



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Holly Stuart, Public Works Program Manager
Arturo Vela, Director of Public Works

MEETING DATE: May 14, 2024

SUBJECT: Consideration of Resolution 2024-65, Receiving a Report in Connection with the Proposed Collection on the 2024-25 Riverside County Property Tax Roll of Delinquent Solid Waste Service Charges for Single-Family and Multi-Family Accounts for Calendar Year 2023, Setting a Public Hearing on the Report and Making a Determination of Exemption Under CEQA

RECOMMENDATION:

Adopt Resolution 2024-65.

BACKGROUND:

On April 27, 2021, the City Council approved a solid waste franchise agreement with Waste Management of the Inland Empire (Waste Management) for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services (Franchise Agreement), effective July 1, 2021.

In accordance with the Franchise Agreement, on October 12, 2021, the City Council adopted Ordinance No. 1576, amending and restating Chapter 8.28, "Garbage Collection and Disposal," of Title 8, "Health and Safety," of the Banning Municipal Code. In addition to implementing many aspects of the new Franchise Agreement, the ordinance allows the collection of delinquent residential service charges on the County Tax Roll in accordance with the Franchise Agreement and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("Article 4"). The operative date of the amendments to the Municipal Code was January 1, 2022.

Pursuant to Article 4 of the Franchise Agreement, delinquent charges collected on the County Tax Roll will be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

The Franchise Agreement establishes that Waste Management shall provide solid waste collection services to residential accounts, which includes both single-family dwellings (SFD) and multi-family dwellings (MFD) and that services provided to residential accounts that become delinquent are not able to be discontinued. In consideration of Waste Management not being able to discontinue residential services, the City committed to working with Waste Management in placing qualifying residential delinquencies on the County Tax Roll. To initiate the process, the Franchise Agreement requires Waste Management, on May 1st of each year or such other agreed upon date, to notify the City in writing that it seeks to have the City place qualifying delinquencies on the County Tax Roll. At no cost to the City, Waste Management is responsible for timely preparing required information, reports, notices, and

materials.

Pursuant to the Franchise Agreement, a qualifying delinquent charge is a SFD or MFD charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as listed on the last equalized assessment roll.

JUSTIFICATION:

As permitted by the Franchise Agreement, Article 4, Waste Management submitted a formal letter to the City requesting that qualifying delinquent solid waste service charges for calendar year 2023 be placed on the 2024-25 County Tax Roll, including a description of each parcel within the City for which there is a qualifying delinquent charge (“Identified Parcel”) and the delinquent amount for each Identified Parcel (the “Report”). The Report is on file in the office of the City Clerk. Amounts listed in the Report include past due charges for service and delinquent fees (2.5% or \$5 minimum on balances over \$15) and County Tax Roll Fees that amount to 10% of unpaid balances per occurrence.

For the 2023 calendar year period, Waste Management’s request amounts to 890 delinquent residential accounts for a total principal balance of \$340,655. The principal balance includes all invoices within the dates of January 1, 2023 through December 31, 2023, and include service fees, monthly late fees, extra services and may include multiple account billings for some parcels. Multiple account billings usually occur when the parcel has multiple units on one parcel.

The City Council must hold a Public Hearing on the Report and cause notice of the Public Hearing to be published and mailed. Under this resolution, the City acknowledges receipt of the Report, sets a public hearing on the Report on June 25, 2024, and directs the City Clerk to cause notice of the public hearing to be mailed and published. Notice must be published at least 14 days prior to the date of the Public Hearing and again at least five days after the first publication. The notice must be mailed at least 14 days prior to the Public Hearing to the owner of each Identified Parcel at the address shown on the last equalized assessment roll available on the date the Report was prepared or as known to the City Clerk, and to the address to which the invoices are customarily mailed, if different than the owner’s address.

The notice will identify that delinquent account holders or parcel owners have until July 19, 2024, to resolve any outstanding balances directly with Waste Management and be removed from placement on the County Tax Roll. Consequently, following this date, Waste Management shall provide an updated Report to the City which reflects the removal of any resolved delinquencies from the initial list. At the time of the Public Hearing, staff will provide the updated Report including an updated number of delinquent residential accounts to be placed on the County Tax Roll and the revised principal balance.

At the Public Hearing, the City Council shall hear and consider all objections or protests, if any, to the Report. If the City Council finds at the conclusion of the Public Hearing that the protest is made by the owners of a majority of the separate Identified Parcels, then the Report shall not be adopted and the delinquent charges shall not be collected on the County Tax Roll. In the absence of a majority protest, the City Council may adopt or reduce any delinquent charge or overrule any or all objections.

By approving this Resolution, the City Manager or his designee is authorized, prior to the submission of the delinquent charges to the County Auditor Controller for collection on the 2024-25 County Tax Roll, to remove from the Report any Identified Parcel for which the delinquent charge has been paid in full, or to reduce the delinquent amount set forth in the Report for any Identified Parcel for which there has been a partial payment of the delinquent amount.

Under this approval, the City Council will be authorizing the scheduling of a Public Hearing on June 25, 2024 and directing staff to initiate the County Tax Roll collection process.

CEQA:

City staff has evaluated the proposed collection of the delinquent charges on the County Tax Roll for purposes of compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. City staff has determined that the proposed collection of delinquent charges on the tax roll is an activity covered by the common sense exemption in that it can be seen with certainty that there is no possibility that such collection may have a significant effect on the environment because the collection only addresses the cost of an existing service provided to the public and not the commencement of a new service or program. Accordingly, the process for the collection of the delinquent charges on the County Tax Roll is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT:

At no cost to the City, Waste Management shall be responsible, without limitation, for all costs associated with preparing required information, including but not limited to, reports, notices, and materials, publication costs, and Riverside County fees. The Franchise Agreement provides that the City will pay Waste Management moneys collected from the payment of the delinquent charges placed on the County Tax Roll, less the franchise fee equal to twelve and one-half percent (12.5%).

ALTERNATIVES:

1. Adopt Resolution 2024-65 as recommended.
2. Adopt Resolution 2024-65 with modifications.
3. Reject Resolution 2024-65 and provide alternative direction to staff. If rejected, pursuant to the Franchise Agreement, Waste Management shall have the right to dispute the denial action by pursuing measures outlined in the Franchise Agreement.

ATTACHMENTS:

1. [Resolution 2024-65, WM Tax Roll Additions for Solid Waste Delinquencies.docx](#)
2. [Attach2_WMLetter_4.04.24.pdf](#)