

**AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA**

September 11, 2018
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey Street

The following information comprises the agenda for a regular meeting of the City Council.

Per City Council Resolution No. 2016-44 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

- Invocation - Elder Ralph Bobik, Church of Jesus Christ of Latter Day Saints
- Pledge of Allegiance
- Roll Call – Council Members Andrade, Franklin, Peterson, Welch, Mayor Moyer

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS, CORRESPONDENCE, PRESENTATIONS, AND APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action. See last page.) PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE

Items received under this category may be received and filed or referred to staff for future research or a future agenda.

IV. PUBLIC HEARING

1. Resolution No. 2018-110, Approving the Rate Adjustment for the Collection, Transportation and Disposal of Solid Waste Services and Approving the Execution of the Fifth Amendment to the Franchise Agreement with Waste Management1
(Staff Report – Art Vela, Public Works Director)

Recommendation: **Adopt Resolution 2018-110: 1) Consider and declare the number of protests received in response to the Proposition 218 notifications for the Collection, Transportation and Disposal of Solid Waste services rate adjustment. 2) Approve the rate adjustment for the Collection, Transportation and Disposal of Solid Waste services effective October 1, 2018 and equal to an overall increase of 3.43%. 3) Approve annual rate increases for four (4) additional years beginning July 1, 2019 based on Consumer Price Index (CPI) data for the Riverside-San Bernardino-Ontario area without further hearings as allowed by the Proposition 218 process and Franchise Agreement.**

V. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

VI. ITEMS FOR FUTURE AGENDAS

New items –

Pending Items – City Council

1. Mills Act – Additional Information
2. Fee Waiver Update (November)
3. Assembly Bills – Staff Analysis
4. Council Refresher on Directing Staff
5. Website Redesign
6. Classify Internet/Wi-Fi as Infrastructure
7. Street Naming Policy to Honor Land Owners
8. Refuse Theft Ordinance
9. Contingency Plan for Residents During Emergencies
10. Appraisals Update
11. Ordinance Update - Commissioners to Serve by District

VI. ADJOURNMENT

NOTICE: Any member of the public may address this meeting of the Mayor and City Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951)-922-3100. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

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**CITY OF BANNING
PUBLIC HEARING**

TO: CITY COUNCIL

FROM: Rochelle, Interim City Manager

PREPARED BY: Art Vela, Public Works Director
Holly Stuart, Management Analyst

MEETING DATE: September 11, 2018

SUBJECT: Resolution No. 2018-110, Approving the Rate Adjustment for the Collection, Transportation and Disposal of Solid Waste Services and Approving the Execution of the Fifth Amendment to the Franchise Agreement with Waste Management

RECOMMENDATION ACTION:

The City Council adopt Resolution 2018-110:

1. Consider and declare the number of protests received in response to the Proposition 218 notifications for the Collection, Transportation and Disposal of Solid Waste services rate adjustment.
2. Approve the rate adjustment for the Collection, Transportation and Disposal of Solid Waste services effective October 1, 2018 and equal to an overall increase of 3.43%.
3. Approve annual rate increases for four (4) additional years beginning July 1, 2019 based on Consumer Price Index (CPI) data for the Riverside-San Bernardino-Ontario area without further hearings as allowed by the Proposition 218 process and Franchise Agreement.
4. Rescind all previous Collection, Transportation and Disposal of Solid Waste rate structures.
5. Authorize the City Manager or her designee to execute the Fifth Amendment to the Franchise Agreement with Waste Management to formalize the method for establishing the annual CPI calculation and adjustment.

Resolution No. 2018-110

BACKGROUND:

The City of Banning ("City") entered into a Franchise Agreement ("Agreement") for the Collection, Transportation, and Disposal of Solid Waste with Waste Management of the Inland Empire (WM) in 1993 for an eight-year period. Subsequently, the City Council at its regular meeting on April 24, 2001, adopted Resolution 2001-35, extending the Agreement for an additional five years as allowed per the Agreement, from July 1, 2001 to June 30, 2006. On March 15, 2002 under Resolution 2002-28 the contract was re-negotiated to include automated services and to extend the Agreement for an additional five-year period from July 1, 2006 to June 30, 2011. On June 28, 2011 under Resolution No. 2011-53, the Agreement was modified and the term was extended for an additional ten years from July 1, 2011 to June 30, 2021.

The Agreement allows for an annual CPI adjustment and requires that rate adjustments adhere to the requirements of Proposition 218 (Prop 218), including: 1) providing notification to all affected property owners and rate payers of the proposed rates and instructions for those who wish to protest the rate increases; 2) holding a public hearing at least forty-five (45) days after mailing the notifications; and 3) rejecting the proposed rate adjustments if written protests are presented by a majority (fifty percent plus one) of affected property owners or rate payers; only one protest per parcel would apply.

A Prop 218 process was previously administered in July of 2016 and approved by rate payers and City Council at a Public Hearing on August 28, 2016. The approval allowed for rates to be adjusted annually for five years (2016 to 2020) based on the CPI for the Los Angeles-Orange County-Riverside index for the March to February period; the index and month range is specifically identified in the Agreement and was included in the Prop 218 notice of 2016. To date, CPI adjustments were implemented in October 2016 for fiscal year 2017 and July 2017 for fiscal year 2018.

JUSTIFICATION:

On June 18, 2018 WM requested a CPI annual rate adjustment for Fiscal Year 2019. Upon review, it was determined that the United States Department of Labor, Bureau of Labor Statistics had eliminated the Los Angeles-Orange County-Riverside index and replaced it with two new indexes: Los Angeles-Long Beach-Anaheim and Riverside-San Bernardino-Ontario. Therefore, the requested 2019 CPI adjustment could not be made in accordance with the existing methodology defined by the Franchise Agreement or the methodology approved by voters through the Prop 218 process in August of 2016.

