



**DATE:** January 10, 2019  
**TO:** Recycling Board  
**FROM:** Meri Soll, Senior Program Manager  
**SUBJECT:** City of Newark Expenditure Plan for Accumulated Measure D Funds

**SUMMARY**

The Recycling Board has adopted rules for municipal eligibility to receive further disbursements of Measure D revenues once a specified unspent fund balance threshold is exceeded. The municipality must submit, and the Recycling Board must approve, an expenditure plan explaining how the accumulated funds will be spent down below the threshold, before the municipality will be eligible to receive further Measure D per capita monies. The City of Newark reported an unspent fund balance at the end of FY 17-18 that exceeds the current policy threshold, and has submitted the attached expenditure plan for FY 18-19 and 19-20 for Board consideration. Staff recommends Recycling Board approval of the expenditure plan.

**DISCUSSION**

The County Charter (Measure D) directs that 50% of Recycling Fund revenues (from the \$8.23 per ton landfill surcharge) “...shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs.” (Subsection 64.060(B)(1)).

In 2006 the Recycling Board adopted Resolution #RB 2006-12 establishing rules for municipal accounting of Measure D revenues and expenditures, and eligibility to receive further disbursements when a specified unspent fund balance threshold is exceeded. In November 2014, the Recycling Board adopted Resolution #RB 2014-2 (Attachment A) revising the threshold for unspent fund balances. The purpose of this policy is to encourage the use of Measure D funds to help achieve countywide waste reduction goals, and to discourage stockpiling funds with no clear plan for their future application. Specifically, the policy states:

*Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the amount of \$8.00 (eight dollars) multiplied by the population basis used for the first quarterly disbursement of that fiscal year.*

*If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board, and all such forfeited monies shall be disbursed to the remaining eligible municipalities on per capita basis.*

The Recycling Board has dealt with other instances where municipalities exceeded their Measure D thresholds. In both instances, the cities of Hayward and Livermore followed their Plans and reduced their fund balance below the policy threshold within two fiscal years.

In 2016, the Recycling Board reviewed and approved the City of Newark's expenditure plan for FY 16-17 and 17-18 as the City had exceeded the allowable threshold by \$63,686 at the end of FY 15-16. At that time, Newark had planned to utilize a good portion of their accumulated Measure D funds to help "buy down" the costs of implementing new organics collection services under their franchise agreement with Republic. However, language in the contract made the use of Measure D funds ineligible and thus the City needed to develop an expenditure plan to identify ways to bring their Measure D fund balance below the allowable threshold. The previously submitted expenditure plan can be found in Attachment B.

Unfortunately, the City was unable to meet the goals set forth in the FY 16-17 and 17-18 expenditure plan. This was due to a variety of reasons including the inability to utilize the entirety of consultant's contracts to conclude the City's long-term diversion planning, development of calculations and concepts for organics proposal and audits on material reports provided by City's hauler.

Reports from municipalities accounting for revenues and expenditures in FY 17-18, and ending fund balances as of June 30, 2018, were due to StopWaste on October 29, 2018. The City of Newark reported an unspent fund balance as of June 30, 2018 of \$564,147, which exceeded their threshold amount of \$357,864 ( $\$8.00 \times 44,733$ ) by \$206,283. Consequently, the City of Newark has submitted an expenditure plan showing how they intend to spend down their Measure D fund balance below their threshold by June 30, 2020, the end of FY 19-20 (Attachment C).

The City of Newark's new plan proposes spending down their fund balance to below the indicated threshold by the end of FY 19-20 through one-time expenditures on their new civic campus and on-going expenses for Measure D activities. Attachment C identifies these expenditures and Attachment D includes details on allowable Measure D expenditures for sustainable landscaping and building.

In evaluating a municipality's proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds "for the continuation and expansion of municipal recycling programs."

- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

## **RECOMMENDATION**

Staff recommends that the Recycling Board approve the Expenditure Plan submitted by the City of Newark and find that Newark is eligible to continue receiving its quarterly per capita disbursements from the Recycling Fund through June 30, 2020, while it spends its Measure D funds according to the Expenditure Plan.

