



**DATE:** March 11, 2024

**TO:** Council Sustainability Committee

**FROM:** Director of Public Works

**SUBJECT** 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 the City and Waste Management of Alameda County (WMAC) and provides comments to staff.

## **SUMMARY**

The City's new franchise agreement with WMAC to provide solid waste, recycling, and organic materials collection, and processing services commenced on March 1, 2023. The ten-year franchise agreement was approved by Council on June 28, 2022, effective March 1, 2023. March 1, 2024, marked the completion of the first year of the franchise agreement, and was also when year-two rates became effective. Rates increased by 3.73% on March 1, 2024. This report provides an update on some key elements of the new contract, including SB1383 compliance, new public litter cans, a system of surcharges for contamination and overages, and 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, 2022<sup>1</sup>, Council approved the new franchise agreement with WMAC as well as adjustments to the refuse, recycling, and organics rates. On January 30, 2024<sup>2</sup>, Council approved the rates for rate-year two (March 1, 2024, through February 28, 2025) of the new franchise agreement.

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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/LegislationDetail.aspx?ID=6497830&GUID=E2C087B7-051A-467B-843E-8F035498AD92>

## DISCUSSION

The new franchise agreement includes new elements to achieve compliance with state law SB1383, improve overall service, and reduce litter. The following update highlights some of the key new elements WMAC started implementing during the last calendar year.

### SB1383 Requirements

SB1383 and subsequent regulations developed by CalRecycle<sup>3</sup> include several requirements that the franchise agreement helps address, including a mandate regarding the color of collection carts. Hayward's old burgundy trash carts and gray recycling carts needed to be replaced with blue carts for recycling and black or gray carts for trash. WMAC and Tri-CED replaced all trash and recycling carts in the Spring of 2023, which in addition to bringing Hayward into compliance, also provided Hayward customers with sturdy carts that should remain in service beyond the life of the contract. In total, by the end of May 2023, nearly 70,000 carts were replaced in Hayward. The old burgundy WMAC trash carts and gray Tri-CED recycling carts were purportedly recycled.

SB1383 also requires that businesses subscribe to organics service or receive a waiver from needing service. CalRecycle has indicated it expects close to 100% of businesses to comply with SB1383 or receive a waiver from compliance, and that jurisdictions with a significant number of businesses not in compliance can be placed on a compliance plan. Waivers can be granted to businesses that generate little organics, and also to businesses that do not have enough space at their location to accommodate an organics container. The Alameda County Waste Management Authority (StopWaste) manages the SB1383 enforcement and waiver process for all County jurisdictions, including Hayward. The County's enforcement process includes businesses receiving fines for not complying. Hayward's Franchise Agreement stipulates that a WMAC employee will help with outreach, including with SB1383 messaging. For the past year, a WMAC outreach specialist has teamed with Hayward's Sustainability Service Corps Fellows and StopWaste to contact businesses not in compliance with SB1383 through site visits, email, and phone calls. In 2023, they contacted more than 1,600 businesses and advised the businesses to sign up for organics service or apply for a waiver. From January 2023 through February 2024, 364 businesses received waivers. Eighty-eight percent of Hayward businesses are currently compliant with SB1383 for recycling and 76% are compliant for subscribing to organics services.

### Surcharges for Contamination and Overages

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. Monitoring customers' containers for contamination is required by SB1383 and WMAC uses cameras on their trucks to perform the monitoring. The cameras view material as it's dumped from containers into the trucks and also view containers on the curb.

For recycling and organics, 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

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

noticed, or if a container is considerably overfilled, the customer receives a warning letter informing them about the issue. Customers 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.

WMAC started performing outreach about the program in late 2022 to help familiarize Hayward customers with the new contamination and overage surcharges and continues performing outreach about the program today. In March 2023, WMAC mailed customers introductory information about the program. From March 2023, through June 30, 2023, WMAC conducted an introductory practice program and did not assess any surcharges. WMAC only sent customers courtesy notices including photographs, to let them know when their container was contaminated or overfilled and to familiarize them with the system.

The program officially started monitoring all containers on July 1, 2023, except for residential recycling at single-family homes. The monitoring of these containers has not started yet because Tri-CED's new trucks have not been set up with the system. The trucks are scheduled to be ready in Spring of 2024. However, a portion of the rates in each year of the contract are for new trucks. So, for the first year of the contract, Hayward paid for trucks it didn't use.

