

RESOLUTION NO. 18-016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO CONSIDER AND APPROVE THE RESIDENTIAL COMPONENT OF A NEW WASTE MANAGEMENT SERVICES RATE STRUCTURE, CONTINGENT UPON THERE BEING NO QUALIFIED PROTEST FROM A MAJORITY OF PROPERTY OWNERS SUBJECT TO THE NEW RATE STRUCTURE

WHEREAS, effective December 5, 2017, the City of Carson (City) elected to exclusively negotiate a Franchise Agreement for Integrated Residential Waste Management Services (Agreement) between the City and Waste Resources Incorporated, (WRI); and

WHEREAS, under the Agreement, WRI is proposed to be the exclusive franchised refuse hauler for the City and collects, transports, processes, and disposes of solid waste and recyclables that are generated or accumulated within the City; and

WHEREAS, On October 5, 2017, WRI provided the City a comprehensive schedule of customer rates for non-hazardous solid waste handling services for all property owners in the City, including a proposed residential rate adjustment for residential solid waste collection service; and

WHEREAS, under the proposed rate adjustment, commencing July 1, 2018, residential charges would change; and

WHEREAS, Carson Municipal Code (CMC) Section 5229 of Article V, Chapter 2 - Collection of Charges, states the procedures for collection of charges for solid waste collection services; and

WHEREAS, it is legally unsettled whether California Constitution Article XIID's ("Proposition 218") requirements apply to refuse services provided by private, third-party franchised waste haulers (as opposed to refuse services provided directly by a government agency). Nonetheless, in the interest of public outreach and

transparency, the City of Carson has traditionally followed the Proposition 218 process, even for franchised, private waste haulers; and

WHEREAS, on January 5, 2018, staff mailed a “Notice of Public Hearing” to all property owners proposed to be served by WRI, as required by Proposition 218 (Cal. Const. Art. XIII D, § 6); and

WHEREAS, the Notice of Public Hearing instructed residential property owners on how to file a protest on the proposed refuse rates, in accordance with Proposition 218; and

WHEREAS, the City Council of the City of Carson held a fair and noticed majority protest hearing as described in the Notice of Public Hearing on February 20, 2018, to consider the proposed residential component of the solid waste collection services rate structure, pursuant to the requirements under Proposition 218; and

WHEREAS, at said public hearing, all interested residential property owners were afforded the opportunity to protest the residential component of the proposed new refuse rate schedule. A majority protest against the residential component of the comprehensive refuse rate structure was not received by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing Recitals are hereby found to be true and correct and incorporated herein by this reference.

Section 2. The Council hereby ratifies the Proposition 218 process and adopts the refuse rates proposed by WRI as set forth in the Notice of Public Hearing (Exhibit “A” hereto) mailed to all residential property owners, and pursuant to Proposition 218 finds as follows:

- a) *Fee for Service Provided Only:* Revenues derived from the fee may not be used for any purpose other than that for which the fee was imposed. The fees collected are used to pay WRI for the refuse collection and disposal services it provides to the City’s residential customers. This conclusion is further supported by all findings of fact presented at the City

Council hearing, including without limitation those facts stated in the accompanying staff report, all of which evidence is incorporated herein by this reference.

- b) *Fee not to Exceed Cost of Service:* Revenues derived from the fee may not exceed the funds required to provide refuse service. The City's cost for refuse service is established by the Agreement, which it competitively procured and negotiated with WRI for residential refuse collection and disposal services. This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report, all of which evidence is incorporated herein by this reference.
- c) *Fee not to Exceed Proportional Cost:* The amount of the fee may not exceed the proportional cost of the refuse service attributable to the parcel. WRI proposes that the proposed refuse rates are reasonably proportional and cost-based, and meet the general requirements of fairness and equity under Proposition 218. This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report, all of which evidence is incorporated herein by this reference.

Section 3. The Council has fully considered this matter and has:

- i. Reviewed the submittal, notice and the information submitted herewith regarding the proposed adjustment, the parcels to which the proposed fee adjustment would apply, and the reasons and basis for the adjustment and the fees;
- ii. Provided notice of the proposed fee adjustment to the record owners (or renters responsible for payment of the fee) of all parcels to which the proposed fee adjustment would apply in accordance with Article XIID of the California Constitution;
- iii. Heard and received all written protests from any owners (or renters) of real property subject to the fee;
- iv. Taken and received oral and documentary evidence pertaining to the proposed fee adjustment; and
- v. Been fully informed of this matter.

Section 4. The Council finds that insufficient written protests were presented to prevent the residential component of the proposed WRI refuse rate schedule from being imposed.

Section 5. The Council finds that based on these facts and the circumstances and information received during the public hearing, the changes in residential refuse

rates as described in the Notice of Public Hearing (Exhibit "A" hereto) are necessary and are hereby adopted, contingent upon there being no majority protest from a majority of all property owners under an omnibus protest by all those permitted to protest the proposed new rate system. (*Morgan v. Imperial Irrigation District* (2014) 223 Cal.App.4th 892.) Said refuse rates shall take effect on July 1, 2018.

Section 6. This Resolution shall become effective thirty (30) days from the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council this 20th day of February, 2018.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE-ALDANA

APPROVED AS TO FORM:

City Attorney