

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY DECLARING ITS INTENTION TO ADJUST WATER AND WASTEWATER RATES; SETTING THE TIME AND PLACE FOR A PROPOSITION 218 MAJORITY PROTEST PUBLIC HEARING; AND AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO PROVIDE THE RELATED NOTICE IN COMPLIANCE WITH STATE-MANDATED TIMING REQUIREMENTS

WHEREAS, the City of Gilroy has identified ongoing operational and capital needs associated with the City's water and wastewater utility system; and

WHEREAS, in order to fund the identified water and wastewater system's operational and capital costs, it will be necessary to adjust the City's current water and wastewater rates; and

WHEREAS, the City of Gilroy engaged NBS Government Finance Group, a firm with expertise in the analysis of costs relating to utilities, to conduct a rate study of the City's water and wastewater utilities; and

WHEREAS, the City Council received the report prepared by NBS Government Finance Group at the August 21st, 2023 City Council meeting and heard from staff on this matter; and

WHEREAS, on November 5, 1996, California voters approved Proposition 218, requiring specific procedures be followed with regard to "property-related" fee increases, including the need to provide written notice at least 45 days in advance of a public hearing; and

WHEREAS, on July 24, 2006, the California Supreme Court confirmed that charges for water and wastewater (sewer) are subject to Proposition 218 procedures (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal. 4th 205); and

WHEREAS, on April 20, 2015, the California Court of Appeal ruled that water rate surcharges and by analogy, wastewater surcharges may be charged as long as they are based upon the actual cost of service to the ratepayers receiving the surcharge. (*Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493; and

WHEREAS, the City Council believes it is in the public interest to and desires to proceed through the requisite processes pursuant to the provisions of Proposition 218 in order to consider adjustments to the City of Gilroy's fees, rates, and charges related to its water system.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF GILROY DOES RESOLVE AS FOLLOWS:

1. A Proposition 218 Public Hearing is hereby set and will be held before the City Council on October 16, 2023, in order for the City Council to consider adjustments to the City's water service fees, rates and/or charges; and
2. The City Administrator, or designee, is hereby authorized and directed to cause a notice of Public Hearing that provides details related to adjustments to the specific water and wastewater service fees, rates and/or charges being proposed to be mailed no later than September 1, 2023, in a manner that complies with applicable laws, including without limitation, the State-mandated minimum 45-day required notice under Proposition 218.

PASSED AND ADOPTED at a Regular Meeting of the City Council on this 21st day of August 2023 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Marie Blankley, Mayor

ATTEST:

Thai Nam Pham, City Clerk