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

WMAC provided the City with the number of warnings and surcharges issued for both contamination and overages after eleven months (from March 2023 - January 2024) of monitoring. WMAC monitored the garbage, recycling and organics containers of businesses, and multi-family dwellings; and monitored the garbage and organics containers for single-family homes.

The primary contaminant WMAC looks 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 being placed out for collection. The plastic bags can be reused or placed in the trash container. Dumping recyclables and organics out of plastic bags is a relatively new behavior for many customers.

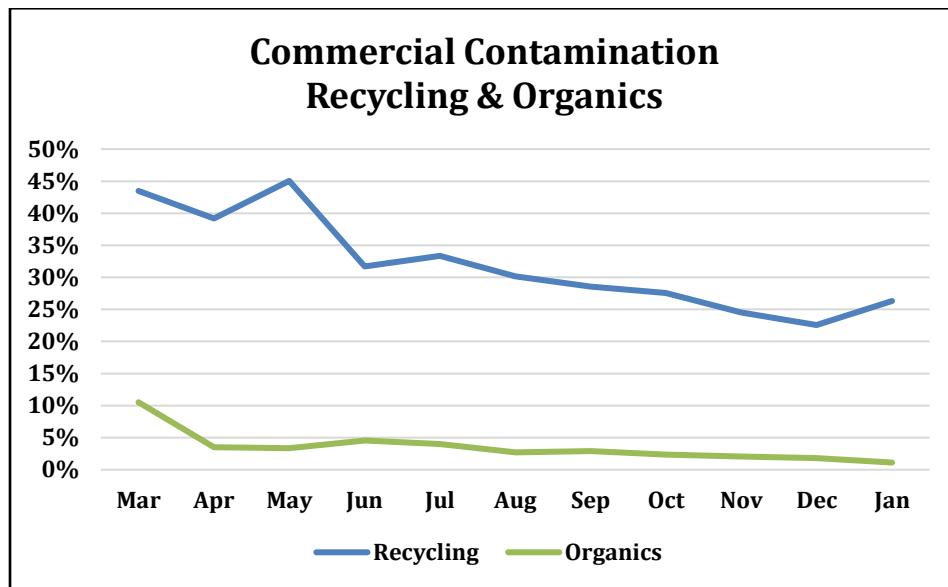
#### Recycling Contamination - Commercial and Multi-Family Dwelling

WMAC has issued the following recycling contamination warnings and surcharges for businesses and multi-family home accounts. In March of 2023, at the beginning of the introductory period, 45% of all collections received a warning. In January of 2024, 26% received a warning or surcharge. In total, there were 5,580 warnings and 2,732 surcharges issued from March 2023-January 2024.

### Organics Contamination- Commercial and Multi-Family Dwelling

WMAC has issued the following organics contamination warnings and surcharges for businesses and multi-family home accounts. In March of 2023, 11% of all collections received a warning. In January of 2024, 4% received a warning or surcharge. In total, there were 522 warnings and 139 surcharges issued from March 2023-January 2024.

**Figure 1. Percent of Business and Multi-Family Dwelling Collections Receiving Warning or Surcharge, March 2023 through January 2024**



### Organics Contamination- Single-Family Residential

WMAC has issued the following organics contamination warnings and surcharges for single-family home accounts. In March of 2023, 0.8% (less than one percent) of all collections received a warning. In January of 2024, 0.3% received a warning or surcharge. In total, there were 2,565 warnings and 190 surcharges issued from March 2023-January 2024.

### Garbage Overage - Commercial and Multi-Family Dwelling

WMAC has issued the following organics contamination warnings and surcharges for single-family home accounts. In March of 2023, 13% of all collections received a warning. In January of 2024, 8% received a warning or surcharge. In total, there were 1,976 warnings and 1,862 surcharges issued from March 2023-January 2024.

