



Legislation Text

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**AGENDA REPORT
REQUEST FOR CITY COUNCIL ACTION**

DATE: 6/21/2017

TO: Honorable Mayor and City Council Members

FROM: Maintenance Services Department

SUBJECT:

Public Hearing for City Council consideration of: (A) Resolution No. 2017-051 establishing rates for additional Solid Waste Services, a Residential Billing Charge and a Recycling Administrative Service Charge and authorizing automatic inflation related pass-through adjustments for a period of five years and (B) Amendment No. 4 to the Amended and Restated Exclusive Franchise Agreement with USA Waste of California, Inc. for Solid Waste Handling Services to change the CPI Index and time period for calculating inflationary adjustments.

RECOMMENDED ACTION:

That the City Council:

1. Hold a public hearing regarding the proposed refuse and recycling rates for commercial and residential customers.
2. Adopt Resolution No. 2017-051 Establishing Rates for Additional Solid Waste Services, a Residential Billing Charge and a Recycling Administrative Service Charge and Authorizing Automatic Inflation Related Pass-Through Adjustment for a Period of Five Years.
3. Approve Amendment No. 4 to the Amended and Restated Exclusive Franchise Agreement with USA Waste of California, Inc. for solid waste handling services to change the CPI index and time period for calculating inflationary adjustments.
4. Increase the revenue estimates for the Water Utility Fund for Fiscal Year 2017-18 by \$190,000.

ANALYSIS:

The City of Corona ("Corona") Municipal Code ("CMC") Chapter 8.20 regulates the collection of refuse and recyclable materials within Corona. Section 8.20.080 of the CMC further states that no

person shall collect solid waste or recyclable materials from commercial or residential premises within Corona unless that person holds a franchise or contract with Corona to do so. Corona currently has an exclusive franchise agreement with USA Waste of California, Inc., also known as Waste Management ("WM"), for solid waste handling services. The Amended and Restated Exclusive Franchise Agreement ("Franchise Agreement") was entered into on July 5, 2006 and was subsequently amended on June 20, 2007, June 5, 2009, and May 17, 2017. Waste Management and the City of Corona would like to make changes to the Franchise Agreement as follows:

Change to Consumer Price Index ("CPI") and Time Period of Calculation

The Franchise Agreement allows the rates for solid waste collection services to be adjusted on an annual basis to reflect changes in the Consumer Price Index ("CPI"). The Franchise Agreement specifies use of the CPI for Los Angeles-Anaheim-Riverside Metropolitan Area for the period from March to March. As authorized by Government Code Section 53756, prior notice and approval for such automatic adjustments was given in 2015 for the five year period from 2016 through 2020. Waste Management has requested that the CPI be changed to the United States Department of Bureau of Labor Statistics ("US BLS") CPI for Water, Sewer & Trash, and that the time period for calculation of the CPI change be from December to December. As discussed under "Automatic Inflation Pass-Through" below, this changed automatic adjustment method would be for a five year period from 2018 through 2022 and would replace the prior approved method and period.

Organic Waste Recycling Rates

The State Legislature passed Assembly Bill (AB) 1826 in September 2014. AB 1826 requires certain businesses to separate food scraps and yard trimmings for the purpose of recycling. Over 40% of the material that enters landfills is made up of organic material. This organic material in turn creates greenhouse gases, causing both water and air pollution. Thus, it is in the best interest of public health to recycle these organic materials. In addition to alleviating the negative effects associated with organic materials placed in landfills, composting or anaerobic digestion of organic waste has many benefits, which include building healthy soils, preventing erosion, reducing the need for chemical fertilizers and pesticides, and increasing water retention.

AB 1826 is being implemented in a phased-in manner. In order to be in compliance with AB 1826, certain businesses will be required to sign up for organic recycling services, and Corona, in turn, must provide recycling services for organic waste through the City's franchised waste hauler, WM. Businesses that will be required to sign up for organic recycling service include restaurants, supermarkets, large venues and food processors. According to the City's business license data, there are over 50 restaurants and eateries alone in Corona.

WM does not currently have the capability to process the recycled organic waste that it collects. In order to provide these services, WM will contract with a third party company, CR&R of Perris, CA. WM will be responsible for picking up and transporting organic waste to CR&R for processing.

