ORDINANCE NO. 2013-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY AMENDING REQUIREMENTS FOR METER READINGS

THE BOARD OF DIRECTORS of the Pajaro Valley Water Management Agency does hereby find and determine as follows:

1. The Pajaro Valley Water Management Agency (Agency) was formed, among other reasons, to provide integrated management of the ground and surface water resources within the Pajaro Basin. As provided in the Pajaro Valley Water Management Agency Act (Chapter 257, State Statutes of 1984), the Agency bears sole responsibility for the integrated management and augmentation of water supplies for domestic, agricultural, municipal and industrial purposes for the Pajaro Basin.

2. Article 6, section 601, of the Agency Act authorizes the Agency to, by ordinance, adopt requirements for the registration of ground water extraction facilities within the Agency area and for the use of flow meters at such ground water extraction facilities.

3. In June, 1993, the Agency adopted Ordinance 93-1 establishing a ground water augmentation charge to be assessed equitably among all ground water users in the Agency area of jurisdiction.

4. In August, 1993, the Agency adopted Ordinance 93-2 requiring the installation and use of flow meters at water production facilities, and establishing requirements and responsibility for semi-annual meter readings and for the assessment and collection of augmentation charges.

5. In September, 1996, the Agency adopted Ordinance 96-3, amending Ordinance 93-2, establishing that Agency representatives, rather than owners and operators, shall be responsible for semi-annual meter reading operations.

6. The Agency presently obtains landowner permission to access private property for the purpose of reading Agency flow meters through water meter contracts. The process of executing and renewing water meter contracts on a property by property basis has caused inefficiencies in the Agency's billing process due to delays in executing or renewing such contracts. Because the metering program enables the Agency to determine water use accurately and to assess and collect charges and fees equitably, the public would be better served if it invoked its authority under Article 5, section 503 of the Agency Act which establishes the right of access to private property within the Agency to carry on technical and other necessary investigations and collect data necessary to carry out the provisions of the Agency Act.

The Board of Directors does adopt these findings in accord with section 502 of the Pajaro Valley Water Management Agency Act, and declares that this Ordinance is required by public necessity.

NOW THEREFORE be it ordained as follows:

SECTION ONE: SHORT TITLE

This Ordinance shall be known as the Agency Meter Access Ordinance.

SECTION TWO: STATEMENT OF PURPOSE

A. The Pajaro Valley Water Management Agency enacts this Agency Meter Access Ordinance as legal authority to grant Agency representatives access to properties within the Agency for the purpose of reading Agency flow meters as prescribed under Section Nine of Ordinance 93-2, as amended by Section Seven of Ordinance 96-3.

B. This Agency Meter Access Ordinance accomplishes this change by amending "Section Nine: Requirement for Semi-Annual Meter Reports" of the Agency's Water Meter Ordinance (Ordinance 93-2, amended by Ordinance 96-3). All other provisions of the original Ordinance 93-2 and Ordinance 96-3 shall continue to remain in effect.

SECTION THREE: AMENDMENT TO SECTION NINE OF ORDINANCE 93-2 (AS AMENDED BY SECTION SEVEN OF ORDINANCE 96-3)

"Section Nine" of Ordinance 93-2 (as amended by "Section Seven" of Ordinance 96-3) shall be amended by adding the language noted in strikeout and redline below to the end of the section:

A. The flow meter for each water production facility equipped with an Agency flow meter shall be read quarterly by a representative of the Agency, who shall also read the electric power meter, or hour clock, if any, for such water production facility for the purposes of verification. Quarterly meter billing periods are: January-March, April-June, July-September and October-December. The Agency representative shall read each meter, compute the ground water augmentation charge assessment and bill the Landowner within thirty (30) days after the end of the billing period. Payment shall be due sixty (60) days after the end of the billing period.

B. Each major water purveyor facility exempted from the requirement to use an Agency flow meter under the provisions of Paragraph A(2) of Section Four hereof, shall file a quarterly Meter Report using a form provided by the Agency. Each quarterly report shall be delivered to the Agency office no later than 5:00 p.m. on 20th day following the end of the quarter.

C. Agency representatives may access private property for the purpose of accomplishing the tasks outlined in Paragraph A above, subject to the following conditions:

(1) Agency representatives shall consult with each Landowner prior to accessing the Landowner's property to establish the shortest route to the Agency flow meter or flow meter appurtenance(s) and electric power meter on the property.

(2) The Agency shall provide advance written notice to the Landowner prior to accessing the Landowner's property so that the Landowner may supervise the Agency representative while the representative is on the Landowner's property. Such notice

shall inform the Landowner of the right to object to Agency access to the Landowner's property. Upon receipt of such an objection, Agency representatives shall refrain from entering onto the Landowner's property unless and until a well meter agreement expressly authorizing such access has been executed and recorded.

(3) Agency representatives shall comply with the fingerprinting laws applicable to school districts to protect school children prior to accessing private property if it is possible that the representative might come into contact with school children.

(4) Agency representatives shall use reasonable care when exercising this right of access to private property so as to minimize interference with activities on or damage to private property.

D. A Landowner who objects to providing Agency representatives reasonable access to the Landowner's property for the limited purpose of reading, testing, servicing, repairing or replacing an Agency flow meter shall be assumed to be operating such facility without an Agency flow meter, and shall thereupon be subject to payment of augmentation charges in accordance with the Table of Average Annual Water Demand set forth in Paragraph A of Section Five, and the Non-Metered Water Use Fee specified by Paragraph A of Section Twelve.

SECTION FOUR: PUBLICATION AND APPLICATION

The provisions of this Ordinance shall be read in conjunction with and complement all other Agency Ordinances and Resolutions, including Ordinance 93-2 and Ordinance 96-3, and shall apply to all persons and parcels within the boundaries of the Agency.

SECTION FIVE: DATES OF EFFECTIVENESS AND IMPLEMENTATION

This Ordinance shall be effective immediately upon its adoption.

SECTION SIX: SEVERABILITY

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, or of any other provisions of the Agency's Ordinance and Resolutions.

It is the Agency's express intent that each remaining provision of this Ordinance would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

PASSED AND ADOPTED this 22nd day of May, 2013, by the following vote:

AYES: **IMAZIO, CAVANAUGH, PERSOFF, LYNN, NEWELL, FAUROT**
NOES: **NONE**
ABSENT: **VASQUEZ**
ABSTAIN: **NONE**

Rosemarie Imazio, Chair

ATTEST:

Laura Taay, Secretary