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**Title:** PUBLIC HEARING TO CONSIDER A REQUEST TO INCREASE THE INTEGRATED RESIDENTIAL WASTE MANAGEMENT SERVICES

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit 1-Resolution-16-097, 2. Exhibit 2- WM Res. Rate Request-2016-3-31-16, 3. Exhibit 3- WM Res. Rate Request-2016-5-6-16, 4. Exhibit 4- WM Res. Contract 6.3, 5. Exhibit 5- CPI-2015, 6. Exhibit 6- WM Contract 6.7, 7. Exhibit 7- 1st Amen. WM-Res. Con.- 6.8, 8. Exhibit 8 - Certificate of Posting and Notice of Public Hearing - Res. 2016, 9. Exhibit 9- Carson Municipal Code-Sec. 5229

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

Tuesday, August 02, 2016

Special Orders of the Day

**SUBJECT:**

**PUBLIC HEARING TO CONSIDER A REQUEST TO INCREASE THE INTEGRATED RESIDENTIAL WASTE MANAGEMENT SERVICES**

**I. SUMMARY**

The City’s residential waste hauler is USA Waste of California, Inc., dba Waste Management of Los Angeles (WM). WM initially submitted a request for an 18.73% increase for FY 2016/17. The 6.29% adjustment reflects a rate change that is dramatically lower than what was originally proposed by WM, and was negotiated down per Council direction to better tailor the rates to reflect only inflationary and service cost increases.

All rate adjustments must be submitted to the Los Angeles County Direct Assessment website by August 10, 2016 in order to be included in the 2016/17 property tax bill.

**II. RECOMMENDATION**

TAKE the following actions:

1. OPEN the Public Hearing, TAKE public testimony, ACCEPT any additional written

protests, CLOSE the Public Hearing and the Mayor shall ask the City Clerk to provide a count of all protests received.

2. CONSIDER AND DISCUSS the 6.29% increase to the FY16/17 integrated residential waste management services rate proposed by Waste Management.

### III. ALTERNATIVES

1. APPROVE the increase of 6.29% for the FY16/17 residential integrated waste management services rate following the majority protest hearing.

WAIVE further reading and ADOPT Resolution No. 16-097, “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA TO CONSIDER AND APPROVE A RESIDENTIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING**”. (Exhibit No. 1)

2. DO NOT APPROVE the increase of 6.29% for the FY16/17 residential integrated waste management services rate
3. TAKE another action that the City Council deems appropriate and consistent with the requirements of the law.

### IV. BACKGROUND

#### History and Negotiations

On July 15, 2003, the City and WM entered into an Integrated Residential Waste Management Services agreement, “Franchise Agreement” for the collection of solid waste, including recyclable materials, construction and demolition debris, special waste and green waste.

In 2010, WM paid a \$2,000,000 franchise extension fee, and on July 20, 2010, the City and WM implemented the First Amendment to the Integrated Residential Waste Management Services agreement, which extended the contract to 2018 with five additional one year extensions.

According to the Franchise Agreement with the City, WM is entitled to submit data for a rate adjustment each year in April to be applied and effective in July of the same year. If a rate adjustment is granted for the Franchise Agreement, the rate established by the City will be adjusted.

From FY 10/11 through FY 13/14, the City provided WM with their requested rate increases. In FY 14/15, the City did not provide WM with their requested rate increase. In FY 15/16, the City did not provide WM with their requested increase, but instead authorized a 2.4% CPI adjustment to the residential rates.

On March 31, 2016, WM submitted a request for an 18.73% rate adjustment to the residential waste management services including single family, multi-family, mobile home parks, and senior citizen housing complexes (Exhibit No. 2).

Under the direction of Council, the proposed rates were negotiated down dramatically from those originally proposed by WM in order to better tailor the rates to reflect only inflationary and service cost increases. On May 6, 2016, WM submitted a revised request for a 6.29% rate adjustment for residential waste hauling services (Exhibit 3).

Section 6.3 of the Franchise Agreement states that future adjustments shall be adjusted to changes in the CPI for "All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics" (Exhibit No. 4). The annual CPI for 2014 was 242.434 and the annual CPI for 2015 is 244.632 which results in a .91% increase in CPI (Exhibit No. 5).

Furthermore, Section 6.7 of the First Amendment to the Refuse Agreement, "Disposal Price Adjustment", indicates that WM be compensated for the average tipping fee per ton charged by the Los Angeles County Landfill/Materials recovery Facility at Puente Hills and Downey Area Recycling & Transfer Facility (DART) in Downey (Exhibit No. 6).

