



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: March 19, 2019
TO: Christine Daniel, City Manager
FROM: Andrew Clough, Director Public Works
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The Extension Of The Term Of The Collection Service Agreement Between The City Of Emeryville and Waste Management of Alameda County, Inc. For An Additional Five (5) Years From January 1, 2021 To December 31, 2025**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled Resolution exercising its option to extend the term of the Collection Service Agreement (Agreement) between the City of Emeryville (City) and Waste Management of Alameda County, Inc. (WMAC) by an additional five (5) years from January 1, 2021 to December 31, 2025 as provided for in Section 5.01.1 of the Agreement.

BACKGROUND

On December 21, 2010, the City Council approved Resolution No. 10-204 authorizing entering into a franchise Agreement with WMAC for the term of ten (10) years from February 1, 2011 to December 31, 2020 for the collection and processing of solid waste, recycling, and compostable materials. Attachment A to this staff report is a copy of this Agreement.

The goals of the franchise Agreement were to:

- Maintain quality solid waste services
- Add programs to meet the General Plan Sustainable Element as well as countywide solid waste diversion goals and objectives
- Maintain low/competitive solid waste rates

The Agreement's initial term is ten years. The City has an option to extend the term for two additional five year periods. The City, to exercise the first of its five-year options, must notify WMAC no later than seventeen (17) months prior to the termination date of the Agreement, December 31, 2020. Seventeen months prior to December 31, 2020 is August 1, 2019.

Staff recommends extending the Agreement for five years for three reasons: (1) residents and businesses receive reliable service, (2) Emeryville customers experience some of the lowest rates in Alameda County, and (3) WMAC is meeting the required diversion goal. Extending the Agreement will lock in reasonable rates for another five years.

DISCUSSION

Section 5.01.1 of the Agreement provides the City an option to extend the term of the Agreement for two additional five year periods provided that WMAC has met the minimum diversion requirement of keeping the annual Disposal Tons below 8,000 by December 31, 2020. The City must exercise the option to extend by August 1, 2019, 17 months prior to the end of the current term, so in practice this determination must be made using the latest available data. The most recent annual disposal tonnage was 7,884 tons in 2017; therefore, for the purposes of the extension option, the diversion requirement has been met.

In December 2018, the City engaged HF&H Consultants, LLC. (HF&H) to conduct a performance and billing review, as provided for in the Agreement, to verify that provisions in the Agreement were being adhered to and calculations were accurate. The review was an opportunity for the City and WMAC to examine procedures and communications and identify ways to improve administration of the Agreement.

The review included 12 selected sections of the Agreement, including accuracy of customer billing, confirming the accuracy of the annual rate adjustment, compliance with customer service standards, accuracy of payment to the City, and adherence to reporting requirements. Additionally, the report reviewed the annual disposal tonnage reporting for compliance with the diversion requirements of the Agreement.

The Performance and Billing Review report (Attachment B) found accuracy with the billing and service levels received by customers. There were no findings regarding the service provided; largely both the collection and customer service is well performed. However, HF&H made several recommendations in the report including:

- Show intercompany payments in the calculations for the franchise fee to avoid overlooking the item in the monthly tabulation for franchise fees
- Resolve partial or non-reporting to meet requirements
- Bring insurance coverage into alignment with Agreement and City insurance policy requirements

All of these recommendations have been addressed.

- WMAC has added intercompany payments to the monthly calculations and has provided payment for the oversight in arrears
- The City and WMAC have developed a checklist for monthly, quarterly, and annual reporting to ensure all items are included in the various reports
- WMAC has provided the City the necessary insurance documentation

Going forward, the City will need to be more vigilant in its oversight of the Agreement provisions and WMAC will need to be more diligent in providing reports and required documentation in a timely manner.

