

RESOLUTION 2018.12

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE EAST VALLEY WATER DISTRICT
AMENDING THE SCHEDULE OF FEES AND CHARGES FOR WASTEWATER
SERVICE AND UPDATING EXHIBIT "A" TO RESOLUTION 2017.01**

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, 31101 and 31027, the District's Board of Directors adopted Ordinance No. 389 on September 28, 2016, establishing the rules and regulations for wastewater service by the District; and

WHEREAS, pursuant to applicable law, including but not limited to Water Code Sections 31007 and 31101, the District's Board of Directors is authorized to adopt by resolution such rates for the provision of wastewater service by the District to implement the rules and regulations set forth in Ordinance No. 389 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 debt as it becomes due; and

WHEREAS, Ordinance No. 389 provides 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, 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 actions taken herein are necessary for setting rates, fees, and charges for the provision of water service within the boundaries of the District and are therefore exempt from the requirements of the California Environmental Quality Act as provided by Public Resources Code Section 21080(b)(8); and

WHEREAS, since 1957, wastewater treatment services have been provided to District ratepayers pursuant to the terms of the Joint Powers Agreement of 1957 Between the City of San Bernardino and the East San Bernardino County Water District, as amended from time to time (JPA); and

WHEREAS, in 1984, the second amendment to the JPA was enacted and through its terms established a two dollar per month service charge for pump stations, trunk lines, interceptors and

collectors for the service area located east of Boulder Avenue in the city of Highland which in effect created two classes of ratepayers within the District; and

WHEREAS, on January 22, 2014 the District initiated a study to determine the feasibility of providing its own wastewater treatment and recycled water conservation services through the planning, development and construction of a recycled water plant. The findings of the study demonstrated that the District and the surrounding region would realize significant benefits from the construction and operation of a recycled water plant; and

WHEREAS, on or about March 23, 2016 the Board of Directors of the District authorized the design and construction of a recycled water plant known as the Sterling Natural Resource Center (SNRC) and on March 15, 2016 a final environmental impact report for the SNRC was certified by the San Bernardino Valley Municipal Water District Board of Directors; and

WHEREAS, on June 20, 2018, the San Bernardino County Local Agency Formation Commission activated the District's latent wastewater treatment authority enabling the District to construct and operate the SNRC. As a result, and through prior settlement agreement with the city of San Bernardino dated November 21, 2017, the terms and conditions of the JPA are no longer completely binding on the District and the District now has authority to establish wastewater treatment rates which authority was previously exercised by the city of San Bernardino Municipal Water Department; and

WHEREAS, as part of the settlement agreement with the city of San Bernardino, the District will acquire ownership of the East Trunk sewer line including the responsibilities of inspection, maintenance and repair thereof, which the District can accomplish more economically; and

WHEREAS, based upon the foregoing factors, the Board of Directors of the District has determined that a reduction in the wastewater system charge for the collection of wastewater for both residential and commercial customers located east of Boulder Ave, can be achieved; and

WHEREAS, the District adopted Resolution 2017.01, and Exhibit "A" thereto, establishing a schedule of rates and charges for the provision of water and wastewater service on January 25, 2017 after conducting a duly noticed public hearing on the matter. Said schedule of rates and charges for water and wastewater service remains unchanged. The current schedule of rates and charges for water and wastewater service is attached hereto as Exhibit "A" to this Resolution; and

WHEREAS, the District's updated schedule of fees and charges for water and wastewater service is attached hereto as Exhibit "B" to this Resolution and reflects a decrease in rates and charges than those provided under previously approved schedule of fees and charges; and

WHEREAS, the amount of the rates and charges hereby adopted do not exceed the reasonable anticipated costs for the corresponding services provided by the District, and therefore the fees imposed hereby do not qualify as a "tax" under Article XIIC, Section 1(e), of the California Constitution or Section 50076 of the California Government Code, and the actions taken

herein are exempt from the additional notice and public meeting requirements of the Brown Act pursuant to Government Code Section 54954.6(a)(1)(A) and (B); and

WHEREAS, the District has satisfied all of the substantive and procedural prerequisites of Article XIID of the California Constitution in establishing the rates and charges set forth herein, including but not limited to, the identification of the parcels upon which the rates and charges will be imposed; the calculation of the rates and charges; the mailing of written notice to the record owners of each parcel upon which the rates and charges will be imposed describing the amount thereof, the basis upon which the rates and charges were calculated, the reason for the rates and charges, and the date, time, and location of the public hearing to be held thereon; and the conducting of a public hearing on the rates and charges not less than 45 days after mailing the notice during which all protests against the fee were considered. The reduction of fees by this Resolution requires no additional procedural prerequisites as no new or increased fees are being established.

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

Section 1. It is hereby found and determined that the schedule of rates and charges for wastewater treatment shall be reduced as reflected in the updates to Exhibit "A" to Resolution 2017.01.

Section 2. 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 3. The revisions to the previously approved rate(s), fee(s) and/or charge(s) as set forth in Exhibit "B" attached to this resolution and by this reference incorporated herein are hereby adopted in conformity with the authority set forth in Section 13.01 of Ordinance 389, and the corresponding rate(s), fee(s) or charges(s), if any, as set forth in Ordinance 389 currently in effect, are hereby superseded. Staff is directed to incorporate the hereby adopted new and/or revised rate(s), fee(s) and/or charge(s) into Exhibit "A" attached hereto.

Section 6. That the provisions of this Resolution shall be effective August 12, 2018.

Section 7. That the Secretary is hereby ordered and directed to post a certified copy of this Resolution in a public place within the District.

Section 8. Exhibit "A" to Resolution 2017.01 is hereby updated:

This Resolution shall take effect as of the 12th day of August 2018.

ADOPTED this 11th day of July 2018.

Ayes: Directors: Carrillo, Coats, Goodrich, Morales, Smith

Noes: None

Absent: None

Abstain: None

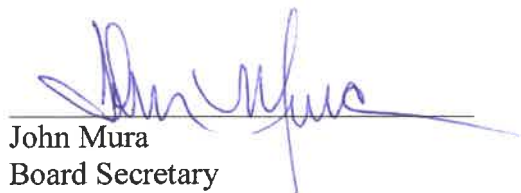


Chris Carrillo
Board President

July 11, 2018

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution 2018.12 adopted by the Board of Directors of East Valley Water District at its Regular Meeting held July 11, 2018.

ATTEST:



John Mura
Board Secretary