

RESOLUTION NUMBER R- 299375

ADOPTED ON JUN 22 2004

A RESOLUTION OF THE CITY COUNCIL REAFFIRMING PRIOR INCREASES OF WATER COMMODITY CHARGES AND BASE FEES DUE TO INCREASES IN THE WHOLESALE COST OF WATER, AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO INCREASE, AS NECESSARY, WATER RATES DUE TO FUTURE INCREASES IN THE WHOLESALE COST OF WATER.

WHEREAS, pursuant to San Diego Municipal Code section 67.0508 the City Manager is authorized to adjust as necessary water user fees [Water Fees] to compensate proportionately for any increase in the cost of water and energy purchased by the City; and

WHEREAS, on January 1, 2004, the Fees were automatically adjusted to proportionately compensate for increases in the wholesale cost of water purchased by the City [Rate Increases]; and

WHEREAS, because of then existing California case law the Rate Increases were implemented in accordance with the noticing provisions of San Diego Municipal section 67.0508 but not in accordance with the noticing provisions of article XIII D, section 6 of the California Constitution [article XIII D]; and

WHEREAS, in reliance upon the authorizations granted pursuant to the Municipal Code, the City Manager implemented the Rate Increases on January 1, 2004; and

WHEREAS, on February 9, 2004, the California Supreme Court determined in *Richmond v. Shasta Community Services District*, that Water Fees are property-related fees subject to the provisions of article XIII D; and

WHEREAS, the City anticipates that there will be future increases in the wholesale rate of water that the City purchases which will necessitate increasing the Water Fees; and

WHEREAS, during the week of April 19, 2004, in accordance with the provisions of article XII D the City's Water Department mailed out notices [Notices] of: (i) proposed changes to the rate structure and increases in the Water Fees; (ii) the City's intention to reaffirm the prior Rate Increases; and (iii) future rate increases due to the increased rate of wholesale water; and


WHEREAS, the City believes that the Rate Increases when adopted did not violate California law but that the action set forth below to reaffirm the Rate Increases would be curative of any alleged or perceived violation of article XIII D; and

WHEREAS, it is deemed in the best interests of the City to so reaffirm the Rate Increases and to authorize and direct the City Manager to implement future increases to the Water Fees as necessary to compensate proportionately for any increase in the cost of water purchased by the City [Pass Through Increases]; NOW THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego as follows:

1. That all of the foregoing Recitals are true and correct and the City Council so finds and determines.

2. That it continues to be in the best interests of the City to continue with the Rate Increases as implemented by the City Manager on January 1, 2004, in accordance with San Diego Municipal Code section 67.0508.

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3. All actions of the City Council in furtherance or effectuation of, or reliance upon the Rate Increases are hereby ratified so as to reaffirm their efficacy from their respective times of implementation or approval and to effectuate their continuous efficacy now and hereafter.

4. All acts or actions taken on behalf of the City, by its employees, agents, representatives or others, under or in furtherance or effectuation of the Rate Increases or in reliance thereon, to the maximum extent required and allowed by law, are hereby reaffirmed, so as to declare their continuous efficacy since the respective times of such act or actions and the continuing efficacy now and hereafter.

5. The previous Rate Increases implemented by the City Manager are hereby ratified and reaffirmed.

6. That through June 30, 2007, the City Manager is authorized and directed to implement Pass Through Increases to the Water Fees on an incremental basis as necessary to proportionately compensate for the increased cost of water purchased by the City.

7. That the City Manager's Pass Through Increases on the commodity component of the Water Fees through June 30, 2007, may be increased by an amount not to exceed \$.30 per hundred cubic feet [HCF] of water.

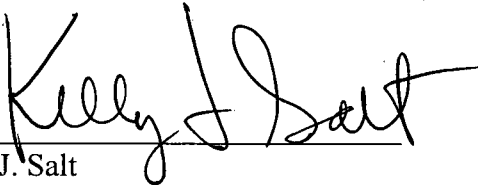
8. That the City Manager's Pass Through Increases on the base fee component of the Water Fees through June 30, 2007, may be increased by an amount not to exceed: (i) \$.25 for properties with meters less than one inch; (ii) \$.40 for properties with one inch meters; (iii) \$.75 for properties with one and one-half inch meters; (iv) \$1.30 for properties with two inch meters; (v) \$2.40 for properties with three inch meters; (vi) \$4.10 for properties with four inch meters; (vii) \$7.50 for properties with six inch meters; (viii) \$13.00 for properties with eight inch meters;

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(ix) \$19.50 for properties with ten inch meters; (x) \$33.00 for properties with 12 inch meters; and
(xi) \$71.50 for properties with 16 inch meters.

APPROVED: CASEY GWINN, City Attorney

By



Kelly J. Salt
Deputy City Attorney

KJS:pev

05/25/04

Or.Dept: Wtr. & MWWD

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