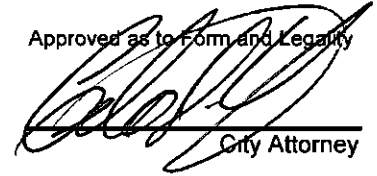


2014 NOV -6 PM 2:58



City Attorney

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 18272 C.M.S.**

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**ORDINANCE ESTABLISHING A FEE IN THE INITIAL AMOUNT OF \$3,240,000, EFFECTIVE JULY 1, 2015, TO BE ADJUSTED BY CHANGES IN THE ANNUAL CONSUMER PRICE INDEX, TO PAY THE CITY'S COSTS OF PREPARING, ADOPTING, AND IMPLEMENTING THE ALAMEDA COUNTY INTEGRATED WASTE MANAGEMENT PLAN, TO BE COLLECTED BY THE MIXED MATERIALS AND ORGANICS FRANCHISEE FROM ITS CUSTOMERS, WHICH SHALL REDUCE SAID FRANCHISE FEE BY AN EQUAL AMOUNT AND SHALL NOT RESULT IN AN INCREASE IN MIXED MATERIALS AND ORGANICS RATES**

**WHEREAS**, Public Resources Code section 41901 authorizes the City to impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing the Alameda County Integrated Waste Management Plan ("the Plan"), which Plan incorporates the Source Reduction and Recycling Element ("SRRE") of each City; and

**WHEREAS**, the City is a member agency of the Alameda County Waste Management Authority, along with the cities in the county, the County, and two sanitary districts, and the Authority has been delegated the authority to prepare and adopt the Plan; and

**WHEREAS**, the City adopted a SRRE (Resolution No. 69111 C.M.S.) to achieve AB 939 requirements through 2000, and, in 1994, adopted a Non-Disposal Facility Element (Resolution No. 12747 C.M.S.). In 2002, the City adopted a 75% waste reduction goal (Resolution No. 77500 C.M.S.) to achieve goals through 2010 and, in 2006, adopted a Zero Waste Strategic Plan (Resolution No. 80286 C.M.S.) to achieve waste reduction goals through 2020. In 2012 the City adopted a Zero Waste System Design (Resolution No. 83689 C.M.S.) that provided the structure for implementing the Strategic Plan; and

**WHEREAS**, the Plan establishes various Policies, including the following:

**GOAL 1: PROMOTE ENVIRONMENTAL QUALITY:** To ensure protection of public health and safety, and to minimize environmental impacts, in all aspects of solid waste management.

**GOAL 2: ACHIEVE MAXIMUM FEASIBLE WASTE REDUCTION:** To reduce the amount of waste disposed at landfills through improved management and conservation of resources.

**GOAL 3: PROVIDE PUBLIC INFORMATION AND EDUCATION:** To build broad public support for the Plan's programs and their implementation.

**GOAL 4: MEET DISPOSAL CAPACITY NEEDS:** To provide for the environmentally sound disposal of waste that cannot otherwise be reduced, reused or diverted.

**GOAL 5: PROVIDE COST-EFFECTIVE WASTE SERVICES:** To fulfill the public trust by maximizing the value of the benefits received for each public dollar spent on improved waste management practices.

**GOAL 6: ENSURE ADEQUATE FINANCING:** To ensure adequate financial support for the programs and facilities proposed in the Plan.

**GOAL 7: PROMOTE INTERJURISDICTIONAL COOPERATION:** To achieve a more efficient and equitable solid waste management system through consensus building and shared efforts;

**WHEREAS,** the City's SRRE, which is incorporated into the Plan, also contains various policies to allow the City to meet the source reduction and diversion goals established under state law; and

**WHEREAS,** the City has since 1995 collected a fee from Waste Management for recycling programs to fund the City's costs of preparing, adopting, and implementing the Alameda Countywide Integrated Waste Management Plan pursuant to its Franchise Agreement with Waste Management of Alameda County, dated December 1, 1995; and

