

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: October 17, 2011

Reviewed by: BP

**SUBJECT:** Waste Management of Alameda County Franchise and Disposal Agreements

**REPORT BY:** Nicole Almaguer, Environmental Specialist

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**STAFF RECOMMENDATION**

That the Council:

A.

1. Approve Resolution No. 2011-44 adopting the Disposal Service Agreement between the City of Albany and Waste Management of Alameda County, Inc.
2. Approve Resolution No. 2011-45 adopting the Collection Agreement between the City of Albany and Waste Management of Alameda County, Inc. for Solid Waste, Recyclable Materials, and Organic Materials Services.
3. Authorize a base rate increase of 45%, effective November 1, 2011;

Or

B.

1. Authorize staff to utilize the remaining two 1-year extensions of the existing franchise agreement with Waste Management of Alameda County Inc. as necessary.
2. Authorize staff to initiate a competitive solicitation process for a new franchise agreement.
3. Approve a contract amendment with R3 Consulting to provide technical assistance throughout the competitive bid and negotiation process including development of a franchise agreement for collection, processing, and disposal of solid waste, recycling and organics materials.

**BACKGROUND**

On October 4, 2010 Council authorized staff to request an extension of the existing franchise, and begin negotiations to develop a new franchise agreement with Waste Management of Alameda County (WMAC). Staff met with WMAC regularly to identify opportunities for an enhanced franchise agreement, and returned to Council on June 6, 2011, July 5, 2011 with updates and comparative data regarding other franchise agreements throughout the County. Staff provided the most recent update to Council on October 3, 2011, indicating that WMAC had expressed a willingness to revisit the items

they had previously identified as non-negotiable including the requirement for a mutually agreed upon extension to the agreements, and a limited obligation to perform services for up to 10 days in the event of a strike.

## **DISCUSSION**

Per the direction provided by Council at the October 3, 2011 meeting, staff has continued negotiations with WMAC, focusing on particular items raised by Council at the meeting as follows:

- Cap on the annual rate increase. WMAC has agreed to a 7.5% cap on the annual rate increase, however a “carry over” would apply to any increase above 7.5%, up to 10%, which would be applied the following year.
- Extension of agreement. WMAC has agreed to allow the City to have sole discretion regarding extensions to the agreement.
- Strike provisions. WMAC has agreed to provide trash and organics collection for commercial businesses within two days in the event of a strike. Collection of commercial recycling, and residential trash, organics and recycling would be provided within five days in the event of a strike.
- Low income discount. The existing agreement with WMAC includes a discounted rate for senior citizens (a person 62 years or older). WMAC has indicated they are not willing to extend an additional low income discount.
- Staff funding support. WMAC has agreed to increase the amount of funding provided to help cover the costs of staff support for program implementation.

The previous agreement with WMAC served as a template for the new franchise agreement, and was updated to meet the City’s current interests for increased diversion, services, and reporting. The disposal agreement is a new agreement, developed to ensure the City can retain use of the transfer station and landfills under the management of WMAC. This includes use of the Davis Street Transfer Station in San Leandro, which has significant material diversion capabilities, and is intended to undergo further improvements in the near future.

As indicated in the October 3, 2011 staff report, particular rates and rate increase structures are required by WMAC. WMAC has indicated that the particular rate structures included within the agreement most accurately depict costs associated with refuse collection and disposal.

### **Base Rate Increase**

The agreement includes a base rate increase of 45% to fund operating costs along with a number of new services. Per WMAC, the City’s current franchise agreement does not fully cover the costs associated with collection and disposal. The base rate increase is necessary to ensure operating costs, including labor, are covered within the franchise. WMAC has provided a detailed proposal regarding the base rate and services offered. The proposal is included as an attachment to this staff report.

