

RESOLUTION NO. 2017-69**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWPORT BEACH, CALIFORNIA, AMENDING THE
RECYCLED WATER COMMODITY CHARGE EFFECTIVE
JANUARY 1, 2018**

WHEREAS, Newport Beach Municipal Code (“NBMC”) Section 3.36.030(A) provides that the cost recovery percentage for most user fee services shall be one hundred percent (100%), with the exception of the user services listed therein and those services for which the fee is limited by statute. NBMC Section 3.36.030(C) provides that the City Council may amend the amount of any fee or charge for, and the actual cost of providing, any user service upon a determination that there has been an increase or decrease in one or more of the cost factors relevant to the calculation of the actual cost of providing the service;

WHEREAS, on September 9, 2014, City Council adopted Ordinance No. 2014-13 adding Chapter 14.13 to the NBMC and establishing recycled water rates. NBMC Section 14.13.010 provides that the City of Newport Beach (“City”) will charge and collect a monthly fixed recycled water service charge, a monthly per-unit commodity charge for each meter, and a monthly pump station charge from each customer who receives recycled water by means of a pump station and allows for any or all of such charges to be effective January 1st of each year and be charged according to the fee schedule adopted by resolution of the City Council;

WHEREAS, pursuant to NBMC Section 14.13.010(B), the monthly commodity charge recovers the City’s cost to purchase recycled water from the Orange County Water District (“OCWD”) and, if the City’s cost of recycled water increases by more than the projected rate to purchase recycled water from OCWD, the commodity charge will be adjusted annually to reflect the City’s cost to purchase recycled water from OCWD;

WHEREAS, pursuant to Resolution No. 2014-78, the City Council adopted a fee schedule for the City’s recycled water rates, incorporated the recycled water rate schedule into the City’s master fee schedule, now referred to as the Schedule of Rates, Fines, and Fees, and resolved that the recycled water rates shall be updated in January of each year pursuant to the annual fee schedule attached to Resolution No. 2014-78;

WHEREAS, on June 27, 2017, the City Council approved an agreement between the City and OCWD which established the distribution, purchase price, water quality, operating obligations, and rules related to the purchase and distribution of reclaimed (recycled) water from OCWD as part of OCWD’s Green Acres Project (“GAP Agreement”);

WHEREAS, the GAP Agreement allows OCWD to sell the City recycled water for an amount equal to OCWD’s cost of producing and distributing Green Acres Project water;

WHEREAS, in a letter to the City from OCWD dated May 31, 2017, OCWD informed that City that, for the period commencing July 1, 2017, OCWD's cost of producing and distributing Green Acres Project water to the City is \$738 per acre-foot;

WHEREAS, the significant increase (from \$478.40 per acre-foot to \$738 per acre-foot as of July 1, 2017) in City's cost to purchase recycled water from OCWD requires a comparable increase in City's recycled water commodity charge to offset OCWD's increased cost of providing recycled water to the City;

WHEREAS, pursuant to NBMC Section 14.13.010(B), the City is authorized to pass-through the effects of this increase charged by OCWD through an adjustment to the commodity charge rate to be charged to its recycled water customers;

WHEREAS, in 2014, the City conducted the majority protest hearing on its recycled water fees as required by California Constitution, article XIII D, section 6 (Proposition 218), no majority protest was lodged, the rates the City Council then adopted included the requirement of NBMC section 14.13.010(B) to pass-through to customers increases in the City's cost of water from OCWD as authorized by Government Code section 53756 and, accordingly, no further protest proceeding is required at this time; and

WHEREAS, by adopting this resolution, the City Council intends to amend the recycled water commodity charge effective January 1, 2018, by adopting the fee schedule attached hereto as Exhibit A and incorporated herein by this reference. The City's other recycled water rates (fixed charge and pump station charge) are restated in Exhibit A, but remain unchanged.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby adopts the fee schedule attached hereto as Exhibit A and incorporated herein by this reference and amends the recycled water commodity charge effective January 1, 2018. The recycled water rates shall be updated in January of each year pursuant to the schedule set forth in Exhibit A. The City Council directs staff to include the recycled water rates in Exhibit A within the City's Schedule of Rates, Fees, and Fines or other successor document and adjust the recycled water rates each January consistent with Exhibit A.

Section 2: Resolution No. 2014-78 is hereby rescinded.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection,

sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 14th day of November 2017.

Kevin Muldoon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Exhibit A – Recycled Water Commodity Charge Rate Tables

Exhibit A

Current Monthly Recycled Water Charges

Fixed Charge

Meter Size	2014	2015	2016	2017	2018	2019
5/8" or 3/4"	\$13.82	\$18.91	\$19.29	\$19.68	\$20.07	\$20.47
1"	\$23.03	\$31.53	\$32.16	\$32.80	\$33.46	\$34.13
1 1/2"	\$46.06	\$63.05	\$64.32	\$65.60	\$66.91	\$68.25
2"	\$73.70	\$100.88	\$102.90	\$104.95	\$107.05	\$109.19
3"	\$138.18	\$189.15	\$192.94	\$196.80	\$200.73	\$204.75
4"	\$230.30	\$315.25	\$321.56	\$327.99	\$334.55	\$341.24
6"	\$460.61	\$630.50	\$643.11	\$655.98	\$669.10	\$682.48
8"	\$736.98	\$1,008.81	\$1,028.99	\$1,049.57	\$1,070.56	\$1,091.97

Commodity Charge

Per HCF	\$2.46	\$0.86	\$0.87	\$0.89	\$0.91	\$0.93
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Pump Station Charge

Per HCF	none	\$0.36	\$0.37	\$0.38	\$0.38	\$0.39
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Proposed Monthly Recycled Water Charges

Fixed Charge

Meter Size	2014	2015	2016	2017	2018	2019
5/8" or 3/4"	\$13.82	\$18.91	\$19.29	\$19.68	\$20.07	\$20.47
1"	\$23.03	\$31.53	\$32.16	\$32.80	\$33.46	\$34.13
1 1/2"	\$46.06	\$63.05	\$64.32	\$65.60	\$66.91	\$68.25
2"	\$73.70	\$100.88	\$102.90	\$104.95	\$107.05	\$109.19
3"	\$138.18	\$189.15	\$192.94	\$196.80	\$200.73	\$204.75
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Commodity Charge

Per HCF	\$2.46	\$0.86	\$0.87	\$0.89	\$1.69	\$1.69
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Pump Station Charge

Per HCF	none	\$0.36	\$0.37	\$0.38	\$0.38	\$0.39
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Amended