



DATE: June 28, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: New Solid Waste and Recycling Franchise Agreement: Approval of New Franchise Agreement and New Refuse, Recycling, and Organics Services Rates – Introduction of Ordinance

RECOMMENDATION

That Council:

1. Adopts a resolution (Attachment II) authorizing the City Manager to execute a new Franchise Agreement with Waste Management of Alameda County (WMAC); and
2. Introduces an ordinance (Attachment III) granting an exclusive franchise to WMAC incorporating the proposed Franchise Agreement; and
3. Adopts a resolution (Attachment IV) authorizing the City Manager to execute an extension to the current Memorandum of Understanding (MOU) with the Oro Loma Sanitary District (OLSD) and WMAC.

SUMMARY

The City holds a franchise agreement with WMAC to provide solid waste, recycling, and organic materials collection, and processing services. The current agreement commenced March 1, 2015 and was scheduled to expire March 1, 2022. The agreement includes the option to extend for three, 12-month periods, and on January 18, 2022, Council opted to extend the contract for one year. If the City extends the contract the maximum numbers of times, the agreement would expire March 1, 2025. Most recently, on January 18, 2022, staff requested from Council and was granted an extension of the exclusive negotiating period until June 30, 2022.

Staff recently completed negotiating with WMAC as authorized by Council. Key elements of the new contract include: acquisition of state-required new blue recycling containers and black trash containers; new public litter cans; surcharges for contamination and overages; and a new fleet of trucks for residential recycling provider Tri-CED. The tentative agreement recommended by staff includes maximum possible rate increase of 14.27%, effective March 1, 2023. This includes a maximum base rate adjustment of 8.27% and a consumer price index (CPI) portion of up to 6%.

BACKGROUND

WMAC has been the City's solid waste and recycling services franchisee since at least the mid-1970s. WMAC provided the service under a different business name initially (Oakland Scavenger Company) and has, in the past thirty years, subcontracted with Tri-CED Community Recycling for residential recycling services.

The City's current agreement with WMAC was approved by Council on January 20, 2015¹ for a term of up to ten years (seven years and three possible one-year extensions). The agreement includes the rate adjustments depicted in Table 1 below.

Table 1. Rate Adjustments for Current Agreement

Rate Year	Effective Date	Approved Rate Adjustments	Actual Rate Adjustments
1	3/1/2015	Up to 10%	9.23% ²
2	3/1/2016	3%	3.00%
3	3/1/2017	3%	3.00%
4	3/1/2018	Up to 10%, for WMAC to earn after-tax ROI of 5.5%	5.00%
5	3/1/2019	CPI (min. 3%, max. 6%) ³	2.61%
6	3/1/2020	CPI (min. 3%, max. 6%)	2.84%
7	3/1/2022	CPI (min. 3%, max. 6%)	2.85%
8 – 10		CPI (min. 3%, max. 6%)	

At the March 9, 2020⁴ Council Sustainability Committee (CSC) meeting, the CSC discussed possible approaches to the new solid waste franchise agreement, and recommended the City start exclusive negotiations with WMAC. The CSC also expressed a desire for the City to partner with Hayward schools, if possible, so that solid waste services and outreach would be consistent throughout Hayward. The CSC also directed staff to be innovative and sustainability-minded in negotiations.

At its June 23, 2020⁵ meeting, Council approved a period of exclusive negotiations with WMAC through October 31, 2020. Negotiations started as the most significant recycling law in California in 30 years, SB1383, was poised to take effect in January of 2022. Some of the many requirements of SB1383 include: mandatory monitoring of containers for contamination; acquisition of containers that comply with a mandated color-scheme (blue for recycling, black

¹ <https://hayward.legistar.com/MeetingDetail.aspx?ID=454157&GUID=005B0B35-316D-4C65-AE50-F4E9F752AF38&Options=&Search=>

² In 2015, the rate for single-family residential customers increased by 9.23%. The adjustment for multi-family customers varied depending on container sizes but ranged from 8.5 to 10%. The adjustment for commercial customers also included a new recycling rate, so the total adjustment varied, but a typical increase was approximately 13%.

