



DATE: May 8, 2023

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT: New Solid Waste and Recycling Franchise Agreement: Update on Implementation – Review and Comment

RECOMMENDATION

That the Council Sustainability Committee (CSC) receives an update on the implementation of the new Solid Waste and Recycling Franchise Agreement between Hayward and Waste Management of Alameda County (WMAC) and provides comments to staff.

SUMMARY

The City holds a franchise agreement with WMAC to provide solid waste, recycling, and organic materials collection, and processing services. The new ten-year franchise agreement was approved by Council on June 28, 2022, and became effective on March 1, 2023. This report provides an update on some key elements of the new contract, including the deployment of new state-required blue recycling carts and dark-gray trash carts, new public litter cans, surcharges for contamination and overages, and new trucks, including a new fleet of trucks for residential recycling provider Tri-CED.

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. After approximately two years of negotiating, on June 28, 2022¹, Council approved the new franchise agreement with WMAC as well as adjustments to the refuse, recycling and organics rates. Council also approved a resolution extending the memorandum of understanding between Hayward, WMAC and the Oro Loma Sanitary District for WMAC to provide recycling services to about 3,500 homes in the district.

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

On February 7, 2023², Council approved the rates for rate year one (March 1, 2023 through February 28, 2024) of the new franchise agreement. On March 1, 2023, the new franchise agreement commenced.

DISCUSSION

The new franchise agreement is essentially a renegotiation of the previous agreement with the addition of a few elements to achieve compliance with state law SB1383 to improve service and reduce litter. The following provides an update of some of the key new elements that WMAC started implementing March 1, 2023.

Deployment of Blue Recycling Carts and Dark Gray Trash Carts

SB 1383 and subsequent regulations developed by CalRecycle³ include several requirements that the franchise agreement helps address, including a mandate regarding the color of collection carts. Trash carts in California are mandated to be black or gray, recycling carts are mandated to be blue, and organics carts are mandated to be green. Hayward residents already had green organics carts. However, the burgundy trash carts and gray recycling carts need to be replaced. WMAC and Tri-CED are currently replacing all trash and recycling carts to meet these SB 1383 requirements, which in addition to being compliant, will also provide Hayward customers with sturdy carts over the life of the contract, which if extended, could last 13 years. The old burgundy WMAC trash carts and gray Tri-CED recycling carts will be recycled.

In total, 68,716 carts will be replaced in Hayward. WMAC started exchanging carts in early March of 2023, and expects to complete the majority of exchanges in about 9 weeks, about mid-May 2023. As of April 4th, approximately 56,300 carts had been replaced. WMAC anticipates some customers will miss their original exchange date and is prepared to continue exchanging carts for households and businesses on an as-needed basis throughout the year.

While the cart exchange program has been implemented relatively smoothly, there have been a few issues. A few households' old carts were not collected, and some residents experienced challenges when telephoning WMAC's call center. Occasionally calls were forwarded to WMAC's national call center and some customer service representatives were unfamiliar with Hayward's contract, causing frustration for Hayward customers. WMAC is working to improve phone service and ensure all of its customers service representatives can address Hayward-specific issues.

Surcharges for Contamination and Overages

SB 1383 requires monitoring customers' containers for contamination. Hayward's new franchise agreement with WMAC includes a new program that monitors recycling and organics containers for contamination, and simultaneously looks for overfilled containers. WMAC will use cameras on their trucks to perform the monitoring. The cameras can view

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=6016048&GUID=BE2A3AB7-4454-4B81-AF42-EE237E320B49&Options=&Search=>

³ <https://www.calrecycle.ca.gov/organics/slcp/>

material as it's dumped from containers into the trucks and the cameras can also view containers on the curb. Drivers have been using truck-mounted cameras for years to improve safety, document overages for business accounts, and identify inappropriate material entering the truck.

During negotiations, staff and WMAC discussed at length the procedures and criteria to be used to define and determine levels of contamination. Contamination is defined as 10% by volume of a container being filled with non-recyclable material. Overage is defined as a container's lid being open by 12 inches or more. If an unacceptable amount of non-recyclable or non-organic material is noticed, or if a container is considerably overfilled, the customer will receive a warning letter informing them about the contamination or overage issue. Customers will receive two warning letters before being charged a fee. If no violations occur for a year, then the customer's account resets, and they will once again receive two warning letters before being charged a fee.

To help familiarize Hayward customers with the new contamination and overage surcharge program, WMAC mailed customers introductory information about the program in March of 2023. From March 2023, through June 30, 2023, WMAC will not assess any surcharges and will only send courtesy notices including photographs to customers, letting them know when their container was contaminated or overfilled. The surcharge program will officially start July 1, 2023. At that point customers will receive two additional warning letters before being charged a fee for contaminating their recycling or organics container or overfilling their trash container. The fee schedule is listed in Table 1 below.

Table 1: Contamination and Overage Fee Schedule

	Contamination fee (after 2 warnings)	Overage fee (after 2 warnings)
Carts	\$25	\$10
Bins	\$75	\$75 Trash Bins; \$35 Recycling Bins

The primary contaminant WMAC will look for is plastic bags. Plastic bags don't get recycled, and often clog sorting equipment, creating delays on the sorting lines as workers untangle and remove the bags. WMAC is asking customers to dump recyclables and organics out of plastic bags, so they fall loose into the container when placing out for collection. The plastic bags can be reused or placed in the trash container.