### Attachments:

Attachment A – Recycling Board Resolution #2014-2

Attachment B – City of Newark FY 2016-17 – 2017-18 Measure D Expenditure Plan

Attachment C – City of Newark FY 2018-19 – 2019-20 Measure D Expenditure Plan

Attachment D – Measure D Funding for Sustainable Landscapes and Buildings

**ATTACHMENT A**

**ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD**

**RESOLUTION #RB 2014-2**

**MOVED: Wozniak**

**SECONDED: Sherman**

**AT THE MEETING HELD NOVEMBER 13, 2014**

**REVISION OF RECYCLING BOARD RESOLUTION #RB 2006-12 REGARDING FUND BALANCES OF RECYCLING FUND PER CAPITA ALLOCATIONS**

**WHEREAS**, the Alameda County Charter Section 64 (the Alameda County Waste Reduction and Recycling Act of 1990, hereinafter the "Act") states that "The Recycling Board shall formulate rules for its own procedures and other rules as necessary to facilitate the implementation of the provisions of this Act," (Subsection 64.130(J)); and

**WHEREAS**, the Act states that fifty percent of the monies from the Recycling Fund shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs (Subsection 64.060 (B)(1)); and

**WHEREAS**, on November 9, 2006 the Recycling Board adopted Resolution #RB 2006-12, including the following:

Rule 2: Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the sum of the municipality's last eight quarterly Recycling Fund per capita disbursements.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

In evaluating a municipality's proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds "for the continuation and expansion of municipal recycling programs."
- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

These proposed rules shall take effect July 1, 2007. Rule 2 will be applied to the Measure D Annual Reports submitted after the end of FY 07/08 and each year thereafter.

And **WHEREAS**, the absolute dollar amount and the per capita amount of Recycling Fund municipal allocations have declined significantly since 2006, resulting in a declining threshold represented by the sum of the last eight quarterly Recycling Fund per capita disbursements, and

**WHEREAS**, municipalities have requested that the Recycling Board revise the “Rule 2” policy to increase the threshold of unspent per capita allocations that triggers the requirement for an approved Expenditure Plan or ineligibility to receive further disbursements,

**NOW THEREFORE, BE IT RESOLVED**, that the Alameda County Source Reduction and Recycling Board hereby revises and replaces “Rule 2” from Resolution #RB 2006-12 with the following:

Rule 2: Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the amount of \$8.00 (eight dollars) multiplied by the population basis used for the first quarterly disbursement of that fiscal year.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

In evaluating a municipality’s proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds “for the continuation and expansion of municipal recycling programs.”
- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

Rule 2 will be applied to the Measure D Annual Reports submitted after the end of FY 13/14 and each year thereafter.

**Passed and adopted this 13th day of November, 2014 by the following vote:**

AYES: Jones, Natarajan, O’Donnell, Peltz, Pentin, Sherman, Tao, Wozniak  
NOES: None  
ABSTAIN: None  
ABSENT: Ellis, Kirschenheuter, Stein



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**Gary Wolff, Executive Director**

ATTACHMENT B



CITY OF NEWARK, CALIFORNIA

37101 Newark Boulevard Newark, California 94560-3796 (510) 578-4000 FAX (510) 578-4306

November 23, 2016

Wendy Sommer  
Executive Director  
StopWaste  
1537 Webster St.  
Oakland, CA 94612

RE: FY 2016-2017 and FY 2017-2018 Measure D Expenditure Plan

Dear Ms. Sommer:

This letter of intent serves as the City of Newark's Measure D Expenditure Plan for the two year period beginning July 1, 2016, through June 30, 2018 (FY 16/17 and FY 17/18), and is submitted in accordance with Rule 2 of the Alameda County Source Reduction and Recycling Board Resolution #RB 2014-2. Rule 2 limits any agency's Measure D fund balance to not exceed the amount of \$8.00 (eight dollars) multiplied by the population basis used for the first quarterly disbursement of that fiscal year. If this amount is exceeded, the agency must submit an Expenditure Plan and their Measure D funds are temporarily suspended until the Expenditure Plan is approved.

For the past several years, the City of Newark has conservatively expended Measure D funds with the intent to use a majority of the funds to assist with the roll out of a new commercial organics program. Recently, the City was informed that the funds may not be used in that manner. In light of this new information, the City now intends to solicit a consultant to assist in the preparation of a long-term diversion plan, assist in reviewing the calculations and concepts in the commercial organic proposal and perform an audit on the material reports provided by the City's hauler.

While expenditures were conservative, Measure D funds were expended on partially funding a Recycling Assistant staff position; replacing all single-stream waste containers at a high foot traffic facility with new three-stream recycling containers to capture more material from being sent to the landfill; and donations to increase the recycling efforts at numerous Chamber of Commerce related events.

At this point, the City of Newark's Measure D fund balance has grown to exceed the allowable balance by \$63,686.

In the coming two Fiscal Years (FY 16/17 and FY 17/18), while continuing to pay for a portion of the Recycling Assistant position, the City of Newark also anticipates spending up to \$75,000 in the first year for the diversion plan and an amount as recommended in the plan for the second year.

