



## **CITY COUNCIL AGENDA REPORT**

**MEETING DATE:** 4/2/2024

**DEPARTMENT:** Public Works

---

### **SUBJECT:**

PROPOSITION 218 PUBLIC HEARING FOR SOLID WASTE COLLECTION SERVICES

### **RECOMMENDED ACTION(S):**

1. Conduct a majority protest hearing on Proposition 218.
  2. Adopt a Resolution entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, ADOPTING RATES FOR SOLID WASTE COLLECTION SERVICES
- 

### **EXECUTIVE SUMMARY:**

The City of Lake Forest holds a Solid Waste Franchise Agreement with CR&R, Inc. for the Collection, Transportation, Processing, and Diversion of Recyclable Materials and Other Materials and for the Collection, Transportation, and Disposal of Municipal Solid Waste ("Franchise Agreement"). On January 2, 2024, the City Council approved the Second Amendment to the Franchise Agreement with CR&R, which extended the term to June 30, 2025, to allow sufficient time for the City to properly procure and implement a new solid waste agreement effective July 1, 2025. The Second Amendment includes a rate increase of \$2.65 per month for residential cart service and a 15% rate increase for all commercial services, including multi-family bin service. These increases reflect current solid waste industry and economic conditions.

Proposition 218 requires the City to conduct a public hearing to consider approval of a resolution containing the adjustment of solid waste service rates for residential, multi-family, and commercial customers. The rate adjustments would be effective July 1, 2024, and would expire with the expiration of the Franchise Agreement on June 30, 2025. The new solid waste agreement is expected to be awarded in summer 2024. A Proposition 218 Public Hearing would be held prior to the commencement of the new solid waste agreement that would be effective July 1, 2025.

Staff recommends that the City Council conduct a majority protest hearing regarding the adoption of new solid waste rates in accordance with Proposition

218 and approve the proposed resolution (Attachments 2 and 3) containing the proposed solid waste service rates upon conclusion that the City did not receive protests from over 50% of the parcels in the city. The City Attorney's Office prepared the resolution establishing customer fees for solid waste services effective July 1, 2024.

---

## **BACKGROUND:**

On March 4, 2014, the City Council awarded the Franchise Agreement ("Franchise Agreement") to CR&R Environmental Services, Inc. ("CR&R") for the collection, transportation, processing, and diversion of recyclable materials and municipal solid waste. The original term of the Franchise Agreement was May 1, 2014, to April 30, 2022, and included two one-year extensions that CR&R could earn by meeting certain performance goals designed to increase the City's waste diversion from landfills. On February 21, 2017, the City Council awarded the first one-year extension to the Franchise Agreement which extended the term to April 30, 2023. On April 20, 2021, the City Council approved the First Amendment which extended the Franchise Agreement to June 30, 2024, and added SB 1383 requirements to the scope of work. On January 2, 2024, the City Council approved the Second Amendment to the Franchise Agreement thereby extending the term to June 30, 2025.

---

## **DISCUSSION:**

The City of Lake Forest is in the process of procuring a new Solid Waste Agreement for the provision of solid waste collection and handling services to begin at the expiration of the current Franchise Agreement with CR&R. The City is working jointly with the City of Laguna Hills to procure these services as both cities hold franchise agreements that were set to expire June 30, 2024. On January 2, 2024, the City Council approved the Second Amendment to the Franchise Agreement which extends the agreement term to June 30, 2025, to provide sufficient time for the City to complete the Request for Proposal ("RFP") procurement process for a new Solid Waste Agreement. Likewise, the City of Laguna Hills extended their Franchise to June 30, 2025.

Since the 1990s, legislation regarding solid waste and recycling in the State of California has become increasingly complex. In 2016, California adopted Senate Bill 1383 ("SB 1383"), the most extensive waste reduction mandate in the past 30 years. A Solid Waste Procurement Ad Hoc Committee consisting of two City Council members and staff from each City, along with a consulting firm, EcoNomics, worked deliberately to ensure the RFP and contract for the next solid waste agreement are comprehensive and meet all the requirements

mandated by the State. The RFP was advertised, and the Cities received qualifying proposals on March 1, 2024.

The careful and deliberate approach will continue through the remainder of the procurement process. The approach is necessary to ensure a fair and transparent evaluation of proposals and to provide an appropriate recommendation to the City Council. Once the agreement is awarded, the selected hauler would need one year to implement the terms of the new agreement including developing collection routes, ensuring proper staffing, and purchasing new binds, carts, and trucks.

