

2014 NOV -6 PM 2: 58

APPROVED AS TO FORM AND LEGALITY

  
City Attorney

**OAKLAND CITY COUNCIL**  
ORDINANCE NO. 13273 C.M.S.

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**ORDINANCE AMENDING ORDINANCE NO. 13258 C.M.S., WHICH AMENDED ORDINANCE NO. 13253 C.M.S. TO AMONG OTHER THINGS, GRANT A FRANCHISE FOR MIXED MATERIALS AND ORGANICS COLLECTION SERVICES TO WASTE MANAGEMENT OF ALAMEDA COUNTY AND APPROVE MAXIMUM SERVICE RATES FOR MIXED MATERIALS AND ORGANICS COLLECTION, RESIDENTIAL RECYCLING AND DISPOSAL SERVICES, TO: (1) ADD TWO (2) CONTAMINATION RATES OF \$25 AND \$50 TO THE MAXIMUM SERVICE RATES FOR CUSTOMER PLACEMENT OF ITEMS OTHER THAN THOSE ALLOWED IN RECYCLING AND ORGANIC MATERIALS CONTAINERS AND (2) MAKE APPROPRIATE FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, on August 13, 2014, the City Council of the City of Oakland approved Ordinance No. 13254 C.M.S., granting a Franchise For Residential Recycling Collection Services And Non-Exclusive Commercial Recycling Collection Services to California Waste Solutions, Inc. (CWS); and

**WHEREAS**, on September 29, 2014, the City Council of the City of Oakland approved Ordinance No. 13258 C.M.S., granting a Franchise for Mixed Materials and Organics Collection Services to Waste Management of Alameda County (WMAC); and

**WHEREAS**, through Ordinance No. 13258, the City Council authorized the mixed materials and organics Franchisee to charge customers, beginning July 1, 2015, the maximum rates set forth in the Rate Tables contained in the City Administrator Agenda Report dated September 26, 2014 to the City Council, or such higher or lower rates as approved by City Council pursuant to request by the Franchisee, for the various Mixed Materials and Organics Collection Services outlined in the MM&O Contract attached to the same Agenda Report and as specified and further described in the Contract; and

**WHEREAS**, the City wishes to allow the Mixed Materials and Organics Franchisee to bill customers Contamination Rates if they deposit material/substances that are not allowed in recycling and organic materials containers because this contaminates the material in the containers at a level that is detrimental to the recovery process; and

**WHEREAS**, contamination of recyclable and organic materials set out by Oakland residents for recycling has a negative impacts such as reducing waste diversion and increasing the costs of collecting and processing non-recyclable materials in the recycling and organics collection and

processing infrastructure; and

**WHEREAS**, a Contamination Reduction Plan to address contamination of the City Zero Waste Services is in development, and this plan which CWS and WMAC shall follow includes a progressive, corrective approach to changing customers' behaviors which cause contamination of materials for diversion; and

**WHEREAS**, the final steps of the progressive, corrective process would be the assessment of Contamination Rates, which would occur only after multiple notifications fail to change customers' contamination behaviors; and

**WHEREAS**, the City Council, pursuant to Charter Section 212, may amend franchise fees by ordinance; and

**WHEREAS**, the City has independently reviewed, considered and confirmed the environmental analysis conducted for these services; and

**WHEREAS**, this environmental analysis concludes that there would not be the potential for significant environmental impacts, and therefore no further environmental review is required; and

**WHEREAS**, the City Council finds and determines that the requirements of the California Environmental Quality Act ("CEQA") have been satisfied, and this action on the part of the City Council is exempt from CEQA pursuant, CEQA Guidelines section 15301, CEQA Guidelines section 15307, CEQA Guidelines section 15308, CEQA Guidelines section 15273, CEQA Guidelines section 15183, and/or CEQA Guidelines section 15061 (b) (3); and

**WHEREAS**, each of the foregoing provides a separate and independent basis for an exemption and when viewed collectively provides an overall basis for an exemption, as further described and explained in the accompanying environmental analysis dated July 8, 2014 attached to the September 22, 2014 City Administrator report to the City Council (Attachment D), incorporated herein by the reference as if fully set forth herein; and

**WHEREAS**, as a further, separate and independent basis, to the extent food waste preprocessing facility is a project under CEQA, the City is also relying on EBMUD's 2011 certified EIR for its Main Waste Water Treatment Plant Master Plan, including the adopted 2013 addendum for the food waste preprocessing facility, and no further environmental review is required

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

**Section 1.** The City Council has independently reviewed and considered these environmental determinations and finds and determines that the action complies with the CEQA; readopts EBMUD's 2011 Mitigation Monitoring and Reporting Program, as revised by the 2013 addendum, and directs the City's Environmental Review Officer to file a Notice of Determination/Exemption.

**Section 2.** The Council does hereby find and declare that the above recitals are true and correct, and does hereby authorize amending Ordinance 13258 C.M.S., to include Contamination Rates

of \$25 and \$50 which can be imposed on customers by the franchisees for the placement or deposit of materials/substances that are not materials approved for deposit in recycling and organic materials containers to be added to the Maximum Service Rates.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 09 2014

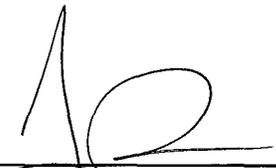
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

Introduction Date

NOV 18 2014

DATE OF ATTESTATION: 12/12/14

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**NOTICE AND DIGEST**

This Ordinance: (1) adds two (2) contamination rates of \$25 and \$50 to the Maximum Service Rates to be charged by Waste Management of Alameda County to customers that place items other than those allowed in recycling and organic materials containers; and (2) makes appropriate finding required by the California.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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