



**SPECIAL MEETING OF THE BOARD OF DIRECTORS
WEDNESDAY, JUNE 23, 2021, AT 5:30 P.M.
61750 CHOLLITA ROAD, JOSHUA TREE, CA 92252**

In an effort to protect public health and prevent the spread of COVID-19 (Coronavirus), and in accordance with the Governor's Executive Order N-29-20, the public may view or listen to this Board of Directors meeting online, as there will be **no public location for attending in person.**

This meeting will be streamed at:

<https://us02web.zoom.us/j/88252493609?pwd=Nnkyb1Fvc1hzRGd0eXZ6ZHNScTZ2Zz09>

Or you may join by phone at 1-253-215-8782, Meeting ID: 88252493609 Passcode: 275049

AGENDA

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **DETERMINATION OF A QUORUM**
4. **APPROVAL OF AGENDA**
5. **PUBLIC COMMENT**
This is the time set aside for public comment on any District-related matter not appearing on the agenda. Government Code prohibits the Board from taking action on these items, but they may be referred to for future consideration. Please state your name and limit your comments to 3 minutes.
6. **PUBLIC HEARING TO CONSIDER THE WATER AVAILABILITY (STANDBY) CHARGES FOR FISCAL YEAR 2022** – At this time the Board will conduct a Public Hearing to receive and discuss public input and comments regarding the water availability charges for 21/22 and authorizing collection by San Bernardino County.

The public hearing should be conducted as follows:
 - RECEIVE STAFF REPORT
 - BOARD QUESTIONS
 - OPEN PUBLIC HEARING: RECEIVE PUBLIC COMMENTS
 - CLOSE PUBLIC HEARING
 - BOARD ACTION – Recommend that the Board of Directors authorize collection of the Water Availability (Standby) charges for Fiscal Year 21/22 by San Bernardino County.
7. **ADJOURNMENT**

INFORMATION

The public is invited to comment on any item on the agenda during discussion of that item. Any person with a disability who requires accommodation in order to participate in this meeting should telephone Joshua Basin Water District at (760) 366-8438, at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation.

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the District's office located at 61750 Chollita Road, Joshua Tree, California 92252 during normal business hours.

**JOSHUA BASIN WATER DISTRICT
MEETING AGENDA ITEM STAFF REPORT**

Special Meeting of the Board of Directors

DATE: June 23, 2021

REPORT TO: Board of Directors
PREPARED BY: Anne Roman, Director of Finance
TOPIC: **PUBLIC HEARING TO CONSIDER THE WATER AVAILABILITY (STANDBY) CHARGES FOR FISCAL YEAR 2021/22**

RECOMMENDATION: Adopt Resolution No. 21-1032, establishing Water Availability Charges for 21/22 and authorizing collection by San Bernardino County.

ANALYSIS: The annual standby public hearing is a legal requirement, necessary each year whether or not there is a rate change. The proposed rates are unchanged since 1996 and authorized by the Uniform Standby Charge Procedures Act (Government Code 54984 et seq.).

The public hearing should be conducted as follows:

- RECEIVE STAFF REPORT
- BOARD QUESTIONS
- OPEN PUBLIC HEARING: RECEIVE PUBLIC COMMENTS
- CLOSE PUBLIC HEARING
- BOARD ACTION – Recommend that the Board of Directors authorize collection of the Water Availability (Standby) charges for Fiscal Year 21/22 by San Bernardino County.

As required, the updated Standby Report from our standby Administrator, NBS, is attached for 2021/22.

Although no change to the standby charges is proposed, the District is legally required to advertise and hold a public hearing and adopt a resolution setting the rates annually.

Water availability charges, also called standby charges, are levied annually on all non-exempt parcels within the District, whether or not there is water service to the parcel. Exempt parcels are government-owned. Since 1992, the Board of Directors has directed the standby assessments primarily for the Morongo Basin Pipeline expenses. Remaining water availability charge revenues will be used exclusively for other lawful purposes of the District, such as capital costs and operation and maintenance expenses of the District's water facilities benefiting the properties assessed or other debt service payments.

Notice of public hearing was published in the Hi-Desert Star. Individual mailed notification is not required since we are proposing no change to the rates or methodology. Any written protests will be counted at the public hearing and the data included to "fill in the blank" on page one of Resolution 21-1032.

STRATEGIC PLAN ITEM: N/A

FISCAL IMPACT: Standby revenues of \$1,189,925 will be billed to JBWD property owners as a result of this approval.

