

**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF SEPTEMBER 14, 2021
AGENDA ITEM NO. 8.D.**



AGENDA SECTION: NEW BUSINESS

SUBJECT: DISCUSS ESTABLISHING AN RFP (REQUEST FOR PROPOSALS) POLICY AND PROVIDE DIRECTION TO STAFF

PREPARED BY: Gloria Omania, Interim Board Clerk

APPROVED BY: Adam Coyan, General Manager

BACKGROUND

This discussion of a District Policy on the issuance of a Request for Proposals (RFP) was requested by Board President Michael Saunders who stated an RFP Policy would provide consistency with the Procurement Policy, including the General Manager's spending authority, and the contract and bidding procedures. It is staff's understanding that this discussion is being initiated toward a coordinated effort to review all related policy documents to ensure consistency and accuracy.

The ad hoc District Policy Committee was established to update and standardize the process for adopting a policy. In that context, it is timely that a discussion of an RFP Policy is initiated now so it is included in the review of the current procedure policy and the General Manager's spending authority.

For example, the subject of the GM's spending authority is referenced in several policies; i.e., District Policy on the GM Responsibility, the Procedure Policy, the GM's contract, and now the RFP Policy.

President Saunders further stated the ad hoc District Policy Committee is currently working to update and standardize the process for establishing and adopting a policy, therefore, the discussion of an RFP Policy is timely.

The current Procurement Policy was adopted by the Board on October 9, 2018, and is included with this report as Attachment 1.

DISCUSSION

The following points are offered for discussion by the Board:

- One of the underlying principles is that a single contract or commitment has a "shall not exceed dollar limit" without approval by the Board of Directors. All other contracts or commitments require a spending approval based on amount by - the Board of Directors, General Manager, Department Manager, etc. all project that go out to bid have already been approved by the board in the CIP. Those projects above the General Manager's

spending authority or not an approved CIP project must first go to the Board for approval.

- Establishing a dollar limit threshold requiring approval by the Board of Directors before an RFP is issued.
- Establishing Capital Improvement Plan RFP requirements to come to the Board of Directors before being sent out, including an assurance that Grant funding programs have been explored.
- Consistency with the level of RFP and project/dollar amount.

FISCAL IMPACT

This item is for discussion to provide direction to staff for an RFP Policy. This action does not result in an expenditure at this time.

CEQA ASSESSMENT

This is not a CEQA Project

RECOMMENDED ACTION

Staff requests direction from the Board.

ATTACHMENTS

1. GDPUD Procurement Policy
2. EID Procurement and Contracts Policy

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

Procurement Policy and Procedures

ARTICLE I. GENERAL

Section 1.01 Purpose

The purpose of this policy is to establish the procedures governing purchase requisitions for materials, supplies and equipment in accordance with the State of California Government Code and contracting for public projects and consulting services in accordance with the State of California Public Contract Code and Uniform Public Construction Cost Accounting Act.

Section 1.02 Definitions

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- (a) "District" refers to the Georgetown Divide Public Utility District.
- (b) "Board" refers to the Board of Directors of Georgetown Divide Public Utility District.
- (c) "General Manager" is the General Manager as appointed by the Board of Directors of Georgetown Divide Public Utility District.
- (d) "Government Code" refers to the Government Code of the State of California.
- (e) "Public Contract Code" refers to the Public Contract Code of the State of California.
- (f) "Supplies" includes materials, small tools and equipment, and other goods or commodities utilized in the daily operational efforts of the District.
- (g) "Equipment" includes large heavy equipment, vehicles, furniture and fixtures.
- (h) "Public project" is as defined in Chapter 2, Section 22002 of the Public Contract Code:
 - (i) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility.
 - (ii) Painting or repainting of any publicly owned, leased, or operated facility.
 - (iii) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
 - (iv) "Public project" does not include maintenance work. For purposes of this policy, "maintenance work" includes all of the following:
 - 1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
 - 2) Minor repainting.
 - 3) Resurfacing of streets and highways at less than one inch.
 - 4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

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- 5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
- (i) For purposes of this chapter, “facility” means any plant, building, structure, ground facility, utility system, subject to the limitation found in Public Contract Code section 22002(c)(3), real property, streets and highways, or other public work improvement.
- (j) “Bidders list” refers to a list of prospective vendors.
- (k) “Contractors list” refers to a list of contractors qualified to perform the duties required to construct public projects, of which should be developed and maintained by the General Manager using the criteria detailed by the California Uniform Construction Cost Accounting Commission.
- (l) “Local business preference list” refers to a list of vendors located within the District and are qualified to provide supplies, equipment, and services for maintenance and public projects.
- (m) “Consultant” refers to a specially trained and experienced individual or firm for which they are qualified to provide expert services or advice related to financial, economic, accounting, architectural, engineering, legal, insurance, data processing, personnel or other administrative matters.
- (n) “Professional services” shall mean and include professional services of any type or variety, including, but not limited to, services rendered by accountants, appraisers, architects, attorneys, auditors, designers, engineers, inspectors, physicians, surveyors, and other professional and technical callings requiring special licenses or certifications.
- (o) “Purchase” refers to the acquisition of property including rental, lease or trade.
- (p) “Responsible bidder” refers to a bidder who has demonstrated the specified qualifications and capabilities to satisfy the proposed work requirements.
- (q) “Responsive bidder” refers to a bidder that responds appropriately according to the demands of the bidding instructions.
- (r) “Purchasing agent” refers to the appointed positions of the District charged with responsibilities governing procurement of supplies, equipment, and contracts for maintenance and public project services.
- (s) “Emergency” refers to a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Section 1.03 Purchasing Agents

Procurement limits and contract signing authority are listed below.

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Title	Procurement Limit	Contract Authority
General Manager	Up to \$45,000	\$45,001 and over with Board authorization Up to \$45,000 without Board Authorization
Operations Manager	Up to \$5,000	None
This table serves to summarize the provisions of Section 1.03. If this table conflicts with the language of Section 1.03, the latter shall control.		

- (a) The Operations Manager or General Manager shall act as the Purchasing Agent for procurements up to Five Thousand Dollars (\$5,000). The Operations Manager does not have signature authority on contracts procured pursuant to this policy.
- (b) The General Manager shall act as the Purchasing Agent for procurements with a value of more than Five Thousand Dollars (\$5,000.00) and up to Forty-Five Thousand Dollars (\$45,000.00).

Section 1.04 Purchasing Agent Duties

The purchasing agent shall have the authority to:

- (a) Purchase or contract for supplies, equipment, maintenance services, or public projects in accordance with the purchasing procedures detailed in this directive;
- (i) *Exception.* The Operations Manager does not have signature authority on contracts procured pursuant to this policy;
- (b) Procure quality supplies, equipment, and services for maintenance and public projects at the least expense to the District;
- (c) Obtain as full and open competition as possible on all purchases and contracts;
- (d) Keep informed of the current developments in the field of purchasing and contract administration as well as prices, market conditions and new products;
- (e) Maintain reasonably necessary forms for the administration and operation of adhering to the procedures detailed in this directive;
- (f) Supervise the regular inspection of all supplies and equipment for adequacies in their intended use;
- (g) Obtain chemical and physical tests of samples submitted with bids which are necessary to determine their quality and conformance with specifications, where the cost may be covered by the District, or the District may order the cost be covered by the bidder;
- (h) Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment that cannot be used by the District;
- (i) Maintain bidders list, contractors list, local business preference list, current vendor list and other related records required to perform the duties of the purchasing function.

Section 1.05 Purchase Orders

{CW051214.5}

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Standardized purchase orders and contracts for supplies, equipment, maintenance services and public projects are to be submitted to the purchasing agent prior to procurement.

Section 1.06 Encumbrance of Funds

The purchasing agent is only authorized to procure supplies, equipment, and contracts for maintenance or public project services for which there is an unencumbered appropriation available to be charged.

Section 1.07 Staging of Purchases

Staging purchases and contracts into smaller units for the purposes of evading competitive bidding procedures in this directive is explicitly prohibited.

Section 1.08 Exemptions

The purchasing procedures detailed in this policy do not include the following:

- (a) Travel expenses
- (b) Subscriptions
- (c) Advertisement of government mandated notices
- (d) Reimbursement expenses
- (e) Payroll and personnel related expenses
- (f) Insurance claims
- (g) Conference fees
- (h) Banking services
- (i) Postage, courier and delivery service charges
- (j) Dues to approved organizations
- (k) Payments to other government agencies
- (l) Land
- (m) Debt Service
- (n) Claims settlements
- (o) Grants

ARTICLE II. PURCHASING AND CONTRACTING FOR SUPPLIES AND EQUIPMENT

Section 2.01 Purchasing Procedures for Supplies and Equipment

Purchasing procedures for supplies and equipment authorize the purchasing agent to acquire such items within their authorized purchasing threshold, as defined in Section 1.03.

Section 2.02 Purchase Requisition Procedures

Purchase requisitions for the purchase of supplies and equipment are subject to the dollar limits provided in the table below.

{CW051214.5}

Procurement Policy and Procedures

Procurement Limits	Purchase Order	Bidding Procedures
< \$500	No purchase order required	No quotes
\$500 - \$1,000	Purchase order required Second signature by General Manager	No quotes
\$1,001 - \$2,999	Purchase order required Second signature by General Manager	Attempt 3 quotes
\$3,000 - \$10,000	Purchase order required	3 quotes required
> \$10,000	Purchase order required	Formal bidding procedure
This table serves to summarize the provisions of Section 2.02. If this table conflicts with the language of Section 2.02, the latter shall control.		

- (a) Purchase orders are required for all purchases over Five Hundred Dollars (\$500.00).
- (b) Purchase greater than Five Hundred Dollars (\$500.00) and up to the limit of the Operations Manager's threshold, as defined in Section 1.03, require a second approval signature by the General Manager.
- (c) Purchases greater than One Thousand Dollars (\$1,000.00) must include attempts to receive at least three (3) quotes.
- (d) Purchases greater than Three Thousand Dollars (\$3,000.00) and up to Ten Thousand Dollars (\$10,000.00) require three (3) quotes.
- (e) Purchases greater than Ten Thousand Dollars (\$10,000.00) require a formal bidding procedure before the purchase order requisition is issued.

