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**Title:** Actions related to initiating the Proposition 218 process for proposed updates to the schedule of rates for residential solid waste services:  
 1. Direct City staff to initiate the Proposition 218 process for proposed updates to rates for residential solid waste services, and  
 2. Set a public hearing to consider proposed updates to the rates for residential solid waste services on May 2, 2024, at 5:00 p.m.

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1 - Notice of Public Hearing Proposed Changes to Schedule of Rates for Residential Solid Waste Services -cb, 2. Attachment 2 - Solid Waste Management Division 5 Year Residential Rate Plan FY25-29 -cb, 3. Attachment 3 - PowerPoint - DPU SWMD Proposition 218\_Community Mtg-FINAL, 4. Supplement Packet - 1-Z ID 23-1762

| Date       | Ver. | Action By    | Action   | Result |
|------------|------|--------------|----------|--------|
| 12/14/2023 | 1    | City Council | APPROVED | Pass   |

**REPORT TO THE CITY COUNCIL**

**FROM:** BROCK D. BUCHE, PE, PLS, Director  
Department of Public Utilities

**SUBJECT**

Actions related to initiating the Proposition 218 process for proposed updates to the schedule of rates for residential solid waste services:

1. Direct City staff to initiate the Proposition 218 process for proposed updates to rates for residential solid waste services, and
2. Set a public hearing to consider proposed updates to the rates for residential solid waste services on May 2, 2024, at 5:00 p.m.

**RECOMMENDATION**

The Department of Public Utilities (DPU) recommends that City Council direct DPU staff to initiate the Proposition 218 notice, protest, and hearing process for proposed updates to the schedule of rates for residential solid waste services and set a public hearing to consider the proposed updates to the rates for residential solid waste services on May 2, 2024, at 5:00 p.m. at City Hall.

**EXECUTIVE SUMMARY**

The City of Fresno (City) last adopted a rate schedule in 2007, which resulted in rate updates implemented through 2009. No rate changes have been made since September 1, 2009. It is recommended that municipalities evaluate rates every five years to account for increases and/or decreases in expenditures such as fuel, vehicles, labor and new regulations such as Senate Bill 1383 which carries newly imposed regulatory costs. Unfortunately, despite holding vacancies, depleting reserve funds, and delaying necessary equipment updates, the current residential solid waste rate structure is no longer able to generate sufficient revenues to cover these increased costs. Every day the rate structure is not addressed, could lead to steeper increases in the future, and/or a decline in services for our residential customers.

DPU Solid Waste Management Division (SWMD) has developed a five-year schedule of rates for residential solid waste services to cover the five-year forecast of capital costs, operations and maintenance costs, debt service obligations, and provide for adequate fund reserves during the period covering Fiscal Year 2025 through Fiscal Year 2029. The Administration has reviewed the rate plan and proposed schedule of rates as presented in the Notice of Public Hearing to consider Proposed Changes to Schedule of Rates for Residential Solid Waste Services (Attachment 1) and recommends implementation of the proposed rates to support the ongoing delivery of essential services provided by SWMD.

It is important to note that the SWMD cannot profit from rate increases, rather, by law, the rates cannot exceed SWMD's calculated costs to provide essential solid waste services. Additionally, while residents will see slight increases, City rates remain at or below neighboring municipalities such as the County of Fresno, Madera and Clovis. DPU is also working to create an affordability program to assist low-income residents. The affordability program will be presented to Council for its consideration along with the rate increases in May 2024.

To implement the new rates, the City must initiate a Proposition 218 (Article XIII-D of the California Constitution, 'Prop 218') notice, protest, and hearing process consisting of a minimum 45-day public notice period followed by a public hearing. The item before Council today directs staff to begin the first step of the Prop 218 process by mailing notices and protest cards related to the proposed residential solid waste rate update to affected property owners and solid waste customers. Thereafter, affected property owners and customers may submit protests to the proposed rate increases, either on the protest card or using some other format that complies with the protest requirements. Not less than 45 days after the Notices are mailed, staff anticipates returning to Council on May 2, 2024, to conduct a public hearing, tabulate the valid protests received, and consider the proposed rates. After the close of the public hearing, if a majority protest is not achieved, Council may adopt the proposed rates.

## **BACKGROUND**

DPU is charged with providing safe and reliable potable water, wastewater, and residential solid waste utility services to ensure the health and safety of the community. It is vital to the financial stability of these public utilities that DPU routinely assess, evaluate, and project revenues and expenditures. These reviews ensure utility rates adequately and efficiently fund the ongoing delivery of the essential services provided by DPU, and accurately and proportionally reflect the City's costs of service.

