



City of Emeryville

INCORPORATED 1896

1333 Park Avenue. Emeryville, CA 94608-3517
t (510) 596-4300 | f (510) 596-4389

Friday, April 3, 2020

Todd Nienhouse
Senior District Manager
Waste Management of Alameda County
172 98th Avenue
Oakland, CA 94603

Dear Mr. Nienhouse:

I hope you are keeping well and safe during this challenging time, and I appreciate your team's efforts to keep Emeryville informed as conditions and operations change. As noted in Governor Newsom's Executive Order N-33-20 and Section 10 c of the Shelter in Place Order issued by the Health Officer of Alameda County on March 16, solid waste collection has been designated essential services, the continuity of which is essential for public health and safety.

On March 22, Waste Management of Alameda County (WMAC) sent the City of Emeryville a "Notice of Force Majeure Event Preventing Full Contract Compliance." Force Majeure is defined in Section 1.49 of our February 1, 2011 Collection Services Agreement. However, it is not clear that this Force Majeure event provides global relief from WMAC's obligations under that Agreement. For example, one of the changes listed in the March 22 notice is a likely "suspension of requirements regarding pre-approval and advanced notifications to our franchises and municipalities regarding customers;" the nexus of this change with the Force Majeure event is not clear. The City of Emeryville requests that, in keeping with Section 26.10 of the Agreement, WMAC specifies not only which obligations cannot be met, but specific information about why, and what steps WMAC intends to take to restore its ability to perform as fully as conditions permit.

Looking forward, it is important to prioritize service in the event of further limitations on WMAC's capabilities; which waste streams, customers and locations are most critical to service. The City of Emeryville has many critical facilities as defined under the recent orders, including those involved in the research and testing for COVID-19. We're interested to learn more about WMAC's plans for identifying essential services and customers within the Emeryville community to prepare for the possibility that further service reductions may be necessary. City staff can assist in that process as well.

Sincerely,

Nancy Humphrey
Environmental Programs Supervisor