³ The formula used for adjustments based on the Consumer Price Index (CPI) takes into account fees assessed by the State, County, and City, and projected revenues for WMAC. Therefore, the final increases were less than 3%.

⁴ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4389835&GUID=EFF0E6BA-0F1F-4CA3-B275-1B18D86FF2EE&Options=&Search=>

⁵ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4576643&GUID=060523BF-B23D-49D7-A78E-F40F4DB335C4&Options=&Search=>

or gray for trash, and green for organics); and procurement of organic material. Staff and WMAC worked to address these requirements through the franchise agreement.

At the October 27, 2020 meeting, Council extended the exclusive negotiating period until June 30, 2021.

At the November 9, 2020⁶ CSC meeting, staff presented an update on negotiations. The CSC expressed a desire for increasing the number of public litter cans, as well as increasing the number of illegal dumping collections performed by WMAC, and flexibility on the contract length. At its March 8, 2021⁷ meeting, the CSC heard from Hayward recycling service providers, WMAC and Tri-CED, about the ongoing negative effects of the China National Sword policy on the recycling markets in California, and the importance of reducing contamination in collected recyclables.

On June 15, 2021⁸, Council approved an extension of the exclusive negotiation period with WMAC through December 31, 2021. On October 26, 2021⁹, Council received a report updating them on franchise agreement negotiations and Council held a work session on the negotiations between the City and WMAC. Council expressed a desire to keep rates reasonable, install more public litter cans, try to maintain the Main Street WMAC office, and maintain the bulky collection service. Council also expressed concern about SB1383 mandates wasting functional recycling and garbage carts merely due to their colors not matching the State's new color scheme, and requiring jurisdictions to procure and disseminate a very large amount of organic material.

On January 10, 2022, staff presented an update to the CSC and recommended a one-year extension of the current contract. The CSC supported the recommendation and suggested bringing up the topic of a possible combined City of Hayward and Hayward Unified School District contract at the next Hayward Local Agencies Committee (HLAC) meeting. The CSC also recommended that staff promote the bulky item pick-up service in The Stack Newsletter. On January 18, 2022¹⁰, Council approved the one-year extension of the contract and also granted an extension of the exclusive negotiating period until June 30, 2022.

On March 28, 2022, the CSC held a special meeting to receive an update on negotiations. The CSC's comments included:

- Some support for closing the Main Street office, but not unanimous. Those in support noted that many bills are now paid electronically and that unpaid bills did not increase during the pandemic closure. Those opposed noted that the office should remain open for people who want or need to pay their bills with cash
- Would like to see the new carts delivered with an electric truck
- Want to minimize the rate increase
- Want to have input on locations of new Big Belly containers

⁶ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4686767&GUID=7FE71371-C877-447E-993D-AFA9732B3526&Options=&Search=>

⁷ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4816826&GUID=3FAFD9A3-6BEF-4BFE-B619-BB9C4A346E51&Options=&Search=>

⁸ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4983870&GUID=CFAEB194-2F77-4434-BBD1-5FB23712A6E9>

⁹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5192092&GUID=1893F7A1-05E5-4606-9364-31F12BF785BD&Options=&Search=>

¹⁰ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5382579&GUID=C1A9EF92-809E-4109-9D94-B44070621B45>

On April 5, 2022, Council held a work session to review an update on negotiations with WMAC. Comments included:

- Most supported the option to keep the current schedule of annual rate increases occurring on March 1 and to have the initial rate increase occur on March 1, 2023, rather than on September 1, 2022, so that customers don't experience two separate rate increases in a single year.
- Support for the increase in illegal dumping collections
- Support for the new Big Bellies public waste containers
- Some were in favor of closing the Main Street office, but also wanted to know the potential cost savings before making a final decision
- Support for minimizing the rate increase

DISCUSSION

As of the April 5 Council meeting, most of the key terms were tentatively agreed upon. Since April 5, staff met with WMAC representatives a dozen more times to finalize details of the alterations to be made to the Franchise Agreement. The following elements were agreed upon after April 5, 2022.

