

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

Agenda Date: April 19, 2021
Reviewed by: NA

SUBJECT: Update on Waste Collection Service Agreement Negotiations

REPORT BY: Elizabeth Carrade, Sustainability Coordinator
Jeff Bond, Community Development Director

SUMMARY

This staff report provides an update on the City's negotiations process for a new Collection Service Agreement with Waste Management of Alameda County (WMAC).

STAFF RECOMMENDATION

For information only.

BACKGROUND

On October 17, 2011, Council approved the current franchise agreements between the City and Waste Management of Alameda County (WMAC) for collection and disposal of solid waste, recycling services, and green waste collection. The franchise agreements went into effect November 2011. The Collection Service Agreement, which includes collection rates, containers, trucks, and special collection programs, is effective for 10 years, until October 31, 2021. According to the Collection Service Agreement, the City may choose to extend the agreement twice for up to 5 years each, until October 31, 2031. According to the Agreement, written notice for extensions must be given 180 days prior to the expiration date (May 5, 2021). The Disposal Agreement, which specifies where collected solid waste, recycling, and organics are transferred, processed, and/or disposed of, is effective until October 31, 2031.

Staff has been working with consultants from HF&H to determine the process for addressing the upcoming expiration of the Collection Service Agreement. HF&H consultants presented to the Council on September 21, 2020 and Council authorized staff to begin negotiations with Waste Management of Alameda County (WMAC). The Staff Report and presentation from the September 21, 2020 Council meeting are included as Attachment 1 and Attachment 2. On October 5, 2020, Council authorized execution of Contract No. C21-09 in the amount of \$89,020 for assistance from HF&H consultants for the procurement process for solid waste services.

ANALYSIS

Since September 2020, City staff has been working with HF&H consultants to negotiate a new Collection Service Agreement with WMAC. Although staff and consultants have since met with WMAC staff to discuss WMAC's proposal for a new Agreement, an agreement for a new Collection Service Agreement has not been made.

According to the Collection Service Agreement, the City may choose to extend the Agreement twice for up to 5 years each, until October 31, 2031. With the current Collection Service Agreement expiring on October 31, 2021, staff and HF&H consultants determined that it would be best to send a letter to WMAC expressing the City's intent to extend the Collection Service Agreement until March 31, 2023. To reserve this right to extend the Agreement, written notice must be sent to WMAC 180 days prior to the expiration date (May 5, 2021). The City sent WMAC written notice in the form of a letter by email to WMAC on April 2, 2021 and by mail via certified mail on April 5, 2021 (Attachment 3).

Although this letter indicated that the City is reserving its right per the existing Agreement to extend the Agreement, this letter is non-binding, and does not commit the City to extending the Agreement. If, between now and October 31, 2021, WMAC and the City enter into a new Collection Service Agreement, the extension of the current Agreement may no longer be necessary.

Extending the Collection Service Agreement for 18 months allows WMAC and the City of Albany to continue the negotiations process without a strict deadline of October 31, 2021. If, over the course of the next few months, the City and WMAC are unable to agree on the terms of a new Collection Service Agreement, the City will need to begin a competitive Request for Proposals (RFP) process for procurement of solid waste services. It is likely that an extension of the current Collection Service Agreement with WMAC will be necessary if the City goes out to bid with a competitive RFP process, as such a process could take months to conclude.

SUSTAINABILITY CONSIDERATION

The City's recycling and waste collection services provide a comprehensive and convenient method of waste reduction and recycling. Action 3.2.4 of the City's new Climate Action & Adaptation Plan calls for including innovative strategies to incentivize waste reduction that could impact upstream consumer habits. Waste Management currently uses in-County sorting facilities and alternative fuel trucks, but an extension of the current agreement could consider innovative pilot programs to inform a future agreement. Waste Management has proven a commitment to sustainability and innovation and is qualified to determine additional ways to reduce waste and fuel usage for the benefit of the community.

SOCIAL EQUITY CONSIDERATION

WMAC provides services to every residential and commercial property in the City. In the current agreement, those aged 65 or older are eligible for a 20% discount. The current rates

offer a discounted ten-gallon trash cart as a monetary incentive for people who can significantly reduce their waste. Recycling and organics collection is provided at no charge to residential properties and small multi-family properties. There are opportunities to provide additional services to multi-family properties to ensure equity in services for all Albany residents in a future agreement.

FINANCIAL CONSIDERATION

Coordination of the negotiation process requires considerable staff time. Typically, WMAC covers consultant fees associated with the negotiation process. It should be noted that a bid process could result in more competitive rates, but the planning process and implementation of an agreement with a new hauler would require additional City resources. On average, a competitive Request for Proposals (RFP) process for procurement of solid waste services requires an additional 100-200 staff hours.

NEXT STEPS

Staff and consultants will continue to negotiate a new Collection Service Agreement with WMAC. If an agreement cannot be reached, Council will be consulted about the decision to pursue a competitive bid process. If it is deemed necessary to execute an extension of the current Collection Service Agreement with WMAC, Council will be asked for authorization.

ATTACHMENTS

1. 2020-09-21 City Council Staff Report: Consultant Presentation on Solid Waste Procurement Process
2. 2020-09-21 Presentation to City Council: Consultant Presentation on Solid Waste Procurement Process
3. Letter to WMAC – Extension to 2023-03-31

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

Agenda Date: September 21, 2020
Reviewed by: NA

SUBJECT: Consultant Presentation on Solid Waste Procurement Process

REPORT BY: Claire Griffing, Sustainability & Resilience Manager

SUMMARY

The action before the Council is to receive a presentation from the City's consultant, HF&H, regarding the solid waste procurement process.

STAFF RECOMMENDATION

That the Council receive a presentation from solid waste consultant HF&H and authorize staff to begin discussions with Waste Management of Alameda County regarding negotiation of an extension to the current Collection Services Agreement to include additional services.

BACKGROUND

On October 17, 2011, Council approved the current franchise agreements between the City and Waste Management of Alameda County (WMAC) for collection and disposal of solid waste, recycling services, and green waste collection. The franchise agreements went into effect November 2011. The Collection Service Agreement, which includes collection rates, containers, trucks, and special collection programs, is effective for 10 years, until October 31, 2021. The City may choose to extend this agreement twice for up to 5 years each, until October 31, 2031. According to the Agreement, written notice for extensions must be given 180 days prior to the expiration date, which would be May 5th, 2021. The Disposal Agreement, which specifies where collected solid waste, recycling, and organics are transferred, processed, and/or disposed of, is effective until October 31, 2031.

DISCUSSION

Staff has been working with consultants from HF&H to determine the process for addressing the upcoming expiration of the Collection Service Agreement. To date, the City has received quality collection services from Waste Management of Alameda County. In particular, WMAC has been a partner in assisting the City reach its waste reduction goals. Due to the success of WMAC's collection programs, Albany is a leader in waste diversion within the County and State.

Rates in the current contract are tied to the Refuse Rate Index. As such, rate increases, particularly over the last several years, have been minimal, with the highest rate increase being 4.12% in 2013. All other increases have been under 3%, with the lowest being 0.44% in 2017.

Staff has been advised by HF&H that the current contract and provisions are up-to-date and do not need any major revisions, but that it will be important to incorporate upcoming SB 1383 obligations into any extension or new agreement. SB 1383, a bill aiming to address short-lived climate pollutants, requires the State to reduce organic waste (food waste, green waste, paper products, etc.) disposal by 75% and increase edible food recovery by 20% by 2025. The responsibility for achieving these goals has fallen on local jurisdictions in the form of mandated recycling and recovery programs as well as extensive education, procurement, and reporting requirements. At present, the City of Albany does not have the staff or technical capacity to administer all SB 1383 requirements and will need support from a waste hauler for many of the required changes, such as cart color changes and reporting requirements. It is important to note that there will be costs to ratepayers associated with these additional services.

Due to budget constraints, the uncertainty of the pandemic, the current hauler's good performance, and the limitations of the current Disposal Agreement with Waste Management valid through 2031, staff recommends attempting to negotiate an extension with Waste Management that incorporates SB 1383 requirements and any other desired service adjustments, with the option to go out to bid if an agreement cannot be reached.

SUSTAINABILITY CONSIDERATIONS

The City's recycling and waste collection services provide a comprehensive and convenient method of waste reduction and recycling. Action 3.2.4 of the City's new Climate Action & Adaptation Plan calls for including innovative strategies to incentivize waste reduction that could impact upstream consumer habits. Waste Management currently uses in-County sorting facilities and alternative fuel trucks, but an extension of the current agreement could consider innovative pilot programs to inform a future agreement. Waste Management has proven a commitment to sustainability and innovation and is well qualified to determine additional ways to reduce waste and fuel usage for the benefit of the community.

