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**Title:** REQUEST FOR CONTINUANCE OF THE PUBIC HEARING TO CONSIDER A RATE ADJUSTMENT TO THE INTEGRATED COMMERCIAL WASTE MANAGEMENT SERVICES (CITY COUNCIL)

**Sponsors:**

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**Attachments:** 1. Certificate of Posting-PH Notice-Commercial-2017 rw, 2. File Summary

Date	Ver.	Action By	Action	Result
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**Report to Mayor and City Council**

Tuesday, February 20, 2018

Special Orders of the Day

**SUBJECT:**

**REQUEST FOR CONTINUANCE OF THE PUBIC HEARING TO CONSIDER A RATE ADJUSTMENT TO THE INTEGRATED COMMERCIAL WASTE MANAGEMENT SERVICES (CITY COUNCIL)**

**I. SUMMARY**

On December 5, 2017, the City Council elected to exclusively negotiate with Waste Resources Inc. (WRI) to serve as the City’s new service provider for the collection of residential and commercial solid waste commencing July 1, 2018. With the City’s selection of a new provider, a new rate structure for all solid waste services was submitted by WRI.

If the proposed residential and commercial rate structures are approved, WRI proposes that there will be no further adjustment to the rate schedule for a period of three years, from July 1, 2018 through June 30, 2021; absent further notice and opportunity for property owners to protest such adjustments. Upon expiration of the three-year period, a CPI inflationary adjustment may be applied in the years 2022 and 2023.

On January 5, 2018, the Notices of Public Hearing regarding the rate adjustment to the commercial component of the proposed solid waste services were mailed by the United States Postal Services (Exhibit 1). However, the first billing date notice should have read July 1, 2018 instead of October 1, 2018.

Although the City is not legally required to provide notice of billing cycle details, in the interest of public transparency and outreach the City has chosen to mail commercial property owners a notice of the correct billing cycle information (i.e., the July 1 start date for the commercial billing cycle). Thus, City staff recommends continuing the public hearing on the commercial rate component of the proposed new refuse rate structure to March 20, 2018, to allow commercial property owners a more meaningful opportunity to comment upon the proposed rate structure and billing cycle.

## **II. RECOMMENDATION**

1. APPROVE a continuance of the Public Hearing to consider a rate adjustment to the integrated commercial waste management services to March 20, 2018.

## **III. ALTERNATIVES**

1. TAKE another action that the City Council deems appropriate and consistent with the requirements of the law.

## **IV. BACKGROUND**

On July 20, 2017, staff released a Request for Proposal for Integrated Solid Waste Management Services (RFP P17-19), seeking qualified companies to provide solid waste collection, transportation, recycling and disposal services, as well as the potential development of solid waste facilities within the City.

On October 5, 2017, the City received proposals from seven solid waste haulers. After extensive review of the solid waste hauler proposals and Ad-hoc Solid Waste Committee interviews, two final candidates, EDCO Disposal (EDCO) and Waste Resources Inc. (WRI) were submitted to the Council for consideration.

On December 5, 2017, Council provided staff direction to enter into negotiations with WRI for an exclusive franchise agreement for residential and commercial/industrial solid waste management services for 15 years, with a one-time option to extend for an additional twenty-four months.

On January 5, 2018, the Commercial Notices of Public Hearing regarding the rate adjustment to the City's waste hauling services were mailed by the United States Postal Services.

Proposition 218, California Constitution, Art. XIII D, § 6, subd. (a)(1), if applicable, states that a 45-day notice of the opportunity to protest new refuse fees at a public hearing must be given to all property owners on whom the new fee will be charged. That notice is only required to state, "the amount of the fee or charge proposed to be imposed upon each [parcel], the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge." (Cal. Const., art. XIII D, § 6, subd. (a)(1).) Technically, the notice is not legally required to contain billing and invoicing details. Moreover, it remains generally unsettled whether Proposition 218 even applies to refuse services provided by third-party franchisees at all. Notwithstanding these legal caveats, the City has provided notice to all property owners subject to Carson refuse services, and

included billing process information, in the interest of public outreach and transparency.

Even though the City was not legally required to detail the billing procedures for commercial refuse accounts, the City did so in the interest of public outreach. Unfortunately, the notice included one misstatement about the commercial billing process. Specifically, the notice said that commercial refuse bills would be initiated on October 1, 2018. This is incorrect; commercial bills will actually be first distributed on or about July 1, 2018, and billed thereafter in advance of refuse services. Nothing regarding this correction changes the effective date of the new rates being July 1, 2018, as correctly stated in the notice.

However, the first billing date notice should have read July 1, 2018 instead of October 1, 2018.

Although the City is not legally required to provide notice of billing cycle details, in the interest of public transparency and outreach, the City has chosen to mail commercial property owners a notice of the correct billing cycle information (i.e., the July 1 start date for the commercial billing cycle). Thus, City staff recommends continuing the public hearing on the commercial rate component of the proposed new refuse rate structure to March 20, 2018, to allow commercial property owners a more meaningful opportunity to comment upon the proposed rate structure and billing cycle.

## **V. FISCAL IMPACT**

There is no impact to the City's General Fund. **VI. EXHIBITS**

1. Certificate of Posting and Notice of Public Hearing, January 5, 2018 (pgs. 4-6)

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