

Presented and Adopted: May 3, 2018

SUBJECT: Approval of Amendments to the System Availability Fee (SAF)

**#18-35
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

The Board of Directors ("Board") of the District of Columbia Water and Sewer Authority ("the Authority") at its meeting held on May 3, 2018 upon consideration of a non-joint use matter decided by a vote of five (5) in favor and one (1) abstained, to take the following action with respect to the approval of amendments to the System Availability Fee (SAF).

WHEREAS, on June 17, 2016, DC Water published a Notice of Final Rulemaking for amendments to the SAF and relevant definitions in the *D.C. Register* (DCR) at 63 DCR 8505, effective January 1, 2018; and

WHEREAS, in November 2017, the Authority received reports from the Board Chair, the Mayor's Office and the development community that implementing the SAF regulations on the effective date of January 1, 2018 could present significant fiscal impacts to the District's New Communities Initiative, which includes development and redevelopment (one for one replacement and/or augmentation) of affordable housing units in the Barry Farm, Lincoln Heights/ Richardson Dwellings, NW1, and Park Morton communities; and

WHEREAS, each of the above redevelopment projects are projected to increase the availability of affordable housing units in the District and it is possible that negative fiscal impacts will impede these redevelopment these projects and may have an immediate impact on preservation of the public peace, health, safety, welfare, or morals; and

WHEREAS, on December 7, 2017, the DC Retail Water and Sewer Rates Committee recommended that the Board amend the SAF regulations through an Emergency and Proposed Rulemaking to revise the effective date of the SAF regulations from January 1, 2018 to June 1, 2018 in order to allow sufficient time for the Board to evaluate the potential for and likelihood of negative fiscal impacts to affordable housing, and consider options to lessen such impacts, yet still achieve the purposes of the SAF; and

WHEREAS, the Board, after consideration of the recommendations of the DC Retail Water and Sewer Rates Committee, and upon further consideration and discussion, agreed to approve the amendment of the SAF regulations through an Emergency and Proposed Rulemaking to revise the effective date of the SAF regulations from January 1, 2018 to June 1, 2018 for the immediate preservation of public peace, health, safety, welfare, or morals; and

WHEREAS, on December 22, 2017, DC Water published a Notice of Emergency and Proposed Rulemaking to revise the effective date of the SAF regulations from January 1, 2018 to June 1, 2018 in the *D.C. Register* at 64 DCR 013134, effective June 1, 2018.

WHEREAS, on January 23, 2018, the DC Retail Water and Sewer Rates Committee met to consider the comments received during the public comment period, and recommended that the Board amend the SAF regulations through a Notice of Final Rulemaking to revise the effective date of the SAF regulations from January 1, 2018 to June 1, 2018 in order to allow sufficient time for the Board to evaluate the potential for and likelihood of negative fiscal impacts to affordable housing, and consider options to lessen such impacts, yet still achieve the purposes of the SAF; and

WHEREAS, after consideration of the recommendations of the DC Retail Water and Sewer Rates Committee, the District members of the Board of Directors, upon further consideration and discussion, agreed to take final action to amend the effective date for the SAF regulations from January 1, 2018 to June 1, 2018; and

WHEREAS, On February 9, 2018, DC Water conducted an open house to receive comments on the SAF regulations from the development community and specifically impacts of the SAF on affordable housing units; and

WHEREAS, on February 1, 2018, DC Water published a Notice of Final Rulemaking to revise the effective date of the SAF regulations from January 1, 2018 to June 1, 2018 in the *D.C. Register* at 65 DCR 1722, effective June 1, 2018.

WHEREAS, on February 20, 2018, the DC Retail Water and Sewer Committee met to consider the comments received during the open house, and the General Managers proposed revisions to the SAF regulations, and recommended that the Board amend the SAF regulations through a Notice of Proposed Rulemaking to address impacts on projects with significant affordable housing components and other issues; and

WHEREAS, on March 1, 2018, the Board approved the proposed amendments to the SAF regulations and to be published in the *D.C. Register*; and

WHEREAS, on March 16, 2018, DC Water published a Notice of Proposed Rulemaking in the *D.C. Register* at 65 DCR 2724 for a 30 day public comment period through April 16, 2018, which if adopted, would amend the SAF regulations; and

WHEREAS, on April 24, 2018, the DC Retail Water and Sewer Rates Committee met to consider the comments received during the public comment period; and

WHEREAS, on April 24, 2018, the General Manager reported that DC Water received comments from one party, the District of Columbia Building Industry Association and based on the comments received recommended no additional revisions to the proposed SAF amendments published in the *D.C. Register*, and recommended publishing a Notice of Final Rulemaking as proposed; and