JOSHUA BASIN WATER DISTRICT

Annual Standby Report for:

Water Availability Standby Charge

Fiscal Year 2021/22

1. EXECUTIVE SUMMARY

WHEREAS, the Board of Directors (the “Board”) for the Joshua Basin Water District (the “District”), County of San Bernardino, State of California, directed NBS Government Finance Group, DBA NBS to prepare and file a report presenting the specifications describing the general nature and location of the facilities and an estimate of the costs of the maintenance and operations for the facilities for the Water Availability Standby Charge (the “Standby Charge”) for Fiscal Year 2021/2022. The report includes an assessment of the estimated costs of the maintenance and operations of the facilities, the apportionment methodology and the net amount upon all assessable parcels within the District;

WHEREAS, on July 17, 1996, the District established and levied a Standby Charge with Resolution No. 96-564 under the authority of the Uniform Standby Charge Procedures Act (Section 54984 et. seq. of the California Government Code, hereinafter the “Act”);

THEREFORE, the Standby Charge is estimated to generate revenues of \$1,189,925 for Fiscal Year 2021/2022 and these revenues are dedicated to cover the cost of operations and maintenance together with incidental expenses outlined below:

SUMMARY OF CHARGES	
DESCRIPTION	AMOUNT
Morongo Basin Pipeline Debt Payment	\$132,410
Power Expense for System Operation	325,000
Water Purchase for Recharge	571,000
Preventative Maintenance Programs: Reservoirs	30,000
Pumping Plant Repair & Maintenance	35,000
Production Department Employee Salaries	386,552
Capital Improvement Replacement Program (CIRP) Debt Service	267,891
Recharge Maintenance/Repair	5,000
Water Supply Monitoring (USGS)	10,000
Total	\$1,762,853

In accordance with the requirements of the Act, the total Standby Charge costs are apportioned upon the lots, pieces, or parcels, or portions of lots or subdivisions of land that uniquely and especially benefit from the operation and maintenance activities. This apportionment process is more fully described in Section 3, Method of Apportionment.

2. OVERVIEW

2.1 Introduction

The Joshua Basin Water District owns and operates significant water-related infrastructure facilities. The purpose of the existence and construction of these facilities and, therefore, the responsibility of the District, is to provide potable water to property owners, residents, and businesses within the District.

The District obtains its supply of water from underlying ground waters. A study completed by the United States Geological Survey (USGS) determined that the amount of water extracted by the District exceeds the inflow or supply to the District's groundwater basins. In anticipation of the need for additional or supplemental water, the District's voters, in 1960, approved inclusion in the formation of the Mojave Water Agency which would have access to water provided by the State Water Project (SWP). As additional insurance, in 1991, voters of the District together with those of other nearby water districts, approved a bond issue to finance the construction of the 72-mile Morongo Basin Pipeline which conveys SWP water to the Morongo Basin area. The pipeline has been constructed and is maintained by the Mojave Water Agency. As one of the beneficiaries and future users, the District signed a contract and is responsible for a portion of the pipeline construction and maintenance costs.

To allow delivery and use of water from the SWP and the Morongo Basin Pipeline, the District completed design, property acquisition, and construction of a delivery pipeline and recharge basins in 2014. Funding of the \$9.4 million project was provided substantially by state and federal grants, the Mojave Water Agency, and excess funds in the Morongo Basin Pipeline Reserve Fund. The District funded \$1.3 million or 14%.

The District has budgeted 858 acre-feet of SWP water recharge in Fiscal Year 2021/2022.

Following a review of the Report, the Board may continue the Standby Charge, per California Government Code Section 54984.7, may confirm the Report as submitted, and may order the levy and collection of the charges for Fiscal Year 2021/2022. If the Standby Charge is continued, the information is submitted to the County Auditor-Controller and included on the property tax roll for Fiscal Year 2021/2022.

2.2 Effect of Proposition 218

On November 5, 1996, California voters approved Proposition 218 with a final vote of 56.5% to 43.5%. The provisions of the Proposition, now articles XIII C and XIII D of the California Constitution, added substantive and procedural requirements for standby charges.

Proposition 218 provides that property owned by local, state, and federal agencies may not be exempted from a benefit assessment, such as the District's Standby Charge, unless the Agency can demonstrate that it receives no special benefit from the services or facilities for which that charge is levied. (California Constitution Article XIII D, § 4(a).)