DPU has analyzed the adequacy of revenues to meet projected expenditures of the solid waste

enterprise fund to determine whether revenues will be adequate to cover operating and maintenance costs and capital costs, while supporting debt service obligations and reserve requirements. The current residential solid waste rate structure does not generate sufficient revenue to cover current level of service costs. As such, proposed rates have been developed for the five-year period covering Fiscal Year (FY) 2025 through FY 2029 (2025 Rate Plan).

In developing a five-year schedule of rates, the City must comply with Prop 218 by establishing rates that proportionately recover the actual costs associated with the level, quality, and quantity of service delivered to each solid waste customer class. Accordingly, the City's proposed five-year schedule of rates is based on common and well-established cost-of-service principals that promote equity among utility users, whereby users of the utility service pay rates that are directly proportionate to the level, quality, and quantity of service they receive.

### **Revenues versus Expenses**

The previously adopted rate study was completed in 2007 and resulted in rate updates that were implemented between 2007 and 2009. No rate changes have been made since the last one was implemented on September 1, 2009. Since the last update, the costs of collection vehicles, fuel, vehicle maintenance, landfill tipping fees, labor, collection containers, and Fresno Sanitary Landfill post-closure capital improvements and maintenance costs have all increased. In addition, the City has incurred new costs to comply with the regulatory mandates of Senate Bill (SB) 1383, which requires the integration of organics (such as food waste) into the green waste collection container, the recovery of edible food waste, outreach and education activities, monitoring, and enforcement. With increased operational costs and newly imposed regulatory costs, the current residential solid waste rate structure is not able to generate sufficient revenues to cover all costs and the SWMD is operating in a structural budget deficit.

In order to continue operating the last several years, the SWMD has had to rely on using Residential Operating Reserve funds and cancel planned capital expenditures to make up the annual revenue shortfalls. The Residential Operating Reserve is expected to be depleted by the end of FY 2024. Continued reduction of scheduled capital expenditures, including the postponement of purchasing replacement collection vehicles and the Fresno Sanitary Landfill post-closure capital improvements, are no longer a viable alternative due to the age of the current collection vehicle fleet and mandatory U.S. Environmental Protection Agency requirements for the landfill. At present, for all of the reasons noted above, expenses exceed rate-generated revenues.

### **Proposed Rates**

SWMD retained a rate consultant, HF&H Consultants, LLC. (HF&H), to review the financial needs of the division and design an updated schedule of rates for residential solid waste service. The rate study was developed to maintain current levels of service and to provide for a new one time per year pick-up of bulky items by appointment. The designed schedule of rates will cover projected operating and capital expenses, support debt service obligations, and meet the necessary operating reserve requirements. Proposed rates have been developed for the five-year period covering FY 2025 through FY 2029. The proposed FY 2025 changes reflect a true up of cost-of-service for each customer class: 96-gallon container service (three 96-gallon containers: solid waste, recyclables & green waste/organics) or 64-gallon container service (one 64-gallon solid waste container, and 96-gallon containers for recyclables and green waste/organics). Subsequent year changes are proportionate to each specific customer class.

The proposed schedule of residential solid waste rates developed by HF&H is presented in Attachment 2 and in the tables below. If approved, customers with 96-gallon container service would see a monthly increase of \$5.50 beginning as early as July 1, 2024.

**Proposed Increase to Customer Class Rates for Residential Solid Waste**

| Container Size                                     | Current Rate   | Proposed Rates (\$/month) |                |                |                |                |
|--|----------------|---------------------------|----------------|----------------|----------------|----------------|
|  |                | FY 2025                   | FY 2026        | FY 2027        | FY 2028        | FY 2029        |
| rate adjustment effective date: <b>Solid Waste</b> |                | 7/1/2024                  | 7/1/2025       | 7/1/2026       | 7/1/2027       | 7/1/2028       |
| <b>96-gallon Container</b>                         | <b>\$25.37</b> | <b>\$30.87</b>            | <b>\$35.50</b> | <b>\$38.70</b> | <b>\$41.99</b> | <b>\$45.24</b> |
| \$ Change  |                | \$5.50                    | \$4.63         | \$3.20         | \$3.29         | \$3.25         |
| <b>64-gallon Container</b>                         | <b>\$19.20</b> | <b>\$28.12</b>            | <b>\$32.34</b> | <b>\$35.25</b> | <b>\$38.25</b> | <b>\$41.21</b> |
| \$ Change  |                | \$8.92                    | \$4.22         | \$2.91         | \$3.00         | \$2.96         |

