

**Tualatin Valley Water District**



**BOARD OF COMMISSIONERS  
1850 SW 170th AVENUE  
BEAVERTON, OR 97006**

**JULY 18, 2012  
REGULAR MEETING & RATE HEARING  
7:00 PM**

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**ALL VERBAL TESTIMONY IS ELECTRONICALLY RECORDED**

**ALL WRITTEN PUBLIC TESTIMONY RECEIVED WILL BE  
READ FOR THE RECORD**

1. CALL TO ORDER – REGULAR MEETING
2. ELECTION OF BOARD OFFICERS (MOTION TO APPOINT).....
3. BOARD APPOINTMENTS TO COMMITTEES .....
4. REPORTS BY CHIEF EXECUTIVE OFFICER AND MANAGEMENT STAFF
5. COMMISSIONER COMMUNICATION
  - 5.1 -Reports of Meetings Attended
  - 5.2 -Topics to be raised by the Commissioners
6. PUBLIC COMMENT:  
**This time is set aside for persons wishing to address the Board on items on the Consent Agenda and matters not on the Agenda. Additional public comment will be invited on agenda items as they are presented. Each participant is limited to five minutes, unless an extension is granted by the Board.**

CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Any Board member may request that an item be removed by motion for discussion and separate action.

ITEMS REMOVED FOR SEPARATE DISCUSSION: Any items requested to be removed from the consent agenda for separate discussion, will be considered immediately after the Board of Commissioners have approved those items which do not need discussion.

7. CONSENT AGENDA ITEMS
  - 7.1- Work Session Minutes of June 5, 2012 .....
  - 7.2- Regular Meeting Minutes of June 20, 2012 .....

**BUSINESS AGENDA ITEMS:**

**Time will be set aside for public comment for each business item. Each participant is limited to five minutes unless the Board grants an extension or the agenda item is noted for a specific amount of time for public comment.**

**\*\*OPEN PUBLIC RATE HEARING\*\***

8. OPEN PUBLIC HEARING FOR PROPOSED RATES IN ACCORDANCE WITH ORS, CHAPTER 264.312 FOR THE PURPOSE OF CONSIDERING RATES AND CHARGES TO CUSTOMERS FOR WATER SERVICES PROVIDED

8.1 - Opening comments by Chief Executive Officer

8.2 - Presentation by Chief Financial Officer, Paul Matthews

8.3 - Public testimony is heard

**\*\*\*CLOSE PUBLIC RATE HEARING\*\*\***

9. CONSIDERATION OF RESOLUTION 09-12, ESTABLISHING RATES, FEES, AND OTHER CHARGES FOR TVWD; DECLARING EFFECTIVE DATE AND OTHER MATTERS RELATING THERETO (MOTION TO ADOPT).....

10. ORDINANCE 01-12 AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES (MOTION TO ADOPT).....

11. IGA - AGREEMENT FOR INTERIM WATER SUPPLY IN SOUTH HILLSBORO, AREAS 6A AND 69 (MOTION TO APPROVE).....

12. TRANSITION PLAN FOR PARTNERS FOR A SUSTAINABLE WASHINGTON COUNTY COMMUNITY (PSWCC) (MOTION TO TERMINATE CURRENT COOPERATIVE AGREEMENT FOR PSWCC AND MOTION TO ADOPT PSWCC TRANSITION PLAN) .....

13. CONSIDER RESOLUTION 10-12 AMENDING RESOLUTION 11-07, WATER SUPPLY IMPROVEMENTS PROGRAM, PHASE 2.....

14. ADJOURNMENT

**TUALATIN VALLEY WATER DISTRICT  
BOARD AGENDA ITEM**

**MEETING DATE: JULY 18, 2012**

**TITLE: RESOLUTION 09-12: A RESOLUTION ESTABLISHING RATES, FEES AND OTHER CHARGES FOR THE TUALATIN VALLEY WATER DISTRICT, DECLARING EFFECTIVE DATE, AND OTHER MATTERS RELATING THERETO.**

**ITEM:** This resolution sets District water rates and charges, other than system development charges. In keeping with past practice, staff is recommending an effective date of October 1, 2012 after the summer watering season.

For a typical residential customer using 14 CCF (CCF = 100 cubic feet or 748 gallons) bi-monthly the proposed schedule of water rates reflects a 7.2% overall increase. Actual customer rate impacts will vary by usage and time of year. The Block 1 volume rate is recommended to increase 5.6% from \$2.51/ccf to \$2.65/ccf. The Block 2 volume rate is recommended to increase 5.3% from \$3.59/ccf to \$3.78/ccf. The fixed charge for a standard 5/8" meter is proposed to increase 11.4%. About 95% of all residential customers are connected to our system with a 5/8" meter. In addition, all other fixed charges for meters from 3/4" to 10" are recommended to increase between 13.4% and 33.1%.

The proposed rate increases are consistent with the findings and recommendations of the *Final Report – Cost-of-Service Water Rate Study* prepared by HDR and accepted by the Board of Commissioners at the May 16, 2012 regular board meeting. Primary goals of the Cost-of-Service Water Rate Study included improving the District's revenue stability, preserving the conservation message, and keeping the water rate structure simple and understandable. A key directive of the Board was to phase-in full cost-of-service fixed charges and fire costs over a three-year period. The water rate schedule set forth in Resolution 09-12 represents the first year of the phase-in period.

The recommended volume rates and fixed charges conform to the Board's policy of establishing cost-of-service rates, provide sufficient resources for District operational and capital needs, including future water supply, and promote predictable and stable rates to avoid unexpected increases.

Staff also conducted a cost-of-service review of other District fees and charges, and recommends increases to some fees including water meter removal, fire hydrant permits, temporary irrigation meters, and meter and service installations.

Additional information is included on the attached "Background" sheet.

**STAFF RECOMMENDATION:** Staff recommends Board approval of Resolution 09-12.

**BUDGET IMPACT:** The recommended rates are calculated to generate the water sales revenues presented in the Adopted 2011-13 Biennial Budget.

**ATTACHMENTS:** Resolution 09-12 & Background

**ADDITIONAL INFORMATION:** Paul Matthews, [paulm@tvwd.org](mailto:paulm@tvwd.org), (503) 848-3017, Tod Burton, [todb@tvwd.org](mailto:todb@tvwd.org), (503) 848-3040

**APPROVING MANAGERS INITIALS**

CHIEF EXECUTIVE OFFICER \_\_\_\_\_

HUMAN RESOURCES N/A

FIELD OPERATIONS N/A

INTERGOV. RELATIONS N/A

FINANCIAL SERVICES \_\_\_\_\_

SUPPORT SERVICES \_\_\_\_\_

ENGINEERING SERVICES \_\_\_\_\_

**BOARD ACTION:**

APPROVED \_\_\_\_\_

DENIED \_\_\_\_\_

## **Rate Resolution 09-12 –Background**

As part of its biennial budget process, the District adopts annual revenue requirements for its water sales. These annual revenue requirements include forecasts of operations and maintenance (O&M) expenditures and the District's six-year Capital Improvement Plan (CIP). The adopted revenue requirements are determined by using a long-term (20 to 50-year) financial forecasting model that looks at planned expenditures and forecasts the amount of revenue from water sales required to meet those expenditures. Based on the Adopted 2011-13 Biennial Budget and CIP, staff has completed this analysis and determined that for fiscal year (FY) 2012-13 a 6.4% average rate increase is adequate to meet the revenue requirements of the District.

This result is driven by the following factors:

- The timing of the development of future interim and long-term water supply development as adopted in the 2011-13 Biennial Budget and six-year Capital Improvement Plan anticipates bond sales during the 2014-2022 timeframe. Future rate increases will be necessary to repay the debt and meet the debt service coverage requirements.
- Although demand has fallen for the past several years, we project overall demand has leveled off to about 9.5 million CCF per year. District revenue requirements in the financial forecast have been adjusted to reflect this systemic change in demand going forward.
- We continue to control spending for District operations and plan for future capital improvements.
- Overall rate increases for the prior two years (1.7% in 2010-11 and 1.5% in 2011-12) were below the general rate of inflation. At the time, staff anticipated the proposed increase in water rates would be required for 2012-13.

