RESOLUTION NO. 2020-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, WHICH FOLLOWING A PUBLIC HEARING PURSUANT TO PROPOSITION 218, AND FINDING AN INSUFFICIENT PROTEST EXISTS, APPROVES AMENDMENT NO. 1 TO THE FRANCHISE AGREEMENT BY AND BETWEEN CONSOLIDATED DISPOSAL SERVICES AND THE CITY OF BELL WHICH AMONG OTHER THINGS WILL EXTEND THE FRANCHISE TO MARCH 1, 2023 AND APPROVES MAXIMUM RATE INCREASES OF 12% OVER THE THREE YEAR EXTENDED TERM

WHEREAS, the City of Bell is a charter city duly organized and existing pursuant to the California Constitution and the laws of the State of California (hereinafter the “City”); and

WHEREAS, the City Council on July 1, 2012 entered into a franchise agreement with Consolidated Disposal Services, L.L.C. (hereinafter “Consolidated”) for the collection, recycling and disposal of residential and commercial waste (“Franchise Agreement”); and

WHEREAS, Consolidated has requested rate increases to residential and commercial solid waste collection, recycling and disposal service rates and rate increases for street sweeping rates; and

WHEREAS, the City and Consolidated seek to amend the Franchise Agreement as follows: increase the service rates, extend the Original Term of the Franchise Agreement, and address pending regulations related to organic waste provisions expected to be implemented by pending Senate Bill 1383; and

WHEREAS, all amendments to the Franchise Agreement sought by the City and Consolidated are detailed in Amendment No. 1 to the Franchise Agreement which is attached hereto as Exhibit “A” which extends the Franchise for three years until March 1, 2023;

WHEREAS, pursuant to California Government Code 53756, an agency providing refuse collection services may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases for adjustments for inflation, if it complies with all of the following: (1) The agency adopts the schedule of fees or charges for a property-related service for a period not to exceed 5 years pursuant to California Government Code Section 53755; (2) The schedule of fees or charges may include a schedule of adjustments, including a clearly defined formula for adjusting for inflation, and any inflation adjustment to a fee or charge for a property-related service shall not exceed the cost of providing that service; and (3) Notice of any adjustment pursuant to the schedule shall be given pursuant to California Government Code Section 53755(a) (which may be provided in the regular billing statement for the fee), not less than 30 days before the effective date of the adjustment; and

WHEREAS, more than 45 days prior to the date of this Resolution, a Notice Of Public Hearing Regarding Proposed Solid Waste Rate Increase, was mailed to the record owners of each parcel and to all refuse collection service customers, in accordance with the requirements of Proposition 218, the “Right to Vote on Taxes Act”, Articles XIIIC and XIIID of the California Constitution, and California Government Code Section 53750 et seq.; and
WHEREAS, on January 8, 2020, the City Council held a Public Hearing, to consider residential and commercial solid waste collection, recycling and disposal service rates and street sweeping rates as described above; which meeting and public hearing was held more than 45 days after the mailed notice of proposed increased refuse collection service charges; and

WHEREAS, written protests to the proposed increased refuse collection service charges have not been presented by a majority of the owners or tenant/rate payers of the identified parcels in the City; and

WHEREAS, although the lack of a majority protest authorizes the City Council to adopt rates for the next five fiscal years, the City Council is not required to implement all of the annual rate increases; and

WHEREAS, the City Council deems it in the public interest to adopt fees or charges for residential solid waste collection, recycling and disposal services for the next three years pursuant to California Government Code Section 53755, incorporating adjustments as further identified in Exhibit “A” to this Resolution; and

WHEREAS, the increased residential and commercial solid waste collection, recycling and disposal services charges for the City as set forth in Exhibit “A”, attached hereto and made a part hereof, are required to cover the cost of providing for residential and commercial solid waste collection, recycling and disposal services to property owners within the City; and

WHEREAS, the increased residential and commercial solid waste collection, recycling and disposal services and street sweeping services charges for the City as set forth in Exhibit “A”, attached hereto and made a part hereof, are non-discriminatory and do not exceed the cost of providing refuse collection services to the users thereof; and

WHEREAS, the adoption of this resolution is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code Section 21080(b)(8) and Section 15273 of the State CEQA Guidelines codified at 14 CCR §15273 because the resolution pertains to the adoption of charges necessary to maintain services within the City’s existing service area.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The foregoing recitals are hereby found to be true and correct and incorporated herein by this reference along with the staff report and other materials considered at the hearing.