**Full Proposed Schedule of Rates for Residential Solid Waste**

| Customer Class                        | Recommended Five-Year Rate Plan |         |         |         |         |
|---------------------------------------|---------------------------------|---------|---------|---------|---------|
|                                       | FY25                            | FY26    | FY27    | FY28    | FY29    |
| <b>Residential Accounts</b>           |                                 |         |         |         |         |
| 96 Gallon Solid Waste Service         | \$30.87                         | \$35.50 | \$38.70 | \$41.99 | \$45.24 |
| 64 Gallon Solid Waste Service         | \$28.12                         | \$32.34 | \$35.25 | \$38.25 | \$41.21 |
| Additional 64 Gallon Solid Waste Cart | \$5.50                          | \$6.33  | \$6.90  | \$7.49  | \$8.07  |
| Additional 96 Gallon Solid Waste Cart | \$8.26                          | \$9.50  | \$10.36 | \$11.24 | \$12.11 |
| Additional 96 Gallon Recycling Cart   | \$3.47                          | \$3.99  | \$4.35  | \$4.72  | \$5.09  |
| Additional 96 Gallon Green Waste Cart | \$4.95                          | \$5.69  | \$6.20  | \$6.73  | \$7.25  |
| FY = Fiscal Year                      |                                 |         |         |         |         |

**Comparison**

City rates remain at or below neighboring service areas and municipalities such as the County of Fresno, Clovis, and Madera for 96-gallon (or largest size). The information below was compiled in May 2023.

|                             |                 |
|-----------------------------|-----------------|
| <b>City of Fresno</b>       |                 |
| Fresno Current Rate         | \$25.37         |
| Fresno Proposed Rate FY25   | \$30.87         |
| <b>Other</b>                |                 |
| Bakersfield                 | \$22.00         |
| Clovis                      | \$39.10         |
| Fresno County (Mid Valley)* | \$47.51-\$98.89 |
| Los Angeles                 | \$36.32         |
| Madera                      | \$38.72         |
| Merced                      | \$49.06         |

|            |          |
|------------|----------|
| Modesto    | \$51.25  |
| Oakland    | \$154.10 |
| Sacramento | \$53.86  |
| San Jose   | \$59.19  |
| Selma      | \$45.00  |
| Stockton   | \$52.82  |

*\*range based on zone, and effective 9/1/23*

## Operational Costs

The revenue from the proposed residential solid waste rates for FY 2025 through FY 2029 is necessary to fund the following operations:

1. Weekly collection of a gray 64- or 96-gallon solid waste container.
2. Weekly collection of a blue 96-gallon recyclables container.
3. Weekly collection of a green 96-gallon green waste/organic materials container.
4. One Operation Clean Up pickup per year for each residential customer on dates scheduled by the City.
5. One bulky item curbside collection per year for each residential customer by appointment (beginning FY 2026).
6. Compliance, monitoring, and reporting requirements mandated by SB 1383.

## Capital Plan

The proposed capital plan for FY 2025 through FY 2029 totals \$92.3 million and includes the following projects:

1. Replacement of the Division's aging vehicle fleet = \$69.3 million (25.4 percent of the cumulative rate update)
2. The Division's portion of the DPU O&M Facility improvements = approximately \$5.6 million included in FY 2025 through FY 2029 (2.1 percent of the cumulative rate update)
3. Collection container purchase and maintenance activities = \$5.2 million (1.9 percent of the cumulative rate update)
4. Post-closure improvements and maintenance at the Fresno Sanitary Landfill = \$4.6 million (1.7 percent of the cumulative rate update)

## Operating Reserves

To ensure operations are not disrupted due to unforeseen circumstances, it is industry standard to have some level of financial operating reserves on hand. The DPU Financial Management Plan requires the Division maintain a 45-day operating reserve, which aligns with industry standards. Throughout the five-year rate period from FY 2025 through FY 2029, the proposed rates will replenish the operating reserves to achieve the 45-day requirement by the end of the rate period. This will ensure that the Division has the funds available to continue providing services when responding to unforeseen events or emergencies.

## Wastewater Loan Debt Service

Projected solid waste revenues at current rates, which will be in effect through the end of FY 2024 (i.e., June 30, 2024), are insufficient to cover projected costs for FY 2024. The projected revenue shortfall for FY 2024 will require depletion of the Division's remaining operating reserves. To ensure the Division does not deplete its reserves, is able to continue services, and can cover operating costs through the remainder of FY 2024, the Division will receive a \$5.0 million intradepartmental loan from the City's wastewater utility to bridge the revenue shortfall. The loan will be repaid by the Division over five years (FY 2025-FY 2029), with annual payments of \$1,056,387, which includes interest at 2.02% annually. The anticipated interest rate is based on the City's current internal rate of return on City investments. The loan will be made from the wastewater utility's Capital Reserve Fund, which is used to accumulate a portion of revenues for future capital projects, and the loan will not prevent the wastewater utility from meeting bond covenants requiring minimum reserve balances. The wastewater utility does not anticipate spending these identified reserve revenues on a capital project within the next five years and the wastewater utility will be repaid at the same interest rate as the revenues would have earned in the Capital Reserve Fund, so once the loan is repaid, the wastewater utility will be in the same financial position as it would have otherwise been if the loan had not been made.