During FY 2011-12, staff completed an updated Cost-of-Service Water Rate Study, which was accepted by the Board at the May 16 regular board meeting. A key deliverable of the study was a new rate design model (RDM) that determines alternative rate designs to meet the District's revenue requirements. This tool was used in the series of Board work sessions and regular meetings during the winter and spring of 2011-12 to discuss rate design alternatives leading the recommended water rate design and rate schedule in Resolution 09-12.

Policy objectives in the recommended rate design included improving revenue stability for the District, preserving the conservation message for customers, and keeping the water rate structure simple and understandable. These objectives support a key finding in the Cost-of-Service Water Rate Study that approximately 88% of the District's costs are fixed (and do not vary by the volume of water sold), while about 19% of the District's revenue was currently collected from fixed charges.

Based on the study, the Board directed staff to phase-in the full cost-of-service of fixed charges and fire costs over a three-year period. The water rate schedule presented in Resolution 09-12 represents the first year of the phase-in.

## **Billing Impacts of the Revenue Increase**

For a typical residential customer using 14 CCF of water on a bi-monthly basis, the proposed rate increase will result in a bill that is \$3.52 (7.2%) higher than their current bill, or \$1.76 per month. Water usage for households is affected by the use of water efficient fixtures, outside irrigation, and customer behavior. Considering these factors, rate impacts on individual customers will vary.

The study recommends that the Block 1 volume rate increase from \$2.51/ccf to \$2.65/ccf (5.6%), and the Block 2 volume rate increase from \$3.59/ccf to \$3.78/ccf (5.3%). The study examined the appropriateness of the current block thresholds (i.e., the amount of water sold to a customer at the Block 1 rate before the Block 2 rate applies.) Based on the findings of the study, staff does not recommend changes to block thresholds or the methodology of how Block 2 rates are applied to the different customer classes. Residential customers are assessed Block 2 volume rates on usage in excess of 28 ccf per bi-monthly period. All other multifamily, commercial, production, and irrigation customer classes have Block 2 rates assessed on usage in excess of 140% of their prior 12-month moving average.

The study recommends fixed charges for meters ranging from 3/4" to 10" increase from 13.5% to 33.1% depending on size. With the exception of fireline customers, the fixed charge portion of the water bill for non-residential customers is often smaller in comparison to volume charges. Bill impacts will vary for non-residential customers depending on meter size and usage. Overall, the water rate recommendations are anticipated to result in an average rate increase of 6.4% for non-residential customers.

Staff also conducted a cost-of-service review of all other District fees and charges. This analysis has resulted in recommended changes to some of those fees. A summary of the recommendations is provided below.

### **Other Service Charges and Penalties Summary of Recommended Changes**

#### Exhibit A - Other Service Charges and Penalties & Meter and Service Installations

##### Removal of Meter and Locking of Meters

This fee is assessed when it is necessary to remove or lock a meter due to non-payment. It is an activity of last resort used when other attempts to address customer delinquencies prove unsuccessful. Staff recommends an increase for the removal of meter fee from \$85 to \$95, and locking of meter (first occurrence) from \$55 to \$60 based on the cost-of-service review.

##### Testing Water Meters at Customer's or Owner's Request - On Premises

Recommendation to increase the testing of meters 5/8" to 1" on the premise from \$80 to \$95 based on cost-of-service analysis. This fee is not assessed if the testing determines a problem with the meter.

### Testing Water Meters at Customer's or Owner's Request - Off Premises

Recommendation to increase the cost for removal of meter for testing (5/8" to 1") from \$285 to \$290 based on the cost of service. This service is rarely performed. Most meter testing is conducted on the premises.

### Fire Hydrant Permits

Recommendation to increase the charge for all fire hydrant permits by \$5 per permit based on the estimated cost of service. Hydrant permits have not been increased in the last three years.

### Flow Testing of Fire Hydrants

Recommendation to increase fee from \$185 to \$215 based on a cost-of-service analysis of labor requirements to perform the work. This service is requested infrequently.

### Temporary Irrigation Meter

Recommendation to increase fee from \$1,990 to \$2,040 based on a cost-of-service analysis for labor and material costs for meter installations. Temporary irrigation meters were added as a customer class in 2011. Users consist of customers required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits. Customers are not required to pay System Development Charges for this temporary use, but are required to pay a Temporary Irrigation Meter fee and pay water volume charges in accordance to the rate schedule.

### Meter and Service Installation Charges

Meter and service installation fees, including dig-ins reflect both the cost of the meter (including automated meter reading devices) and installation. Meter fees are recommended to be adjusted 2% to 3% depending on the size of the meter to obtain full cost recovery of the AMR devices, and labor and equipment costs for installation. District water system standards require all meter installs up to 1" to include a 1" service line. This allows the upsizing of a less than 1" meter to a higher capacity meter for fire suppression without the need to upgrade the service line.

**Staff Recommendation/Effective Date:** District staff is recommending that all Exhibit A rates and charges become effective October 1, 2012.

# **Tualatin Valley Water District**



## **TUALATIN VALLEY WATER DISTRICT**

### **RESOLUTION 09-12**

#### **A RESOLUTION ESTABLISHING RATES, FEES, AND OTHER CHARGES FOR THE TUALATIN VALLEY WATER DISTRICT: DECLARING EFFECTIVE DATE: AND, OTHER MATTERS RELATING THERETO.**

WHEREAS, a public hearing was held by the Board of Commissioners of the Tualatin Valley Water District on July 18, 2012 for the purpose of considering increases in the rates to be paid for the purchase of water and related fees from the District; and,

WHEREAS, pursuant to the provisions of ORS 264.312, notice of said public hearing and the purpose thereof was given by mailing a notice of hearing to the customers of the District in accordance with the requirement of said statute; and,

WHEREAS, based upon the recommendations of the Administrative Staff of the District and the testimony heard, received and considered by the Board from such public hearing, the Board of Commissioners finds that:

- (1) The District purchases most of its water supply for distribution within the District from the City of Portland, Oregon, and acquires substantially the remainder of its supply as a member of the Joint Water Commission; and,
- (2) The schedule of water rates is consistent with the findings and recommendations of the Final Report: Cost-of-Service Water Rate Study prepared by HDR and accepted by the Board of Commissioners on May 16, 2012. Primary goals of the Cost-of-Service Water Rate Study included improving revenue stability, preserving the conservation message for District customers, and keeping the water rate structure simple and understandable; and,
- (3) The Board of Commissioners accepts and approves the recommendation of its Administrative Staff that the rates for water services should be adjusted in accordance with the staff written recommendation which is a part of the record herein; and,
- (4) It is necessary to adopt the rates for water purchased from the District and related rates and charges in accordance with the schedule of rates set forth in Exhibit "A" in order to provide funds to cover the cost of operating the District, and the water purchased from the City of Portland by the District and acquired through the Joint Water Commission; and,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF  
THE TUALATIN VALLEY WATER DISTRICT AS FOLLOWS:

Section 1:        Effective October 1, 2012

The rates and charges shown in Exhibit "A" attached hereto and by this reference incorporated herein,  
shall be adopted by the District.

