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RESOLUTION NO. 19-7210

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH APPROVING AN ORGANIC WASTE RECYCLING PROGRAM FOR HERMOSA BEACH BUSINESSES AND RESIDENTS AND AUTHORIZING THE COLLECTION OF ADDITIONAL FEES IN ORDER TO IMPLEMENT AN ORGANIC WASTE RECYCLING PROGRAM

SECTION 1. RECITALS

1. Assembly Bill (AS) 1826 was signed into law on September 28, 2014, and requires businesses, including restaurants; supermarkets; large venues; and food processors, that generate a specified amount of organic waste, specifically food waste, per week to arrange for recycling services for that organic waste in a specified manner beginning April 1, 2016; and

2. AB 1826 defines a "business" as a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling of 5 units or more; and

3. "Organic Waste" is defined as food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste; and

4. AB 1826 requires that jurisdictions implement an organics recycling program for businesses by January 1, 2016, that includes education, outreach, and monitoring activities and reporting annually to the Department of Resources Recycling and Recovery (CalRecycle); and

5. SB 1826 requires that jurisdictions implement an organics recycling program for businesses by January 1, 2016, that includes education, outreach, and monitoring activities and reporting annually to the Department of Resources Recycling and Recovery (CalRecycle); and

6. In 2016 the State of California enacted SB 1383 (Lara, Chapter 395, Statutes of 2016), establishing methane emissions reduction targets, to be achieved via even greater diversion of organics from landfills, in a statewide effort to reduce emissions of short-lived climate pollutants; and

7. The City's existing franchise agreement with Athens Services contemplates requiring an organic waste recycling program and the City has worked with Athens Services to

1 develop a new organic waste recycling program for both businesses and residential customers;
2 and

3 8. The organic waste recycling program will divert food waste, green waste, landscape
4 and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in
5 with food waste from the landfill to a green cart and will be hauled to Athens' owned
6 American Organics facility in Victorville, California, for composting; and

7 9. The current level of solid waste collection and disposal service rates is insufficient
8 to recover the total costs of providing the organic waste recycling program; and

9 10. The City proposes to collect additional fees in the amount necessary to implement
10 the organic waste recycling program; and

11 11. The City Council finds, with respect to the revenue derived from the additional fees,
12 that (1) there is a reasonable relationship between the fees and the services for which they are
13 imposed; (2) the revenue derived from the increased fees does not exceed the amount necessary
14 to provide the services;

15 (3) the increased fees shall not be used for any purpose other than that for which the fees are
16 imposed;

17 (4) the increased fees do not exceed the proportional cost of the services attributable to each
18 parcel served; and (5) the increased fees are not levied for general governmental purposes; and

19 12. Pursuant to California Proposition 218 (California Constitution Article XIID,
20 Section 6), at least 45 days prior to the hearing on this Resolution, the City has mailed, postage
21 prepaid, a notice of the public hearing on the proposed solid waste rate increase to the property
22 owner of each identified parcel upon which the increased rates are being proposed, and

23 13. Said notice identified: (1) the amount of the additional fees to be charged; (2) the
24 basis upon which the fees were calculated; (3) the reason for the fees; and (4) the date, time,
25 and location for the public hearing on the fees; and

26 14. On September 10, 2019, the City Council conducted a duly noticed public hearing
27 at which time all those wishing to be heard were afforded an opportunity to be heard, and at
28 which time the City Council considered any and all written protests concerning the proposed
organic waste recycling program fees; and

15. All other prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The following fee increases, as set forth in Exhibit "A" (attached hereto and incorporated by reference herein) are hereby approved and adopted by the City Council; an increase of 2.41% in residential rates for single-family and multi-family accounts with 4 or less units on all carts (trash, blue recycling and green organic waste, with a green cart to be made available to all customers); and across the board increase for commercial and multi-family (with 5 or more units) of 27.46%.

SECTION 2. Pursuant to Government Code section 53756, an Annual Rate Adjustment will be applied, limited to the weighted change in the Bureau of Labor Statistics indices shown in the table below, capped at no more than a 5% increase in any one year. If approved, these rates, charges and adjustments will be effective October 1, 2019, and the annual adjustment will be applied July 1 of each year, ending June 30, 2021 and subject to a two-year extension.

Cost Category	Rate Adjustment Factor
Labor	Employment Cost Index CIU20100005200000I, Total compensation, Private industry, Index number, Transportation and material moving
Fuel	Producer Price Index WPU 0531, Not seasonally adjusted, Fuels and related products and power, natural gas
Equipment	Producer Price Index, PCU336120336120, Heavy duty truck manufacturing
Processing/Disposal	Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index -U.S. city average or 5%, whichever is lower
All Other	Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index -U.S. city average

The automatic adjustments authorized by this Section 2 may be implemented by the City during the time frame provided, without complying with the notice, hearing and majority protest procedures provided in Proposition 218. However,

1 the City shall provide property owners written notice thirty (30) days prior to
2 implementing any increase in accordance with Government Code Section 53756.
3 At no time may an automatic adjustment exceed the cost of providing the solid
4 waste services.

5 **SECTION 3.** The new fees proposed will be effective upon completion of an education and
6 outreach campaign to Hermosa Beach businesses and residents for a minimum
7 of four weeks from the date of adoption of this resolution.

8 **SECTION 4.** Pursuant to Section 21080(b)(8) of the Public Resources Code, and Section
9 15273(a) of the Guidelines for the Implementation of the California
10 Environmental Quality Act ("CEQA"), review under CEQA is not required
11 because the City Council action increasing solid waste service rates is for the
12 purpose of (i) meeting solid waste collection and disposal operating expenses due
13 to a new organic waste recycling program, (ii) purchasing or leasing supplies,
14 equipment, or materials for the solid waste collection and disposal services and
15 a new organic waste recycling program, and (iii) obtaining funds for capital
16 projects necessary to maintain solid waste collection and disposal service. This
17 action is also exempt pursuant to Sections 15061(b)(3) and 15378(b)(4) of the
18 CEQA Guidelines because it involves the creation of a government funding
19 mechanism that does not involve any commitment to any specific project which
20 may result in a potentially significant physical impact on the environment. This
21 action is also exempt pursuant to Sections 15307 and 15308 of the CEQA
22 Guidelines because the organic waste recycling program will assure the
23 maintenance, restoration, enhancement, or protection of a natural resource or the
24 environment by reducing methane emissions via diversion of organic waste from
25 landfills.

26 **SECTION 5.** The City Manager shall have the authority to interpret the
27 provisions of this Resolution for purposes of resolving ambiguities.

28 **SECTION 6.** This Resolution shall take effect immediately. The City Clerk shall certify
to the passage and adoption of this Resolution; shall cause the original of the same to be entered
among the original resolutions of the City Council; shall make a minute of the passage and

1 adoption thereof in the minutes of the City Council meeting at which the same is passed and
2 adopted; and shall transmit a copy of this Resolution to the Applicant.

3 **PASSED, APPROVED AND ADOPTED this 10th day of September 2019.**

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7 _____
8 **MAYOR of the City of Hermosa Beach, California**

9 **ATTEST:**

10 **APPROVED AS TO FORM:**

11 
12 _____
13 **City Clerk**

14 
15 _____
16 **City Attorney**