WHEREAS, on April 24, 2018, the DC Retail Water and Sewer Rates Committee considered the comments received and the General Manager's recommendation and recommended to the Board the approval of the SAF amendments as proposed; and

WHEREAS, upon consideration of the comments received, the recommendations of the General Manager and the DC Retail Water and Sewer Rates Committee, the District members of the Board of Directors, upon further consideration and discussion, agreed to take final action to amend the SAF regulations as proposed.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board hereby adopts and approves the amendments to the SAF regulations as proposed in the NOPR, published on March 16, 2018.
2. The Board directs the General Manager to amend the Authority's Water Supply regulations at 21 DCMR § 112.11 as provided in Attachment A, and to take all steps necessary in his judgment and as otherwise required, to publish the Notice Final Rulemaking in the *D.C. Register*.

This resolution shall be effective immediately.


Secretary to the Board of Directors

Attachment A – SAF Notice of Final Rulemaking

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 112, FEES, is amended by revising the effective date of Subsection 112.11 to read as follows:

112.11 Effective June 1, 2018, DCRA Construction Permit Applicants and federal facilities shall be assessed a System Availability Fee (SAF) for new water and sewer connections and renovation or redevelopment projects for existing connections to the District’s potable water and sanitary sewer systems based on the SAF meter size in accordance with the following fee schedule and requirements:

- (a) Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
5/8"	\$ 1,135	\$ 2,809	\$ 3,944
3/4"	\$ 1,135	\$ 2,809	\$ 3,944
1"	\$ 1,135	\$ 2,809	\$ 3,944
1"x1.25"	\$ 2,047	\$ 5,066	\$ 7,113
1.5"	\$ 5,491	\$ 13,591	\$ 19,082
2"	\$ 11,125	\$ 27,536	\$ 38,661
3"	\$ 32,500	\$ 80,442	\$ 112,942

- (b) Multi-Family and all Non-Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
1" or smaller	\$ 1,282	\$ 3,173	\$ 4,455
1"x1.25"	\$ 2,047	\$ 5,066	\$ 7,113
1.5"	\$ 5,491	\$ 13,591	\$ 19,082
2"	\$ 11,125	\$ 27,536	\$ 38,661
3"	\$ 32,500	\$ 80,442	\$ 112,942
4"	\$ 83,388	\$ 206,394	\$ 289,782
6"	\$ 229,246	\$ 567,408	\$ 796,654
8"	\$ 229,246	\$ 567,408	\$ 796,654
8"x2"	\$ 229,246	\$ 567,408	\$ 796,654
8"x4"x1"	\$ 229,246	\$ 567,408	\$ 796,654
10"	\$ 229,246	\$ 567,408	\$ 796,654
12"	\$ 229,246	\$ 567,408	\$ 796,654
16"	\$ 229,246	\$ 567,408	\$ 796,654

- (c) The SAF meter size shall be computed for the peak water demand, excluding fire demand in accordance with D.C. Construction Codes Supplement, as amended, Chapter 3 (Water Meters) of this title, and DC Water's Meter Sizing Instructions and Worksheets.
- (d) The SAF shall be assessed for any premise, building or structure that requires a new metered water service connection to the District's potable water and/or sanitary sewer systems.
- (e) The Net SAF shall be assessed for renovation or redevelopment projects for any premise, building or structure that uses an existing metered water service connection to the District's potable water and/or sanitary sewer systems.
- (f) For a renovation or redevelopment project on a property that already had/has a DC Water meter(s) and account(s), DC Water shall determine the Net SAF based on the difference between the property's new System Availability Fee determined by the SAF meter size(s) (SAF) and the SAF Credit determined by the old meter size(s) for the meters(s) being removed from the system:

$$\text{Net SAF} = \text{SAF} - \text{SAF Credit}$$

- (g) Properties under renovation or redevelopment shall not receive a SAF Credit for the DC Water account(s) that have been inactive for more than twenty-four (24) months prior to DC Water's issuance of the Certificate of Approval.
- (h) For any new premise, building or structure that includes one or more affordable housing unit (AHU), DC Water shall also provide an AHU Credit equal to:
 - (1) AHU Credit - Three Thousand Nine Hundred Forty-Four dollars (\$3,944) for each AHU in a metered residential structure of three (3) or less units (e.g., single-family structure, townhouse, condominium, cooperative housing association unit, or apartment).
 - (2) % AHU Credit or % Net AHU Credit - The percentage of affordable housing units credit (% AHU credit) or percentage of additional AHU credit (% Net AHU Credit) in a metered multi-family residential structure of four or more housing units (condominium, cooperative housing association, or apartment) determined as follows: % AHU (or % Net AHU) equals the number of AHUs (or Net AHU) divided by total number of residential units (RU) times one hundred (100) times the SAF:

