



# City of Culver City

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## Staff Report

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**File #:** 24-884, **Version:** 1

**Item #:** A-4.

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**CC - ACTION ITEM:** (1) Consideration of Request by SRM Construction to Waive Refuse Penalty Incurred and Assessed on October 1, 2023 in the Amount of \$10,820; and (2) If Desired, Authorization to the City Manager to (A) Waive Penalties in an Amount Determined by the City Council; or (B) Deny the Request for Waiver.

**Meeting Date:** April 29, 2024

**Contact Person/Dept:** Sean Singletary/Public Works Department  
Michael Towler/Finance Department

**Phone Number:** (310) 253-6457

**Fiscal Impact:** Yes  No

**General Fund:** Yes  No

**Attachments:** Yes  No

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (04/24/2024)

**Department Approval:** Yanni Demitri, Public Works Director (03/28/2024)

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### **RECOMMENDATION**

Staff recommends the City Council (1) consider the request by SRM Construction to waive the refuse penalty incurred and assessed on October 1, 2023 in the amount of \$10,820.21; and (2) if desired, authorize the City Manager to: (A) waive penalties in an amount determined by the City Council; or (B) deny the request for waiver.

### **BACKGROUND**

Culver City's Department of Public Works Environmental Programs and Operations (EPO) division issues refuse containers for permanent addresses, temporary productions, and construction in the City, and the Finance Department bills for these services. SRM Construction received roll-off rental services from EPO for the trash, recycling, construction and demolition recycling for the construction of a new five-story licensed assisted living facility with ground floor retail at 11141 Washington Boulevard, incurring costs of \$21,640.41 in August 2023. Invoice #637138 was issued on September 1, 2023, and payment was not received by the due date of September 30, 2023.

Pursuant to Culver City Municipal Code (CCMC) Section 5.01.080.A, late charges are assessed at 50% of the total invoiced amount. The charges are incurred if the payment was made after the last day of the month following the service month. The customer mailed the check for the principal amount of \$21,640.21 to the City on October 2, 2023, which was received and processed to the customer's account on October 10, 2023, after the September 30, 2023 deadline.

Invoice #638776 issued on October 1, 2023 included a penalty of \$10,820.21 for the late payment. On October 10, 2023, SRM submitted a Refuse Penalty Waiver Request Form for the \$10,820.21 penalty. The reason stated for the delayed payment was due to mailing delays. The customer indicated that there was a delay in receiving the invoice via postal mail services. Staff originally agreed to waive a partial amount of \$5,000 (the administrative limit) based on feedback at the time from other refuse customers that experienced similar postal delays in receiving their bills via postal mail which caused their payments to be mailed to the City after the due date. However, SRM Construction elected to request that City Council waive the entire penalty.

### **DISCUSSION**

Pursuant to CCMC Section 5.01.080.B.4., only the City Council has the authority to waive late charges in amounts of \$5,000 or greater. The City Council's determination regarding such request shall be final. Only one penalty can be waived per account per 12-month period. Only one penalty can be waived per account per 12-month period.

The penalty assessed by the City was accurate as the payment was not received by the due date. However, while the CCMC requires timely application of penalties if the payments are not received by the due date, the Administrative Procedure #2011-AP002 includes language that speaks to consideration for penalty waiver due to postal delays. SRM indicated that they experienced postal delays in receiving the invoice late from the City, thereby causing them to remit the payment to the City late. City staff located supporting documentation for the payment in question that included a post office postmark confirmation on Monday 10/2/2023, the first business day of the following month. Therefore, staff believes that the customer provided a reasonable cause that aligns with the provisions in the Administrative Procedure.

Staff received feedback at the time from other refuse customers that experienced similar postal delays in receiving their bills via postal mail delivery services which caused payments to be mailed to the City after the due date. In those specific cases where the customers incurred penalties under the \$5,000 threshold due to postal delivery delays, staff approved the penalty waiver requests administratively.

### **FISCAL ANALYSIS**

Staff recommends that Council waive the late penalty amount of \$10,820.21 on the account. The one-time waiver of this penalty will not have a material impact on the Refuse Disposal Fund's (#202) overall fiscal health.

### **ATTACHMENTS**

2024-04-29-ATT-CC-SRM\_Construction-Penalty\_Waiver\_Form

**MOTION**

That the City Council:

1. Consider SRM Construction's request for waiver of the refuse penalty incurred and assessed on October 1, 2023 in the amount of \$10,820.21; and
2. Authorize the City Manager to:
  - A. **(Staff Recommendation)** Waive penalties in the amount of \$10,820.21; or
  - B. Waive penalties in a different amount to be determined by the City Council; or
  - C. Deny SRM's request for waiver of penalties.