In order to implement a CPI adjustment for Fiscal Year 2019 and moving forward, a revised methodology for determining the rate adjustment calculation must be approved by voters through a new Prop 218 process. Additionally, a revision to the methodology defined in the Franchise Agreement through a Fifth Amendment is necessary. In order to accomplish this, the below methodology was approved by City Council on June 2018 under Resolution 2018-72.

Resolution No. 2018-110

- Adjustment for Fiscal Year 2019: The new Los Angeles-Long Beach-Anaheim index appears to have adopted the historical data of the Los Angeles-Orange County-Riverside index which was previously used. Therefore, staff recommends that the CPI adjustment for Fiscal Year 2019 be made using the Los Angeles-Long Beach-Anaheim index for the March to February period. The CPI increase during this period is 3.33%.
- Adjustment for fiscal years following Fiscal Year 2019: Staff recommends that for all years following Fiscal Year 2019, that the annual CPI adjustment be applied based on the new Riverside-San Bernardino-Ontario index for the March to March period. It should be noted that the data for the new Riverside-San Bernardino-Ontario will only be issued on a bi-monthly schedule beginning January, hence the reason why a March to March period will be used instead of a March to February period.

Under approval of Resolution 2018-72, staff was also directed to proceed with the Prop 218 process and preparation of a Fifth Amendment. On July 27, 2018 staff mailed Prop 218 notices to rate payers and property owners providing public hearing information, explanation of rate adjustments, a proposed rate schedule and instructions for submitting a protest.

In addition to the CPI adjustment, WM has requested a revision to the title of the “residential green waste contamination fee” to “residential contamination fee”. The existing contamination fee of \$15 will now apply to contamination of the green waste and/or recycling cart. WM has also requested clarification to the “roll off bin rental service” rate (see attached letter from WM).

Lastly, staff collaborated with WM and has prepared the Fifth Amendment formally revising the methodology in which CPI rate adjustments are determined, as explained above.

FISCAL IMPACT:

There are two components to the solid waste service rate: 1) Service Component and 2) Disposal/Green Waste Processing Component. The service component, which makes up sixty-five percent (65%) of the solid waste service rate will be adjusted by the CPI as explained above. The Disposal/Green Waste Processing Component, which makes up thirty-five percent (35%), will adjust by the greater of either the CPI adjustment as explained above or the percentage increase in the per ton tipping fee established by the Riverside County Waste Management Department for disposal of Solid Waste and as allowed by the Agreement.

If the methodology described above is approved, the change in the CPI for Fiscal Year 2019 is 3.33% and will be applied to the service component of the rate. This year, the landfill Tipping Fee increased by 3.61% from \$37.95 to \$39.32 per ton and therefore will be applied to the disposal/green waste component of the rate. As a result, the overall rate adjustment will reflect a 3.43% increase. The current residential rate for the collection of

refuse is \$20.99 per month per household and the rate will increase to \$21.71. The commercial rate will be adjusted accordingly, as shown in the attached proposed residential and commercial rate schedule. The new rate adjustment will be effective October 1, 2018.

Under approval of this resolution and Prop 218 process, future CPI rate adjustments will be authorized for four additional years. The future rate increases will occur July 1st of 2019, 2020, 2021 and 2022. Staff will report future CPI increases to the City Council prior to implementation.

ALTERNATIVES:

Reject the recommendation. If rejected, per the Franchise Agreement, WM shall have the right within one-hundred eighty (180) days to request that a second hearing be held, and if such increase is still not approved following the second hearing, WM may give a 180-day notice of termination and terminate the Franchise Agreement.

ATTACHMENTS:

1. Resolution 2018-110
2. Sample Notification Mailed to Property Owners and Rate Payers
3. WM Letter Requesting a Rate Adjustment
4. Draft Fifth Agreement to the Franchise Agreement between the City and WM
5. Rate Comparison

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution No. 2018-110

RESOLUTION 2018-110

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE RATE ADJUSTMENT FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE SERVICES AND APPROVING THE FIFTH AMENDMENT TO THE FRANCHISE AGREEMENT WITH WASTE MANAGEMENT

WHEREAS, the City of Banning entered into a Franchise Agreement ("Agreement") with Waste Management of the Inland Empire in July of 1993 for an eight-year period, Resolution No. 2001-35, extended the Agreement for an additional five years from July 1, 2001 to June 30, 2006, Resolution No. 2002-28 extended the Agreement for an additional five -year period from July 1, 2006 to June 30, 2011 and Resolution No. 2011-53, extended the Agreement for an additional ten years until June 30, 2021; and

WHEREAS, the Agreement allows for an annual Consumer Price Index (CPI) adjustment and requires that rate adjustments adhere to the requirements of Proposition 218; and

WHEREAS, a Proposition 218 process was administered in July of 2016 and approved by rate payers and City Council at a Public Hearing on August 28, 2016. The approval allowed for rates to be adjusted annually for five years (2016 to 2020) based on the CPI for the Los Angeles-Orange County-Riverside index for the March to February period and subsequently CPI adjustments were implemented in October 2016 for fiscal year 2017 and July 2017 for fiscal year 2018; and

WHEREAS, United State Department of Labor, Bureau of Labor Statistic has eliminated the Los Angeles-Orange County-Riverside index referenced in the Agreement and 2016 Proposition 218 Notice and replaced it with two new indexes: Los Angeles-Long Beach-Anaheim and Riverside-San Bernardino-Ontario and therefore the methodology for calculating the CPI adjustments must be revised as follows:

Adjustment for Fiscal Year 2019: the CPI adjustment for Fiscal Year 2019 shall be made using the Los Angeles-Long Beach-Anaheim index for the March to February period. The CPI increase during this period is 3.33%.

