

## RESOLUTION NO. 23R-08

### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY ESTABLISHING A SCHEDULE OF CERTAIN FEES AND CHARGES FOR SPECIFIED SERVICES

*(New Account Set-Up, Delinquent Account Service Charge, Reversing Payments for Non-Negotiable Bank Returns, Public Information Request "Paper" Copy Charge, Backflow Device Installation Notification Letter Fee, Backflow Test Reminder Letter Fee, Release of Unsecured Lien for Delinquent Water Charges, Notary Public Fee, Fire Flow Test Fee, Will Serve Letter Fee, Variance Application Processing Fee, During Business Hours Call-Out Response Fee and After-Hours Call-Out Response Fee)*

**WHEREAS**, the Board of Directors of the Bighorn-Desert View Water Agency ("Agency") is required by law to fix and establish fees and charges which will enable the Agency to operate and maintain its water system, provide for debt service payments, repairs and depreciation plus a reasonable surplus for capital improvements; and

**WHEREAS**, the Agency Rules and Regulations for Water Service (adopted by Ordinance) provides for the amendment of certain charges by resolution, by majority vote of the Board of Directors; and

**WHEREAS**, the Board of Directors of the Agency desires to fairly allocate the costs of specified services described herein and list in Exhibit "A" – Schedule of Miscellaneous Fees and Charges for Specified Services in a fair and equitable manner to be paid by those persons who are the actual beneficiaries or recipients of the services; 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.

**WHEREAS**, the New Account Set-up Fee is assessed whenever a new customer sets up water service. The fee covers staff time, materials and equipment to open the account in the billing software and dispatch a Water Distribution Operator to obtain a beginning meter read; and

**WHEREAS**, the Delinquent Account Service Charge is assessed per the Agency Rules and Regulations on water bills which have remain unpaid for twenty (20) days after the date of the billing and therefore shall be assessed a delinquent charge of a minimum of \$5.00 or 5% of the “past due” amount. Delinquent charges do not compound on future unpaid utility bills; and

**WHEREAS**, the Reversing Payments for Non-Sufficient Funds Fee is intended to cover the cost of reversing the payment in the utility billing customer account, dispatch a field technician to “hang a tag” to immediately notify the customer and to pay banking fees associated with the transaction. Non-Sufficient Funds result from a variety of banking issues such as an “unidentified account number”, “closed account”, “account with insufficient funds” and any fee returned through the automated payment portal whether made with an electronic check, debit or credit card; and

**WHEREAS**, the Public Information Request “Paper” Copy Charge (8.5” X 11” paper) is allowed pursuant to the Public Records Act wherein it establishes that the Agency can charge a fee to cover the direct cost of duplication; and

**WHEREAS**, the Backflow Test Installation Notification Letter Fee is assessed whenever an account fails to exercise its responsibility to install the required backflow prevention device following written notification of said regulatory requirement. The fee would be imposed after the initial notification which occurs either at the time the account is opened upon declaration of the application on the “Water Use Questionnaire” or thereafter upon recognition of a cross connection control hazard (ie. backflow hazard) by the Agency, and

**WHEREAS**, the Backflow Test Reminder Letter Fee is assessed whenever an account fails to exercise its responsibility to complete the required annual (or as otherwise required) backflow device testing and recertification and therefore must be notified in writing of said regulatory requirement; and

**WHEREAS**, the Release of an Unsecured Lien for Delinquent Water Charges Fee covers staff time to administratively process, notarize and mail documents to release unsecured liens imposed by the Agency on a private property’s title record. “Unsecured Liens” are filed to protect the Agency from bad debt should a property change hands prior to the imposition of the annual “Secured Lien” process. The fee includes the third-party Notary Public Fee; and

**WHEREAS**, the Notary Public Fee is levied on all requests for Notary Public signature acknowledgements on any Agency documents. However, state law limits this fee to \$15.00 per document; and

**WHEREAS**, the Fire Flow Test Fee is assessed whenever the Agency receives a request to perform such Fire Flow Test and produce a Fire Flow Letter certifying the flow results, typically to satisfy requirements of the Fire Marshall during new construction permitting activities. The Agency will assess a fee of \$310.00 to perform each fire flow test and prepare the “Fire Flow Letter” certifying the results. A Fire Flow Letter is valid for a period of 365-days from execution. The Agency will provide an updated Fire Flow Letter if requested within 6-months of the date on the original Fire Flow Letter; and

