

RESOLUTION No. 2022-09

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE AVILA BEACH COMMUNITY SERVICES DISTRICT
ADOPTING INCREASED RATES AND CHARGES FOR COMMERCIAL AND
RESIDENTIAL COLLECTION AND DISPOSAL OF SOLID WASTE PURSUANT TO
PROPOSITION 218 (CALIFORNIA CONSTITUTION ARTICLE XIII D)**

WHEREAS, the Avila Beach Community Services district ("District") provides waste disposal services within the District's service area pursuant to section 61100 of the Community Services District Law; and

WHEREAS, South County Sanitary Service (the "Garbage Company"), pursuant to an exclusive franchise agreement, currently provides commercial and residential collection and disposal of solid waste services within the District service area; and

WHEREAS, Government Code section 61115 authorizes the District Board of Directors ("Board") to adopt rates or other charges for services provided by the District by Resolution; and

WHEREAS, Proposition 218 amended the California Constitution to establish a process that public agencies must follow when imposing new or increased "property related fees"; and

WHEREAS, at least forty-five (45) days in advance of the public hearing at which this Resolution was considered, the District mailed a notice of the public hearing, which included notice of oral and written protest procedures against the proposed rate increase, to all affected property owners and record owners in compliance with Section 6 of Article XIII D of the California Constitution;

WHEREAS, on August 9, 2022, the Board held a public hearing regarding the District's proposed rate increase, considered public comment, and at its conclusion, the Board tabulated the number of written and oral protests received, if any, and reported that there was not a majority protest of the proposed rates by record owners; and

WHEREAS, based on facts and analysis presented by the District staff, the Staff Report, written protests received prior to the close of the public hearing, if any, and public testimony received, the Board finds:

A. The public hearing adopting this Resolution has been properly noticed pursuant to Government Code section 54954.2 (The Brown Act) and Section 6 of Article XIII D of the California Constitution. The 45-Day Notice of Public Hearing Regarding Proposed Solid Waste Rate Increase is incorporated herein by this reference.

B. The written protests received by the District prior to the close of the public hearing, if any, do not constitute a majority protest.

C. That the rates and charges adopted by this Resolution:

1. Are for the purposes of meeting operating expenses for providing solid waste collection and disposal services within the District;

2. Do not exceed the funds required to provide commercial and residential solid waste collection and disposal services; and
3. Do not exceed the proportional cost of services attributable to those parcels receiving solid waste collection and disposal services.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Avila Beach Community Services District Board of Directors as follows:

Section 1. Rates and Charges.

The rates and charges for commercial and residential collection and disposal of solid waste, as established in Exhibit A, attached hereto and incorporated herein by this reference, are approved and adopted.

Section 2. Incorporation of Recitals.

The above recitals are true and correct and incorporated herein by this reference and constitute findings of the District in support of this Resolution.

Section 3. Severability.

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 4. Effect of Repeal on Past Actions and Obligations.

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, and does not waive any fee or penalty due and unpaid on the effective date of this Resolution.

Section 5. CEQA Findings.

The Boardt finds that the rates and charges adopted by this Resolution are exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080, subdivision (b)(8), and CEQA Guidelines section 15273.

Section 6. Inconsistency.

To the extent that the terms or provisions of this Resolution may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations, governing the same subject matter thereof, then such inconsistent and

conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

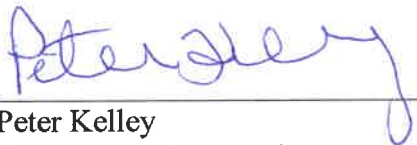
Section 7. Effective Date.

This Resolution shall take effect immediately. The rates and charges adopted by this Resolution shall take effect August 15, 2022.

On the motion of Director Kennett, seconded by Director Berry and on the following roll call vote, to wit:

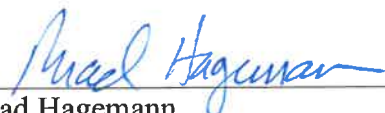
AYES: 4
NOES: 0
ABSENT: 1

The foregoing Resolution is hereby passed, approved and adopted by the Board of Directors of the Avila Beach Community Services District this 9th day of August 2022.



Peter Kelley
President of the Board
AVILA BEACH COMMUNITY
SERVICES DISTRICT

ATTEST:



Brad Hagemann
General Manager
and Secretary to the Board