The Standby Charge has been in effect at the current rate since 1996, before the enactment of Proposition 218 and is grandfathered under Proposition 218 unless and until it is increased. (California Constitution Article XIII D, §5.) Legislation interpreting Proposition 218 clarifies that, as an exempt charge, the procedure is also exempt from the requirement that government-owned parcels be assessed. (Government Code

§53753.5.) Unless and until the Standby Charge is increased, it may be re-authorized from year-to-year pursuant to the Uniform Standby Charge Procedures Act (Government Code §54984 et seq.), exempt from the Proposition 218 procedures.

Publicly owned property including lands owned by the federal government and the local school district have been exempted from the Standby Charge. When the District sent an assessment notice to the U.S. Bureau of Land Management ("BLM"), which owns extensive property within the District, the BLM responded by claiming an exemption under the California Statehood Act and declined to pay. The local school district was not assessed based upon the California Supreme Court decision in San Marcos Water District v. San Marcos Unified School District. After 1996, as local, state and federal government agencies have acquired lands which were previously privately-owned, the District has initiated Standby Charges on those parcels in compliance with Proposition 218.

2.3 Use of Funds

Availability of supplemental water benefits all of the land within the District. Therefore, a Standby Charge is collected from all of the ± 12,000 parcels within the District, except those exempt. The primary use of the revenues, since enactment in 1996, has been to pay the debt obligation and operation and maintenance costs for the Morongo Basin Pipeline as required by the District's agreement with the Mojave Water Agency. That obligation has now been reduced to debt payment only. Although the final annual debt service payment of approximately \$132,410 will be incurred and paid in Fiscal Year 2021/22, costs associated with the purchase of supplemental recharge water, obtained through the Morongo Basin Pipeline, will substantially exceed the original \$220,000 annual debt service payment moving forward. Standby Charge revenues over that amount will be used exclusively for capital costs and operation and maintenance of the District's water facilities benefiting the properties from which the Standby Charge is collected.

To the extent that water availability revenues exceed expenses indicated above, they will be used for other lawful purposes of the District that qualify for grandfathering under article XIII D, section 5.

Standby Charge revenues are dedicated to the lawful purposes of (a) meeting the District's expenses of maintaining and operating permanent public improvements constituting the water system, (b) purchasing or leasing supplies, equipment, or material necessary for the operation of the District's water system, (c) meeting debt repayment obligations and financial reserve requirements, and (d) obtaining funds for capital projects necessary to maintain service within existing service areas.

EXHIBIT A
JOSHUA BASIN WATER DISTRICT
WATER AVAILABILITY (STANDBY) CHARGES

SCHEDULE A
MINIMUM PER PARCEL UP TO 1.25 ACRES

NEW COUNTY ZONES	District Zone 1	District Zone 2	District Zone 3	District Zone 4
20MRM40M*	\$30.00	\$50.00		
3MRM*	\$40.00	\$60.00		
4MRM*	\$40.00	\$60.00	\$50.00	
RM	\$30.00	\$50.00	\$50.00	
RS	\$40.00	\$60.00	\$50.00	
RS1	\$40.00	\$60.00	\$50.00	
RS8M*	\$30.00	\$50.00		
RS10M	\$30.00	\$50.00		
RS14M, RS18M*	\$30.00	\$50.00		
RS20M	\$30.00	\$50.00		
RL, RL2.5*	\$30.00	\$50.00	\$40.00	\$40.00
RL5	\$30.00	\$50.00	\$40.00	\$40.00
RL10	\$30.00	\$50.00	\$40.00	\$40.00
RL20	\$30.00	\$50.00	\$40.00	\$40.00
RC, RC40*, OS, FW	\$40.00	\$60.00	\$40.00	\$40.00
CG-SCp, CS, CO, CN, IC, IN	\$40.00	\$60.00	\$50.00	

