

RESOLUTION NO. 1505

RESOLUTION OF THE MESA WATER DISTRICT BOARD OF DIRECTORS DETERMINING COMPLIANCE WITH PROCEDURAL REQUIREMENTS, MAKING FINDINGS, REVISING WATER RATES, REVISING METER RATES, REVISING FIRELINE STAND-BY CHARGES, AND ADOPTING A RATE AND CHARGE IMPLEMENTATION SCHEDULE, AMENDING WATER RATE AND CHARGE SCHEDULE, TAKING RELATED ACTIONS AND SUPERSEDING RESOLUTION NOS. 1439 AND 1475

WHEREAS, the Mesa Water District (Mesa Water®) is a county water district organized and operating pursuant to the provisions of State of California (State or California) law; and

WHEREAS, Mesa Water has authority to set and collect rates, fees and charges for water and water service that it provides pursuant to the provisions of Water Code Sections 31000, 31001, 31024, and 31025; and

WHEREAS, the provisions of Section 6 of Article XIID of the California Constitution are currently applicable to water rates and charges of public agencies and entities, including, but not limited to, water and water service rates of public water districts operating within the State under current State law; and

WHEREAS, the Mesa Water District Board of Directors (Board) has previously adopted and updated its "Policy Concerning Rate Change Proceedings" (Policy) in order to provide directives, guidance and policies for changes in Mesa Water's water and water service rates, fees and charges under the provisions of State law, and to provide assistance for implementation of such requirements; and

WHEREAS, the Board has previously undertaken proceedings and provided direction for proposed changes in certain Mesa Water water rates and charges, including the Commodity (Usage) Charges for Potable, Recycled, Construction, and Fireline Water, Meter Basic Charges and Fireline Stand-by Charges (as further described herein) and has directed that notice of such proposed changes in such water rates and charges be provided and that a public hearing be held thereon as required by State law, as described in the Policy and as further described herein; and

WHEREAS, written notice of the referenced public hearing, the proposed revised water rates and charges and implementation schedule has been provided to Mesa Water's customers as required under applicable State law and as further described herein; and

WHEREAS, there has been prepared by Mesa Water documentation and financial data concerning Mesa Water's finances, fiscal projections, current and

anticipated financial requirements, the costs and financing requirements for Mesa Water to meet its future facilities and water service requirements, and Mesa Water's adopted budget for Fiscal Year 2018, as well as future budgetary projections, and the 2017 Mesa Water - Water Rate Study Report (Report) (which Report is incorporated herein by this reference), documenting the need for the proposed revised water rates and charges as described herein, which data, information and Report are on file with Mesa Water's District Secretary and has been made available to members of the public who may request such information and which information has been made available to, and in certain cases presented to, the Board as part of its consideration of this matter; and

WHEREAS, on November 9, 2017, the Board conducted and completed a noticed public hearing held at Mesa Water's offices (Boardroom) located at 1965 Placentia Avenue, Costa Mesa, California to receive public input, comments and protests with regard to the proposed revised water rates and charges; and

WHEREAS, information to support the findings made by the Board within this Resolution has been prepared by Mesa Water staff and consultants, made available to any member of the public who requested such information and has been presented to the Board as part of its consideration of this matter; and

WHEREAS, the Board desires to make certain findings and determinations in connection with the revision of Mesa Water's water rates and charges as set forth herein; and

WHEREAS, the Board desires to authorize the revised proposed revised water rates and charges on the basis set forth herein, to comply with the schedule attached hereto, and to be effective as set forth within the text of this Resolution and the schedule attached hereto.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MESA WATER DISTRICT HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