SOCIAL EQUITY AND INCLUSIVITY CONSIDERATIONS

WMAC provides services to every residential and commercial property in the City. In the current agreement, those aged 65 or older are eligible for a 20% discount. The current rates offer a discounted ten gallon trash cart as a monetary incentive for people who are able to significantly reduce their waste. Recycling and organics collection is provided at no charge to residential properties and small multi-family properties. There are opportunities to provide additional services to multi-family properties to ensure equity in services for all Albany residents in a future agreement.

FINANCIAL CONSIDERATIONS

Coordination of the negotiation process will require considerable staff time. Typically, WMAC covers consultant fees associated with the negotiation process. It should be noted that a bid process could result in more competitive rates, but the planning process and implementation of an agreement with a new hauler would require additional City resources. On average, a competitive Request For Proposals (RFP) process for procurement of solid waste services requires an additional 100-200 staff hours.

NEXT STEPS

Once authorized, consultants will prepare requested terms and present those terms to WMAC and request their cost proposal. Staff and consultants will then review and analyze their cost proposal and negotiate an agreement is reached. If an agreement cannot be reached, Council will be consulted about the decision to pursue a competitive bid process. Council will be updated regularly throughout the process.



PROPOSED DESIGN FOR SOLID WASTE PROCUREMENT

City of Albany
September 2020



HF&H Consultants

AGENDA

- Procurement Approach
- Regulations Affecting Scope
- Core Services
- Business Terms
- Public Education and Customer Service
- Process and Policy Decisions / Stakeholder Engagement

PROCUREMENT APPROACH

- Negotiate with WM:

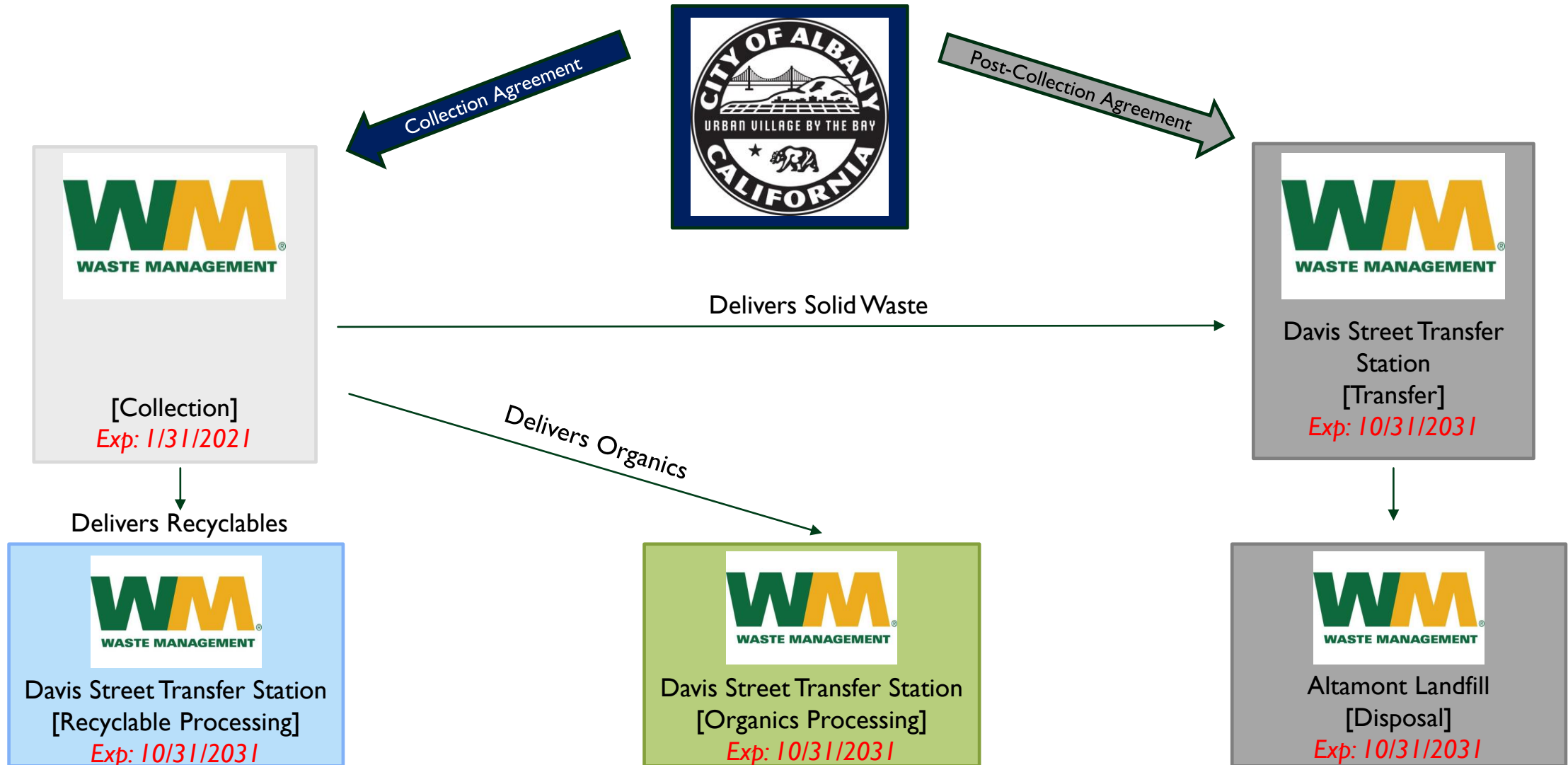
- Reasonable SB 1383 implementation costs
- Community benefits