To facilitate the time needed to properly procure and implement the next agreement, staff requested EcoNomics negotiate a one-year extension to the Franchise with CR&R. SB 1383 and post-pandemic conditions continue to affect operations in the solid waste industry. These challenges, including equipment supply chain interruptions and labor shortages have significantly impacted the solid waste industry. During negotiations, EcoNomics analyzed financial documents provided by CR&R and discussed the specific industry impacts on the cost of collection in the City. As a result, the Second Amendment to the Franchise included rate adjustments for both residential and commercial customers effective July 1, 2024, subject to a Proposition 218 public hearing described further below.

Customers with residential cart service would see a \$2.65 monthly increase in their CR&R billing as illustrated in Table 1. Rates for all commercial services, including multi-family bin service, would increase by 15% as demonstrated in Table 2. The rates appear to be reasonable for the market. In comparison to 2023 rates, the new 2024 rates would rank the City as the 9<sup>th</sup> lowest for residential rates and 2<sup>nd</sup> lowest for commercial rates in Orange County.

Table 1: Residential Rate Increases

| Residential Trash Cart Size | Current Rate (per month) | Second Amendment Increase | New Rate Effective July 1, 2024 |
|-----------------------------|--------------------------|---------------------------|---------------------------------|
| 35-gallon                   | \$19.21                  | \$2.65                    | \$21.86                         |
| 65-gallon                   | \$19.70                  | \$2.65                    | \$22.35                         |
| 95-gallon                   | \$20.35                  | \$2.65                    | \$23.00                         |

Table 2: Sample Commercial Rate Increases

| Trash Bin Size<br>(cubic yards) | Current Rate<br>(per month) | SB 1383 Rate<br>Increase | Proposed Rate<br>Effective<br>July 1, 2024 |
|---------------------------------|-----------------------------|--------------------------|--|
| 3 c/y bin<br>1x per week        | \$108.59                    | \$16.29                  | \$124.88                                   |
| 3 c/y bin<br>2x per week        | \$162.86                    | \$24.43                  | \$187.29                                   |
| 4 c/y bin<br>1x per week        | \$120.00                    | \$18.00                  | \$138.00                                   |

### Proposition 218 Public Hearing

Although the City Council approved the Second Amendment to the Franchise Agreement, rate increases are subject to a Proposition 218 process. Proposition 218 (“Prop 218”), the Right to Vote Act, was approved by California voters in November 1996. In part, Prop 218 requires a majority protest proceeding before imposing or increasing any property-related fees. Specifically, Prop 218 requires the City to hold a public hearing and mail a notice of the public hearing to the owner of record and any tenant who is directly liable for the payment of the proposed fees. The City must mail the notice at least forty-five (45) days prior to the date of the public hearing regarding the proposed fees. Property owners and affected tenants may protest the proposed fees by submitting their comments in writing to the City. If the City receives protests from more than half the affected parcels, the City may not approve the proposed fees. While some jurisdictions maintain that privately held solid waste service is not subject to Prop 218, the City conducts majority protest hearing in an abundance of caution.

As was conducted in 2014, 2019, and 2021, it is now appropriate for the City Council to conduct a Prop 218 public hearing for the proposed adjusted rates related to the Second Amendment to the Franchise Agreement. There are approximately 20,516 parcels in the City of Lake Forest. On February 16, 2024, in accordance with Prop 218, the City mailed notifications of the proposed solid waste collect rates to 33,891 property owners, commercial customers, tenants, and occupants in the city (Attachment 1). The notice identified the proposed rates as well as instructions for filing written protests concerning the proposed rates. As of agenda preparation on March 28, 2024, the City received five written protests. Protest letters from over 50% of the parcels in Lake Forest would be required to prevent the approval of the recommended actions.

The rate adjustments would be effective July 1, 2024, and would expire with the expiration of the Franchise on June 30, 2025. The new solid waste agreement is expected to be awarded in summer 2024 for services beginning July 1, 2025. A

Proposition 218 Public Hearing would be held prior to the commencement of the new solid waste agreement.

Staff recommends that the City Council: (1) conduct a majority protest hearing regarding the adoption of new solid waste rates in accordance with Prop 218, and (2) approve the proposed resolution and exhibit (Attachments 2 and 3) containing the proposed solid waste service rates upon conclusion that the City did not receive protests from over 50% of the parcels in the City. The City Attorney's Office prepared the resolution establishing customer fees for solid waste services effective July 1, 2024.

---

### **FISCAL IMPACT:**

The fiscal impact of the recommended action would increase the City's franchise fee revenue collected from CR&R by approximately \$95,000 per year, beginning July 1, 2024. The City receives a franchise fee of 5% of CR&R's gross revenues collected within the city.

---

### **ATTACHMENTS:**

1. Proposition 218 Notice of Public Hearing
2. Resolution 2024-XX
3. Resolution 2024-XX Exhibit A

Initiated By: Christine Groves, Administrative Services Manager

Submitted By: Thomas E. Wheeler, P.E., Director of Public Works/City Engineer

Approved By: Debra Rose, City Manager