



Legislation Details (With Text)

File #: ID 24-869 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 6/17/2024 **In control:** City Council

On agenda: 6/27/2024 **Final action:** 6/27/2024

Title: Actions pertaining to adopting a five-year plan for residential solid waste service charges in accordance with Proposition 218:

1. Adopt a finding that the proposed actions are exempt from environmental review under a statutory exemption to the California Environmental Quality Act (CEQA) for rates, tolls, fares, and charges (pursuant to Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273)
2. ***RESOLUTION - Adopting a Five-Year Rate Plan for Residential Solid Waste Service Charges in Accordance with California Constitution Article XIID (Subject to Mayor's Veto)
3. ***RESOLUTION - Adopting a Solid Waste Affordability Credit Program (Subject to Mayor's Veto)
4. ***RESOLUTION - Adopting the 584th Amendment to the Master Fee Schedule Resolution No. 80-420 to adjust residential solid waste rates in the Solid Waste Rates Section (Subject to Mayor's Veto)
5. ***RESOLUTION - Approving an interfund loan agreement between the Sewer System Rate Stabilization Connection Fee (CIP Reserve) Fund and the Solid Waste Management Division Solid Waste Operating Enterprise Fund in the amount of \$5 million (Subject to Mayor's Veto)

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: 1. 24-869 Attachment 1 – Resolution Adopting a Five Year Residential Solid Waste Rate Plan, 2. 24-869 Attachment 2 – 584th Amendment to the Master Fee Schedule Resolution, 3. 24-869 Attachment 3 – Resolution Adopting Intradepartmental Loan Agreement, 4. 24-869 Attachment 4 – Resolution Adopting a Solid Waste Affordability Credit Program, 5. 24-869 Attachment 5 – Notice of Exemption

Date	Ver.	Action By	Action	Result
6/27/2024	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

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

SUBJECT

Actions pertaining to adopting a five-year plan for residential solid waste service charges in accordance with Proposition 218:

1. Adopt a finding that the proposed actions are exempt from environmental review under a statutory exemption to the California Environmental Quality Act (CEQA) for rates, tolls, fares, and charges (pursuant to Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273)
2. ***RESOLUTION - Adopting a Five-Year Rate Plan for Residential Solid Waste Service

- Charges in Accordance with California Constitution Article XIID (Subject to Mayor's Veto)
3. ***RESOLUTION - Adopting a Solid Waste Affordability Credit Program (Subject to Mayor's Veto)
 4. ***RESOLUTION - Adopting the 584th Amendment to the Master Fee Schedule Resolution No. 80-420 to adjust residential solid waste rates in the Solid Waste Rates Section (Subject to Mayor's Veto)
 5. ***RESOLUTION - Approving an interfund loan agreement between the Sewer System Rate Stabilization Connection Fee (CIP Reserve) Fund and the Solid Waste Management Division Solid Waste Operating Enterprise Fund in the amount of \$5 million (Subject to Mayor's Veto)

RECOMMENDATION

Staff recommends that the Fresno City Council: adopt a finding that the proposed actions are statutorily exempt from CEQA pursuant to Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273 which exempts the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies; adopt a resolution adopting a Five Year Rate Plan for Residential Solid Waste Service Charges in Accordance with California Constitution Article XIID; adopt a resolution establishing a Solid Waste Affordability Credit Program (SWACP); adopt the 584th amendment to the Master Fee Schedule (MFS) Resolution No. 80-420 to reflect the adopted rates; and adopt a resolution approving an interfund loan agreement between the Sewer System Rate Stabilization Connection Fee (CIP Reserve) Fund and the Solid Waste Management Division Solid Waste Operating Enterprise Fund in the amount of \$5 million.

EXECUTIVE SUMMARY

The City of Fresno (City) last adopted a five-year rate plan for residential solid waste services in 2007. The current rate charged for these services became effective September 1, 2009, after implementing four of the five adopted rate adjustments. The current outdated rate structure does not generate sufficient revenue to cover operating costs, and the Solid Waste Management Division (SWMD) of the Department of Public Utilities (DPU) has been operating in a budget deficit since 2012. SWMD retained an independent rate consultant to evaluate the cost to provide residential solid waste services and develop a five-year schedule of rates that will cover the five-year forecast of capital costs, operations and maintenance costs, debt service obligations, and costs to reestablish operating reserves during the period covering FY 2025 through FY 2029.

