



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Adam Benson  
Finance Director

**SUBJECT:** Mandatory Delinquent Trash Fees  
2020

**DATE:** May 19, 2020

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**City Administrator Approval**

**Date:** May 28, 2020

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## RECOMMENDATION

Staff Recommends That The City Council Adopt:

**A Resolution Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods Of October, November, December 2019, January, February, March 2020 and Quarterly Periods Of January-March, April-June 2020 (Option 1); or**

**A Resolution Overruling Protests And Objections And Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods Of October, November, December 2019, January, February, March 2020 and Quarterly Periods Of January-March, April-June 2020 (Option 2); or**

**A Resolution Continuing The Hearing Of The Reports Of The City Administrator On Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code For The Monthly Periods Of October, November, December 2019, January, February, March 2020 and Quarterly Periods Of January-March, April-June 2020 (Option 3).**

## EXECUTIVE SUMMARY

Staff recommends the adoption of the proposed resolution (**option 1**), which will authorize the levy of special assessments for delinquent trash fees, charges, and recording of said special assessments to the Alameda County Tax Collector and Auditor Controller for inclusion on the next property tax roll August 10, 2020. The special assessments are made pursuant to the Mixed Materials & Organics Collection Services Contract (the "Contract") executed on July 15, 2015 between the City of Oakland (the "City") and Waste Management. All fees, charges, and

due dates are detailed on customer invoices and delinquency notices. The action before the City Council pertains only to delinquent Waste Management accounts and does not include California Waste Solutions, Inc. ("CWS") Push Rate charges. CWS Push Rate charges are billed on a separate account as an ancillary charge and are not part of the normal Waste Management billing that is subject to the special assessment.

### **BACKGROUND / LEGISLATIVE HISTORY**

Prior to July 1, 2015, the City purchased delinquent accounts receivable from Waste Management for trash collection services provided to residential properties. The City, as owner of the delinquent accounts, collected the delinquent trash fees and charges by placing liens against subject properties. The lien process is a mechanism to secure the debt owed to the City and avoid interruption of trash collection services to residential properties.

The process was changed under the new Waste Management contract; per the Contract, the City no longer purchases delinquent accounts from Waste Management nor does it place liens on subject properties. Instead, the City now places a special assessment levy on the annual property tax bill of the subject property, as a method to secure the City's mandatory refuse administrative fee as allowed under the Oakland Municipal Code ("O.M.C.") Section 8.28.250 and Waste Management's delinquent trash collection service invoices.

#### **Significant noticing dates of the Waste Management agreement are as follows:**

<b>Dates</b>	<b>Noticing Action</b>
Day 1	Waste Management sends initial invoice to customer.
Day 45	Waste Management sends delinquency notice to customer and may apply late fees.
Day 61	Waste Management sends final delinquency notice to customer with a past due balance notifying them of the termination of service on 90 <sup>th</sup> day if account is not paid in full.
Day 91	The City subscribes on customer's behalf for the abatement of the trash nuisance and imposes an administrative fee.
Day 100	The City sends a Special Assessment Notice to the subject property owner informing them of the City's subscription on their behalf and notice of Administrative and Council Hearing. A list of subject properties is provided to the City Clerk for public viewing.

In accordance with the Contract, Waste Management provides the City with a list of accounts for which it will terminate service for non-payment. The list includes assessor's parcel number, service address, and the delinquent amount. As per O.M.C. Section 8.28.220, following an administrative hearing, a report of the proposed special assessments is submitted to the City Council. Both a paper and an electronic copy of the delinquent accounts are furnished to the City Clerk for public viewing following each administrative hearing.

## **ANALYSIS AND POLICY ALTERNATIVES**

Waste Management notified the City of delinquent accounts for eight (8) periods: October 2019, November 2019, December 2019, January 2020, February 2020, and March 2020 (monthly), January through March 2020 and April through June 2020 (quarterly).

On November 15, 2019 and on February 15, 2020, Waste Management sent quarterly customers a delinquency notice advising them of their unpaid invoices and potential late fees for the quarterly period of October through December 2019 and January through March 2020. For monthly customers, the delinquency notice was sent on the last day of the monthly billing cycle. On December 1, 2019 and on March 1, 2020, Waste Management sent a final delinquency notice to subject property owners advising them of termination of service on the 90<sup>th</sup> day if no payment was received, and subsequent subscription by the City of their delinquent accounts. On January 18, 2020 and on April 23, 2020, the City sent a Special Assessment Notice to subject property owners advising them of the City's subscription to their delinquent accounts.

Pursuant to Chapter 8.28.210 of the O.M.C. and the Contract, the City held an administrative hearing and each affected property owner was notified of the administrative hearing. The administrative hearing was held on January 28, 2020 to hear protests and resolve any inconsistencies or inequities regarding the delinquent mandatory trash fees prior to the public hearing before the City Council.

