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Title: PUBLIC HEARING TO CONSIDER A REQUEST TO INCREASE THE INTEGRATED COMMERCIAL WASTE MANAGEMENT SERVICES RATE (CITY COUNCIL)

Sponsors:

Indexes:

Code sections:

Attachments: 1. WM Commercial Resolution 17-085, 2. Carson Commercial price increase 2017 - CPI-ONLY - FINAL, 3. Section 6.3 Commercial WM Services Agreement, 4. Carson Commercial Price Increase 2017 - Final - CPI ONLY, 5. Section 6.6 Commercial WM Services Agreement, 6. Certificate of Posting-Public Hearing-Commercial, 7. Carson Municipal Code-Sec. 5229-Commercial, 8. City of Carson - Commercial Rate Comparison

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

Tuesday, June 20, 2017

Special Orders of the Day

SUBJECT:

PUBLIC HEARING TO CONSIDER A REQUEST TO INCREASE THE INTEGRATED COMMERCIAL WASTE MANAGEMENT SERVICES RATE (CITY COUNCIL)

I. SUMMARY

One of the City’s commercial waste haulers is USA Waste of California, Inc., dba Waste Management of Los Angeles (WM). WM has submitted a request for a 1.89% increase for the commercial waste management services for FY 2017/18.

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 1.89% increase to the FY17/18 integrated commercial waste management services rate proposed by Waste Management.

III. ALTERNATIVES

1. APPROVE the increase of 1.89% for the FY17/18 commercial integrated waste management services rate following the majority protest hearing.

WAIVE further reading and ADOPT Resolution No. 17-085, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA TO CONSIDER AND APPROVE A COMMERCIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING". (Exhibit No. 1)

2. DO NOT APPROVE the increase of 1.89% for the FY17/18 commercial 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 Commercial Waste Management Services agreement, "Franchise Agreement" for the collection of solid waste, which includes 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 executed the First Amendment to the Integrated Commercial Waste Management Services agreement, extending 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. All proposed rate adjustments are considered for approval by the City.

On March 31, 2016, WM submitted a request for a 22.25% rate adjustment for commercial integrated waste management services. 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 commercial waste hauling services which was approved.

On March 29, 2017, WM submitted a request for a 1.89% rate adjustment to the

commercial integrated waste management services. (Exhibit 2)

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. 3). The annual CPI for 2015 was 244.632 and the annual CPI for 2016 is 249.246 which results in a 1.89% increase in CPI (Exhibit No. 4).

Furthermore, Section 6.6 of the First Amendment to the Franchise 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. 5).

The new proposed rate for one 3 cubic yard bin container to be serviced one time per week would be \$176.17 per month.

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 commercial ratepayers in WM’s service areas on May 4, 2017, 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

On May 4, 2017, 1,095 Notices of Public Hearing regarding the rate adjustment to the commercial integrated waste management services were mailed by the United States Postal Services (Exhibit No. 6).

In accordance with the Carson Municipal Code (CMC) Section 5229 of Article V, Chapter 2-Collection of Charges, "Every commercial/industrial collector shall be solely responsible for collecting the charges for such collector's services for providing commercial/industrial collections pursuant to this Chapter, and the City shall have no liability or responsibility therefore" (Exhibit 7).

In December of 2016, the City conducted a rate study to assess the commercial refuse rate for standard trash cart. Attached in Exhibit 8 are the results.

V. FISCAL IMPACT

The Integrated Commercial / Industrial Waste Management Services adjustment will result in a minor increase in City Franchise Fees.

VI. EXHIBITS

1. Resolution No. 17-085, "**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO CONSIDER AND APPROVE A COMMERCIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING**" (pgs. 6-9)
2. Waste Management Commercial rate adjustment letter, March 29, 2017. (pgs. 10-16)
3. Integrated Commercial Waste Management Services agreement, Section 6.3 (pgs. 17-18)
4. 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)
5. Integrated Commercial Waste Management Services agreement, Section 6.6 (pgs. 20-21)
6. Certificate of Posting and Notice of Public hearing dated May 4, 2017. (pgs. 22-23)

7. Carson Municipal Code Article V, Chapter 2, Section 5229 (pg. 24)

8. Solid Waste Rate Comparison-Commercial (pg. 25)

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