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MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: G. Harold Duffey
Oakland Public Works

SUBJECT: Special Assessment for Delinquent
Trash Fees Process

DATE: April 30, 2022

City Administrator
Approval

Date: May 4, 2022

INFORMATION

The purpose of this Informational Memorandum is to set out the process as required by the Oakland Municipal Code (OMC) regarding Special Assessments on single and multi-family property owners with delinquent trash/recycling bills and discuss the public health and safety rationale for the process.

Background

Section 8.28.100 of the OMC requires proper removal of solid waste services through a subscription with the city's trash contractor. Trash service is a matter of public health and safety; it is a nuisance if a property does not have such service. Pursuant to the OMC, to abate the nuisance arising from any termination of trash service, the Finance Department subscribes to trash service on behalf of the property owner and follows the Special Assessment process set forth in the OMC to recoup the City's costs (trash subscription and City Special Assessment Fee). The City does not collect or apply any past due amounts owed to Waste Management of Alameda County (WMAC) to the Special Assessment.

The OMC in Section 8.28.170-260 provides:

1. The Trash/recycler collector (WMAC invoices for trash and CWS recycling services) may terminate service for non-payment
2. The City may abate the nuisance by subscribing to service on behalf of residents, when their service was terminated for non-payment
3. The City may, after notice to the property owner, apply Special Assessment and administrative fees for subscription to service.
4. Prior to any Special Assessment, the Finance Department must transmit a report of proposed Special Assessment list to the City Council for a public hearing and send written of the hearing to each person whose property is scheduled for assessment.
5. The property owner can avoid the Special Assessment at any point by paying the fees for subscription of service by the City and its administrative costs.
6. Upon approval by the City Council, the Special Assessment shall be forwarded to the County assessor for inclusion in the next property tax assessment.

7. Payment for the subscribed service and the City administrative fees will be paid from special assessment fees collected from the County Assessor and placed into the city's special collection assessment fund.

The 2015 Contract with WMAC in Section 7.12 incorporates the OMC requirement and provides:

1. WMAC can request service be terminated when accounts are past due (45 days past due for single family and after the last day of the billing cycle of multifamily).
2. Delinquent notice shall be sent to the property owner, which notices shall specify that (a) failure to pay bill will result in termination of service and the city will deem this a nuisance and violation of OMC and (b) the City may abate the nuisance at owners' expense by subscribing to trash service and imposing a special assessment against the property.
3. City is required to hold a hearing concerning the delinquent bills.
4. If bill is not paid, WMAC can send notice to customer terminating service and notifying customer that City may subscribe to service on owner's behalf.
5. Prior to subscribing to services, City is required to verify within 10 days that account is still delinquent and notify owner of special assessment via certified mail.
6. Once Special Assessment is collected, City is required to forward to WMAC the amount equal to costs for subscription for which the city signed up for service.
7. The City is required to continue to subscribe to service on behalf of property owner for each billing cycle until notified that customer has resolved delinquent account with WMAC.

In summary, under the OMC and the Contract, WMAC may terminate service for nonpayment, but must continue service once the City subscribes for service on behalf of the property owner. The City is further obligated to seek payment for the subscription through the Special Assessment process. Failure of the City to approve the Special Assessment process could result in a claim that the City breached its Contract with WMAC.

Special Assessment Process Protects Public Health and Safety

The purpose of the Special Assessment delinquency process as approved by City Council and incorporated into both the OMC and Contract with WMAC is to ensure "continuity of services", e.g., that all households in Oakland will have weekly trash, compost or recycling collection services continued in case of late or non-payment. This ensures that all Oakland residents receive trash collection service. Absent this process, WMAC would suspend weekly collection services for non-payment. This would result a highly inequitable situation and could lead to a public health and safety crisis in our most vulnerable neighborhoods.

Table 1 and **Table 2** below demonstrate the number of accounts that are annually delinquent but less than one third of these accounts resulting in a Special Assessment levied on the property. Without the Special Assessment process, which provides for multiple notice and opportunities for the property owner to pay delinquent invoices and fees, the numbers could be far greater.