Thank you for your consideration of Newark's Expenditure Plan. If you have any questions regarding the Expenditure Plan, please contact Administrative Services Director Susie Woodstock at [susie.woodstock@newark.org](mailto:susie.woodstock@newark.org) or at (510) 578-4804.

Sincerely,

A handwritten signature in cursive script that reads "John Becker". The signature is written in black ink and is positioned above the printed name and title.

John Becker  
City Manager



**CITY OF NEWARK, CALIFORNIA**

37101 Newark Boulevard • Newark, California 94560 • (510) 578-4000 • FAX (510) 578-4306

December 19, 2018

Ms. Wendy Sommer  
Executive Director  
StopWaste  
1537 Webster Street  
Oakland, CA 94612

Re: City of Newark Measure D Expenditure Plan for Fiscal Years 2018-2019 and 2019-2020

Dear Ms. Sommer:

The City of Newark's Measure D fund balance has exceeded the allowable balance as established by Rule 2 of the Alameda County Source Reduction and Recycling Board Resolution #2014-2. As a result, the City of Newark is submitting this Measure D Expenditure Plan for fiscal years 2018-2019 and 2019-2020, for the Board's consideration.

Rule 2 establishes the formula for calculating the Measure D threshold for unspent funds ( $\$8 \times \text{population} = \text{threshold}$ ). Using this formula, the threshold for Newark in fiscal year 2018-2019 is \$379,736 ( $\$8 \times 47,467$ ). For several years, Newark's balance was intentionally established for the purpose of using the funds to implement the new commercial organics collection program that began last year. However, before the City was able to use the funds for this purpose, it was determined that language in the contract between the City and the City's franchise hauler made the use of Measure D funds ineligible.

As a result, the City instead hired a consultant to assist in the preparation of a long-term diversion plan, assist in the review of calculations and concepts in the commercial organic proposal, and perform an audit on the material reports provided by the City's hauler. Newark's City Council has approved the long-term diversion plan and the City has extended the consultant's contract to implement the first phase of the plan. Despite these efforts, the City's balance remains above the threshold.

Recently, City of Newark staff have been coordinating with StopWaste staff to further discuss potential uses of Newark's Measure D funds. After identifying eligible Measure D expenses, Newark proposes the following two-year expenditure plan:

| <b>Fiscal Year 2018-2019</b>  |                   |
|---|-------------------|
| Approximate Measure D Fund Balance  | \$564,147         |
| Estimated Measure D Funds Received  | \$150,000         |
| Estimated Interest Earned   | \$4,000           |
| <b>TOTAL Measure D Balance =</b>  | <b>\$718,147</b>  |
| <b>Ongoing/Annual Expenditures</b>  |                   |
| Newark Staff Salary (time spent on Measure D)   | \$32,000 annually |
| Promotional/outreach items  | \$15,000 annually |
| Measure D/Bay Friendly Trainings  | \$500 annually    |
| <b>One-Time Projects</b>  |                   |
| Consultant (implementation of long-term diversion plan – remainder for current contract)  | \$135,000         |
| Green Halo online waste management software system (initial set-up fees and fees for first year)                                      | \$6,000           |
| Skate Park, Artificial Turf Fields, and Dog Park Recycled Content Furniture (such as benches, picnic tables, and discard receptacles) | \$60,000          |
| Three-Stream Receptacles for Police   | \$3,700           |
| <b>TOTAL Proposed Expenditures =</b>  | <b>\$252,200</b>  |
| Measure D Balance - Proposed Expenditures<br>\$718,147 - \$252,200 =  | \$465,947         |

| <b>Fiscal Year 2019-2020</b>  |                   |
|---|-------------------|
| Approximate Measure D Fund Balance  | \$465,947         |
| Estimated Measure D Funds Received  | \$150,000         |
| Estimated Interest Earned   | \$4,000           |
| <b>TOTAL Measure D Balance =</b>  | <b>\$619,947</b>  |
| <b>Ongoing/Annual Expenditures</b>  |                   |
| Newark Staff Salary (time spent on Measure D)   | \$40,000 annually |
| Green Halo online waste management software system  | \$3,000 annually  |
| Measure D/Bay Friendly Trainings  | \$500 annually    |
| Promotional/outreach items  | \$15,000 annually |
| <b>One-Time Projects</b>  |                   |
| Consultant for Cost-Based Analysis Rate Review  | \$30,000          |
| New Civic Center LEED Certification (Silver)  | \$50,000          |
| New Civic Center Bay Friendly Landscaping   | \$100,000         |
| New Civic Center Recycled Content Furniture/Furnishings (carpet tiles, office chairs, etc.) | \$150,000         |
| <b>TOTAL =</b>  | <b>\$388,500</b>  |
| Measure D Balance - Proposed Expenditures<br>\$619,947 - \$388,500 =                        | \$231,447         |

At the end of this two-year period, the anticipated Measure D balance of \$231,447 will be below the unspent funds threshold. City of Newark staff anticipates that a portion of this balance will be used for implementation of Senate Bill 1383 (which establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025).

