

Heber Public Utility District

REPORT TO BOARD OF DIRECTORS

MEETING DATE: October 20, 2022

FROM: Laura Fischer, General Manager

SUBJECT: Direct staff to Administer the Proposition 218 Process for Solid Waste Collection Rates and Set a Public Hearing on December 15, 2022 for the Heber PUD's Consideration of the Proposed Rate Schedule.

ISSUE:

Shall the Board of Directors Direct staff to Administer the Proposition 218 Process for Solid Waste Collection Rates and Set a Public Hearing on December 15, 2022 for the Heber PUD's Consideration of the Proposed Rate Schedule?

GENERAL MANAGER'S RECOMMENDATION:

It is recommended that the Board of Directors Direct staff to Administer the Proposition 218 Process for Solid Waste Collection Rates and Set a Public Hearing on December 15, 2022 for the Heber PUD's Consideration of the Proposed Rate Schedule.

FISCAL IMPACT:

Administering the Proposition 218 majority process will cost approximately \$5,000. This is a negative impact to the Trash Fund and is not included in the FY 2022-23 budget.

BACKGROUND:

On the October 20, 2022 agenda, the District will consider an Agreement to amend and restate the existing Agreement between the Heber Public Utility District and CR&R to account for increased required services and related costs associated with compliance with new State regulations. The Amended and Restated Agreement incorporates all prior modifications to the Agreement.

In July, CR&R proposed a 4.7% rate increase, which was postponed until the Amended Agreement which includes additional compliance requirements is approved. This action was included in the October 20, 2022 agenda.

The District 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.

The Amended and Restated Agreement previously approved and extended the term of the Agreement to July 2027. 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 October 20, 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 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 Board Attorney, it will be mailed to every residential, multi-family, and commercial account in the District. Board of Directors 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 February 1, 2023, July 1, 2023 and each July 1st through 2027.

The proposed February 1, 2023 rates included in Exhibit A, 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 District.) There are approximately 1,628 accounts in the District. That number holding, 815 protest votes would create a majority protest.

With exception to the proposed rate increase implemented February 1, 2023, 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. Current Residential Rate is \$20.53 Rates beginning February 1, 2023 will be higher than the maximum limit of 4% per year. The rate beginning July 1, 2023 through July 1, 2027 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.

Time Period	Max Rate	Notes
February 1, 2023	21.49	4.7% Exception to the 4% max increase

July 1, 2023 to June 30, 2024	22.35	4% This is a total of 8.7% in five months.
July 1, 2024 to June 30, 2025	23.24	Includes maximum 4% increase
July 1, 2025 to June 30, 2026	24.17	Includes maximum 4% increase
July 1, 2026 to June 30, 2027	25.14	Includes maximum 4% increase
July 1, 2027 to Contract Term	26.15	Includes maximum 4% increase

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 Board of Directors via a public hearing and protest procedures.

OUTREACH EFFORT:

District staff will be available to answer questions, create information on our Heber PUD webpage with information for residents, and include social media outreach directing users to the dedicated District webpage.

SCHEDULE:

October 20, 2022 - Direct staff to administer the Proposition 218 process
 November 30, 2022 or before - Mail Public Hearing Notices
 November 30, 2022 through January 18, 2023 - 45 day requirement prior to election
 January 19, 2023 - Public Hearing and Protest Results;
 January 19, 2023 – Board adopts new rates
 February 1, 2023 – 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 January 19, 2023 for the City Council's consideration of the proposed rate schedule.

Respectfully Submitted,

Laura Fischer,
 General Manager

Attachment: Sample Rate Hearing Notice



NOTICE OF PUBLIC HEARING

Concerning proposed changes to the City of El Centro residential, multi-family, commercial, industrial and roll-off solid waste service rates

The City of El Centro is dedicated to providing reliable and cost-effective solid waste collection services to property owners, residents, and businesses.

Pursuant to State law, the El Centro City Council will hold a public hearing at the time, date, and location specified below to consider increases and adjustments to the City's residential, multi-family, commercial and roll-off solid waste collection and processing service fees ("Solid Waste Service Rates").

