



**ADOPTED  
ACTION ITEM (ID # 5478)**

**Discussion and any necessary action directing staff to administer the Proposition 218 process for solid waste collection rates**

**CITY MANAGER'S RECOMMENDATION:**

1. Direct staff to administer the Proposition 218 majority protest process and send out notice of the proposed increased to all property owners with trash collection service.
2. Set a Public Hearing on June 7, 2022 for the City Council's consideration of the proposed rate schedule.

**FISCAL IMPACT:**

Administering the Proposition 218 majority process will cost approximately \$15,000. If approved, the new agreement with CR&R will generate \$50,000 per year to the City to reimburse contract and program implementation costs such as this. The proposed pass-through costs to rate payers are discussed in this report.

**STRATEGIC PLANNING PROGRAM 2022-2027 RELATION:**

Goal 2, Environmental Sustainability & Infrastructure. Action 2.9, Ensure compliance with State and solid waste and recycling requirements.

**DUE DILIGENCE CHECK FOR CONTRACTORS/CONSULTANTS: DID THE DEPARTMENT VERIFY CURRENT EL CENTRO BUSINESS LICENSE, CONTRACTORS LICENSE, REFERENCE CHECKS, INSURANCE, ETC:**

NA

**BACKGROUND:**

The City is proposing to increase trash and recycle collection rates due to increasing costs of service and costs associated with compliance with new State regulations. Increasing the rates must comply with Proposition 218, which requires certain procedures to be followed with regard to "property-related" fee increases imposed by government agencies. This report provides the proposed rate increases and identifies the procedures to implement the new rates.

On March 20, 2007, the City awarded the eight-year Agreement between City of El Centro and CR&R Incorporated for Integrated Solid Waste Management Services to CR&R for citywide commercial and residential refuse and recycling collection services (Agreement). The agreement commenced on July 1, 2007. On July 1, 2011, the Third Amendment to the Agreement extended the term of the Agreement to July 2027. On March 21, 2017, Council approved new commercial organic and multi-family green waste rate schedules to fund CR&R's expenses for implementing programs for commercial organic and multi-family green waste.

The City determined the need to amend and restate the Agreement to incorporate updates and new regulations, such as Senate Bill 1383. The City retained HF&H

Consultants, LLC to assist in the development and negotiation of an Amended and Restated Agreement. The Amended and Restated Agreement between City of El Centro and CR&R Incorporated for Integrated Solid Waste Management Services (New Agreement), which will include residential and commercial organics recycling collection services, if approved will become effective upon City Council approval on April 5, 2022, with the term commencing May 1, 2022, and expiring on June 30, 2027. The New Agreement may be extended in five-year intervals by mutual agreement of the City and CR&R, same as with the original amended agreement.

### **DISCUSSION:**

Pursuant to Proposition 218, the Right to Vote on Taxes Act of 1996, local governments must follow certain requirements before increasing an existing property-related fee such as the rates imposed for solid waste collection.

Local governments must mail information about a proposed new or increased fee in a notice of public hearing to every resident and property owner (and tenants/commercial or single family/multifamily of such properties who actually pay the rates), and the governing body of the local government must, at the time and place specified in the hearing notice, conduct a public hearing to consider the new fee or fee increase. The governing body must reject the fee if a majority of the property owners(or tenants that pay the rate) protest in writing or in person.

A sample City public hearing notice of the proposed rates is attached to this agenda. Council is not requested to approve this notice, but is requested to authorize staff to start the Proposition 218 process following the law. Once the final notice is reviewed and approved by the City Attorney, it will be mailed to every residential, multi-family, and commercial account in the City. Council will receive a copy as well.

In accordance with State law, the public hearing notice will include information outlining the maximum rate increases for solid waste collection services for a five-year (5-year) period commencing July 1, 2022 through June 30, 2027.

The proposed July 1, 2022 rates included in Exhibit A of the sample public hearing notice, attached hereto are the actual rates that will be charged to customers foregoing a majority protest (50% plus one protest from businesses and residents/property owners in the City.) There are approximately 10,247 accounts in the city. That number holding, 5,124 protest votes would create a majority protest.

For the years ending June 30, 2024 through June 30, 2027, beginning July 1, 2023, residential and commercial solid waste service rates and roll-off service rates are proposed to be adjusted on a yearly basis on July 1 of the related year, based on the weighted changes to the rate adjustment factors in Exhibit B for residential and commercial rates, and Exhibit C for roll-off service rates, hereto attached. In either case, the yearly rate increase is limited to the adjustment factors here stated, or 4 percent, whichever is less.

### **Residential Accounts:**

As a sample, the table below illustrates the maximum possible rate increases for a single-family residential home. Rates beginning July 1, 2023 may be lower if the rate adjustment factors produce an adjustment factor lower than 4 percent.

**Sample single-family residential  
maximum possible rate increase schedule.**

<b>Time Period</b>	<b>Max Rate</b>	<b>Notes</b>
July 1, 2022 to June 30, 2023	\$ 22.95	Includes one time 11.2% increase
July 1, 2023 to June 30, 2024	\$ 23.87	Includes maximum 4% increase
July 1, 2024 to June 30, 2025	\$ 24.82	Includes maximum 4% increase
July 1, 2025 to June 30, 2026	\$ 25.82	Includes maximum 4% increase
July 1, 2026 to June 30, 2027	\$ 26.85	Includes maximum 4% increase

Due to the new recycling requirements, cost of compliance, and recycling markets, multi-family and commercial recycling services will be charged at 75% of the corresponding commercial refuse rates. This is in addition to the onetime 7.0% proposed increase on commercial refuse rates. Understanding the cost impact to rate payers, this increase is proposed to be phased in over two years: multi-family and commercial customers will be charged 37.5% of corresponding refuse rates beginning July 1, 2022, and the remainder 37.5% of corresponding refuse rates effective July 1, 2023 for a total of 75% phased over said two years. It should be noted that recycle carts are proposed at a rate lesser than the corresponding commercial refuse rate to 1) account for the value of the recyclable contents and 2) promote recycling. The full list of rates is found in Exhibit A of the sample public hearing notice attached to this agenda.

Annual rate increases in any given year exceeding the rates proposed in Exhibit A of the sample public hearing notice and any further increases proposed after June 30, 2027, would be subject to approval by the City Council via a public hearing and protest procedures.

**OUTREACH EFFORT:**

City staff will provide a dedicated phone number to answer questions, create a city webpage with information for residents, and include social media outreach directing users to the dedicated city webpage.

**SCHEDULE:**

April 5, 2022	Direct staff to administer the Proposition 218 process
April 22, 2022 or before	Mail Public Hearing Notices
April 22 - June 6, 2022	45 day requirement prior to election
June 7, 2022	Public Hearing and Protest Results; Council adopts new rates
July 1, 2022	New rates become effective

**CONCLUSION:**

1. Direct staff to administer the Proposition 218 majority protest process and send

out notice of the proposed increased to all property owners (and tenants who pay the rate).

2. Set a Public Hearing on June 7, 2022 for the City Council's consideration of the proposed rate schedule.

**ATTACHMENTS:**

- SAMPLE PROP 218 NOTICE (PDF)
- Public Hearing Notice Exhibits A B C (PDF)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Sylvia Marroquin, Council Member
<b>SECONDER:</b>	Cheryl Viegas-Walker, Council Member
<b>AYES:</b>	Viegas-Walker, Garcia, Oliva, Cardenas-Singh, Marroquin