Due to the Alameda County Shelter in Place Order issued on March 16, 2020, the City of Oakland mailed to the affected property owners an Administrative Hearing Questionnaire that allowed for written protest of and to resolve any inconsistencies and inequities regarding the delinquent mandatory trash fees prior to the public hearing before the City Council. Administrative hearings were conducted via Zoom on May 27, 2020 and May 28, 2020 for all affected property owners who submitted a questionnaire or requested a hearing via telephone.. **Attachment A** provides a listing of all properties subject to the special assessment levy by the County Assessor.

Of the original list of 9,191 delinquencies, 226 cases were resolved and removed. A resolution has been prepared confirming and authorizing the special assessment levy for all fees and charges should they remain unpaid at the time of submission or transfer or recording to or by the County Assessor. These delinquent accounts do not include the CWS Push Rate charges. The list of delinquent accounts subject to the special assessment levy has been filed with the City Clerk in both paper and electronic format.

Property owners owe Waste Management delinquent trash collections services totaling \$2,532,843.01 and owe the City Administration Fees totaling \$1,049,004.80 for these service periods. In accordance with O.M.C. Chapter 8.28, the City will levy all unpaid charges and fees on the Alameda County Property Tax Roll, and deposit all payments received through the property tax roll in the City's Mandatory Trash Fund (1700). **Table 1** below reflects the Waste Management billing periods, service fees and City Administrative Charges.

**Table 1: Total Charges by Billing Period**

<b>Billing</b>	<b>Total Count</b>	<b>Current Charges</b>	<b>City Admin Charges</b>	<b>Total Current Charges</b>
<b><u>Monthly</u></b>				
October 2019	79	\$71,699.97	\$10,846.92	\$82,546.89
November 2019	78	\$68,658.39	\$10,594.82	\$79,253.21
December 2019	81	\$65,164.44	\$10,488.19	\$75,652.63
January 2020	81	\$57,986.45	\$10,104.63	\$68,091.08
February 2020	85	\$70,950.61	\$11,392.21	\$82,342.82
March 2020	81	\$75,034.81	\$11,329.07	\$86,363.88
<b>Monthly Total</b>	<b>485</b>	<b>\$409,494.67</b>	<b>\$64,755.84</b>	<b>\$474,250.51</b>
<b><u>Quarterly</u></b>				
January – March 2020 <sup>1</sup>	4,405	\$1,076,625.25	\$511,209.35	\$1,587,834.60
April - June 2020	4,075	\$1,046,723.09	\$473,039.61	\$1,519,762.70
<b>Quarterly Total</b>	<b>8,480</b>	<b>\$2,123,348.34</b>	<b>\$984,248.96</b>	<b>\$3,107,597.30</b>
<b>Grand Total</b>	<b>8,965</b>	<b>\$2,532,843.01</b>	<b>\$1,049,004.80</b>	<b>\$3,581,847.81</b>

**FISCAL IMPACT**

If the City fails to collect or recover its administration fees, the City's Mandatory Trash Fund (1700) may potentially lose a total of \$1,049,004.80.

**PUBLIC OUTREACH / INTEREST**

Property owners were notified and an administrative hearing for delinquent mandatory trash bills was held on January 28, 2020, to hear protests and resolve any inconsistencies or inequities raised by property owners regarding the non-payment of delinquent trash charges. Property owners were afforded the opportunity to complete an Administrative Hearing Questionnaire to protest and resolve any inconsistencies or inequities by May 15, 2020. As a result, 226 cases were removed from the list.

The public hearing is considered the time at which the City Council formally opens the public hearing and ends when the City Council formally closes the public hearing. At the public hearing the Council will hear the City Administrator's reports on delinquent trash service fees and proposed assessments, along with any objections or protests which may be raised by any of the property owners or other interested persons regarding the delinquent charges for trash services rendered.

<sup>1</sup> Quarterly Waste Management billings comprise three (3) months of service for residential customers.

### **COORDINATION**

In coordination with the Budget Bureau and the City Attorney's office, the agenda report, resolutions, and supporting items attached to this report have been reviewed and/or approved for fiscal implications.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The collection of delinquent trash charges has no economic impact.

***Environmental:*** There are no environmental opportunities resulting from the recordation of special assessments.

***Race & Equity:*** Collection of delinquent trash charges do not have significant race or equity implications. Collection of delinquent trash charges helps to ensure that trash is collected throughout Oakland.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Accepting And Confirming Reports Of The City Administrator For Delinquent Trash Service Fees With Administrative And Special Assessment Charges As Necessary Pursuant To Chapter 8.28 Of The Oakland Municipal Code, And Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection For The Monthly Periods Of October, November, December 2019, January, February, and March 2020 and Quarterly Periods Of January-March, April- June 2020.

For questions regarding this report, please contact MARGARET L. O'BRIEN, REVENUE AND TAX ADMINISTRATOR, at (510) 238-7480.

Respectfully submitted,



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ADAM BENSON  
Director of Finance  
Finance Department

Reviewed by:

Margaret O'Brien  
Revenue and Tax Administrator

Prepared by:

Nicole Welch, Revenue Operations Supervisor  
Revenue Management Bureau

*Attachments (1):*

*A: Delinquent Trash Special Assessments Periods*

- October 2019
- November 2019
- December 2019
- January 2020
- February 2020
- March 2020
- January-March 2020
- April-June 2020