Section 2:

The secretary of the District be and hereby is authorized and instructed to post a copy of this resolution in  
a public and conspicuous place at the office of the District

INTRODUCED AND ADOPTED THIS 18<sup>TH</sup> DAY OF JULY, 2012

TUALATIN VALLEY WATER DISTRICT

BY: \_\_\_\_\_ BY: \_\_\_\_\_  
Dick Schmidt, President                      James Duggan, Secretary

**TUALATIN VALLEY WATER DISTRICT**  
**EXHIBIT "A" - WATER RATES**

**VOLUME WATER CHARGE:**

**Effective 10/1/2012**

<u>CLASS CODE 1</u> <u>RESIDENTIAL</u>	0-28 CCF	\$2.65
	29 +	\$3.78
<u>CLASS CODE 2</u> <u>MULTI-FAMILY</u>	UP TO 1.4 TIMES 12-MONTH MOVING AVERAGE	\$2.65
	OVER 1.4 TIMES 12-MONTH MOVING AVERAGE	\$3.78
<u>CLASS CODE 3</u> <u>COMMERCIAL NON-PRODUCT</u>	UP TO 1.4 TIMES 12-MONTH MOVING AVERAGE	\$2.65
	OVER 1.4 TIMES 12-MONTH MOVING AVERAGE	\$3.78
<u>CLASS CODE 4</u> <u>PRODUCTION PROCESSES</u>	UP TO 1.4 TIMES 12-MONTH MOVING AVERAGE	\$2.65
	OVER 1.4 TIMES 12-MONTH MOVING AVERAGE	\$3.78
<u>CLASS CODE 5</u> <u>FIRELINE</u>	ALL CONSUMPTION	\$2.65
<u>CLASS CODE 6</u> <u>IRRIGATION</u>	UP TO 1.4 TIMES 12-MONTH MOVING AVERAGE	\$2.65
	OVER 1.4 TIMES 12-MONTH MOVING AVERAGE	\$3.78
<u>CLASS CODE 7</u> <u>TEMPORARY IRRIGATION</u>	UP TO 1.4 TIMES 12-MONTH MOVING AVERAGE	\$2.65
	OVER 1.4 TIMES 12-MONTH MOVING AVERAGE	\$3.78
<u>CLASS CODE 8</u> <u>LOCAL GOVERNMENT WATER PURVEYORS</u>	Volume charges shall be at contractual rates.	

**BI-MONTHLY RATE\***

**FIXED CHARGE:**

FOR ALL CLASS CODES

<u>METER SIZE OR EQUIVALENT SERVICE SIZE</u>	<u>TOTAL FIXED CHARGE</u>
5/8"	\$ 15.28
3/4"	\$ 16.42
1"	\$ 19.52
1 1/2"	\$ 24.48
2"	\$ 35.44
3"	\$ 106.50
4"	\$ 137.42
6"	\$ 211.06
8"	\$ 296.50
10"	\$ 473.20

\* Monthly rates will be 1/2 of fixed charges plus commodity rate.

Note: If snowbird customers do not notify District of their return and water turn-on and there has been movement on the meter, the District will charge fixed charges for the entire 2 month billing cycle.

Private fire services are charged at the service size as determined by the nominal size of the backflow prevention assembly unless otherwise established by the District's Chief Engineer based on engineering equivalence. For services sizes not listed above, the next larger service size will be used.

# EXHIBIT "A" - OTHER SERVICES CHARGES & PENALTIES

Effective  
10/1/2012

<b>1. Water Service on or off at customer's or owner's request</b>	
a. First call -- during office hours, Monday through Friday except for snowbird turn off.	N/C
b. Leaks or emergencies beyond customer control -- during office hours <b>or</b> after hours <b>or</b> weekends	N/C
c. Service on and off, second call during office hours	\$60
d. Service on and off, second call after hours (an additional)	\$50
e. All snowbird turn offs	\$50
<b>2. Water Service on and off for non-payment</b>	
a. Service on and off, during office hours, Monday through Friday	\$60
b. After hours or weekend service on and off (an additional)	\$50
c. Broken promise turn off	\$60
<b>3. Additional charges, if necessary, to enforce payment of bill or charges</b>	
a. Removal of meter	\$95
b. Reinstallation of meter	N/C
c. Installation or removal of locking device-first occurrence	\$60
d. Installation or removal of locking device-second occurrence	\$75
e. Installation or removal of locking device-third occurrence	\$150
	& meter pulled
f. Repair of breakage/damage to locking mechanism (curb stops, etc.)	Parts & Labor
g. Service off water at main or reinstating service	Parts & Labor
h. Check returned by bank for non-payment (NSF)	\$25
i. Meter tampering and/or using water without authority	\$60
j. Penalty for incorrect financial institution account information	
First two times no charge. Charge per incident, third time and above.	\$25
<b>4. Illegal use of water</b>	\$150
(plus water usage billed at current rates)	
<b>5. Decreasing or increasing size of meter</b>	Parts & Labor
	(plus any applicable system development charges)
<b>6. Testing water meters at customer's or owner's request</b>	
a. Testing on premises (5/8" - 3/4" - 1")	\$95
b. Removal of meter for testing (5/8" - 3/4" - 1")	\$290
c. Testing of meters larger than 1"	Parts & Labor
<b>7. Usage of meter key</b>	
a. Deposit refundable with key return	\$25 Deposit
<b>8. Removal of meter during construction</b>	
a. Removal of meter	\$95
b. Loss of meter (replacement cost)	\$260 - \$610
<b>9. Fire hydrant permits -- mandatory for fire hydrant usage</b>	
a. Three month permit	\$60
(plus water usage billed at current Block 1 rate of \$2.65 per ccf)	
b. Six month permit	\$85
(plus water usage billed at current Block 1 rate of \$2.65 per ccf)	
c. Twelve month permit	\$135
(plus water usage billed at current Block 1 rate of \$2.65 per ccf)	
d. Penalty for unauthorized hydrant use	\$500
e. Penalty for using non-approved (uninspected) tank	\$950
f. Failure to report water usage	\$15/day for unreported usage

# EXHIBIT "A" - OTHER SERVICES CHARGES & PENALTIES

<b>10. Backflow prevention device testing</b>	
<b>Device testing</b>	
a. Initial test fee per device	\$105
b. All subsequent tests are the responsibility of the owner -- to be done annually by a State Certified Backflow Tester of their choice	
<b>Gold Plan</b>	
Annual fee per device dependant on customer agreement to have the District schedule & perform required annual test. Test performed by District contractor & includes \$50 annually in minor repairs to existing device to achieve passing test.	\$35
<b>Silver Plan</b>	
Annual fee per device. Applies if customer hasn't completed annual test by required date and is scheduled for shutoff. Test performed by District contractor in lieu of shutoff. Fee does not include cost of repairs that may be required.	\$50
<b>Service on and off for non-compliance of annual testing and reporting.</b>	
a. Service on and off, during office hours, Monday through Friday	\$60
b. After hours or weekend service on and off (an additional)	\$50
<b>11. Flow testing of fire hydrants</b>	<b>\$215</b>
<b>12. Plan Review</b>	
a. Residential subdivision 1-10 lots	\$175
b. Residential subdivision 11-50 lots	\$250
c. Residential subdivision 51-100 lots	\$400
d. Residential subdivision more than 100 lots	\$450
e. Commercial development, meter smaller than 2"	\$325
f. Commercial development, meter 2" or larger	\$450
<b>13. Temporary Irrigation Meter</b>	<b>\$2,040</b>

**Other Billing Charges**

Any other services performed by District personnel for which there is not a fee specified in Resolution 09-12 shall be charged at the employee's salary plus the cost of other personnel expenses for the actual time spent on the service (minimum 0.25 hours); plus the cost for materials and District equipment used including a 10% overhead rate and any deposits

The District may charge for time expended searching records to provide historical data per District Resolution 14-00. A written request and/or deposit may be required.

**Carrying Charges**

Bills issued by TVWD which remain unpaid for over thirty (30) days may be subject to a carrying charge at a rate of 9% per year on the unpaid balance.

# EXHIBIT "A"- METER AND SERVICE INSTALLATION CHARGES

**Effective**  
**10/1/2012**

## Meter and Service Installation Charges By Meter Size

METER SIZE	Subdivision				
	Service Install*	Refundable**	Meter Fee		
5/8" } 1" 3/4" } Service 1" } Line	\$820	\$180	\$260		
1-1/2"			\$2,545	\$0	\$495
2"			\$2,545	\$0	\$610

\*Per District water system standards all meters to 1" in size require a 1" service line

\*\*Amount refundable applies only if TVWD is able to install its services before other utilities

METER SIZE	Dig-Ins		Banked Dig-Ins		
	Service Install*	Meter Fee	Banked Dig-in Fee	Meter Fee	
5/8" } 1" 3/4" } Service 1" } Line	\$2,040	\$260	\$820	\$260	
1-1/2"		\$2,545		N/A	\$495
2"		\$2,545		\$610	N/A

\*Per District water system standards all meters to 1" in size require a 1" service line

All new meters include Automatic Meter Reading (AMR) capability.

