



# AGENDA REPORT


**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Erin Roseman  
Finance Director

**SUBJECT:** Mandatory Delinquent Trash Fees  
2023-2024

**DATE:** July 1, 2024

**City Administrator Approval**

  
Jestin Johnson (Jul 1, 2024 16:34 PDT)

**Date:** Jul 1, 2024

## **RECOMMENDATION**

**Staff Recommends That City Council Conduct A Public Hearing And, Upon Conclusion, Adopt A Resolution 1) Accepting And Confirming Reports Of The Special Assessments For Delinquent Trash Service Fees, With Administrative Charges, For The Monthly Periods Of April, May, June, July, August, September, October, November, December 2023, January, February, March 2024, And The Quarterly Periods Of July -September 2023, October-December 2023, January-March 2024, April-June 2024; 2) Overruling Any Protests And Objections Related To The Special Assessments Included In Said Report And Imposing The Special Assessments; And 3) Directing The Notice Of Special Assessment Charges Be Turned Over To The County Tax Collector For Collection**

## **EXECUTIVE SUMMARY**

Staff recommends the adoption of the proposed resolution, which authorizes 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, 2024**. The special assessments are made pursuant to the Oakland Municipal Code (“OMC”) Chapter 8.28 and 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. Delinquent account holders have until August 10, 2024, to pay an outstanding bill prior to the assessment being rolled to the County for inclusion on the property tax roll.

## **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. As owner of the

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delinquent accounts, the City 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 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 OMC Section 8.28.250 and Waste Management's delinquent trash collection service invoices.

Significant noticing dates of the Waste Management agreement are provided in **Table 1** below.

**Table 1: Waste Management Agreement – Significant Noticing Dates**

<b>Dates</b>	<b>Noticing Action</b>
Day 1	Waste Management sends an initial invoice to the 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 the customer's behalf for the abatement of the trash nuisance and imposes a cost recovery administrative fee.
Day 100	The City sends a Special Assessment Notice to the subject property owner informing them of the City's subscription for garbage service on their behalf and notice of administrative and Council hearings. A list of subject properties is provided to the City Clerk for approval of the report and imposition of the special assessments after consideration at a public hearing.

From the date of the initial Waste Management Invoice to the public hearing, property owners have approximately 190-195 days to resolve their delinquency.

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 the assessor's parcel number, service address, and the delinquent amount. Pursuant to 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 sixteen (16) periods: April 2023, May 2023, June 2023, July 2023, August 2023, September 2023, October 2023, November

2023, December 2023, January 2024, February 2024, March 2024 (monthly), and July through September 2023, October through December 2023, January through March 2024, and April through June 2024 (quarterly).

On May 15, 2023, August 15, 2023, November 15, 2023, and February 15, 2024, Waste Management sent quarterly customers a delinquency notice advising of their unpaid invoices and potential late fees for the quarterly period of April through June 2023, July through September 2023, October through December 2023, and January through March 2024. For monthly customers, the delinquency notice was sent on the last day of the monthly billing cycle. On June 1, 2023, September 1, 2023, December 1, 2023, and March 1, 2024, 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 for garbage service by the City of their delinquent accounts. On July 19, 2022, and October 17, 2022, January, the City sent a Special Assessment Notice to subject property owners advising them of the City's subscription for garbage service to their delinquent accounts.

Pursuant to O.M.C. Chapter 8.28.210, the City held an administrative hearing, and each affected property owner was notified of the administrative hearing. The administrative hearings were held on September 19, 2023, November 14, 2023, February 13, 2024, April 9, 2024, May 7, 2024, and May 28, 2024, to hear protests and resolve any inconsistencies or inequities regarding the delinquent mandatory trash fees prior to the public hearing before the City Council.

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 September 19, 2023, November 14, 2023, February 13, 2024, April 9, 2024, May 7, 2024, and May 28, 2024, for all affected property owners who submitted a questionnaire or requested a hearing via telephone.

Of the original list of 15,204 delinquencies, 932 cases were resolved by payment or adjustment 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 of 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 and attached to this report.