### Recycling Overage - Commercial and Multi-Family Dwelling

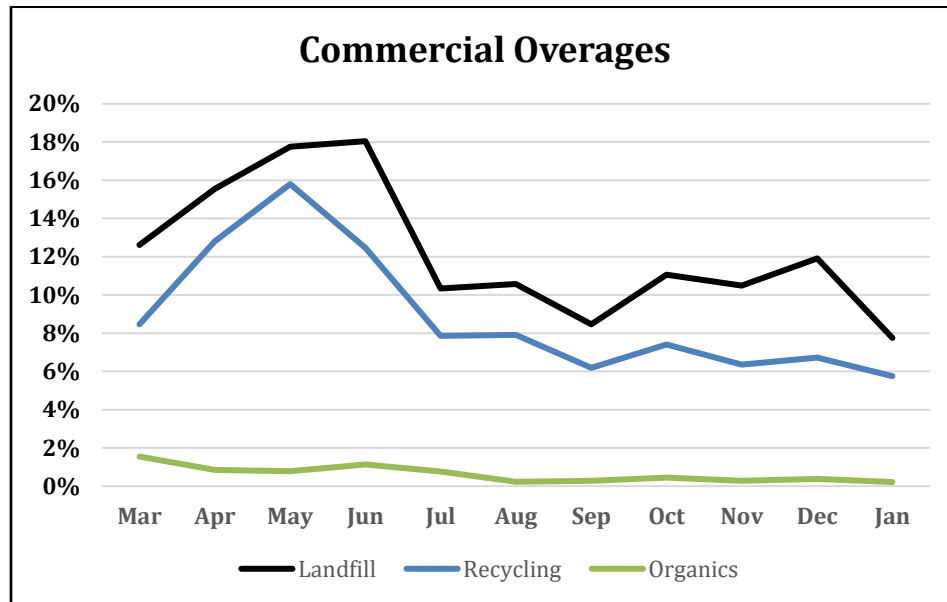
WMAC has issued the following organics contamination warnings and surcharges for single-family home accounts. In March of 2023, 9% of all collections received a warning. In January of 2024, 6% received a warning or surcharge. In total, there were 1,209 warnings and 1,094 surcharges issued from March 2023-January 2024.

### Organics Overage - Commercial and Multi-Family Dwelling

WMAC has issued the following organics contamination warnings and surcharges for single-family home accounts. In March of 2023, 1.5% of all collections received a warning.

In January of 2024, 0.2% received a warning or surcharge. In total, there were 96 warnings and 21 surcharges issued from March 2023-January 2024.

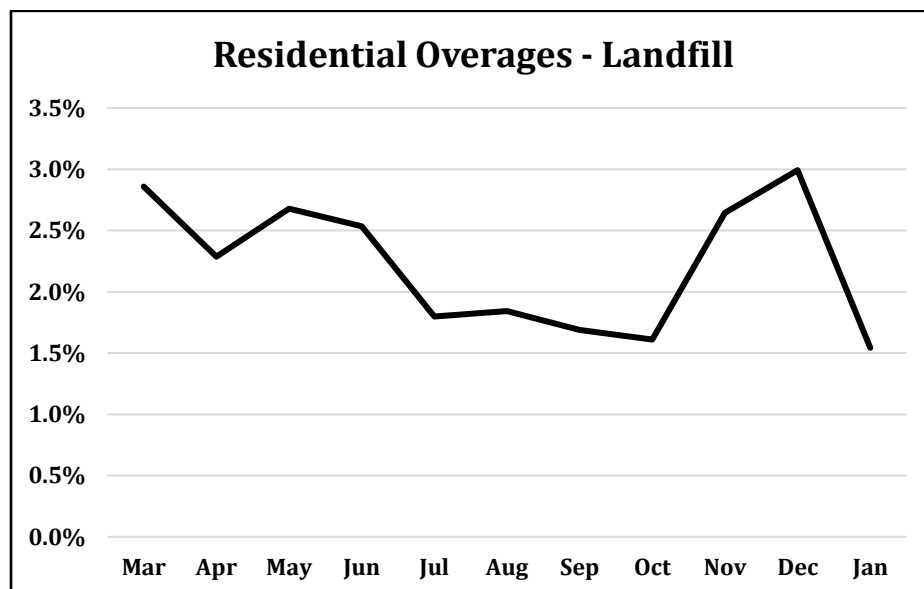
**Figure 2. Percent of Business and Multi-Family Collections Receiving Warning or Surcharge for Overage, March 2023-January 2024**



Garbage Overage - Single-Family Residential

WMAC has issued the following garbage warnings and surcharges for single-family home accounts. In March of 2023, 3% of all collections received a warning. In January of 2024, 1.5% received a warning or surcharge. In total, there were 6,965 warnings and 430 surcharges issued from March 2023-January 2024.

