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Report to Mayor and City Council

Tuesday, February 20, 2018

Special Orders of the Day

SUBJECT:

PUBLIC HEARING TO CONSIDER A RATE ADJUSTMENT TO THE INTEGRATED RESIDENTIAL 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 solid waste management services provider for the collection of residential solid waste commencing July 1, 2018. With the City's selection of a new waste hauler, a new rate structure for residential solid waste services was submitted by WRI.

All residential rate adjustments must be submitted to the Los Angeles County Direct Assessment website by August 1, 2018 in order to be included in the 2018/19 property tax bill. The first billing of such new residential rates enrolled upon the property tax will be October 1, 2018.

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

residents to protest such adjustments. Upon expiration of the three-year period, a CPI inflationary adjustment may be applied in years 2022 and 2023.

II. RECOMMENDATION

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 rate adjustment to the FY18/19 through FY 20/21 integrated residential waste management services rates proposed by Waste Resources Inc.
3. APPROVE the residential component of the integrated waste management services rate structure proposed by Waste Resources Inc. for FY18/19 through FY 20/21, subject to there being no protest of a majority of all parcel owners subject to the new rate structure.

WAIVE further reading and ADOPT 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, SUBJECT TO THERE BEING NO QUALIFIED PROTEST FROM A MAJORITY OF PROPERTY OWNERS SUBJECT TO THE NEW RATE STRUCTURE.”**
(Exhibit 1)

III. ALTERNATIVES

1. DO NOT APPROVE the rate adjustment for the FY18/19 through FY 20/21 residential integrated waste management services.
2. TAKE another action that the City Council deems appropriate and consistent with the requirements of the law.

IV. BACKGROUND

History and Negotiations

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, 26,750 Notices of Public Hearing regarding the rate adjustment to the City's residential waste hauling services were mailed by the United States Postal Services (Exhibit 2).

The reason for the proposed new fee schedule is due to the City's bidding and selection process for exclusive solid waste hauling services and subsequent decision to negotiate the award of an exclusive franchise to WRI, whose operational costs to provide the requested residential solid waste hauling services varied from the City's previous hauler. The proposed rate schedule is based upon WRI's operational costs of providing waste hauling services to residential constituents in the City of Carson.

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. However, it is legally unsettled whether Proposition 218 refuse fee 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 accommodated the Proposition 218 process, even for franchised, private waste haulers.

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.

Carson mailed out notices of public hearing/majority protest to refuse ratepayers in WRI's

potential service areas on January 5, 2018, which is 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 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.

Analysis of the Residential Component of the Proposed New Refuse Rate Structure

Based upon information provided by WRI, revenues derived from residential refuse rates will not exceed costs of providing residential refuse service, with the understanding that WRI operates as a market-competitive private corporate entity (as opposed to a non-profit governmental entity). In the course of RFP P17-19, seven waste haulers provided proposals for new refuse rate structures and services. RFP P17-19 specifically requested that rate structures be designed to minimize, to the extent competitively possible, excessive revenues derived from refuse rates in light of the costs of providing refuse service. Thus, as part of the evaluation process, each proposer submitted monthly rates for services. Following the competitive process, WRI's proposed rate structure was found to be highly competitive.

In fact, a preliminary analysis of WRI's residential rates indicates the proposed residential rates match, or fall below, those rates imposed by the City's former waste hauler. (Exhibit 3) As shown in this comparison, basic residential cart service is lower by 3%, with increases to residential bin (ie dumpster) rates.

WRI has provided data to support the conclusion that its proposed refuse rate structure is proportional as between different rate-payer categories and/or the cost of service attributable to various parcels using Carson refuse services. WRI has provided data demonstrating its overall refuse service costs in Carson to be about 38% attributable to residential services and 62% attributable to commercial services, while refuse service revenues were estimated to be 37% attributable to residential services and 63% attributable to commercial services. (Exhibit 4)

Furthermore, all residential service levels are proposed at a singular basic rate, excepting the 20% senior discount. (Exhibit 5)

WRI has justified the senior discount as being proportional to the lesser amount of waste generated on average by senior households, which leads to a lower end-point cost of refuse disposal. As stated in WRI's proposal:

"[S]eniors generate less waste (49 lb/p/wk) due to lower occupancy rates and consumption rates than standard (70lb/p/wk). While the service level may be the same as with standard service, this translates to a lighter

collection point, which extends the route and reduces processing costs. The other customer categories will not be paying proportionately higher rates as a means of subsidizing the senior discount under the proposed rate schedule. To establish these accounts, the ratepayer will need to provide proof of eligibility, such as already receiving discounts with other utilities.”

Solid waste hauling fees proposed by WRI would not be charged unless actually subscribed to, or immediately available to the owner of the subject property. Revenues from the new solid waste fee structure will be paid directly to WRI for its operations and personnel. The fees are used to pay WRI for the refuse collection and disposal services it provides to the City’s residential customers, and are not payable to the City’s general fund, any other City fund, or for any other purpose. In other words, the proposed refuse fees are not to be levied or imposed for general governmental services.

CMC Requirements

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”. According to the proposed rate adjustment, WRI is authorized to charge the customer directly for additional refuse services, such as extra refuse carts and bulky items (after the allotted amount has been utilized). (Exhibit No. 6).

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 will remit a monthly payment to WRI for the residential refuse collection service.

VI. EXHIBITS

1. Resolution No. 18-016, **“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. 6-9)
2. Certificate of Posting and Notice of Public Hearing, February 20, 2018 (pgs. 10-12)
3. Proposed WRI - Residential Rate Comparison Sheet (pg.13)
4. Proportionality of Operational Revenues & Cost Allocations (pg. 14)
5. WRI Residential Rates (pg. 15)

6. Carson Municipal Code Article V, Chapter 2, Section 5229 (pg. 16)

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