

OAKLAND v. CWS -- CLAIMS PROCESS ADDENDUM

This Claims Process Addendum ("Addendum") is stipulated and agreed by and between the City of Oakland ("City") and California Waste Solutions, Inc. ("CWS") (collectively "Parties"), pursuant to paragraph 8 of the Settlement Agreement and Mutual Release ("Agreement"), approved in open session by the Oakland City Council on December 21, 2021.

DEFINITIONS

1. "Claimants" shall refer to persons who are owed refund payments, pursuant to paragraph 3 of the Agreement.
2. "Claims Administrator" shall mean CPT Group, Inc.
3. "Claims Period" shall mean the one year period beginning on the day after the first mail notice is sent out.
4. "Claims Dispute Process" shall mean the process outlined in paragraph 18 in this Addendum to which all Disputed Claims are subject.
5. "Disputed Claim" shall mean a claim made by a person who is not a Pre-identified Claimant, a claim for a refund amount that differs from a Pre-identified Claim Amount, or claims that appear to be duplicative of another claim.
6. "Final Claim Amount" shall mean the amount of the refund owed to a Claimant either initially identified through the MFD Overpayment Calculation, pursuant to paragraph 4 of the Agreement and not disputed, or finally verified through the Claims Dispute Process.
7. "Full Notice and Claim Form" shall refer to the document stipulated to by the Parties, which will contain the release language set forth in Attachment 1 and otherwise be substantially similar to Attachment 1.
8. "Identified Claimants" shall mean all Pre-identified Claimants and Post-identified Claimants.
9. "Person" or "Persons" shall mean an individual or entity, including but not limited to a trust, partnership, corporation, association, or other legal entity.
10. "MFD Reimbursement Fund" shall mean the total overpayments fund deposited into the escrow account pursuant to paragraph 6 and 10 of the Agreement.

11. "Post-identified Claimants" shall mean persons who are owed refund payments and identified through the Claims Dispute Process but not initially identified through the MFD Overpayment Calculation, pursuant to paragraph 4 of the Agreement.
12. "Pre-identified Claim Amount" shall mean the amount of the refund owed to each Claimant identified through the MFD Overpayment Calculation as determined by the City, pursuant to paragraph 4 of the Agreement.
13. "Pre-identified Claimants" shall mean persons as determined by the City who are owed refund payments and are identified through the MFD Overpayment Calculation, pursuant to paragraph 4 of the Agreement.

AGREEMENT

14. **Claims Administrator.** The Parties agree that CPT Group, Inc. shall serve as the claims administrator pursuant to paragraph 7 of the Agreement. The Claims Administrator shall be responsible for:
 - a. Providing notice to potential Claimants and processing the claims, including but not limited to keeping track of all returned claims, non-responsive Claimants, and undeliverable notices;
 - b. Consulting with counsel for the Parties concerning any relevant issue, including without limitation, the identification of Claimants and amounts to be paid;
 - c. Providing weekly status updates to and responding to any inquiries from the Parties on the claims process status;
 - d. Establishing a Settlement Fund to receive the MFD Reimbursement Funds and from which disbursements can be made to Claimants;
 - e. Distributing and paying the MFD Reimbursement Fund to Identified Claimants, provided they have signed the Claim Form, including the release therein;
 - f. Paying to CWS any funds owed to CWS pursuant to paragraph 19 of this Addendum;
 - g. Such other tasks as the Parties mutually agree or the Court orders the Claims Administrator to perform.
15. **First Notice.** Within 30 days after the later of either the date the execution of the City's professional services agreement with the Claims Administrator or the date the parties have finalized the Total MFD Overpayment pursuant to paragraphs 4-5 of the Agreement, the Claims Administrator shall:

- a. Set up and host a website for potential Claimants to submit claims and access information regarding the claims process (“Website”). The Website shall be available in English and Spanish languages and be available by prior to the first mail and email notice being sent.
- b. Set up and host a toll-free telephone line for potential Claimants to call with inquiries about the claims process, request a claim form, and ask any other questions related to the claims process.
- c. Disseminate on the PR Newswire California Newswire a press release that will direct potential Claimants to the Website and provide information about the claims process.
- d. Perform a first mail notice by printing and mailing the Full Notice and Claim Form to all Pre-identified Claimants via First Class U.S. mail, using the most current mailing address identified by the Parties. The first mail notice will commence the “Claims Period.”
- e. Perform a first email notice by emailing the Full Notice and Claim Form to all Pre-identified Claimants using email addresses tracked by the Pre-identified Claimant’s names or addresses, or provided by the Parties.
- f. Monitor and keep records of delivered and undelivered mail and email, Claimants’ responses, and Claimants’ requests to opt-out.

16. Additional Notices. After the initial notice, the Claims Administrator shall:

- a. Prior to each additional notice, perform all necessary address research and investigation to update the contact information for the Pre-identified Claimants to use for the subsequent notice. The research and investigation may include, but is not limited to, skip tracing and other publicly available resources.
- b. 30 days after the first mail notice, perform: (i) a second mail notice by mailing the Full Notice and Claim Form to all Pre-identified Claimants who did not respond to any of the prior notices, via First Class U.S. mail, using the most current mailing addresses identified by the Parties or updated through additional research; and (ii) perform a second email notice by emailing the Full Notice and Claim Form to all Pre-identified Claimants using email addresses tracked by the Pre-identified Claimant’s names or addresses, or provided by the Parties or updated through additional research.
- c. 30 days after the second mail and email notices, shall make at least two attempts of live telephone calls and one reminder robocall to all Pre-identified

Claimants who did not respond to any of the prior notices, to provide information about their entitlement to a refund through the claims process and how to submit a claim.

