

RESOLUTION 2024.12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST VALLEY WATER DISTRICT ESTABLISHING A SCHEDULE OF RATES AND CHARGES FOR THE PROVISION OF WATER AND WASTEWATER SERVICE AND SUPERSEDING RESOLUTION 2024.08

WHEREAS, East Valley Water District (“District”) is a county water district organized and operating pursuant to California Water Code Section 30000 et seq.; and

WHEREAS, pursuant to applicable law, including but not limited to Water Code Sections 31024, 31027, and 31101, the District’s Board of Directors adopted Ordinances No. ~~403406~~ and ~~404407~~ establishing the rules and regulations for sewer and water services, respectively, by the District; and

WHEREAS, Ordinances ~~403-406~~ and ~~404-407~~ provide that Rates and Charges may be changed from time to time or new rates and charges may be established by resolution of the Board of Directors; and

WHEREAS, pursuant to applicable law, including but not limited to Water Code Sections 31007 and 31025, the District’s Board of Directors is authorized to adopt by resolution such rates for the provision of water service and wastewater service by the District to implement the rules and regulations set forth in District Ordinance No. ~~403-406~~ and ~~404407~~, and to yield an amount sufficient to pay the operating expenses of the District, provide for repairs and depreciation of works owned or operated by the District, pay the interest on any bonded debt, and, so far as possible, provide a fund for the payment of the principal of the bonded indebtedness as it becomes due, and

WHEREAS, at the request of the District, IB Consulting, LLC has prepared a ~~Water, Wastewater, and Reclamation Rate Study Capacity Fee Study~~ that outlines the need and basis for an adjustment to existing rates to continue to maintain and operate the District’s water, wastewater, and recycled water systems. The ~~Rate Study Capacity Fee Study~~ was presented to the Board of Directors at a duly noticed public meeting on ~~May 15, 2024~~November 13, 2024; and

WHEREAS, Section 21080(b) (8) of the Public Resources Code provides that the establishment, modification, structuring, restructuring or approval of rates, tolls, fares, or other charges by public agencies are exempt from the requirements of the California Environmental Quality Act (CEQA) provided that certain findings are made specifying the basis for the claim of exemption; and

WHEREAS, The rates and charges established by this resolution qualify as exceptions to the definition of a tax pursuant to Article XIII C, §1 of the Constitution of the State of California; and

WHEREAS, the Board of Directors of the District deems it advisable and finds that it would be in the best interest of the District to amend or establish certain rates and charges, consistent with applicable constitutional and statutory requirements; and

~~WHEREAS, Article XIID of the Constitution of the State of California provides that, in imposing or increasing any property-related fee or charge (which term was held by the California Supreme Court in July, 2006, in the case Bighorn Desert View Water Agency vs. Virjil, to include charges for water delivery), an agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount basis of calculating, and reason for such proposed fee or charge, and the date, time, and location of a public hearing on the proposed fee or charge to be conducted not less than 45 days after the mailing of said notice, and Government Code Section 53755 provides for such notice to be given by mailing to the address where billing statements are customarily sent by the District; and~~

~~WHEREAS, said mailed notice was given in compliance with Government Code § 53755, setting Wednesday, May 15, 2024, at the hour of 5:30 p.m. of said day in the Board of Directors Room of the District, 31111 Greenspot Road, Highland, California, as the time and place for a public hearing on the proposed increases in water rates and charges and any proposed new property-related rates and charges set forth in Exhibits “A” and “B” to this resolution; and~~

~~WHEREAS, at the time set, the duly noticed public hearing was held and all persons interested were given an opportunity to be heard concerning the increases in property-related rates and charges and any proposed new property-related rates and charges; and~~

~~WHEREAS, this Board of Directors has considered all protests presented to the District by owners of identified parcels against the proposed increases in property-related rates and charges and any proposed new property-related rates and charges;~~

WHEREAS, the District also wishes to establish miscellaneous fees incidental and related to the provision of services for water and wastewater treatment, but which fees and charges are not for property-related services as defined by Article XIID of the Constitution of the State of California and which fees and charges may be established by resolution of the Board of Directors of the District;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the District as follows:

~~Section 1. It is hereby found and determined that the number of written protests presented to the District against the proposed increases in property-related rates and charges and any proposed new property-related rates and charges has been tabulated and does not constitute a majority of the number of owners of identified parcels.~~

Section 21. It is hereby found and determined that the proposed changes to the Schedule of Rates and Charges are within the purposes set forth in Section 21080(b) of the Public Resources Code including but not by way of limitation, the purposes of (1) meeting operating expenses, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, and (4) obtaining funds for capital projects necessary to maintain service within existing areas, and therefore, that such changes are exempt from CEQA.

Section 32. It is hereby found and determined that the rates and charges of the District are imposed on the basis of demand as determined by measurements including water metering and meter size, acreage or other demand-generation characteristics of properties requesting connection, and cost of service restoration, inspection and other services provided for all fees; that such rates, charges and fees are imposed upon the request for or use of services; and that the water user charges satisfy the criteria and requirements of Water Code Section 370 et seq. relating to allocation-based conservation water pricing.

Section 43. It is hereby found and determined that the user charges and fees and regulatory fees established or increased hereby do not produce revenues exceeding the costs reasonably borne in providing the regulation, product or service and/or are used for debt service or qualified capital outlay projects.

Section 54. The new and/or revised rate(s), fee(s) and/or charge(s) as set forth in Exhibits “A” and “B” attached to this resolution and by this reference incorporated herein are hereby adopted in conformity with the authority set forth in Section 14.01 of Ordinance 403406 and Section 21.01 of Ordinance 404407, and the corresponding rate(s), fee(s) or charges(s), if any, as set forth in Ordinances 403406 and 404407 currently in effect, are hereby superseded and Resolution ~~2023-15~~2024.08 is hereby rescinded. Staff is directed to incorporate the hereby adopted new and/or revised rate(s), fee(s) and/or charge(s) into Exhibit “A” and “B” attached hereto.

Section 65. That the provisions of this Resolution shall be effective November 13, 2024.

Section 76. That the Secretary is hereby ordered and directed to post a certified copy of this Resolution in a public place within the District.

This Resolution shall take effect as of the 13th day of November 2024.

ADOPTED this 13th day of November 2024.

ROLL CALL:

Ayes: Directors:

Noes:

Absent:

Abstain:

James Morales, Jr.
Board President

ATTEST:

Michael Moore
Secretary, Board of Directors

November 13, 2024

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution 2024.12 adopted by the Board of Directors of East Valley Water District at its Regular Meeting held November 13, 2024.

Michael Moore
Secretary, Board of Directors