT RATES CHARGED FOR SOLID  
 WASTE COLLECTION AND DISPOSAL EFFECTIVE JULY 1, 2003**

WHEREAS, Ordinance No. 11820 C.M.S. was adopted on July 25, 1995 to enter into a Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services with Waste Management of Alameda County, Inc. (WMAC); and establish rates and procedures to adjust the rates; and

WHEREAS, the City and WMAC entered into a Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services (Franchise Agreement) dated December 1, 1995; and

WHEREAS, the City and WMAC entered into a Supplemental Agreement dated December 2, 1995, and the First Amendment to Supplemental Agreement dated July 1, 1996; and

WHEREAS, the City and WMAC entered into First Amendment to Franchise Agreement dated October 1, 1997, Second Amendment to Franchise Agreement dated March 1, 1998; Third Amendment to Franchise Agreement dated March 1, 1999, and Fourth Amendment to Franchise Agreement dated December 6, 1999; and

WHEREAS, the Section 8.28.020 of the Oakland Municipal Code allows the City Council to adjust the Rates for Non-Consumer Price Index in the exercise of its legislative discretion; and

WHEREAS, Section 8.28.080 of the Oakland Municipal Code allows for the City to attach a surcharge on solid waste fees collected by the collector to compensate the City for some or all of the costs of programs to clean up litter and illegal dumping on public streets and rights-of-way; and

WHEREAS, Section 8.3.4 of the Franchise Agreement obligates the City to increase garbage rates to generate a sufficient amount of revenue to cover any increase in fees remitted to the City; and

WHEREAS, the City wishes to increase the rates by 5.34% to generate approximately \$3,500,000 annually for the Comprehensive Clean-up Fund, which currently supports comprehensive clean-up activities such as street sweeping, sidewalk cleaning, litter enforcement, and illegal dumping abatement; and

WHEREAS, the additional \$3,500,000 in revenues to the Comprehensive Clean-up Fund will be used to support existing comprehensive clean-up activities, as well as litter removal along street medians and the frontage of park space; and

WHEREAS, the City's program of Solid Waste and Yard Waste Collection and Disposal Services includes various activities that seek to clean-up areas in the City in which residents and business owners generate garbage and other solid waste; and

WHEREAS, the City Council must amend Ordinance No. 11820 C.S.M. to authorize an increase of the City fees; and

WHEREAS, the City Council must amend Ordinance No. 11820 C.S.M. to increase the garbage rates to generate a sufficient amount of revenue to cover the increased City fees; and

WHEREAS, this Ordinance has been duly processed with proper public notice; and

THEREFORE, THE CITY COUNCIL FOR THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

**SECTION 1**

Ordinance 11820 C.S.M Section 5 is amended to provide that:

- (1) WMAC is duly authorized to increase the annual rate that its customers are charged by 5.34% beginning July 1, 2003 in order to increase the payment of City fees to the City of Oakland.
- (2) WMAC is required to pass through to the City the \$3,500,000 in revenue generated by the 5.34% increase in the rate for FY 2003-04.
- (3) The additional revenue generated shall be remitted to the City in twelve equal payments following procedures contained in Section 8.3.4 of the Franchise Agreement.
- (4) For future years WMAC is required to pass through to the City 5.34%, compounded annually by future total annual rate adjustments, of the total revenue generated by rates in the immediately preceding fiscal year, which shall be remitted to the City pursuant to Section 8.3.4 of the Franchise Agreement.

**SECTION 2**

This Amendment will take effect immediately upon its adoption by the City Council.

**SECTION 3**

The City Council finds and determines that:


- (a) This amendment is necessary to protect the public health, safety, and welfare;
- (b) The foregoing recitals are true and correct and are an integral part of this Amendment.

**Introduction Date:            MAY 2 3 2003**

IN COUNCIL, OAKLAND, CALIFORNIA, June 5, 2003

**PASSED BY THE FOLLOWING VOTE:**

AYES –            **BROOKS, BRUNNER, CHANG,  
NADEL, REID, QUAN, WAN**  
NOES –    **AND PRESIDENT DE LA FUENTE – 8**  
ABSENT –      
ABSTENTION –

ATTEST   
**CEDA FLOYD**  
City Clerk and Clerk of the Council  
of the City of Oakland, California