The City of Emeryville enjoys some of the lowest rates for service in Alameda County. Emeryville residents, whether they live in a single-family home or an apartment or condominium, have a full range of services included in the monthly bill, including solid

waste, recycling, and composting collection, as well as bulky pickup. Businesses also receive recycling and food waste collection at a 50% discount from the solid waste rate.

Table 1 shows Emeryville rates compared to rates for neighboring cities in Alameda County. Emeryville's 32-gallon residential rate is significantly lower than the five cities compared. For example, Piedmont's rate is 347% higher and Albany's is 125% higher than Emeryville's, both of these being smaller cities. Neighboring Oakland is 149% higher.

Table 1 - Comparison of Rates with Neighboring Cities

City/ Service Provider	Single Family 32- gallon	Commercial/ Multi-Family 1-yard bin; 1Xweek	Commercial/ Multi-Family 3-yard bin; 1Xweek	40 yard bin	Commercial Food Waste Discount
Emeryville WMAC	\$18.92	\$112.67	\$338.01	\$1,133.60	50%
Albany WMAC	\$42.65	\$169.95	\$509.85	\$1,430.00	50%
Berkeley City/Ecology	\$41.49	\$167.07	\$462.36	\$3,386.03	20%
Oakland WMAC	\$47.17	\$230.70	\$549.39	\$1,864.54	25%
Piedmont Republic	\$84.60	\$173.04	\$346.16 (2yd bin)	\$510.97	100%
San Leandro ACI	\$29.91	\$131.15	\$396.53	\$464.24 +\$128.46 ton	96 gal no cost then 20%

* Source StopWaste Recycling and Solid Waste Collection Report 9-13-18

Extending the Agreement for five years will lock in the current rates with annual adjustments for another five years. Each year the rates are reviewed and adjusted using a methodology prescribed in the Agreement called the Refuse Rate Index. The Refuse Rate Index (RRI) uses a variety of indices associated with the cost of providing collection and processing services to determine any change. Extending the Agreement does not set new rates; rather it continues the existing rates and the provisions in the Agreement to review the rates annually making adjustments using the RRI. The RRI caps any increase at no more than five-percent per year.

As mentioned above, the Agreement requires the City to determine that WMAC has met the diversion requirement to reduce the annual disposal tons to 8,000 maximum by December 31, 2020 in order for the City to exercise the extension option. As part of its review, HF&H verified the annual disposal tons and confirmed that 7,784 tons were disposed in 2017. **Table 2** shows the materials collected and source separated for diversion and the remaining tonnage deposited in landfill. The bottom of the right column shows a total of 7,784 tons deposited in landfill in 2017.

Table 2 – Annual Reported Tonnage

Material	2014	2015	2016	2017
Landfilled Solid Waste	7,365	7,538	7,833	7,884
Recycling	3,926	3,520	4,773	4,848
Organics	2,368	2,484	3,020	3,687
Construction & Demolition	2,195	2,541	2,749	2,305
Total Tonnage Recycled/Reused/Landfilled	15,853	16,152	18,375	18,725

SB1383 New Legislation Addressing Diversion and Greenhouse Gas Emissions

In September 2016, then-Governor Brown signed SB 1383 into law, with the intent that it would reduce emissions and their associated effects by targeting short-lived climate pollutants (SLCPs), such as methane. Although methane remains in the atmosphere for a relatively short period of time, it is about 80 times more potent as a global warming pollutant than CO₂ on a 20-year time scale.

Methane emissions from organic materials in landfills constitute 21% of total methane emissions in the state. Statewide, organic materials make up one-third of the waste stream, and food continues to be the greatest single item landfilled. As such, reducing methane emissions in the near term would result in more immediate climate, air quality, and public health benefits than a strategy focused solely on CO₂.

