

THIRD AMENDMENT TO FRANCHISE AGREEMENT

This Third Amendment by and between the City of Oakland ("City") and Waste Management of Alameda County, Inc. ("Contractor") is effective as of March 1, 1999.

RECITALS

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

WHEREAS, the City and Contractor entered into a Supplemental Agreement dated December 2, 1995; and a First Amendment to Supplemental Agreement dated July 1, 1996; and a First Amendment to Franchise Agreement dated October 1, 1997; and a Second Amendment to Franchise Agreement dated March 1, 1998; and

WHEREAS, the City and the Contractor desire to establish a new basis for establishing rate adjustments so that monthly fluctuations to the Consumer Price Index (CPI) are minimized; and

WHEREAS, the City and Contractor desire to amend the Franchise Agreement to provide for an annualized CPI ;

NOW, THEREFORE THE CITY AND CONTRACTOR DO HEREBY AGREE TO AMEND THE FRANCHISE AGREEMENT AS FOLLOWS:

1. Section 15.3 Annual Rate Adjustment is amended to read:

"The Rates set forth in Exhibit B-1 shall be adjusted annually, as set forth below, commencing July 1, 1996, to reflect changes in the Contractor's costs of providing service. The changes will become effective as of July 1, 1996 and on July 1 of each succeeding year.

Year Two The Rates set forth on Exhibit B-1 will be changed effective July 1, 1996 to those shown on Exhibit B-2.

Year Three through Year Six The Rates in effect as of June 30, 1997 and as of June 30th of each succeeding year through June 2000 will be adjusted, effective as of the immediately following July 1 of each year, by multiplying each such rate by one hundred percent plus the sum of (a) one and one-half percent (1-1/2%) and (b) eighty percent (80%) of the percentage change in the Consumer Price Index between the Annual Average (January – December) index in the year immediately preceding the year in which rates are being changed and Annual Average index twelve (12) months earlier. Any decreases in the Index shall be reflected as a negative adjustment. For example, the rates in effect in June 1999 will be increased to reflect 80% of the percentage change in the Index between the Annual Average index for 1997 and the Annual Average index for 1998, plus one and one-half percent (1-1/2%).

Year Seven through Year Fifteen The Rates in effect as of June 30, 2001 and in each succeeding year of the Term will be adjusted, effective as of the immediately following July 1 of each year, by multiplying each such rate by one hundred percent plus eighty percent (80%) of the percentage change in the Consumer Price Index between the Annual Average (January – December) index in the year immediately preceding the year in which the rates are being changed and Annual Average index twelve (12) months earlier.”

2. Section 8.3.3 Franchise Fee is amended to read:

“In consideration of the special franchise right granted by the City to Contractor to transact business, provide services, use the public streets and/or other public places, and to operate a public utility for Solid Waste and Yard Waste collection services, Contractor shall remit monthly a franchise fee payment to the City. From the Effective Date of this Agreement through December 31, 1995, Contractor shall pay the City a franchise fee of six and one-half percent (6.5%) of gross revenues received (less City fees) from all Solid Waste, Yard Waste and franchised special services provided by Contractor, including revenues from sales of Bag-Its on or before the 20th day of the month after the Effective Date and each successive payment will be due on or before the 20th day of each succeeding month. For the period of January 1, 1996 through June 30, 1999, Contractor shall pay to the City a monthly franchise fee of \$305,000 (\$3,660,000 per annum). The payment for January 1996 will be due on or before the 20th day of February and each successive payment will be due on or before the 20th day of each succeeding month. Commencing July 1, 1999 the franchise fee required to be remitted pursuant to this section shall be increased by eighty percent (80%) of the change in the Index between the Annual Average (January – December) index for 1998 and the Annual Average index for 1997.

On July 1 of each subsequent year of the Term, the franchise fee, as adjusted as of July 1, 1999, shall be adjusted by eighty percent (80%) of the change in the Index between the Annual Average index in the year immediately preceding the year in which the franchise fee is changed and the Annual Average index twelve (12) months. The franchise fee payment for July 1999 shall be due on or before August 20, 1999 and each successive payment will be due on or before the 20th day of each succeeding month. If the franchise fee is not paid on or before the twentieth (20th) day of any month, Contractor shall pay to the City a late payment fee in an amount equal to one percent (1%) of the amount owing for that month. Contractor shall pay an additional one percent (1%) owing on any unpaid balance for each thirty (30) day period the franchise fee remains unpaid.