- d. Every 30 days after the second mail notice for up to 60 days, perform an additional reminder notice by printing and mailing a reminder postcard to all Pre-identified Claimants who did not respond to any of the prior notices and for whom valid addresses are known.
- e. Every 21 days for up to 120 days after the initial notice, perform additional email reminders to all Pre-identified Claimants who did not respond to any of the prior notices.
- f. 120 days after the initial notice, perform a hand-delivery of the Full Notice and Claim Form to the most current address of all Pre-identified Claimants who did not respond to any of the prior notices.
- g. Additional notice may be further agreed to by the Parties during the Claims Period.

17. **Claims Processing.** The Claims Administrator shall review all claim forms submitted online and in hardcopy and verify those claims with the Pre-identified Claimants and Pre-identified Claim Amounts. Claims that are not so verified shall be deemed a Disputed Claim and proceed to the Claims Dispute Process, pursuant to paragraph 18 below.

18. **Disputed Claims.** For Disputed Claims, the Claims Administrator shall begin a Claims Dispute Process that includes verifying the claim submitted by a potential Claimant by requesting information reasonably determined by the Claims Administrator to be necessary or helpful in resolving the Disputed Claim, including but not limited to:

- a. Requesting proof of identity. The proof of identity may include copies of one of the following forms of identification: 1) driver's license, 2) state issued identification card, or 3) passport.
- b. Requesting proof of payment. The proof of payment may include copies of one of any of the following documents: 1) bank or credit card statements or 2) cancelled checks.
- c. The Claimant will be deemed a Post-identified Claimant if they provide the required proof of identity, proof of payment or other information needed to confirm the validity of their Disputed Claim.

- d. In the event that a potential Claimant is unable to provide the above proof of identity or proof of payment, the Claims Administrator shall ask for the potential Claimants' best documentation of identity and payment. If the potential Claimants provide no documentation, their claim shall be rejected.
 - e. If the potential Claimants provide some documentation, the Claims Administrator shall submit the documentation to the Parties to determine whether the claimant shall be deemed a Post-identified Claimant with a Final Claim Amount or be deemed rejected. If the Parties do not agree, the Parties will request the Court will make the final decision based upon all information submitted to the Court by the Claims Administrator and the Parties.
 - f. Persons whose claims are rejected shall be notified within 10 days of the determination by the Claims Administrator, the Parties, or the Court, pursuant to paragraph 15 (d) and (e) above. The notice shall advise the reason for the rejection, identify any missing documentation or information, if any, and advise that a suit may be filed against and defended by CWS. If the reason for rejection can be corrected by supplemental information, the notice shall give a reasonable time not to exceed 21 days to submit such information. If the reason for rejection cannot be corrected or no supplemental information is provided within 21 days, the notice shall advise that the rejection is final and that a suit may be filed against and defended by CWS.
19. **Opt-Out.** Pursuant to paragraph 10 of the Agreement, any Claimant may opt out of the claims process within the Claims Period by choosing the opt out option in their returned claim form. A Claimant who opts out will receive no payment from the MFD Reimbursement Fund and may separately file a suit against CWS. Any Claimant who does not submit a claim will be deemed as opted out at the end of the Claims Period. For any Claimant who opts out but does not file suit against CWS by December 31, 2024, the Pre-identified Claim Amount attributable to that Claimant will be deemed unclaimed funds pursuant to paragraph 12 of the Agreement. Any Claimant's claims on any portion of the MFD Reimbursement Fund shall be deemed extinguished upon the Claimant choosing the opt out option. If a Claimant files suit against CWS, the Pre-identified Claim Amount attributable to that Claimant will be refunded to CWS from the MFD Reimbursement Fund.
20. **Distribution.** At the end of the Claims Period, or earlier if the Parties agree, the Claims Administrator shall distribute the MFD Reimbursement Fund to all Identified Claimants who have signed releases in the appropriate respective Final Claim Amounts by direct deposit or paper check, as chosen in each Identified Claimants' submitted claim form.
- a. In the event the total of the Final Claim Amounts exceed the MFD Reimbursement Fund, the Claims Administrator shall pay each Identified Claimant in a pro rata amount, pursuant to paragraph 11 of the Agreement.

b. The release referenced in the Full Notice and Claim Form shall be effective upon the finalization of the direct deposit or the settlement check being cashed by the Claimant.

21. Continued Settlement Administration at the Conclusion of the Initial Claims Period.

The Parties may, in consultation with the Claims Administrator, agree to extend any dates herein as may be required for fair and effective administration or distribution of claims

22. Counterparts. This Addendum may be executed in counterparts and by email facsimile, and each counterpart and facsimile shall have the same force and effect as an original, and all so executed shall constitute an effective, binding agreement upon the Parties hereto.

AGREED AND ACCEPTED:

Dated: 11/11/2022

CITY OF OAKLAND


By: 
Ed Reiskin, City Administrator

Dated: 10/20/2022

CALIFORNIA WASTE SOLUTIONS, INC.
By: 
David Duong, CEO & President

APPROVED AS TO FORM:

Dated: 11/10/22


Barbara J. Parker
Oakland City Attorney

Dated: 10/21/22


Douglas Straus
Buchalter
Attorneys for California Waste Solutions, Inc.