Adjustment for fiscal years following Fiscal Year 2019: the annual CPI adjustment shall be applied based on the Riverside-San Bernardino-Ontario index for the March to March period.

WHEREAS, in order to implement the new methodology for calculating the CPI adjustments a new Proposition 218 notice and process was administered based on the above which included an annual CPI adjustment for five consecutive years beginning in 2018 and ending in 2022; and

WHEREAS, a public hearing was held on September 11, 2018, not less than 45 days following the mailing notifications to property owners and rate payers for consideration of the final approval of the rate adjustment; and

WHEREAS, a majority of the property owner and/or rate payers did not oppose the rate adjustment; and

WHEREAS, in order to formalize the revised methodology for calculating CPI adjustments, a Fifth Amendment shall be executed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. FINDINGS The City Council, based on oral and written testimony submitted at the public hearing held in accordance with Proposition 218 finds as follows:

- a) A majority protest being 5275 and as the actual protest either in writing or at the hearing received being XX, a sufficient number of protests were not received to constitute a majority protest; and
- b) In addition to the CPI increase the Franchise Agreement also permits the pass through of Tipping Fee increases charged by the landfill operator; and
- c) In the event of increases as provided herein, the City shall be informed of the increase and customers shall be given notice prior to the imposition of the increase; and
- d) The rates approved herein are necessary due to increasing operation cost and in order to comply with all health, safety and service requirements.

SECTION 2. ADOPTION Resolution 2018-110 is adopted approving the increases for the Service Charges for the Collection, Transportation and Disposal of Solid Waste.

SECTION 3. EFFECTIVE DATE This Resolution shall be considered as adopted upon the date that the vote is declared by the City Council and rates will become effective on October 1, 2018.

SECTION 4. ADDITIONAL ADJUSTMENTS Contractor is permitted to impose annual increases in rates for four (4) additional years without further hearing or protest and upon the annual approval of City Council.

SECTION 5. SUPERSEDED All previous Collection, Transportation and Disposal of Solid Waste rate structures are hereby rescinded.

SECTION 6. AMENDMENT The City Manager or her designee is authorized to execute the Fifth Amendment to the Franchise Agreement with Waste Management to formalize the method for establishing the annual CPI calculation and adjustment.

PASSED, APPROVED AND ADOPTED this 11 day of September, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-110, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 11th day of September, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Sample Notification Mailed to Property Owners and Rate Payers

NEW RATES FOR RESIDENTIAL AND COMMERCIAL EFFECTIVE : OCTOBER 1, 2018

RESIDENTIAL SERVICES:

	Current Monthly Rate	2018-19* New Rate
Residential Cart Service:		
Basic Rate:	\$20.99	\$21.71

	Current Monthly Rate	2018-19* New Rate
Other Residential Fees:		
Additional 96-Gal Trash Cart	\$8.38	\$8.67
Additional 64-Gal Trash Cart	\$6.71	\$6.94
Additional 35-Gal Trash Cart	\$5.04	\$5.21
Additional Recycle Cart - Any Size	\$2.16	\$2.23
Additional Green Waste Cart - Any Size	\$5.13	\$5.31
Residential Set-up Fee	\$11.02	\$11.40
Cart Exchange - Excess of 1 p/year	\$25.22	\$26.08
Additional Bulky & E-waste - Per Item	\$19.17	\$19.83
Contamination Fee - Green Waste/Recycling	\$15.00	\$15.51
Return Service Fee	\$0.00	\$15.00

COMMERCIAL SERVICES:

	Current Monthly Rate	2018-19* New Rate
Commercial Can Service:		
Commercial Carts - Trash/Recycle Only	\$21.35	\$22.08

	Current Monthly Rate	2018-19* New Rate
Commercial Trash Service:		
2 Yard, 1x a week	\$90.31	\$93.41
2 Yard, 2x a week	\$180.61	\$186.80
2 Yard, 3x a week	\$264.04	\$273.09
2 Yard, 4x a week	\$349.18	\$361.15
2 Yard, 5x a week	\$432.61	\$447.44
2 Yard, 6x a week	\$516.03	\$533.72
3 Yard, 1x a week	\$118.29	\$122.34
3 Yard, 2x a week	\$236.57	\$244.68
3 Yard, 3x a week	\$346.23	\$358.10
3 Yard, 4x a week	\$455.92	\$471.55
3 Yard, 5x a week	\$565.58	\$584.97
3 Yard, 6x a week	\$675.27	\$698.42
4 Yard, 1x a week	\$158.27	\$163.70
4 Yard, 2x a week	\$316.54	\$327.39
4 Yard, 3x a week	\$462.79	\$478.65
4 Yard, 4x a week	\$610.74	\$631.68
4 Yard, 5x a week	\$756.99	\$782.94
4 Yard, 6x a week	\$903.24	\$934.20
6 Yard, 1x a week	\$222.80	\$230.44
6 Yard, 2x a week	\$445.62	\$460.90
6 Yard, 3x a week	\$652.95	\$675.33
6 Yard, 4x a week	\$858.57	\$888.00
6 Yard, 5x a week	\$1,065.92	\$1,102.46
6 Yard, 6x a week	\$1,271.53	\$1,315.12

ROLL-OFF SERVICES:

	Current Monthly Rate	2018-19* New Rate
Temp Roll-Off Service:		
40 Yard with 4 tons	\$394.33	\$407.85
Compactor - plus landfill tipping fee	\$279.45	\$289.03
40 Yard Permanent plus landfill tipping fees	\$216.47	\$223.89
10 Yard Permanent plus tipping fee	\$216.47	\$223.89
Roll-Off Recycle/per load	\$216.47	\$223.89