**WHEREAS**, the Will Serve Letter Fee is assessed whenever the Agency receives a request to provide said “Will Serve Letter” to a parcel without a water meter, typically to satisfy County of San Bernardino requirements to obtain a building permit prior to construction. A Will Serve Letter is valid for a period of 180-days from execution; and

**WHEREAS**, the Variance Application Processing Fee covers the cost for staff to analyze customer requests for variances from the Rules and Regulations and to develop staff recommendation to present to the Board of Directors for consideration of the requested variance; and

**WHEREAS**, the Call-Out Response - During Business Hours Fee covers the cost of a Water Distribution Operator and/or Customer Service Representative who has responded to a Customer’s request for assistance, during business hours, which is later determined to be a “customer-side issue”. A “customer-side issue” is generally defined as response to an incident on the customer-side of the meter and is not related to any other standard service provided by the Agency, as a condition of service. Agency fee is based on an average of 1-hour response time for responding Water Distribution Operator and/or Customer Service Representative; and

**WHEREAS**, the Call-Out Response - After-Hours Fee covers the cost of a Water Distribution Operator and/or Customer Service Representative who has responded after-hours to a Customer’s request for assistance, which is later, determined to be a “customer-side issue”. A “customer-side issue” is generally defined as response to an incident on the customer-side of the meter and is not related to any other standard service provided by the Agency, as a condition of service. This is not related to an after-hours unlock fee following a lock-off event for non-payment, which is defined elsewhere in Agency policy. Agency on-call policy cites a 2-hour minimum call-back pay for responding Water Distribution Operator and/or Customer Service Representative; and

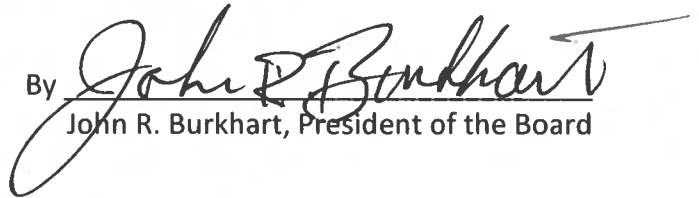
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Bighorn-Desert View Water Agency, after conducting a public hearing duly noticed pursuant to California Government Code Section 66016, that the public interest and necessity as described in the oral and written testimony and evidence 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 adopt the following:

EXHIBIT A – SCHEDULE OF MISCELLANEOUS FEES AND CHARGES FOR SPECIFIED SERVICES

**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.

**BE IT FURTHER RESOLVED** that, pursuant to Government Code Section 66017, this Resolution shall become effective sixty (60) days following adoption thereof and, thereafter, shall supersede any and all prior resolutions.

**PASSED, APPROVED, AND ADOPTED** by the Board of Directors to Bighorn-Desert View Water Agency this 27<sup>th</sup> day of June, 2023.

By   
John R. Burkhart, President of the Board

ATTEST:

  
Megan Close-Dees, Secretary



Official Seal

EXHIBIT A – SCHEDULE OF MISCELLANEOUS FEES AND CHARGES FOR SPECIFIED SERVICES

The following schedule of miscellaneous fees and charges for services defined above.

<b>Fee or Charge</b>	<b>Frequency</b>	<b>Amount</b>
<i>New Account Set-up Fee</i>	Per occurrence	\$40
<i>Delinquent Account Service Charge</i>	Bills remaining unpaid 20 days after presentation	5% or \$5 minimum
<i>Reversing Payments for Non-Sufficient Funds Fee</i>	Payment subsequently "NSF" or "Overdraft" or "reversal" of funds	\$40
<i>Public Information Request "Paper" Copy Charge</i>	Per Page	\$0.10
<i>Backflow Test Installation Notification Letter Fee</i>	Per Letter Mailed	\$35
<i>Backflow Test Reminder Letter Fee</i>	Per Letter Mailed	\$35
<i>Release of an Unsecured Lien for Delinquent Water Charges Fee</i>	Per Instrument	\$70
<i>Notary Public Fee</i>	Per Instrument	\$15
<i>Fire Flow Test Fee</i>	One Fire Flow Letter Per APN	\$310
<i>Will Serve Letter Fee</i>	Per Request	\$80
<i>Variance Application Processing Fee</i>	Per Request	\$100
<i>Call-Out Response - During Business Hours Fee</i>	Minimum Call-Out After-Hours Fee or Actual Cost of Response	\$40 Minimum or Actual Costs
<i>Call-Out Response - After-Hours Fee</i>	Minimum Call-Out After-Hours Fee (2-hours) or Actual Cost of Response	\$170 Minimum or Actual Costs