Duration

As requested by Council, the ten-year term and the initial rate adjustment would commence March 1, 2023, and the Agreement would end February 28, 2033. The new contract duration would be three years longer than the current term. Staff recommends a ten-year initial term, plus three one-year extensions at the sole discretion of the City. The reason for the longer term is to allow more time to pay for costs incurred in the first two to three years of the agreement such as those for new trucks and carts.

Provisions for Smart Truck – Overages and Contamination

City staff confirmed with WMAC that the Smart Truck program can meet SB1383 requirements for trash monitoring by capturing images of unbagged organics with cameras on the trucks.

New Diversion Goals

The current contract includes very ambitious landfill diversion requirements for WMAC called the franchise recovery rate¹¹. In addition to the ambitious nature of the original goals, China's National Sword policy and its severe negative impact on the recycling industry made the goals too difficult to reach and they were not attained. For example, the current landfill diversion requirement for 2022 is 74%, and WMAC's franchise recovery rate for 2021 was 35%.

WMAC and City staff agreed upon new diversion goals earlier in negotiations that more realistically align with the current recycling markets. Since April 5, staff and WMAC confirmed the formula that will be used to calculate diversion. Following are the tentatively agreed upon franchise recovery rate requirements for each year of the new contract.

¹¹ The franchise recovery rate only applies to material collected by WMAC. The franchise recovery rate does not include material self-hauled to the Davis Street Transfer Station or material handled by third parties.

<u>Year</u>	<u>Franchise Recovery Rate</u>
2023	36%
2024	37%
2025	38%
2026	40%
2027	42%
2028	44%
2029	46%
2030	48%
2031	49%
2032	50%
2033	50%

Hayward's overall diversion rate as reported to CalRecycle was 73% in 2020. Staff estimates that if the above-listed goal for 2032 is achieved, then Hayward's overall diversion rate would improve by approximately 10%. WMAC plans to reach the proposed franchise recovery rate requirements by upgrading their sorting equipment at the Davis Street facility in San Leandro, increasing outreach about contamination and focusing outreach on customers who produce the highest volume of solid waste. WMAC also plans to ensure commercial customers comply with SB1383, and help larger generators of dry waste better separate their recyclables. The current agreement allows the City, after following due process, to assess liquidated damages of \$100,000 per year for failure to comply with diversion requirements. WMAC has agreed to keep this provision in the new contract.

References to the ORRO

On November 16, 2021, Council voted to opt into the Alameda County Organics Reduction and Recycling Ordinance (ORRO). The ORRO replaced the Mandatory Recycling Ordinance (MRO) that was adopted by Hayward in 2012. Staff and WMAC updated the Franchise Agreement language to reference the ORRO instead of the outdated MRO.

Changes in Value of Recyclables

The City will allow WMAC to request rate adjustments for severe changes to WMAC's revenue from the sale of recycling commodities. If the value of an agreed-upon blended recycling commodities index decreases by 25% or more in one year, WMAC would receive additional compensation. If the value of the blended recycling commodities index increases by 25% or more in one year, WMAC would receive reduced compensation.

The revised draft Franchise Agreement also includes other changes and updates including the following:

Procedures for Flagging Overages and Contamination

WMAC may alert customers to overage or contamination issues through email, phone, or text messages and is not required to leave a physical notice on the container.

Insurance Provisions

Contract language regarding insurance provisions was adjusted so that the Agreement does not require WMAC to divulge confidential information related to pending WMAC legal matters.

Route Schedules

City staff agreed to allow WMAC to change days of service to commercial accounts without City consent only for route efficiency and load balancing. Previous contract language required WMAC to seek City approval in all circumstances, which was not necessary or practical.

Record Keeping and Monthly Reports

Reporting requirements were altered so that WMAC may provide certain information, including customer account data, to the City upon request, instead of with each monthly report. For confidentiality purposes, WMAC will now provide the City with the destination of recyclables sold rather than both the destination and the name entity purchasing the material.

Public Education and Special Events

The City and WMAC updated the list of public education events WMAC will attend and also updated the list of Hayward special events for which WMAC will provide waste and recycling containers.

