



ORDINANCE NO. 2010-01

AN ORDINANCE OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY ADJUSTING DELIVERED WATER CHARGES

* * *

BE IT ORDAINED by the Board of Directors of the Pajaro Valley Water Management Agency as follows:

Section 1. Purpose and Authority. The purpose of this ordinance is to increase and adjust the Agency delivered water charges. The background and purpose are more thoroughly explained in the Notice of Public Hearing on Proposed Delivered Water Charge Increase dated April 1, 2010. This ordinance is adopted pursuant to California Constitution article XIII D, section 6, Pajaro Valley Water Management Agency Act sections 102, 501, 703, 704, 711 and 714, and other applicable law.

Section 2. Findings. The Board of Directors finds and determines as follows:

a. The Agency Act authorizes the Agency to develop, operate and maintain projects involving the purchase, capture, storing and distribution of supplemental water. Agency Act section 316 defines "supplemental water" to mean water imported into the Pajaro Valley groundwater basin, conserved floodwater, and recycled water.

b. The Agency has completed three supplemental water projects that work together to provide supplemental water to reduce overdraft, retard seawater intrusion, and improve and protect the groundwater basin supply: (1) Watsonville Recycled Water Project, which provides tertiary treated recycled water for agricultural use and includes inland wells that are used to provide cleaner well water that is blended with the treated water in order to improve the water quality so that it may be used for agricultural purposes; (2) Harkins Slough Project, which diverts excess wet-weather flows from Harkins Slough to a basin that recharges the groundwater, which then is available to be extracted and delivered for agricultural use; and (3) Coastal Distribution System ("CDS"), which consists of pipelines that deliver the blended recycled water and Harkins Slough Project water for agricultural use along the coast.

c. The Agency Act authorizes the Agency to sell and levy a charge for the delivery of the supplemental water to property owners and farmers in the areas near the coast and served by the CDS. The delivered water charge is the charge levied by the Agency on customers who request and receive supplemental water from the CDS. The proposed increase is being processed as a property-related service charge pursuant to California Constitution article XIII D, section 6.

d. The Agency delivered water service (which is funded by the delivered water charge) is comprised of the delivery of the alternate supplemental water supplies produced by the Agency supplement water projects and including the following: the construction, operation, maintenance, management, repair and improvement of the Watsonville Recycled Water Facility, Harkins Slough Project, CDS, turnouts, turnout meters, facilities to deliver the water supply at pressure appropriate for agricultural irrigation, and other facilities that provide irrigation water to the Agency delivered water service customers; basin management planning activities; water quality monitoring and testing; processing of water delivery orders and scheduling delivery of water; cross connection and backflow

prevention device testing; and, monitoring and inspection of delivered water use sites. The cost of the service also includes ongoing debt payments related to the design and construction of the completed supplemental water projects.

e. The delivered water charge increase is necessary in order to cover the costs of the delivered water service described above. The current delivered water charges and other available revenue are not sufficient to cover the costs of the service.

f. The Agency retained Carollo Engineers to analyze the delivered water charge increase. Carollo Engineers and Agency staff prepared the *Agency Proposition 218 Service Charge Report* dated March 2010 (the "Service Charge Report"), which sets forth analysis and information concerning the calculation of and reasons for the increased delivered water charges.

g. The delivered water charge rates adopted by this ordinance have been calculated and fixed in an amount sufficient to pay the costs of the delivered water service and ongoing debt payments related to the design and construction of the completed supplemental water projects. The increased rates are reasonably related to, and do not exceed, the Agency's costs of providing the service and paying related debt service.

h. The Service Charge Report demonstrates that the revenue to be generated from the increased delivered water charges has been derived and calculated in such a manner that the revenue is based on and limited to the Agency costs of providing the delivered water service and paying debt service on the completed supplemental water projects. Additionally, this ordinance limits the use of the delivered water charge revenue to these purposes and prohibits use of the revenue for any other purpose. The revenue derived from the increased delivered water charges therefore does not exceed the funds required to provide the delivered water service and pay related debt service.

i. For similar reasons, revenues derived from the delivered water charge are not and will not be used for any purpose other than the purposes described in this ordinance and the Service Charge Report.