**WHEREAS,** the revenues from that fee fund, among other things, the City's programs to implement the Alameda County Integrated Waste Management Plan; and

**WHEREAS,** the programs funded by the existing fee include the following, which programs relate to the Plan policies as described below:

<b>Program Element</b>	<b>Program Description</b>	<b>CoIWMP Goal Met</b>
Exclusive franchises for Zero Waste collection, processing and disposal services	Development and implementation of new recycling, organics, and mixed materials service contracts effective July 1, 2015	1-6
Non-Exclusive Permit System for Commercial Recycling	Development and implementation of a new commercial recycling system effective July 1, 2015	1-3, 4, 5
Non-exclusive franchise for construction & demolition (C&D) hauling and recycling	Development and implementation of a new C&D hauling system effective July 1, 2015	1-3, 5, 6
C&D Debris Recycling Ordinance	On-going administration of C&D Debris Recycling Ordinance for generators of C&D materials	1-3, 5, 6, 7
Recycling Market Development Zone	Provide direct assistance to support companies and enterprises that are recycling-based processors and manufacturers, to build local markets for recyclables collected within and beyond Oakland	1-3, 7
Legal Services	City Attorney and contracted counsel to support development and management of service contracts and franchises agreements, receipt and implementation of grants, and development of resolutions and ordinances	1-7

Program Element	Program Description	CoIWMP Goal Met
Program and Grant Administration	Administer recycling and waste management programs, including preparing and submitting annual AB 939/AB341 compliance reports to the state; administer state grants for Used Oil Recycling and City/County Programs. City Facilities Recycling Program, City Council Debris Box Program, Residential Bulky Pick-Up Program, Project ReCreate.	1-3, 5-7
Public Engagement, Technical Assistance, Advocacy, and Customer Service	Educate, promote and advocate for Zero Waste sustainability, including: live-staffed Recycling Hotline, technical assistance to businesses and apartment buildings in implementing state and county mandatory recycling legislation, legislative and regulatory advocacy for Zero Waste policies and funding (e.g., product stewardship)	1-3, 5, 7
Sustainable Oakland Support	Implement Zero Waste and sustainability policies and programs including Environmentally Preferable Purchasing (EPP), polystyrene food service ware ban	1-3, 5, 7
Zero Waste and Materials Use Climate Protection	Support implementation of Zero Waste solutions in the City's Energy & Climate Action Plan (ECAP)	1-3, 5, 7

**WHEREAS**, the annual costs of these various City programs is currently estimated to be \$3,240,000. The basis for this cost estimates is detailed in the accompanying agenda report. The costs, being primarily associated with personnel and general administration, will tend to increase with standard consumer price indexes for the Bay Area; and

**WHEREAS**, the Franchise Agreement expires on June 30, 2015, and, in anticipation of entering into new solid waste service agreements effective July 1, 2015, the City adopted a Zero Waste Strategic Plan with the overarching goal of reducing landfill disposal to only 40,000 tons per year by 2020. In furtherance of this strategic goal, the City issued the Zero Waste System Requests for Proposals for Mixed Materials and Organics Collection Services ("MM&O"), Residential Recycling Collection Services ("RR"), and Landfill Disposal Services ("Disposal"); and

**WHEREAS**, franchises and contracts were awarded for those respective services to Waste Management of Alameda County ("WMAC") (MM&O and Disposal) and California Waste Solutions ("CWS") (RR); and

**WHEREAS**, the MM&O Franchise Agreement requires WMAC to remit a franchise fee to the City and authorizes the City to set other fees as the City deems necessary from time to time. WMAC is obligated to remit such other fees so long as its service charges are adjusted to include the other fees; and

**WHEREAS**, it is the City's intention in adopting this ordinance to establish a fee to pay for the costs (detailed above) of preparing, adopting, and implementing the Alameda Countywide Integrated Waste Management Plan ("the Fee"), subject to annual adjustment to reflect the impacts of inflation. It is further the City's intention to reduce the franchise fee payable by WMAC by an amount equivalent to the amount collected by the Fee.