Main Street Office

WMAC's office on Main Street has been closed for most of the pandemic. Closing the office would save Hayward approximately \$300,000 per year, or about 0.4% of the proposed rate increase that would be implemented with the new contract. This equates to approximately 16 cents per month for the typical single-family household.

The following tentatively agreed-upon elements have not changed since the April 5, 2022 report to Council.

Multi-Family Properties – Eliminate Surcharge for the Use of Bins for Recycling

While Tri-CED provides recycling services for most residential customers in Hayward, Tri-CED does not have front-end-load trucks used to service metal bin containers. However, some properties would rather use bins than carts, and properties that choose recycling bin service must be serviced by WMAC. When the current contract was negotiated, it was agreed that these properties would pay the per dwelling unit recycling fee paid by all multi-family properties and also a discounted rate for recycling bins from WMAC. This discounted rate was 20% the cost of an equivalent-sized solid waste bin. In the spring of 2021, it was discovered that the rate for recycling bins had been inadvertently increased to be 50% the cost of an equivalent-sized solid waste bin. On June 15 2021¹², Council approved refunds to multi-family customers for the difference and the refunds were applied to customer bills in the autumn of 2021. WMAC and staff have tentatively agreed to not require multi-family properties to pay any additional rate for a recycling bin. This way,

¹² <https://hayward.legistar.com/LegislationDetail.aspx?ID=4983871&GUID=73F41AA1-8BF7-44AE-9049-75713D5E547A&Options=&Search=>

all multi-family properties will be charged the same per dwelling unit recycling fee regardless of container type or size.

SB 1383 Cart and Bin Requirements

SB 1383 and subsequent regulations developed by CalRecycle¹³ include several requirements that the franchise agreement can help address, including a cart color mandate. Trash carts are mandated to be black or gray, recycling carts are mandated to be blue, and organics carts are mandated to be green. WMAC and Tri-CED will replace all trash and recycling carts to meet SB1383 requirements, which in addition to being compliant will also provide Hayward customers with sturdy carts over the life of the contract, which could potentially be thirteen years. WMAC will also paint, replace, or change the lid color of existing bins to match the required color scheme.

SB1383 Organics Procurement

SB1383 requires that jurisdictions procure organics material annually based on population, and Hayward's requirement equates to about 13,000 tons of mulch or compost needing to be procured annually. WMAC has agreed to increase the amount of compost provided for compost giveaways from 5,000 bags of compost to 10,000 bags per year. The compost giveaways have become very popular and the increase in bags will allow more residents to receive compost. In addition to the bagged compost, the City will need to procure approximately 12,500 tons of compost or mulch to meet SB1383 requirements. CalRecycle has indicated that strict enforcement of this requirement may not occur until 2025 and also that jurisdictions may receive credit for compost used on some private building projects. Staff and Stopwaste continue to work with CalRecycle to clarify procurement requirements and enforcement plans. WMAC is willing to include the cost of compost procurement in the new franchise agreement.

SB1383 Monitoring for Contamination

SB1383 requires monitoring customers' containers for contamination. Staff and WMAC have discussed at length the procedures and criteria to be used to define and determine levels of contamination. WMAC has proposed to use cameras on collection trucks to monitor contamination, and also implement a method of charging fees for repeated occurrences of unacceptable levels of contamination. The warnings and surcharges related to contamination are listed in Attachment V.

Overage Charges

In addition to monitoring contamination, staff tentatively agreed to allow WMAC to use the truck camera system to monitor for overages and implement a method of charging fees for overflowing carts and bins. Overage would be defined as a container's lid being open by 12 inches or more. Minimizing over-filled containers can reduce litter as material is less likely to fall or blow out of containers when the lids are completely closed.

Big Belly Trash Receptacles

WMAC has agreed to increase the total number of public litter cans allowed citywide from 400 to 500, and allow for the installation of twenty-five Big Belly dual containers (trash &

¹³ <https://www.calrecycle.ca.gov/organics/slcp/>

recycling), per year over the first four years of the contract. In addition, staff is considering replacing all the black metal cans in the Downtown area with new Big Belly dual containers. Many of the lids have been removed from the black metal cans and the Big Belly design deters over-filling and scavenging.