	Current Monthly Rate	2018-19* New Rate
Other Roll-Off Fees:		
Delivery/Relocate/Trip Charge	\$79.01	\$81.72
Minimum Pull Fee (1 per month)	\$216.47	\$223.89
Industrial Set-up Fee	\$18.37	\$19.00

	Current Monthly Rate	2018-19* New Rate
Commercial Compactors:		
2 Yard, 1x a week	\$125.16	\$129.45
2 Yard, 2x a week	\$250.31	\$258.89
2 Yard, 3x a week	\$368.59	\$381.23
2 Yard, 4x a week	\$488.58	\$505.33
2 Yard, 5x a week	\$606.87	\$627.67
2 Yard, 6x a week	\$725.13	\$749.99
3 Yard, 1x a week	\$170.56	\$176.41
3 Yard, 2x a week	\$341.13	\$352.82
3 Yard, 3x a week	\$503.07	\$520.32
3 Yard, 4x a week	\$665.02	\$687.82
3 Yard, 5x a week	\$826.95	\$855.30
3 Yard, 6x a week	\$988.93	\$1,022.83

	Current Monthly Rate	2018-19* New Rate
Commercial Recycle Service:		
2 Yard, 1x a week	\$84.08	\$86.96
2 Yard, 2x a week	\$168.16	\$173.92
3 Yard, 1x a week	\$107.63	\$111.32
3 Yard, 2x a week	\$215.26	\$222.64
4 Yard, 1x a week	\$142.96	\$147.86
4 Yard, 2x a week	\$285.92	\$295.72
6 Yard, 1x a week	\$185.00	\$191.34
6 Yard, 2x a week	\$370.00	\$382.68
Extra Pick Up - Recycle	\$62.40	\$64.54
Contamination Fee	\$62.40	\$64.54

	Current Monthly Rate	2018-19* New Rate
Commercial Organics Service		
64 Gallon, 1x a week	\$45.49	\$47.05
64 Gallon, 2x a week	\$90.99	\$94.11
64 Gallon, 3x a week	\$136.48	\$141.16
64 Gallon, 4x a week	\$181.98	\$188.22
64 Gallon, 5x a week	\$227.46	\$235.26
64 Gallon, 6x a week	\$272.96	\$282.32
2 Yard, 1x a week	\$254.54	\$263.27
2 Yard, 2x a week	\$509.10	\$526.55
2 Yard, 3x a week	\$763.69	\$789.87
2 Yard, 4x a week	\$1,018.24	\$1,053.15
2 Yard, 5x a week	\$1,272.78	\$1,316.41
2 Yard, 6x a week	\$1,527.34	\$1,579.70

	Current Monthly Rate	2018-19* New Rate
Other Commercial Fees:		
Extra Pick Up - Trash	\$62.40	\$64.54
Lost or Stolen Bin	\$317.90	\$328.80
Burned Bin	\$178.02	\$184.12
Bin Overage Fee	\$75.93	\$78.53
Temporary 3 Yard - one month	\$213.39	\$220.71
Temporary 3 Yard - 7 day	\$130.80	\$135.28
Locking Lids	\$15.26	\$15.78
Haul or Call Fee	\$29.11	\$30.11
Commercial Set-up Fee	\$18.37	\$19.00
Bin Exchange	\$52.39	\$54.19
Replacement Lock	\$31.79	\$32.88
Replacement key	\$6.36	\$6.58
Pull-out service per bin 16-35 feet	\$15.00	\$15.51
Pull-out service per bin 36-50 feet	\$22.00	\$22.75
Pull-out service per bin over 51 feet	\$29.00	\$29.99
Return to Service	\$25.00	\$25.86

*To be adjusted yearly for 5 years in accordance with the formula on the Notice of Public Hearing to which this schedule is attached



CITY OF BANNING NOTICE OF PUBLIC HEARING



Notice of Public Hearing on Collection, Transportation, and Disposal of Solid Waste **September 11, 2018 at 5:00 P.M.**

City Council Chambers – 99 East Ramsey Street, Banning, CA 92220

In compliance with Article XIID of the California State Constitution and the Proposition 218 Omnibus Implementation Act, the City of Banning is hereby notifying all affected property owners and rate payers of the proposed rate adjustment for the Collection, Transportation and Disposal of Solid Waste.

Public Hearing Information

A public hearing will be held on Tuesday, September 11, 2018 at 5:00 p.m. at Banning City Hall located at 99 East Ramsey Street, Banning, CA, 92220. At the time of the public hearing, the City Council will hear and consider all protest and objections concerning these matters and will consider and may adopt the adjusted rates and charges.

If you oppose the proposed rate adjustments, your protest must be submitted in writing, contain a description of the property, be signed by the property owner and/or rate payer and be received prior to the close of the public hearing to be considered. Only one protest per identified account will be counted. If written protests are submitted by a majority of the affected property owners and/or rate payers, the proposed rate adjustment may not be imposed. Written protests must be sent to the City Clerk, City of Banning; 99 East Ramsey Street, P.O. Box 998, Banning, CA 92220.

Explanation of Rate Adjustments

The City of Banning contracts the collection, transportation and disposal of solid waste services through Waste Management of the Inland Empire. The primary reason for this notice is to update the method for calculating the annual CPI adjustment due to the United States Department of Labor, Bureau of Labor Statistics (BLS) replacing the Los Angeles-Orange County-Riverside Consumer Price Index (CPI) which was previously approved.