Dig-ins are defined as a service tap in an existing main in an existing street.

Subdivisions are defined as undeveloped streets where mains will be installed.

Banked dig-ins are defined as one excavation with more than one service tap.

Fees for Banked Dig-Ins for meters larger than 1" will be determined on a case by case basis by the District's Engineering Department.

**TUALATIN VALLEY WATER DISTRICT  
REGULAR BOARD MEETING AGENDA ITEM**

**MEETING DATE: JULY 18, 2012**

**TITLE: ORDINANCE 01-12 AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES**

**ITEM:** Last month the staff presented information on a new system development charge ordinance for the District. The Board held its first reading and public hearing at its regular board meeting on June 20, 2012. To complete the process of adopting the new ordinance, the Board must hold a second reading and public hearing.

As we indicated last month, the new ordinance only changes the basis of how our SDCs are applied and managed. In no way does it change the methodology or fee. Since the first reading, staff has made minor corrections to the ordinance to reflect comments by the board and staff.

Prior to the first public hearing in June, staff sent a letter to those citizens that have expressed an interest in our SDCs. We received a call from Justin Wood, Associate Director of Government & Builder Relations with the Home Builders Association of Metro Portland. Mr. Wood wanted clarification on the effects of the proposed new ordinance. No other members of the public have contacted the District as a result of the letter.

**STAFF RECOMMENDATION:** Staff recommends the Board adopt Ordinance 01-12.

**BUDGET IMPACT:** There is no direct budget impact from this Ordinance

**ADDITIONAL INFORMATION:** Paul Matthews, [paulm@tvwd.org](mailto:paulm@tvwd.org), (503) 848-3017, Mark Knudson, [MarkK@tvwd.org](mailto:MarkK@tvwd.org), (503) 848-3027

**ATTACHMENTS:** Ordinance 01-12

**APPROVING MANAGERS INITIAL:**

CHIEF EXECUTIVE OFFICER	_____	HUMAN RESOURCES	N/A
FIELD OPERATIONS	N/A	INTERGOV. RELATIONS	N/A
FINANCIAL SERVICES	_____	CUSTOMER SERVICES	N/A
ENGINEERING SERV.	_____		

**BOARD ACTION:**

APPROVED \_\_\_\_\_  
DENIED \_\_\_\_\_

# TUALATIN VALLEY WATER DISTRICT

## ORDINANCE 01-12

### AN ORDINANCE AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES

WHEREAS, through Resolution No. 1-91, the Board of Commissioners established a methodology to determine the amount of System Development Charges for the Tualatin Valley Water District pursuant to Oregon Revised Statutes (ORS) 223.297 to 223.314, and the charges therefore which have been amended from time to time by various Resolutions; and

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a uniform framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be used for Capital Improvements; and

WHEREAS, Oregon Revised Statutes, under 223.297 to 223.314 provides procedures for establishing a Methodology to determine System Development Charges; and

WHEREAS, by this Ordinance, the District intends to reconfirm the authorization for system development charges for capital improvements pursuant to ORS 223.297 to 223.314 for the purpose of creating a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system; and

WHEREAS, this Ordinance is adopted to restate existing provisions of the previously adopted Resolution 1-91 as amended and to provide updated provisions consistent with the statutes, but without change to the methodology for calculations of charges; and

WHEREAS these charges shall be due and payable at the time of permitted increased usage of the capital improvements that generate a need for those facilities; and

WHEREAS, the system development charges imposed are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, and being fully advised

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

#### **Section 1. Title**

This Ordinance shall be known as “System Development Charge Ordinance” and may be so referred to.

#### **Section 2. Definitions**

- A. “Applicant” shall mean the owner or other person who applies for a residential, commercial, industrial or other connection to the District water system.
- B. “Board” means the Board of Commissioners of the Tualatin Valley Water District.

- C. “Building” shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons or property of any kind or for any public, commercial, industrial or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.
- D. “Capital Improvements” shall mean public facilities or assets used for water supply, treatment and distribution.
- E. “Capital Improvement Plan” shall mean any Plan, Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains capital improvements upon which system development charges are calculated.
- F. “Citizen or Other Interested Person” shall mean any person whose legal residence is within the boundaries of the District, as evidenced by registration as a voter within the District or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within District boundaries or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.
- G. “Connection” or “Connection Permit” shall mean connection to, or a permit to connect to, the capital improvements of the District.
- H. “District” shall mean the Tualatin Valley Water District, a unit of local government under ORS 174.116.
- I. “Development” shall mean a building or other construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which may contribute to the need for additional or enlarged capital improvements, as determined by the Board.
- J. “Dwelling Unit” shall mean a single building or a portion of a building designed for complete, independent residential occupancy, consisting of one or more rooms which are arranged, designed or used as quarters for living, sleeping, eating, cooking and sanitation by one or more persons.
- K. “Encumbered” shall mean monies committed by contract or purchase order in a manner that obligates the District to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of a real property provided by a vendor, supplier, contractor or owner.
- L. “Equivalent Residential Unit (ERU)” shall mean the base element of the formula by which system development charge rates are determined, for various buildings or developments.
- M. “Improvement Fee” shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance.
- N. “Lot” shall mean a unit of land created by subdivision or partition in compliance with state statutes and applicable planning and zoning codes and regulations.

- O. “Manufactured Housing” shall mean a dwelling unit which is constructed primarily at one location and is then transported to another location for either permanent or temporary siting.
- P. “Methodology” shall mean the system development charge methodology required by ORS 223.304(1) and (2).
- Q. “Owner” shall mean the person holding legal title to the parcel upon which development is to occur, or a contract purchaser of such parcel.
- R. “Parcel” shall mean any unit of land, lot or real property created by subdivision or partition in compliance with any state statute or the applicable planning and zoning codes and regulations; or by deed or land sale contract if not created by subdivision or partition.
- S. “Person” shall mean an individual, corporation, partnership, incorporated association, or any other similar entity.
- T. “Qualified Public Improvement” shall be defined as provided in ORS 223.304(3).
- U. “Reimbursement Fee” shall mean fee for costs associated with capital improvements already constructed or under construction when the fee is established and for which capacity exists.
- V. “Single-family housing” shall mean a detached dwelling unit, constructed on-site, and located on an individual parcel.
- W. “System Development Charge” or “SDC” shall mean a reimbursement fee and/or an improvement fee assessed or collected at the time of increased usage of, or connection to a capital improvement.

### **Section 3. Assessment of Charge**

- A. A System Development Charge is hereby imposed upon all new development within the District, which connects to a capital improvement or which increases the usage of any capital improvements, or which contributes to the need for additional or enlarged capital improvements. The system development charge shall apply to new development and alteration, expansion or replacement of an existing building, structure or development if such alteration, expansion or replacement results in an increase in the number of equivalent residential units (ERUs) compared to the present number of ERUs. For alterations, expansions and replacements, the amount of the system development charge to be paid shall be the difference between the SDC amount for the proposed development less a credit for the SDCs attributable to the existing ERUs.
- B. System development charge rates per ERU shall be established, and may be revised from time to time, by resolution of the District.
- C. The system development charges imposed by this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