Public Litter Container Service

WMAC has agreed to use its Smart Truck technology to record video of the servicing of public litter cans to ensure cans receive the agreed-upon schedule of service. WMAC will provide monthly summaries of locations and dates of servicing for each container and accept increased liquidated damages for missed collection while also adding contract definitions for Abandoned Waste, Litter, and Excluded Material.

Davis Street Self-Haul Vouchers for Excess Waste

WMAC has agreed to continue offering 5,000 free disposal coupons every calendar year to all Hayward residents, despite the fact that currently residents only use about 1,200 coupons per year. The coupons are redeemable for the disposal of 2 cubic yards of waste at the Davis Street Transfer Station.

Household Battery Collection Expansion

Currently, household battery collection is only offered to single-family homes. WMAC has indicated it can provide collection containers for multi-family properties that may be located in a property manager's office. WMAC has also agreed to provide containers for collection of household batteries in public locations such as City Hall and the libraries.

Electric Vehicles

Staff strongly urged WMAC to leverage the opportunity presented by a new franchise agreement to seriously investigate deploying new electric route trucks instead of acquiring new compressed natural gas (CNG) trucks. WMAC has indicated that electric vehicle technology needs to mature further in order to feasibly and reliably power the hydraulic lift system and carry the heavy load of a collection truck. However, WMAC agreed to include some electric-power trucks to perform route service, should technological and economical changes occur through the course of the contract. In the near term, WMAC agreed to add smaller electric support vehicles such as supervisor pick-ups, and trucks that deliver carts or collect bulky material to its fleet that serves Hayward, as current technology allows those vehicles to operate reliably. Tri-CED also agreed to add an electric pickup truck and a flatbed truck for container distribution to its fleet.

Memorandum of Understanding with WMAC and OLSD:

The Council approved a Memorandum of Understanding (MOU) in 1997 between Oro Loma Sanitary District (OLSD), WMAC and the City regarding some areas in Hayward that have historically been served by OLSD for sewer and refuse services. These areas, which include about 3,500 single-family homes and multi-family residences in five locations, are generally located in the northern areas of Hayward between A and Longwood Streets and along Foothill Boulevard north of the City Center Drive (see the maps included in Attachment IV). Under that MOU, which was set to expire with the current franchise Agreement, the City was given the authority to provide recycling services in those areas. OLSD and WMAC have

signed a new MOU whereby extending the same authority to the City for the duration of the new franchise. Staff recommends Council approve the attached resolution (Attachment IV) authorizing the City Manager to execute the MOU.

ECONOMIC IMPACTS

As per comments and directions from the CSC and Council, staff is striving to keep rates reasonable and enhance services and has considered equity throughout negotiations. Staff negotiated a reduced cost of recycling bins for multi-family dwellings, retained the smallest, lowest cost garbage cart rate and the continuation of bulky collection for multi-family dwellings. Staff also negotiated for a new battery collection service for multi-family properties as it is currently only available to single-family properties. The low-income rate assistance program will also remain part of the agreement. Maintaining reasonable solid waste and recycling service fees and improving service levels would have a positive impact on the community. Despite staff's efforts, state requirements (SB1383), Tri-CED's need for new trucks, and inflation have combined to necessitate a rate increase of 8.27% plus an anticipated CPI of 6%.

Proposed Rate Adjustment

The rate increases since 2015 have allowed WMAC to maintain a good financial position. Tri-CED, the subcontractor providing residential recycling services, is seeking a larger rate increase due to higher costs for processing recyclables coupled with increased tonnage and contamination in the last few years. In addition, Tri-CED's labor costs have increased significantly in the last seven years, exceeding the annual rate adjustments. The total rate adjustment requested by WMAC, including Tri-CED's portion, is 7.39%. The proposed rate adjustment is based on several factors, but is primarily due to:

- New garbage and recycling materials carts for compliance with SB1383.
- Organics procurement for compliance with SB1383.
- New cameras and monitoring program for Tri-CED compliance with SB1383.
- General inflation and increases in labor costs that have occurred since the beginning of negotiations.
- Complete fleet of new trucks for Tri-CED.

