

## Agenda Memorandum

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**To:** Honorable Mayor and City Council Members  
**Prepared By:** Bobby Wyatt, Public Works Director  
**From:** Bryan Cobb, City Manager  
**Date:** April 7, 2025  
**Subject:** **Code of Ordinances Section 38-99 Rates Subject to Review**

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**Procedure:** Discussion

**Introduction:** This is a request for City Council to provide direction regarding whether or not Code of Ordinances Section 38-99 should be deleted and Section 16 should be removed from the City's Commercial Solid Waste Franchise Agreement (Agreement).

**Discussion:** At its March 3, 2025 meeting, City Council approved the renewal of Commercial Solid Waste Franchise Agreements with the adoption of Resolution 4575-25. There were nine (9) franchisees renewed. Since that time, staff has learned that one (1) franchisee, Container Rental, was non-responsive in returning the necessary documentation and Agreement. Six (6) franchisees have provided all of the requirements and renewed, and two (2) Franchisees, Waste Management and Waste Pro, have not complied with the Agreement requirements due to concerns with Agreement Section 16, Charges and Rates. Agreement Section 16 reads:

*“All charges and rates for commercial garbage collection shall be subject to potential review and approval by the City. The Franchisee shall annually submit to the City a proposed schedule of rates using the Rate Schedules Form in Exhibit D-5. “*

Agreement Section 16 is included in the Commercial Solid Waste Franchise Agreement because of Code of Ordinances Section 38-99. Section 38-99 reads:

*“The rates of collection charges by private waste collectors shall be subject to review and approval by the city council.”*

Staff received a letter from Waste Management, Inc. stating that their rates are a “trade secret” and constitute confidential and proprietary information that Waste Management, Inc. cannot disclose. A copy of Waste Management, Inc.’s letter is provided in Attachment 1.

The question of requiring the rate submittals was brought to the attention of the Assistant City Attorney prior to preparing the Agreements for renewal. The Assistant City Attorney opined that the City has the right to require submission by a prospective franchisee of its rate schedule as part of any application submitted pursuant to Code of Ordinances Article IV, Private Waste Collectors. A copy of the Assistant City Attorney’s legal opinion is provided in Attachment 2.

**Budget Impact:** There is no budget impact associated with a discussion of whether or not Code of Ordinances Section 38-99 should be deleted and Section 16 should be removed from the City's Commercial Solid Waste Franchise Agreement.

**Strategic Impact:** A discussion of whether or not Code of Ordinances Section 38-99 should be deleted and Section 16 should be removed from the City's Commercial Solid Waste Franchise Agreement (Agreement) Requirements is consistent with the goal, objectives and strategies of the Resilient Infrastructure and Natural Environment Strategic Focus Area.

**Recommendation:** It is recommended that City Council provide direction on whether or not Code of Ordinances Section 38-99 should be deleted and Section 16 should be removed from the City's Commercial Solid Waste Franchise Agreement (Agreement) Requirements.

- Attachment(s):
1. Waste Management Letter
  2. Assistant City Attorney Legal Opinion