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

Section 2. **Provision of Notice.** Pursuant to the provisions of Section 6(a)(1) of Article XIII D of the California Constitution, Government Code Sections 53755 and 53756 and the Policy, Mesa Water provided written notice by mailing of the proposed water rate and charge changes and implementation schedule for such revised water rates and charges to Mesa Water customers and property owners within Mesa Water's service area and to those Mesa Water customers located outside Mesa Water's service area. The form of such notice is on file with Mesa Water's District Secretary and has been presented to the Board as part of its proceedings. Such notice included the proposed maximum amount of the water rates and charges to be effective for Mesa Water's customers, an identification of the reasons for the imposition of such proposed water rates and charges, a method of calculation for Mesa Water's customers to determine

the impact of such revised water rates and charges upon existing Mesa Water customer accounts, and the proposed implementation schedule of such water rate and charge changes. Such notice also included a statement of the date, time and location of the public hearing to be conducted on such proposed water rate and charge changes by the Board and the opportunity to present protests concerning such water rate and charge changes to the Board. Mailing of such written notice was completed more than forty-five (45) days prior to the date set for conducting the public hearing. The applicable customer list to which such written notice was mailed is held by Mesa Water's District Secretary.

In addition to the provision of such written notice to Mesa Water customers within its service area, and to those Mesa Water customers located outside Mesa Water's service area, Mesa Water also provided notice of such proposed imposition of the proposed revised water rate and charge changes and such public hearing as follows:

1. Notice concerning the proposed revised water rates and charges and the date, time and place for the public hearing was published in the *Daily Pilot* newspaper on October 26, 2017 and November 2, 2017;
2. Notice of the proposed revised water rates and charges, the proposed implementation schedule, public hearing, availability of documentation therefor and the opportunity to present protests concerning such proposed revised water rates and charges was posted on Mesa Water's website located at www.MesaWater.org for a period of more than forty-five (45) days prior to the date the public hearing was conducted; and
3. Notice of the proposed revised water rates and charges, the date, time and place of such public hearing and the opportunity to present protests concerning such proposed revision of the water rates and charges was posted at the following locations on the following dates:
 - (i) Mesa Water District, 1965 Placentia Avenue, Costa Mesa, California on September 25, 2017;
 - (ii) Adams Street Post Office, 1590 Adams Avenue, Costa Mesa, California on September 25, 2017; and
 - (iii) Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California on September 25, 2017.

Section 3. Data and Information Relating to Determination to Adopt and Implement Revised Water Rates and Charges. The Board has been provided with, and/or had available to it, various reports, including, but not limited to, the Report, data and information supporting the findings made herein and the determination of the Board to revise Mesa Water's water

rates and charges as described herein. Reference is also made to those meetings held by the Board, and supporting documentation made available to the Board and members of the public, as part of the consideration of the potential Mesa Water imposition of the revised water rates and charges on on-going and future Mesa Water financial considerations. Such data and information has been available, and made available, as applicable, to members of the public desiring to review such, and is on file with Mesa Water's District Secretary and available for review upon public request. Such data and information includes, but is not limited to, the following:

1. Mesa Water's adopted Fiscal Year 2018 Budget;
2. Financial projections relating to Mesa Water's financial and operating requirements, including, but not limited to, installment payments to be made by Mesa Water as part of Mesa Water's outstanding Certificates of Participation the costs and financing requirements for Mesa Water to meet its future facilities requirements, future imported water purchase costs, future anticipated utilities costs and charges imposed by statute for funding support of the Orange County Local Agency Formation Commission (LAFCO);
3. The Report; and
4. Financial considerations relating to the prudent and financially responsible level of Mesa Water's financial dedicated funds and accounts (fiscal reserves), including policies relating thereto as previously established by this Board.

Section 4. **Public Hearing.** Pursuant to the provisions of Section 6(a)(2) of Article XIID of the California Constitution, Mesa Water's Board conducted a public hearing on the proposed revised water rates and charges, and proposed implementation schedule thereof, not less than forty-five (45) days after the date of mailing of the within-referenced written notice to Mesa Water customers within Mesa Water's boundaries, and to those Mesa Water customers located outside Mesa Water's service area, as set forth in Section 2 herein. Such public hearing was conducted at Mesa Water's offices (Boardroom) located at 1965 Placentia Avenue, Costa Mesa, California commencing at 6:00 p.m. on November 9, 2017. At the time of the public hearing, Mesa Water's Board considered all protests against the proposed revised water rates and charges as set forth in Section 5 hereof. Such public hearing was conducted in conformance with the requirements of the Policy. During such public hearing, the Board was presented with the results of all qualified protests to the proposed revised water rates and charges and heard and considered all public comments submitted to the Board during such public hearing and a full and fair hearing was held.

