

RESOLUTION NO. 23R-XX

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE BIGHORN-DESERT VIEW WATER AGENCY
ADOPTING AN INCREASED BASIC FACILITIES CHARGE (WATER CAPITAL FEE) FOR
WATER METERS SIZE 3/4-INCH TO 10-INCH**

WHEREAS, Bighorn-Desert View Water Agency (“Agency”) is required by law to fix and establish rates, fees and charges which will enable the Agency to cover its debt service payments, operate and maintain its water system, provide for repairs and depreciation, and a reasonable surplus for improvements; and

WHEREAS, under California Government Code Section 66000 et seq., the Agency is authorized to adopt water and sewer connection fees; and

WHEREAS, California Government Code Section 66013(a) states that “[n]otwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed ...”; and

WHEREAS, new customers desiring to connect to the existing system should be responsible for paying an amount equivalent to their proportionate share of those existing water system facilities development costs which support and are necessary for the new customer to receive service; and

WHEREAS, on April 28, 2020 the Board of Directors authorized completion of a *Rate and Capacity Fee Study* by an outside financial consulting firm, NBS Government Finance, who has developed a long-term financial model for development of the Capacity Fee or Basic Facilities Charge for new water meters with sizes ranging from ¾-inch to 10-inch based on the value of existing assets and an assessment of future infrastructure needed for the entire distribution system; and

WHEREAS, The Agency determined to use an analysis based on the “Combination Approach” [1] which requires new customers to pay their fair share of existing system assets and planned assets that have capacity to serve new customers. In their simplest form, capital impact fees are calculated by dividing the costs of infrastructure allocated to future development by the number of units of new development anticipated, further defined as follows:

- The cost of existing assets and planned assets that have capacity to serve new development are those that can reasonably be allocated to future development.
- The number of new units (i.e., growth) are those units projected to occur within the timeframe covered by the capital impact fee analysis.

[1] Method of calculating capital impact fees (also known as System Development Fees, Connection Fees, Capacity Fees) are set forth in the American Water Works Association's *Principles of Water Rates, Fees and Charges* Seventh Edition (2017) pages 311 to 347.

WHEREAS, based on the Replacement Cost model calculations a Final Capacity Fee Study Report was presented to Finance Committee on November 19, 2020 and the full Board of Directors on January 12, 2021. The Final Capacity Fee Study was adopted by the Board of Directors on February 9, 2021.

WHEREAS, on October 11, 2022, Resolution 22R-17 establishing the new Water Capital Capacity Fees, based on meter size; and

WHEREAS, the Final Capacity Fee Study Report directs the Agency to “*annually review the Engineering News Record’s Construction Cost Indices and calculate the percentage change in construction costs and apply that change to the capacity fees to ensure they keep pace with cost inflation*”; and

WHEREAS, the current August annualized 5-year of 3.56% is considered the appropriate percentage to apply from the Engineering News Record’s *Construction Cost Indices* and based on meter size is as shown in Table 1 are made part of this resolution:

TABLE 1 - WATER CAPITAL FACILITY FEE BASED ON METER SIZE

Meter Size	Equivalency Factor		Capacity Fee Per Meter Size
	Maximum Continuous Flow (gpm) 1	Equivalency to 1 inch meter	
3/4 inch	30	1.00	\$15,162
1 inch	50	1.00	\$15,162
1.5 inch	100	2.00	\$30,325
2 inch	160	3.20	\$48,520
3 inch	320	6.40	\$97,040
4 inch	500	10.00	\$151,625
6 inch	1,000	20.00	\$303,101
8 inch	2,800	56.00	\$849,101
10 inch	4,200	84.00	\$1,273,650

1. Source: AWWA M1, Table B-2. Assumes displacement meters for 3/4" through 2", Compound Class I for 3" through 6" and Turbine Class II for 8" through 10".

; and

WHEREAS, the revenue raised by the increased connection fees will also be used to purchase supplemental water supplies for the Agency and will not exceed the estimated reasonable cost of obtaining such resources and providing the services for which the fees are levied; and

WHEREAS, the establishment, modification, structuring, restructuring, and approval of rates and fees is exempt from the requirements of the California Environmental Quality Act as provided by California Public Resources Code Section 21080(b)(8); and

WHEREAS, the amount of the fees and charges hereby adopted do not exceed the reasonable anticipated costs for the corresponding services provided by the Agency, and therefore the fees imposed hereby to not qualify as "special taxes" under Government Code Section 50076, 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 fees and charges set forth herein are not levied upon any person as an incident of property ownership, and thus are not subject to the substantive and procedural prerequisites of Article XIID of the California Constitution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bighorn-Desert View Water Agency, after conducting a public hearing duly noticed pursuant to California Government Code Section 66016, that the public interest and necessity as described in the oral and written testimony and evidence presented during the public hearing on this matter, all of which are incorporated herein by this reference, requires the Board of Directors of the Agency to increase the Water Capital Facility Fee (Basic Facilities Charge) based on meter size be charged by the Agency as shown in Table 1.

BE IT FURTHER RESOLVED, the new BASIC FACILITIES CHARGES (otherwise referred to as the “Water Capital Facility Fee”) are hereby adopted in the amounts calculated and presented in foregoing Table 1 of this Resolution and shall be based on meter size required and shall be applicable to all new service line installations to parcels within 700 feet of a mainline* (not including bulk accounts), subject to further action by the Board of the Agency. (**the definition of the mainline per Agency Rules and Regulations for Water Service is “pipelines located in highways, streets, alleys, easements, and right of ways, which are used for the transmission and distribution of water), and*

BE IT FURTHER RESOLVED, that such new BASIC FACILITIES CHARGES shall go into effect sixty (60) days from the date this Resolution is adopted as shown below and, thereafter, this Resolution shall supersede any and all prior resolutions inconsistent with the terms hereof.

BE IT FURTHER RESOLVED, that the General Manager and staff of the Agency are hereby authorized and directed to do such things and to take such actions as may be reasonably required to carry out the purpose and intent of this Resolution and as otherwise required in order to comply with applicable law.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of Bighorn-Desert View Water Agency this 14th day of November 2023.

By _____
John Burkhart, President of the Board

ATTEST,

Megan Close-Dees, Board Secretary

Official Seal