- D. For any meter larger than 1 1/2 inches, the owner shall execute a SDC Agreement to pay an SDC for that meter, subject to adjustment for actual usage. The SDC Agreement will have a term of five years (60 months). If actual usage is greater than 110% of anticipated daily usage during any 12-month period of time, during the 5-year (60 month) term from the date of the agreement, an additional SDC may be charged by calculating peak day and storage ERUs and multiplying the peak day SDC cost per ERU and the storage cost per ERU then in effect. If the District finds a violation of the SDC Agreement or exceedance of the volume limitation by the Owner, then it may extend the SDC Agreement for an additional five years along with the recalculation of the SDC rate.
- E. The SDC paid for a parcel shall be deemed to run with the land and is not transferrable to another parcel except as specified herein.
- F. Where an existing meter is located on a parcel that is partitioned or subdivided, the owner may apply to the District to assign the meter and any existing system development charge payment to a lot or apportioned among the lots that comprised the original parcel. The existing credit shall apply to the first lot to develop.
- G. Where contiguous parcels under the same ownership with existing connections wish to combine and seek a credit for the value of existing connections, such credit may be granted if:
- (1) The ownership is the same or by closely related parties;
  - (2) The separate contiguous parcels are combined into one tax lot by the Assessor; and
  - (3) All services and connections for the previous parcels are abandoned so that there will only be one connection for the consolidated parcel.
- H. When a request or requirement for a larger meter is made to the District by an owner for parcels within the District, SDC credit for the existing meter at the parcel will be granted.
- (1) The credit for meters 1.5 inches or less will be based on the current SDC rate in effect at the time of the requested or required upsizing. For meters 2 inches and larger, the credit will be calculated based on anticipated water use as agreed to by the parcel owner at the time the original service connection was installed, or the most recent subsequent agreements between the parcel owners and the District when the connection was resized. If no anticipated water use agreement exists for the parcel, the Chief Engineer will determine, by examining information the Chief Engineer deems pertinent, an equivalent anticipated water use for the existing connection. In cases where the Chief Engineer makes such determination, the credit will be based on the SDC for customers with the determined anticipated water use using the SDC rate in effect at the time of the requested or required upsizing.
  - (2) Credit shall be given for inactive or previously removed meters that can be verified by District records. The credit will be determined as stated in Section H (1) above.
  - (3) Credits as computed will be subtracted from the determined SDC amount based on the District's current adopted SDC schedule. If an available credit exceeds the SDC amount, the balance shall remain with the parcel previously receiving water service for

no more than two years from the date the credit is first used. No cash refunds shall be provided for the amount of this credit.

(4) SDC credits are non-transferrable to other parcels within the District unless contiguous parcels under the same ownership within the District's service area are combined to facilitate development.

(5) SDC credits will only apply to parcels with accounts with the District that are in good standing and have no unpaid charges.

I. The SDC paid for a residential ¾-inch or 1-inch water meter, in the circumstance where a larger meter is required only for the purpose of meeting a residential multi-purpose fire sprinkler system requirement, will consist of the SDC for the appropriate size meter that would be required without the multi-purpose fire sprinkler system plus a percentage of the difference between the price of the SDC for the meter size meeting the domestic water requirements and the SDC for the meter size meeting the fire sprinkler requirement. The percentage adjustment factor will be determined annually by the District's Chief Engineer and represent the approximate storage cost component of the SDC. Should the customer regularly use the capacity of the ¾" or 1" meter to meet their domestic needs, they will be required to pay the remainder of the SDC at the current rate in effect.

J. If the customer has been charged by the District for an illegal connection and requests a contract for payment of the SDC, the District may withhold the option of providing a contract for said payment of SDC.

K. If the SDC is financed as permitted by ORS 223.028, the financing charge established by the District shall be the maximum legal rate of interest as authorized in ORS 82.010.

#### **Section 4. System Development Charge Methodology**

A. The methodology used to establish the reimbursement fee portion of the system development charge shall take into account the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, generally accepted rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the District. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

B. The methodology used to establish the improvement fee portion of the system development charge shall take into account the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Board.

C. The methodology used to establish the improvement fee and the reimbursement fee was developed and previously adopted by the District. Amendments thereto or adoption of a new methodology may be adopted by ordinance or resolution of the District.

#### **Section 5. System Development Charge Plan**

The Board has adopted the Capital Improvement Plan (CIP) which is periodically updated. This Plan

**Lists the planned capital improvements that may be funded with improvement fee revenues; and**

**Lists the estimated cost and time of construction of each improvement.**

In adopting this CIP, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains the information required by this Section. The Board may modify the projects listed in that Plan at any time through the adoption of a resolution.

**Section 6. Collection**

- A. The System Development Charge shall be due and payable at the time of issuance of a permit or approval by the District to connect to the District system or upon such connection or upon increased usage of the District's system. This ordinance shall apply to any building or development for which connection approval has not been given prior to the adoption hereof.
- B. If development is commenced or connection is made to the system provided by the District without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- C. The District shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to Section 6E.
- D. In addition, each person making an application for connection shall pay an inspection charge and all other applicable fees and costs imposed by the District. The fees and charges shall be immediately due and payable.
- E. Notwithstanding Section 3A, the following developments shall be exempt from payment of the System Development Charges:

**Alterations, expansion or replacement of a building or development where no additional equivalent residential unit is created or plumbing fixtures added.**

**The construction of accessory buildings or structures which will not create additional equivalent residential units or plumbing fixtures and which do not create additional demands on the District's capital facilities.**

**The issuance of a permit for a manufactured housing unit on which applicable system development charges have previously been paid.**

**Development with vested rights, determined as follows:**

- a. Any owner of a parcel which was the subject of a building permit or development permit issued prior to the effective date of Ordinance No. 01-12 may petition the District for a vested rights determination which would exempt the owner from

the provisions of this ordinance. Such petition shall be evaluated by the Board and a decision made based on *all three* of the following criteria being met:

- (1) The existence of a valid, unexpired building or development permit authorizing the specific development for which a determination is sought, and;
- (2) Substantial expenditures or obligations made or incurred in reliance upon such permit, and;
- (3) Other factors that demonstrate it is inequitable to deny the owner the opportunity to complete the previously approved development under the prior conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:
  - (a) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and
  - (b) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this ordinance.

b. The Chief Executive Officer shall make a written determination as to whether the owner has established a vested right in the development and, if so, whether the development would be exempt from the provisions of this ordinance.

(5) Fire only service connections.

(6) Temporary connections for Irrigation Purposes.

## **Section 7. Credits for Developer Contributions of Qualified Public Improvements**

- A. The District may grant a credit against the improvement fee component of system development charges imposed pursuant to Section 3 for the donation of land for, or for the actual cost of construction of, any qualified public water improvements set forth in the CIP.
- B. Prior to issuance of a building permit or development permit, the applicant shall submit to the District a proposed plan and estimate of cost for contributions of qualified public water improvements. The proposed plan and estimate shall include:
  - (1.) A designation of the development for which the proposed plan is being submitted;
  - (2.) A legal description of any land or interest in land such as an easement or right-of-way proposed to be donated and a written appraisal prepared in conformity with Section 7(C)(1).;

- (3.) A list of the contemplated capital improvements contained within the plan;
  - (4.) An estimate of proposed construction costs certified by a professional engineer; and
  - (5.) A proposed time schedule for completion of the proposed plan.
- C. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit. The amount of credit to be applied shall be tentatively determined according to the following standards of valuation:
- (1.) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser acceptable to the District. The appraisal will be based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and
  - (2.) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional engineer and relevant District data as determined by the Chief Engineer.
- D. Upon completion of construction and placement of the improvement in service the actual credit shall be calculated based upon the land value, if any, and the actual cost of the qualified public improvement based on a verified accounting of costs provided to the Chief Executive Officer. The District may require such documentation as it deems necessary to evaluate actual costs.
- E. This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this Section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project and their oversizing provides capital usable by the District.
- F. If a donation or construction of a qualified public improvement gives rise to a credit amount greater than the amount of the system development charge that would otherwise be levied against the project receiving development approval, the excess credit may be applied against system development charges that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date it is given.
- G. The decision of the Chief Executive Officer as to whether to accept the proposed improvement and the value of such contribution shall be in writing and issued within fifteen (15) working days of the date all data is received for review. Notification shall be provided to the applicant via regular mail.
- H. After completion of a qualified public improvement, the applicant shall, within 30 days of completion, submit to the District an accounting of actual costs. Upon District verification of such costs, the credit shall be increased or reduced accordingly. If reduced, the applicant shall pay to the District the amount of such reduction in cash within 20 days of notice of such reduction.
- I. Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges. Said payment shall not be construed as a waiver of any credit. Any

difference between the amount paid and the amount due, as determined by the Board, shall be refunded to the applicant. In no event shall refund by the District under this subsection exceed the amount originally paid by the applicant.

- J. Credits shall be apportioned against the parcel, which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots constituting the entire parcel shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the entire parcel originally eligible for the credit.