* Cannot be assigned to parcels created after 2018

SCHEDULE B
COST PER ACRE FOR PARCELS OVER 1.25 ACRES

District Zone 1	District Zone 2	District Zone 3	District Zone 4	ACREAGE
\$20.00	\$30.00			0+ Acres
\$20.00	\$30.00	\$25.00		0-40 Acres 41+ Acres
\$20.00	\$35.00	\$25.00		0-40 Acres 41+ Acres
\$20.00	\$25.00	\$15.00		0-40 Acres 41+ Acres
\$20.00	\$30.00	\$25.00		0-40 Acres 41+ Acres
\$20.00	\$25.00	\$15.00		0-40 Acres 41+ Acres
\$20.00	\$30.00	\$20.00		0-40 Acres 41+ Acres
\$20.00	\$30.00	\$25.00		0+ Acres
\$20.00	\$35.00			0-40 Acres
\$15.00	\$25.00			41-80 Acres
\$10.00	\$15.00			81-160 Acres
	\$10.00			161-320 Acres
	\$1.00			321+ Acres
\$20.00	\$30.00			0-40 Acres
\$15.00	\$25.00			41-80 Acres
\$10.00	\$15.00			81-160 Acres
	\$10.00			161-320 Acres
	\$1.00			321+ Acres
\$20.00	\$30.00			0+ Acres
\$20.00	\$30.00	\$20.00	\$15.00	0-40 Acres
\$15.00	\$25.00	\$15.00	\$12.00	41-80 Acres
\$10.00	\$15.00	\$10.00	\$10.00	81-160 Acres
\$5.00	\$8.00	\$5.00	\$4.00	161-320 Acres
\$1.00	\$1.00	\$1.00	\$1.00	321+ Acres
\$20.00	\$30.00	\$20.00	\$15.00	0-40 Acres
\$12.00	\$25.00	\$15.00	\$12.00	41-80 Acres
\$8.00	\$10.00	\$8.00	\$8.00	81-160 Acres
\$4.00	\$5.00	\$4.00	\$3.00	161-320 Acres
\$1.00	\$1.00	\$1.00	\$1.00	321+ Acres
\$20.00	\$30.00	\$20.00	\$15.00	0-40 Acres
\$15.00				41+ Acres
\$20.00	\$30.00	\$20.00	\$15.00	0+ Acres
\$15.00	\$25.00	\$15.00	\$15.00	0-40 Acres
	\$12.00	\$10.00	\$8.00	41-160 Acres
	\$5.00	\$4.00	\$3.00	161-320 Acres
	\$1.00	\$1.00	\$1.00	321+ Acres
\$25.00	\$35.00	\$25.00		0-40 Acres
	\$25.00			41+ Acres

JOSHUA BASIN WATER DISTRICT
Water Availability (Standby) Zoning Descriptions

DISTRICT ZONE DESCRIPTIONS

ZONE 1 Any size parcel served by one or more meters
ZONE 2 Any size parcel within 1/2 mile of a water mainline and in the same pressure zone as the mainline
ZONE 3 Any size parcel within one mile of a water mainline and within the same pressure zone of the mainline
ZONE 4 All other parcels

COUNTY ZONE DESCRIPTIONS

RM Residential, multi-family
3MRM Residential, multi-family, 3,000 sq. ft. per unit, 14.5 units per acre
4MRM Residential, multi-family, 4,000 sq. ft. per unit, 10.8 units per acre
20MRM40M Residential, multi-family, 20,000 sq. ft. per unit, 2.18 units per acre

RS Residential, single family
RS1 Residential, single family, 1 acre min.
RS8M Residential, single family, 8,000 sq. ft. min.
RS10M Residential, single family, 10,000 sq. ft. min.
RS14M, RS18M Residential, single family, 14,000 sq. ft. min.
RS20M Residential, single family, 20,000 sq. ft. min.

RL Rural Living
RL2.5 Rural Living, one residence per 2.5 acres
RL5 Rural Living, one residence per 5 acres
RL10 Rural Living, one residence per 10 acres
RL20 Rural Living, one residence per 20 acres

RC, RC40, OS, FW Resource Conservation, Open Space, Floodway

CG-SCp, CS Commercial Properties, Sign Control
CO, CN Commercial Properties, Neighborhood Commercial
IC, IN Industrial and Institutional Properties

RESOLUTION NO. 21-1032

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE JOSHUA BASIN WATER DISTRICT ESTABLISHING A WATER AVAILABILITY CHARGE FOR FISCAL 2021-2022 AND AUTHORIZING THE COLLECTION THEREOF BY THE COUNTY OF SAN BERNARDINO

WHEREAS, the Board of Directors of the District has found and determined that the availability of a dependable supply of high quality water for domestic uses and purposes is a benefit conferred upon the lands proposed to be charged and, conversely, that the lack of such a supply diminishes the value of such lands; and

WHEREAS, that as a result of steadily-increasing overdraft of its groundwater supplies and in anticipation of the need for a supplemental source of water, the voters approved the formation of assessment districts and the issuance of bonds for the purpose of financing the construction of a supplemental water supply project, thereby obligating the District to repay the bonded indebtedness incurred thereunder; and