Section 2.03 Types of Purchase Orders

There are two (2) types of purchase orders the purchasing agent may issue, blanket purchase orders and individual purchase order requisitions. Procedures for each are provided below.

- (a) *Blanket purchase orders.* Blanket purchase orders are issued by the purchasing agent for the purchase of supplies and equipment from the vendor for which there will be multiple or for ongoing monthly purchases. A blanket purchase order is issued to cover all amounts anticipated to be paid to the supplier for the fiscal year or contract term and typically expires at the end of the fiscal year or contract term. Blanket purchase orders are subject to the thresholds of the purchasing agents, as defined in Section 1.03. Once the dollar limit of the blanket purchase order has been met all subsequent purchases must revert to the use of individual purchase order requisitions.

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- (b) *Purchase order requisitions.* Individual purchase order requisitions are to be submitted to the purchasing agent, as described in Section 1.05, for the purchase of supplies, equipment, and materials from vendors without blanket purchase orders, or from vendors with blanket purchase orders for which the dollar limit has been met.

Section 2.04 Formal Bidding Procedures

The following provisions shall apply in contracting for supplies and equipment:

- (a) *Notices inviting bids.* Notices inviting bids shall be prepared describing the bid items in general terms; referencing how to obtain more detailed information about the bid items; stating that the conditions and schedule may be found in the office of the District clerk; mentioning that the supplies and equipment are to be delivered at such times, in such quantities, and in such a manner as the Board may designate; and stating the time, date, and place for the submission of sealed bids.
- (b) *Material changes to the bid.* If a material change to the bid specification is issued by the District later than seventy-two (72) hours prior to the opening of bids, the date and time shall be extended by no less than seventy-two (72) hours. The term "material change" means a change with a substantial cost impact on the total bid as determined by the District.
- (c) *Base Contract.* Bid specifications which include one or more alternative bid schedules, shall identify and define the base bid for the purpose of awarding to the lowest responsive and responsible bidder.
- (d) *Bid opening procedure.* Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Such bids shall be opened in public at the time and place stated in the notice inviting bids, in the presence of all bidders who attend. A tabulation of all bids received shall be open for public inspection during regular business hours until award of the contract.
- (e) *Records of bid documents.* Bid documents received by the District shall be maintained by the District department issuing the bid in accordance with the District's records retention schedule.
- (f) *Award of contracts.* Contracts shall be awarded by the District to the responsible bidder that submits the lowest bid.
- (g) *No bids received.* In the event no bids are received, the District shall have the option of any of the following:
 - (i) Abandon the purchase; or
 - (ii) Rebid the purchase.
- (h) *Rejection of bids.* The District may elect to reject all bids. In the event all bids are rejected, the District shall have the option of any of the following:
 - (i) Abandon the purchase or service; or
 - (ii) Rebid the purchase.

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- (i) *Tie bids.* If two (2) or more bids are received from responsive and responsible bidders for the same total amount or unit price, and are the lowest, the District may accept the bid it chooses.
- (j) *Written contracts.* Written contracts in the form approved by the District Legal Counsel shall be used in the award of bids.
- (k) *Sending, mailing, and publishing of notices.* Notices inviting formal bids shall be published, sent, and mailed as follows:
 - (i) Sent electronically, by facsimile or electronic mail, or mailed to all prospective vendors and firms at least fifteen (15) calendar days before the date of the bid opening;
 - (ii) Published at least once in a newspaper of general circulation, printed and published in the District, at least fourteen (14) calendar days before the date of the bid opening; and
 - (iii) Other mailings, advertisements, and notifications deemed appropriate by the General Manager.
- (l) *Emergencies.* In case of an emergency, the Board shall respond to the emergency pursuant to Section 4.02 of this policy
- (m) *Exceptions.* A separate formal bidding process is not required when purchases are made through a cooperative purchasing agreement or "piggy backing" with another public agency whose procurement process is substantially consistent with the provisions of this article.

Section 2.05 Local Business Preference

The District recognizes that local businesses make significant contributions to the economic health of the District. The District supports local business opportunities, which encourage businesses to move into and stay within the District, promote economic development, and maintain a strong local economic base, which in turn foster economic growth in the District. Therefore, the Board has determined it is in the District's best interest to establish and provide a preference to local businesses.

- (a) *Competitive bid process.* The General Manager is authorized to extend a preference to a responsible and responsive local business in a competitive bid for the procurement of supplies, equipment, and materials not to exceed five percent (5%) of the local business's total bid price, or Two Thousand Five Hundred Dollars (\$2,500.00), whichever is lower, for the purpose of determining the lowest bid.
- (b) *Local preference.* When a non-local business has submitted the lowest responsive and responsible bid, and when one or more local businesses have also bid, the local business's total bid amount will be reduced by five percent (5%) for bid comparison purposes. If the net amount is lower than the lowest bid, the bid will be awarded to the local business for the full amount of its bid.

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- (c) *Local business.* For purposes of this chapter, "local business" means a vendor or contractor that has an office with at least one employee physically located within the District.

Exemptions. The local business preference does not apply to contracts funded by grants which prohibit the use of preferences.

ARTICLE III. CONTRACTING FOR NEW CONSTRUCTION, ALTERATION, MAINTENANCE, OR REPAIR SERVICES

Section 3.01 Contracting Procedures for New Construction, Alteration, Maintenance, or Repair Services

Purchasing procedures for new construction that is not a public project, alteration, maintenance, or repair services, authorize the Purchasing Agent to acquire such items within his or her authorized purchasing threshold, as defined in Section 1.03.

Section 3.02 Contracting Procedures

Contracting procedures for new construction that is not a public project, alteration, maintenance, or repair services, are subject to the dollar limits provided in the table below.

Procurement Limits	Purchase Order	Bidding Procedures
< \$500	No purchase order required	No quotes
\$500 - \$1,000	Purchase order required Second signature by General Manager	No quotes
\$1,001 - \$2,999	Purchase order required Second signature by General Manager	Attempt 3 quotes
\$3,000 - \$15,000	Purchase order required	3 quotes required
> \$15,000	Purchase order required	Formal bidding procedure

This table serves to summarize the provisions of Section 3.02. If this table conflicts with the language of Section 3.02, the latter shall control.

- (a) Purchase orders are required for all purchases over Five Hundred Dollars (\$500.00).
- (b) Purchases greater than Five Hundred Dollars (\$500.00) and up to the limit of the Operations Manager's threshold, as defined in Section 1.03, require a second approval signature by the General Manager.
- (c) Purchases greater than One Thousand Dollars (\$1,000.00) must include attempts to receive at least three (3) quotes.
- (d) Purchases greater than Three Thousand Dollars (\$3,000.00) and up to Fifteen Thousand Dollars (\$15,000.00) require three (3) quotes.
- (e) Purchases greater than Fifteen Thousand Dollars (\$15,000.00) require a formal bidding procedure before the District enters into a contract for new construction that is not a public project, or alteration, maintenance or repair services, is issued.

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Section 3.03 Purchase Orders

Purchase orders shall be submitted to the purchasing agent, as described in Section 1.05, for requests for new construction not deemed a public project, alteration, maintenance, or repair services.

Section 3.04 Work by District

Nothing in this article prohibits the Board from doing, or causing to be done directly by the District, and without any contract, any or all work necessary or proper in or about the making of all current and ordinary repairs, upkeep, or maintenance.

Section 3.05 Bonds

Bidders for construction contracts shall give bonds for the faithful performance of the construction contract.

Section 3.06 Formal Bidding Procedures

The provisions in Section 2.04 shall apply to formal bidding procedures for contracting for new construction, alteration, maintenance, or repair services, except for subdivisions (g) and (h), which shall read:

- (g) *No bids received.* In the event no bids are received, the District shall have the option of any of the following:
 - (i) Abandon the service; or
 - (ii) Rebid the service.
- (h) *Rejection of bids.* The District may elect to reject all bids. In the event all bids are rejected, the District shall have the option of any of the following:
 - (i) Abandon the service;
 - (ii) Rebid the service; or
 - (iii) Perform the service by employees of the District after the Board passes, by a two-thirds (2/3rd) vote, a resolution declaring that all bids submitted are unsatisfactory or excessive.

ARTICLE IV. PURCHASING AND CONTRACTING FOR PUBLIC PROJECTS

Purchases and contracts for public projects are subject to the Public Contract Code and Uniform Public Construction Cost Accounting Act and shall adhere to the following competitive bidding procedures in the following sections of this article. The estimated value of purchases and contracts shall not include sales tax or freight.

Section 4.01 Purchasing and Contracting Procedures for Public Projects

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- (a) *Open market bidding procedures.* Purchases and contracts of an estimated value in the amount of Forty-Five Thousand Dollars (\$45,000.00) or less may be made by force account, negotiated contract or by purchase order pursuant to the provisions of Section 4.04 of this article, except as otherwise provided in this section.
- (b) *Informal bidding procedures.* Purchases and contracts of an estimated value in the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) or less may be made by informal bidding procedures pursuant to the provisions of Sections 4.05 and 4.06 of this article, except as otherwise provided in this section.
- (c) *Formal bidding procedures.* Purchases and contracts of an estimated value in an amount greater than One Hundred Seventy-Five Thousand and no/100ths Dollars (\$175,000.00) shall be made by formal bidding procedures pursuant to the provisions of Sections 4.05 and 4.07 of this article, except as otherwise provided in this section.
- (d) *Exceptions.* The bidding procedures and force account restrictions set forth in this article shall be dispensed with when bidding would be impossible, impractical, or incongruent; in an emergency; when the price is controlled by law; when the commodity, or maintenance service, or project can only be provided or performed by one vendor. For the purposes of this section:
 - (i) "Impossible" shall mean actual impossibility or extreme and unreasonable difficulty or expense.
 - (ii) "Impractical" shall mean incapable of being performed by the bid procedure.
 - (iii) "Incongruous" shall mean not suitable to the bid procedure.
- (e) *Cooperative agreements.* No provision of this article shall be interpreted or construed to prohibit or prevent the District from purchasing or contracting for supplies, equipment, maintenance services, or public projects by contracts, arrangements, and agreements for cooperative purchasing programs not otherwise prohibited by law with any federal government agency, the state, the county, any other public agencies, or with any cooperative purchasing alliance acting on behalf of governmental entities. Any such contract, agreement, or arrangement otherwise subject to open market or informal bidding procedures shall be first approved by the Purchasing Agent and if subject to formal bidding procedures shall be first approved by the Board, or by the General Manager if the funding for the purchase has already been approved by the Board through the budget process. At the discretion of the appropriate approving authority, the bidding procedures of any agency may be used in such joint contracting arrangements.

Section 4.02 Emergencies

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- (a) *Generally.* In cases of emergency, the Board shall follow the procedures in Public Contract Code section 22050.
- (b) *Authority to Act.* In cases of emergency, the Board, by a four-fifths (4/5ths) vote, may direct the General Manager to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts.
- (c) *Work by Day Labor or Contract.* The work may be done by day labor under the direction of the Board, by contract, or by a combination of the two.
- (d) *Review of Board Actions.* Where the Board orders any action as permitted by Public Contract Code section 22050, the Board shall review the emergency action every fourteen (14) days thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action.
- (e) *Review of General Manager Actions.* Where the General Manager orders any action as permitted by Public Contract Code section 22050, the Board shall initially review the emergency action not later than seven (7) days after the action. The Board shall review the emergency action every fourteen (14) days thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action, unless the General Manager has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this subdivision.
- (f) *Termination of Emergency Action.* When the Board reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

Section 4.03 Authorized Signature

- (a) *Board President.* The President shall be authorized to sign on behalf of the District all approved contracts provided for in this article. In the absence of the President, the Vice President shall be so authorized.
- (b) *General Manager.* The General Manager shall be authorized to sign on behalf of the District all contracts provided for in Section 4.06 of this article and such other approved contracts as the Board may specifically direct from time to time.

Section 4.04 Open Market Bidding Procedures

Except as otherwise provided in subsections (d) and (e) of Section 4.01 of this article, the solicitation of bids and award of contracts for public projects with an estimated value in the amount of Forty-Five Thousand Dollars (\$45,000.00) or less may be made by the Purchasing Agent by force account, negotiated contract or by purchase order. Whenever possible, bids shall be obtained in the open market in accordance with the following procedures:

- (a) *Minimum number of bids.* Open market purchases, whenever possible, shall be based on at least three (3) bids and shall be awarded to the lowest responsive and responsible bidder.
- (b) *Notices inviting bids.* The Purchasing Agent shall solicit bids from prospective vendors by written requests, by telephone, by facsimile or electronic mail, or by other advertising.

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- (c) *Written records of bids.* Written records of bids received shall be maintained by the Purchasing Agent in accordance with the District's records retention schedule. Such records, while so kept, shall be open to public inspection and shall include the business name, address, and telephone number of the vendor; vendor representative; description of the bid items, including unit quantities if applicable, unit prices or lump sum amount quoted by the vendor; and the date the bid was received.

Section 4.05 General Provisions for Informal and Formal Bidding Procedures

The following provisions shall apply in contracting for public projects under both informal and formal bidding procedures:

- (a) *Material changes to the bid.* If a material change to the bid specification is issued by the District later than seventy-two (72) hours prior to the opening of bids, the date and time shall be extended by no less than seventy-two (72) hours. The term "material change" means a change with a substantial cost impact on the total bid as determined by the District.
- (b) *Base Contract.* Bid specifications which include one or more alternative bid schedules, shall identify and define the base bid for the purpose of awarding to the lowest responsive and responsible bidder.
- (c) *Bid opening procedure.* Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Such bids shall be opened in public at the time and place stated in the notice inviting bids in the presence of all bidders who attend. A tabulation of all bids received shall be open for public inspection during regular business hours until award of the contract.
- (d) *Records of bid documents.* Bid documents received by the District shall be maintained by the District department issuing the bid in accordance with the District's records retention schedule.
- (e) *Award of contracts.* Contracts shall be awarded by the District to the responsive and responsible bidder that submits the lowest bid.
- (f) *No bids received.* In the event no bids are received, the District shall have the option of any of the following:
 - (i) Abandoning the purchase or project;
 - (ii) Rebidding the purchase or project; or
 - (iii) Perform the work by employees of the District.
- (g) *Rejection of bids.* The District may elect to reject all bids. In the event the District anticipates rejecting all bids, the District shall provide a written notice to an apparent low bidder, pursuant to Public Contract Code section 22038. Furthermore, the District shall have the option of any of the following:
 - (i) Abandon the project;
 - (ii) Rebid the purchase or project using the appropriate bidding procedures; or

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- (iii) Perform the project by force account without further complying with Public Contract Code section 22020 et seq., after the Board passes a resolution by a four-fifths (4/5th) vote of its governing body declaring that the project can be performed more economically by District employees.
- (h) *Tie bids.* If two (2) or more bids are received from responsive and responsible bidders for the same total amount or unit price, and are the lowest, the District may accept the bid it chooses.
- (i) *Written contracts.* Written contracts in the form approved by the District Legal Counsel shall be used in the award of bids.
- (j) *Bidders' security.* Security will be required in an amount equal to ten percent (10%) of the bid quotation as described in the Public Contract Code. Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond sixty (60) days from the time the award is made.
- (k) *Bonds.* Bidders for construction contracts shall give bonds for the faithful performance of the construction contract.

Section 4.06 Informal Bidding Procedures

Except as otherwise provided in subsections (a), (d), and (e) of Section 4.01 and in Section 4.02 of this article, the solicitation of bids may be authorized by the Purchasing Agent and the award of contracts for public projects with an estimated value in the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) or less may be made by the General Manager in accordance with the requirements of the Public Contract Code section 22032, et seq., and the following informal bidding procedures:

- (a) *Budgetary authorization.* The bid items shall have been authorized as a part of an approved budget of the District, and the purchase or contract shall not exceed the amount so authorized.
- (b) *Contractor's List.* A list of contractors shall be developed and maintained in accordance with the provisions of section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- (c) *Notices inviting bids.* Notices inviting bids shall be prepared describing the bid items in general terms; referencing how to obtain more detailed information about the bid items; and stating the time, date, and place for the submission of sealed bids.
- (d) *Mailing of notices.* Notices inviting informal bids shall be mailed at least ten (10) calendar days before the due date of the submission of bids as follows:
 - (i) Mailed to all firms on the bidders list or contractors list for the category of work being bid;
 - (ii) For bid items defined as public projects, mailed to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission; and
 - (iii) Other mailings, advertisements, and notifications as deemed appropriate by the purchasing agent.

{CW051214.5}

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- (e) *Bids received in excess of One Hundred Seventy-Five Thousand Dollars (\$175,000.00)*. If all bids received are in excess of One Hundred Seventy-Five Thousand Dollars (\$175,000.00), the Board may award the contract to the lowest responsive and responsible bidder by adoption of a resolution by a four-fifths (4/5ths) vote if the purchasing agent determines the cost estimate was reasonable and the low bid does not exceed One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500.00).

Section 4.07 Formal Bidding Procedures

Except as provided in subsections (d) and (e) of Section 4.01 of this article, the solicitation of bids and award of contracts for public projects with an estimated value in excess of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) shall be made in accordance with the requirements of the Public Contract Code section 22031 et seq., and the following formal bidding procedures:

- (a) *Plans and specifications*. The Board shall adopt any plans, specifications, and working details as appropriate for the bid items prior to a solicitation for formal bids.
- (b) *Notices*. Notices inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.
- (c) *Sending, mailing, and publishing of notices*. Notices inviting formal bids shall be published, sent, and mailed as follows:
 - (i) For bid items defined as public projects, sent electronically, by either facsimile or electronic mail and mailed to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission at least fifteen (15) calendar days before the date of the bid opening;
 - (ii) Sent electronically, by facsimile or electronic mail, or mailed to all firms on the bidders list at least fifteen (15) calendar days before the date of the bid opening;
 - (iii) Published at least once in a newspaper of general circulation, printed and published in the District, at least fourteen (14) calendar days before the date of the bid opening, or in a manner as authorized by Public Contract Code section 22037 if there is no newspaper of general circulation; and
 - (iv) Other mailings, advertisements, and notifications deemed appropriate by the department head of the requesting agency.

Section 4.08 Local Business Preference

The District recognizes that local businesses make significant contributions to the economic health of the District. The District supports local business opportunities, which encourage businesses to move into and stay within the District, promote economic development and maintain a strong local economic base, which in turn foster economic growth in the District. Therefore, the Board has determined it is in the District's best interest to establish and provide a preference to local businesses.

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- (a) *Competitive bid process.* The General Manager is authorized to extend a preference to a responsible and responsive local business in a competitive bid for a public project not to exceed five percent (5%) of the local business's total bid price, or Two Thousand Five Hundred Dollars (\$2,500.00), whichever is lower, for the purpose of determining the lowest bid.
- (b) *Local preference.* When a non-local business has submitted the lowest responsive and responsible bid, and when one or more local businesses have also bid, the local business's total bid amount will be reduced by five percent (5%) for bid comparison purposes. If the net amount is lower than the lowest bid, the bid will be awarded to the local business for the full amount of its bid.
- (c) *Local business.* For purposes of this chapter, "local business" means a vendor or contractor that has an office with at least one (1) employee physically located within the District.
- (d) *Exemptions.* The local business preference does not apply to the following:
 - (i) Contracts funded by grants which prohibit the use of preferences, and
 - (ii) Contracts for services.

ARTICLE V. CONTRACTS FOR PROFESSIONAL AND CONSULTING SERVICES

Section 5.01 Contracting Procedures

Contracts for consultant/professional services shall be made pursuant to the provisions of this article.

Section 5.02 Architectural, Landscape Architectural, Professional Engineering, Environmental, Land Surveying, and Construction Management Services

- (a) Procurements for architectural, landscape architectural, professional engineering, environmental, land surveying, and construction management services contracts shall comply with this section and Section 5.03.
- (b) *Selection.* Contracts for architectural, landscape architectural, engineering, environmental, land surveying, and construction management services are subject to the provisions of this article and shall be awarded in accordance with the California Government Code section 4525 et seq. Selection process will be designed to select the most qualified firm to provide the desired services at a reasonable price. Selection will not be solely based on price; however, price may be a factor in selecting a firm. If price will be a factor, it will be discussed in the RFP, along with the method used to consider price.
- (c) *Maximum Participation of Small Business Firms.*
 - (i) Definition of Small Business. "Small business," as used in this section, shall have the same definition in Government Code section 14837(d)(1).
 - (ii) Quotes. The District shall attempt to obtain at least two (2) quotes or proposals from a small business, where this article requires quotes or RFPs under Section 5.03.

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- (d) *Prohibition of Unlawful Activity.* The District specifically prohibits practices which might result in unlawful activity, including but not limited to rebates, kickbacks, or other unlawful consideration. The District also prohibits its employees from participating in the selection process when those employees have a financial interest with an individual or business entity seeking a contract under this Section and would be subject to the prohibition of Government Code section 87100.

Section 5.03 Procurement

- (a) *Procurement of Professional and Consultant Services: \$45,000.00 or Less.*
 - (i) Informal Request for Proposal Procedure. Except as set forth herein, the procurement of consultant or professional services with a value of Forty-Five Thousand Dollars (\$45,000.00) or less shall be made following the procedure prescribed below:
 - (1) Solicitation of Proposals. The General Manager may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall attempt, whenever feasible, to obtain at least three (3) proposals.
 - (2) Award of Contracts. The General Manager shall award contracts pursuant to this subdivision to the best qualified and most responsible proposer, which may not necessarily be the lowest priced proposal. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.
 - (3) Signature Authority. The General Manager shall have the authority to execute a contract granted pursuant to this section. Such contracts shall be formal written agreements executed by the General Manager on behalf of the District.
 - (ii) Exceptions. The General Manager may dispense with the informal RFP procedure, whether the informal RFP procedure has been initiated or not, for the reasons set forth below:
 - (1) In an emergency;
 - (2) When the services can be obtained from only one (1) source which has been reviewed and approved in writing by the General Manager;
 - (3) When, in the judgment of the General Manager, compliance with the procedure is not in the best interest of the District; or
 - (4) When processed through a cooperative purchasing agreement with another public agency, whose procurement process is substantially consistent with the provisions of this article.

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- (b) *Procurement of Professional and Consultant Services: More than \$45,000.00.*
- (i) Formal Request for Proposal Procedure. Except as set forth herein, the procurement of consultant or professional services with a value of more than Forty-Five Thousand Dollars (\$45,000.00) shall be made following the procedure prescribed below:
- (1) Solicitation of Proposals. The General Manager shall solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever feasible, be based on at least three (3) proposals.
 - (2) Award of Contracts. The Board shall award contracts pursuant to this subdivision to the best qualified and most responsible proposer, which may not necessarily be the lowest priced proposal. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.
 - (3) Signature Authority. The Board President, or General Manager with the Board's approval, shall have the authority to execute a contract granted pursuant to this section. Such contracts shall be formal written agreements executed by the Board President, or General Manager on behalf of the District.
- (ii) Exceptions. The Board may dispense with the informal RFP procedure, whether the informal RFP procedure has been initiated or not, for the reasons set forth above under subdivision (a)(ii).

ARTICLE VI. PURCHASING AND CONTRACTING FOR FEDERAL GRANTS

Section 6.01 Codified Guidance

The Code of Federal Regulations (CFR) lists the general and permanent rules published in the Federal Register by each of the executive departments and agencies of the Federal Government. The CFR is a systematic collection of rules that are published in the Federal Register by the executive departments and agencies within the Federal government. It is divided into different Titles which represent areas subject to Federal regulation. Regulations are created through an enabling statute of Congress and serve as administrative law.

The Office of Management and Budget (OMB) is charged with the responsibility of the oversight and preparation of the Federal budget, in addition to the supervision of the budget of the various Federal agencies. OMB oversees and coordinates the Administration's procurement, financial management, information, and regulatory policies and serves on behalf of the President of the United States in developing government-wide policies which aid in ensuring that Federal grants are managed properly and that Federal grant monies are spent in accordance with applicable laws and regulations.

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OMB issued what is commonly referred to as its “Super Circular” or Uniform Grants Guidance (UGG) effective December 26, 2014, with an option to elect July 1, 2018 as the grace period option effective date. The District has elected this grace period effective date. The following summarizes the revisions to the guidance for Federal Award Programs:

- Supersedes and streamlines various OMB Circulars
- Aims to be more efficient, effective and transparent
- Strengthen oversight of federal funds to reduce waste, fraud, and abuse
- Review UGG (Title 2, Subtitle A, Chapter II, Part 200)

UGG §200.317-326 specifically relates to procurement and are incorporated in this policy in the sections that follow.

Section 6.02 Competition (OMB §200.319)

- (a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
- (i) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - (ii) Requiring unnecessary experience and excessive bonding;
 - (iii) Noncompetitive pricing practices between firms or between affiliated companies;
 - (iv) Noncompetitive contracts to consultants that are on retainer contracts;
 - (v) Organizational conflicts of interest;
 - (vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - (vii) Any arbitrary action in the procurement process.
- (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

Procurement Policy and Procedures

- (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

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Section 6.03 Methods of Procurement (OMB §200.320)

- (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
- (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
- (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.
 - (i) In order for sealed bidding to be feasible, the following conditions should be present:
 - 1) A complete, adequate, and realistic specification or purchase description is available;
 - 2) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - 3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (ii) If sealed bids are used, the following requirements apply:
 - (iii) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
 - (iv) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (v) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

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- (vi) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (vii) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (ii) Proposals must be solicited from an adequate number of qualified sources;
 - (iii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (iv) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (v) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) [Reserved]
- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - (i) The item is available only from a single source;
 - (ii) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (iii) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (iv) After solicitation of a number of sources, competition is determined inadequate.

Section 6.04 Contracting with Small and Minority Businesses (OMB §200.321)

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (i) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
 - (ii) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
 - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
 - (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Section 6.05 Procurement of Recovered Materials (OMB §200.322)

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Section 6.06 Contract Cost and Price (OMB §200.323)

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Section 6.07 Federal Awarding Agency or Pass-through Entity Review (OMB §200.324)

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - (i) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (ii) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - (iii) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

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- (iv) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - (i) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
 - (ii) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Section 6.08 Bonding Requirements (OMB §200.325)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

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- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Section 6.09 Contract Provisions (OMB §200.326)

The non-Federal entity’s contracts must contain the applicable provisions described in Appendix II to Part 200— Contract Provisions for non-Federal Entity Contracts Under Federal Awards.



El Dorado Irrigation District

**Board Policies (BP) and
Administrative Regulations (AR)
Revised July 28, 2021**

AR 3061 Procurement and Contracts

Approved: December 12, 2006
Revised: October 22, 2008
October 16, 2012
February 14, 2013
November 15, 2017
March 29, 2021

AR 3061.01 Purpose

This administrative regulation seeks to establish efficient, equitable, and uniform procedures for all District contracting for goods (including, without limitation, materials and equipment), services (professional and other), rentals and leases of personal property, and construction; provide for fair and equitable treatment by the District of all persons involved in the contracting process; maximize the purchasing value of public funds; exercise financial control over the District expenditures it covers; clearly define authority for spending approvals and contracting functions; and provide safeguards for maintaining a high-quality procurement system.

AR 3061.02 Procurement and Contract Administration

The District's Office of the General Counsel and Finance Department will jointly implement and administer standard operating procedures for District contracting, to implement the purpose and requirements of these administrative regulations.

The District shall conduct all contracting for goods, services, rentals and leases of personal property, and construction in accordance with these administrative regulations and associated standard operating procedures.

AR 3061.03 Appropriated Funds

The District shall procure only items and services for which the Board of Directors has appropriated funds.

AR 3061.04 Procurement and Contract Authority

Except as otherwise provided herein, and subject to the ultimate authority and direction of the Board of Directors and General Manager, all contracts and procurements must be approved as follows:

- A. A single contract or commitment shall not exceed \$100,000 without approval by the Board of Directors. All other contracts or commitments require the following spending approval.
1. Up to and including \$100,000 - General Manager
 2. Up to and including \$50,000 - Department Director
 3. Up to and including \$25,000 - Division Manager
 4. Up to and including \$10,000 – Supervisor, or CIP Project Manager who has been pre-approved in writing by his/her department director at the recommendation of his/her division manager, with approval from the Finance Department.
 5. Up to and including \$1,000 - Employee who has been pre-approved in writing by his/her department director at the recommendation of his/her division manager, with approval from the Finance Department.
- B. Where a single contract or commitment that was originally approved for less than or equal to \$100,000, requires an amendment or change order that increases it to more than \$100,000, the change order shall be submitted to the Board of Directors for approval.
- C. Under the direction of the General Counsel, the District shall adopt and maintain standard forms, which the District shall use for all contracts and procurements, unless the use of such standard forms is infeasible or otherwise not in the District's best interests.
- D. District procurements shall not be artificially divided to avoid the approval requirements set forth herein.

AR 3061.05 Solicitation of Bids and Proposals

Except as otherwise provided herein, and subject to the ultimate authority and direction of the Board of Directors and General Manager, all solicitations for goods and/or services shall adhere to the following guidelines:

- A. **Formal Solicitation of Sealed Bids and Proposals:** Except as authorized herein or by statute and/or action of the Board of Directors, the District shall solicit contracts or procurements over \$50,000 by issuing a formal Request for Bids (RFB) or Request for Proposals (RFP) with written bidding instructions; the criteria for contract award; bid protest procedures; contract terms and conditions;

plans and specifications (for RFBs); insurance and bonding requirements, published notice, or other means of advertisement, each as required by law or deemed necessary to promote competition and protect or further the District's interests; and all other information required by law.

Notwithstanding any provision contained herein, the District shall comply with all laws and regulations concerning solicitation, bid, and award procedures for the construction of public works projects regardless of the size of the project or amount of the contract.

When required by law, the District shall award all contracts solicited under this subsection to the lowest responsive responsible bidder. The District shall award all other contracts to the proposer whose proposal is in the District's best interests. In circumstances in which the District formally solicits bids or proposals and receives only one responsive bid or proposal, the District may negotiate with and award the contract to the sole bidder/proposer.

B. Informal Solicitations: The District shall solicit contracts and procurements, except those for the construction of public works projects, of \$50,000 or less as follows:

1. \$15,000.01 to \$50,000 – Three (3) documented quotes or proposals.
2. \$5,000.01 to \$15,000 – Two (2) documented quotes or proposals.
3. Goods or services procurements under \$5,000 shall not require competitive solicitation.
4. The above thresholds include taxes, fees and freight.
5. The District may re-use unchanged awards for one year following acceptance.

C. Request for Qualifications: The District may use a Request for Qualification (RFQ) procedure to acquire the services of certain professionals that require extended analysis, the exercise of discretion, independent judgment, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. The District may utilize the RFQ procedure for single procurements, or for establishing an on-call list of professional services providers capable and qualified to conduct certain types of services. No contract for the services of legal counsel may be awarded without the approval of the District's General Counsel.

Procedures for the selection of architect, engineer, and land surveying services shall be in accordance with state law.

- D. **Procurements Not Subject to Competition:** For certain procurements, it is impractical to implement competition in the solicitation process. Accordingly, the District shall maintain a standard operating procedure listing the types of procurements that generally do not require competition other than at the direction of the General Counsel or the Finance Department upon reviewing a specific procurement request. The listing can be changed only by approval of the General Manager and General Counsel.
- E. **Authorization for the Procurement of Goods or Services from a Single Source:** Notwithstanding anything herein, for good cause documented in writing and approved by the General Counsel and an executive manager with sufficient spending authority, the District may negotiate with a single source for the procurement of goods or services, including construction services when authorized by law. Good cause for single-sourcing may include, for example, when there is only one available source for a necessary good or service, the General Manager has authorized standardization of goods or services pursuant to Section 3061.09, a prospective consultant or vendor possesses unique skills and expertise necessary for a particular procurement, or emergency or extraordinary circumstances require immediate action that cannot be delayed for obtaining bids or proposals.
- F. **Prequalification of Bidders:** The District may pre-qualify bidders for public works construction contracts. Pre-qualification of bidders will be conducted in accordance with the legal requirements for contractor pre-qualification and in consultation with the Office of the General Counsel.

AR 3061.06 Protests

The District shall adopt and maintain a protest procedure for protests of the solicitation and award of contracts, and include a description of the protest procedure in solicitation documents. Any actual or prospective bidder, proposer, or contractor who is aggrieved in connection with the solicitation of a bid or proposal, or the award of a contract on which he/she bid or proposed, may file a written protest in the manner prescribed in the solicitation documents.

AR 3061.07 Piggyback Procurements

The District may enter purchase contracts with a supplier for the purchase of goods or services when the pricing and terms have been previously established by another local, state, or federal, public entity, or an association of public entities, provided:

- a. the resulting contract with the supplier of goods or services is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of the participating entity or association;
- b. the purchase is made within the longer of one year of the competitive bid or negotiation, or the original contract term or subsequent extension(s);
- c. the purchase conforms to the District's specifications for the goods or services; and
- d. the purchase is of equal or better value to the District than if made directly by the District.

AR 3061.08 Cooperative Procurements

The District may enter an agreement with one or more local, state, or federal public entity, or association of public entities to procure goods or services cooperatively, provided:

- A. the resulting contract with the supplier of goods or services is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of the participating entity or association;
- B. the contract conforms to the District's specifications for the goods or service; and
- C. the purchase is of equal or better value to the District than if made directly by the District.

AR 3061.09 Standardization of Goods and Services

The General Manager may authorize the uniform adoption or other standardization of a good or service to promote efficiency or for other good cause when the good or service is designated to match others in use, or planned to be used, by the District. All standardizations shall be valid for a term up to three years, which term may be extended one time up to three additional years after examining market conditions and upon a determination by the General Manager that the standardization still serves the District's best interests.

AR 3061.10 Contract Documents

Standardized contracting documents will be developed and provided by the District's Office of the General Counsel. Non-standard (vendor agreements) are not authorized for use unless approved by the Office of General Counsel.

AR 3061.11 Americans with Disabilities Consideration during Procurement

District staff shall include accessibility as a criterion during purchasing decision making. Whenever possible, evaluate design, office supplies, furniture and building materials purchases for compatibility with a wide range of disabilities and sensitivities. Select items that are easily adjustable or can be modified to accommodate a variety of physical and ergonomic needs.

AR 3061.12 On-Call Contracts

The District may solicit proposals and enter into contracts for services to be performed on an on-call basis for a designated term, to facilitate smaller, more routine type tasks on an as-needed basis. Each project entered under an on-call contract shall be performed pursuant to an on-call task order, at the rates listed in the on-call contract. An individual on-call task shall not total more than \$100,000. Individual task orders up to \$25,000 will only require a single quote from an on-call vendor. For individual tasks over \$25,000, the District will seek to obtain quotes from at least three (3) vendors, if feasible, or document good cause for single source procurement.

AR 3065 Debt Policy

Adopted: July 14, 2017

Revised: June 8, 2020

Scope and Application

This Debt Policy established by and for the Finance Department, pertains to financings under the jurisdiction of the El Dorado Irrigation District Finance Department. This Administrative Regulation is intended to guide the Finance Department in its debt issuance in the course of its customary practices. From time to time, certain circumstances arise which could cause the Finance Department to deviate from the policies herein.

This Administrative Regulation and any subsequent amendments hereto shall be on file with the Finance Department and shall be contained on the District's website.

Mission of the Finance Department for Debt

The Finance Department shall issue and manage long-term financings for capital improvements by balancing market and credit risk with satisfactory economic benefits and proper fiscal controls. To achieve the mission goals, the Finance Department shall adhere to the following:

I. Debt Management Objectives

- The Finance Department shall maintain cost-effective access to the capital markets through prudent policies.
- The Finance Department shall maintain moderate debt and debt service payments with effective planning.
- The Finance Department shall meet significant capital demands through debt financing and alternate financing.
- The Finance Department shall achieve the highest possible credit ratings within the context of the District's capital needs and financing capabilities.

II. Types and Purposes of Debt

The Finance Department may utilize several types of municipal debt obligations to finance

long-term capital projects. Long-term debt is only issued to finance the acquisition and/or construction of capital improvements. Long-term debt financing shall never be used to fund operating or maintenance costs.

General Obligation Bonds- General Obligation Bonds may only be issued with two-thirds approval of a popular vote. The California State Constitution (Article XVI, Section 18) limits the use of the proceeds from GO Bonds to “the acquisition or improvement of real property.”

Pension Obligation Bonds- Pension Obligation Bonds can be issued to finance all or part of the unfunded pension liabilities of the District. Typically, these bonds are issued at a lower rate of return than what is being paid to CalPERS, and in this way, provide an economic benefit to the District.

Enterprise Revenue Bonds- Enterprise Revenue Bonds finance long-lived assets for one of the revenue producing utilities, and are payable from revenue sources within that utility.

Financing Leases- The District may finance a capital asset by leasing it directly from the vendor or leasing company, with the lessor receiving a portion of each rental payment as tax-exempt interest.

Refunding Obligations- Pursuant to the Government Code and various other financing statutes applicable in particular situations, the Board of Directors is authorized to provide for the issuance of bonds for the purpose of refunding any long-term obligation of the District. Absent any significant non-economic factors, a refunding should produce minimum net debt service savings (net of reserve fund earnings and other offsets) of at least 3% of the par value of the refunded bonds on a net present value basis, using the refunding issue’s True Interest Cost (TIC) as the discount rate, unless the Finance Director determines that a lower savings percentage is acceptable for issues or maturities with short maturity dates.

Other Obligations- There may be special circumstances when other forms of debt are appropriate and may be evaluated on a case-by-case basis. Such other forms include, but are not limited to state and federal loan programs and bond anticipation notes.

III. Debt Approval Procedures

- A. **Reviewed by the Board of Directors-** All long-term financing proposed transactions for capital improvements shall be reviewed and approved by the Board of Directors. For matters related to the Board’s approval process, “long-

term financing” means financing, which constitutes an obligation beyond one fiscal year.

1. Proposed transactions submitted for Board of Director approval should be reviewed prior to submission by the Finance Director, General Manager and General Counsel.
 2. Upon approval by the Finance Director, General Manager and General Counsel, the proposed transaction shall then be presented to the full Board of Directors.
- B. Approval by the Board of Directors-All long-term financing transactions shall be approved and adopted by the Board. The Board shall comply with all public hearing requirements applicable to the specific type of bond being approved, if any.

IV. Debt Limitations

There is no statutory restriction on the amount of bonds that can be outstanding at any given time. However, it is the policy of the District that annual operating revenue, excluding Facility Capacity Charges (FCCs), must equal or exceed total annual operating expenses plus annual debt service payments. Each proposed financing will be individually assessed by the Finance Department and subject to the approval policies contained herein.

Any debt secured by revenues of a utility shall maintain a coverage ratio equal to 125% of net revenues of the utility by bond covenant but, as stated in AR 3012, the goal is to maintain 1.7 to 2.0 debt coverage with FCCs; and maintain a 1.25 debt coverage ratio without FCCs

V. Methods of Sale

The Finance Director shall review each transaction on a case-by-case basis to determine the most appropriate method of sale.

- A. **Competitive Sale-** In a competitive sale, bids for the purchase of the bonds are opened at a specified place and time and are awarded to the underwriter (or syndicate) whose conforming bid represents the lowest true interest cost to the District (TIC). The District may take bids in person, by facsimile, or by electronic means.
1. Bond sales shall be advertised as broadly as possible, including advertising in an industry newspaper. The financial advisors for each

transaction shall undertake to market the bonds to prospective bidders and investors as relevant.