DATE: June 7, 2022
TIME: 6:00 p.m. or as soon thereafter as the matter may be heard
LOCATION: City Council Chambers
1275 Main Street
El Centro, CA 92243

The public hearing will include consideration of adopting a resolution that will authorize 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" 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). The proposed rates for July 1, 2023 through June 30, 2027 are available on the City's website at [INSERT LINK](#), and reflect an estimated four percent increase from year-to-year; however actual increases may vary. Annual rate increases in any given year exceeding four percent and any further increases proposed after June 30, 2027, would be subject to approval by the City Council via public hearing and protest procedures open to interested persons.

The protest process and public hearing will be conducted in accordance with California Constitution Article XIII D, Section 6 (also known as "Proposition 218"). This notice is being sent to all property owners and customers of record (such as tenants) whose parcels receive Solid Waste Services in the City of El Centro, who would be subject to the proposed rate adjustments.

Under Proposition 218, record owners of property or tenants who pay the Solid Waste Service Rates may submit a written protest to the proposed rate changes as explained in this Notice. Only one protest per parcel is permitted.

Please refer to the "How Can I Participate?" section of this document for instructions on submitting a formal written protest against the proposed action. You may also appear at the public hearing at the date and time specified above.

All members of the public are invited to attend the public hearing. The City of El Centro welcomes your participation and input throughout the process as the City Council considers the new rates and estimated future rate adjustments explained in this Notice. If you have questions or comments about the new and estimated future rates, **CALL OR EMAIL**. Call (760) 352-6178 or email cgutierrez@cityofelcentro.org.

WHY HAVE I RECEIVED THIS NOTICE?

The City currently contracts with CR&R, Incorporated to provide Solid Waste Services. State law requires that property owners and tenants who pay such fees must receive this notice explaining the amount of the increases and reasons for those increases, as well as how they can file a protest.

HOW CAN I PARTICIPATE OR FILE A PROTEST ?

WHAT DOES THE PROTEST NEED TO CONTAIN: To be counted, a protest must be in writing. **AN ORAL PROTEST DOES NOT COUNT.** Any record owner of a parcel or any tenant liable for the payment of Solid Waste Service Rates (i.e., a customer of record) where such fees are proposed to increase may submit a written protest of those proposed rate increases. However, only one written protest will be counted per each parcel. Any written protest must: (1) state that the property owner or tenant opposes the proposed rate increases to the Solid Waste Service Rates; (2) provide the location of the parcel by street address or assessor's parcel number; and (3) include the name and signature of the property owner or tenant submitting the protest.

WRITE. Written protests may be mailed to the City of El Centro, Attention: City Clerk, 1275 W Main Street, El Centro, CA 92243 or delivered in-person to the City Clerk at the same address: 1275 W Main Street, El Centro, CA 92243. All protests must include the name, property address, and signature of the person submitting the protest. For any written protest, whether mailed or submitted in person to the City Clerk, please write on the front of the envelope "Attn: Public Hearing on Solid Waste Rate Increases."

No protest submitted via e-mail or other electronic means will be accepted.

All written protests must be received by the City Clerk before the close of the Public Hearing.

ATTEND THE PUBLIC HEARING. Written protests may also be submitted at the Public Hearing on June 7, 2022, at 6:00 p.m., in the City Council Chambers at 1275 W Main Street, El Centro, CA 92243. Only written protests will count toward a majority protest. Written protests must be received before the conclusion of the Public Hearing to be counted. In addition, members of the public will have an opportunity to speak and give testimony regarding the proposed Solid Waste Service Rates at the Public Hearing.

The public hearing may be held electronically or by teleconference if required or permitted by national, state and/or local orders as a result of the COVID-19 public health emergency crisis. In this event, information will be provided on the City's website and posted in City Council Chambers.

AFTER THE PUBLIC HEARING. At the conclusion of the public hearing, the City Council will hear and consider all written protests of the proposed rate increases submitted before or at the public hearing.

A majority protest means that those representing 50% plus 1 of the properties noticed have filed a written protest. If there is a majority protest, the Council may not move forward with the increase at the level proposed.

If there is not a majority protest, City Council may consider adoption of a resolution authorizing the rate increases to the City's Solid Waste Service Rates as described in this notice. If authorized, the proposed rate increases to the Solid Waste Service Rates will be in effect beginning July 1, 2022, for a five-year period through June 30, 2027 based on the adjustments outlined in this notification.

