

## RESOLUTION 23-24-16

### A RESOLUTION OF THE BOARD OF DIRECTORS OF MENDOCINO COUNTY WATERWORKS DISTRICT II, DETERMINING COMPLIANCE WITH PROCEDURAL REQUIREMENTS, MAKING FINDINGS AND DETERMINATIONS, REVISING RATES FOR WASTEWATER (SEWER) SERVICES, AMENDING THE CORRESPONDING RATE AND CHARGE SCHEDULE AND TAKING RELATED ACTIONS

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- A. Authority. The Mendocino County Waterworks District No. 2 (“**District**”) is a county waterworks district authorized to set and collect rates and charges for its wastewater (sewer) service pursuant to the provisions of California Water Code Sections 55330, 55331, 55500, and 55501 (“**Rates and Charges**”).
- B. Prop. 218. The Rates and Charges are subject to Section 6 of Article XIID of the California Constitution, also known as Proposition 218.
- C. Proposed Rate Changes and Notice. The Board has previously undertaken proceedings and provided direction for proposed changes in the District’s Rates and Charges, and has directed that notice of the proposed changes in, and adoption of, the Rates and Charges be provided to property owners and customers and that a public hearing be conducted as required by State law, as further described below. Written notice of the public hearing and the proposed revised Rates and Charges has been provided to the District’s property owners and customers as required under State law and is attached to this Resolution as Attachment A.
- D. Prior Meetings. The Board and its Finance Committee has previously conducted meetings and workshops to discuss and review the District’s financial planning and the proposed adjusted Rates and Charges.
- E. Cost of Service Study. The Board has received and filed that certain report entitled "*Asset Evaluation, Rate Study, and Revenue Strategies for the Mendocino County Water District No. 2 (Representing the Community of Anchor Bay, California)*" prepared by MC Engineering and the Rural Community Assistance Corporation (RCAC) (“**Rate Study**”), which contains the analysis and basis for the proposed revisions to, and implementation of, the Rates and Charges. The Rate Study is attached as Attachment B, is on file with the District Secretary, was posted on the District's website on April 16, 2024, and has been available at the District’s Business Offices for public review since that date.
- F. Public Hearing. On May 31, 2024, the Board conducted a noticed public hearing to receive public input, comments, and protests with regard to the proposed rates and charges, which public hearing was held at the Elaine Jacobs Center located at 38550 CA-1, Gualala, California 95445, and as a virtual (teleconference) meeting pursuant to current State law.
- G. CEQA Exemption. 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.

- H. The Board intends to make certain findings and determinations and approve and adopt proposed Rates and Charges described in Attachment A and Attachment B.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MENDOCINO COUNTY WATERWORKS DISTRICT NO. 2 HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

**Section 1.** **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2.** **Notice of Hearing and Proposed Rate Increase.**

(A) Mailing. Pursuant to the provisions Proposition 218 and California Government Code Section 53755, the District provided written notice by mail of the proposed Rates and Charges to District customers and property owners within the District's service area 45 days prior to the date set for the public hearing. The form of notice is on file with the District's Secretary, has been presented to the Board as part of its proceedings, and is attached as Attachment A. The notice includes the proposed maximum amount of the proposed Rates and Charges to be effective for District's customers, an identification of the reasons for the proposed revisions and link to the Rate Study, the proposed implementation schedule for the Rates and Charges, and a method of calculation for District's customers to determine the impact of Rates and Charges on their bills. The notice also includes a statement of the date, time and location of the public hearing to be conducted on such proposed Rates and Charges by the Board and the opportunity to present protests. The address list to which written notice was mailed is on file with the District's Secretary.

(B) Posting. The District also posted notice of the hearing and the proposed Rates and Charges on the District's internet web site for a period of 45 days prior to the date the public hearing was conducted; and posted a printed notice of the hearing the Anchor Bay commercial center on May 28, 2024.

**Section 3.** **Data and Information Relating to Determination to Adopt and Implement Revised Rates and Charges.** The Board has been provided with, and/or had available to it, various reports, data and information supporting the findings set forth herein and the determination of the Board to impose the proposed Rates and Charges, which material is also available to the public. That data and information includes, but it not limited to, the following:

- (a) The Rate Study (specifically including the long-term financial plan and cost-of-service analysis) attached as Attachment B;
- (b) District's adopted Fiscal Year 2023-2024 Budget;
- (c) Financial projections relating to the District's financial and operating requirements, including, but not limited to, the costs and financing requirements for the District to meet its future facilities needs and service delivery requirements; and
- (d) Financial considerations relating to the prudent and financially responsible level of the District's financial dedicated funds and accounts, including reserves.

**Section 4.** **Public Hearing.** Pursuant to the provisions of Section 6(a)(2) of Article XIID of the California Constitution, the Board conducted a public hearing on the proposed Rates and Charges at the Elaine Jacobs Center located at 38550 CA-1, Gualala, California 95445, commencing at 4:30 p.m. on May 31, 2024 and included an opportunity for members of the public to participate both in person and through

phone access. The Board was presented with and considered the results of all qualified protests to the proposed Rates and Charges and heard and considered all public comments submitted to the Board during the public hearing.