The Finance Department mailed 5,332 postcards to remind property owners of this public hearing. The postcard date is March 22, 2024, and offered another administrative hearing on April 9, 2024, to address billing issues and to hear protests on April 9, 2024.

The special assessment process ensures that residential and commercial garbage is picked up, whether the garbage bill is paid to Waste Management or not and ensures that the City of Oakland is in alignment with the Citywide Priority of **holistic community safety**.

**Table 2** below reflects the Waste Management billing periods, service fees and City Administrative Charges.

**Table 2: Total Charges by Billing Period**

Billing	Total Count	Delinquent Charges	City Admin Charges	Total Delinquent Charges
<b><u>Monthly</u></b>				
April 2023	72	\$82,196.15	\$8,352.00	\$90,548.15
May 2023	76	\$121,376.10	\$8,816.00	\$130,192.10
June 2023	72	\$104,815.42	\$8,352.00	\$113,167.42
July 2023	5	\$11,110.60	\$580.00	\$11,690.60
August 2023	70	\$94,823.47	\$8,120.00	\$102,943.47
September 2023	72	\$1,026,087.06	\$8,352.00	\$1,034,439.06
October 2023	69	\$828,885.65	\$8,004.00	\$836,889.65
November 2023	62	\$797,731.07	\$7,192.00	\$804,923.07
December 2023	70	\$90,903.06	\$8,120.00	\$99,023.06
January 2024	69	\$92,063.51	\$8,004.00	\$100,067.51
February 2024	63	\$77,625.02	\$7,308.00	\$84,933.02
March 2024	72	\$87,302.77	\$8,352.00	\$95,654.77
<b>Monthly Total</b>	<b>772</b>	<b>\$3,414,919.88</b>	<b>\$89,552.00</b>	<b>\$3,504,471.88</b>
<b><u>Quarterly</u></b>				
July – September 2023 <sup>1</sup>	566	\$142,199.95	\$65,656.00	\$207,855.95
October – December 2023	4,318	\$2,219,932.15	\$500,713.24	\$2,720,645.39
January- March 2024	4,218	\$1,229,324.07	\$489,288.00	\$1,718,612.07
April-June 2024	4,398	\$1,318,257.35	\$510,168.00	\$1,828,425.35
<b>Quarterly Total</b>	<b>13,500</b>	<b>\$4,909,713.52</b>	<b>\$1,565,825.00</b>	<b>\$6,475,538.76</b>
<b>Grand Total</b>	<b>14,272</b>	<b>\$8,324,633.40</b>	<b>\$1,655,377.00</b>	<b>\$9,980,010.64</b>

Property owners owe Waste Management delinquent trash collection services totaling \$9,980,010.65 and owe City Administration Fees totaling \$1,655,377.00 for these service periods. In accordance with O.M.C. Chapter 8.28, upon Council adoption of the proposed resolution, the City will levy all unpaid charges and fees on the Alameda County Property Tax

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

Roll and deposit all payments received through the property tax roll in the City's Mandatory Trash Fund (1700).

### **FISCAL IMPACT**

If the City fails to collect or recover its cost covering administration fees, the City's Mandatory Trash Fund (1700) may lose a total of \$1,655,377.00, and the Fund will become negative. As a result, the General-Purpose Fund will need to cover the costs associated with this program until such time as the City Council authorizes the special assessments and the cost covering administrative fees is recovered from the delinquent property owners.

### **PUBLIC OUTREACH / INTEREST**

Property owners were notified, and an administrative hearing for delinquent mandatory trash bills was held on September 19, 2023, November 14, 2023, February 13, 2024, April 9, 2024, May 7, 2024, and on May 28, 2024, 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 for account research prior to the hearing, however submission of the questionnaire was not mandatory. As a result of the administrative hearing process, 932 cases were removed from the list.

The public hearing is considered the time at which the City Council formally opens the hearing and ends when the City Council formally closes the hearing during a City Council meeting. At the public hearing, the Council will hear the City Administrator's report 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.