The City, at its sole discretion, may increase the franchise fee. Contractor shall collect and remit same to the City. In such event, the City shall be obligated to increase the Rates to generate a sufficient amount of revenue to cover the increased franchise fee owed to the City.”

3. Section 8.3.4 City Fees is amended to read:

“From the Effective Date of this Agreement through December 31, 1995, Contractor shall pay City fees based upon the methodology for submitting City fees then in existence between the City and Contractor. For the period of January 1, 1996 through June 30, 1999, Contractor shall remit to the City a monthly payment of \$1,041,000 (\$12,492,000 per annum) for We Mean Clean, Household Hazardous Waste and recycling program activities. The payment for January 1996 will be due on or before the 20th day of February and each successive payment will be due on or before the 20th day of each succeeding month. Commencing July 1, 1999 the City fees required to be remitted pursuant to this Section shall be increased by eighty percent (80%) of the change in the Index between the Annual Average (January – December) index for 1998 and the Annual Average index for 1997. On July 1 of each subsequent year of the Term, the City fee, as adjusted as of July 1, 1999, shall be adjusted by eighty percent (80%) of the change in the Index between the Annual Average index in the year immediately preceding the year in which the City fee is changed and the Annual Average index twelve (12) months earlier. The City fee payment for July 1999 shall be due on or before August 20, 1999 and each successive payment will be due on or before the 20th day of each succeeding month.

If the City fees are not paid on or before the twentieth (20th) day of any month, Contractor shall pay to the City a late payment fee in an amount equal to one percent (1%) of the amount owing for that month. Contractor shall pay an additional one percent (1%) owing on any unpaid balance for each thirty (30) day period the City fees remain unpaid.

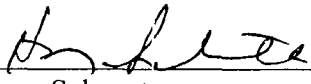
The City, at its sole discretion, may increase City Fees. Contractor shall collect and remit same to the City. In such event, the City shall be obligated to increase the Rates to generate a sufficient amount of revenue to cover the increased City fees.”

4. Except as expressly set forth herein, all provisions of the Franchise Agreement shall remain in full force and effect.

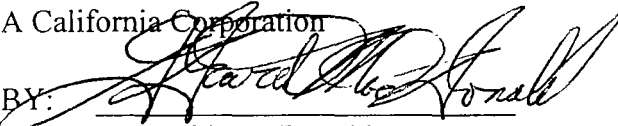
March 1, 1999

IN WITNESS WHEREOF, the City and Contractor have duly authorized execution of this Third Amendment to Franchise Agreement, and have executed this Third Amendment to Franchise Agreement effective the date first written above.

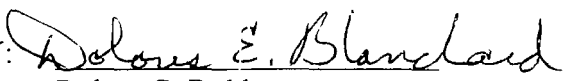
RECOMMENDED FOR APPROVAL

BY: 
Harry Schraut,
Assistant Director, Public Works Agency
4-29-99
Date

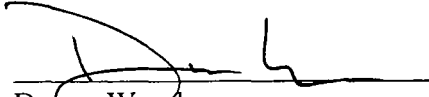
WASTE MANAGEMENT
OF ALAMEDA COUNTY, INC.
A California Corporation

BY: 
D. David MacDonald
Executive Vice President
4-26-99
Date

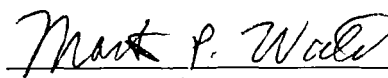
CITY OF OAKLAND
A Municipal Corporation

BY: 
Robert C. Bobb
City Manager
5-5-99
Date

APPROVED TO FORM:

BY: 
Duane Woods
Vice President and
Area General Counsel
4-19-99
Date

APPROVED AS TO FORM & LEGALITY:

BY: 
Mark P. Wald
Deputy City Attorney
4/29/99
Date