**Figure 3. Percent of Single-Family Homes Receiving Warning or Surcharge for Garbage Overage, March 2023- January 2024**



### *New Public Litter Cans*

Through the ten-year term of the new franchise agreement, Hayward will increase the total number of public litter cans citywide from about 300 cans to more than 400. These new cans are Big Belly brand dual container (trash & recycling) stations, and the Big Belly stations are being strategically placed to address litter hot spots.

In the first year of the agreement, a total of 102 new Big Belly stations were deployed, 92 of which replaced old containers. The stations were installed from December 2023 through January 2024 with the majority of the stations installed in the Downtown area. About one quarter were placed in south Hayward along Tennyson Road. In years two through four of the contract, 35 stations are scheduled to be installed each year. The installations in 2024 will concentrate on south Hayward. In years five through ten of the contract, ten stations are scheduled to be installed each year, for a total of 267 new stations during the term of the contract.

For the Downtown area, staff has been focusing on replacing the black metal cans and deteriorating aggregate cans. Many of the lids from the black metal cans and aggregate cans have been removed and the removal of these lids makes it easier for scavengers to rummage through the cans and create litter. A can with no lid also makes it easier for someone to inappropriately fill the can with household waste. In addition, the lack of lids leads to issues with rainwater accumulation in cans during atmospheric river weather events.

The Big Belly cans include monitoring software that helps City staff know when the stations need service. In addition, upon request from the City, WMAC provides truck-video recordings of the servicing of public litter cans. This helps City staff ensure cans receive the agreed-upon level of service.

### *Tri-CED's Vehicles*

Tri-CED's new fleet of route collection trucks run on compressed natural gas. Eight of the 11 trucks have arrived, and most of the new trucks have been servicing Hayward residential recycling carts for about the past five months. However, the new trucks need to be branded with Tri-CED's logos and outreach messaging. The wrap and decal process to add these features started in February 2024. Tri-CED anticipates the last three trucks arriving in the Spring 2024.

Tri-CED added an electric pickup truck and an electric flatbed truck for container distribution to its fleet in early 2023. 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.<sup>4</sup>

### *Oro Loma Sanitary District*

One element of Hayward's franchise agreement that is not new is that about 3,500 homes in an area of the Oro Loma Sanitary District that borders northern Hayward receive recycling service through Hayward's franchise agreement. This arrangement is in place

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

through a memorandum of understanding between Hayward and the sanitary district and exists so that residents in this area may receive weekly recycling service. The Oro Loma Sanitary District's contract with Waste Management only offers bi-weekly recycling service, and Hayward's agreement offers weekly service.

## **FISCAL AND ECONOMIC IMPACTS**

The new contract includes a negotiated reduced cost from the old contract for recycling bins for multi-family dwellings, retains the lowest-cost 20-gallon garbage cart option and continues to offer bulky collection for multi-family dwellings. The low-income rate assistance program also remains part of the agreement.

### **Gross Income Requirements for the Low-Income Discount**

(Total income from every person living at the address must be less than the following)

- \$50,000 per year – 1 Person Family;
- \$57,150 per year – 2 Person Family;
- \$64,300 per year – 3 Person Family;
- \$71,400 per year – 4 Person Family;
- \$77,150 per year – 5 Person Family;
- \$82,850 per year – 6 Person Family;
- \$88,550 per year – 7 Person Family;
- \$94,250 per year – 8 Person Family

Maintaining reasonable solid waste and recycling service fees and improving service levels can have a positive impact on the community. The new contract includes annual rate adjustments based on CPI, with the CPI not allowed to exceed 6% or go below 3%. The contract also allows for a cost-based rate review in year five of the contract with the increase not-to-exceed 10%. On March 1, 2024, the rate adjustment for rate-year two took effect, with the rates increasing by 3.73%.

## **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. CalRecycle's latest annual diversion calculations indicate Hayward diverted 74% of its waste from landfill in 2022.

## **PUBLIC CONTACT**

At the start of the franchise agreement, WMAC mailed Hayward customers introductory information regarding the new contract as well as information about the truck camera monitoring program for contamination and overages. WMAC included information about the 2024 rates with the March bill as inserts.

## **NEXT STEPS**

Staff will continue to work with WMAC to implement the new franchise agreement, including continuing to conduct outreach to residents and businesses about the contamination and overage program.

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

*Approved by:*



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Kelly McAdoo, City Manager