RESOLUTION NO. 2939-12 WWD

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ACTING AS THE BOARD OF DIRECTORS OF THE WINDSOR WATER DISTRICT ADOPTING UPDATED WATER, WATER RECLAMATION AND RECYCLED WATER RATES APPLICABLE TO WINDSOR WATER DISTRICT WATER, WATER RECLAMATION AND RECYCLED WATER SERVICES CUSTOMERS AND SUPERSEDING THE EXISTING RATES ESTABLISHED BY RESOLUTION NOS. 2680-10 WWD AND 1737-05 WWD

RECITALS

WHEREAS, the Windsor Water District ("District"), a predecessor agency to the Town of Windsor and now operated as a subsidiary of the Town of Windsor ("Town"), provides water and water reclamation services throughout the District, including within the Town and also to certain customers outside the boundaries of the District and/or the Town. Those services include the provision of recycled water to customers who request such service; and

WHEREAS, the District water and water reclamation systems are operated as self supporting utility enterprises; and

WHEREAS, revenue from water, water reclamation and recycled water service rates and other sources funds the ongoing operating and capital needs of District water and water reclamation systems, including providing for facility replacement, repair, operations and expansion; water purchase; service improvements to satisfy state and federal compliance requirements; inflation and other costs; and

WHEREAS, the water and water reclamation service rates currently applied to District customers were last updated by Resolution No. 2680-10 adopted by the Town Council acting as the Board of Directors of the District on May 5, 2010; and

WHEREAS, the recycled water service rates currently applied to District customers were last updated by Resolution No. 1737-05 adopted by the Town Council acting as the Board of Directors of the District on March 2, 2005; and

WHEREAS, the Town has engaged The Reed Group, Inc. ("Reed Group") to conduct a comprehensive study of revenue requirements, costs of service and rates for District water, water reclamation and recycled water services and to recommend water and water reclamation rates for District customers for fiscal year 2012 and recycled water rates for District customers for fiscal years 2013, 2014, 2015, and 2016 to secure the financial stability of the water and water reclamation systems, ensure high quality service, and provide a sound financial plan that will assist in funding capital improvement projects and provide the basis for the development of fair and equitable service rates; and

WHEREAS, the Town recognizes that recycled water has real and growing economic value and that the sale of recycled water can partially offset capital and operating and maintenance costs associated with recycled water storage and distribution; and

WHEREAS, a mandatory use ordinance currently requires customers in the Town's potable water service area (covering the Town as well as the Airport region south of Town) to accept and use recycled water for irrigation if and when the Town makes recycled water service available to them; and

WHEREAS, agricultural customers who desire to use recycled water must execute an agreement with the Town; and

WHEREAS, The Reed Group has prepared a report dated May 3, 2012, entitled "Town of Windsor Water and Water Reclamation Financial Plan and Rate Update Study, Revised Final Draft Report" ("Report"); and

WHEREAS, the Report analyzes the number of District water and water reclamation accounts, projections for customer growth, water sources and loss, District revenues, District capital improvement programs, operations and maintenance needs, customer services costs, and volume and strength of wastewater discharge; and

WHEREAS, the Report concludes that the revenues generated under existing District water and water reclamation services rates are insufficient to meet District requirements for fiscal year 2012-13 and subsequent years; and

WHEREAS, the Report recommends revising the existing District water and water reclamation services rates, and makes certain recommendations for the District water and water reclamation services rates for the period beginning fiscal year 2012-13; and

WHEREAS, recommendations in the Report concerning District water services rates include applying a 9 percent overall annual rate increase in fiscal year 2012-13, charging certain fixed monthly charges specified in the Report, and using a four-tiered rate structure; and

WHEREAS, recommendations in the Report concerning District water reclamation services rates include applying a 3 percent overall annual rate increase in fiscal year 2012-13, replacing residential usage blocks with variable usage charges, and creating fixed service charges; and

WHEREAS, recommendations in the Report concerning District recycled water service rates include designating all users into one of three user categories and tying recycled water rates to the Town's potable water rates phased in over two years for urban customers (80 percent of potable water rates) and over four years for agricultural customers (25 percent of potable water rates); and

WHEREAS, in accordance with Government Code Section 50076, fees that do not exceed the reasonable cost of providing the service or regulatory activity for which the fees are charged and which are not levied for general revenue purposes are not special taxes; and

WHEREAS, the Report demonstrates that the recommended rates do not exceed the reasonable cost of providing such service or regulatory activity and, as such, the proposed rates are not levied for general revenue purposes; and

