



**DATE:** February 7, 2023

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Approving Garbage and Recycling Rates for 2023-2024

## **RECOMMENDATION**

That Council adopts a resolution (Attachment II) approving the recommended garbage and recycling annual rate increase of 13.18% for all residential and commercial accounts effective March 1, 2023.

## **SUMMARY**

A new Franchise Agreement between the City and Waste Management of Alameda County (WMAC), approved by Council in June 2022<sup>1</sup>, will become effective on March 1, 2023, and will retain the same annual rate adjustment date of March 1. The new Agreement includes a negotiated increase of 7.88% to cover the costs of providing several service enhancements in the new contract. These include changes mandated by State Senate Bill 1383 (SB 1383), new public litter cans, and purchase of new trucks for residential recycling provider Tri-CED.

The Agreement also continues to allow the rates for Rate Year One (RY1) to be adjusted according to a Consumer Price Index (CPI) calculation based on WMAC's current revenues. The CPI portion may not exceed 6% for a total maximum increase of 13.88%. Based on calculations as set forth in the Agreement, WMAC and City staff determined the rate adjustment effective March 1, 2023, is 13.18%, including 7.88% for service enhancements and 5.30% for CPI.

## **BACKGROUND**

WMAC has been the City's solid waste and recycling services franchisee since at least the mid-1970s 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, 2015<sup>2</sup> for a term of up to ten years (seven years and

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<sup>1</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5709695&GUID=E5867537-1E85-495D-95E4-BB7A6B590715&Options=&Search=>

<sup>2</sup> <https://hayward.legistar.com/MeetingDetail.aspx?ID=454157&GUID=005B0B35-316D-4C65-AE50-F4E9F752AF38&Options=&Search=>

three possible one-year extensions). On January 18, 2022<sup>3</sup>, Council approved a one-year extension to the current Agreement to expire on February 28, 2023. Table 1 lists the approved rate adjustments in the current Agreement and actual rate adjustments that have occurred during the current Agreement.

**Table 1. Rate Adjustments for Current Agreement (2015 – 2023)**

| Rate Year | Effective Date | Approved Rate Adjustments                         | Actual Rate Adjustments |
|-----------|----------------|---------------------------------------------------|-------------------------|
| 1         | 3/1/2015       | Up to 10%                                         | 9.23% <sup>4</sup>      |
| 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%) <sup>5</sup>               | 2.61%                   |
| 6         | 3/1/2020       | CPI (min. 3%, max. 6%)                            | 3.19%                   |
| 7         | 3/1/2021       | CPI (min. 3%, max. 6%)                            | 2.84%                   |
| 8         | 3/1/2022       | CPI (min. 3%, max. 6%)                            | 2.85%                   |

## DISCUSSION

On June 28, 2022<sup>6</sup>, Council authorized a new agreement with WMAC to provide solid waste services with a commencement date of March 1, 2023, in order to enhance services provided to City ratepayers, to meet the goals and requirements of SB 1383, and other state-mandated solid waste regulations. Council approved a maximum initial rate increase of no more than 13.88%, which included a base rate adjustment of 7.88% and a consumer price index (CPI) portion of up to 6% (see detail in Table 2).

The incremental cost increases listed in Table 2 for WMAC include SB1383-required trash carts, SB1383-required compost procurement, new public liter cans and servicing of the cans as well as increases to organics processing costs. The incremental cost increases listed in Table 2 for Tri-CED include new collection trucks, SB1383-required recycling carts, and increases to recycling processing costs.

**Table 2. Initial Rate Adjustment**

| Initial Rate Adjustment |                                    |
|-------------------------|------------------------------------|
| 3.72%                   | WMAC incremental cost increases    |
| 3.67%                   | Tri-CED incremental cost increases |

<sup>3</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5382579&GUID=C1A9EF92-809E-4109-9D94-B44070621B45&Options=&Search=>

<sup>4</sup> 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%.

<sup>5</sup> 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, some final increases were less than 3%.