By approval of the rate increase future rate increases will be based on the CPI formula (defined below) or an alternative formulaic, automatic adjustment (also defined below) for an additional four-year period without further hearing or protest; such automatic adjustments to be in 2019, 2020, 2021, 2022 commencing on or after July 1 in each of such years. Note: CPI is an index of prices used to measure the change in the cost of basic goods and services in comparison with a fixed based period, also known as a cost-of-living index. The index used to determine the CPI adjustment will be based on All Urban Consumers published by the BLS. The initial rate increase for Fiscal Year 2019, scheduled to be implemented on October 1, 2018, will be based on the Los Angeles-Long Beach-Anaheim index for the March to February period immediately preceding the effective date of the rate adjustment. Beginning July 1st, 2020 and thereafter, CPI rate adjustments will be based on the Riverside-San Bernardino-Ontario index for the March to March period immediately preceding the effective date of the rate adjustment.

The CPI or other measure of automatic annual adjustments to be used will be as follows:

- i. Service Component. The Service Component comprises sixty-five percent (65%) of the rate. The Service Component will be adjusted by the CPI and determined by the methodology identified above.
- ii. Disposal/Green Waste Processing Component. The Disposal/Green Waste Processing Component comprises thirty five percent (35%) of the rate and will be adjusted by the greater of either (1) the CPI for the period immediately preceding the effective date of the rate adjustment as described above; or (2) the percentage increase in the per ton tipping fee established by the Riverside County Waste Management Department for disposal of Solid Waste generated within Riverside County at landfills comprising the County System (Badlands Landfill, Lamb Canyon Landfill, El Sobrante Landfill) for the period immediately preceding the effective date of the rate adjustment.

The City Council may in its discretion adopt such increases without further hearing and protest proceedings. The schedule of proposed rate adjustments covered by this notice will be for a period of five years starting from the effective date of the first increase.

If you wish to legally challenge any action taken by the City on the solid waste rate increases, you may be limited to raising only those issues you or someone else raised prior to or at the public hearing as described in this notice.

Notice of Proposed Rate Adjustment for the Collection, Transportation and Disposal of Solid Waste Services

City Council will consider adoption of the proposed rate adjustment described in this notice on September 11, 2018 at 5:00pm. If written protests against the proposed rates, as outlined in this letter, are not presented by a **majority** of property owners or customers of record, the City Council will be authorized to implement the proposed rates. If adopted, the rate adjustment for the collection, transportation and disposal of solid waste services will be in effect beginning October 1, 2018. Additionally, if the rates are approved, future consumer price index rate adjustments will be authorized for four (4) additional years with future increases occurring July 1st of 2019, 2020, 2021 and 2022.

If you have any questions about the proposed rate changes or would like additional information, please call: (951) 922-3130 8:00 a.m. to 5:00 p.m. Monday through Friday.

DETACH FORM BELOW TO SUBMIT PROTEST:

PROPOSITION 218 PROTEST FORM

SUBMIT TO
CITY CLERK
99 E. RAMSEY STREET
BANNING, CA 92220

SUBMIT BY
5:00 P.M.
September 11, 2018
Must submit protest by close of comment
period at public hearing

By checking the applicable box and signing the form below, I protest the proposed solid rate adjustment. I affirm under penalty of law that I am the owner of the parcel or customer of the address below.

☐ I protest the rate adjustment for the collection, transportation and disposal of solid waste.

Property Owner or Parcel Information

Property Owner Name: _____
Assessor's Parcel Number (APN): _____
Street Address: _____
City, State, Zip Code: _____

Customer Information

Customer Name: _____
Customer Account Number: _____
Service Street Address: _____
City, State, Zip Code: _____

Property Owner or Customer Signature: _____
Signature Date: _____



CIUDAD DE BANNING
Aviso de audiencia pública



Aviso de audiencia pública sobre colección, transporte y disposición de residuos sólidos

11 de septiembre del 2018 a las 5:00pm

En la cámara del Concilio— 99 East Ramsey Street, Banning, CA 92220

En cumplimiento con el artículo XIIID de la Constitución del estado de California y la Proposición 218 Omnibus Implementation Act, la ciudad de Banning por este medio notifica a todos los propietarios afectados y los contribuyentes de la tarifa sobre el propuesto ajuste a la tarifa para la colección, transporte y disposición de residuos sólidos.

Información sobre la audiencia pública

La audiencia pública será el martes, 11 de septiembre del 2018 a las 5:00 pm en el City Hall de la ciudad de Banning ubicado en 99 East Ramsey Street, Banning, CA, 92220. En el momento de la audiencia pública, el Concilio escuchará y considerará toda protesta y objeciones con respecto a estos asuntos y considera e puede adoptar las tarifas ajustadas y cargos.

Si se oponen a los ajustes de la tarifa propuesta, su protesta debe presentarse por escrito, necesita tener una descripción de la propiedad, ser firmada por el dueño o el pagador de la tarifa y ser recibida antes del cierre de la audiencia pública para ser considerada. Se computará solamente una protesta por cuenta identificada. Si las protestas son presentadas por la mayoría de los propietarios afectados o los contribuyentes de la tarifa, no se podrá imponer el ajuste de la tarifa propuesta. Protestas escritas deben enviarse a la secretaria de la ciudad, ciudad de Banning; 99 East Ramsey Street, P.O. Box 998, Banning, CA 92220.

Explicación de los ajustes de tarifa

La ciudad de Banning contrata los servicios de colección, transporte y disposición de residuos sólidos a través de Waste Management de Inland Empire. La razón principal de este aviso es de actualizar el método para calcular el ajuste anual de la CPI (por sus siglas en ingles) que está reemplazando el Departamento de trabajo de Estados Unidos, la oficina de trabajo estadísticas (BLS por sus siglas en inglés) a el índice de precios al consumidor (IPC por sus siglas en inglés) de Los Angeles-Orange County-Riverside que fueron previamente aprobados.