New Public Litter Cans

Hayward will increase the total number of public litter cans citywide from about 300 to more than 400 over the course of the new franchise agreement, with a maximum of 500 that may be serviced by WMAC. The majority of the new cans will be Big Belly brand dual containers (trash & recycling), and over the first few years of the franchise agreement, the Big Belly stations will be strategically placed to address litter hot spots identified through both the City "Fingerprint Project" that Hayward conducted with litter data science company, Litterati, as well as can location recommendations provided by the Downtown Hayward Improvement Association (DHIA). The DHIA is a contractor that provides Hayward with a team of workers to beautify Downtown Hayward. Their efforts include

picking up litter. Staff is working to update a GIS map of the public litter cans throughout the City to streamline the installation of new cans

Staff will replace the majority of the black metal cans and deteriorating aggregate cans in the Downtown area with new Big Belly dual containers. Many of the lids from these black metal cans and aggregate cans have been removed. Scavengers took some lids and staff removed other lids to prevent vandals from using them as projectiles. The removal of the lids makes it easier for scavengers to rummage through the cans, and also easier for the cans to be inappropriately filled with household waste. In addition, the lack of lids on these cans led to issues with rainwater accumulation during the atmospheric rivers this winter. WMAC needed to deploy extra crews to lift the heavy, rain-filled containers. The Big Belly design deters over-filling and scavenging and prevents rain from filling the cans.

In the first year of the contract a total of 102 new litter cans are scheduled to be deployed. Big Belly has indicated that the first shipment of Hayward's new cans should arrive in late June or early July of 2023. In years two through four of the contract, 35 cans are scheduled to be replaced each year. In years five through ten of the contract, ten cans are scheduled to be replaced each year, for a total of 267 new litter cans during the term of the contract.

To help the city monitor the frequency of litter can service, WMAC will provide the City with the truck-video recordings of the servicing of public litter cans to ensure cans receive the agreed-upon level of service. Upon request from the City, WMAC will provide video, monthly summaries of locations, and dates of servicing for each container and agreed to increased liquidated damages for missed collections.

Vehicles

During negotiations, staff asked WMAC to leverage the opportunity presented by a new franchise agreement to investigate deploying new electric collection trucks instead of acquiring new compressed natural gas (CNG) trucks. WMAC indicated that electric vehicle technology needs to mature further in order to feasibly and reliably power heavy duty trucks. WMAC agreed to include some electric-power trucks to perform route service, should technological and economical changes occur through the course of the contract. WMAC, however, has added smaller electric support vehicles to its fleet that serves Hayward, including supervisor pick-ups, and trucks that deliver carts and collect bulky material. Tri-CED also agreed to add an electric pickup truck and a flatbed truck for container distribution to its fleet. Tri-CED's new fleet of route collection trucks will be compressed natural gas (CNG) trucks and are not scheduled to arrive for another 18 months. Electric route trucks will likely become more common near the end of the term of the franchise agreement, as new state regulations require transitioning to zero-emission trucks and vans over the next decade.⁴

FISCAL AND ECONOMIC IMPACTS

The new contract includes a reduced cost of recycling bins for multi-family dwellings, retains the smallest, lowest cost garbage cart rate and continues to offer bulky collection for multi-family dwellings. The low-income rate assistance program remains part of the

⁴ <https://ww2.arb.ca.gov/resources/fact-sheets/advanced-clean-fleets-regulation-summary>

agreement. Maintaining reasonable solid waste and recycling service fees and improving service levels can have a positive impact on the community. In March 2023, a 13.18% rate increase took effect, including 7.88% for service enhancements, mainly consisting of SB1383-required elements and new route trucks for Tri-CED, and 5.3% for CPI. The new contract includes annual rate adjustments based on CPI, with the CPI not allowed to exceed 6%. The contract also allows for a cost-based rate review in year 5 of the contract with the increase not to exceed 10%. With the March 2023 rate increase, the Franchise Fees will modestly increase by approximately \$1.3 million annually, which will benefit the City's, Recycling Fund, Stormwater Fund, Street System Improvement Fund, and General Fund.

STRATEGIC ROADMAP

This agenda item does not directly relate to any of the projects listed in the Council's Strategic Roadmap, however, the recycling and litter prevention programs that are part of the WMAC franchise agreement support the priorities to *Support Quality of Life* and *Confront Climate Crisis & Champion Environmental Justice*.

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

WMAC mailed Hayward customers introductory information regarding the new contract as well as the truck video contamination and overage surcharge program and included information about rates with the March bill. In addition, WMAC sent mailers to customers regarding the cart exchange procedures and sent two robo-phone messages to customers regarding the cart exchange process. Staff also spoke at the Hayward Chamber of Commerce Green Team meeting in April regarding the new solid waste and recycling franchise agreement.

NEXT STEPS

Staff will continue to work with WMAC to implement the new franchise agreement, including installing new litter cans, exchanging trash and recycling carts, and conducting outreach to residents and businesses about the contamination and overage program.

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

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager