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AGENDA REPORT

TO: John A. Flores
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Informational Report on Status of
Zero Waste Implementation

DATE: March 5, 2015

City Administrator
Approval

Date

3/18/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council accept this informational report on the status of Zero Waste implementation.

EXECUTIVE SUMMARY

On September 29, 2014, the City Council directed Staff to negotiate and enter agreements with Waste Management of Alameda County (WMAC) and California Waste Solutions (CWS) to provide collection, processing, and disposal of mixed materials, organics, and recyclables under the City's Zero Waste program.

In recent weeks, the City executed contracts with WMAC for Mixed Materials and Organics (MM&O) Collection Services and Disposal Services, and the contracts are posted on the www.ZeroWasteOakland.com website. This report provides highlights of the MM&O contract and updates on transition to new services. Staff is now working with California Waste Solutions to finalize and execute the Residential Recycling (RR) Collection Services Contract, and highlights of the RR contract will be provided in a future informational report.

OUTCOME

This is an informational report only. It contains no policy recommendations or action items.

BACKGROUND/LEGISLATIVE HISTORY

On September 18, 2014, CWS and WMAC signed a Memorandum of Agreement (MOA) to resolve pending litigation related to the City's award of the MM&O Contract to CWS in August 2014, in part contingent upon the City's action to award the MM&O and Disposal Contracts instead to WMAC.

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On September 29, 2014, the City Council adopted two ordinances: 1) Ordinance No. 13258 C.M.S. awarded the MM&O Contract to WMAC, by amending Ordinance No. 13253 C.M.S., which had previously awarded the MM&O Contract to CWS; and 2) Ordinance No. 13259 C.M.S. awarded the Disposal Contract to WMAC, by amending Ordinance No. 13255, which had previously awarded the Disposal Contract to CWS. In addition, by motion, the City Council provided direction on amending the published draft MM&O and Disposal Contracts.

The MOA between WMAC and CWS was also contingent upon the City establishing contamination fees and extending the term of the RR Contract to 20 years. On December 9, 2014, the City Council adopted two ordinances: (1) Ordinance No. 13273 C.M.S., which added contamination rates to the maximum service rates, by amending Ordinance No. 13258 C.M.S.; and (2) Ordinance No. 13274 C.M.S., which changed the term of the RR contract from 10 years with two five-year extensions, to 20 years, by amending Ordinance No. 13254 C.M.S.

ANALYSIS

After the City Council's award of the contracts on September 29, 2014, Oakland Public Works staff began negotiations with CWS and WMAC to finalize the Zero Waste contracts to fully implement the City Council's direction. Some of the required MM&O Contract provisions had not previously been negotiated with WMAC or CWS, nor included in the contracts released with the original Request for Proposals or published in subsequent Agenda Reports. The details of the contract provisions were of particular importance due to new requirements to include East Bay Municipal Utility District (EBMUD) and Civicorps as providers of essential services in the MM&O Contract, and as a result, staff prioritized the finalization of the MM&O Contract to enable WMAC negotiation of the subcontracts with Civicorps and EBMUD. The MM&O and Disposal contracts were executed on February 20, 2015, and staff is now engaged with CWS to finalize and execute the RR Contract.

MM&O Contract Highlights

Below are MM&O Contract provisions responsive to Ordinance No. 13258 C.M.S. that awarded the MM&O Contract, and Ordinance No. 13273 C.M.S. that added contamination rates.

Term of Contract

The MM&O Contract term is 10 years, from July 1, 2015 to June 30, 2025. The City may extend the contract, at its sole option, for two additional five-year terms, through June 30, 2035. Articles 3 and 70 of the MM&O Contract address the term.

Civicorps Subcontract

Subject to City review and approval, WMAC and Civicorps will enter into a 10-year subcontract to provide for the collection of commercial organic materials with delivery to EBMUD, and a truck driver apprenticeship program. Civicorps will be the exclusive provider of commercial

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organic materials collection services to Oakland businesses that subscribe to the service, unless WMAC and Civicorps mutually agree, subject to City approval, that WMAC should provide some of the collection.

Most requirements of the MM&O Contract will flow through to the subcontract with Civicorps directly, or in a manner consistent with the MM&O Contract. These requirements include local hire, equipment and performance standards, tiered remedies for poor performance, and insurance levels. The City may agree to exceptions in the subcontract for the Performance Bond and indemnity provisions. MM&O Contract Section 11.05.2 addresses the provisions for Civicorps.

East Bay Municipal Utility District (EBMUD) Subcontract

WMAC and EBMUD will enter into a 10-year subcontract to process and divert commercial organic materials subject to City review and approval, delivered to EBMUD by WMAC or its subcontractor Civicorps.

Following City Council approval of Ordinance No. 13258 C.M.S., September 29, 2014, EBMUD notified the City that they would not be able to provide facilities by July 1, 2015 for processing of the commercial organics. The alternative proposed by EBMUD is use of a third-party facility that will transfer Oakland's organics materials to a commercial composting operation for one year. To date, EBMUD has not confirmed the location of the alternative facility, but is required to provide for use of such alternate facility by July 1, 2015.

A similar alternative is required as a contingency in the event of temporary inability of EBMUD to provide the required processing and diversion services, during the term of the subcontract. The MM&O Contract requires that the subcontract between WMAC and EBMUD include provisions requiring EBMUD to accept and process Oakland's commercial organic materials by July 1, 2016. The MM&O Contract further requires that by January 1, 2016, EBMUD will provide notification of the City and WMAC of whether it will or will not be able to provide the required processing and diversion services on July 1, 2016. If EBMUD is not able to perform by the date, WMAC would be relieved of the obligation to use the EBMUD facility.

Termination for cause by either party or by mutual agreement will be subject to City approval. Failure of the EBMUD facilities to handle Oakland's organic materials in accordance with the Alameda County Mandatory Recycling ordinance would constitute a breach and potential default.

As with the Civicorps subcontract, applicable requirements of the MM&O Contract will flow through to the subcontract with EBMUD, or in a manner consistent with the MM&O Contract. MM&O Contract Sections 8.01 and 11.06 address the provisions for EBMUD.

The subcontract with EBMUD (Section 11.05.5.3), as generally required of WMAC in the MM&O Contract, shall require EBMUD to fully defend and indemnify the City from and against

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specified claims and liabilities. The form and content of the indemnity and defense obligation is set forth in Section 26.14 of the MM&O Contract, and was developed by the City Attorney's Office.

Under the subcontract, EBMUD cannot require a contamination standard any more stringent than what is required by the MM&O Contract.

Recycling Sorter Wages and Family Healthcare

WMAC finalized a collective bargaining agreement with ILWU Local 6 that is compliant with City Council direction. The agreement provides for a recycling sorter wage of \$20.94 per hour in 2019, and affordable family healthcare coverage beginning July 1, 2015. Ratification of the agreement by ILWU Local 6 is pending a membership vote. MM&O Contract Section 7.17.3 describes the special adjustments to the maximum service rates required to fund these new wages and benefits.

Source-Separated Organic Materials Collection from Multi-Family Buildings

The MM&O Contract requires WMAC to provide collection of source-separated organic materials from all residential customers, including all multi-family buildings. The MM&O Contract addresses minimum service levels for container numbers, sizes and collection frequency, and provisions for material overages and meeting additional capacity needs. A Contamination Reduction Plan that describes a progressive response by WMAC to correct customer contamination issues, allows WMAC to temporarily reduce organics capacity but not discontinue service. WMAC will provide all new carts for this service. MM&O Contract Section 10.03 contains provisions for source-separated organic materials collection from multi-family buildings.

Customer Service Call Center in Alameda County

The City Council directed that a customer Call Center to be located in Alameda County for the MM&O Contract. WMAC is providing a Call Center at its administrative offices at 98th Ave. in Oakland to serve Oakland businesses and residents. MM&O Contract Article 16 addresses the Customer Service Call Center.

Organic Materials Contamination Rates

Contamination Rates (fees) of \$25 and \$50 can be imposed on residential customers by WMAC. WMAC is required to adhere to a Contamination Reduction Plan that describes progressive response by WMAC to correct customer contamination issues. Similar provisions are proposed for the Residential Recycling Agreement under negotiation with California Waste Solutions ("CWS"). Contamination and Contamination Surcharge are defined in Article 1 of the MM&O Contract, and their applications are discussed on MM&O Contract Articles 7, 9, and 10.

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Oakland Transition

Public Works has put together a team of assigned staff and contractors to work with the WMAC and CWS to ensure that the transition of services is efficient and professional, with service continuing smoothly when the new contracts take effect July 1, 2015. This work is continuing rapidly, and some of the key points are summarized below:

- WMAC has begun establishment of a customer Call Center at its Oakland offices on 98th Avenue. Call Center managers and customer service representatives (CSR) are being hired and trained. Each CSR will have multi-lingual capabilities, including Spanish, Vietnamese, Cantonese and English.
- WMAC is finalizing its plan to roll out green cart service to multi-family buildings in July.
- WMAC and CWS are coordinating plans to transition Residential Recycling services in East Oakland from WMAC to CWS, and are working cooperatively on routing.
- WMAC's subcontracts with EBMUD and Civicorps, which are subject to City Administrator approval, are being negotiated now.
- WMAC has been meeting with Civicorps to coordinate operational details and develop a subcontracting agreement. Civicorps and WMAC have also been meeting with Teamsters Local 70 to develop a national model driver training and apprenticeship program to provide a pathway for Civicorps corpmembers at-risk youth into well-paying, locally based, stable union jobs.
- WMAC has completed the transition to new, compressed natural gas collection trucks in West Oakland for residential trash and organics collection routes. The remaining new trucks are scheduled to be delivered by the manufacturer in April, and placed into service before July 1. CWS has ordered trucks to fulfill their additional service demands.
- The City and WMAC are actively working to implement MM&O Contract provisions for a new special assessment system for delinquent bills, replacing the current property lien process. The Revenue Division of the Finance Department is leading the City's work with WMAC on this issue. Under the new system, WMAC will maintain responsibility for collecting payment for the initial delinquent bill for single family and multi-family residences. Rather than stopping service for non-payment, the City will subscribe to service to abate a nuisance, per se, until the customer pays the initial delinquent bill to WMAC. The City will subscribe for service on behalf of the customer and place a special assessment on the property to be collected through the next subsequent annual property tax bill. Once the customer pays the initial delinquent bill, WMAC will resume regular billing and the City will cease its special assessment subscription on behalf of the customer.

Community Outreach

The outreach campaign is taking shape and will be well underway within the coming weeks. In late January 2015, City staff began meeting with WMAC's outreach team to develop and

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approve a final community outreach strategy, timeline and other expectations for specific deliverables that will begin reaching the public in April 2015. Staff has also met with California Waste Solutions outreach representatives, and both service providers and staff are now meeting jointly to collaborate on outreach efforts.

Outreach highlights include:

- Joint “branding” for WMAC and CWS as the service providers for the new Zero Waste program.
- Development of an OaklandRecycles.com website, to provide a full array of information and services to customers, while also allowing them to access City services and direct access to WMAC and CWS websites for services such as starting and stopping service, changing cart size, reporting service issues, bill paying, and other service provider specific information.
- Social media campaigns including direct customer outreach through Facebook, Twitter and NextDoor.
- Campaigns specifically addressing the single-family residences; multi-family residences; and business customers.
- Written and printed materials, including services brochures, billing inserts and postcards.
- Partnerships with Oakland’s several chambers of commerce as well as the East Bay Rental Housing Association will enable the City and the service providers to communicate more directly with customers.
- WMAC is hiring Oakland based company Cascadia to help run an “ambassador” approach to reaching residential customers directly, especially those in apartments and condominiums .

Pending Transitional Work

Pending work that will require City Council action includes amendments to the Oakland Municipal Code (O.M.C.) to align with the new Zero Waste contracts. Before July 2015, staff will bring changes to the O.M.C. to align the definitions and other provisions with the MM&O agreement such as the special assessment process and maximum service rates.

Staff will bring changes to the O.M.C. to fully implement the adopted Zero Waste System, which in addition to the Zero Waste contracts, includes a permit system for hauling commercial recycling and a non-exclusive franchise system for construction and demolition debris. These changes are not explored in this report. Staff will be providing additional information in future reports.

PUBLIC OUTREACH/INTEREST

This informational report did not require public outreach other than that required by the State Brown Act and City’s Sunshine Ordinance.

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COORDINATION

This informational report did not require interdepartmental coordination.

COST SUMMARY/IMPLICATIONS

This is an informational report: there are no associated fiscal impacts.

SUSTAINABLE OPPORTUNITIES

Economic: Expanding and actively supporting use of discarded materials drives local economic and workforce development with 'green collar' jobs and value added production.

Environmental: Waste reduction and recycling conserves natural resources, reduces air and water pollution, protects habitat, and reduces greenhouse gas (GHG) emissions.

Social Equity: Increased jobs through additional diversion of materials from the landfill.

For questions regarding this report, please contact Becky Dowdakin, Environmental Services Manager, 238-6981.

Respectfully submitted,



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