Table 1

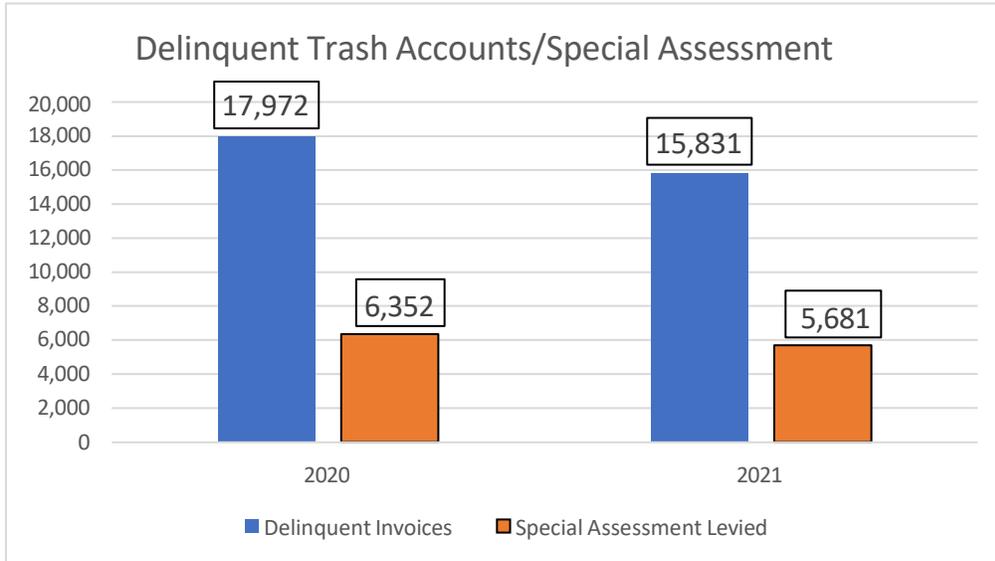
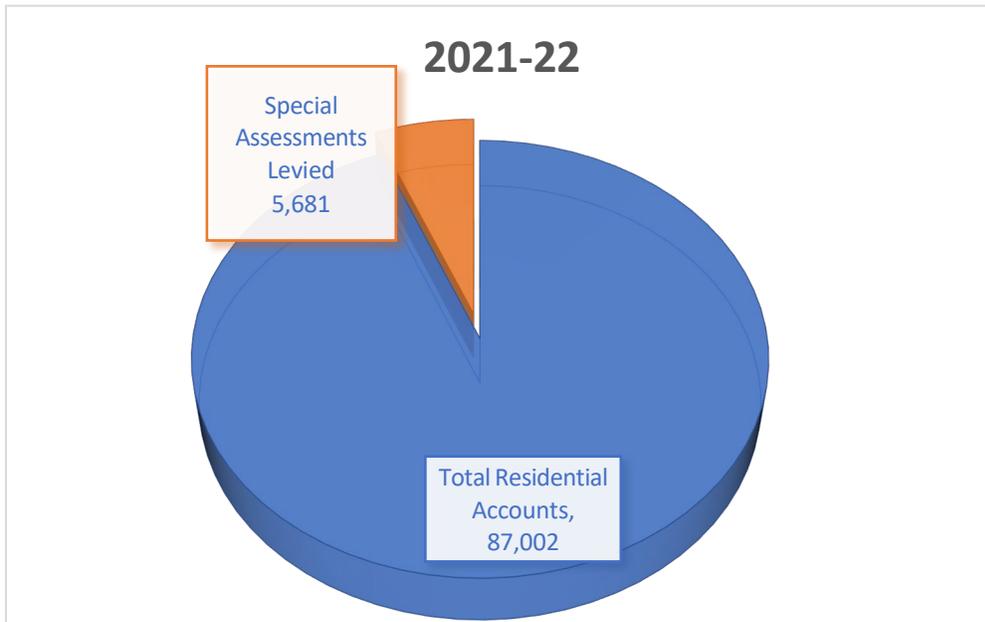


Table 2



The Finance Department’s application of OMC Section 8.28.190 (Special Assessment) is required under the OMC and the Contract with WMAC to ensure public health and safety. The application of OMC Section 8.28.190 results in 94% of trash service subscribers receiving services without a Special Assessment levied on their property tax bill.

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The Special Assessment process deters property owners from letting their subscription to trash service lapse. The current level of Special Assessments issued annually for Delinquent Trash Fees is approximately 6% (5,681/87,002). The contract also contains some cost relief for low income residents, allowing subscribers to save 12% on their trash service if they are enrolled in the PG&E CARE (California Alternative Rate for Energy Program).

Respectfully submitted,



G. Harold Duffey
Director, Oakland Public Works

For questions, please contact G. Harold Duffey, Public Works Director, at (530) 681-6432.

