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| AGENCY: | City Council |
| MEETING DATE: | October 9, 2018 |
| DEPARTMENT: | City Manager |
| PRESENTED BY: | Tabatha Miller |
| EMAIL ADDRESS: | tmiller@fortbragg.com |

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of City Council Resolution Approving Waste Management Revised Residential, Commercial and Multifamily and Rolloff Rate Changes

ISSUE:

The City's current Franchise Agreement (Agreement) with USA Waste of California, Inc., DBA Empire Waste Management (Waste Management) provides for the approval of all maximum rates and charges by the City Council and/or the City Manager prior to such rates and charges becoming effective.

On May 29, 2018, City Council considered the cost-of-living rate increase submitted by Waste Management, which was to be effective June 1, 2018. The original increase submitted by Waste Management and reflected in the agenda documents was 5.89%. The City Council approved a cost-of-living rate increase of 3.5%, because errors were discovered in how the fuel component of the annual cost-of-living increase was applied. Neither rate increase was implemented on June 1, 2018 by Waste Management. Instead, a more complete review of the rate calculations, including prior years' changes was conducted and led to discovery of a number of calculation errors and omissions.

Working extensively with the City over the last few months, Waste Management has submitted revised rates, which will replace those adopted on May 29, 2018 (Attachment No. 2). The revised rates will not be applied retroactively to June 1, 2018 but instead will be effective upon adoption by City Council (presumably October 9, 2018).

ANALYSIS:

Pursuant to the Agreement, Waste Management is entitled to rate adjustments in the form of pass-through adjustments, cost-of-living adjustments and extraordinary rate adjustments.

In January of 2013, Amendment No. 4 to the Franchise Agreement was executed. The Amendment revised how the cost-of-living adjustments were calculated. Specifically, the Fuel Component portion of the cost-of-living adjustment was now tied to the California index for #2 diesel fuel published by the U.S. Energy Information Administration, instead of the Commodity Code for #2 Diesel Fuel published by the U.S. Department of Labor, Bureau of Labor Statistics. Use of the amended fuel index was never implemented and the Commodity Code continued to be the schedule used to calculate the fuel component of cost-of-living adjustment each year from 2013 to date.

Current City and Waste Management staff are unaware of the reasoning behind the change in the fuel calculation or why it was never implemented. Discovery of this error meant that rates had been miscalculated since 2013. Waste Management recalculated the rate adjustments. As part of that more thorough review, additional errors in application of the pass-through adjustments were discovered and corrected.

Applying six years of rate corrections is a little complex. First, the rate adjustments build on each other sequentially, so each rate change for the past six years was recalculated to determine the correct rates for the current year. The final rate adjustments for 2018-19 are less than the original 5.89% provided by Waste Management and less than the approved increase of 3.5%. For Residential Services, the final increase varies a little for each specific service from 1.53% to 2.27%, with an average of 2.06%. For Commercial Services, the final adjustments varies from -2.48% to 2.36%, with an average of 1.99%. The Rolloff Services adjustments varies from -.12% to 1.0%, with an average of .73%. (A complete list of rates is provided on Attachment No. 2.) These adjustments would normally be applied on June 1, 2018 but Waste Management agreed that they would not be retroactively applied and would be implemented upon City Council's approval, presumably October 9, 2018.

The more complex calculation applies to individual accounts. Over the six years, some applied rate increases were more than the corrected rate increase and some were less. As a result, some customers might have underpaid and some customers may have overpaid and be eligible for a refund. Waste Management has agreed to waive any amount that was underpaid by a customer resulting from calculation errors. However, in the case of overpayment by any customer, Waste Management has agreed to issue credits. Whether or not a customer will receive a credit will be based on when they initially became a customer. Customers since June 1, 2017 will likely receive a small credit to their bills and the amount will be dependent on when they activated their account.

City Approval of Rate Increases

The Agreement Section 14 A, entitled City's Powers, provides for City approval of all rates:

Maximum rates and charges assessed by Grantee for any and all services and activities it performs or engages in the Franchise Area, and which are covered under this Agreement, must be approved by the City Council and/or the City Manager prior to such rates and charges becoming effective.

RECOMMENDED ACTION:

Staff recommends that the Council adopt the Resolution to approve the Rates attached as Attachment No. 2, effective October 9, 2018.

ALTERNATIVE ACTION(S):

Do not approve the Resolution or the Waste Management rate increases.

FISCAL IMPACT:

The rate increases impact City of Fort Bragg Residents and Businesses. Increases in City

of Fort Bragg fees result in the same increase in franchise fees that the City receives on gross revenue generated within the City limits.

ATTACHMENTS:

1. Resolution
2. Rate Increase Submittal
3. Franchise Agreement
4. Amendment No. 4 to Franchise Agreement

NOTIFICATION:

1. Kayla Rodriguez, Public Sector Manager, Waste Management
2. Steve Shamblin, District Manager 1, Empire Waste Management