

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT ESTABLISHING UPDATED WASTEWATER RATES EFFECTIVE JULY 1, 2025, WITH ANNUAL ADJUSTMENTS EACH JULY 1 THROUGH JULY 1, 2029

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

WHEREAS, the Estero Municipal Improvement District (“District”) provides wastewater service to property owners (who may also be referred to as “owners”) within the District’s service area (as identified on the final page of the Wastewater Rate Study, attached as Exhibit “A”), and establishes the amount of wastewater service charges to be charged customers in accordance with Estero Municipal Improvement District Code (“District Code”) Chapter 8.48 and applicable law; and

WHEREAS, the District is authorized to establish fees, rates, and charges for the wastewater services provided to each property owner in accordance with District Code Chapter 8.48, and “Proposition 218” (California Constitution Article XIII D, Section 6; as it is implemented by the Legislature at Government Code sections 53750 – 53759.2; and as it has been interpreted by judicial decisions); and California Health and Safety Code Section 5471. The District refers to those fees, rates, and charges as wastewater charges or wastewater rates (as used herein, the phrases “wastewater charges” and “wastewater rates” may be used interchangeably); and

WHEREAS, the District has previously established wastewater rates under District Code Chapter 8.48, pursuant to EMID Resolution No. 3729, adopted by the District Board on June 5, 2025. The purpose of wastewater rates is to ensure that adequate funding is provided to protect the public health, safety and general welfare through the provision of a reliable and adequate wastewater system that meets current and anticipated demands to serve the owners and customers of the District; and

WHEREAS, the District undertook an analysis of previously established wastewater rates, as documented in the memorandum from the District’s consultant, Bartle Wells Associates (“BWA”), dated March 19, 2025 and titled “Wastewater Rate Study Update Results” (“Wastewater Rate Study”), and determined that proposed changes to the wastewater rates are warranted (to be effective July 1, 2025, with annual adjustments each July 1 through July 1, 2030) in order to offset the District’s ongoing costs of providing wastewater services to owners and customers, including the costs of providing proper maintenance and replacement of existing utility infrastructure, and providing adequate reserves for emergency. The Wastewater Rate Study is attached hereto as Exhibit “A,” and it has been posted on the “District’s Webpage” ([www.fostercity.org/publicworks/page/water-and-wastewater-rates](http://www.fostercity.org/publicworks/page/water-and-wastewater-rates)) since March 31, 2025; and

WHEREAS, at its Budget Study Session held on March 25, 2024, the District Board (a) reviewed the Wastewater Rate Study and detailed analyses of the District's utility system operations, revenues, expenses and long-term capital improvement program; (b) directed staff to schedule a public hearing to consider recommended updates to wastewater rates; and (c) approved the "Rate Setting Procedures" (attached hereto as Exhibit "B") to document the process by which the District will conduct the public hearing in accordance with the requirements of Proposition 218 as well as implementing administrative remedies for owners to submit written objections to the wastewater rates (in accordance with "AB 2257" codified at Government Code Sections 53759.1 and 53759.2); and

WHEREAS, on March 31, 2025, the District mailed the notice of public hearing (to be held on June 2, 2025) to all property owners receiving wastewater service from the District, and posted the notice and the Rate Setting Procedures on the District's Webpage. The public hearing notice is attached hereto as Exhibit "C," and it was mailed in accordance with Proposition 218, posted in accordance with AB 2257, and published in accordance with Government Code Sections 6062a, 54354.5, and 66016; and

WHEREAS, consistent with the notices of public hearing, the public hearing was held on June 2, 2025, the District Board provided an opportunity for every interested person to comment on the proposed wastewater rates, the Board was prepared to consider any timely written protests from property owners and written responses from District staff (per AB 2257) however no written objections were filed, and the Board proceeded to conduct the public hearing to consider timely written protests submitted prior to the close of public hearing; and

WHEREAS, the District Board finds and determines, based on the entire record before the District Board, including but not limited to the Wastewater Rate Study and the Staff Report and attachments thereto, that it is warranted and necessary to establish the revised wastewater rates as set forth in this Resolution.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT HEREBY RESOLVES AS FOLLOWS:

1. The District Board hereby finds that the above recitations are true and correct and, accordingly, are incorporated as a material part of this Resolution.
2. The District Board hereby finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(8), and California Code of Regulations Section 15273 (of the "CEQA Regulations") because it establishes, modifies, structures, or restructures, and approves rates and charges for the purposes of: (1) meeting operating expenses; (2) purchasing supplies, equipment and materials; (3) meeting financial requirements; and (4) obtaining funds for capital projects necessary to maintain service within existing service areas.