Con la aprobación de aumento a la tarifa los futuros aumentos de tarifa se basarán en la fórmula de CPI (por sus siglas en ingles) y (definido a continuación) o un ajuste formulista alternativo, ajuste automático (también definido a continuación) por un periodo adicional de cuatro años sin alguna audiencia o protesta; tales ajustes automáticos se darán en el 2019, 2020, 2021, 2022 comenzando en o después del 1 de julio en cada uno de los dichos años. Nota: CPI (por sus siglas en inglés) es un índice de precios utilizado para medir el cambio en el costo de bienes y servicios en comparación con una base de periodo fijo, también conocido como un índice de costo de vida. El índice usado para determinar el ajuste del CPI (por sus siglas en inglés) se basará en todos los consumidores urbanos, publicados por el BLS (por sus siglas en ingles). El aumento de la tarifa inicial para el año fiscal 2019, programado para implementarse el 1 de octubre de 2018, se basará en el índice de Los Ángeles-Long Beach-Anaheim del periodo de marzo a febrero que precede inmediatamente a la fecha efectiva del ajuste de la tarifa. A partir del 1 de julio de 2020 y después, ajustes del tipo de CPI (por sus siglas en inglés) se basará en el índice de Riverside-San Bernardino-Ontario durante el periodo de marzo a marzo que precederá inmediatamente a la fecha efectiva del ajuste de la tarifa.

El CPI (por sus siglas en inglés) u otra medida de ajustes automáticos anuales que se utilizarán serán los siguientes:

- i. Componente de servicio. El componente de servicio es el sesenta y cinco por ciento (65%) de la tarifa. El componente del servicio será ajustado por el CPI (por sus siglas en ingles) y determinado por la metodología mencionada anteriormente.
- ii. Componente de procesamiento de disposición de residuos/residuos verdes. El componente de procesamiento de disposición de residuos/residuos verdes se compone de treinta y cinco por ciento (35%) de la tarifa y será ajustado por el mayor de (1) el CPI (por sus siglas en inglés) del periodo que inmediatamente precede a la fecha efectiva al ajuste de la tarifa como se describe anteriormente; o (2) el aumento de porcentaje sobre la cuota por tonelada establecida por el departamento de gestión de residuos del condado de Riverside para la disposición de residuos sólidos generados dentro del condado de Riverside en los vertederos que son parte del sistema del condado (Badlands Landfill, Lamb Canyon Landfill, El Sobrante Landfill) del periodo que inmediatamente precede a la fecha efectiva al ajuste de la tarifa.

El concilio puede, a su discreción, adoptar dichos aumentos sin alguna audiencia y actuaciones de protesta. El programa de ajustes del tipo de propuesta cubiertos por este aviso será por un periodo de cinco años a partir de la fecha efectiva del primer aumento.

Si desea impugnar legalmente cualquier acción tomada por la ciudad en el aumento a la tarifa de residuos sólidos, se limita a elevar sólo las cuestiones que usted o alguien más hizo antes o en la audiencia pública como se describe en este aviso.

Aviso del propuesto ajuste a la tarifa para la colección, transporte y disposición de servicios de residuos sólidos

El Concilio considerará adoptar el ajuste de la tarifa propuesta que se describe en este aviso el 11 de septiembre del 2018 a las 5:00pm. Si las protestas contra las tarifas propuestas, como se indica en esta carta, no se presentan por una **mayoría** de los propietarios o clientes de registro, el Concilio estará autorizado a aplicar las tarifas propuestas. Si se adopta, el ajuste de la tarifa para la colección, transporte y disposición de servicios de residuos sólidos estará vigente a partir del 1 de octubre del 2018. Además, si se aprueban las tarifas, futuros ajustes de tarifas del índice de precios al consumidor también serán autorizados por cuatro (4) años adicionales los futuros incrementos ocurrirán el 1 de julio de 2019, 2020, 2021 y 2022.

Si usted tiene alguna pregunta acerca de los cambios de la tarifa propuesta o desea información adicional, por favor llame al: (951) 922-3130 entre las 8:00am y las 5:00 pm de lunes a viernes.

SEPARAE EL FORMULARIO DE ABAJO PARA PRESENTAR LA PROTESTA:
FORMA DE PROTESTA DE LA PROPOSICIÓN 218

PRESENTA AL
CITY CLERK
99 E. RAMSEY STREET
BANNING, CA 92220

PRESENTA ANTES O EL
11 de septiembre del 2018
a las 5:00 pm
Debe presentar protesta antes del cierre del
período de comentario de la audiencia
pública

Al marcar la casilla aplicable y al firmar el formulario de abajo, protesto el ajuste de la tarifa propuesta. Afirmo bajo pena de ley que yo soy el dueño/a de la parcela o el cliente de la siguiente dirección.

☐

Protesto el ajuste de la tarifa para la colección, transporte y disposición de residuos sólidos.

Dueño de la propiedad o información de parcela

Nombre del propietario: _____

Número de parcela (APN): _____

Dirección: _____

Ciudad, estado, código postal: _____

Información del cliente

Nombre del cliente: _____

Número de cuenta del cliente: _____

Dirección, calle de servicio: _____

Ciudad, estado, código postal: _____

Firma de propietario o cliente: _____

Fecha de Firma: _____

ATTACHMENT 3

Waste Management Letter Requesting a Rate Adjustment



June 18, 2018

Mr. Art Vela, P.E.
Director of Public Works/City Engineer
City of Banning
99 East Ramsey Street
Banning, CA 92220

RE: Revised 2018/2019 Rate Adjustment Request

Dear Mr. Vela:

Pursuant to Section 18A8, Annual Rate Adjustment of the franchise agreement, the 2018/2019 rate adjustment was calculated by using the Consumer Price Index as prepared by the United States Department of Bureau of Labor Statistics for the Los Angeles-Orange County-Riverside Metropolitan Area, all urban consumers December-December index.