<sup>6</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5709695&GUID=E5867537-1E85-495D-95E4-BB7A6B590715&Options=&Search=>

|               |                                                                                      |
|---------------|--------------------------------------------------------------------------------------|
| <b>7.39%</b>  | <b>Subtotal for cost increases</b>                                                   |
| 0.88%         | Options recommended by staff (additional compost procurement and public litter cans) |
| <b>8.27%</b>  | <b>Subtotal with Options</b>                                                         |
| -0.39%        | Savings from closing Main Street office permanently                                  |
| <b>7.88%</b>  | <b>Total Adjustment for Negotiated Services</b>                                      |
| 6.00%         | CPI (Minimum possible 3%, Maximum possible 6%)                                       |
| <b>13.88%</b> | <b>Maximum Total Possible Rate Increase</b>                                          |

Staff received WMAC's rate application for RY1 in December 2022 and performed a detailed review of WMAC's application, ensured all calculations were consistent with the procedures outlined in the Franchise Agreement, and confirmed the validity of the proposal. After calculations that adjust for fees assessed by the State, County, and City, and for WMAC's projected revenues for the current rate year, the resulting increase to be effective on March 1, 2023, is 13.18%.

A new program approved as part of the new Franchise Agreement is the implementation of surcharges for significantly overfilled or contaminated containers. The system will use cameras mounted on the trucks to view material to detect contamination or identify an overfilled container. The goal of the program is to reduce litter from overfilled containers and to increase recycling by reducing contamination. The program will start March 1, 2023; however, WMAC and City staff will prepare Hayward businesses and residents for this new program by implementing a "soft launch" for the first four months (March through June). The soft launch will include an introductory mailer that explains the program as well as notification letters sent to customers who overfilled their container or placed the wrong material in a container. The letters will alert customers that they could be charged a fee in July, and also educate customers on how to sort properly and how to avoid overfilling containers. Beginning July 1, 2023, customers will receive two additional warnings before the fees may be charged. The contamination fee for a cart will be \$25 and the overage fee for a cart will be \$10 per occurrence. Fees for bins will be \$75 per occurrence.

The truck-mounted cameras used as part of the overage and contamination program will also be used to monitor public trash cans allowing the City to ensure the cans are serviced at the frequency required by the new agreement.

## **ECONOMIC IMPACT**

If approved, residents and businesses would pay 13.18% more for refuse and recycling services for the period of March 1, 2023, through February 28, 2024. With the increase, the new monthly service charge for residential customers with the standard 32-gallon cart for garbage service would be \$42.63, or \$4.96 higher than the existing rate. For residents subscribing to the smaller 20-gallon cart, which has been maintained under the new contract, the new service charge would be \$29.17, or \$3.40 higher than the existing rate. A comparison of rates with several nearby communities is included as Attachment III.

The low-income rate assistance program will also remain part of the agreement and is about 25% less than the rate for the 32-gallon cart, the most common-sized garbage cart. In addition, staff negotiated a reduced cost of recycling bins for multi-family dwellings and negotiated for a new battery collection service for multi-family properties as it is currently only available to single-family properties.

## **FISCAL IMPACT**

With the proposed increase, which includes various fees, it is projected that City revenues related to this agreement will increase by approximately \$1.3 million annually.

## **STRATEGIC ROADMAP**

This agenda item does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap. However, the franchise fees collected by the City include a Street Sweeping Fee, which supports the City's street sweeping operations and helps to address Infrastructure Project 17: *Meet regulatory requirements for zero trash in stormwater by installing trash capture devices.*

In addition, the new Franchise Agreement supports 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 Q17c | Roll out permanent program                            |

## **SUSTAINABILITY FEATURES**

The rate increase will allow the City, WMAC, and Tri-CED to continue to provide Hayward residents and businesses with recycling and composting services, so they can maximize the diversion of waste from the landfill. 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 ratepayers in Hayward. The Notice advertised the public hearing held on June 28, 2022, and stated that the initial rate increase, effective March 1, 2023, would not exceed 14.27%. The Notice also advised of the

rate adjustments that may occur throughout the life of the contract. The approved adjustments for the remainder of the contract are listed in Table 3.

**Table 3. Future Rate Adjustments**

| <b>Rate Year</b> | <b>Future Rate Adjustments</b>                    |
|------------------|---------------------------------------------------|
| 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%)                            |

## **NEXT STEPS**

If approved by Council, the rate increase would be effective on March 1, 2023. Staff will work with WMAC to implement the new rates and advise customers. A brief statement regarding the fee increase will be included as a bill insert and printed on the customer's garbage bills. In addition, a special mailer introducing the new program for overages and contamination surcharges will be sent to all customers in March of 2023.

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

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager