



ORDINANCE NO. 2021-01

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

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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 March 2, 2021. 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.

a. The Agency has completed the following supplemental water projects identified in the Agency’s 2002 Revised Basin Management Plan 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; (2) supplemental wells that are used to provide high quality well water that is blended with the treated water in order to improve the water quality so that it may be more suitable for agricultural purposes; (3) 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 (4) Coastal Distribution System (“CDS”), which consists of approximately 21 miles of pipelines that deliver the supplemental irrigation supply for agricultural use along the coast.

b. 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.

c. 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, which includes the following: the design, construction, operation,

maintenance, management, repair and replacement of existing facilities and other planned facilities identified in the Agency's 2014 Basin Management Plan Update, as the same may be amended from time to time ("BMP Update"), and the Service Charge Report (defined below) that provide irrigation water to delivered water service customers. Existing facilities include the Watsonville Recycled Water Facility, supplemental wells, Harkins Slough Project, CDS, turnouts, turnout meters, and other facilities that provide irrigation water to the Agency delivered water service customers. The service includes the operation of facilities that provide for the delivery of the water supply at pressure appropriate for agricultural irrigation. The delivered water service also includes basin management planning activities as appropriate to effectively manage the water supplies in the Pajaro Basin and management activities required to identify supplemental water sources and projects to provide sufficient delivered water quantity and quality without adverse impacts to the Pajaro groundwater basin; water quality monitoring and testing of the recycled water; processing of water delivery orders; scheduling delivery of water; cross connection and backflow prevention device testing; monitoring and inspection of delivered water use sites and meter-related activities. The cost of the service also includes ongoing debt payments related to the design and construction of the supplemental water projects and facilities.

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. In consultation with Agency staff and the Agency's Ad Hoc Funding Committee, Carollo Engineers prepared the Agency *2021 Cost of Service Rate Study* dated February 2021 (the "Service Charge Report"), which sets forth analysis and information concerning the calculation of and reasons for the increased delivered water charges. On February 17, 2021, the Board of Directors held a duly noticed public hearing, considered public comment, and approved the Service Charge Report.

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 supplemental water projects and facilities. 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 supplemental water projects and facilities. 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.

l. As described in the Service Charge Report, the public service funded by the delivered water charges relates 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 No. 2021-05, and the Board did not receive a majority protest against the proposed increase.

(For background and support for these findings, see the following: *2021 Cost of Service Rate Study* dated February 2021 (the "Service Charge Report") ; other documents referenced in the Service Charge Report; Notice of Public Hearing on Proposed Delivered Water Charge Increase dated March 2, 2021; 2014 BMP Update; minutes and tape recordings of the Agency Board meetings of February 17, 2021 and April 21, 2021; and, the 2020-21 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. Final Approval of Service Charge Report. The Service Charge Report is hereby approved as originally approved by resolution of the Board of Directors on February 17, 2021.

Section 4. 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 Nos. 2007-01, 2010-01, 2010-03 and 2015-01 (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 are hereby increased as follows (as measured by the turnout meter):

<u>FY 2021/22</u>	<u>FY 2022/23</u>	<u>FY 2023/24</u>	<u>FY 2024/25</u>	<u>FY 2025/26</u>
\$412/AF	\$432/AF	\$454/AF	\$477/AF	\$501/AF

b. Annual Adjustment. The 2021-22 delivered water charge rate shall remain in effect until June 30, 2022. Each July 1 (commencing July 1, 2022) the delivered water charges shall be adjusted as provided in Section 3.a. of this Ordinance. 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. After June 30, 2026, the 2025-26 rates will remain in effect until amended or superseded by Agency ordinance.

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 5. Use of Delivered Water Charge Revenue. The delivered water charge revenue shall be expended solely for the costs of the delivered water service and debt service on the supplemental water projects and facilities as described in section 2(d) and 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 6. 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 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.

Section 8. Effective Date. This Ordinance and increased delivered water charges shall take effect on December 1, 2021.

Section 9. 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 this 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 **21st** day of **April 2021**, by the following vote:

AYES: **Newell, Culbertson, Zamora, Bannister, Rider**
NOES: **Broz**
ABSTAIN: **None**
ABSENT: **None**

By: Original Signed by
 Amy Newell, Chair

Attest:

Original Signed by _____
Laura R. Taay, Board Secretary