

AGENDA
ITEM

13



**CITY COUNCIL
AGENDA STAFF REPORT**

DATE: January 15, 2025
TO: Mayor and City Council
APPROVED BY: Juan Contreras, Acting City Manager *JC*
REVIEWED BY: Karla Chaparro, Finance Director *KC*
PREPARED BY: Juan Contreras, Acting City Manager
SUBJECT: Approval of the Mailing of Proposition 218 Notice for Commercial and Residential Solid Waste Collection Services Provided by Republic Services.

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Recommendation:

It is recommended that the City Council of the City of Calexico:

1. Approve the mailing of Proposition 218 Notice for Commercial and Residential Solid Waste Collection Services Provided by Republic Services (Allied).

Background:

Allied Waste Transportation, Inc. d.b.a. Republic Services (Republic Services) exclusively provides solid waste collection services throughout the City pursuant to a solid waste franchise agreement. On October 2, 2019, the City Council of the City of Calexico approved a new agreement with Republic Services for the collection, transportation, recycling, composting and disposal of solid waste, recyclable and compostable materials. The effective date of that agreement was January 1, 2020.

On March 18, 2020, the City approved the rate adjustment for the solid waste and recycling costs associated with the implementation of an Organic Waste Recycling Program for 2020 of \$1.88 for residential customers with no CPI increase. For commercial customers, there was a CPI increase of 2.5% plus an additional increase of 2.5% for commercial customers for the cost associated with implementing the Organic Waste Recycling Program in 2020. On December 15, 2021, the City Council of the City of Calexico approved a CPI increase of 3.7% for commercial and residential solid waste collection services.

Discussion & Analysis:

Per the agreement between the City and Republic Services, Republic Services is entitled to an annual CPI adjustment. Paragraph 4.08.1.1 allows for adjustments due to the CPI. The CPI adjustments take effect every January 1.

Residential Rates

The City is conducting a Proposition 218 hearing to approve automatic CPI adjustments Republic Services is entitled to under the franchise agreement for five years.

Commercial Rates

Republic Services did not increase commercial rates in 2023, pending a Proposition 218 hearing. However, Republic Services is entitled to the CPI increases it should have received in 2023, 2024, and January 1, 2025. The proposed commercial rates includes a "catch-up" fee that allows Republic Services to recover approximately two years of deferred CPI increases and automatic CPI adjustments for five years. Instead of collecting the deferred amount all at once from commercial customers, Republic Services is proposing that commercial customers pay back the deferred amount over the remainder of the term of six years. A notice must be mailed to property owners and tenants receiving solid waste services regarding the public hearing and proposed solid waste rate increases (Proposition 218) at least 45 days before the hearing. The draft Proposition 218 notice (Attachment 1) and the proposed rates (Attachment 2) are included.

The proposed Proposition 218 public hearing date for the solid waste rate increases is Wednesday, March 19, 2025. If a majority of the owners/tenants of the parcels receiving solid waste services do not submit a written protest before the hearing closes, then the City Council can approve the rate increases, which would take effect beginning April 1, 2025. City staff and Republic Services will also amend the agreement to include language that conforms to the state SB 1383 organic waste regulations and Republic Services.

Republic Services has requested a CPI increase to the commercial customer rates based on the water, sewer, and trash collection CPI index using the 12-month change from October the year before last through the prior September to determine the CPI adjustments effective January 1.

Fiscal Impact:

There is no impact to the General Fund.

Rate adjustments are passed through to utility customers. Residential accounts are billed in advance by the City for the following month, fees are collected by the City, and remitted to Republic Services on a monthly basis.

Commercial customers are billed directly by Republic Services, pricing varies by size of bin and collection intervals, but are also subject to the CPI increase.

Coordinated With:

City Manager's Office.
City Attorney's Office.
Finance Department.
Public Works Department.

Attachment(s):

1. Proposition 218 Notice.
2. Proposed Rate Sheet
3. Pages 1, 30 and 31 from Republic Services (Allied) Solid Waste Collection Service Agreement effective January 1, 2020

ATTACHMENT NO. 1

CITY OF CALEXICO
Notice of Public Hearing on Proposed Increase in
Solid Waste Service Rates

NOTICE IS HEREBY GIVEN that the Calexico City Council will hold a public hearing on or after 6:30 PM on March 19, 2025, or as soon as possible thereafter, in the City Council Chambers, 608 Heber Avenue, Calexico, CA 92231 to consider adopting increases to the rates for collection and handling of garbage, recycling, and organic waste services within the City (collectively, "Solid Waste Service"). Said public hearing will be held to consider all oral testimony and written protests to, and the adoption of the proposed rate increases. This notice is being provided to you 45 days in advance of the public hearing as a property owner of record and tenants subject to the proposed rates to be charged.