### **COORDINATION**

In coordination with the Finance Department-Revenue Management Bureau, Finance Department-Budget Bureau, Oakland Public Works, and Department of Race and Equity, this agenda report, resolutions, and supporting documents 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:** The ordinance may have some Race & Equity opportunities based on the delinquency rate in Council Districts 6 & 7 compared to other council districts during the same period. However, the current contract requires that the vendor picks up residential garbage regardless of the property owner’s payment history, therefore ensuring that neighborhoods that would historically be subject to blight are not overburdened with increased illegal dumping and excess litter. Collection of the delinquent trash charges helps to ensure that the trash is collected throughout Oakland no matter the racial or economic makeup of the residents or the ability to pay.

**Table 3 reflects the number of delinquent parcels per Council District.**

**Table 3: Delinquent Parcels by Council District**

<u>Council District</u>	<u>3<sup>rd</sup> Quarter 2022 Delinquent Parcels</u>	<u>4<sup>th</sup> Quarter 2022 Delinquent Parcels</u>	<u>1<sup>st</sup> Quarter 2023 Delinquent Parcels</u>	<u>2<sup>nd</sup> Quarter 2023 Delinquent Parcels</u>
<b>Council District 1</b>	<b>93</b>	<b>386</b>	<b>412</b>	<b>432</b>
<b>Council District 2</b>	<b>73</b>	<b>283</b>	<b>294</b>	<b>332</b>
<b>Council District 3</b>	<b>86</b>	<b>360</b>	<b>379</b>	<b>430</b>
<b>Council District 4</b>	<b>75</b>	<b>428</b>	<b>414</b>	<b>446</b>
<b>Council District 5</b>	<b>104</b>	<b>512</b>	<b>533</b>	<b>555</b>
<b>Council District 6</b>	<b>159</b>	<b>1,197</b>	<b>1,201</b>	<b>1,233</b>
<b>Council District 7</b>	<b>158</b>	<b>1,147</b>	<b>1,157</b>	<b>1,157</b>
<b>Unspecified<sup>3</sup></b>	<b>38</b>	<b>150</b>	<b>30</b>	<b>18</b>
<b>Total</b>	<b>786</b>	<b>4463</b>	<b>4,420</b>	<b>4,603</b>

<sup>2</sup> The quarterly delinquent periods are allocated as the following: 3<sup>rd</sup> quarter delinquent parcels consists of April, May, June 2023 monthly and July through September 2023 quarterly; 4<sup>th</sup> quarter delinquent periods consists of July, August, September 2023 monthly and October through December 2023 quarterly; 1<sup>st</sup> quarter delinquent parcels consists of October, November, December 2023 monthly and January through March 2024 quarterly; 2<sup>nd</sup> quarter delinquent parcels consist of January, February, March 2024 monthly and April through June 2024 quarterly.

<sup>3</sup> “Unspecified” are parcels that Geographic Informational Systems (GIS) mapping was not able to determine based on supplied parcel number and service address.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That City Council Conduct a Public Hearing and, Upon Conclusion, Adopt A Resolution 1) Accepting and Confirming Reports of the Special Assessments for Delinquent Trash Service Fees, With Administrative Charges, for the Monthly Periods of April, May, June, July, August, September, October, November, December 2023, January, February, March 2024, and the Quarterly Periods of July -September 2023, October – December 2023, January-March 2024, April-June 2024; 2) Overruling Any Protests and Objections Related to the Special Assessments Included in Said Report and Imposing the Special Assessments; and 3) Directing the Notice of Special Assessment Charges be Turned Over to the County Tax Collector for Collection.

For questions regarding this report, please contact Sherry Jackson, Revenue and Tax Administrator, at (510) 238-7480.

Respectfully submitted,



Erin Roseman (Jul 1, 2024 14:30 PDT)

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ERIN ROSEMAN  
Director of Finance  
Finance Department

Reviewed by:  
Sherry Jackson  
Revenue and Tax Administrator

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Prepared by:  
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Attachment (1):

A: Delinquent Trash Special Assessments Parcel Data 2023 - 2024

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