

ORDINANCE NO. 308

AN ORDINANCE OF THE TAHOE CITY PUBLIC UTILITY DISTRICT ESTABLISHING AN INFRASTRUCTURE IMPROVEMENT CHARGE FOR CURRENT AND FUTURE CUSTOMERS IN THE TAHOE CEDARS AND MADDEN CREEK WATER SERVICE AREAS

WHEREAS, The Tahoe City Public Utility District (“District”) was formed pursuant to the California Public Utility District Act and provides potable water service to lands within the District; and,

WHEREAS, the Board of Directors of the District (“Board”) has the authority to establish fees and charges for the provision of water service, including, but not limited to, the planning, design, and construction of infrastructure; and,

WHEREAS, in 2018, the District acquired Mid-Sierra Water Utility, a private, investor-owned water company which owned and operated the Tahoe Cedars and Madden Creek water systems, and in 2021 the District’s Board adopted the Tahoe Cedars and Madden Creek Water System Master Plans, which recommended the full reconstruction of both systems; and,

WHEREAS, the magnitude of the estimated costs of the full reconstruction of both systems led the Board to undertake a long-term financial planning process that culminated in a decision by the Board to pursue long-term debt financing as the source of funding for the Tahoe Cedars and Madden Creek water system reconstruction projects; and,

WHEREAS, based on the long-term financial planning process, the Board has determined that it needs to secure additional revenue because the current water system revenue sources will not generate sufficient revenue for the District to fund, nor to secure long-term debt financing for the Tahoe Cedars and Madden Creek water system reconstruction projects; and,

WHEREAS, the voters of the State of California in 1996, approved Proposition 218, adding articles XIII C and XIII D to the California Constitution; and,

WHEREAS, the California Constitution, Article XIII D, Sections 6(b)(1)-(5) imposes five substantive requirements on fees for a property-related service including water service fees; and,

WHEREAS, the Proposition 218 Omnibus Implementation Act was revised to add California Government Code section 53750.5 which became effective in 2021 and provides that fees or charges for property-related water service imposed pursuant to Section 6 of Article XIII D of the California Constitution may include costs to construct, maintain, repair, or replace hydrants and other infrastructure used to distribute water that aids in the protection of property from fire, including adequately sized water lines, as needed or consistent with applicable fire codes and industry standards and that such fee or charge may be fixed and collected as a separate fee or charge; and,

WHEREAS, the District’s Board, following best practices, commissioned HDR Engineering, Inc. (HDR) to conduct an independent review of the incremental costs of upsizing water pipelines and adding fire hydrants to the Tahoe Cedars and Madden Creek water system reconstruction projects from the systems’ current sizing to a size/capacity that would meet modern fire suppression standards, and to develop a 30-year Infrastructure Improvement Charge that meets the requirements of Article XIII D, Sections 6(b)(1)-(5), and prepare a rate study; and,

WHEREAS, HDR prepared the 2023 Infrastructure Improvement Charge Rate Study (Rate Study) dated October 2023 and presented the results of the Rate Study to the Board in public meetings held on July 26,

2023, and August 18, 2023 and the Board, on October 20, 2023, approved Resolution No. 23-29 adopting the Rate Study; and,

WHEREAS, on August 18, 2023, the Board directed the initiation of the Proposition 218 rate setting process requirements including: mailing to all customers and property owners whose property receives water service of the proposed rates, information on the protest process, placing the Rate Study on the website for public review, and setting the Public Hearing for October 20, 2023; and,

WHEREAS, the District subsequently conducted two public workshops on September 19 and 20, 2023 at which the proposed Infrastructure Improvement Charge was presented, discussed, and questions answered from interested parties; and,

WHEREAS, the District has given notice of the proposed Infrastructure Improvement Charge as required by law by mailed notice of the Public Hearing to each customer and property owner who receives water service in the Tahoe Cedars and Madden Creek water service areas not less than forty-five days prior to the scheduled October 20, 2023, Public Hearing in compliance with Section 6 of Article XIIID of the Constitution of the State of California; and,

WHEREAS, at the District Board meeting held on October 20, 2023, the Board considered oral and written comments from the public on the proposed Infrastructure Improvement Charge. The Board then closed the Public Hearing, deliberated on the Infrastructure Improvement Charge, and directed the District Clerk to count written protests; and,

WHEREAS, the District Clerk advised the Board that less than a majority of the 1,417 Tahoe Cedars and Madden Creek Water System properties receiving water service submitted written protests. It was therefore determined that a majority protest to the proposed Infrastructure Improvement Charge did not exist; and,

WHEREAS, the Infrastructure Improvement Charge represents a secured source of revenue that will be designated for and will only be used to pay expenses related to the design and/or construction of the Tahoe Cedars and Madden Creek water system reconstruction projects, including any direct costs or debt service payments related to the projects; and,

WHEREAS, the Infrastructure Improvement Charge was not intended to and does not fund the full costs of the Tahoe Cedars and Madden Creek water system reconstruction projects and the District will use additional sources of revenue, including general water rate revenue and property tax revenue to fund the projects.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF TAHOE CITY PUBLIC UTILITY DISTRICT HEREBY RESOLVES AS FOLLOWS:

SECTION 1: FINDINGS. After hearing and considering oral and written comments, considering the evidence offered, and duly deliberating on the matters presented, the Board of Directors of Tahoe City Public Utility District finds and determines that:

- A. The above recitations are true and correct.
- B. The Board is empowered to prescribe, revise, and collect fees and charges to operate and maintain the District's water system.
- C. The proceedings related to the proposed Infrastructure Improvement Charge have been duly noticed in compliance with the Constitution of the State of California, and other applicable law.

D. The Infrastructure Improvement Charge is not discriminatory; and,

E. The Infrastructure Improvement Charge is not excessive inasmuch as revenues from said charge will not exceed the costs of funding the planned upsizing of water mains and installations of fire hydrants as part of the Tahoe Cedars and Madden Creek water system reconstruction projects.

SECTION 2: INFRASTRUCTURE IMPROVEMENT CHARGE. Based upon these findings, the Board approves and directs the implementation of an Infrastructure Improvement Charge to be paid by all existing and future water service customers within the Tahoe Cedars and Madden Creek water service areas in an amount not to exceed \$43.58/per month, per water service account, for a period of 360 months (30 years).

A. The Infrastructure Improvement Charge shall take effect on January 1, 2024, and end by December 31, 2053.

B. The Infrastructure Improvement Charge shall end on the date stated above regardless of when the Infrastructure Improvement Charge was first applied to a new water service customer.

SECTION 3: EFFECTIVE DATE. This Ordinance and the amendments and modifications hereby made shall become effective 30 days from the date of its enactment and prior thereto shall be posted and published as required by law. The Infrastructure Improvement Charge will be charged with the first billing period beginning on or after January 1, 2024.

PASSED AND ADOPTED on the 20th day of October 2023, at a regular meeting of the Board of Directors of the Tahoe City Public Utility District by the following vote:

AYES: Pang, Scoville, Friedman, Beals, Wilkins

NOES: None

ABSENT: None

ABSTAINING: None

TAHOE CITY PUBLIC UTILITY DISTRICT

BY:

ATTEST:

Dan Wilkins, President

Terri Viehmann, District Clerk