

City of Hesperia

STAFF REPORT



DATE: June 20, 2017

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Rachel Molina, Assistant to the City Manager
Julie Ryan, Management Analyst

SUBJECT: Advance Disposal Rate Structure

RECOMMENDED ACTION

It is recommended that the City Council conduct a Proposition 218 Public Hearing related to new maximum rates for solid waste and recycling services in the City of Hesperia; in the absence of a majority vote of opposition adopt Resolution No. 2017-026 approving the maximum rates for solid waste and recycling services in the City of Hesperia and allow for rate adjustments annually up to five years.

BACKGROUND

On February 21, 2012, a Proposition 218 hearing was held where the City Council approved the "Amended and Restated Exclusive Franchise Agreement" (Franchise Agreement) with Advance Disposal for the collecting, hauling and processing of all solid waste in the City of Hesperia and approved the maximum rate structure with automatic adjustments to occur annually for five years, which sunset occurred on February 21, 2017.

As detailed in the Franchise Agreement, Advance Disposal has the right to request a Cost of Living Adjustment (COLA) to its rates on each anniversary of the Franchise Agreement and pass-through to rate payers any increase in tipping fees charged by the County of San Bernardino. In addition, rate adjustments can continue as approved by a Proposition 218 hearing, on an annual basis for up to five years. Any further adjustments will be subject to a new Proposition 218 process.

On March 21, 2017, the request for new maximum rates for solid waste and recycling services was presented to City Council and a Proposition 218 notice was approved for a future Council meeting public hearing.

ISSUES/ANALYSIS

The Franchise Agreement allows Advance Disposal the opportunity to request increases to the current rate. Two adjustments to the current rate structure are being requested, with the first being an increase to the annual inflationary increases or Cost of Living Adjustment (COLA), and the second is the increase of the landfill tipping fees charged by the County of San Bernardino. In addition, by increasing the COLA and tipping fee, the franchise fee will increase.

The adjustments for annual inflationary increases, or COLA, accounts for the increased cost of providing refuse services and reflects increases in, among other things, the cost of labor,

electricity, supplies, equipment and gasoline. As outlined in the Franchise Agreement, the COLA is based on the Consumer Price Index (CPI) for September to August of the preceding year. The CPI increase for the period outlined is 1.7%, or \$0.31 per month for regular residential service and \$2.08 per month in the commercial rate for the three cubic yard bin.

The landfill tipping fee charged to Advance Disposal by the County of San Bernardino is the cost of delivering refuse to a County landfill. In FY 2016-17, the County of San Bernardino tipping fee was \$37 per ton, while the FY 2017-18 tipping fee will be \$37.13, which equates to a 0.351% increase to the disposal component. As a result, the regular residential rate will increase by \$0.02 per month and a commercial rate customer using a three cubic yard bin will experience an increase of \$.08 per month.

The final increase is the calculation of the franchise fee paid to the City. The franchise fee is calculated on 10% of Advance Disposal's gross revenue, with an exclusion of the MRF expansion rate. By using the example of the residential rate, the COLA and tipping fee increase totaled \$0.33 per month, the franchise fee equates to \$0.04 increase per month. Moreover, the total increase to the commercial rate for the three cubic yard bin is \$2.16 per month, which equates to a franchise fee increase of \$0.22 per month.

The rate structure in Attachment 1 lists the new maximum rates as modified by the COLA and pass-through tipping fee increases. If approved, the new maximum regular residential monthly rate will increase from \$26.96 to \$27.33, a \$0.37 increase per month. The commercial rate for a three cubic yard bin will increase by \$2.38 per month.

In addition to the annual request for COLA and tipping fee adjustments, Advance Disposal is requesting new service rates for service types not previously listed on the rate structure. These proposed rates are included as Attachment 2 and Attachment 3.

The City Council approved service rates were noticed in the City's adjudicated newspaper and sent to all property owners and tenants on April 28, 2017, within the City in accordance with the noticing requirements for a Proposition 218 public hearing. Following receipt of the notices, a 45-day comment period was provided where property owners wishing to protest the increase could submit a written protest to the City Clerk's Office before the public hearing or attends the public hearing June 20, 2017, on the increases to register their written protest at the hearing. Verbal protests presented at the hearing will be heard but will not be counted. Only written protests will be counted and only one written protest per identified parcel relating to the fee increase will be heard. As of June 7, 2017, thirty-one (31) written protests have been received. Attachment 5 provides the comments as addressed by property owners. At the hearing, the City Council must consider these and any additional written protests against the fee increases provided to the City Clerk prior to the close of the 218 hearing. If written protests are presented by a majority (50 percent plus one) of property owners or tenants of parcels within the City of Hesperia, the fee increase cannot be imposed. The recommended Proposition 218 hearing will allow for rate adjustments annually for up to five years.

FISCAL IMPACT

There is no negative fiscal impact to the City associated with this action. Franchise fees will move upward with the associated increase in rates.

ALTERNATIVE(S)

1. As the proposed increase is contractually provided for in the Franchise Agreement, the COLA adjustment and pass-through request is an action requiring Council ratification. A vote to not approve the adjustments could result in a possible breach of contract action.
2. The Council may provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. 2017-026
2. Attachment 1 - Notice of Public Hearing
3. Attachment 2 - Rate Structure 1: COLA and Tipping Fee Adjustment
4. Attachment 3 - Rate Structure 2: New Service Type Requests
5. Attachment 4 - Rate Structure 3: Changes in Rate Computation
6. Attachment 5 - Property Owner Comments