SECTION 2. The City Council hereby finds that the proposed rate increases, including the 2-year rate structure for residential services, meets the substantive requirements of Proposition 218 (Cal. Const. Art. XIXID) as follows:

a. Fee for Service Provided Only: Revenues derived from the fee may not be used for any purpose other than that for which the fee was imposed. Except for the reasonable and normal administrative costs the City incurs to manage its refuse collection and disposal program, the fees collected are used to pay the City’s franchise refuse collection company, Consolidated, for the residential and commercial solid waste collection,
recycling and disposal services and street sweeping services ("Refuse Service") it provides to property owners.

b. **Fee not to Exceed Cost of Service:** Revenues derived from the fee may not exceed the funds required to provide Refuse Service. The City's cost for Refuse Service is established by the Franchise Agreement it negotiated with Consolidated as the lowest-cost contractor for refuse collection and disposal services available. Overall, the fees being proposed will just cover the costs of the Refuse Service charged by Consolidated, plus the cost to mail monthly billing to customers.

c. **Fee not to Exceed Proportional Cost:** The amount of the fee may not exceed the proportional cost of the Refuse Service attributable to the parcel. The City's rate analysis concluded that the proposed rates are reasonably proportional and cost-based, and meet the general requirements of fairness and equity under Proposition 218.

SECTION 3. The City Council has fully considered this matter and has:

a. Reviewed the submittal, notice and the information submitted herewith regarding the proposed increase, the parcels to which the proposed fee increase would apply, and the reasons and basis for the increase and the fees;

b. Provided notice of the proposed fee increase to the record owners (or tenants responsible for payment of the fee) of all parcels to which the proposed fee increase would apply in accordance with Article XIIIID of the California Constitution;

c. Heard and received all written protests from any owners (or renters) of real property subject to the fee;

d. Taken and received oral and documentary evidence pertaining to the proposed fee increase; and

e. Finds the total number of valid protests to be 238 (including 5 protest proffered at the hearing), and given that there are approximately 4171 parcels in the City of Bell, the Council concludes that a majority protest (50% plus one of serviced parcels) does not exist.

SECTION 4. The City Council approves the (i) new provisions for bulky item pick up, (ii) enhanced audit provisions for characterization of the waste stream, (iii) requests that Consolidated oversee City's compliance with state requirements on organic waste management and resolve the implementation gap identified by Cal Recycling.

SECTION 5. Based upon all the evidence in the record, the City Council hereby adopts the all of the proposed amendments to the Franchise Agreement including the increased residential and commercial solid waste collection, recycling and disposal services and street sweeping services charges as identified in Exhibit "A." Said solid waste collection, recycling, and disposal services rates for residential customers and for commercial customers are to take effect as indicated in Exhibit "A." The maximum increases permitted are 4.5% in year 1, 4% in year 2 and 3.5% in year 3, for an aggregate increase of 12%.

SECTION 6. The City Manager is authorized to assemble Amendment No. 1 in a form approved by the City Attorney and all exhibits thereto for execution by Mayor.
SECTION 7. This Resolution and Exhibit "A" hereto shall be effective 30 days from the date of its adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Bell at a regular meeting held on 8th day of January, 2020.

[Signature]
Ali Saleh, Mayor

ATTEST:

[Signature]
Angela Bustamante, City Clerk

APPROVED AS TO FORM:

[Signature]
David Aleshire, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Angela Bustamante, City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 8th day of January, 2020, by the following vote:

AYES: Councilmembers Gallardo, Quintana, Vice-Mayor Romero and Mayor Saleh

NOES: None

ABSENT: None

ABSTAIN: Councilmember Valencia

[Signature]
Angela Bustamante, City Clerk