2. Terms of the bonds shall be amendable as late as possible and ideally until at least 1:00 p.m. Pacific Standard Time (PST) the day prior to the day bids are to be received.
 3. Bond sales shall be cancelable at any time prior to the time bids are to be received.
 4. Upon award to the bidder whose conforming bid represents the lowest true interest cost, the District may restructure the bonds in accordance with the Official Notice of Sale.
 - i. The District shall reserve the unfettered right to reject all bids or waive bid irregularities.
 - ii. The Finance Director, or his designee, shall award any bonds sold via competitive sale.
- B. **Negotiated Sale-** In a negotiated sale, the District chooses the initial buyer of the bonds in advance of the sale date. The initial buyer is usually an investment banking firm, or a syndicate of investment banking firms interested in reoffering the bonds to investors through an underwriting process. This type of sale allows the District to discuss different financing techniques with the underwriter in advance of the sale date.
- C. **Private Placement-** Also referred to as a direct placement; private placement is a variation of a negotiated sale. Instead of retaining the services of an investment banking firm to underwrite the securities, the District will sell the bonds directly to a limited number of investors. The District may use a placement agent to assist it in identifying likely investors.

VI. Debt Structuring Practices

- A. **Standard Terms-**The following terms shall be applied to the District's transactions as appropriate. Individual terms may change as dictated by the marketplace or the unique qualities of the transaction.

1. All Bonds

EID BOARD POLICIES AND ADMINISTRATIVE REGULATIONS

- i. Term - 30 years is standard, but up to 35 years may be acceptable, depending on cash flow assumptions, construction timeline, and remaining useful life of the asset being financed.
- ii. Maximum Yield not to exceed 12% for tax-exempt financings.
- iii. Maximum Premium case-by-case, as recommended by the District's Financial Advisor.
- iv. Maximum Discount case-by-case, as recommended by the District's Financial Advisor.
- v. Payment Dates Fixed after considering cash flow needs, the Finance Director will determine the occurrence of all new debt service payments.
- vi. Coupons fixed rate or variable rate.
- vii. Call Provisions shortest possible optional call consistent with optimal pricing.
- viii. Structure of Debt prefer level debt service, but shall be determined on a case-by-case basis, at the discretion of the Finance Director working with the Financial Advisor.
- ix. Debt Service Reserve lesser of 10% principal amount, 125% average annual debt service, 100% maximum annual debt service or surety bond.
- x. Capitalized Interest sized through substantial completion plus a minimum of six months unless other assets are available to be pledged or otherwise limited under
- xi. Federal Tax Law. Liquidated damages of construction contract must include amount of daily debt service.
- xii. Net Funding the project and capitalized interest funds may be net funded if investments are secured upon issuance of bonds.
- xiii. Reimbursement Resolution must be adopted by the District Council if the project hard costs are paid prior to the bond sale.

xiv. Good Faith Deposit determined on a case-by-case basis by the Finance Director.

2. **Variable Rate Bonds-** The District may elect to issue any bonds as variable rate bonds, which are broadly defined to mean daily, weekly, monthly, semi-annual or auction rate.
- i. Purpose reduction of net borrowing cost; match of assets and liabilities.
 - ii. Max Portfolio Allocation no more than 20% of the District's outstanding debt portfolio shall be in un-hedged short-term paper consistent with policies for underlying debt types.
 - iii. Term consistent with policies for underlying debt types.
 - iv. Maximum Yield not to exceed 12%.
 - v. Monitoring-the Finance Department shall monitor all variable rate bonds on a monthly basis and shall determine, from time to time, whether to change modes and/or replace a broker/dealer or remarketing agent.
 - vi. Budgeting-the Finance Department will recommend that annual debt service on any variable rate bonds be budgeted at 1.5 times the rolling 3-year average of the Bond Market Association index, or another relevant index of time frame.
 - vii. Liquidity a liquidity facility shall be obtained, either externally or internally, for all short-term indebtedness containing a put feature.
 - viii. All bonds issued as variable rate bonds shall be issued as "multi-modal" bonds.
 - ix. Good Faith Deposit determined on a case-by-case basis by the Finance Director.
 - x. Budgeting Debt Service budget shall be 3-year BMA rolling average times 1.5 as well as ongoing fees associated with floating rate bonds.

VII. Derivatives Policy

Derivative products and other financial instruments can be beneficial interest rate management tools that can assist the District as part of its overall debt and investment management program, but need to be monitored very closely. Derivative products may be used by the District to reduce risk exposures or reduce interest costs, but may not be used for speculative purposes.

VIII. Permitted Investments

All investments of bond proceeds shall adhere to the District's Investment Policy, approved periodically by the Board of Directors, as outlined in Board Policy 3090 and Administrative Regulation 3091. With the exception of guaranteed investment contracts, investments shall not allow security types or credit standards less than those of the District's Investment Policy.

- A. El Dorado Irrigation District Investment Policy: see Board Policy 3090.
- B. Investment Agreements (IAs)
 - 1. Purpose (a) maximize interest earnings, thereby reducing net borrowing cost, (b) match of assets and liabilities and/or (c) hedging.
 - 2. Counterparty minimum rating of AA- from S&P or Aa3 from Moody's.
 - 3. Mandatory Termination limited to credit-related events and non- payment.
 - 4. Cure Provisions - timelines on District's obligations to cure must provide for appropriate legislative action.
 - 5. District's Priority of Payment termination payments – subordinate to related debt payments.
 - 6. Procurement/Award – award based on best bid as defined in bid form after limited negotiation of terms.
 - 7. Term not in excess of the term of the bonds.

IX. Professional Assistance

- A. Financial Advisors The District shall utilize the services of independent financial advisor(s) on debt financing when deemed prudent by the Finance Director. The District may utilize an RFP-selected pool of such financial advisors to mitigate time constraints and reduce overhead costs of the District in procuring such

EID BOARD POLICIES AND ADMINISTRATIVE REGULATIONS

services. Services shall be documented by contract and payment shall be capped.

- B. Underwriters In the case of a competitive sale, the District will award the bonds to the underwriting firm whose bid results in the lowest True Interest Cost. In the case of a negotiated sale, the Finance Director will determine the best method of selection, taking into consideration all factors involved in each particular sale.
- C. Bond Counsel The Finance Department, in consultation with General Counsel, shall select bond counsel for each transaction.
- D. Broker-Dealers and Remarketing Agents For all variable rate bonds, the Finance Director shall select broker-dealers or remarketing agents for each transaction. The District shall monitor performance on a monthly basis. The District may replace a remarketing agent or broker-dealer with notice at any time.
- E. Trustees Selected for each transaction by RFP, unless use of current trustee is deemed practical by the Finance Director. The Trustee (or applicable holding company) shall have total assets under management of a minimum of \$50 million and be subject to supervision or examination by federal or state authority.
- F. Rebate Consultant Selected by RFP for all bonds unless use of current consultant is deemed practical by the Finance Director.
- G. Financial Printer Selected by underwriter.
- H. Auction Agents Selected for each relevant issue by RFP issued by the Finance Department or its agent and subject to negotiation of terms.
- I. Liquidity Providers Selected for each relevant issue by RFP issued by the Finance Department or its agent and subject to negotiation of terms.
- J. Investment Agreement Counterparties Selected by bid in compliance with Federal Tax Law Requirements in accordance with relevant bond documents and the District's Investment Policy.
 - 1. In general, uncollateralized Investment Agreements shall be executed with counterparties rated at least AAA with collateral required upon downgrade below AAA.
 - 2. Repurchase Agreements or Forward Delivery Agreements shall be executed with counterparties rated at least AA (by at least one of the

major rating agencies) with downgrade provisions requiring assignment or collateral should the rating fall below A- or A3 by Standard and Poor's or Moody's Investor Services respectively.

X. Ongoing Debt Administration

A. Continuing Disclosure- It is the goal of the Finance Department to be as transparent as possible.

1. **Annual Report.** The District will covenant to provide its annual disclosure report no later than 270 days following the end of the fiscal year. However, the District will use its best efforts to issue the Annual Report as soon as practical following the issuance of the District's annual Comprehensive Annual Financial Report (CAFR). The District shall use its best efforts to issue the Annual Report electronically and to post the Annual Report on its website.
2. **Material Event.** The District will issue a material event notice in accordance with the provisions of SEC Rule 15c2-12. Prior to the issuance of any material event, the Finance Director will discuss with the General Manager and General Counsel and outside professionals as appropriate the materiality of any event and the process for equal, timely, and appropriate disclosure to the marketplace.

Upon recommendation of the Finance Director, the District may retain a firm to assist it in maintaining compliance with all continuing disclosure requirements.

B. Arbitrage Rebate Compliance

The District shall calculate arbitrage annually in each year that the related construction fund (or equivalent) has had an outstanding balance. Thereafter, the District shall calculate arbitrage on the fifth anniversary of the bond issuance in accordance with IRS recommended practices. Upon recommendation of the Finance Director, the District may retain a firm to assist it in maintaining the Arbitrage Rate Compliance.

C. Insurance Certifications

The District (through its Risk Manager) shall provide annual insurance certification to the Trustee and Bond Insurer, if required under the legal documents for each issue.

D. Ratings

The policy of the Finance Department is to secure underlying ratings on all newly issued obligations from at least two national rating agencies.

1. **Annual Update-** The Finance Department shall update each rating agency that rates District debt issues at least annually unless such update is declined by the respective rating agency.
2. **Reporting-** The Finance Department shall ensure prompt delivery of the Annual CAFR to each of the rating agencies following adoption by the Board of Directors.
3. **Other-** Reporting Certificates of Substantial Completion on projects financed with long-term obligations shall be delivered to the rating agencies and Bond Insurer, as relevant.
4. **Districtwide Ratings Notification-** Any changes in ratings will be promptly noticed to the Board.

