



**DATE:** May 10, 2021

**TO:** Council Sustainability Committee

**FROM:** Director of Public Works

**SUBJECT** Update on Negotiations for New Solid Waste Franchise Agreement

### **RECOMMENDATION**

That the Council Sustainability Committee (CSC) reviews and comments on this report, provides direction to staff and recommends to Council to extend the negotiating period to December 31, 2021.

### **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 it for three 12-month periods, so if the City decides to extend the contract the maximum numbers of times, the agreement would expire March 1, 2025. In June 2020, Council authorized staff to enter into exclusive negotiations with WMAC. This report provides an update on negotiations regarding potential elements to include in a new franchise agreement to provide Hayward with solid waste, recycling, and organic materials, collection, and processing services.

### **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.

At the March 9, 2020<sup>1</sup> 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.

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

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

At its November 9, 2020<sup>3</sup> 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, 2021<sup>4</sup> 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.

## **DISCUSSION**

Staff and WMAC continue to have productive meetings and discuss potential elements for consideration in a new franchise agreement. These elements include implementation of Senate Bill 1383, which aims to reduce short-lived climate pollutants (SLCP)<sup>5</sup> by increasing organics diversion, and requires monitoring for contamination. Staff and WMAC have also discussed the possibility of including the Hayward Unified School District (HUSD), CSU East Bay, and Chabot College in the agreement. Discussions have also included the feasibility of adding electric waste collection trucks to the fleet serving Hayward, exploring potential methods to reduce contamination in recycling and organics, increasing participation in bulky collection services, reducing illegal dumping, and increasing the number of public litter cans in the City.

*SB 1383* – SB1383 requires extensive efforts by jurisdictions to reduce the amount of organics sent to landfill and increase recycling. The bill requires jurisdictions to procure organic material diverted from landfill, and WMAC and staff have been discussing the best means to increase the amount of compost and mulch WMAC provides the City. SB 1383 also requires monitoring containers of material collected for contamination. Staff and WMAC have discussed using cameras on collection trucks to monitor contamination and help provide targeted outreach to customers whose bins or carts show unacceptable levels of contamination.

*Contamination & Overages* – WMAC and staff have also discussed reducing contamination by monitoring the contents of carts and bins with cameras on trucks to enable a system of tracking contamination by customer, providing customized outreach, and potentially implementing a method of charging fees for repeated occurrences of unacceptable levels of contamination. The contamination fees proposed by WMAC would be applied when there

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

<sup>3</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4686767&GUID=7FE71371-C877-447E-993D-AFA9732B3526&Options=&Search=>

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

<sup>5</sup> [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1383](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383)

is more than 3% by volume of non-recyclable material in the recycling cart or non-compostable material in the organics cart. Customers would receive two warnings and then receive a charge of \$25 per incident. For customers with bin service, WMAC proposes charging \$75 per incident after two warnings.

WMAC has also proposed adjusting the fees charged for overflowing carts and bins such that after two warnings, customers with carts would be charged \$10 for overages and customers with bins would be charged \$75 when overfilled.

Schools – Staff and WMAC have held meetings with the HUSD as well as Cal State East Bay to explore the possibility including those entities in the new agreement with WMAC, however procurement requirements for each educational institution and the length of their current contracts make it unlikely that either entity can join the City in this contract. Staff and WMAC, however, have been discussing the possibility of coordinating with HUSD and their hauler to standardize outreach so that the waste sorting messaging to HUSD students and staff aligns with the messaging received by Hayward residents and businesses.

Vehicles – Staff and WMAC have had several discussions regarding switching Hayward's fleet of collection trucks to electric power, however, WMAC indicates it is not currently technologically or economically viable. WMAC and staff are working on potentially phasing in electric-power trucks to perform route service, and also potentially including smaller electric trucks for the support vehicles that deliver carts and collect bulky material.

Main Street Office – WMAC has inquired about Hayward discontinuing the operation of a physical office on Main Street in downtown. WMAC noted that most services its staff offers at the office continued to be made available remotely during the pandemic.

Public Litter Cans – Staff and WMAC are planning to add approximately one hundred new public litter cans throughout the City which could be deployed by adding about 25 per year for the first four years of the new contract.

Bulky Collection – Staff and WMAC are discussing including new aspects to the bulky collection services offered multi-family residents that aim to make the service easier to use and adding specific language about the frequency the service may be used, particularly for larger complexes.

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.

## **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 project in the *Support Quality of Life* Strategic Priority:

Project 7: Implement targeted illegal dumping prevention program  
Project 7, Part 7a: Pilot programs and analysis  
Project 7, Part 7b: 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**

No public contact has been conducted.

## **NEXT STEPS**

Upon direction from the CSC, City staff will continue to discuss with WMAC innovative approaches to compliance with state law and maximizing landfill diversion. Staff plans to seek approval from Council on June 15, 2021 to extend the negotiating period to December 31, 2021, and will report back to the CSC and Council as needed.

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Approved by:



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Kelly McAdoo, City Manager