$$\% \text{ AHU} = (\text{AHU} \div \text{RU}) \times 100$$

$$\text{AHU Credit} = \% \text{ AHU} \times \text{SAF}$$

- (i) For a renovation or redevelopment project that includes replacing existing affordable housing units and/or the construction of additional affordable housing units, DC Water shall provide a Net AHU Credit as provided in Section 112.11(h) based on the percentage of additional affordable housing units (% Net AHU) determined as follows: % Net AHU equals the number of additional AHUs (Net AHU) divided by the total number of residential units times one hundred (100):

$$\% \text{ Net AHU} = ((\text{Net AHU}) \div \text{RU}) \times 100$$

$$\text{Net AHU Credit} = (\% \text{ Net AHU}) \times \text{SAF}$$

- (j) The Net AHU shall be determined based on the difference between the total number of affordable housing units constructed after completing the renovation/redevelopment project (aAHU) and the total number of affordable housing units existing prior to the renovation/redevelopment project (bAHU). If aAHU is less than bAHU (less than zero), no Net AHU Credit will be provided:

$$\text{Net AHU} = (\text{aAHU} - \text{bAHU})$$

- (k) Projects that request AHU or Net AHU Credits shall submit one or more of the following documents:

- (1) Land Disposition Development Agreement;
- (2) Zoning Commission Order;
- (3) Planned Unit Development Covenant;
- (4) Certificate of Inclusionary Zoning; or
- (5) Letter from the District financing agency that establishes the number of AHU in the property.

- (l) If the Net System Availability Fee (less AHU Credit or Net AHU Credit) is zero or less, no System Availability Fee shall be charged.
- (m) If the Net System Availability Fee (less AHU Credit or Net AHU Credit) is greater than zero, DC Water shall assess the System Availability Fee.
- (n) DC Water may request documentation to confirm the number of proposed affordable housing units that were actually constructed. If the number of constructed AHUs is less than the proposed AHUs, DC Water shall bill the property owner the amount of the AHU Credit or Net AHU Credit for the unconstructed AHUs.

- (o) For DCRA Construction Permit applicants, payment of the System Availability Fee shall be a condition for DC Water's issuance of the Certificate of Approval.
- (p) DCRA Construction Permit applicants that submitted plans and specifications to DC Water prior to the effective date of these regulations, shall not be subject to the System Availability Fee provided:
 - (1) The DC Water Engineering Review fee(s) has been paid;
 - (2) The plans, specifications and other information necessary to meet the requirements listed in DC Water Project Submission Checklist has been accepted for review by DC Water in support of a DCRA Building Permit for the project, without substantial revisions that result in the change in the peak water demand that changes the size or number of meter connections for the project;
 - (3) The DCRA Building Permit for the premise, building, or structure requiring water and sewer service is submitted to DCRA and accepted for review by DCRA within one calendar year after the effective date of these regulations; and
 - (4) DC Water issues the Certificate of Approval within one calendar year after the effective date of these regulations, unless DC Water's review is delayed due to a force majeure event that closes DC Water's offices for one or more days one week before June 1, 2019.
- (q) For federal facilities, payment of the System Availability Fee shall be a condition of DC Water's issuance of the Certificate of Approval.
- (r) Before June 1, 2021, the property owner may request to pay the System Availability Fee in four equal installments, with the final payment due no later than one calendar year after the execution date of a Payment Plan Agreement. Execution of a Payment Plan Agreement and payment of the first installment payment, shall be a condition of DC Water's issuance of the Certificate of Approval. Any overdue payments under the Payment Plan Agreement shall be treated as an overdue bill for water and sewer service charges as set forth in D.C. Official Code § 34-2407.02.
- (s) In the case that the DCRA Construction Permit is not issued or is revoked or the project is not constructed, upon written request from the property owner, DC Water shall issue the property owner a refund of the System Availability Fee.

Section 199, DEFINITIONS, is amended by adding the following terms and definitions to read as follows:

Affordable Housing Unit – a housing unit that is offered for rent or for sale for residential occupancy and as a result of a federal or District subsidy, incentive or benefit, and is made available and affordable to households whose income limit requirements are established by a federal or District program or agency or the Council for the District of Columbia.

Force Majeure Event - an event arising from causes beyond the control of DC Water or the control of any entity controlled by DC Water, which results in the closure of DC Water facilities.