The .91% CPI adjustment and the 5.38% disposal adjustment equates to an overall increase of 6.29% to all residential rates. The new proposed rate for a single family (standard black trash cart, including recycling) would be \$21.22 per month or \$254.64 per year. The new proposed rate for discount eligible senior citizens (standard black trash cart, including recycling) would be \$10.61 per month or \$127.32 per year.

The rate adjustment must comply with Proposition 218.

### Protest Hearing Process

California Constitution Article XIID, § 2 ("Proposition 218") defines "fee" or "charge" as "including a user fee or charge for a property related service." It is fairly settled that waste hauling qualifies as a property-related service; thus the rates for waste hauling are subject to Proposition 218. Proposition 218 requires mailed notices to ratepayers of new or increased property-related fees and creates a means for ratepayers to reject such fees via a "majority protest" at a public hearing. The Proposition 218 majority protest procedures to impose or increase a "fee or charge" are as follows:

- Identify the parcels upon which a fee or charge is proposed for imposition.
- Calculate the amount of the fee proposed to be imposed on each parcel.
- Provide written notice by mail to the "record owner of each identified parcel."
- Conduct a public hearing on the proposed fee not less than 45 days after the mailing.
- Consider "all protests against the proposed fee or charge."
- If written protests against the fee are presented by a "majority of owners of the

identified parcels,” the fee cannot be imposed.

The City mailed notices of public hearing/majority protest out to residential ratepayers in WM’s services area on June 8, 2016, 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 tonight’s public hearing, and provided detailed instructions for the submission of written protests.

Only one written protest per parcel in WM’s service area will be counted. Protests to the proposed refuse rates must be submitted in writing. Written protests must be received prior to the close of the public hearing. Any written protests received following the close of the public hearing will not be counted. Written protests by electronic mail (e-mail) will not be accepted.

The Mayor shall ask the City Clerk to provide a count of all protests received following the close of public hearing. If written protests against the proposed rates are presented by a “majority of owners of the identified parcels,” the rates cannot be imposed.

Agreement and CMC Requirements

According to Section 6.8 of the First Amendment to the Franchise Agreement, “Compliance with Proposition 218”, the City shall be responsible for the noticing process per Prop. 218 (Exhibit 7). On June 8, 2016, 26,750 Notices of Public Hearing regarding the rate adjustment to the City’s waste hauling services were mailed by the United States Postal Services (Exhibit 8).

In accordance with the Carson Municipal Code (CMC) Section 5229 of Article V, Chapter 2-Collection of Charges, “The City shall collect fees for residential solid waste collection services by causing fees to be placed on the Los Angeles County Tax Rolls through procedures established by the Los Angeles County Tax Collector. No charge shall be made directly to a residential householder by the franchised residential collector, except as otherwise specifically authorized by the City Council” (Exhibit 9).

Currently an extensive rate study is being conducted, and details will be available later in the calendar year, however, staff has performed a cursory survey to assess the residential refuse rate for standard trash cart and recycling services. Following are the results:

Local Jurisdiction	Hauler	Residential Rate (per month)	Are recycling and green waste bins included?	Senior Citizen Discount Program	Senior Discount Rate (per month)
City of Lawndale	Consolidated Disposal Service, Republic Services Company	\$18.95	Yes	15%	\$16.11
City of Inglewood	Consolidated Disposal Service, Republic Services Company	\$15.58	Yes	10%	\$14.02

City of Redondo Beach	Athens Services	\$16.09	Yes	N/A	N/A
City of Carson (Proposed)	Waste Management	\$21.22	Yes	50%	10.61

**V. FISCAL IMPACT**

There is no impact to the City’s General Fund. All residential billing is placed on the County Tax roll and billed directly to the residents on their annual property tax bill. The tax collected by Los Angeles County is then paid to the City. The City then remits those property tax receipts to Waste Management.

**VI. EXHIBITS**

1. Resolution No. 16-097, “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA TO CONSIDER AND APPROVE A RESIDENTIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING**”. (pgs. 6-11)
2. Waste Management Residential rate adjustment letter, March 31, 2016. (pgs. 12-14)
3. Waste Management Revised Residential rate adjustment letter, May 6, 2016. (pgs. 15-17)
4. Integrated Residential Waste Management Services agreement, Section 6.3 (pg. 18)
5. Consumer Price Index (CPI), All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics. (pg. 19)
6. First Amendment - Integrated Residential Waste Management Services agreement, Section 6.7 (pg. 20)
7. First Amendment - Integrated Residential Waste Management Services agreement, Section 6.8 (pg. 21)
8. Certificate of Posting and Notice of Public Hearing, June 8, 2016 (pgs. 22-24)
9. Carson Municipal Code Article V, Chapter 2, Section 5229 (pg. 25)

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