If objectives not achieved

- Competitive RFP Process:

- Exercise City's sole option for extension
- New agreement with WM or other hauler

SOLID WASTE RELATIONSHIPS: EXAMPLE



REGULATIONS AFFECTING SCOPE

- Regulations considered during negotiation process:

- AB 939

- AB 1826

- AB 341

- SB 1383

- Alameda County MRO

- Albany's Climate Action and Adaptation Plan

- NPDES Compliance (trash loading)

- Albany 2035 General Plan

SB 1383 OVERVIEW



Collection & Processing

Mandatory organic collection and transportation to appropriate recovery facilities.



Monitoring & Enforcement

Contamination monitoring procedures and enforcing non-compliance.



Product Procurement

City's organic waste procurement practices meets state-set quotas.



Ordinances

Mandatory organics, food recovery, and enforcement ordinances.



Edible Food Recovery

Collaboration among commercial edible food generators, food recovery organizations, and the City.



Education & Outreach

Public education materials, including the benefits of organics recycling.

Record Keeping & Reporting

Gather and submit reports to CalRecycle on initial and continuing compliance

CURRENT CONTAINERS



Solid Waste

Recycling

Organics

SINGLE FAMILY SERVICES

- Current City definition = homes and multi-family complexes < 3 residences
- SB 1383/new definition = homes and multi-family complexes < 5 residences



Solid Waste

SB 1383 Required

Sizes: 10 gal, 32 gal, 64 gal, 96 gal

Frequency: weekly

Additional carts

Bag-It Bags



Recycling

SB 1383 Required

Sizes: 32 gal, 64 gal, 96 gal

Frequency: weekly

Additional carts at no charge

Motor & cooking oil ←

Bagged Batteries



Organics

SB 1383 Required

Sizes: 32 gal, 64 gal, 96 gal

Frequency: weekly

Additional carts

Garden Paper Bags

MULTI-FAMILY SERVICES

- Current City definition = multi-family complexes with 3+ residences
- SB 1383/new definition = multi-family complexes 5+ residences



Solid Waste

SB 1383 Required

Sizes: 20 gal, 32 gal, 64 gal, 96 gal,
1-7 cubic yards

Frequency: at least 1/wk

Additional containers

Bag-It Bags



Recycling

SB 1383 Required

Sizes: 32 gal, 64 gal, 96 gal , 1-7
cubic yards

Frequency: 1-5/wk

Additional containers

Motor oil



Organics

SB 1383 Required ←

Sizes: 32 gal, 64 gal, 96 gal, 1-7
cubic yards

Frequency: 1-5/wk

Additional containers

EXTRA SERVICES: SINGLE AND MULTI-FAMILY

■ New and continuing programs:

- Annual On-Call Clean-Up Events / Bulky Item Collection (Single Family and Multi-Family)

