General Information

The City of Montclair provides a number of property-related services to residents and property owners within the City's administrative boundaries including greenwaste, recycling, and solid waste disposal services—collectively referred to herein as solid waste disposal services. The cost of providing solid waste disposal services is charged directly to residents and property owners.

Pursuant to Title 6, Section 6.16.050 of the Montclair Municipal Code, the City Council may, from-time-to-time, consider adjustments to rates for solid waste disposal services; however, in compliance with Proposition 218 (1996) rate adjustments cannot exceed established maximum rate caps unless and until such rates caps are increased pursuant to the public notification and hearing process as required by Proposition 218. The City Council authorizes Proposition 218 public notifications and hearings for property-related fee adjustments, and establishes fee caps related thereto.

Burrtec Waste Industries, the City's franchise solid waste hauler, is requesting rate increases for residential and commercial accounts. In order to properly consider refuse rate increases, the City Council must first provide notifications and conduct hearings pursuant to Proposition 218.

Burrtec Waste Industries, Inc. (Burrtec), the City's franchise solid waste hauler, is seeking an adjustment to residential and commercial refuse rates. Proposed rate adjustments include new fees for recycling and sanitation to comply with state law mandates, provide enhanced service levels to the community, establish a new multi-family commercial rate, and provide commercial operators with a range of optional services.

Proposition 218 Hearing Requirement

In order to proceed with rate adjustments for residential and commercial solid waste services, the City is required to conduct a Proposition 218 hearing to establish a five-year period of maximum rate caps. The requirement to conduct a Proposition 218 public hearing on refuse rates was confirmed on July 24, 2006, when the California Supreme Court published its decision in *Bighorn-Desert View Water Agency v. Beringson*, addressing the property-related-fee provisions of Proposition 218. In its decision, the Court ruled that where a rate is set by a government agency, it is a "property-related" fee subject to the public hearing requirements of Proposition 218. A Proposition 218 public hearing on refuse rates was last held on April 16, 2007. At that time, the City Council approved a ten-year schedule of maximum rate caps for refuse services—June 1, 2007 through June 30, 2017.

Government Code Section 53756

In addition to complying with the Proposition 218 public hearing process, municipal agencies are required to comply with Government Code Section 53756, which provides that *an agency providing… refuse collection service may adopt a schedule of fees or*

charges authorizing automatic adjustments that pass through increases…if it complies with all of the following:

a. Adopts the schedule of fees or charges for a property-related service for a period not to exceed five years.

b. The schedule of fees may include a schedule of adjustment, including a clearly defined formula for adjusting for inflation, not to exceed the cost of providing that service.

c. Notice of any adjustment pursuant to the schedule shall be given not less than 30 days before the effective date of the adjustment.

Government Code Section 53756 was chaptered into law on July 13, 2012, approximately five years after the City Council conducted its April 16, 2007, Proposition 218 public hearing on refuse service rates.

Proposition 218 Public Hearing Process

Article XIIID, Section 6(a) of the State Constitution (Proposition 218-1996), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed fees or charges are to be applied.

a. A public hearing shall be conducted not less than 45 days after mailing of the notice.

b. If written protests against a proposed fee or charge are presented by a majority of owners of the parcels, the fee adjustment shall not be implemented.

c. If a majority protest is not received, the rate cap shall go into effect without further action.

d. Written protests can be provided to the City in advance of the date set for a public hearing.

The date set for the public hearing before the City Council is January 20, 2014, at 7:00 p.m., in the Montclair City Council Chambers. A workshop, where property owners can ask questions regarding proposed refuse rate caps, is scheduled for Tuesday, January 7, 2014, at 6 p.m., in the Montclair City Council Chambers. City staff and representatives from Burrtec will be available at both the workshop and public hearing to respond to property owners' questions.