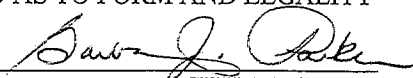


FILED
OFFICE OF THE CITY CLERK
OAKLAND 12421

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER

02 JUN 26 PM 1:25


CITY ATTORNEY**AMENDMENT TO ORDINANCE NO. 11820 C.M.S.**

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, Section 8.3.4 of the Franchise Agreement allows for the City to increase City Fees for the We Mean Clean, Household Hazardous Waste and Recycling program activities, at its sole discretion and obligates the City to increase Rates to generate a sufficient amount of revenue to cover the increased City Fees; and

WHEREAS, the City wishes to increase garbage rates by 3.17% to generate approximately \$2, million annually for 1720 -the We Mean Clean - Comprehensive Cleanup Fund, which provides revenue for the Litter Enforcement and Roving Clean-up Program, and part of the We Mean Clean program activities; and

WHEREAS, the budget for the use of the revenues that will be generated by this increase is included in the Council Agenda Report that accompanied the adoption of this Ordinance; and

WHEREAS, the Franchise Agreement identifies the We Mean Clean program, which currently includes the Litter Enforcement and Roving Cleanup Crew components of the City's enhanced beautification program, that seeks to clean-up and beautify targeted areas throughout 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.M.S. to authorize an increase of the City Fees; and

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

WHEREAS, the O.M.C. Section 8.28.020 C. allows the City Council to adjust the Rates for Non-Consumer Price Index in the exercise of its legislative discretion; and

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

WHEREAS, the City Council has conducted legally noticed public hearings and has provided interested parties an opportunity to be heard on these issues; and

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

SECTION 1

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

- (1) WMAC is duly authorized to increase the annual rate that its customers are charged by 3.17% effective July 1, 2002 in order to increase the payment of City fees to the City of Oakland for the We Mean Clean – Comprehensive Cleanup Program.
- (2) WMAC is required to pass through to the City the \$2 million in revenue generated by the 3.17% increase in the garbage Rates for FY 2002-03.
- (3) The additional \$2 million in revenue shall be remitted to the City Fund 1720 in 12 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 3.17%, 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 Fund 1720 pursuant to Section 8.3.4 of the Franchise Agreement.

SECTION 2

This Amendment will take effect immediately upon its final passage 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 21 2002

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 11 2002

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, CHANG, MAYNE, NADEL, REID, SPEES, WAN AND PRESIDENT DE LA FUENTE – 8

NOES – 0

ABSENT – 0

ABSTENTION – 0

ATTEST



CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California