To implement new rates, the City complied with Section 6 of Article XIID of the California Constitution, also known as Proposition 218. Proposition 218 includes requirements for calculating and establishing rates and notifying affected property owners. Proposition 218 requires that the City establish rates that proportionately recover the actual costs to provide residential solid waste services to the different customer classes. It also requires the City to follow a notice, protest, and hearing process that requires mailing written notice of a public hearing, at which rates will be considered, to owners of record at least 45 days before the public hearing is held and the rates are adopted. The City must also accept protests against the rates up to the close of the public hearing. If the protests are received from a majority of the parcels receiving residential solid waste services from the City, then the City Council cannot adopt the rates.

The Proposition 218 process was authorized by City Council on December 14, 2023. The Notice of Public Hearing to consider Proposed Changes to Schedule of Rates for Residential Solid Waste Services (Notice) and a protest card were mailed to owners of record and ratepayers to provide the

required 45-day notice of the public hearing. The Proposition 218 process concluded at the close of the June 20, 2024 public hearing, written protests against the proposed rate increases were tabulated at that meeting, and, the threshold of 58,480 protests was not met.

BACKGROUND

As required by Proposition 218, SWMD retained an independent 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 designed schedule of rates will cover projected operating and capital expenses, support debt service obligations, and meet the necessary operating reserve requirements. The report analyzed the following revenue requirements to calculate the proposed residential solid waste rates:

1. Covering costs to continue current service levels and provide for a new one time per year pick-up of bulky items by appointment
2. Funding the five-year capital plan
3. Restoring operating reserves
4. Funding wastewater loan debt service payments

The rate study and report are included in Attachment 1 as Exhibit A.

In addition to the notice, protest, and hearing process required by Proposition 218, the City conducted a robust public education and outreach program to maximize awareness and participation in the Proposition 218 rate-setting process that included:

1. Dedicated Proposition 218 rate update website
2. TV, radio, and print media outreach
3. Engagement of the City's Office of Community Affairs to connect with community-based organizations
4. 12 community outreach meetings across the City
5. Other community discussions as requested

RESOLUTION TO ADOPT THE RATES & MASTER FEE SCHEDULE UPDATE

Following completion of the public hearing, staff recommends that Council adopt a resolution adopting a Five-Year Rate Plan for Residential Solid Waste Service Charges in Accordance with California Constitution Article XIID. In addition to adopting that resolution, staff proposes that City Council adopt the 584th Amendment to the MFS to implement the rates adopted by City Council, and an affordability credit for income-qualified customers. In addition to updating the rates, the wording in the solid waste rates section has been revised to provide clarity on the solid waste services provided at each service level. Lastly, the update would authorize staff to administratively adjust the MFS each year in accordance with the 5-year rate schedule adopted by City Council. The MFS Resolution and proposed changes are included in Attachment 2.

INTERFUND LOAN

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 prevent

fully depleting operating reserves, continue services, and cover operating costs through the remainder of FY 2024, the rate plan assumes that SWMD will receive a \$5.0 million intradepartmental loan from the City's wastewater utility to bridge the revenue shortfall. The loan agreement is included in Attachment 3. 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 percent annually (or at the City's Pooled Investment Rate when the payment is made). The anticipated interest rate is based on the City's internal rate of return on City investments. The loan will be made from the wastewater utility's Sewer System Rate Stabilization Connection Fee (CIP Reserve) Fund (Fund 4500-4504), 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 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 fund. Therefore, the loan will not delay any wastewater capital projects and 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. While the name of this fund references "rate stabilization," the revenues in this fund come solely from connection or capacity fees and there are no rate revenues in the fund.

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. Staff is recommending replacing the low-income senior citizens rates with the Solid Waste Affordability Credit Program (SWACP) that will be available for all eligible low-income customers. The proposed SWACP is attached as Attachment 4.

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 is modeled after the WACP and is proposed to also be \$5 per month with a maximum of \$60 in a 12-month period, to help offset the first year of the proposed \$5.50 per month solid waste rate increase.

If the SWACP is adopted, the combined total for both WACP and SWACP credits would be \$10 per month, or \$120 in a 12-month period if an account holder receives both water and residential solid waste services.

An annual appropriation of \$1 million is set aside to fund the WACP/SWACP, which will accommodate an estimated 8,333 eligible customers. The source of funding is revenue collected by the Utilities Billing and Collections Division (UB&C) as late payments and delinquency charges (Revenue Code 35103 - Penalties), which are exempt from the requirements of Proposition 218.