WHEREAS, in 1996, the Board of Directors engaged the services of a qualified engineer for the purpose of establishing a schedule of water availability charges varying according to land uses and benefit derived or to be derived from the use and availability of facilities to provide potable water for domestic uses and purposes, which schedule was the subject of a published and mailed notice of hearing and a public protest hearing; and

WHEREAS, the water availability charge for fiscal year 2021-2022 is proposed to be continued at the same rate and in the same manner, and pursuant to the same methodology as established in 1996, and which has been continued from year-to-year since then; and

WHEREAS, pursuant to Section 54984.7 of the Uniform Standby Charge Procedures Act, the Board of Directors conducted a public hearing pursuant to published notice in order to hear any and all objections to the proposed renewal of the water availability charge for fiscal year 2021-2022; and

WHEREAS, the written protests received represent less than ____ percent of the parcels subject to the water availability charge.

NOW, THEREFORE, the Board of Directors of the Joshua Basin Water District hereby resolves as follows:

1. **District Zones of Benefit**. There is hereby established within the District four Zones of Benefit:

ZONE 1: Any size parcel served by one or more meters.

ZONE 2: Any size parcel within a half mile of a water mainline and in the same pressure zone as the mainline.

ZONE 3: Any size parcel within one mile of a water main and in the same pressure zone of the mainline.

ZONE 4: All other parcels.

2. **Adoption of Water Availability Charge.** That there shall be adopted, for each parcel in the District, for fiscal year 2021-2022, a water availability charge established in accordance with the benefit conferred and in the amount as determined by the applicable District Zone of Benefit and the land use zoning adopted by the County of San Bernardino, which charge is more specifically shown on Exhibit "A" attached hereto and made a part hereof.

3. **Rate and Methodology.** The rate and methodology of the water availability charge adopted herein is the same and remains unchanged for this Fiscal Year, and that such charge is reasonable and necessary, and does not exceed the actual cost to the District of providing the service.

4. **Dedication and Use of Revenue.** The revenue generated by the water availability charge is hereby dedicated and shall be used to finance the capital costs of the District's water system, to repay bonded indebtedness incurred by the voters and operation and maintenance of the District's water facilities benefiting the properties assessed.

5. **Exemptions.** The water availability charge established hereunder is exempt from the California Environmental Quality Act in accordance with Section 21080 (b) (8) of the Public Resources Code, because the revenue generated by such charge shall be used for the repayment of debt related to capital projects necessary to maintain water service, and is also exempt from Article XIID of the California Constitution because (a) the charge was in existence prior to November 6, 1996, (b) because the rate and methodology used to establish the schedule of charges is the same as in previous years, and (c) because the charges are imposed to finance the capital cost of the District's water system and to repay bonded indebtedness. If and to the extent any charge is higher than in previous years, such increase is attributable solely to events other than an increased rate or revised methodology, such as a change in the density, intensity or nature of use of land, or consent of the landowner.

6. **Water Service to Exempt Property.** No new connection to the District's water system shall be allowed to any parcel which has been exempted from the water availability charge unless the applicant for water service pays an in-lieu water availability fee calculated as the total amount of water availability charges which would have been assessed against that parcel had it not been exempt, and unless the applicant agrees that the parcel will be subject to the water availability charge from that date forward.

7. **Delinquent Charge.** Water availability charges that have become delinquent shall, with a basic penalty of 6% for non-payment of the charge and interest at the rate of 1/2 of 1 percent per month for each month of non-payment, become a lien on the property when a certificate is recorded in the office of the San Bernardino County Recorder pursuant to Government Code, Section 54984.9 (b) which lien shall have the force, effect and priority of a judgment lien.

8. **Collection by the County.** The water availability charge shall be collected on the San Bernardino County Tax Roll in the same manner, and by the same persons and at the same time as, together with and not separately from, the District's general taxes. The Secretary of the District is hereby authorized and directed to forthwith file a certified copy of this Resolution in the office of the Auditor of the County of San Bernardino on or before August 10, 2020.

9. **Effective Date.** The effective date of this Resolution is the 1st day following the date of its adoption.

PASSED AND ADOPTED this 23rd day of June, 2021 pursuant to the following votes:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

By: _____
Rebecca Unger, President,
Board of Directors

Mark Ban, General Manager and Board Secretary