3. The procedures followed and the wastewater rates referenced herein are in compliance with the California Constitution Article XIII D, California Government Code sections 53755 and 53759.1, and Health and Safety Code section 5471.
4. The District Board accepts and approves the Wastewater Rate Study in the referenced Exhibit "A" setting forth the basis for the wastewater service charge rates. The Wastewater Rate Study establishes that the wastewater rates do not exceed the District's costs of service and that the rates are proportionately charged to each customer class.
5. The District Board hereby approves and adopts the wastewater rates set forth on Exhibit "D," to be incorporated into the Master Fees and Service Charges Schedule. The wastewater rates approved by this Resolution shall be implemented in accordance with Resolution Section 6. The wastewater rates are approved based on the following findings and determinations by the District Board:
  - a. Although the District received no timely written objections, the Rate Study and all evidence identified in this Resolution document the bases on which these wastewater rates are approved, and there is no need to reduce, alter, or clarify the proposed wastewater rates.
  - b. At the close of the public hearing on June 2, 2025, the District Board considered all timely written protests and determined that, from the total number of 9,349 parcels served by District wastewater service, the owners of a majority of those parcels did not submit a written protest. Therefore, the Board overruled all written protests against the proposed wastewater rates, and the District may approve the wastewater rates in accordance with California Constitution Article XIII D, Section 6(a)(2).
  - c. The Wastewater Rate Study and all evidence identified in this Resolution document that the wastewater rates comply with the substantive requirements of Proposition 218, as set forth at California Constitution Article XIII D, Section 6(b):
    - i. The revenues derived from the rates do not exceed the cost of providing wastewater service to property owners or customers served by the District's wastewater service.
    - ii. The revenues derived from rates are not, and shall not be, used for any other purpose other than meeting the costs of providing wastewater service.
    - iii. The amount of the rate imposed upon any parcel does not exceed the proportional cost of the wastewater service provided to that parcel.
    - iv. The revenues derived from rates are used for wastewater services actually used by, or immediately available to, the person or owner of the property responsible for the payment of the rate.
    - v. No rate is imposed for general governmental services, such as police or fire, that is available to the public at large.

6. The wastewater rates set forth on "Exhibit D" shall be effective July 1, 2025, for the rates identified in each column labeled "Proposed FY 25-26" for each row of rates as applicable to the relevant property owner or customer. Each Commercial Rate shall be multiplied by the amount of water usage (in units of one hundred cubic feet, or per "ccf") per customer, and the amount of water usage shall be as determined by the Public Works Director, or designee, based on credible evidence including the total metered water usage for each billing period. Thereafter:
  - a. The wastewater rates shall be automatically updated on an annual basis each July 1 for the years 2026, 2027, 2028, and 2029, in accordance with the schedule set forth on Exhibit "D" for the corresponding columns for each year labeled "Proposed FY 26-27," "Proposed FY 27-28," "Proposed FY 28-29; and "Proposed FY 29-30."
  - b. Provided, however, for any annual update to wastewater rates under this Resolution Section 6, the District shall provide notice of the update at least 30 days before the effective date, in accordance with Government Code Section 53756(d).
  - c. Provided further that, for any notice of an annual update to wastewater rates: (1) the District Board may set the rates by resolution in an amount that is equal to or less than the amounts authorized by this Resolution Section 6; and (3) the District Board may delay the effective date of an annual increase as long as the amount of the increase does not exceed the authorized by this Resolution Section 6.
  - d. The rates in effect on July 1, 2029, shall remain in effect each July 1, thereafter.
  - e. The wastewater rates shall not be set in an amount that exceeds those set forth in this Resolution Section 6 unless the District Board first conducts a noticed public hearing in accordance with the requirements of law including Proposition 218.

PASSED AND ADOPTED as a resolution of the District Board of the Estero Municipal Improvement District at the regular meeting held on the 2<sup>nd</sup> day of June, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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STACY JIMENEZ, PRESIDENT

ATTEST:

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PRISCILLA SCHAUS, DISTRICT SECRETARY