### Annual Rate Increase

The City's current franchise agreement includes an annual rate increase methodology of the CPI, with a cap of 5%. In recent years, rate increases have ranged between 0.107% - 2.164%. Staff has learned that there is a growing trend to move away from using the CPI alone as it does not adequately account for all associated costs incurred. In response to this issue of the CPI not adequately covering costs incurred, the proposed agreement requires that the annual rate increase utilize the Refuse Rate Index (RRI), and include the Local 70 union agreement in place of the standard labor rate index.

The RRI is a method in which specific indices most relevant to the refuse collection industry, as well as CPI, are used to create a blended index that more closely resembles the trend in solid waste industry companies' expenses. The indices are all published by the United States Department of Labor, Bureau of Labor Statistics, which is the same federal agency that publishes the CPI. Changes in these indices are calculated in the same fashion as the CPI. The RRI method applies different weighting to these indices, based on the relative proportion of the company's operating expenses.

The agreement requires a cap of 7.5% on the annual rate increase, with the opportunity for a carry-over should the annual rate increase go above 7.5%, up to 10%. This is intended to help ensure the costs associated with the RRI are adequately covered on an annual basis, particularly that of the Local 70 union rates. Per WMAC, it is estimated that the typical annual rate increase will range between 3.54% and 12.06% but it is expected to be more in the range of 3.54% to 7.93%. Based on research conducted by staff, other jurisdictions within the County have been moving towards this type of rate adjustment structure.

### ANALYSIS

The attached agreements are the result of several months of negotiations with WMAC, and provide for a number of new service offerings intended to increase the community's ability to further divert materials from the waste stream. These new services include:

- Solar trash/recycling compactor units (15) along Solano Avenue
- Residential curbside collection of household batteries, fluorescent bulbs and cellular phones
- Community compost give-away events (2 per year)
- Public education programs including an outreach campaign to inform the community about new services
- Focused outreach program to increase diversion within the Multi-Family sector
- Annual on-call bulky pickup (1 per year), with optional second on-call bulky pickup, and increased outreach regarding this service
- Funding to the City for staff support to help cover the cost of program implementation
- Funding to cover the expense of consultant fees throughout the negotiation process

- Acceptance of all plastics within the recycling container (except plastic utensils and hangers)

Per the agreement, roll-out of the new programs and services would commence November 1, 2011. The curbside collection of fluorescent bulbs will have a separate roll-out date of February 1, 2012 to allow time for WMAC to identify the most functional collection containers and to develop the associated educational materials. Information is intended to be mailed to all customers to introduce the new services and upcoming events such as the compost giveaways, detail what materials are accepted in the organics and recycling containers, and highlight the on-call bulky waste opportunities for residents.

In the event that Council finds reason and wishes to not approve the proposed agreements, staff has included an alternative request within this staff report to initiate a competitive bid process and request the additional two 1-year extensions with WMAC to allow for the time needed to conduct the bid and negotiation processes. It should be noted that the bid/negotiation process may enable additional competition for services and rates, however would involve additional time and expense.

### **SUSTAINABILITY IMPACT**

As indicated in the staff report of June 6, 2011, enhancing the City's ability to increase the amount of materials diverted from the landfill will help achieve the City's goal of a zero waste community as identified within the City's Climate Action Plan. Additionally, the new services such as the compost giveaway events provide the opportunity for a closed loop system – organics materials discarded by the community are effectively recycled into garden compost and provided back to residents.

### **FINANCIAL IMPACT**

Per WMAC, it is estimated that the City will receive an additional \$11,000 per month in franchise fees due to the rate increase. WMAC has also agreed to cover the consultant fees associated with the negotiations process (\$40,000), and provide funding for additional staff support to help with program implementation (\$4,500/month).

### **Attachments**

1. Resolution No. 2011-44
2. Resolution No. 2011-45
3. Franchise Agreement between the City of Albany and Waste Management of Alameda County, Inc. for Solid Waste, Recyclable Materials, and Organic Materials Services
4. Disposal Agreement between the City of Albany and Waste Management of Alameda County, Inc.
5. WMAC Proposed Services
6. October 3, 2011 Staff Report