ORDINANCE NO. 2014-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY REPEALING THE EXPIRATION DATE OF THE AUGMENTATION CHARGE

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 repeal the expiration date of the Agency's groundwater augmentation charge increase adopted pursuant to Ordinance Nos. 2010-02 and 2010-04 ("Augmentation Charge") in order to qualify the Agency to obtain low interest rate financing for its capital projects. This ordinance is adopted pursuant to California Constitution article XIIID, section 6, Pajaro Valley Water Management Agency Act sections 102, 501, 703, 704, 711, 714, 1001, 1002, and other applicable law.

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

a. Agency Act section 1001 authorizes the Agency to levy a groundwater augmentation charge on the extraction of groundwater from groundwater wells within the Agency in order to pay the costs of purchasing, capturing, storing and distributing 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 levied an augmentation charge since 1994, and increased that charge most recently in 2010 pursuant to the authority cited in Section 1, above. This ordinance will extend the Augmentation Charge by repealing the expiration date set forth in Ordinance Nos. 2010-02 and 2010-04.

c. The augmentation charge is a property-related service charge under California Constitution article XIII D, section 6. The extension of the Augmentation Charge Increase is being processed pursuant to article XIII D, section 6 of the California Constitution, with the following findings:

(1) 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: (i) 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; (ii) 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 (iii) 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.

(2) Under the authority of Agency Act section 1001 and other Agency Act provisions, the Agency has developed a supplemental water service that is funded by Agency augmentation charges. Agency supplemental water service consists of (i) the purchase/acquisition, capture, storage and distribution of supplemental water through the supplemental water projects described above and including the planning, design, financing, construction, operation, maintenance, repair, replacement and management of these project facilities, and (ii) basin management monitoring and planning to manage the existing projects and to identify and determine future supplemental water projects that would further reduce groundwater overdraft and retard seawater intrusion. The cost of the service also includes ongoing debt payments related to the design and construction of the completed supplemental water projects.

(3) Extension of the Augmentation Charge is necessary in order to cover the costs of the supplemental water service described above.

(4) The Agency retained Carollo Engineers to analyze the Augmentation 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 augmentation charges.

(5) The Augmentation Charge was calculated and fixed in an amount sufficient to pay the costs of the supplemental water service and ongoing debt payments related to the design and construction of the completed supplemental water projects. The rates are reasonably related to, and do not exceed, the Agency's costs of providing the service and paying related debt service.

(6) The revenue derived from the Augmentation Charge does not exceed the funds required to provide the supplemental water service and pay related debt service. As demonstrated in the Service Charge Report, the revenue to be generated by the augmentation charge is based on and limited to the Agency's cost of providing the supplemental water service and paying debt service on the completed supplemental water projects. Ordinance No. 2010-02 limits the use of the Augmentation Charge revenue to these purposes and prohibits use of the revenue for any other purpose.

(7) For similar reasons, revenues derived from Augmentation Charge are not and will not be used for any purpose other than the purposes described in this ordinance and the Service Charge Report.

(8) The Service Charge Report describes the cost apportionment and Augmentation Charge calculation by: (i) explaining how the increased augmentation charges have been calculated based on three appropriate landowner groups (owners of wells with meters inside the Delivered Water Zone ("DWZ"), which is the area able to receive water from the CDS as described and shown in the Service Charge Report; owners of wells with meters outside the DWZ; and owners of wells without meters) and how the costs of the service have been allocated to these groups; (ii) evaluating the Agency's revenues and expenses required to provide the supplemental water service and pay debt service in order to determine the net revenue requirements for the service; (iii) allocating the revenue requirements to the Agency's cost categories to reflect the different service levels attributable to the three landowner groups; and (4) 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 various landowner groups. As demonstrated by the Service Charge Report, the amount of the augmentation 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.

(9) The supplemental water service (as described above and in the Service Charge Report) has a direct and significant relationship to the land in the Pajaro Valley, the groundwater underlying that land, and the owners of that land with groundwater wells. The ongoing public service funded by the Augmentation Charge will secure the Pajaro Valley groundwater basin water supply and quality and maintain the benefit of ongoing groundwater extraction by property owners by providing for the following: reduction of groundwater overdraft; retarding of seawater intrusion; and promoting water conservation.

(10) The landowners who pay the Augmentation Charge are the owners of land with groundwater wells that extract water from the basin. As such, those landowners, through their wells and the groundwater basin underlying their land, are receiving the public service described above. The supplemental 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 Augmentation Charge Increase.

(11) As described in the Service Charge Report, the public service funded by the Augmentation Charge relates to water supply and availability for landowners with wells. This type of public service is unique to landowners with wells and is not a general governmental service. Therefore, no portion of the augmentation charge is or will be imposed for general governmental services.

d. Before levying the Augmentation Charge Increase, the Agency Board made the findings and determinations required by Agency Act section 1002 and Water Code section 75574. (See Ordinance No. 2010-02. For background and support for these findings, see the following: Proposition 218 Service Charge Report dated March 2010 and documents referenced in the Service Charge Report; Notice of Public Hearing on Proposed Augmentation 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 Augmentation Charge Ordinance. The Augmentation Charge Ordinance was originally established by Ordinance 93-1, and has been amended and/or supplemented by Ordinance Nos. 93-2, 96-2, 96-3, 95-1, 98-2, 2002-01, 2002-02, 2003-01, 2004-02, 2005-01, 2007-01, 2010-02 and 2010-04 (collectively the "Augmentation Charge Ordinance"). The Augmentation Charge Ordinance is hereby amended as stated in this Ordinance No. 2014-01. To the extent that any provision of the Augmentation Charge Ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall control and be operative to amend such conflicting provisions.

Section 4. Repeal of Expiration Date. Section 9 of Ordinance No. 2010-02 and Section 2 of Ordinance No. 2010-04 relating to the expiration of the Augmentation Charge are hereby deleted and replaced to each read as follows:

> "**Expiration.** The augmentation charge increase approved by Ordinance No. 2010-02 shall remain in full force and effect until it is further amended, increased or reduced by the Board of Directors."

Section 5. Posting/Publication. Within 15 days after the passage of this ordinance, the Agency Secretary shall cause it, or a summary thereof, to be published at least once, with the names of those Directors voting for and against this ordinance, in a newspaper of general circulation published and circulated in the Agency.

Section 6. CEQA. The Board of Directors finds that this extension of the Augmentation Charge is for the purposes of meeting operating expenses of the Agency supplemental water service and obtaining funds for related capital costs. Accordingly, the Agency Board determines that this ordinance 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 7. 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.

PASSED AND ADOPTED by the Board of Directors of the Pajaro Valley Water Management Agency on this 17th day of September, 2014, by the following vote:

AYES: **Imazio, Cavanaugh, Persoff, Newell, Faurot, Zamora**
NOES: **None**
ABSTAIN: **None**
ABSENT: **Lynn**

By: Rosemarie Imazio
Rosemarie Imazio, Chair

Attest:

Laura R. Taay
Laura R. Taay, Board Secretary