Section 5. **No Majority Protest.** Pursuant to the provisions of Section 6(a)(2) of Article XIII D of the California Constitution and the Policy, Mesa Water's District Secretary has reviewed those protests received by Mesa Water with regard to the proposed imposition of the revised water rates and charges. Any and all protests submitted to Mesa Water concerning such proposed revised water rates and charges were handled and considered as set forth in the Policy. Mesa Water's District Secretary has compared such protests with Mesa Water's customer list on file with the District Secretary. The District Secretary has compared such protests with Mesa Water's customer list on file with the District Secretary. The District Secretary has provided the Board with a statement of all such protests. Based thereon, the Board hereby determines that the proposed revised water rates and charges described herein have not been protested by a majority of owners of parcels/customer accounts within Mesa Water's service area.

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

1. Mesa Water's current and projected finances, financial condition, and revenue requirements, based on information available to Mesa Water and the costs and financing requirements for Mesa Water to meet its future facilities and water service requirements have been considered and the Board has adopted a balanced budget for Fiscal Year 2018. Correspondingly, the Board hereby finds and determines that the revenues derived from the revised water rates and charges set forth herein do not exceed the funds required by Mesa Water to provide the water and water services Mesa Water provides to its customers.
2. The Board hereby determines and directs that revenues derived from the revised water rates and charges set forth herein shall be used for the purposes for which Mesa Water was formed and operates, including, but not limited to, the provision of water and water service to its customers, as applicable, and shall not be used for other purposes.
3. Mesa Water's revised Water Usage Charges are based on the amount of water actually used by individual Mesa Water customers within specific billing periods. Correspondingly, the amount of the revised Water Usage Charges applicable to Mesa Water's customers, by usage type, does not exceed the proportional cost of Mesa Water's provision of water and water service to such customers.
4. Mesa Water's Meter Basic Charges and Fireline Stand-by Charges are based on the availability of water service (including, but not limited to, emergency water availability) to each customer within each corresponding billing period. Correspondingly, the amount of Mesa Water's Meter Basic Charges and Fireline Stand-by Charges during

the corresponding billing periods for customers do not exceed the cost of Mesa Water's provision of water availability (including, but not limited to, emergency water availability) and water service to such customers.

5. 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 Mesa Water's water rates and charges referenced herein, Mesa Water's services for water availability and delivery are imposed on customers where such service is actually used by, or is immediately available to (including, but not limited to, the availability of emergency water service), Mesa Water customers whom are, and will be, subject to the revised water rates and charges. Mesa Water's revised rates and charges, as set forth herein, do not constitute any form of standby charge(s) as set forth in such section of the California Constitution.
6. Mesa Water's water rates and charges are imposed only on its customers for the particular and specific water functions and services referenced herein. Mesa Water's water rates and charges are, and will be, imposed pursuant to Mesa Water's Rules and Regulations as applicable to its customers. Mesa Water does not, and will not, impose such water 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.
7. Mesa Water's water rates and charges, as set forth herein, are part of an integrated finance and revenue system including water rates and charges, revenue sources, projected expenditures, dedicated funds and other financial considerations. Mesa Water's water rates and charges are structured and implemented by Mesa Water in order to meet its financial obligations and responsibilities to operate, maintain, replace, restore and improve its water systems and facilities, address anticipated emergency service needs, to meet its legal and operational obligations and requirements and to conduct its business, administrative and governmental operations.
8. With respect to the water rate and charge schedule described herein, the within-referenced notices and proceedings complied with Government Code Section 53756.
9. The reasons and basis for the adoption and implementation of the revised water 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.