## **Section 8. Appeals and Review Hearings**

- A. An applicant who is required to pay system development charges shall have the right to request a hearing before the Board to review the denial by the Chief Executive Officer of any of the following:
  - (1.) A petition for vested rights pursuant to Section 6(E)(4).
  - (2.) A proposed credit for contribution of qualified public improvements pursuant to Section 7.
  - (3.) A decision of the Chief Executive Officer interpreting the provisions of this Ordinance.
- B. Such hearing shall be requested by the applicant within thirty (30) days of the date of the Chief Executive Officer's written decision. Failure to request a hearing within the time provided shall be deemed a waiver of such right.
- C. The request for hearing shall be filed with the Chief Executive Officer and shall contain the following:
  - (1.) The name and address of the applicant;
  - (2.) The legal description of the parcel in question;
  - (3.) If issued, the date the building permit or development permit was issued;
  - (4.) A brief description of the nature of the development being undertaken pursuant to the building or development permit;
  - (5.) If paid, the date the system development charges were paid; and
  - (6.) A statement of the reasons why the applicant is requesting review.
- D. Upon receipt of such request, the Chief Executive Officer shall schedule a hearing before the Board of Commissioners at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

- E. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing as determined by the Board. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.
- F. Any applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a connection permit or dwelling shall pay prior to or at the time the request for hearing is filed the applicable system development charges. Said payment shall not be construed as a waiver of any review rights.
- G. An applicant may request review under this Section without paying the applicable system development charges as long as no connection permit or approval has been issued and no connection has occurred.
- H. The decision of the Board shall be subject to writ of review under ORS 34.010 to 34.100.

### **Section 9. Review of Methodology and Rates**

- A. This ordinance, the system development charge methodology, and the capital improvement plan required by ORS 223.309 shall be reviewed by the Board of Commissioners at intervals it deems appropriate. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the methodology. The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to ensure that they do not exceed the actual or reasonably anticipated costs of the District's capital improvements.
- B. Notwithstanding any adjustments made under Section 9.A. of this Ordinance, annually the District shall review the SDC methodology and rates in relation to the Engineering News Record (ENR) Construction Cost Index (CCI) for Seattle, Washington, or comparable index as adopted by the Board, for the geographical region for which such index is prepared that more appropriately reflects cost indexing for the Portland Metropolitan Area. The Board may, by resolution, modify the District's SDC charges in keeping with such index. A change in an SDC under this subsection shall not be considered a modification to the SDC or methodology under ORS 223.297 through ORS 223.314.
- C. In the event the review of the ordinance or the methodology alters or changes the assumptions, conclusions and findings of the methodology, or alters or changes the amount of system development charges, the methodology shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews. If changes in the methodology are undertaken by the District, the District shall comply with the requirements of ORS 223.297 through ORS 223.314, and coordinate such changes with other affected jurisdictions as necessary.

## **Section 10. Receipt and Expenditure of System Development Charges**

- A. The District shall establish separate accounts for each type of system development charge, which shall be maintained apart from all other accounts of the District. All system development charge payments shall be deposited in the appropriate account immediately upon receipt.
- B. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- C. Improvement fees shall be applied only to capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees shall be related to demands created by development. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Capital Improvement Plan, Master Plan or other plan adopted by the District pursuant to ORS 223.309.
- D. Notwithstanding subsections B and C of this Section, system development charge revenues may also be expended on the direct costs of complying with the provisions of this ordinance, including, but not limited to, the costs of developing system development charge methodologies and providing an annual accounting system for development charge expenditures.
- E. The monies deposited in the above accounts shall be used solely as allowed by ORS 223.307, including, but not limited to:
  - (1.) Design and construction plan preparation;
  - (2.) Permitting and fees;
  - (3.) Land and materials acquisition, including any costs of acquisition or condemnation;
  - (4.) Construction of capital improvements;
  - (5.) Design and construction of new water facilities required by the construction of capital improvements and structures;
  - (6.) Relocating utilities required by the construction of improvements;
  - (7.) Landscaping;
  - (8.) Construction management and inspection;
  - (9.) Surveying, soils and material testing;
  - (10.) Acquisition of capital equipment;
  - (11.) Repayment of monies transferred or borrowed from any budgetary fund of the District which were used to fund any of the capital improvements as herein provided;

- (12.) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the District to fund capital improvements;
  - (13.) Costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodology report, resolution/ordinance, and capital improvements plan; and the costs of collecting and accounting for system development charges expenditures.
- F. Funds on deposit in system development charge accounts shall not be used for:
- (1.) Any expenditure that would be classified as a maintenance expense; or
  - (2.) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- G. Any capital improvement being funded wholly or in part with improvement fee revenue shall be included in the District's capital improvement plan. The capital improvement plan may be modified at any time by the Board of Commissioners and shall:
- (1.) List the specific capital improvement projects that may be funded with improvement fee revenue;
  - (2.) Provide the estimated cost of each capital improvement project,
  - (3.) Provide the estimated timing of each capital improvement project; and
- H. Any funds on deposit in system development charge accounts which are not immediately necessary for expenditure may be invested by the District. All income net of the cost of investment, derived from such investments shall be deposited in the system development charges accounts and used as provided herein.
- I. System development charges shall not be refunded.
- J. The District shall prepare an annual report accounting for system development charges, including the total amount of system development charge revenue collected in the accounts, and the capital improvement projects that were funded. The report shall be completed by January 1 of each year for projects that were funded in the previous fiscal year.
- K. Any citizen or other interested person may challenge an expenditure of system development charges revenues.
- (1.) Such challenge shall be submitted, in writing, to the Board for review within two years following the subject expenditure, and shall include the following information:
    - a. The name and address of the citizen or other interested person challenging the expenditures;

- b. The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and
  - c. The reason why the expenditure is being challenged.
- (2.) If the Board determines that the expenditure was not made in accordance with the purposes of this ordinance and other relevant laws, a reimbursement of system development charge account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.
- (3.) The Board shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten (10) days of completion of the review.

**Section 11. Severability**

If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**Section 12. Implementing Regulations**

The Board may adopt by Resolution any regulations or administrative procedures, to implement the provisions of this ordinance.

**Section 13. ORS Chapter 198.**

Pursuant to Oregon Revised Statutes, Chapter 198.540, the ordinance was read at two regular meetings of the Board of Commissioners on two different days, at least six (6) days apart and prior to the adoption thereof.

**Section 14. Adoption.**

This ordinance was adopted by at least the affirmative vote of a majority of the members of the Board of Commissioners of Tualatin Valley Water District at a public meeting and was attested to by the Chief Executive Officer. The Secretary of the Tualatin Valley Water District is instructed to cause the ordinance to be filed in the records of Tualatin Valley Water District and file a certified copy of this ordinance with the County Clerk.

Section 15.

Effective Date. **This Ordinance shall take effect at 12:01 a.m., Pacific Daylight Time, on August 18, 2012, being at least thirty (30) days from the date of its adoption.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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President

ATTEST:

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Secretary

**TUALATIN VALLEY WATER DISTRICT  
REGULAR BOARD MEETING AGENDA ITEM**

**MEETING DATE: JULY 18, 2012**

**TITLE: INTERGOVERNMENTAL AGREEMENT (IGA) FOR INTERIM WATER SUPPLY IN SOUTH HILLSBORO (AREAS 6A AND 69)**

**ITEM:** In 2002, the District and the City of Hillsboro (Hillsboro) entered into an Urban Services Agreement that established an urban service boundary for each. SW 209<sup>th</sup> Avenue is the east-west boundary between Tualatin Valley Highway (TV Hwy) and SW Farmington Road. The District has a number of customers on the west side of SW 209<sup>th</sup> who obtain water service from the District's system located on SW 209<sup>th</sup> in the right of way. Pursuant to the Urban Service Agreement, it was understood that at some point those customers would be withdrawn and become Hillsboro customers when Hillsboro annexes the area.

Through recent actions by Hillsboro, Washington County and Metro, the areas west of 209<sup>th</sup> between SW TV Hwy and SW Farmington Road known as Area 6A and Area 69 have been designated urban and have been or will be brought into the Urban Growth Boundary. It is anticipated that Hillsboro will begin annexation of the area soon and construct its water system along with other urban services to serve the subject area.