Presented and Approved: May 3, 2018
SUBJECT: Approval to Execute Contract No. 120210, SAK
Construction, LLC

#18-36
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
D.C. WATER AND SEWER AUTHORITY

The Board of Directors ("Board") of the District of Columbia Water and Sewer Authority ("the Authority") at its meeting on May 3, 2018 upon consideration of a non-joint use matter, decided by a vote of six (6) in favor and none (0) opposed to execute Contract No. 120210, SAK Construction, LLC.

Be it resolved that:

The Board of Directors hereby authorizes the Interim General Manager to execute Contract No. 120210, SAK Construction, LLC. The purpose of the contract is to rehabilitate the damaged/deteriorated sections of the Lower Area Trunk Sewer and associated manholes. The contract amount is \$8,248,710.

This Resolution is effective immediately.


Secretary to the Board of Directors

Presented and Approved: May 3, 2018
SUBJECT: Approval to Execute Contract No. 170140, Stormwater Maintenance, LLC

#18-37
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
D.C. WATER AND SEWER AUTHORITY

The Board of Directors ("Board") of the District of Columbia Water and Sewer Authority ("the Authority") at its meeting on May 3, 2018 upon consideration of a non-joint use matter, decided by a vote of six (6) in favor and none (0) opposed to execute Contract No. 170140, Stormwater Maintenance, LLC.

Be it resolved that:

The Board of Directors hereby authorizes the Interim General Manager to execute Contract No. No. 170140, Stormwater Maintenance, LLC. The purpose of the contract is for maintenance of DC Water-constructed Green Infrastructure (GI) facilities as part of the practicability assessment for GI. The contract amount is \$1,780,617.

This Resolution is effective immediately.


Secretary to the Board of Directors

Presented and Adopted: May 3, 2018

Subject: Approval of Amendments to the District of Columbia Fire Protection Service Fee

**#18-38
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

The District members of the Board of Directors ("Board") of the District of Columbia Water and Sewer Authority ("the DC Water") at the Board meeting held on May 3, 2018 decided, in a non-joint use matter, by a vote of six (6) in favor and none (0) opposed, to take the following action with respect to the approval of the amendments to the District of Columbia Fire Protection Service Fee.

WHEREAS, DC Water establishes rates, fees and charges in accordance with its Rate Setting Policy (Board Resolution #11-10), including the recovery of current costs to provide service; and

WHEREAS, DC Water provides Fire Protection Services to the District, including but not limited to the delivery of water for firefighting, inspection, maintenance and upgrading of public fire hydrants in the District of Columbia pursuant to a Memorandum of Understanding (MOU) between the DC Water and District of Columbia Fire Emergency Medical Services (FEMS) Department, effective May 3, 2013; and

WHEREAS, pursuant to section 3.0 of the MOU, DC Water is required to establish the amount of the payments "through the DC Rate Making process that applies to all DC Water rates and fees and is outlined in the DC Municipal Regulations"; and

WHEREAS, the MOU also requires the rates to be "reviewed and revisions proposed every three years through an independent Cost of Services study"; and

WHEREAS, DC Water prepared a Cost of Services Study entitled, "Report Regarding Fire Services Charges," dated February 13, 2018, which, based on the escalation of costs and past underpayments, recommends to maintain the Fire Protection Service Fee at \$10,796,000 for fiscal year (FY) 2018, and increase the Fire Protection Service Fee to \$12,527,000 per fiscal year for FY 2019, FY 2020, and FY 2021; and

WHEREAS, the DC Retail Water and Sewer Rates Committee met on February 20, 2018 to consider the proposed Fire Protection Service Fee increase; and

WHEREAS, the DC Retail Water and Sewer Rates Committee recommended that the Board consider for public comment amendments to the Fire Protection Service Fee as proposed by DC Water; and

WHEREAS, on March 1, 2018, the Board approved the proposed District of Columbia Fire Service Protection Fee to be published in the *D.C. Register* (DCR); and

WHEREAS, on March 16, 2018, DC Water published a Notice of Proposed Rulemaking in the *D.C. Register* at 65 DCR 2734 which, if adopted, would maintain the annual Fire Protection Service Fee at \$10,796,000 for FY 2018 and increase the annual Fire Protection Service Fee to \$12,527,000 per fiscal year for FY 2019, FY 2020, and FY 2021; and

WHEREAS, on April 24, 2018, the DC Retail Water and Sewer Rates Committee met to consider comments received during the public comment period and recommendations of the General Manager; and