j. The Service Charge Report describes the cost apportionment and delivered water charge calculation by: (1) evaluating the Agency's revenues and expenses required to provide the delivered water service and pay debt service in order to determine the net revenue requirements for the service; (2) allocating the revenue requirements to the Agency's cost categories to reflect the service attributable to the delivered water service customers; and (3) allocating the costs based on the estimated percentage of staff time spent on various functions, costs of pumping/pressurizing the water supply in the CDS, and relative consumption of water by the delivered water service customers and groundwater pumpers. As demonstrated by this analysis in the Service Charge Report, the amount of the delivered water charge imposed on each landowner's parcel is reasonably related to and does not exceed the proportional cost of the service attributable to each parcel.

k. The delivered water service (as described above and in the Service Charge Report) delivers water to land for irrigation purposes. The service is provided only to those landowners and tenants who request and receive supplemental water through the CDS. Those landowners and tenants are receiving the public water service. The delivered water service therefore is a service that is actually used by and

immediately available to the owners of the property who will be subject to the increased delivered water charges.

1. As described in the Service Charge Report, the public service funded by the delivered water charges relate to the delivery of water to certain landowners and tenants served by the CDS. This type of public water service is unique to those landowners and tenants and it is not a general governmental service. Therefore, no portion of the delivered water charge increase will be imposed for general governmental services.

m. The Agency Board of Directors has conducted a duly noticed public hearing on this proposed delivered water charge increase in accordance with California Constitution article XIII D, section 6, and Resolution Nos. 2010-03 and 2010-04, and the Board did not receive a majority protest against the proposed increase.

(For background and support for these findings, see the following: *Proposition 218 Service Charge Report* dated March 2010; other documents referenced in the Service Charge Report; Notice of Public Hearing on Proposed Delivered Water Charge Increase dated April 1, 2010; Agency 2002 Basin Management Plan; minutes and tape recordings of the Agency Board meetings of January 30, February 3, February 17, March 2, March 17 and April 21, 2010; and, 2009-10 Agency budget. These documents are available for public review and/or copying during normal business hours at the Agency office at 36 Brennan Street, Watsonville, CA 95076.

Section 3. Amendment to Delivered Water Charge Ordinance. The delivered water charge was originally established by Ordinance No. 2004-03, and was amended and/or supplemented by Ordinance No. 2007-01 (collectively the "Delivered Water Charge Ordinance"). The Delivered Water Charge Ordinance is hereby amended, supplemented and revised as follows:

a. Charge Increase. The Agency delivered water charges for 2010-11 are hereby increased to \$306/acre-foot of delivered water as measured by the turnout meter.

b. Annual Adjustment. The 2010-11 delivered water charge rate shall remain in effect until June 30, 2011. Each July 1 (commencing July 1, 2011) the delivered water charges shall be adjusted based on the previous year's change in the U.S. Consumer Price Index for the San Francisco region (all urban consumer index). The General Manager is authorized and directed to make this adjustment and keep and maintain a current schedule of applicable delivered water charges at the Agency office and posted on the Agency website.

c. To the extent that any other provision of the Delivered Water Charge Ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall control and be operative to amend, revise and replace such conflicting provisions.

Section 4. Use of Service Charge Revenue. The delivered water charge revenue shall be expended solely for the costs of the delivered water service and debt service on completed supplemental water projects as described in the Service Charge Report and for no other use. The General Manager is authorized and directed to monitor and account for expenditures of the delivered water charge revenue to ensure that its use is limited to these purposes.

Section 5. CEQA. The Board of Directors finds that this increase in the delivered water charge rate is for the purposes of meeting operating expenses of the Agency delivered water service and obtaining funds for related capital costs. Accordingly, the Agency Board determines that this service charge increase is exempt from environmental review under the California Environmental Quality Act and CEQA Guidelines. (Public Resources Code section 21080(b)(8); CEQA Guidelines section 15273.)

Section 6. Severability. The provisions of this ordinance are severable, and the invalidity, unenforceability or unconstitutionality of any section, portion or part of this ordinance shall not affect the validity of the remainder of the ordinance.

Section 7. Effective Date. This ordinance and increased delivered water charges shall take effect on the first day of the month after the adoption of the ordinance.

Section 8. Posting/Publication. Within 15 days after its passage, the Agency Secretary shall cause this ordinance, or a summary thereof, to be published at least once, with the names of those directors voting for and against the ordinance, in a newspaper of general circulation published and circulated in the Agency.

PASSED AND ADOPTED by the Board of Directors of the Pajaro Valley Water Management Agency on this 16th day of June 2010 by the following vote:

AYES: Imazio, Cavanaugh, Osmer, Koenig
NOES: Eiskamp
ABSTAIN: Dobler
ABSENT: None

By: Rosemarie A. Imazio
Chair

Attest:

Veronica Barboza
Secretary