WHEREAS, in accordance with Government Code Section 54350, local agencies have the police power over any enterprise acquired, constructed or improved pursuant to the Revenue Bond Law of 1941 (Government Code Section 54300 *et seq.*) and may make and enforce all necessary regulations to protect the public health in the operation and maintenance of the enterprise; and

WHEREAS, all or part of the District water and water reclamation facilities, including facilities related to providing recycled water, have been acquired, constructed or improved pursuant to the Revenue Bond Law of 1941; and

WHEREAS, in accordance with the Revenue Bond Law of 1941, local agencies may construct or improve any enterprise wholly or partially within or wholly without the local agency, operate, maintain, repair or manage all or any part of such enterprises, adopt reasonable rules or regulations for the conduct of such enterprises, and prescribe, revise and collect charges for the services, facilities or water furnished by the enterprise; and

WHEREAS, at least forty-five days in advance of the public hearing at which this Resolution was considered, notice of the public hearing, and notice of oral and written protest procedures against the proposed rate increases, were mailed to all property owners and customers in compliance with California Constitution Article XIII D, Section 6; and

WHEREAS, notice of the public hearing was also published in the local newspaper at least once each week for two weeks prior to the date of the public hearing with the date of the first publication at least 15 days before the public hearing, in accordance with applicable law; and

WHEREAS, a public hearing was duly held, and at its conclusion the Town Clerk tabulated the number of written and oral protests received, if any, and reported that there was not a majority protest of the proposed rates by owners or authorized representatives of identified parcels receiving such services.

FINDINGS

WHEREAS, the Town Council of the Town of Windsor acting as the Board of Directors of the Windsor Water District finds as follows:

A. The purposes of the updated water and water reclamation services rates established pursuant to this Resolution are to: (1) recover the reasonable estimated cost of the services for which the rates are charged (for recycled water services, to recover a portion of the reasonable estimated cost of the services for which the rates are charged); (2) provide that such costs are allocated among District customers so as to bear a fair and reasonable relationship to customers' burdens on and benefits from District water and water reclamation services, including providing recycled water; (3) secure the financial stability of the water and water reclamation systems; (4) ensure high quality service; and (5) provide a sound financial plan that will assist in funding capital improvement projects.

B. The updated water and water reclamation services rates established pursuant to this resolution are not levied for general revenue purposes.

C. After consideration of the Report, the testimony received at this noticed public hearing, the agenda report, the background documents to the agenda report, and all correspondence received (together, "Record"), the Town Council of the Town of Windsor acting as the Board of Directors of the Windsor Water District approves and adopts the Report by this Resolution.

D. Adoption of the rates set forth in this Resolution is intended to recover costs necessary to maintain the current level of District water and water reclamation services for current and future District customers. As such, such rates as they relate to provision of water and water reclamation services to District customers are not a "project" within the meaning of the California Environmental Quality Act or C.E.Q.A. (Public Resources Code § 21080(b)(8)(D)).

E. In adopting the rates set forth in this Resolution, the Town Council of the Town of Windsor is exercising its authority pursuant to the Revenue Bond Law of 1941, California Government Code Section 54300 et seq., and the Town's powers under Article XI, Section 7 of the California Constitution.

F. The Record establishes that the costs listed in the Report as those incurred by the District in providing water and water reclamation services, including recycled water, to District customers are reasonable estimates of the cost of providing such services, and that the revisions recommended in the Report for existing water, water reclamation and recycled water service rates are necessary to recover the reasonable, estimated cost of providing such services for which the rates are charged, to allocate such costs among District customers so that they bear a fair and reasonable relationship to customers' burdens on and benefits from District water and water reclamation services, and to secure the financial stability of District water and water reclamation systems in accordance with the analyses contained in the Report.

G. In accordance with Government Code Section 54354.5(d) the rates, as proposed in the Report:

1. are not discriminatory or excessive;

2. will be sufficient under Government Code Sections 54515 and 54354.5(d), which require that charges imposed under the Revenue Bond Law of 1941 will be sufficient to meet outstanding bond obligations, current maintenance and operation expenses and other obligations; and

3. will be in compliance with law.

H. The procedures followed and the rates adopted are in compliance with California Constitution Article XIIID.

ADOPTION OF RATES

NOW, THEREFORE, the Town Council of the Town of Windsor acting as the Board of Directors of the Windsor Water District does resolve as follows:

1. Definitions.

a. "District Customer" shall mean any person, corporation, or other entity that receives District water and/or water reclamation services, including recycled water service, regardless of whether District water and/or water reclamation services are provided to property within the Town of Windsor, property within the Windsor Water District, or property outside the boundaries of the Town of Windsor and/or the Windsor Water District.

b. "Rates" shall mean the charge or charges imposed on District Customers to recover the costs incurred by the District in providing water and water reclamation services, including recycled water service.