Summary of Proposed Adjustments

- CPI- The average annual percentage change increase was 2.16% and should be applied to all service components and ancillary charges in the current rate sheet. Overall Rate Adjustment - The overall rate adjustment to the residential customer will be 3.43%.
- Solid Waste Disposal Costs- The Riverside County tipping fee will be increasing by 3.61% and will be applied to all disposal components of the rate structure. The disposal component of the rates will increase from \$37.95 to \$39.32 per ton.

Customer Rate Overview:

Residential Rate - \$21.71

Commercial Rate- \$122.34 [1- 3 yard serviced 1 x per week]

In addition, Waste Management is requesting the outlined below to address service impacts:

- Current Residential Green Waste contamination fee of \$15 be redefined as Residential Contamination fee for either contaminated green waste or recycling cart. Contamination of both green waste and recycling material, causes much damage to the rest of the clean material, that often the whole load is rejected as trash. By

implementing a residential contamination fee, the goal would be to help residents minimize using the greenwaste and recycling carts as a second trash cart.

- Roll off Bin Rental Service
Clarify services fees between 7-day Rental Min Haul and Extended Rental Service.
Currently, we lack ability to charge customer who wishes to extend bin rental more than 7-days, but not interested in the extended rental service.

Waste Management respectfully requests your approval of the proposed rate adjustment that will be applied to all service and disposal components effective July 1, 2018.

I look forward to meeting with you and your staff to discuss this matter in more detail. In the meantime, if you have any questions, please contact me at (951) 609-6341. I thank you in advance for your time and consideration.

Respectfully,

Lily V. Quiroa
Public Sector Manager
Waste Management

cc: Holly Stuart, City of Banning

ATTACHMENT 4

Draft Fifth Amendment to the Franchise Agreement between The City and Waste Management

**FIFTH AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE CITY OF
BANNING AND WASTE MANAGEMENT OF THE INLAND EMPIRE, A DIVISION
OF USA WASTE OF CALIFORNIA, INC., FOR COLLECTION, TRANSPORTATION,
RECYCLING AND DISPOSAL OF SOLID WASTE**

This Fifth Amendment to the Franchise Agreement for the Collection, Transportation, Recycling and Disposal of Solid Waste ("Amendment") is made and entered into this September 4, 2018, by and between the City of Banning, a California municipal corporation ("City") and USA Waste of California, Inc., a Delaware corporation dba Waste Management of the Inland Empire ("Grantee"), for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

RECITALS

- A. WHEREAS, the City and the Grantee entered into a Franchise Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste dated July 15, 1993 ("Franchise Agreement"); and
- B. WHEREAS, the City and the Grantee entered into an amendment ("First Amendment") to the Franchise Agreement on July 1, 2001, a Second Amendment on June 14, 2002, a Third Amendment on December 12, 2006, and a Fourth Amendment on June 28, 2011; and
- C. WHEREAS, the Franchise Agreement, as amended by the First, Second, Third, and Fourth Amendments, is referred to herein as the "Franchise Agreement"; and
- D. WHEREAS, the City and the Grantee have mutually agreed to modify the terms and conditions of the Franchise Agreement in order to adjust the Consumer Price Index ("CPI") utilized to adjust compensation.

NOW, THEREFORE, the parties agree to amend the Franchise Agreement as follows:

- A. SECTION 18. COMPENSATION: Section 18 is amended to make the following changes:

Sections 18.A.2 and 18.A.3 are hereby deleted in their entirety and replaced with the following:

- 2. Unless adjusted as provided herein, the rates shall be the existing rates which are shown in Exhibit "C". Beginning October 1, 2018 and on each July 1 thereafter, the rates shall be adjusted in accordance with the rate adjustment methodology set forth below, provided that 30 days' notice of the adjustment is given pursuant to Government Code Section 53756. The Grantee shall submit to the City, not less than 60 days prior to the effective date of the proposed adjustment, information in support of the adjustment. The City Manager shall review the information submitted by the Grantee for completeness and accuracy, and the parties agree to negotiate in good faith for 30 days regarding any dispute. Thereafter, based on the methodology below, any increase resulting therefrom must be approved through a public hearing process consistent with the provisions of Proposition 218 (Constitution Article XIII D). The City agrees to undertake the notice and protest

process to the extent required by Proposition 218 and implementing legislation. CPI formulas may not be imposed over a period of more than five years without a new Proposition 218 hearing consistent with Government Code Section 53752. At any such public hearing, the Council remains free to approve, modify or not approve such increase within its discretion and without liability to the Grantee. If the increase is not approved, the Grantee shall have the right within 180 days to request that a second hearing be held; and if such increase is still not approved following the second hearing, the Grantee may give a 180-day notice of termination and terminate the Franchise Agreement.

Service Component. The Service Component comprises 65% of the rate. For Fiscal Year 2019 with rates being effective October 1, 2018, the Service Component may be adjusted by the percentage increase in the Consumer Price Index ("CPI"), All Urban Consumers, for the Los Angeles/Long Beach/Anaheim Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the March to February period immediately preceding the effective date of rate adjustment. For adjustments following Fiscal Year 2019 beginning with July 1, 2019 and thereafter, the Service Component may be adjusted by the percentage increase in the Consumer Price Index ("CPI"), All Urban Consumers, for the Riverside/San Bernardino/Ontario Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the March to March period immediately preceding the effective date of rate adjustment.

