

**RESOLUTION NO. 9577**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, ADOPTING A SUPPLEMENTAL WATER SUPPLY FEE STUDY AND SUPPLEMENTAL WATER SUPPLY FEE FOR NEW DEVELOPMENT**

**WHEREAS**, the Supplemental Water Supply Program dated November 20, 2012 and commissioned by the Indio Water Authority is a fee study that provides an analysis of future demands for water service imposed by development within the service area of the Indio Water Authority, the public improvements including purchase of water necessary to provide water service to new development, the estimated cost of providing such public improvements and the revenue sources anticipated to provide water service ("Fee Study"). This Fee Study is required under the Mitigation Fee Act (Government Code Section 66000 et. seq.) as required by the Mitigation Fee; and

**WHEREAS**, the Fee Study contains the analysis and findings required by the Mitigation Fee Act (Government Code Section 66000 et. seq.) and Section 33.071 of the Indio City Code;

**WHEREAS**, Table 5.1 of the Fee Study provides a Supplemental Water Supply Fee schedule to defray all or a portion of the cost of public improvements related to a development project; and

**WHEREAS**, the proposed Supplemental Water Supply Fee is for the proportional cost of public improvements that are of proportional benefit to the person being charged. Specifically, the Program evaluates the estimated cost to lease water on a long-term lease and calculates the Fee based on anticipated demand from a development project; and

**WHEREAS**, it is in the public interest to establish a Supplemental Water Supply Fee to mitigate the additional demands resulting from development and its impact on water supplies and to fund the cost of acquiring additional water supplies for new development projects which do not have approved water supply assessments or vested development rights; and

**WHEREAS**, on December 4, 2012, the City Council considered this resolution and the City hereby finds that it has complied with the notice and hearing requirement of the Mitigation Fee Act prior to adopting this Resolution, and a notice of public hearing on the Fee was mailed as required by law to any interested party who has filed a written request with the City Clerk for mailed notice of a meeting on new or increased fees;

**WHEREAS**, at least ten (10) days prior to December 4, 2012, the City Council made the Fee Study and this Resolution available for public review;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIO DOES HEREBY FIND AND RESOLVE AS FOLLOWS:**

**Section 1. Incorporation of Findings and Recitals**

All Findings and Recitals set out above are true and correct and incorporated herein as findings in support of the action taken.

## **Section 2. Supplemental Water Supply Fee Study Approved**

The City Council hereby approves the Fee Study, attached hereto as Attachment "A" and incorporated herein, and finds that the Fee Study includes a Supplemental Water Supply Fee ("Fee") that complies with California Government Code Section 66001 by establishing the basis for the imposition of the Fee on development. This finding is based on the fact that the Fee Study: (a) identifies the purpose of the Fee; (b) identifies the use to which the Fee will be put; (c) shows a reasonable relationship between the use of the Fee and the type of development project on which the Fee is imposed; (d) demonstrates a reasonable relationship between the need for the public facilities, which includes public services such as the acquisition of new water supply and the type of development projects on which the Fee is imposed; (e) demonstrates a reasonable relationship between the amount of the Fee and the cost of the public facilities or portion of the public facilities, which includes public services such as the acquisition of new water supply, attributable to the development on which the Fee is imposed.

## **Section 3. Substantial Evidence Supports the Supplemental Water Supply Fee**

Based upon substantial evidence in the Fee Study presented to the City Council, the City Council finds that the Supplemental Water Supply Fee does not exceed the reasonable cost of providing the service and will be sufficient to fund the: (1) purchasing or leasing of supplies, equipment and materials for the City's water enterprise; (2) financial reserve needs and requirements of the Indio Water Authority; and (3) the cost to obtain a new water supply; and (4) capital projects necessary to maintain service within the water service area.

## **Section 4. Supplemental Water Supply Fee**

Commencing on March 1, 2013 ("Effective Date"), a Supplemental Water Supply Fee ("Fee") is imposed on development projects (as defined in Section 33.066 of the Indio City Code) for which a building permit is issued and shall be payable at the time a building permit is issued. The amount of the Fee shall be computed as follows:

**Annual Consumption Factor x \$5,435 = Supplemental Water Supply Fee**

<b>IWA Development Type</b>	<b>Annual Consumption Factor with Return Flows (ac-ft/ac/yr)</b>	<b>SWSF (\$/acre)</b>
Commercial/Institutional	.65	\$3,533
Hotel/Motel	1.42	\$7,718
Industrial	.93	\$5,055
Irrigation	1.54	\$8,370
Multi Family Residential	1.23	\$6,685
Single Family Residential	2.23	\$12,120
City Parks/Irrigation and Landscape Lighting Districts	1.36	\$7,392

Notwithstanding, any development project for which a development agreement that defines fee requirements for the developer (as defined in Government Code Section 65864, et. seq.,) has been entered into between the developer and the City prior to the Effective Date, will be subject to the fees as described in the development agreement and may be exempt from the provisions of this Resolution.

**Section 5. Implementation of Supplemental Water Supply Fee**

Staff is directed to take all steps necessary to implement the Fee approved by this Resolution.

**Section 6. California Environmental Quality Act Exemption**

The City Council is adopting the Supplemental Water Supply Fee for the purpose of (1) purchasing or leasing of supplies, equipment and materials for the City's water enterprise; (2) meeting the financial reserve needs and requirements of the Indio Water Authority; and (3) obtaining funds for capital projects necessary to maintain service within the water service area. Therefore, the City Council finds and determines, based upon substantial evidence in the record, that the establishment of the fees herein is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code section 21080(b)(8) and California Code of Regulations Title 14, section 15273(a). Furthermore, the City Council determines that its adoption of the Supplemental Water Supply Fees is not a "Project" under CEQA pursuant to California Code of Regulations Title 14, section 15378(b)(4).

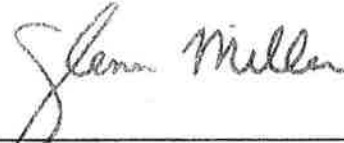
**Section 7. In Lieu Mitigation**

A developer of any project subject to the Supplemental Water Supply Fee described herein may apply to the City Council and propose in lieu mitigation measures that serve as a credit against the Supplemental Water Supply Fee otherwise payable. The application shall be made in writing and filed with the city clerk. The application shall state in detail the factual basis for the proposed in lieu mitigation(s). The applicant shall bear the burden of proof in presenting substantial evidence to support the application. The city council shall consider the application at a public hearing held within sixty days after the filing of the application. In making its decision, the City Council shall determine whether the impacts of the development on the regional water supply will be reliably and sustainably mitigated to a level of being less than significant (a) without any impact upon regional groundwater resources and/or (b) exclusive of mitigation otherwise provided by water resources acquired through revenue generated by the Supplemental Water Supply Fee.

**Section 8.** The City Clerk shall certify to the adoption of this resolution.


**PASSED, APPROVED AND ADOPTED** this 4<sup>th</sup> day of December, 2012, by the following vote:

**AYES:** Holmes, Torres, Wilson, Miller  
**NOES:** Ramos Watson



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**GLENN MILLER, MAYOR**

**ATTEST:**

  
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**CYNTHIA HERNANDEZ, CMC**  
**CITY CLERK**