Staff from Hillsboro and the Tualatin Valley Water District (TVWD) have developed the attached IGA to provide for service by TVWD until such a time as the Hillsboro system is built and customer transfer ("cutover") occurs. Existing customers already connected to the 209<sup>th</sup> facilities will be TVWD customers until cutover occurs. New individual single family customers will apply to Hillsboro but will be served by TVWD from the 209<sup>th</sup> facilities until cutover. They will pay TVWD all applicable TVWD rates and charges. Hillsboro will construct a distribution system to serve any multiple residential developments like a subdivision or any commercial or industrial customer and they will be Hillsboro customers. TVWD will connect to Hillsboro's system with a master meter and provide water according to the wheeling provisions of the IGA. TVWD will be paid a wheeling charge in that circumstance. Staff anticipates there will be various intertie points with master meters so that even after withdrawal and cutover of all customers west of SW 209<sup>th</sup> to Hillsboro, TVWD will be able to wheel and provide water to Hillsboro at agreed charges and also to provide emergency water. The IGA provides for full cost recovery and contains a provision for cost recovery or mitigation of impacts to TVWD's system for providing service to the area.

**STAFF RECOMMENDATION:** Staff recommends adoption of the IGA for Interim Water Supply in South Hillsboro

**BUDGET IMPACT:** There is no direct or immediate budget impact from this IGA. TVWD will retain existing customers for an undetermined time, probably years. At some point in the future, TVWD will lose customers and revenue from the west of SW 209<sup>th</sup>, however that was anticipated in the Urban Services Agreement executed in 2002 and this IGA is part of implementing that Agreement. It is also unknown whether TVWD will have future revenues from wheeling on behalf of Hillsboro in this area.

**ADDITIONAL INFORMATION:** Mark Knudson, [markk@tvwd.org](mailto:markk@tvwd.org), 503-848-3027

**ATTACHMENTS:** IGA for Interim Water Supply in South Hillsboro

APPROVING MANAGERS INITIAL:

CHIEF EXECUTIVE OFFICER	_____	HUMAN RESOURCES	N/A
FIELD OPERATIONS	NA	INTERGOV. RELATIONS	_____
FINANCIAL SERVICES	N/A	CUSTOMER SERVICES	N/A
ENGINEERING SERV.	_____		

BOARD ACTION:

APPROVED	_____
DENIED	_____

TUALATIN VALLEY WATER DISTRICT  
REGULAR BOARD MEETING AGENDA ITEM

MEETING DATE: July 18, 2012

TITLE: IGA - AGREEMENT FOR INTERIM WATER S IN SOUTH HILLSBORO ( AREAS 6A AND 69)

ITEM: In 2002, The District and the City of Hillsboro entered into an Urban Service Agreement that established an urban service boundary for each. SW 209th Avenue is the east-west boundary between Tualatin Valley Highway and SW Farmington Road. The District has a number of customers on the west side of SW 209th who obtain services from the District's system located in SW 209th right of way. Pursuant to the Urban Service Agreement, it was understood that at some point those customers would be withdrawn and become Hillsboro customers when Hillsboro annexes the area.

Through recent actions by the City, Washington County and Metro, the areas west of SW 209th between SW Tualatin Valley Highway and SW Farmington Road known as Area 6A and Area 69 have been designated urban and have been or will be brought into the Urban Growth Boundary. It is anticipated that Hillsboro will begin annexation of the area soon and construct its water system along with other urban services to serve the subject areas.

Staff from the City and the District have developed the attached IGA to provide for service by the District until such time as the Hillsboro system is built and customer transfer ("cutover") occurs. Existing customers already connected to the SW 209th facilities will be TVWD customers until cutover occurs. New individual single family customers will apply to the City but will be served by TVWD from the 209th facilities until cutover. They will pay to TVWD all applicable TVWD rates and charges.

A City distribution system will be constructed to serve any multiple residential development like a subdivision or any commercial or industrial customer and they will be Hillsboro customers. TVWD will connect to the City system with a master meter and provide water according to the wheeling provisions of the IGA. The District will be paid a wheeling charge in that circumstance. Staff anticipates there will be various intertie points with master meters so that even after withdrawal and cutover of all customers west of SW 209th to the City, the District will be able to wheel and provide water to Hillsboro at agreed charges and also to provide emergency water. The IGA provides for full cost recovery and contains a provision for cost recovery or mitigation of impacts to the District's system for providing service to the area.

**STAFF RECOMMENDATION:** Staff recommends adoption of the IGA

**BUDGET IMPACT:** There are no direct and immediate budget impacts from this IGA. The district will retain existing customers for an undetermined time, probably years. At some point in the future the District will lose customers and revenue from the area west of SW 209th but that was anticipated in the Urban Service Agreement executed in 2002 and this IGA is part of implementing that Agreement. It is also unknown whether the District will have future revenues after cutover from wheeling water on behalf of Hillsboro to this area.

**ADDITIONAL INFORMATION:** Mark Knudson, Markk@tvwd.org, (503) 848 3027

**ATTACHMENTS:** Agreement For Interim Water Supply In South Hillsboro

**APPROVING MANAGERS INITIAL:**

**TUALATIN VALLEY WATER DISTRICT  
REGULAR BOARD MEETING AGENDA ITEM**

**MEETING DATE: JULY 18, 2012**

**TITLE: TRANSITION PLAN FOR PARTNERS FOR A SUSTAINABLE WASHINGTON COUNTY COMMUNITY (PSWCC)**

**ITEM:** The Partners for a Sustainable Washington County Community was formed in 2008 through an Intergovernmental Agreement (IGA). It has functioned under this structure for almost four years. A few months ago discussions ensued regarding the workability of the organization and possible alternatives that might be more effective. The PSWCC Coordinator, housed at TVWD, left in May 2012.

**Why a change?**

1. The IGA model resulted in a significant portion of time and resources being expended on governance and other structural issues. This competed for attention with the mission critical work of sustainability.
2. The fee level had become an increasing obstacle for some members. The City of Tualatin left the organization last year and there was concern that others might be forced to make a hard choice in difficult economic times.
3. A new, simpler structure would provide increased opportunities for private and non-profit partners to participate in the organization.

**What is proposed?**

It is proposed that the current PSWCC IGA be terminated. In place of the PSWCC, Washington County has offered to hire a second sustainability position and focus the duties of this position on the coordination work with the PSWCC partners. The PSWCC Operations Team has been working with County staff to develop the job description. Current PSWCC members will be asked to pay from \$500 (smaller to medium sized organizations) to \$2500 (larger entities) to help defray the costs of this position. Any additional staffing capacity not required by the work of the PSWCC will be available for County projects, but these will be subordinate to the needs of the PSWCC.

**What is the status and plan for current PSWCC assets?**

TVWD finance staff has determined that approximately \$54,416 will remain when all final expenditures are addressed. The Governing Board members present at the May 1, 2012 meeting suggested that these funds be applied against required fees for current members for FY 2012-13. Beyond that, options for a second year of fee coverage or use as funding for special projects identified by the Operation Team were discussed; the group concluded that it was premature to make commitments beyond the immediate fee coverage (FY 2012-13) at this time.

**How would the new arrangement be formalized and how will the transition occur?**

The County has drafted a membership contract and a transition plan for the PSWCC Governing Board to consider. Drafts of both are attached.

**STAFF RECOMMENDATION:** Staff recommends that the Board authorize TVWD's Governing Board representative to the PSWCC to vote in the affirmative on the following motions before the PSWCC Governing Board:

1. Motion to terminate the current Cooperative Agreement for Partners for a Sustainable Washington County Community; and
2. Motion to adopt the PSWCC Transition Plan.

Staff additionally recommends that the Board approve the District’s membership in the newly organized PSWCC organization.

**BUDGET IMPACT:** The District would no longer need to serve as the Lead Administrative Agency for the PSWCC, so the coordinator position would not be refilled at TVWD. Phone, computer, office space, copying and other related expenses would no longer be incurred by the District. The amount of the District’s dues would also be considerably less under the new structure.