SB 1383 directs the California Air Resources Board (ARB) to cut methane emissions by 40%. To meet this goal, the law requires CalRecycle to achieve:

- 50% reduction in the statewide disposal of organic waste from the 2014 level by 2020
- 75% reduction of organic waste by 2025
- 20% improvement of edible food recovery by 2025

In order to meet its goals, CalRecycle is currently developing regulations to implement the Short-Lived Climate Pollutant Plan (SB 1383). This effort aims to reduce greenhouse gas emissions in large part by requiring organics recycling and edible food recovery throughout the state. These regulations, when developed, will take effect in 2022, and will impact all jurisdictions in California.

On January 18, 2019, CalRecycle put out draft regulations for a 45-day review. The comment period ended March 4, 2019; Emeryville staff submitted comments after extensive review and discussion with StopWaste and neighboring jurisdictions. Although the regulations will not take effect until January 1, 2022 (per statute), adopting them in 2019 allows regulated entities several years to plan and implement necessary budgetary, contractual, and other programmatic changes so that they can be in compliance with the

regulations in 2022. CalRecycle also considers that early adoption sends a clear market signal to the recycling industry to make new capital investments so that additional organic waste recycling infrastructure can be established during this timeframe.

CalRecycle also held a public hearing to receive public comments on the draft regulatory text of the proposed regulation on March 12, 2019. Additionally, CalRecycle accepted comments on a study it commissioned on organics recycling and diversion infrastructure, barriers to infrastructure development and markets. Comments were accepted through March 12, 2019.

While final regulations have not been published and knowing exactly what will be required is still being flushed out, there will be requirements that Emeryville will need to meet.

Organic waste generators (residents, businesses, institutions and government agencies) will be required to subscribe and participate in a source-separated organics collection service or recycling service for paper and cardboard, thereby reducing the landfill disposal of organic waste. The City meets this requirement through the Agreement, which provides organic collection and processing services addressing compliance with this essential requirement of the law. Other regulations the City must comply with include:

- Edible food recovery for medium and large generators such as larger grocers and restaurants
- City procurement of compost and renewable natural gas to support markets for these materials
- Reporting requirements - building on existing systems for reporting to CalRecycle
- Enforcement of all requirements with penalties similar to the County Mandatory Recycling Ordinance
- Education and outreach - CalRecycle estimates that the first two years of the law will require significant effort to inform the public of the new requirements

All of these requirements are implemented to some degree either at the City or County level, but will require augmentation to meet the new regulations.

StopWaste has taken leadership to convene a working group of member agency staff to track, comment, and plan for SB1383 implementation. In November 2018, for example, StopWaste convened a stakeholder meeting on the requirements for food recovery. Along with the cities, food recovery stakeholders present included organizations such as: RePlate, Food Shift, Food Policy Council, Alameda County Community Food Bank, Meals on Wheels of Alameda County, Safeway, Alameda County Environmental Health. The goal of the group is to find a regional solution to maximize efficiency and realize potential shared cost benefits for food recovery.

The first deadlines are in 2022 which provides time for the City to work with its partners StopWaste and other Alameda County cities, as well as WMAC, to identify cost effective programs for implementation that meet the regulations. Funding for the new, enhanced or augmented programs to meet the regulations will need to be identified. The City has provisions in its Agreement with WMAC to make changes to the Agreement due to a

change in law. The City can use these provisions should there be an opportunity for WMAC to assist the City with compliance.

Staff will provide a report to the City Council once the regulations are finalized and give more information on a course of action for the City to meet the new regulations.

FISCAL IMPACT

The existing Agreement provides for City services, environmental programs and franchise fees; no changes to the current fiscal impact of this contract are anticipated.

STAFF COMMUNICATION WITH THE PUBLIC

There were no communications with the public.

CONCLUSION

The City of Emeryville has an option to extend its current Agreement with WMAC locking in favorable rates for its residents and business for another five (5) years beginning in January 1, 2021. All other terms of the Agreement remain the same.

PREPARED BY: Susan Kattchee, Project Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL:**



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Attachment A – Collection Service Agreement dated February 11, 2011
- Attachment B – Performance and Billing Review Report March 4, 2019