2. Water, Water Reclamation and Recycled Water Services Rates Imposed.

Rates shall apply to and be paid by District Customers at the times, and in the amounts, and otherwise apply and be administered as prescribed in this Resolution. The Rates shall supersede and replace the rates set forth in District Resolution No. 2680-10 and District Resolution No. 1737-05.

3. Time for Payment of Rates.

District Customers shall pay the Rates as prescribed in bills issued to District Customers in accordance with Sections 12-3-605 and 12-4-220 of the Town of Windsor Code, subject to all applicable regulations, requirements and penalties for non-compliance pursuant to the Windsor Town Code and other applicable law.

4. Rate Amounts.

The Rate amounts shall be as specified in the rate schedule attached as Exhibits "A", "B", and "C" to this Resolution, which Exhibits are hereby incorporated by reference into this Resolution.

5. Use of Rate Revenue.

The revenues raised by payment of the Rates shall be used to fund up to the estimated reasonable cost of providing the services for which the Rates are charged, and the Rate revenues shall not be used for general revenue purposes.

6. Subsequent Analysis and Revision of the Rates.

The Rates set herein are adopted and implemented by the Town Council acting as the Board of Directors of the Windsor Water District in reliance on the Record identified above. The District may continue to conduct further study and analysis to determine whether the Rates should be revised. When additional information is available, the Town Council, in its capacity as Board of Directors of the Windsor Water District may review the rates to determine that the Rate amounts do not exceed the estimated reasonable cost of providing the services for which the Rates are charged.

7. Effective Date.

This Resolution shall become effective immediately upon adoption.

8. Severability.

The Rates and all portions of this Resolution are severable. Should any of the Rates or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining Rates and/or Resolution portions shall be and continue in full force and effect, except as to those Rates and/or Resolution portions that have been adjudged invalid. The Town Council of the Town of Windsor acting as the Board of Directors of the Windsor Water District hereby declares that it would have adopted each of the Rates and this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more of the Rates or sections, subsections, clauses, sentences, phrases or other portions of this Resolution may be held invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 18th day of July 2012, by the following vote:

AYES:	**MEMBERS ALLEN, GOBLE, SALMON, SCHOLAR AND CHAIR FUDGE**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

ROBIN GOBLE, VICE CHAIR

ATTEST:

MARIA DE LA O, SECRETARY

Attachments: Exhibits "A", "B", and "C"

EXHIBIT "A"

Town of Windsor

Proposed Monthly Water Rates (1)

			September 2012
Water Usage Rates ($/gallon)			
Single Family Residential			
1st Tier	0-4,000 gal/mo	$	0.00305
2nd Tier	4,001-7,000 gal/mo	$	0.00336
3rd Tier	7,001-17,000 gal/mo	$	0.00470
4th Tier	>17,000 gal/mo	$	0.00549
Multi-Family Residential (per dwelling unit)			
1st Tier	0-2,000 gal/mo/DU	$	0.00305
2nd Tier	2,001-3,000 gal/mo/DU	$	0.00336
3rd Tier	3,001-5,500 gal/mo/DU	$	0.00470
4th Tier	>5,500 gal/mo/DU	$	0.00549
Commercial	All Usage	$	0.00372
Irrigation	Nov-May	$	0.00271
	Jun-Oct	$	0.00407
Airport Area - Comm. & Re	All Usage	$	0.00549
Airport Area - Irrigation	Nov-May	$	0.00389
	Jun-Oct	$	0.00584
Additional Usage Charge for Pumping			
Shiloh Meadows - Zone 2	All usage	$	0.00089
- Zone 3	All usage	$	0.00226
- Zone 4	All usage	$	0.00335
Mayacama	All usage	$	0.00226
Vinecrest	All usage	$	0.00218
Monthly Service Charges ($/month)			
All Water Services including Airport Area			
	Up to 3/4" meter	$	9.13
	1" meter	$	13.97
	1 1/2" meter	$	25.95
	2" meter	$	40.39
	3" meter	$	74.10
	4" meter	$	122.25
	6" meter	$	242.52
	8" meter	$	386.90
	10" meter	$	555.39
Additional Service Charges for Pumping			
Shiloh Meadows - Zone 2	1" meter	$	6.35
- Zone 3	1" meter	$	19.20
- Zone 4	1" meter	$	37.65
Mayacama	1" meter	$	19.20
	1 1/2" meter	$	38.30
	2" meter	$	61.30
Vinecrest	Up to 1" meter	$	23.80
Private Fire Service Charges			
	4" meter	$	61.13
	6" meter	$	121.26
	8" meter	$	193.45
	10" meter	$	277.70
	6" meter - Mayacama - Additional	$	191.65