WHY ARE RATES PROPOSED TO INCREASE?

The City Council has previously determined the collection, processing, and disposal of solid waste in the City is a service to be performed by a private company, under an exclusive franchise agreement. The exclusive amended and restated franchise agreement with CR&R was approved by the City Council on April 5, 2022. The proposed Solid Waste Service Rates effective July 1, 2022, were negotiated between the City and CR&R and are the maximum amount that may be charged to you for Solid Waste Services. Solid Waste Services Rates effective July 1, 2023 through July 1, 2026 may not increase by more than 4% as included in or they would be subject to another Proposition 218 noticed public hearing and approval by the City Council. The new rates are for the operation and administration of the solid waste disposal and recycling services and programs implemented by the franchisee as required by State law, the City Code, and the franchise agreement.

The primary factors for the proposed new rate structure pertain to regular inflationary cost increases, increased costs of providing State-required organics diversion programs and other recently enacted State mandates, volatility in the recycling markets, and increases for solid waste collection costs, such as fuel and supplies.

BASIS UPON WHICH THE CHARGES WERE CALCULATED: For future years, continuing with the current rate setting methodology, and for proposed rate adjustments effective July 1, 2022 through June 30, 2027, certain price indices have been proposed to be used to calculate future rate adjustments; however any increase in residential, multi-family, commercial, industrial or roll-off containers will be capped at a maximum of 4% per year without triggering an additional protest process and public hearing. This insulates rate-payers from inflationary risks.

If approved by the City Council, the proposed 2022 rates included in Exhibit A will go into effect on July 1, 2022. 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. In an effort to reduce the initial rate impact to ratepayers, CR&R will phase in the multi-family and commercial recycling charge over two years, in addition to the impact under the rate adjustment methodology. For the 2022/2023 fiscal year, the multi-family and commercial recycling rates will be 37.5% of the corresponding refuse rates. For the 2023/2024 fiscal year, the multi-family and commercial recycling rates will be 75% of the corresponding refuse rates.

The annual increase does compound: if the rate is increased by 4% in one year, the increase, of whatever percentage, will be calculated on the existing rate (which includes the prior annual increase). However, the inflator does not carry forward. If the actual rate increase in one year is 5%, and in the next year a lower amount, such as 3%, the 1% increase in the prior year above the 4% cap may not be applied to subsequent years.

As a sample, the table below illustrates the maximum possible rates for residential cart service, including one each refuse, recycling, and organic waste cart, for a single-family home.

**Sample single-family residential cart service
projected rate schedule**

Service	July 1, 2022 to June 30, 2023	Projected			
		July 1, 2023 to June 30, 2024	July 1, 2024 to June 30, 2025	July 1, 2025 to June 30, 2026	July 1, 2026 to June 30, 2027
Residential cart service	\$ 22.95	\$23.87	\$24.82	\$25.82	\$26.85

(1) Residential cart service includes one each refuse, recycling, and organic waste cart. Rate does not include the rate for used oil/filter collection of \$0.06 per month per eligible home

The table below illustrates the maximum possible rate for a commercial customer with a 3 cubic yard bin collected once per week.

**Sample commercial bin service – 3 cubic yard collected
once per week maximum possible rate schedule**

Service	July 1, 2022 to June 30, 2023	Projected			
		July 1, 2023 to June 30, 2024	July 1, 2024 to June 30, 2025	July 1, 2025 to June 30, 2026	July 1, 2026 to June 30, 2027
3 Cubic Yard 1x Week	\$ 115.97	\$120.61	\$125.43	\$130.45	\$135.67

Rates beginning July 1, 2023 may be lower than those included in the samples above if the rate adjustment factors produce an adjustment factor lower than 4%.

The proposed Solid Waste Service Rates and their effective dates are set forth in Exhibit A of this Notice. A projection of maximum rates to be charged each year through June 30, 2027 can be found on the City website, [\[insert link\]](#).

The disclosure regarding the inflation adjustment does not mean such increases will or will not occur.

FOR ANY QUESTIONS, CALL OR EMAIL. Call (760) 352-6178 or email cgutierrez@cityofelcentro.org.