The City has the option to select the following services – all of which could be provided for an additional rate increase of 0.88% or a total rate increase of 8.27%. Staff recommends including the optional services including:

- WMAC has agreed to increase the amount of compost provided for compost giveaways from 5,000 bags of compost to 10,000 bags per year and an increase from 500 cubic yards to 1,500 cubic yards the bulk compost or much provided for City use each year. (0.20%)
- Changes in the management and disposal of Hayward's biosolids due to new legislation and increased costs for the transportation of biosolids, dirt and grit from the City's Water Pollution Control Facility. (0.39%)

- 167 new Big Belly trash and recycling containers to replace the black metal cans downtown and many of the concrete cans throughout Hayward. (0.19%)
- Purchase of an electric pickup truck and a flatbed truck for WMAC. (0.10%)

As noted above, the initial rate adjustment could be lower if WMAC's Main Street office is closed permanently. The savings would be 0.39%, so if all the above options are selected and if the office is closed, the initial rate adjustment would be 7.88%.

As noted in the previous Council report, the rate adjustment effective March 1 will also include a consumer price index (CPI) component that can be no higher than 6% and no lower than 3% despite the fact that the current inflation rate is well above 6%. The following tables show the elements of the initial rate increase and their percentage of the increase. The maximum possible rate increase effective March 1, 2023 is 14.27%. Attachment VI includes comparisons of Hayward's existing and maximum potential new rates with those of other nearby communities.

Table 2. Initial Rate Adjustment Tentatively Negotiated

Initial Rate Adjustment	
3.72%	WMAC incremental cost increases
3.67%	Tri-CED incremental cost increases
7.39%	Total
0.88%	Options recommended by staff
8.27%	Total with Options
6.00%	Maximum CPI possible (Minimum 3%, Maximum 6%)
14.27%	Maximum Total Possible Rate Increase

-0.39%	Savings from closing Main Street office permanently
13.88%	Total max. possible if Main Street office closed

Detail for WMAC's incremental cost increases totaling 3.72%	
0.31%	SB1383 carts
0.69%	Organics Procurement (Compost/Mulch required by SB1383)
0.97%	Program enhancement (Big Belly and public litter can service, public education and outreach, performance bond, illegal dumping, and battery collection)
0.57%	Elimination of MF Bin Surcharge
0.56%	Increase in collection/processing of Commercial Food Waste
0.62%	Recent increases in costs of new carts and trucks due to inflation

Detail for Tri-CED's incremental cost increases totaling 3.67%	
1.05%	Processing cost
1.03%	Trucks
0.68%	SB1383 Compliance (carts and monitoring)
0.91%	Labor and Vehicle Maintenance

Options totaling 0.88%	
0.20%	- Additional bagged compost for giveaway events (increasing from 5,000 bags to 10,000 bags per year) - Increasing the bulk compost/mulch provided for City landscape projects
0.39%	Changes in disposal of biosolids, grit, dirt.
0.19%	167 additional Big Bellies
0.10%	Electric pickup and flatbed for WMAC

Low-income Discount for All Cart-Based Customers

A discount of \$11.20 per month is available for low-income customers with individual solid waste and recycling service. This discount is also available to low-income residents of mobile home parks with individual cart service. Currently, residents of seven out of nine mobile home parks in the City's service area subscribe to individual cart-based service. The low-income eligibility starts at a one-person household earning up to \$47,950 per year and up to \$90,450 per year for an eight-person household.

Rate Adjustment Implementation: As directed by Council, staff worked with WMAC to ensure that the initial rate increase will be applied on March 1, 2023. This will maintain the current schedule of annual adjustments occurring on March 1 each year, and also avoid customers experiencing two rate increases in one calendar year.

Future Rate Adjustments

For years two through ten, staff recommends annual rate adjustments similar to those in the current contract. Table 3 shows that for all years, except year 5, the adjustment would be based on CPI, but no greater than 6%. For year 5, WMAC has requested a cost-based analysis be conducted to ensure a minimum return on investment. The cost-based analysis would follow the same procedure used in year 4 of the current contract.