**Section 5. No Majority Protest.** Pursuant to the provisions of Section 6(a)(2) of Article XIID of the California Constitution and the Policy, the District Secretary has reviewed those protests received by District with regard to the imposition of the proposed adjusted rates and charges. The District Secretary has provided the Board with a statement of all such protests. Based thereon, the Board hereby determines that a majority of owners of parcels/customer accounts within District's service area have not protested the proposed increase to the Rates and Charges.

**Section 6. Findings and Determinations.** The Board hereby finds and determines as follows:

- (a) The District's current and projected finances, financial condition and revenue requirements have been considered and the Board is considering its budget for Fiscal Year 2024-2025. Correspondingly, the Board hereby finds and determines that the revenues derived from the proposed Rates and Charges set forth herein do not exceed the funds required by the District in order to provide the corresponding services the District provides to its customers.
- (b) The Board hereby determines and directs that revenues derived from the proposed Rates and Charges will be used for the purposes for which District was formed and operates, including, but not limited to, the provision of wastewater (sewer) services to the District's customers, as applicable, and will not be used for other purposes.
- (c) The District's proposed Rates and Charges are based on the availability of service to each District customer, as applicable, within each billing period. Correspondingly, the amount of the proposed Rates and Charges applicable to the District's customers does not exceed the proportional cost of the District's provision of the corresponding services to those customers.
- (d) Section 6(b)(4) of Article XIID of the California Constitution provides that no fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. In the case of District's proposed adjusted rates and charges, District's services for wastewater (sewer) collection, transportation, treatment and disposal are imposed on District customers where such services are, as applicable, actually used by, or are immediately available to, District customers which are, and will be, subject to the proposed Rates and Charges. The District's standby charge rates are not affected by the District's current rate setting.
- (e) The District's proposed Rates and Charges are imposed only on District customers for the particular and specific services provided by the District. The District's proposed Rates and Charges will be imposed pursuant to District's Rules and Regulations. The District does not, and will not, impose any rates and charges for purposes of the provision of general governmental services such as police, fire, ambulance or library services which are available to the public at large.
- (f) District's proposed Rates and Charges, as set forth herein, are part of an integrated finance and revenue system including rates and charges, revenue sources, projected

expenditures, debt service requirements, dedicated funds (reserves) and other financial considerations. The District's Rates and Charges are structured and implemented by the District in order to meet District's financial obligations and responsibilities to operate, maintain, and improve its wastewater (sewer) systems and facilities, meet service demand requirements, address anticipated emergency service needs, meet its legal and operational obligations and requirements and to conduct its business, administrative and governmental operations.

- (g) The reasons and basis for the adoption and implementation of the proposed Rates and Charges, and the method of calculation thereof, have been identified in the notices provided as set forth in Section 2 and in the documentation and information referenced in Section 3.
- (h) The Rates and Charges adopted and implemented hereby are not taxes under Section 1(e)(2) and (7) of the provisions of Article XIIC of the California Constitution inasmuch as the referenced rates and charges are: (i) services/products provided directly to the District customer of record and do not exceed the reasonable costs to the District for such corresponding service(s) so provided; and (ii) under current California law the Rates and Charges are considered to be property-related fees and/or charges for which the District has complied with the applicable requirements of Article XIID of the California Constitution.

**Section 7. Imposition and Implementation of Proposed Adjusted Rates and Charges.**

- (a) The District's wastewater (sewer) rates are hereby revised to conform to the schedules shown in Attachment A.
- (b) The General Manager is hereby directed to take all actions necessary to amend or revise schedules of rates and charges as set out in the District's Rules and Regulations or other policies or publications of the District, in order to conform to the Rates and Charges shown in Attachment A.

**Section 8. Other Actions.** District's General Manager and other District officers and District legal counsel and consultants are hereby authorized and directed to take all necessary and appropriate actions as may be required or desirable to carry out the findings, determinations, and directives of this Resolution.

**Section 9. Partial Invalidity; Severability.** If any one or more of the findings or directives set forth in this Resolution are determined to be contrary to law, then such findings or directives, or such portions thereof, will be void and deemed separable from the remaining findings and directives or portions thereof and will in no way affect the validity of this Resolution or the other directives set out herein. The Board hereby declares that it would have adopted this Resolution and each and every section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized and approved the findings or directives set forth herein irrespective of the fact that any one or more sections, paragraphs, subdivisions sentences, clauses or phrases of this Resolution or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

**Section 10. Authority.** This Resolution is adopted pursuant to the provisions of California Water Code Sections 55330, 55331, 55500, 55501, and the requirements of Government Code Sections

53755 and 53756.

**Section 11. CEQA Exemption.** It is hereby found and determined that the proposed changes to the Rates and Charges as set forth in Attachment A 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 12. Effective Date.** This Resolution is effective upon adoption and will apply to Rates and Charges billed beginning July 1, 2024.

**ADOPTED, SIGNED and APPROVED** this 31<sup>st</sup> day of May 2024.

**MENDOCINO COUNTY WATERWORKS DISTRICT NO. 2**

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President

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Secretary

**ATTACHMENT A**

Notice of Public Hearing on Proposed New Wastewater Rates (2024)

**ATTACHMENT B**  
2024 Comprehensive Cost-of-Service Rate Study