**ADDITIONAL INFORMATION:**

Cheryl Welch, Strategic Planning Coordinator, [cheryl@tvwd.org](mailto:cheryl@tvwd.org) or (503) 848-3012  
Todd Heidgerken, Manager, OCIR, [toddh@tvwd.org](mailto:toddh@tvwd.org) or (503) 848-3013

**ATTACHMENTS:** Draft PSWCC Transition Plan and Draft PSWCC Membership Agreement

APPROVING MANAGERS INITIAL:

CHIEF EXECUTIVE OFFICER	_____	HUMAN RESOURCES	N/A
FIELD OPERATIONS	N/A	INTERGOV. RELATIONS	_____
FINANCIAL SERVICES	N/A	CUSTOMER SERVICES	N/A
ENGINEERING SERV.	N/A		

**BOARD ACTION:**

APPROVED	_____
DENIED	_____

**PSWCC  
TRANSITION PLAN (DRAFT)**

Upon termination of the Section 190 organization and the related cooperative agreement, the following will occur:

1. Washington County will assume the role as lead administrative agency and assign staff from the Office of Sustainability to support PSWCC efforts and initiatives.
2. Funds held by TVWD, as previous lead administrative agency, will be remitted to Washington County and deposited in a trust account. The funds may be accessed by the Operations Team (OT) for approved expenses.
3. No membership dues will be collected from existing PSWCC members for FY 2012-13. The new membership fee structure follows:
  - Large Organization (revenues exceeding \$100 million): \$2,500
  - Small Organization (revenues less than \$100 million): \$500
  - Non Profit Organization: \$250
4. Monies to partially fund the collaboration in FY 2012-13 (based on new fee structure) will be withdrawn from the trust account (see table) in the amount of \$26,000. The remaining fund balance of approximately \$29,000 is available for future PSWCC expenses as approved by the Operations Team (OT). Washington County will fund program expenses beyond what is transferred from the trust account.

<i>Fund Balance Est.</i>	<b>\$55,000</b>	<b>Proportional Share of Fund Balance</b>	<b>FY 13 Dues*</b>	<b>Remaining Fund Balance**</b>
Washington County	0		\$10,000	
	37.9%	\$20,841	0	\$10,841
Banks	0.5%	\$274	\$500	-\$226
Cornelius	1.3%	\$713	\$500	\$213
Hillsboro	10.5%	\$5,781	\$2,500	\$3,281
Beaverton	10.2%	\$5,602	\$2,500	\$3,102
CWS	10.5%	\$5,776	\$2,500	\$3,276
TVFR	10.5%	\$5,776	\$2,500	\$3,276
THPRD	10.5%	\$5,776	\$2,500	\$3,276
TVWD	<u>8.1%</u>	<u>\$4,462</u>	<u>\$2,500</u>	<u>\$1,962</u>
			\$26,000	
	100.0%	\$55,000	0	\$29,000

\*County amount represents roughly half of its attributable fund balance

\*\*Remaining Fund Balance available for Operations Team approved expenses

5. The Operations Team (OT) will meet quarterly or as necessary to prepare strategic plans, goals, objectives and the annual work plan. The OT will work closely with County staff to coordinate meetings, trainings, events, initiatives and activities. The OT will elect a Chair and Vice Chair and establish operating guidelines and procedures as necessary.

6. An Executive Sponsorship Team (EST), comprised of former Governing Board members, will meet semi-annually or as necessary to review the annual work plan as presented by the OT; and otherwise provide executive sponsorship to PSWCC efforts and initiatives.



## **PARTNERS FOR A SUSTAINABLE WASHINGTON COUNTY COMMUNITY**

### **MEMBERSHIP AGREEMENT**

This Membership Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ by and between the Partners for a Sustainable Washington County Community (hereinafter “PSWCC”) and \_\_\_\_\_ (hereinafter “Member”).

PSWCC is a member-led collaboration that relies on the active leadership and participation of member agencies/organizations.

PSWCC intends to pool and leverage public and private resources to further sustainability initiatives.

PSWCC will work collaboratively to gather, share and disseminate information and otherwise support member organizations in their efforts to forward sustainability in their organizations and/or community.

Washington County will provide staff support to the collaboration and work closely with members to fulfill PSWCC mission, goals and objectives.

Membership responsibilities:

#### **PSWCC member organizations will participate in two committees.**

Operations Team (OT) – meets quarterly or as necessary to prepare strategic plans, goals, objectives and the annual work plan. Works closely with County staff to coordinate meetings, trainings, events, initiatives and activities. The OT shall elect a Chair and Vice Chair and establish operating guidelines and procedures as necessary.

Executive Sponsor Team – meets semi-annually or as necessary to review annual work plan as presented by the OT; and otherwise provide executive sponsorship to PSWCC activities and initiatives.

**Member organizations shall make annual payment to Washington County. The annual membership year is July 1 – June 30. Membership fees are due by July 15<sup>th</sup> of any given year. Membership fees may be prorated depending on the membership origination date.**

#### Membership Fees FY 2012-13\*:

- Large Organizations (annual revenues more than \$100 million): \$2,500
- Small/Medium Organizations (annual revenues less than \$100 million): \$500
- Non profit Organizations: \$250

\*Due to a carry-forward from FY 2011-12 – no dues will be collected for FY 2012-13.

**MEMBER**

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Dated

**PSWCC**

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Date

**TUALATIN VALLEY WATER DISTRICT  
REGULAR BOARD MEETING AGENDA ITEM**

**MEETING DATE: JULY 18, 2012**

**TITLE: CONSIDER RESOLUTION 10-12 AMENDING RESOLUTION 11-07, WATER SUPPLY IMPROVEMENTS PROGRAM, PHASE 2**

**ITEM:** At the December 2007 meeting of the TVWD Board of Commissioners, the Board approved Resolution 11-07 which provided direction for the District’s Water Supply Improvements Program. Resolution 11-07 specifically established that the Board:

1. Approves continuation of the District’s policy to pursue multiple sources of water supply and continue to secure water supply from the City of Portland and the Joint Water Commission,
2. Approves the District’s participation in the Tualatin Basin Water Supply Project, and
3. Approves dedicating the entire \$12.5 million in the Water Supply Improvement Project listed in the adopted 07-09 Biennium Capital Improvement Plan for use on the Tualatin Basin Water Supply Project and the District at this time will not make any future capital expenditures in the Willamette Water Supply.”

Since 2007, significant changes in region’s water supplies have occurred, including:

1. The Tualatin Basin Water Supply Project has been delayed by at least several years and costs have increased significantly due to seismic concerns associated with the existing Scoggins Dam.
2. Population growth has been slower than anticipated and water demands have been consistently lower than forecast.
3. Costs of the Portland supply option have changed due to changes in Portland’s regulatory obligations and enhanced efficiency of TVWD’s use of the Portland supply.
4. TVWD, in conjunction with JWC partners, have identified potential interim supply strategies that may delay the need for implementation of the District’s long-term supply plan.

In light of these significant changes and their potential impact on the costs and feasibility of the District’s 2007 Water Supply Improvements Program, a project has been initiated to update the District’s Water Supply Strategy. To avoid the appearance of any inconsistency with Resolution 11-07, it is proposed that Resolution 10-12 be adopted to amend that portion of Resolution 11-07 to delete the reference to “and the District at this time will not make any future capital expenditures in the Willamette Water Supply.”

**STAFF RECOMMENDATION:** It is recommended that the Board adopt the proposed Resolution 10-12.

**BUDGET IMPACT:** There is no financial impact of the proposed resolution.

**ADDITIONAL INFORMATION:** Contact Mark Knudson at 503-848-3027 or [markk@tvwd.org](mailto:markk@tvwd.org)

**ATTACHMENTS:** Proposed Resolution 10-12.

APPROVING MANAGERS INITIAL:

CHIEF EXECUTIVE OFFICER \_\_\_\_\_

HUMAN RESOURCES

N/A

FIELD OPERATIONS N/A

INTERGOV. RELATIONS N/A

FINANCIAL SERVICES N/A

CUSTOMER SERVICES N/A

ENGINEERING SERV. \_\_\_\_\_

BOARD ACTION:

APPROVED \_\_\_\_\_

DENIED \_\_\_\_\_