Table 3. Future Rate Adjustments Tentatively Negotiated

Rate Year	Rate Adjustments
2 – 4	CPI (min. 3%, max. 6%)
5	Up to 10%, for WMAC to earn after-tax ROI of 5.5%
6 – 10	CPI (min. 3%, max. 6%)

FISCAL IMPACTS

Negotiation of a new franchise agreement continues to require significant staff time; however, such staff time will be absorbed by already budgeted positions. If the proposed rate adjustment is approved, Franchise Fees will similarly increase, which will benefit the City's General Fund, Recycling Fund, Stormwater Fund, and Street System Improvement Fund.

Franchise Fees

Staff recommends no change in the total franchise fees, but staff is proposing a re-allocation of the existing fees as shown below in Table 4. The change would increase the amount of the Street Impact Fee to address Hayward's increasing costs for pavement rehabilitation. There would be a corresponding decrease in the Street Cleaning Fee. Staff has completed a ten-year financial projection to ensure that this change will not adversely impact the City's ability to meet the required expenditures related to street cleaning.

Table 4. Recommended Re-Allocation of Franchise Fees

	Existing	Proposed
Franchise Fees	13.5%	13.5%
Street Cleaning Fees	2.5%	1.0%
Street Impact Fees	1.0%	2.5%
Measure D Augmentation	1.0%	1.0%
Total	18.0%	18.0%

STRATEGIC ROADMAP

This agenda item does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap, however the new franchise agreement would support the following projects:

Confront Climate Crisis and Champion Environmental Justice:

- Project C12 Conduct outreach regarding AB1276 - single-use disposables
- Project C13 Explore funding opportunities to increase the circular food economy in Hayward as part of the Alameda County All in Eats Initiative

Support Quality of Life:

- Project Q17 Implement targeted illegal dumping prevention program
- Project Q17b Pilot programs and analysis
- Project 7c Roll out permanent program

SUSTAINABILITY FEATURES

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural, resources, and plays an important role in making a community sustainable.

PUBLIC CONTACT

In accordance with the requirements of Proposition 218, on May 13, 2022, a notice was prepared and mailed to all property owners and rate payers in Hayward. The Notice stated that the initial rate increase, effective March 1, 2023, would not exceed a 14.27% increase. As indicated above, this is the maximum possible increase, which includes a base rate of 8.27%, which includes the cost to keep the WMAC office on Main Street open, should Council decide to keep the office, as well as a maximum CPI of 6%. The notice is required to be mailed 45 days prior to the public hearing and the mailing date was selected to meet this requirement. The Notice advised the recipients that if they disagree with the potential increases they can protest, in writing, and that if Council receive protests from more than 50% of the rate payers, Council would not approve the new rates. To date, twenty-three protest letters have been received, none of which were from commercial customers. In addition, no petitions were received from mobile homeowners. For comparison, at the same time during the process of the public hearing for the existing Franchise in 2015, staff had received thirty-one protest letters and petitions with 129 signatures and in 2007, staff had received over 550 protest letters. The protest letters received this year include the following arguments:

- Proposed increase to the rates is too severe
- City should delay rate increase because residents are experiencing hardships due to COVID-19 and inflation

A notice of this public hearing was published in the Daily Review on June 17, 2022.

NEXT STEPS

If Council adopts the attached resolutions and introduces the ordinance staff will schedule adoption of the ordinance for a subsequent Council meeting. If the ordinance is adopted, staff will execute the new Franchise Agreement with WMAC with an effective date of March 1, 2023. Prior to March 1, 2023, staff will work with WMAC to perform outreach to residents and businesses regarding the proper sorting and loading of containers, the smart truck system and the contamination and overage surcharges. WMAC will order Big Bellies, as well as carts that meet the SB1383 color requirements, and WMAC will set a schedule to start replacing carts. In addition, upon execution of the Agreement, Tri-CED will order new trucks.

Prepared by: Jeff Krump, Solid Waste Program Manager
Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAadoo, City Manager