Proposed Increase

Allied Waste Transportation, Inc. dba Republic Services of Imperial County ("Republic Services") provides Solid Waste Service within the City pursuant to an exclusive franchise agreement. The rate structure for monthly Solid Waste Service is for three customer classes: (i) single family; (ii) multi-family; and (iii) commercial. The rates for Solid Waste Service for each customer class is determined based on: (i) the size of the container serving the property; (ii) the materials accepted in the container (e.g., garbage, recyclables, or organic waste) serving the property; and (iii) the frequency of pickups per week.

Public Hearing Process

All Calexico property owners of record and tenants are invited to attend this public hearing. The Calexico City Council will hear and consider all materials and testimony as well as all written protests against the proposed rate increases. At the close of the public hearing, the City Council may adopt new rates if written protests against the proposed increases are not presented by a majority of identified parcels upon which the proposed rates are to be charged. If adopted, the rates shall take effect April 1, 2025. As noted in more detail below, the rates may also be adjusted for Annual Automatic Adjustments (as defined below) for a five-year period.

Basis for Rate Increases

The request for the proposed rate increases shown in Exhibit A is based upon the City's existing solid waste franchise agreement ("Franchise Agreement") with Republic Services. The Franchise Agreement provides for inflationary increases in Solid Waste Service rates due to the annual percentage increase, year over year, October through September, in the Consumer Price Index for All Urban Consumers: Water and Sewer and Trash Collection Services, U.S. City Average (CUSR0000SEHG), as determined by the United States Department of Labor, U.S. Bureau of Labor Statistics ("CPI").

Commercial Rates

Republic Services was entitled to a CPI rate adjustment on January 1, 2023, January 1, 2024 and January 1, 2025 under the Franchise Agreement. Republic has deferred collection of these adjustments until April 1, 2025. The proposed rate increases for Solid Waste Service includes these delayed adjustments, with the rates taking effect April 1, 2025. For the two years between January 1, 2023 and April 1, 2025 that the CPI adjustment was delayed, Republic Services will spread the collection of the amounts it was entitled to over the remainder of the term (almost six years) to reduce the impact to customers. The collection of the delayed CPI adjustment is reflected in the rates in Exhibit A.

If the rates for Solid Waste Service are approved by the City Council, Republic Services will implement the Solid Waste Service rate increases in Exhibit A effective April 1, 2025.

Revenues derived from the Solid Waste Service rates are used solely for the purpose of defraying costs incurred in providing efficient Solid Waste Service and to ensure continued compliance with State law, including but not limited to, garbage, recycling and organic waste pick-up, transportation, processing, disposal, facilities and equipment maintenance, capital projects and financing, and billing and account management.

Future Automatic Rate Increases

Because the City anticipates future increases in the cost of providing Solid Waste Service that Republic Services will charge pursuant to the Franchise Agreement, the City is also proposing to annually pass through to all Solid Waste Service customers any automatic CPI adjustments for inflation (“Annual Automatic Adjustments”). These adjustments will impact the Solid Waste Service rates. If approved, beginning January 1, 2026, and each January 1 thereafter for a five-year period, through and including adjustments effective on or after January 1, 2030, the rates for Solid Waste Services in Exhibit A may be adjusted annually, without a further public hearing, by an amount not to exceed the annual percentage increase, if any, in the CPI, subject to a maximum increase of 4% annually. In no event may an automatic increase exceed the City’s cost of providing Solid Waste Services.

To protest the proposed rate increases, you must submit a written protest

Any record owner or tenant of a parcel upon which the Solid Waste Service rates are proposed may submit a written protest to the proposed rate increases and pass-through adjustments. To oppose the proposed rate increases and/or adjustments, you must submit a written protest, even if you plan to attend the public hearing. Your written protest must be actually received (not postmarked) by the Calexico City Clerk prior to the close of the public hearing. **Oral, telephonic and e-mail protests will not be accepted.** You must sign the protest and include: 1) the name and signature of the property owner/tenant 2) the street address of the property receiving service 3) your Solid Waste Service account number, and 4) a clear written statement protesting the rate increase. Please identify on the front of the envelope that the enclosed letter is for the “2025 Solid Waste Rate Increase Public Hearing.” You may mail or deliver your written protest in person to: City of Calexico, Office of the City Clerk, 608 Heber Avenue, Calexico, CA 92231. Only one written protest will be counted per identified parcel. The City is conducting this Proposition 218 majority protest proceeding out of an abundance of caution and without conceding the applicability of Proposition 218 to Solid Waste Service.

If you have any questions regarding this notice, please contact the Public Works Department at (760) 768-2160.