10. The revised water rates and charges adopted and implemented hereby are not taxes under Section 1(e)(2) and (7) of the provisions of Article XIII C of the California Constitution inasmuch as the referenced water rates and charges are: (i) services/products provided directly to the Mesa Water customer of record and do not exceed the reasonable costs to Mesa Water for the water and water service so provided; and (ii) under current California law such water rates and charges are considered to be property-related fees for which Mesa Water has complied with the applicable requirements of Article XIII D of the California Constitution.

Section 7. Adoption and Implementation of Revised Water Rates and Charges.

1. Mesa Water's Water Usage Rates are hereby revised to conform to the schedule attached hereto as Exhibit A, including the dates of implementation set out therein, which Exhibit is incorporated herein by this reference.
2. Mesa Water's Meter Basic Charge is hereby revised to conform to the schedule attached hereto as Exhibit A, including the dates of implementation set out therein.
3. Mesa Water's Fireline Stand-by Charge is hereby revised to conform to the schedule attached hereto as Exhibit A, including the dates of implementation set out therein.
4. Mesa Water's water rate and charge schedule is, and shall be, amended or revised to conform to the directives of this Resolution upon adoption hereof.
5. The revised water rates and charges adopted hereby shall be effective for Mesa Water's provision of water and water service as set forth in the schedule attached hereto as Exhibit A, including the dates of implementation set out therein.
6. Mesa Water's other existing rates, fees and charges, which were not subject to the proceedings for revision undertaken as described herein, are not amended or revised by way of this Resolution.
7. In the event that the Board shall determine to impose the within-referenced water rates and charges at lower levels and/or at later dates than set forth in the attached schedule, the Board shall take such action(s) and thereafter provide notice of such change(s) and/or revision(s) to Mesa Water customers as required by applicable law.

Section 8. Other Actions. Mesa Water's General Manager and other Mesa Water

officers and staff and Mesa Water's consultants are hereby authorized and directed to take all necessary and appropriate actions as may be required or desirable to carry out the findings 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 should be contrary to law, then such findings or directives, or such portions thereof, shall be null and void and shall be deemed separable from the remaining findings and directives or portions thereof and shall 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 other 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 Water Code Sections 31000, 31001, 31024, 31025 and 30523 and the requirements of Government Code Sections 53755 and 53756.

Section 11. Superseding Resolution Nos. 1439 and 1475. Resolution Nos. 1439 and 1475 are superseded to the extent they are in conflict with the findings and directives of this Resolution. The water rate and charge schedules adopted by Resolution Nos. 1439 and 1475 shall be superseded and replaced by the water rate and charge schedule set forth herein as of the dates set forth herein.

Section 12. Effective Date. This Resolution shall be effective immediately upon adoption by the Board.

ADOPTED, SIGNED, and APPROVED this 9th day of November 2017, by a roll call vote.

AYES: DIRECTORS: DePasquale, Dewane, Fisler, Bockmiller, Atkinson
NOES: DIRECTORS:
ABSENT: DIRECTORS:
ABSTAIN: DIRECTORS:



Denise Garcia
District Secretary



Jim Atkinson
President, Board of Directors

RESOLUTION NO. 1505

EXHIBIT A

**RESOLUTION OF THE MESA WATER DISTRICT
BOARD OF DIRECTORS DETERMINING COMPLIANCE WITH
PROCEDURAL REQUIREMENTS, MAKING FINDINGS, REVISING
WATER RATES, REVISING METER RATES, REVISING FIRELINE
STAND-BY CHARGES, AND ADOPTING A RATE AND CHARGE
IMPLEMENTATION SCHEDULES, AMENDING WATER RATE AND
CHARGE SCHEDULES, TAKING RELATED ACTIONS
AND SUPERSEDING RESOLUTION NOS. 1439 AND 1475**

**MESA WATER DISTRICT
WATER RATE AND CHARGE SCHEDULE**

