

RESOLUTION NO. 18-038

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO CONSIDER AND APPROVE THE COMMERCIAL 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 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 collect, transport, process, and dispose 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 commercial rate adjustment for commercial, industrial and multi-family bin/roll-off solid waste collection services; and

WHEREAS, under the proposed rate adjustment, commencing July 1, 2018, commercial bin and roll-off 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, Carson mailed notices of the public hearing/majority protest to refuse ratepayers in WRI's potential service areas on January 5, 2018, which is more than 45-days prior to the public hearing now pending before the Council. These notices presented the calculated rates proposed for each parcel, noticed the public hearing, and provided detailed instructions for the submission of written protests. The commercial rate hearing was continued from February 20, 2018, to March 20, 2018, in order to accommodate further public outreach and education on the proposed commercial rate structure. Further information on the commercial rate component was mailed to all

commercial, industrial and multi-family property owners on March 5, 2018, and WRI held a workshop on commercial rates on March 13, 2018; and

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

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

WHEREAS, at said public hearing, all interested commercial property owners were afforded the opportunity to protest the commercial component of the proposed new refuse rate schedule. A majority protest against 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 Maximum Rate Schedule (Exhibit "A" hereto) mailed to all commercial 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 commercial 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 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 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 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 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 commercial refuse rates as described in the Maximum Rate Schedule (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. The Council affirms, receives and files the final "EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF INTEGRATED SOLID WASTE MANAGEMENT SERVICES" as executed between the City and WRI.

Section 7. 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 March, 2018.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE ALDANA, MMC

APPROVED AS TO FORM:

City Attorney Sunny Soltani (LL)

EXHIBIT A

MAXIMUM RATE SCHEDULE

Commercial/Multi-Family

Refuse Bin Size / Service	Number of Collections per Week (\$ per month)							Extra Dump (Each)
	1	2	3	4	5	6	7	
2cy	157.50	315.00	472.50	630.00	787.50	945.00	1,102.50	31.90
3cy	175.00	350.00	525.00	700.00	875.00	1,050.00	1,225.00	44.00
4cy	236.25	472.50	708.75	945.00	1,181.25	1,417.50	1,653.75	49.50
6cy	297.50	595.00	892.50	1,190.00	1,487.50	1,785.00	2,082.50	63.80
Recycling Cart for Bin Customers				Per Cart / Per Pickup / Per Day (Monthly)				49.00
Scout / Push Out Service				Per Bin / Per Pickup / Per Day (Monthly)				33.00
Locking Bins				Installation				55.00
				Per Bin / Per Unlock / Per Week (Monthly)				27.50

Note: Recycling is 50% of above refuse rates

Mobile Home Park

Refuse Bin Size / Service	Number of Collections per Week (\$ per month)							Extra Dump (Each)
	1	2	3	4	5	6	7	
2cy	88.00	176.00	264.00	352.00	440.00	528.00	616.00	31.00
3cy	92.00	184.00	276.00	368.00	460.00	552.00	644.00	42.00
4cy	130.00	260.00	390.00	520.00	650.00	780.00	910.00	45.00
6cy	162.00	324.00	486.00	648.00	810.00	972.00	1134.00	61.00
Recycling Cart for Bin Customers				Per Cart / Per Pickup / Per Day (Monthly)				49.50
Scout / Push Out Service				Per Bin / Per Pickup / Per Day (Monthly)				33.00
Locking Bins				Installation				55.00
				Per Bin / Per Unlock / Per Week (Monthly)				27.50

Note: Recycling is 50% of above rates

Senior Housing Complex

Refuse Bin Size / Service	Number of Collections per Week (\$ per month)							Extra Dump (Each)
	1	2	3	4	5	6	7	
2cy	57.00	114.00	161.00	208.00	255.00	302.00	370.00	30.00
3cy	61.00	122.00	173.00	224.00	275.00	326.00	398.00	40.00
4cy	85.00	170.00	245.00	320.00	395.00	470.00	570.00	42.00
6cy	119.00	238.00	347.00	456.00	565.00	674.00	810.00	53.00
Recycling Cart for Bin Customers			Per Cart / Per Pickup / Per Day (Monthly)					49.50
Scout / Push Out Service			Per Bin / Per Pickup / Per Day (Monthly)					33.00
Locking Bins			Installation					55.00
			Per Bin / Per Unlock / Per Week (Monthly)					27.50

Note: Recycling is 50% of above rates

Roll Off

WRR Processing/Disposal Charge Applicable to All Roll Off Boxes up to 10 tons	\$ 69.50/ton
WRR Processing/Disposal Charge Applicable to All Roll Off Boxes over 10 tons	\$ 79.50/ton
3 rd Party Processing/Disposal Charge Applicable to All Roll Off Boxes	Pass Thru
Transportation Fee Only (Tipping Fees Additional Charge)	\$ 385.00
Relocation	\$ 192.00
Dead Run	\$ 192.00
Demurrage Fee - Per Roll Off Box Per Day After 7 Days	\$ 18.00
Saturday Service - per pull (Transport Only)	\$ 100.00
Barricade Service	\$ 136.20

Any recycling boxes above 10% contamination will be charged as trash.

Additional Fees

Late Fee	1.5% Per Month
Restart Fee	\$ 61.00
NSF Fee Charge - Per Occurrence	\$ 48.00
Bin Enclosure Cleaning Fee - Per Occurrence	\$ 54.90
Additional Sharps Kit Each after 1 free per 3 months	\$ 15.00
96 gallon - Cart Replacement	\$ 63.00
64 gallon - Cart Replacement	\$ 52.00
32 gallon - Cart Replacement	\$ 44.00

Recycling

All paper grades, cans, bottles, etc. recycling carts and bins 50% of trash rates
Any containers above 10% contamination will be charged as trash.

Commercial AB1826 Organics Collection

48 gallon Food Waste Carts	
1 x p/wk	\$ 46.20
2 x p/wk	\$ 92.40
3 x p/wk	\$ 139.70

If bin service is required, the fee will be negotiated with the account, not to exceed the maximum rate established in the fee schedule for comparable trash service.

Contamination Fee of 25% of the Organic Rate, per occurrence, after 1st violation.