### **Affordability Credit Program**

The current residential solid waste rate structure includes a category for low-income senior citizens whose rates are approximately 14 percent lower than those for single-family residential customers. The proposed residential solid waste rate structure recommends replacing the low-income senior citizens rates with an Affordability Credit Program that will be available for all eligible low-income customers.

An updated financial assistance program for qualified low-income utility account holders, referred to as the Solid Waste Affordability Credit Program (SWACP) is currently being developed and will be presented to Council for approval in a separate action at the Council meeting at which the 2025 Rate Plan Prop 218 public hearing will be held. The SWACP would provide financial assistance to any residential solid waste customer, based on demonstrated need. The proposed value of the SWACP for a qualified account holder has not yet been finalized. The proposed value will be determined in part on the availability of non-ratepayer funding to support the program and the anticipated level of customer participation.

The Water Division currently offers a Water Affordability Credit Program (WACP), which provides financial assistance to eligible account holders based on demonstrated need. The current WACP credit is \$5 per month with a maximum of \$60 in a 12-month period. The SWACP will mirror the WACP requirements and the SWACP and WACP would be combined into a single application.

To qualify for the WACP/SWACP, an account holder would submit to Utilities Billing & Collections (UB&C) documentation that they qualify for PG&E's California Alternate Rates for Energy (CARE) Program or one of Fresno County's human services programs, such as the Supplemental Nutrition Assistance Program (SNAP), the Women, Infants, and Children (WIC) Program, the National School Lunch Program (NSLP), or the Medi-Cal Program. Account holders would apply for the WACP/SWACP on an annual basis and affordability credits will be issued on a first-come, first-served basis to qualified applicants.

A resolution establishing the SWACP will be brought before Council for approval at the upcoming

meeting that will include the 2025 Rate Plan Prop 218 public hearing.

### Community Outreach Meetings

In an effort to keep the community informed, DPU recently held a series of four community outreach meetings to discuss SWMD’s financial health and the process to reestablish the financial viability of the Division. The presentation specifically reviewed SWMD’s services and the current rates adopted in 2007, discussed current cost realities, and provided an overview of the Proposition 218 rate-setting process.

### Proposition 218 Schedule

Prop 218 sets forth procedural requirements the City must follow before adopting new residential solid waste rates. One of those requirements is that the City must provide a special form of mailed notice to record property owners regarding the proposed rate increases at least 45 days before holding a public hearing on the matter. Further, the City must comply with terms of a 2014 settlement agreement regarding noticing for utility rate increases and must send the mailed notice to tenant ratepayers in addition to property owners. Notices will be ADA accessible and made available in multiple languages.

If a majority of parcels receiving residential solid waste services submit valid written protests before the close of the public hearing, Prop 218 prohibits the City from implementing the proposed rate updates. If less than a majority of parcels protest the proposed rate increase, the City Council may consider approval of the rate updates.

To ensure that the 2025 Rate Plan is successfully implemented as proposed in FY 2025, DPU has developed the Prop 218 schedule provided below. It is essential to conduct the Prop 218 hearing process within this timeframe to allow for the programming of the billing system with the new rates, setup the combined WACP/SWACP program, budget for capital improvement projects, and to conduct outreach to the community ahead of the July 1, 2024, effective date of the new rates. Most importantly, it allows customers time to be fully prepared for the new residential solid waste rate program prior to implementation.

The anticipated Prop 218 process schedule is as follows:

| Milestone   | Date                         |
|---|------------------------------|
| 1. Council Directs Staff to Initiate Prop 218 process   | December 14, 2023            |
| 2. Prop 218 Notices mailed  | No later than March 18, 2024 |
| 3. City Council conducts Prop 218 public hearing & considers adoption of new five-year rate schedule† | May 2, 2024                  |
| 4. Begin billing of new rates   | July 1, 2024                 |
| † - Consideration for adoption would only occur if majority protest is not received.                  |                              |

### ENVIRONMENTAL FINDINGS

The initiation of a Proposition 218 process is not a “project” for the purposes of CEQA pursuant to CEQA Guidelines §15378.

## **LOCAL PREFERENCE**

Local preference was not implemented because the recommended action does not include a bid or award of a construction or services contract.

## **FISCAL IMPACT**

There is no impact to the General Fund. Fiscal impacts to the Solid Waste Enterprise Fund are addressed within the Solid Waste Management Division Five Year Residential Rate Plan.

### **Attachments:**

Attachment 1 - Notice of Public Hearing Proposed Changes to Schedule of Rates for Residential Solid Waste Services

Attachment 2 - Solid Waste Management Division Five Year Residential Rate Plan FY 2025 - FY 2029

Attachment 3 - PowerPoint - DPU SWMD Proposition 218\_Community Mtg