ATTACHMENT NO. 2

Exhibit A
Maximum Solid Waste Service Rates Effective April 1, 2025

City of Calexico

2025 Solid Waste Rates

MONTHLY SOLID WASTE RATES

RESIDENTIAL SERVICE RATES

Residential Services includes 1 Refuse Can, 1 Recycle Can and 1 Green Waste Can	\$ 26.84
Cart Delivery Fee	\$ 37.90
Each Additional Refuse or Green Waste Can	\$ 16.40

COMMERCIAL SERVICE RATES

	2 YD	3 YD	4 YD	5 YD	6 YD	8 YD
1 X WK	\$ 117.64	\$ 133.51	\$ 149.41	\$ 279.56	\$ 331.93	\$ 395.44
2 X WK	\$ 212.90	\$ 249.52	\$ 276.38	\$ 414.48	\$ 482.74	\$ 562.11
3 X WK	\$ 308.14	\$ 362.83	\$ 403.38	\$ 557.35	\$ 641.49	\$ 734.56
4 X WK	\$ 403.38	\$ 476.16	\$ 530.36	\$ 700.19	\$ 800.21	\$ 991.88
5 X WK	\$ 498.62	\$ 589.52	\$ 657.35	\$ 843.07	\$ 958.96	\$ 1,239.82
6 X WK	\$ 593.83	\$ 702.82	\$ 784.32	\$ 984.76	\$ 1,117.67	\$ 1,469.84
X DUMP	\$ 46.78	\$ 57.17	\$ 67.22	\$ 84.00	\$ 97.01	\$ 111.62

Commercial Recycling rates priced at 75% of Solid Waste Service rates

Commercial Organics Processing \$ 45.00 per container per month

ROLL-OFF & COMPACTOR / TRANSFER 40YD 30YD 20YD

Roll-Off's	Per Pull	\$ 303.95	Compactor	Per Pull	\$ 493.53
Roll-Off's	Per Ton	\$ 73.24	Compactor	Per Ton	\$ 73.24
Delivery Fee		\$ 43.60	Compactor Rental		\$ 591.51
			Delivery Fee		\$ 43.60

(Customers must sign an agreement acknowledging the monthly minimum charges (either by fax, e-mail or walk-in))

TEMPORARY CLEAN UP BINS (Minimum of one dump every 2 weeks)

3YD Bin Per Dump \$ 107.08	6YD Bin Per Dump \$ 190.02
Container Delivery Fee \$ 43.60	

(Customers must sign an agreement acknowledging the monthly minimum charges (either by fax, e-mail or walk-in))

MISCELLANEOUS

Restart Service	\$ 17.48	
New Account Delivery	\$ 43.60	Residential & Commercial
Automatic Lock Bar	\$ 8.63	Per Month
Roll Out / Lock Charge	\$ 37.42	Per Month = 1 X Per Wk/ 6.70 each Time
Steam Clean Bin	\$ 18.42	Commercial
Replace Burned Bin	\$ 86.38	Commercial
Burned / Stolen Cart / Install Wheels	\$ 215.92	
Extra Yardage	\$ 17.08	Residential

ATTACHMENT NO. 3

**COLLECTION SERVICES AGREEMENT
FOR THE PROVISION OF**

**The Collection, Transportation, Recycling,
Composting and Disposal of Solid Waste, Recyclable
and Compostable Materials**

**Executed By and Between the
City of Calexico and
Allied Waste Transportation, Inc., d.b.a. Republic
Services of Imperial County**

Approval Date: October 2, 2019

Effective Date: January 1, 2020

4.05 Delinquent Service Accounts Billed by CONTRACTOR. CONTRACTOR may, by September 1st of each year or at such other time as CITY and CONTRACTOR shall agree upon, notify CITY in writing as to whether CONTRACTOR will seek to have CITY place and collect qualifying delinquencies for MDF and Commercial Service Recipients on the tax roll. In such event, CONTRACTOR shall be responsible for timely preparing, at no cost to CITY, all required information, reports, notices, and materials including without limitation, the report required by Health & Safety Code section 5473, the notices required by Health & Safety Code section 5473.1, and paying for any publication costs. In addition, should CITY's City Attorney or special counsel, determine that placement of eligible delinquencies on the tax roll also required CITY to comply with the requirements of Proposition 218 and implementing legislation and court decisions (hereinafter "PROP 218), then CONTRACTOR shall timely prepare, at no cost to CITY, all required information, report, notices and materials necessary to comply with PROP 218. CITY agrees that it shall within sixty (60) days after the Effective Date of this Agreement consider the adoption of the necessary ordinance authorizing collection of eligible delinquent Service Recipients on the tax roll, and to hold all hearings, timely publish all notices, and timely make all filings, required under the above sections, provided CONTRACTOR has timely provided the required information, reports, notices and materials to CITY. For the purposes of this section, a "qualifying delinquency" is a Service Recipient that is at least sixty (60) days in arrears and for which the billing party has provided at least one written notice delivered to the Service Recipient by mail or other reasonable means.