**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF SEPTEMBER 14, 2021
AGENDA ITEM NO. 8.E.**



AGENDA SECTION: NEW BUSINESS

SUBJECT: DISCUSSION OF A RATE STUDY

PRESENTED BY: Adam Coyan, General Manager

INTRODUCTION

The purpose of a rate study is to determine the level of revenue required to adequately fund the treated and untreated water systems while providing customers with safe and reliable water that meets State and Federal requirements.

The discussion of a rate study was added to the agenda at the request of Director Mike Thornbrough. Staff prepared the attached Chart of References of Board Action Related to the Water Rate Study (Attachment 1).

DISCUSSION:

Water rate studies are usually done every four or five years. The last Rate Study by the District was initiated on September 27, 2016, when the Board of Directors authorized the General Manager to enlist the Rural Community Assistance Corporation (RCAC) to perform a water rate study to provide an explanation and justification of calculated treated and untreated water rates for five years. RCAC receives funding from the State to help communities like the District to stay in compliance with State Regulations. Attachment 2 is the 2017 Water Rate Study that resulted from that process.

Attachment 3 of this report is an analysis of the 2017 Rate Study and recommendations for the Board to consider. Furthermore, Staff recommends that the following be done before initiating a rate study:

1. An asset assessment utilizing the KASL report should be completed prior to a rate study to establish a baseline of the District's assets and the condition those assets are in. With this report, a useable life of the assets can be assigned and time of replacement determined.
2. An asset management plan that expands on the KASL Report and goes further into depth and detail for a future plan the District can follow.
3. A cost benefit analysis to modify the asset management plan.
 - a. This would be done to measure the benefits of a decision or action minus the costs associated with that action.
 - b. Complete a comparison of long term costs associated with repair, maintenance, refurbishing and retrofit compared to replacement.

- c. Long term costs of waiting for repair or replacement versus immediate action with the cost of services inflation.
- d. Are the rate increases keeping up with the cost of services inflation currently?
- e. Usually a very aggressive higher initial rate increase will lead to tens of millions in saving long term, aka 40 years as a result of the costs of services increasing.

Attachments:

- (1) Chart of References of GDPUD Actions on Water Rates
- (2) 2017 Water Rate Study
- (3) GM Analysis of the 2017 Rate Study
- (4) Article – Setting the Stage for Water Rates
- (5) Pamphlet- AWWA Water Rates, Charges and Fees
- (6) CSDA Guide on Proposition 218

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

Chart of References of Board Action Related to the Water Rate Study

DATE	ACTION/EVENT	REFERENCES
2021 SEP 14	Discussion of Water Rates.	Agenda of Regular Board Meeting of 9/14/2021
2021 FEB 11	The Board took action by Resolution to freeze rates for treated and irrigation water at the 2019 rate until the end of the current calendar year (December 31, 2021).	Resolution 2021-03
2021 FEB 14	The Board took action by resolution to freeze the 2019 water rates at the 2018 water rate, and re-affirmed that water rates would increase effective with the Jan/Feb billing period each following year (2021, 2021, 2022).	Resolution 2019-14
2020 FEB 11	The Board took action by resolution to temporarily freeze the treated water rates until July 1, 2020, and freeze the irrigation rates for the remainder of 2020.	Resolution 2019-14
2019 JAN 08	The Board acted by motion to “temporarily freeze the rate increases for no more than 12 months and directed Staff and Finance Committee to scope out what it would cost to do a forensic audit and bring back a recommendation to the Board for possible rate adjustments.”	Minutes of Regular Board Meeting of 1/8/2019
2018 MAR 13	The Board approved by resolution the Low-Income Rate Assistance Program Policy.	Resolution 2018-04
2017 DEC 12	A Public Hearing, pursuant to Proposition 218 (Cal. Const., Art. XIID, Sec. 6) was held and the Board heard and considered oral testimony, written materials, and written protests concerning the rate increase; protests were verified and counted and determined that the District may proceed with the proposed water rates. The B018.01.08board adopted Resolution 2017-30 Adopting New Rates for Treated Water and Irrigation Water services effective with the January/February 2019 billing period.	Minutes of Special Board Meeting of Dec. 12, 2017
2017 OCT 24	The Board received a Water Rate Study prepared by the Rural Community Assistance Corporation and authorized the General Manager to prepare and deliver a Notice of Public Hearing pursuant to Proposition 2018.	Minutes of Special Board Meeting of Oct. 24, 2017
2017 OCT 18	The Board held a special meeting to review the water rate study calculations and input from the Community Workshop and direct Staff to look at using the ad valorem to fund administrative costs of \$1.2 million; allocate a portion of the ad valorem balance (about \$300,000) for a low-income assistance program, stretch the schedule for Capital Improvement projects	Minutes of Special Workshop of 10/18/2017

	from five years to at least ten years and review the replacement schedule.	
2017/AUG/22	The Board approved Staff's public outreach approach for rate study consisting of two public workshops, one Board meeting workshop, one Board meeting to authorize the 45-day public hearing, and one Board meeting to hold the public hearing required to adopt the new rates.	Minutes of Special Board Meeting of 8/22/2017
2017/MAY/08	The Board received a Staff presentation on the rate study methodology, shared the recommendations of the Finance Committee, and obtained concurrence on moving forward with the recommended methodology.	Minutes FC Recommendation
2017/APR/25	The Finance Committee received a presentation by Staff and RCAC on the methodology for the current study and requested the Finance Committee's input regarding several policy-related decisions, including (1) a subsidy program for low-income customers; (2) a capital reserve fund balance that would allow the District to replace aging infrastructure before it fails, which is a critical component of the rate calculation; (3) approach for allocating non-operating revenue/property tax allocation; (4) rate tiers; and (5) a base rate vs. usage rate.	
2016/SEP/27	The Board of Directors authorized the initiation of the process to enlist the Rural Community Assistance Corporation (RCAC) to perform a water rate study to provide an explanation and justification of the calculated treated and untreated water rates for five years. RCAC receives funding from the State to help communities like the District to stay in compliance with state regulations.	Minutes of Special Board Meeting of 9/27/2016

Georgetown Divide PUD Water Financial Analysis

Requested by: California State Water Resources Control Board



Prepared by: John Van den Bergh

Rural Community
Assistance Corporation
3120 Freeboard Drive, Suite 201
West Sacramento, CA 95691

October 2017

This document was prepared using funds under Agreement 15-017-550 with the California State Water Resources Control Board; the total Agreement is for \$3,971,379 and will produce multiple documents.

RCAC is an equal opportunity provider and employer.



November 12, 2017

Elvira Reyes
State Water Resources Control City Council - Division of Financial Assistance
1001 I St. 16th Floor
PO Box 944212
Sacramento, CA 95814

Subject: Georgetown Divide Water Rate Study
SRF TA 4418

Dear Elvira:

Enclosed please find the printed final report of the Georgetown Divide Public Utility District. It was one of the more difficult studies as it involved almost 4,000 connections, \$160 million in assets, and two customer classes.

The report was presented and approved by the GDPUD Board on October 24, 2017. RCAC will now assist the PUD with the Prop 218 process, which will be completed on December 12, 2017.

If you have any additional questions, feel free to contact me at 916/447-9832, Ext 1032 or John Van den Bergh at 916/917-4284.

Sincerely,

Ari Neumann

Ari Neumann
RCAC, Assistant Director
Community & Environmental Services

Enclosure: Georgetown Divide PUD 2017 Wastewater Rate Study

CC: Steve Palmer, General Manager, GDPUD, 6425 Main St., Georgetown, CA 95634

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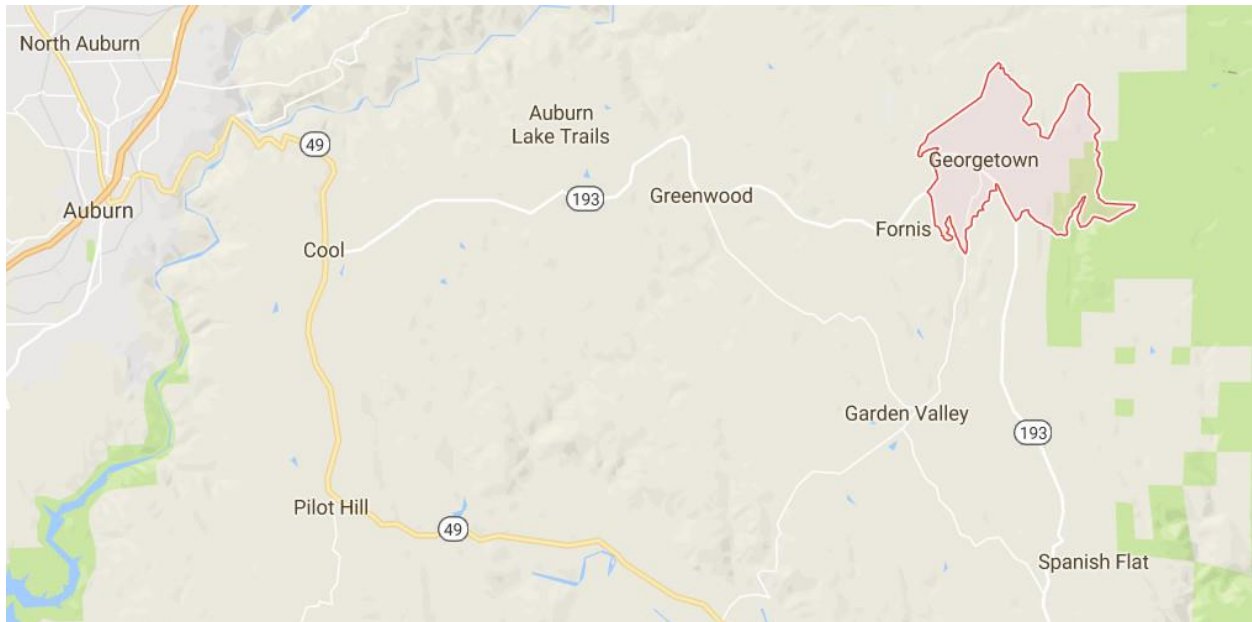
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1. Georgetown Divide PUD

Community

Georgetown is an unincorporated community in El Dorado County, CA. It is the northeastern-most town in the California Mother Lode. The population was 2,367 at the 2010 census, up from 1962 in 2000. The town is registered as California Historical Landmark #484.