WHEREAS, on April 24, 2018, the General Manager reported that there were no comments submitted in response to the Notice of Proposed Rulemaking and recommended publishing a Notice of Final Rulemaking as proposed; and

WHEREAS, on April 24, 2018, the DC Retail Water and Sewer Rates Committee recommended to the Board, maintaining the annual Fire Protection Service Fee at \$10,796,000 for FY 2018 and increasing the annual Fire Protection Service Fee from \$10,796,000 to \$12,527,000 per fiscal year for FY 2019, FY 2020, and FY 2021; and

WHEREAS, upon consideration of the cost of service study, the recommendations of the General Manager and the DC Retail Water and Sewer Rates Committee, the District members of the Board of Directors, upon further consideration and discussion, agreed to take final action to amend the annual Fire Protection Service Fee to maintain the Fire Protection Service Fee at \$10,796,000 for FY 2018 and increase the annual Fire Protection Service Fee from \$10,796,000 to \$12,527,000 per fiscal year for FY 2019, FY 2020, and FY 2021.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board finds that DC Water's cost of service study justifies amending the Fire Protection Service Fee at 21 DCMR 4103 as provided below:

4103 FIRE PROTECTION SERVICE FEE

- 4103.1 The Charge to the District of Columbia for fire protection service, including, but not limited to the delivery of water flows for firefighting as well as maintaining and upgrading public fire hydrants in the District of Columbia, (plus the cost of fire hydrant inspections performed by the DC Fire and Emergency Medical Services) shall be Ten Million Seven Hundred Ninety Six Thousand Dollars (\$10,796,000) for fiscal year (FY)

2018 and Twelve Million Five Hundred Twenty Seven Thousand Dollars (\$12,527,000) per fiscal year for FY 2019, FY 2020, and FY 2021.

- 4103.2 The fee may be examined every three years to determine if the fee is sufficient to recoup the actual costs for providing this service.
 - 4103.3 In the event the actual costs are not being recouped, the District of Columbia shall pay the difference and the fee will be appropriately adjusted pursuant to the rulemaking process.
 - 4103.4 In the event the costs paid by the District of Columbia exceed DC Water's actual costs, the fee shall be adjusted pursuant to the rulemaking process.
- 2. The General Manager is authorized to take all steps necessary in his judgement and as otherwise required to publish the Notice of Final Rulemaking in the *D.C. Register*, effective upon publication.
 - 3. This resolution shall be effective immediately.


Secretary to the Board of Directors

Presented and Adopted: May 3, 2018
SUBJECT: Appointment of General Manager

#18-39
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

The members of the Board of Directors ("Board") of the District of Columbia Water Sewer Authority ("DC Water") at its meeting May 3, 2018, upon consideration of a joint use matter, decided by a vote of eleven (11) in favor and none (0) opposed, to take the following action to appoint a Chief Executive Officer (CEO) and General Manager.

WHEREAS, George Hawkins resigned as CEO and General Manager of the Authority, effective December 28, 2017; and

WHEREAS, the Authority's Board, at its October 5, 2017 meeting, appointed Henderson J. Brown, IV as Interim CEO and General Manager to assume the duties and responsibilities previously exercised by George Hawkins beginning December 29, 2017 until the appointment of a new General Manager; and

WHEREAS, a Search Committee was appointed by the Chairperson that included representatives of the District of Columbia, and the participating jurisdictions of Maryland and Virginia; and

WHEREAS, a nationwide search to fill the position of CEO and General Manager was undertaken under the direction of the Chairperson and the Search Committee; and

WHEREAS, the Search Committee and Chairperson vetted and interviewed applicants and have recommended that David L. Gadis be appointed as the next CEO and General Manager of the Authority;

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board of Directors of the District of Columbia Water and Sewer Authority hereby appoints, pending execution of an employment agreement, David L. Gadis to serve as the CEO and General Manager for the Authority.

2. The Chairpersons of the Board's Human Resources and Finance and Budget Committees and the Chairperson of the Board are hereby appointed as the team to negotiate an employment agreement with Mr. Gadis.
3. Upon the effective date of the appointment, David L. Gadis, shall exercise all the duties and responsibilities of the position of CEO and General Manager of the Authority, including but not limited to those set out in the Authority's enabling statute, codified in Sec. 34-2202-01 et seq. of the District of Columbia Official Code, the District of Columbia Municipal Regulations, Board Resolutions, including but not limited to Board Resolution 97-89 and 97-91, attached hereto, and Board policies and such other authority as may be delegated to the General Manager from time to time by the Board.

This Resolution is effective immediately.


Secretary to the Board of Directors