Thank you for your consideration of the City of Newark's Expenditure Plan for fiscal years 2018-2019 and 2019-2020. If you have any questions regarding this Expenditure Plan, please contact Administrative Analyst Myvan Khuu-Seeman at [myvan.khUU-seeman@newark.org](mailto:myvan.khUU-seeman@newark.org) or (510) 578-4290.

Sincerely,

A handwritten signature in black ink that reads "John Becker". The signature is written in a cursive style with a long, sweeping underline.

John Becker  
City Manager



## Measure D Funding Priorities

*Partial listing of eligible items for Measure D reimbursement relating to the new civic campus buildings/ landscapes in the City of Newark.*

### Sustainable Landscapes

#### 1. **Bay-Friendly Rated Landscapes (BFL).**

Two tiers of funding based on the size of the Rated landscape.

- For landscapes under an acre and at least 5,000 sq. ft. – \$50,000 of Measure D funds
- For landscapes an acre or greater – \$100,000 of Measure D funds
- Measure D Funds should not exceed the cost of the project
  - Landscape recognized as Bay Friendly Rated Landscape with [ReScape CA](#)
  - The project hired a [Bay-Friendly Rater](#) (as qualified by ReScape CA) ideally in the design phase or earlier.
  - The project applied for and received [Bay-Friendly Rated Landscape Technical Assistance](#) through StopWaste
  - It is recommended that the project landscape architect be a [Bay-Friendly Qualified Landscape Professional](#)

#### 2. **Civic lawn conversions to low water landscapes using sheet mulch.**

For lawn conversions >10,000 sq. ft., \$25,000 of Measure D funds for projects that meet the StopWaste Lawn to Landscape Checklist requirements.

- #### 3. **Buying Recycled Compost and Mulch** cover 100% of cost of materials, transportation and labor to install local and recycled compost and recycled mulch. Visit [lawntogarden.org](http://lawntogarden.org) marketplace for resources on eligible mulch and compost products.
- #### 4. **Recycled Content or Salvage Landscape Materials** cover complete cost for recycled content or salvaged landscape items.
- #### 5. **Sending staff to Bay-Friendly Professional Landscape Trainings** Staff time/labor costs and registration fees covered by Measure D.
- #### 6. **Pay 50% of a WELO enforcement contractor fees** – contractor (or staff position) hired by city to ensure WELO requirements, including compost and mulch use, are enforced.

## **Sustainable Buildings**

### **7. USGBC LEED Certified Buildings**

Project must be greater than 50,000 sq. ft. of conditioned space to receive \$50,000 of Measure D funds to offset the costs to certify building(s) with the USGBC LEED program.

- The project must be registered and certified (minimum Silver Rating) with [USGBC LEED](#)
- The project must complete the following waste diversion/reuse credits:
  - [Building Reuse](#): if applicable, building reuse required through credit Option 1, 2 or 3.
  - [Sourcing](#): credit Option 2 required, purchasing salvaged and recycled content products
  - [C&D](#): Project must attain a 75% C&D material diversion rate
  - [RCI Pilot Credit 87](#): Project must utilize 3<sup>rd</sup> Party Mixed C&D Certified Facility (facility list available at [Recycling Certification Institute](#) )

### **8. Cradle to Cradle Certified Products (C2Certified)**

- Purchase and utilize products found in [Cradle to Cradle Certified Products Registry](#) under the following categories:
  - i. Building Supply and Materials
  - ii. Interior Design and Furniture (Roll carpet excluded)

A maximum of \$100,000 per product type will be eligible for Measure D reimbursement to align with the intent of Measure D funding.

### **9. Deconstruction Activities**

The City may want to consider deconstruction prior to demolition – a simple first step would be to conduct a building survey with a qualified deconstruction contractor to assess potential reuse opportunities. Please review deconstruction resources at - <http://www.stopwaste.org/recycling/deconstruction>

Measure D Funds may be used to offset the costs to implement deconstruction and reuse activities up to \$100,000. Submittal of documentation from the deconstruction contractor regarding material recovery quantities and costs associated with deconstruction activities required.