

RESOLUTION NO. 23-1055

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE JOSHUA BASIN WATER DISTRICT
AMENDING RESOLUTION INCREASING CAPACITY
CHARGES FOR WATER SYSTEM**

WHEREAS, the Joshua Basin Water District (“JBWD”) has prepared a updated study (“Study”) reviewing its capacity charges (also commonly referred to as connection fees) for its retail water service, with such Rate Study completed by its consultant Bartle Wells Associates; and

WHEREAS, water capacity charges are charges imposed for either the use of water infrastructure existing at the time the charge is imposed or new water infrastructure to be acquired or constructed in the future that has of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of JBWD involving capital expenses relating to its use of existing or new water facilities; and

WHEREAS, the Study was prepared to assure that the capacity charges reflect the linkage between the charges and the benefits received by new customers and do not exceed the proportional share of costs associated with providing service; and

WHEREAS, based on its consideration of the Study, the Board of Directors deems that it would be in the interest of JBWD to revise the capacity charges; and

WHEREAS, Government Code Section 65852.2 provides for a modified application of capacity charges for accessory dwelling units (“ADU”); and

WHEREAS, for purposes of this resolution, an ADU shall mean a secondary house, apartment, or similar living space that shares the building lot of a larger, primary single-family dwelling unit (“SFDU”), and

WHEREAS, for purposes of this resolution, a junior accessory dwelling unit (“Junior ADU”) shall mean an ADU that is no more than 500 square feet in size and is entirely contained within a SFDU (a Junior ADU may include separate sanitation facilities or may share sanitation facilities within the existing structure); and

WHEREAS, to the extent provided by Government Code Section 65852.2(f)(1), JBWD shall not consider an ADU to be a new residential use for purposes of calculating capacity charges for water service, unless the ADU is constructed along with the SFDU; but instead shall calculate such capacity charges as provided herein for Attached ADUs or Detached ADUs as defined below; and

WHEREAS, for purposes of this Resolution, an “Attached ADU” shall include any ADU or Junior ADU that:

(a) is located on an existing or proposed lot with a SFDU and does not, when including the proposed ADU or Junior ADU, have more than one ADU and one Junior ADU;

(b) is within the proposed or existing physical dimensions and space of an SFDU, except that up to 150 square feet may protrude outside the existing space of the SFDU if only for ingress and egress purposes;

(c) has its own exterior access separate from the access for the SFDU;

(d) has sufficient side and rear setbacks for fire and safety, and

(e) for Junior ADUs, otherwise comply with the requirements of Government Code Section 65852.22, including that:

- (i). owner-occupancy in either the SFDU or Junior ADU, unless the owner is a government agency, land trust, or housing organization;
- (ii). recorded deed restriction, which will run with the land, filed with the permitting agency, that includes both: (1) prohibited sale of Junior ADU separate from the SFDU; and (2) restrictions on size and attributes of Junior ADU to ensure it is maintained as a Junior ADU;
- (iii). Unit includes an efficiency kitchen, including (1) cooking facility with appliances; and (2) food preparation counter and storage cabinets of reasonable relation to the size of the Junior ADU; and

WHEREAS, for purposes of this Resolution, a “Detached ADU” shall constitute any ADU not otherwise constituting an Attached ADU; and

WHEREAS, Paragraph (b) of Section 21080 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 requirement of the California Environmental Quality Act of 1970 (CEQA), provided that findings are made specifying the basis for the claim of exemption; and

WHEREAS, the proposed revisions to the capacity charges, as set forth in Exhibit A to this resolution, do not modify or establish any property-related fees or charges subject to the notice and hearing procedures of Article XIID of the Constitution of the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Directors of the Joshua Basin Water District as follows:

1. It is hereby found and determined that the capacity charges adopted hereby are within the purposes set forth in Section 21080(b)(8) of the Public Resources Code, including, but not by way of limitation, the purposes of meeting operating expenses, purchasing or leasing supplies, equipment or materials, meeting financial reserve needs and requirements, and obtaining funds for capital facilities necessary to maintain service within existing service areas and therefore are exempt from CEQA pursuant to said Section 21080(b)(8).

2. It is hereby found and determined that relative to the requirements of Sections 66013 and 66016 of the Government Code of the State of California, the data indicating the estimated cost and revenue sources to provide the service for which the charges are imposed has been mailed to any interested party requesting notice at least 14 days, and been made publicly available at least 10 days, before the meeting at which this resolution is adopted, and that the connection and capacity charges established or increased hereby do not exceed the estimated reasonable cost of providing the service for which they are imposed.

3. The capacity charges for water service within JBWD are hereby adopted as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference, and said charges shall be imposed only as a condition of either initiating service (new connection) upon the request of a proposed new customer, or extending service upon the request of an existing customer constructing an Attached and/or Detached ADU.

4. Attached ADUs. For an Attached ADU, JBWD will neither:

- (i) require the applicant to install a new or separate connection directly between the ADU and the water system; nor
- (ii) impose a capacity charge, unless the ADU is constructed along with a new SFDU; and

5. Expanded ADUs. For an Detached ADU, JBWD:

- (i) may require a new or separate utility connection directly between the Detached ADU and the water system; and
- (ii) shall impose a capacity charge that shall be proportionate to the burden of the proposed ADU on the water system, based on the number of plumbing fixtures as set forth in Exhibit A.

6. The General Manager, or her designee, is hereby authorized and directed to amend JBWD's Rules and Regulations to render (1) Article 13.19, 14.19, and any other related provisions consistent with Exhibit A adopted herein; and (2) reflect the

Attached and Detached ADU requirements of Government Code Section 65852.2 as set forth herein.

7. The capacity charges set forth in Exhibit A shall be automatically adjusted commencing on January 1, 2025, and January 1 of each calendar year thereafter, based on the change in the Engineering News-Record Construction Cost Index (ENR-CCI 20 Cities-Average) as measured by the last two published June indices, starting from the base month of June 2023. By way of illustration, the first automatic increase taking effect on January 1, 2025, shall be based on the increase in said indices from June 2023 to June 2024, and so forth.

8. This Resolution shall to the extent in conflict therewith supersede any conflict provisions of prior resolutions, including, but not necessarily limited to, Resolution Nos. 07-807, 97-572, and 05-773, adopted for purposes of establishing capacity charges for water service within the boundaries of JBWD.

9. This Resolution shall be effective the next business day following adoption.

PASSED AND ADOPTED this 7th day of June, 2023, pursuant to the following votes:

AYES:	<u>5</u>
NOES:	<u>0</u>
ABSENT:	<u>0</u>
ABSTAIN:	<u>0</u>

By: 
Thomas Floen, President

By: 
Sarah Johnson, General Manager & Board Secretary