4.05.1 CONTRACTOR's Reservation of Legal Rights and Remedies. Notwithstanding the foregoing, CONTRACTOR reserves its right to, and may take such action as is legally available to collect or cause collection of such past due amounts. CONTRACTOR must not discontinue Collection Services on any SFD Service Unit. CONTRACTOR may cease provision of Collection Services to any MFD Service Unit or Commercial Service Unit due to non-payment, including late fees and interest in the amounts set forth in **Exhibit 1**, upon thirty (30) days prior written notice to the Service Recipient.

4.06 Billing List Review. The CITY, at CONTRACTOR's request (made no more often than every six months) will meet and confer with the CONTRACTOR to compare CONTRACTOR'S customer list and the service levels for each customer billed by the CITY, to ensure the accuracy of the CITY's billings.

4.07 [reserved]

4.08 Adjustments to Maximum Service Rates using the Consumer Price Index (CPI).

4.08.1 Adjustments to SFD, MFD, and Commercial Maximum Service Rates January 1, 2021 – December 31, 2029.

4.08.1.1 Adjustments Using the Consumer Price Index (CPI). Beginning on January 1, 2021 for SFD, MFD and Commercial Service Units, and annually thereafter, CONTRACTOR shall, subject to compliance with all provisions of this Section, receive an annual CPI adjustment to all Maximum Service Rates set forth in **Exhibit 1** to this Agreement based on the year-over-year percentage increase in the CPI. The maximum CPI increase in any one year shall not exceed four percent (4.0%) over the prior reporting period as indicated by the CPI and the minimum increase shall not be less than one percent (1.0%) over the prior reporting period as indicated by the CPI. In any year in which the CPI indicates an increase of more than four percent (4%) ("overage") over the last reporting period, the amount of overage

due to the CPI will not be included in the CPI adjustment for the subject year; however, the amount of overage shall be carried over into and added to the next succeeding year CPI calculation to increase CONTRACTOR'S rates up to the 4.0% overall cap on CPI adjustments. Any unused overage from a given year shall only be used one time, for the next succeeding year only. The foregoing four percent (4.0%) cap shall not apply to other factors justifying a rate increase, such as a Change in Law, or a CITY requested Change in Scope of CONTRACTOR'S services or factors warranting an Extraordinary Rate Adjustment.

4.08.1.2 The annual CPI index increase shall be calculated using increases in the CPI pursuant to the process described below:

- A. CPI Financial Information. On or before October 1, 2020, and annually thereafter on October 1st during the Term of this Agreement, CONTRACTOR shall deliver to CITY financial information and all calculations sufficient to allow the CITY to verify the accuracy of CONTRACTOR's CPI adjustment.
- B. Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making CPI adjustments. All CPI increases shall be rounded at two (2) decimal places for the adjustment calculations.

4.09 CITY Verify Calculation of Maximum Service Rates. On or before October 1, 2020, and annually thereafter during the term of this Agreement, CONTRACTOR shall notify CITY's Agreement Administrator in writing of the CPI adjustments to the affected Maximum Service rates to take place on the subsequent January 1st and the calculations such adjustments are derived from. The Agreement Administrator shall verify the calculations and the adjustment and shall resolve discrepancies in the calculation or adjustment with CONTRACTOR. The Parties agree that verification of the calculation and adjustment by CITY's Agreement Administrator shall constitute an amendment of rate sheets as reflected in **Exhibit 1** of the Agreement. This process shall not apply to Extraordinary Adjustments as provided in Section 4.11. To assist the CITY in providing Proposition 218 notifications, CITY and CONTRACTOR shall confer on an appropriate 12-month period to use in determining any annual CPI adjustment subject to the Proposition 218 notification process.

4.10 Recyclable Materials Processing and Marketing Adjustment. From January 1, 2020 through December 31, 2020 CONTRACTOR shall determine baseline values for collection, processing and return to market for recyclable materials collected from CITY for SFD, MFD and Commercial in the aggregate, will meet and confer with CITY with regard to these calculations and CITY and CONTRACTOR will mutually agree to the SFD, MFD and Commercial baseline values ("Baseline Values"). After January 1, 2020, if CONTRACTOR experiences a positive or negative change of more than 10% in the Baseline Values, CONTRACTOR may request to meet and confer with CITY to discuss possible adjustments to the Maximum Service Rates not covered under Section 4.08 above. CONTRACTOR must provide verifiable documentation to the CITY's satisfaction of the change in Baseline Values if the CITY is to consider any adjustments to the Maximum Service Rates not covered under Section 4.08. Any such adjustment under this Section 4.10 shall be considered as an Extraordinary Adjustment to Maximum Service Rates as provided for in Section 4.11.