3. Disposal/Green Waste Processing Component. The Disposal/Green Waste Processing Component comprises 35% of the rate. The Disposal/Green Waste Processing Component will be adjusted by the greater of:
 - (1) The Disposal/Green Waste Component may be adjusted for Fiscal Year 2019 by the percentage increase in the Consumer Price Index ("CPI"), All Urban Consumers, for the Los Angeles/Long Beach/Anaheim Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the March to February period immediately preceding the effective date of rate adjustment. For adjustments following Fiscal Year 2019 beginning with July 1, 2019 and thereafter, the Disposal/Green Waste Processing Component may be adjusted by the percentage increase in the Consumer Price Index ("CPI"), All Urban Consumers, for the Riverside/San Bernardino/Ontario Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the March to March period immediately preceding the effective date of rate adjustment; or
 - (2) The percentage increase in the per ton tipping fee established by the Riverside County Waste Management Department for disposal of Solid Waste generated within Riverside County at landfills comprising the County System (Badlands Landfill, Lamb Canyon Landfill, El Sobrante Landfill) for the March to February period immediately preceding the effective date of the rate adjustment.

B. INTEGRATION:

Except as specifically amended by this Fifth Amendment, all other provisions of the Franchise Agreement shall remain in full force and effect.

In WITNESS WHEREOF, the parties hereto have caused this Fifth Amendment to be executed by their duly authorized officers as of the date first above written.

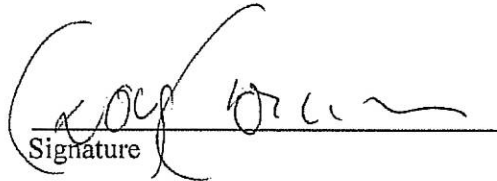
CITY OF BANNING,
a California municipal corporation

USA WASTE OF CALIFORNIA, INC.,
a Delaware corporation

Rochelle Clayton,
Interim City Manager

ATTEST:

By: Doug Corcoran
Print Name


Signature

Sonja De La Fuente,
Deputy City Clerk

Vice President
Title

APPROVED AS TO FORM AND
LEGAL CONTENT

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

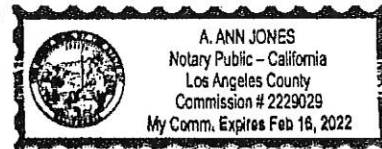
COUNTY OF RIVERSIDE

On Sept. 4, 2018 before me, A. Ann Jones, Notary Public, personally appeared Doug Corcoran, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: A. Ann Jones



OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

- CAPACITY CLAIMED BY SIGNER**
- ☐ INDIVIDUAL
- ☒ CORPORATE OFFICER
Vice President
TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER _____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))
USA Waste of California, Inc.

DESCRIPTION OF ATTACHED DOCUMENT
Fifth Amendment to Franchise Agreement between City of Banning and Waste Management of the Inland Empire
TITLE OR TYPE OF DOCUMENT

3
NUMBER OF PAGES

9-04-2018
DATE OF DOCUMENT
Rochelle Clayton, Interim City Mgr.,
Sonja De La Fuente, Deputy City Clerk,
Kevin G. Ennis, City Attorney
SIGNER(S) OTHER THAN NAMED ABOVE

ATTACHMENT 5

Rate Comparison

RIVERSIDE COUNTY
SOLID WASTE SURVEY- JULY 1, 2017
RESIDENTIAL RATES AS OF JULY 1, 2017

City	Residential Total Monthly Rate	Provider	Notes
Palm Desert (Burrtec Waste)	\$12.50	Burrtec Waste	150/year
Indio (Burrtec Waste)	\$14.87	Burrtec Waste	178.44/year
Cathedral City (Burrtec Waste)	\$17.08	Burrtec Waste	205/year based on taxes
Rancho Mirage (Burrtec Waste)	\$17.50	Burrtec Waste	210/year
Coachella (Burrtec Waste)	\$20.50	Burrtec Waste	246/year
Blythe (CR&R Inc.)	\$20.92	CR&R Inc.	
Banning (Existing)	\$20.99	Waste Management	
Indian Wells (Burrtec Waste)	\$21.20	Burrtec Waste	245/year based on property taxes
Beaumont (Waste Management)	\$21.66	Waste Management	
Banning (Proposed)	\$21.74		
Corona (Waste Management)	\$22.42	Waste Management	
Hemet (CR&R Inc.)	\$22.46	CR&R Inc.	
Temecula (CR&R Inc.)	\$22.67	CR&R Inc.	
Moreno Valley (Waste Management)	\$22.68	Waste Management	
Riverside (Burrtec Waste)	\$23.68	Burrtec Waste	
Riverside (Public Works Solid Waste Div)	\$23.68	Public Works Solid Waste Division	
Wildomar (Waste Management)	\$24.20	Waste Management	Without yard waste \$20.11
San Jacinto (CR&R Inc.)	\$24.37	CR&R Inc.	
Norco (Waste Management)	\$24.74	Waste Management	
Canyon Lake (CR&R Inc.)	\$25.26	CR&R Inc.	
Jurupa Valley (Burrtec Waste)	\$25.46	Burrtec Waste	
Menifee (Waste Management)	\$25.84	Waste Management	Without yard waste \$23.05
Wildomar (CR&R Inc.)	\$26.32	CR&R Inc.	
Jurupa Valley (Waste Management)	\$26.35	Waste Management	
Calimesa (CR&R Inc.)	\$26.69	CR&R Inc.	
Lake Elsinore (CR&R Inc.)	\$26.85	CR&R Inc.	
Perris (CR&R Inc.)	\$29.61	CR&R Inc.	

RATE COMPARISON

Residential Monthly Rates
2017