- ➡ ■ *Multi-Family Program (TBD)*

- Senior Reduced Rates (20%)

- Premium Backyard Service (extra \$)

- ADA Backyard Service

- Holiday Tree Pickup

- Compost Giveaway

- ➡ ■ LampTracker

- ➡ ■ Cellphone and Laptop Battery Drop Off

COMMERCIAL SERVICES

Commercial Businesses



Solid Waste

SB 1383 Required

Sizes: 32 gal, 64 gal, 96 gal, 1-7 cubic yards

Frequency: 1-6/wk

Additional containers



Recycling

SB 1383 Required

Sizes: 32 gal, 64 gal, 96 gal, 1-7 cubic yards

Frequency: 1-6/wk

Additional containers



Organics

SB 1383 Required ←

Sizes: 32 gal, 64 gal, 96 gal, 1-7 cubic yards

Frequency: 1-6/wk

Additional containers

BUSINESS TERMS: GENERAL

- Exclusive franchise agreement except the following:
 - HHW
 - Public Schools
 - Food Recovery
 - Self-haulers
- Term of agreement extension: 5-10 years dependent on cost effectiveness
- Periodic performance and billing evaluation
- Update disposal and processing arrangements for SB 1383

BUSINESS TERMS: COMPENSATION AND RATES

■ Hauler compensation:

- Rates based on negotiated costs

- Annual multi-index adjustment

- Limited openers for extraordinary rate adjustments

- 0% floor and 7.5% cap, any adjustments over cap carry over (up to 10%) to next year

- ➔ ■ Potential rate restructuring related to new services

BUSINESS TERMS: DIVERSION AND REPORTING

- ➔ ■ Action oriented approach instead of goal oriented
- Continuing diversion activities:
 - Recyclable processing
 - Organic processing
 - C&D diversion
 - Bulky Item Collection
- ➔ ■ Expand reporting requirements for SB 1383 compliance

PUBLIC EDUCATION AND OUTREACH

- Annual public education plan by WM
- Public education prepared and distributed by WM
 - All materials reviewed/approved by City
- ➔ ■ Outreach to schools
- ➔ ■ Increased outreach budget
- ➔ ■ Expand for SB 1383 compliance
- ➔ ■ Dedicated Recycling Coordinator resources from WM
 - Enhance customer service performance

PROCESS AND POLICY CONSIDERATIONS

- City Council Communication Policy
- Community Input
- Regular City Council Updates/Study Session

Negotiation Timeline

June 2020 – October 2020	Design/Draft Franchise Agreement
November 2020 – December 2020	WM Review of Draft Franchise Agreement
January 2021 – March 2021	Negotiations with WM
March 2021 – April 2021	Workshops and Council Presentations



Questions?

ALBANY CALIFORNIA



CITY OF ALBANY
1000 SAN PABLO AVENUE
ALBANY, CA 94706
www.AlbanyCA.org

April 1, 2021

VIA CERTIFIED MAIL AND E-MAIL

Area Vice President
Waste Management of Alameda County, Inc.
172 98th Street
Oakland, CA 94603

Vice President and Group General Counsel
USA Waste of California
7025 N. Scottsdale Road, #200
Scottsdale, AZ 85253

RE: Extension of Waste Collection Service Agreement

To Whom It May Concern:

On November 1, 2011, Waste Management of Alameda County, Inc. (“WMAC”) and the City of Albany (“City”) entered into a collection service agreement for solid waste within the City’s jurisdiction (“Agreement”).

Pursuant to Section 2.01, the term of the Agreement expires October 31, 2021 unless the City elects to extend the Agreement for a five-year term by providing written notice to WMAC at least 180 days prior to the initial expiration date. The City would like to exercise its option to amend the Agreement to extend the term to March 31, 2023.

All other terms and conditions of the Agreement shall continue in full force and effect, and be binding upon the Parties to this letter throughout its term.

By signing this letter, WMAC acknowledges its full understanding of the extension and agrees with the terms contained in this letter.

Along with the signed letter, please submit any updated insurance documents and endorsements which may be expired and required by the original agreement. If you have any questions, please contact Nicole Almaguer at (510) 528-5710.

Sincerely,



Nicole Almaguer
City Manager
City of Albany

Signed by Waste Management of Alameda County:

Barry Skolnick
Area Vice President
Waste Management of Alameda County