Recycling Administrative Service Charge

WM has requested that a Recycling Administrative Service Charge (RASC) be established. WM performs certain functions, including creating, printing, and mailing informational brochures, conducting field audits and other efforts to help assist the City and customers regarding recycling programs and to ensure compliance with required California State programs and laws, including Assembly Bill 341 (requires commercial and multi-family housing complexes to adopt recycling practices) and AB 1826. The RASC charge would be \$0.03 per yard per bin per pick-up. For

example, the rate for a three-yard bin picked up four times per month would be increased to include a \$0.36 RASC per month. The RASC would be applied to all commercial accounts as well as all multi-family accounts with five or more units that receive bin service, for each trash, recycling and organic bin.

Illegal Hauler Impound Rates

CMC 8.20.080 provides that only solid waste haulers that hold a franchise agreement or contract with the City are permitted to collect solid waste or recyclable materials. CMC 8.20.085 further prohibits unauthorized waste or recycling containers from being utilized in the City. Further, CMC 8.20.085 states that any unauthorized bins may be impounded by the City after proper noticing procedures, and that the City can delegate this authority to its solid waste franchisee. The fees charged may be for costs incurred, which include, but are not limited to, towing, transportation, disposal, storage and administration.

WM has only had to impound one container since the above illegal hauler provisions were adopted. WM is seeking to establish a daily rate of \$64.15 for impounded containers. This rate is based upon the fees incurred by Waste Management for utilizing vehicle towing and storage yards.

Residential Billing Charge

Section 6B of the Franchise Agreement states that the City may direct WM to collect from customers and remit to the City a billing charge to offset the direct and indirect costs incurred by the City to provide billing services for WM's customers. However, the City has never billed or collected this residential billing charge.

Currently, the City of Corona Department of Water and Power (DWP) bills and collects charges for trash and recycling services provided by WM to residential customers. WM bills its commercial customers directly. DWP's average costs for providing the billing services for WM's residential customers is \$180,000 per year based on data from Fiscal Years 2008-2009 through 2015-2016, which includes costs related to preparing and processing the bills and payments and handling phone calls associated with these services. In Fiscal Year 2015-2016, the costs were \$190,593. Currently, WM has 36,403 residential accounts. Therefore, staff is recommending a \$0.44 per month Billing Charge ($\$190,593 \div 36,403 \div 12$) to be applied to residential bills issued by DWP.

A complete list of all rates and charges is included as Exhibit 'D' of this report. If approved, they will become effective on August 1, 2017.

Proposition 218 Process

Rate increases for solid waste collection services, which are considered property-related fees under Proposition 218, are generally subject to Proposition 218's notice, hearing and majority protest procedures (*Cal. Const. Art. 13D, Sec. 6*). In particular, Proposition 218 requires that written notice of the proposed rate increase and the date of the public hearing be provided to the record owner (at the address shown on the last assessment roll or to the address where the billing statement is sent) at least 45 days prior to the public hearing. At the public hearing, if written protests from a majority of the property owners / tenants are received, the rate increase may not be implemented.

This item was previously brought before City Council at the City Council Study Session as a Charting Our Path submission idea on January 25, 2017, and was subsequently presented to City Council for direction at the City Council meeting held on February 15, 2017. At that time, staff was directed to

proceed with the Proposition 218 process. On May 5, 2017, City staff sent notices to WM's customers at the addresses where the regular billing statements are sent for WM's charges, which stated the date and time of the public hearing on this matter, as well as the process for submitting written protests. Three (3) written protests have been received on this matter. Staff recommends holding a public hearing on the matter and proceeding with the recommended actions.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

This item supports the City's Strategic Plan Goal 1: Promote Public Safety: Protect our Residents and Businesses; Objective c: Ensure adequate funding for investments and improvement in infrastructure that support public safety. The recommended action will help achieve these goals by increasing the funding received through the Residential Billing Charge fees to offset the expenses incurred by DWP for billing WM's residential accounts, as well as ensuring that appropriate fees are in place for various services provided by WM that are required by California State law.

FISCAL IMPACT:

If approved, this action will result in additional annual revenue of approximately \$190,000. The added revenues will reimburse the utility funds for the customer service and billing activities provided to residential customers.

ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action, which merely authorizes a change in the CPI and time period, as well as establishes certain other fees, is purely economic in nature and there is no possibility that this action will have a significant effect on the environment. Therefore, no environmental analysis is required.

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SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

Exhibit 'A': Resolution No. 2017-051
Exhibit 'B': Amendment No. 4 (Redline)
Exhibit 'C': Amendment No. 4 (Clean)
Exhibit 'D': Summary of Rates
Exhibit 'E': Proposition 218 Notice of Public Hearing