



**DATE:** November 10, 2020

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT** Adopt a Resolution Authorizing the City Manager to Continue Exclusive Negotiations with Waste Management of Alameda County to Extend the Solid Waste and Recycling Franchise Agreement

### **RECOMMENDATION**

That Council adopts a resolution authorizing the City Manager to extend the end date of the current negotiating period to June 30, 2021 for exclusive negotiations with Waste Management of Alameda County, the City's current solid waste, recycling materials, and organics service franchisee.

### **SUMMARY**

The City holds a franchise agreement with Waste Management of Alameda County (WMAC) to provide solid waste, recycling, and organic materials collection, and processing services. The current agreement commenced March 1, 2015 and is scheduled to expire March 1, 2022. The agreement includes the option to extend for three, 12-month periods. If the City opted to extend the contract the maximum numbers of times, the agreement would expire March 1, 2025. In June this year, Council approved an initial period of exclusive negotiations with Waste Management of Alameda County through October 31, 2020 to gauge interest in a new contract. Meetings thus far have been successful, however, due to scheduling challenges and the need for further research, staff is requesting to extend the negotiating period to June 30, 2021.

### **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 has wide discretion with respect to awarding franchises. The City Charter, Sec. 1503, allows for non-competitive negotiations with a single provider if Council determines that it is in the City's best interests. Consistent with the Charter, Municipal Code Sec. 11-

1.12 authorizes the Council to exercise broad discretion in awarding franchises, including engaging in exclusive negotiations with an existing franchisee.

At the March 9, 2020<sup>1</sup> Council Sustainability Committee meeting, the Committee discussed possible approaches to the new solid waste franchise agreement, and recommended the City start exclusive negotiations with WMAC. The Committee 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 Committee also directed staff to be innovative and sustainability-minded in negotiations.

At its June 23, 2020<sup>2</sup> meeting, Council approved a period of exclusive negotiations with Waste Management of Alameda County through October 31, 2020. The intent of the initial 4-month period was to determine if there was mutual interest in pursuing a new contract and if sufficient progress was achieved.

## **DISCUSSION**

Staff and WMAC have had productive meetings and have discussed potential elements for consideration in a new franchise agreement. These elements include implementation of Senate Bill 1383, Short-lived climate pollutants (SLCP)<sup>3</sup>, which aims to reduce climate pollutants (primarily methane) by requiring increased organics diversion, recovery of edible food, and monitoring sorted organics for contamination. Staff and WMAC are also discussing the possibility of including the Hayward Unified School District in the agreement as well as feasibility of adding electric waste collection trucks to the fleet serving Hayward. In addition, staff and WMAC are exploring potential methods to reduce contamination in recycling and organics, increase participation in bulky collection services, and increase the number of public litter cans in the City. An overarching goal of a new agreement is to preserve and enhance the services that the community is currently receiving under the franchise agreement, while maintaining competitive and reasonable service fees.

If exclusive negotiations are not successful, the City could prepare and issue a request for proposals (RFP) and call for new proposals from any qualified and interested service provider, including WMAC.

### **Timeline:**

The updated estimated schedule for completing negotiations follows:

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

<sup>2</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4576643&GUID=060523BF-B23D-49D7-A78E-F40F4DB335C4&Options=&Search=>

<sup>3</sup> [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1383](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383)

*Negotiated Agreement Successful:*

Council Authorization to Begin Negotiating with WMAC	June 23, 2020
Begin Negotiating Period	July 1, 2020
Council Authorization to Continue Negotiating with WMAC	November 10, 2020
End Negotiating Period and Report to Council	June 30, 2021
Complete New Franchise Agreement and Schedule Council Action	July 2021

*Negotiated Agreement Unsuccessful:*

Conclude Negotiating Period and Report to Council	July 30, 2021
Prepare RFP for Consultant Services for Assistance with Selecting the Franchisee	August 2021
Council Action for Entering into an Agreement with Selected Consultant	Fall 2021
Prepare RFP (with consultant's help) for Council issuance	Fall 2021
Receive Proposals	Winter 2021/2022
Select a Franchisee and Negotiate a Contract	Spring 2023
Council Approval of New Franchise Agreement	Summer 2023
New Service Provider to Order Carts, Bins, Vehicles, etc.	Summer 2023
Receive equipment and distribute new collection carts	Summer 2024
Begin New Service	January 1, 2025

**FISCAL AND ECONOMIC IMPACTS**

Maintaining reasonable solid waste and recycling service fees and improving service levels would have a positive impact on the community. Regardless of the path chosen, the negotiation of a new franchise agreement is likely to require significant staff time; however, such staff time will be absorbed by already budgeted positions. If rates are increased, Franchise Fees will also increase, which will benefit the City's General Fund, Recycling Fund, Stormwater Fund, and Street System Improvement Fund.

**STRATEGIC ROADMAP**

This agenda item does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap. It is possible that a new franchise agreement could support the following projects in the Support Quality of Life and Combat Climate Change Strategic Priorities:

Support Quality of Life

Project 7:	Implement targeted illegal dumping prevention program
Project 7a:	Pilot programs and analysis
Project 7b:	Roll out permanent program

### Combat Climate Change

- Project 5: Work with StopWaste to promote a Circular Economy and Explore Regulation of Single Use Products
- Project 5a: Conduct outreach regarding single-use disposables
- Project 5b: Develop ordinance regulating single-use food ware in restaurants and coordinate with county-wide efforts

### **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**

No public contact has been conducted. If rates are modified in the new agreement, appropriate noticing of customers, consistent with Proposition 218, will occur in the future.

### **NEXT STEPS**

On November 9, 2020, staff and WMAC are scheduled to present to the Council Sustainability Committee (CSC) some of the features and technologies being discussed for a new franchise agreement. Upon adoption of the attached resolution, staff will continue to negotiate with WMAC and update CSC and Council prior to June 30, 2021.

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

Approved by:



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Kelly McAadoo, City Manager