The SWACP eligibility requirements will be the same as those for the WACP, and the SWACP and WACP will be combined into a single application. To qualify for the WACP/SWACP, an account holder must submit to UB&C documentation that they have a household income that is equal to or less than 200 percent of the Federal Poverty Guideline, or 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.

To confirm continued eligibility, account holders will be required to re-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.

ENVIRONMENTAL FINDINGS

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15273 and Public Resources Code section 21080(b)(8), CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

- (1) meeting operating expenses, including employee wage rates and fringe benefits,
- (2) purchasing or leasing supplies, equipment, or materials
- (3) meeting financial reserve needs and requirements,
- (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or
- (5) obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

Staff has recommended that Council take the following actions: (1) adopt a resolution titled “Adopting a Five Year Rate Plan for Residential Solid Waste Service Charges in Accordance with California Constitution Article XIIID;” (2) adopt the 584th amendment to the Master Fee Schedule Resolution No. 80-420 to reflect the adopted rates; (3) approve an interfund loan agreement between the Sewer System Rate Stabilization Connection Fee (CIP Reserve) Fund and the Solid Waste Management Division Solid Waste Operating Enterprise Fund in the amount of \$5 million; and (4) adopt a resolution establishing a Solid Waste Affordability Credit Program (SWACP).

The proposed schedule of increases to the residential solid waste service charges and the associated actions related to implementation of the rates are statutorily exempt from CEQA under this exemption. The City’s provides solid waste, recycling, and green waste/organic material collection services to residential customers within the City. Consistent with Proposition 218, the proposed solid waste service charges were designed so as not to exceed the proportionate cost of solid waste service attributable to each parcel on which the fee is imposed. The proposed increases will produce sufficient revenue to fully fund the Solid Waste Management Division’s operations and maintenance costs, achieve a 45-day operating reserve, and fund the Division’s capital costs during the period covering FY 2025 to FY 2029. The following information and assumptions were incorporated into the rate model: the need to maintain a 45-day residential operating reserve, increases to tipping fees in the City’s organics contracts, costs related to compliance with SB 1383, increases in labor costs for Local 39 personnel, continued and increased funding for Operation Clean Up, fleet replacement costs, the Solid Waste Management Division’s share of planned improvements on the DPU Operations & Maintenance Facility, and ongoing monitoring and maintenance at the closed Fresno Sanitary Landfill. In addition to providing for an overall increase in revenue, the initial rate adjustment effectuates a realignment of rates to each service level to reflect the current costs of service as required by Proposition 218.

While the proposed rate increases are attributable to certain capital costs, none of the proposed costs are for projects that would expand the City’s solid waste service. The capital costs incorporated into the rates include the cost of replacement vehicles for the City’s aging fleet, the Division’s share of anticipated renovations to the DPU O&M facility, collection container purchase and maintenance, and

post closure improvements at the Fresno Sanitary Landfill. These costs are necessary to maintain services within the existing service areas.

Actions (2)-(4) identified above are all actions necessary to implement the rates. Approval of the interfund loan agreement is assumed in the rate study. The purpose of the loan is to fund operating costs and avoid depleting reserves. The loan will be repaid by the Solid Waste Management Division over five years using rates collected under the proposed rate plan. The City's Reserve Management Act and Taxpayer Protection Act require that Council approve such interfund loans. With regard to the SWACP programs, the rate study recommended eliminating the previous senior low-income discount with an affordability credit program, to comply with Proposition 218. The proposed rates eliminate the senior discount, and staff are acting on the recommendation in the rate plan by recommending that the Council extend an affordability credit to eligible low-income customers. This allows customers to receive assistance while ensuring the Division's revenue needs are met and the rates are in compliance with Proposition 218. Lastly, the MFS update merely updates the City's fee schedule to reflect the rates adopted by Council.

Thus, the proposed rate increases, and the associated implementing actions fall within the parameters of CEQA Guidelines section 15273 and Public Resources Code section 21080(b)(8) and therefore, are statutorily exempt from CEQA.

LOCAL PREFERENCE

Local preference was not implemented because the recommended actions do 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 Operating Fund are addressed within the Solid Waste Management Division Five Year Residential Rate Plan.

Attachments:

Attachment 1 - Resolution Adopting a Five Year Residential Solid Waste Rate Plan

Attachment 2 - 584th Amendment to the Master Fee Schedule Resolution

Attachment 3 - Resolution Adopting Intradepartmental Loan Agreement

Attachment 4 - Resolution Adopting a Solid Waste Affordability Credit Program

Attachment 5 - Notice of Exemption