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

**Section 1.** The City Council hereby finds and determines that the foregoing recitals are true and correct.

**Section 2.** The City Council finds that enactment of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act, California Code of Regulations, title 21, section 15378(b)(2), (b)(4); further, even if it were a "project," it would be categorically exempt from the California Environmental Quality Act pursuant to California Code of Regulations, title 21, section 15308.

**Section 3.** There is hereby imposed on MM&O customers a fee pursuant to Public Resources Code section 41901, effective July 1, 2015, in the initial aggregate annual amount of \$3,240,000 to be adjusted by the change in the annual Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, between 2013 and 2014. Effective each July 1 thereafter, the Fee shall be adjusted by the percentage change in the annual Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose. In any event, in no year shall the adjustment be less than zero (0) percent. Notwithstanding the foregoing, no adjustment shall be implemented for a particular fiscal year, other than 2015-2016, if the MM&O Contractor's gross receipts for the prior calendar year were less than the calendar year previous to that. The revenues from the Fee shall be deposited into Fund No. 1710, known as the Recycling Fund, and used exclusively for preparing, adopting, and implementing the Plan and for setting and collecting the Fee.

**Section 4.** The MM&O contractor shall allocate the Fee to MM&O customers in a manner that is proportionate to the amount of mixed materials collected and that is consistent with its existing City-approved rate structure. As soon as practicable following the effective date of this ordinance but no later than June 1, 2015, the MM&O contractor shall submit for the City's review and approval a proposed method of allocating the Fee to MM&O customers.

**Section 5.** So long as the Fee or any portion thereof is remitted to the City the franchise fee otherwise payable under the MM&O Contract shall be reduced by an equal amount and shall not result in an increase in MMO rates. In the event that the Fee, or any portion of it, is invalidated or the City or Contractor is prevented from collecting the Fee, or any portion of it, the MM&O Contractor shall be obligated to pay the franchise fee in a sufficient amount to make the annual revenue from the Fee and the franchise fee equal to the amount of franchise fee otherwise payable under the MM&O Contract.

**Section 6.** This ordinance has been adopted pursuant to Health and Safety Code section 41901 and Government Code section 66016.

**Section 7.** Pursuant to City of Oakland Charter Section 216, this ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes; or, if it receives five (5) affirmative votes, it shall become effective upon the seventh day after final adoption.

**Section 8.** The City Administrator shall be authorized to to amend the Mixed Materials and Organics Franchise Agreement for the City to establish and receive the Fee.

DEC 09 2014

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

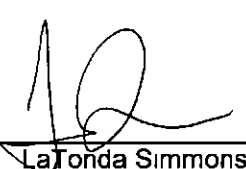
AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID SCHAAF and PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST \_\_\_\_\_

  
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

ORDINANCE ESTABLISHING A FEE IN THE INITIAL AMOUNT OF \$3,240,000, EFFECTIVE JULY 1, 2015, TO BE ADJUSTED BY CHANGES IN THE ANNUAL CONSUMER PRICE INDEX, TO PAY THE CITY'S COSTS OF PREPARING, ADOPTING, AND IMPLEMENTING THE ALAMEDA COUNTY INTEGRATED WASTE MANAGEMENT PLAN, TO BE COLLECTED BY THE MIXED MATERIALS AND ORGANICS FRANCHISEE FROM ITS CUSTOMERS, WHICH SHALL REDUCE SAID FRANCHISE FEE BY AN EQUAL AMOUNT AND SHALL NOT RESULT IN AN INCREASE IN MIXED MATERIALS AND ORGANICS RATES

**NOTICE AND DIGEST**

This Ordinance establishes a fee of \$3,240,000, effective July 1, 2015, to be adjusted by changes in the Consumer Price Index, to pay for the City's costs of preparing, adopting, and implementing the Alameda County Integrated Waste Management Plan, which will be collected by the Mixed Materials and Organics ("MMO") Franchisee from its customers. It shall reduce said Franchise Fee by an equal amount and will not result in an increase in the MMO rates.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
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