Notes:

(1) Actual billing occurs bi-monthly. Beginning in July 2012, water usage charges under current water rates will be determined based on usage in gallons, rather than 1,000-gallon increments.

(2) Incremental changes to water usage rates may occur each July based on future SCWA rate actions.

EXHIBIT "B"
Town of Windsor
Proposed Monthly Water Reclamation Rates (1)

		July 2012
Water Reclamation Usage Rates ($/gallon)		
Single Family (2)	$	0.01206
Multi-Family / Mobile Homes (2)	$	0.01206
Commercial (4)		
Low strength	$	0.01085
Medium strength	$	0.01464
High strength	$	0.02559
Schools	$	0.01064
Monthly Service Charges		
Single Family (per DU) (5)	$	6.10
Multi-Family / Mobile Homes (per DU) (5	$	4.95
Commercial		
Up to 3/4" meter	$	6.10
1" meter	$	9.57
1 1/2" meter	$	18.17
2" meter	$	28.53
3" meter	$	52.71
4" meter	$	87.26
Additional Monthly Lift Station Charges		
Deer Creek Subdivision	$	5.85
Greens Subdivision	$	14.35
Vintage Greens Subdivision	$	12.30
Water Reclamation-Only Accounts		
Single Family (per DU) (5)	$	53.80
Mobile Homes (per DU) (5)	$	42.00
Commercial (4)	$	53.80

Notes:

(1) Actual billing occurs bi-monthly.

(2) Residential usage charges to be determined based on the lower of: (a) actual bi-monthly water usage, or (b) bi-monthly average winter water usage determined from the three lowest use months during the prior period from December through March.

(3) Water reclamation usage rates for commercial and school accounts apply to actual metered water usage.

(4) For each equivalent single family dwelling (ESFD), based on 20 fixture units per ESFD.

(5) DU = dwelling unit.

EXHIBIT "C"

Town of Windsor

Proposed Recycled Water Rates (1)

		Jan. 2013	Jan. 2014	Jan. 2015	Jan. 2016
Urban Recycled Water Customers (2)					
Water Usage Rate ($/gallon)	All Usage	$ 0.00149	$ 0.00298		
Monthly Service Charges	Up to 3/4" meter	$ 3.65	$ 7.30		
	1" meter	$ 5.59	$ 11.17		
	1 1/2" meter	$ 10.38	$ 20.76		
	2" meter	$ 16.16	$ 32.31		
	3" meter	$ 29.64	$ 59.28		
	4" meter	$ 48.90	$ 97.80		
	6" meter	$ 97.01	$ 194.02		
	8" meter	$ 154.76	$ 309.52		
	10" meter	$ 222.16	$ 444.31		
Vineyards (3)					
Water Usage Rate ($/gallon)	All Usage	$ 0.00061	$ 0.00072	$ 0.00083	$ 0.00093
Monthly Service Charges	2" meter	$ 10.10			
	3" meter	$ 18.53			
	4" meter	$ 30.56			
	6" meter	$ 60.63			
	8" meter	$ 96.72			
	10" meter	$ 138.85			
Pasture and Other Non-Vineyard Agriculture (4)					
Water Usage Rate ($/gallon)	All Usage	$ 0.00031	$ 0.00036	$ 0.00041	$ 0.00047
Monthly Service Charges	2" meter	$ 5.05			
	3" meter	$ 9.26			
	4" meter	$ 15.28			
	6" meter	$ 30.32			
	8" meter	$ 48.36			
	10" meter	$ 69.42			

Notes:

(1) Recycled water customers may also be subject to backflow program charges and other fees and charges related to the provision of water service.

(2) Urban customers include parks, schools, commercial landscapes, and residential landscapes in the Vintage Greens subdivision. There are currently 505 separate urban recycled water accounts. Dual plumbed homes using recycled water for landscape irrigation are exempt from the recycled water monthly service charge.

(3) Currently includes six separate accounts with vineyards.

(4) Currently includes ten separate accounts with pasture or other non-vineyard agricultural uses.