The official Median Household Income (MHI) for Georgetown is estimated by the American Community Survey (2014) to be \$46,136, +/- \$17,670 variance. The MHI for the service area is estimated at \$66,359.



Georgetown is about 20 miles and 30 minutes east of Auburn, CA.

The Georgetown Divide is located between the Middle and South Forks of the American River, nestled in the heart of the Sierra Nevada Foothills and Northern California's Gold Country. Access is through Hwy 50 and Hwy 80, making it in close proximity to either metropolitan cities or recreational activities of Lake Tahoe.

District

The Georgetown Divide Public Utility District, as we know it today, was formed on June 4, 1946. However, the origins of District facilities can be traced back to 1852 and the El Dorado, Pilot and Rock Creek Canal Companies, one of the first established water purveyors in the State of California – a not inconsequential result of James Marshall's discovery of gold in nearby Coloma. Following the decline in gold production, agriculture and lumbering became the staple industries on the Divide for many years.

In recent decades, several vineyards have increased the demand for irrigation water.

The focus of the District water supply system is the Stumpy Meadows Reservoir, a 20,000 acre - foot impoundment on Pilot Creek, at the eastern edge of the District.

The District provides treated water, irrigation water and sewer services to the community. Not all three services are provided in all areas.

Services extend as far west as Cool and as far south as Pilot Hill. (See map.)

This District has an elected five-member Board, which sets policy and oversees a General Manager (GM). Board members do not, and should not, actively participate in the management of the District.

The Board meets monthly.

The District last reviewed and updated its treated water and irrigation rates in 2008. As a result, operational costs and replacement costs for capital facilities are exceeding annual revenue, and additional capital improvement needs are being deferred. It is considered best practice to evaluate water rates every three to five years.

Customers

The District has 3,774 treated water customers who are billed bi-monthly.

Meter Size	Number of Meters
A	C
5/8"	3117
3/4"	421
1"	198
1.5"	28
2"	10
3"	0
4"	4
6"	0
Total	3774

In addition, there are 408 irrigation customers.

Current Rates

Base Rate for treated water is the same for all meter sizes, with the exception of the four 4" meters.

Meter Size	Existing Base Rate
5/8"	\$47.14
3/4"	\$47.14
1"	\$47.14
1.5"	\$47.14
2"	\$47.14
3"	\$47.14
4"	\$50.32
6"	\$50.32

Usage Charges are currently tiered and vary from \$1.28 to \$2.21 per 100 CF. 2000 CF is included in the Base Rate.

Irrigation customers pay \$363.70 per miner's inch, per season.

The District's rate schedule includes connection fees, transfer fees, late charges, etc. This rate study does not include an analysis of these charges.

Funding of this report

This rate study covers both the treated water and the irrigation water services and is made available at no charge to the District. This report was prepared using funds under Agreement 13-409-550 between RCAC and the California State Water Resources Control Board.

Disclaimer

The recommendations contained in this rate study are based on financial information provided to RCAC by the District. Although every effort was made to assure the reliability of this information, no warranty is expressed or implied as to the correctness, accuracy or completeness of the information contained herein.

Any opinions, findings, and conclusions or recommendations expressed in this material are solely the responsibility of the authors and do not necessarily represent the official views of the California State Water Resources Control Board.

For accounting advice, a CPA should be consulted. For legal advice, the District should seek the advice of an attorney.

2. Guiding Principles of this Rate Study

RCAC's rate studies comply with AWWA guidelines, unless California regulations, mainly Prop 218, require a deviation from national standards.

Sustainability

Rates should cover the costs to the system to allow it to provide services now, and in the foreseeable future. It is the responsibility of the Board to set rates to a level where the system is sustainable.

Fair

Rates should be fair to all rate payers. No single rate payer or group of rate payers should be singled out for different rates. Therefore, the proposed treated water rates do not make any distinction between domestic, commercial, industrial or agricultural users. The rates are the same for all types of customers.

The District should not charge more for treated water than the cost to provide the service. However, the costs should include: operations, repairs, interest, loan principal, and all other costs related to the collection, treatment and distribution, now and in the foreseeable future.

Unreasonably low rates for current customers will require unreasonably high rates for future customers, which should be avoided.

To avoid any possibility of treated water customers subsidizing irrigation customers, or vice versa, RCAC has split the assets, budgets, reserves and debts between treated water and irrigation customers.

Justifiable

Water rates must be based on actual needs of the District. Revenue generated from treated water rates can't be used for anything else but to pay for the costs of collecting, treating and distribution of water within its service area, plus administrative costs.

Similarly, revenue generated from irrigation water rates can't be used for anything else, but to pay for the cost associated with that service.

However, subsidies to either, treated or irrigation water, not funded by rate payers, but from outside sources (i.e. property taxes, hydro revenue, etc.), can be allocated to either class of service at the discretion of the board.

Prop 218¹ requires the justification of the tier level and the amount charged for each tier. This rate study does not provide the cost justification for any tiered Usage Charges, and proposes the elimination of a tiered Usage Rate. As a result, volumetric charges per cubic foot of treated water will be the same per cubic foot, regardless of usage.

¹ Article XIII D, Section 6 of the California Constitution

Purpose of this study

The purposes of this study are:

- Ensure the financial strength of the district well into the future
- Expose the need to set reserves aside for future replacement of failing components
- Allocate shared costs between treated water and irrigation water customers
- Identify any other financial deficiencies of the district

The Model

RCAC uses an Excel rate setting model developed over many years of practice. It has been used in more than 60 rate studies throughout the western United States. It is geared towards RCAC's clients, which are communities of less than 10,000 people.

The origins lay in CIP and Budget forms published by the California State Water Resources Control Board, Office of Financial Assistance. The forms were integrated and enhanced to comply with AWWA standards, regulation and recent legal cases.

Board Decision

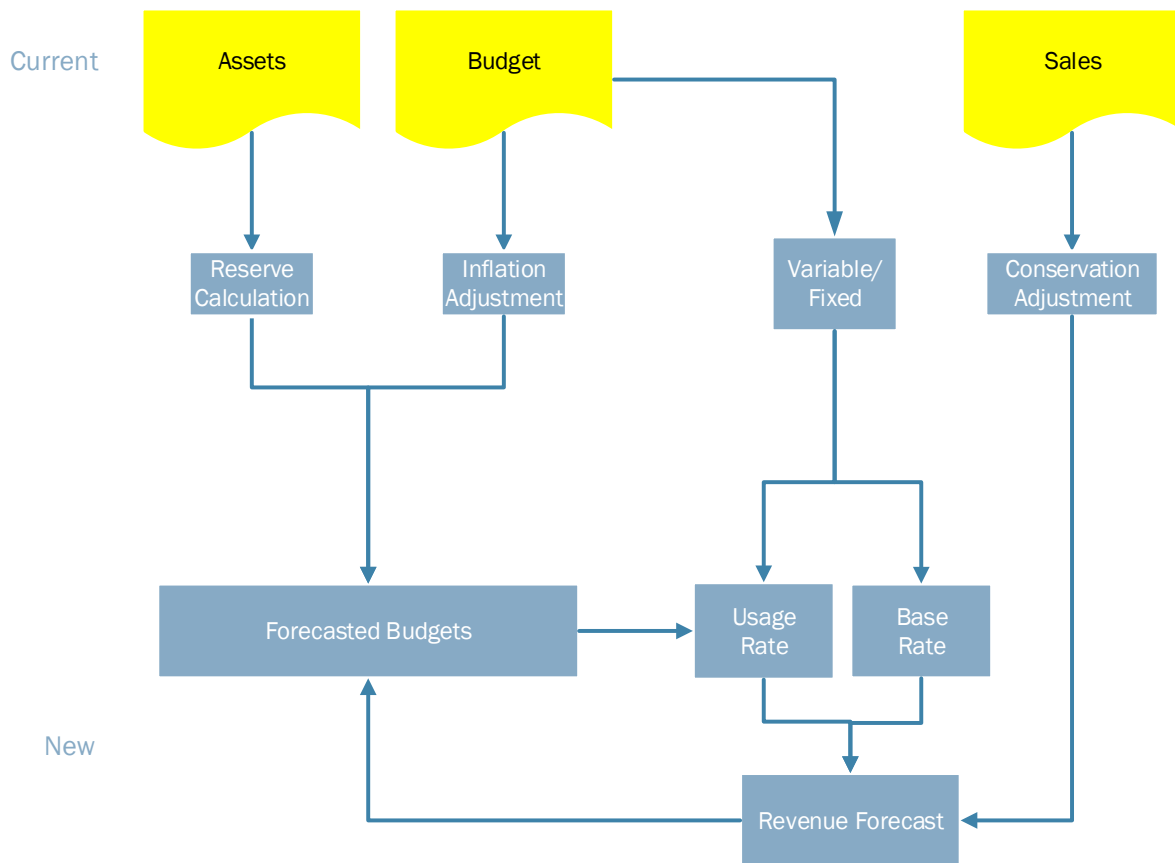
While this document recommends certain rates, the ultimate decision rests with the district's Board. However, the Board has a fiduciary responsibility to set the rates at such a level that the District will be able to continue to operate in the future, including providing funds to replace all parts of the system as they wear out.

At a special board meeting on October 18, 2017, the board reviewed and adjusted the proposed rates, to arrive at the rates presented in this report. The final rates may only be adopted after a 45-day notice of the proposed rate increase is provided, in accordance with Prop 218, and a successful Prop 218 public hearing is conducted, as provided in the notice.

3. Rate Study Process

The figure² below explains the process of setting rates. This process is based on AWWA standards as described in “Principles of Water Rates, Fees and Charges (M1), AWWA, Sixth Edition, 2012”. In *Griffith v. Pajaro Valley Water Management Agency*, the court clarified that the AWWA standards, described in their M1 manual comply with the proportionality requirements of Article XIII D, Section 6(b) of the California Constitution (referred to on the previous page of this report).

We begin with the list of all capitalized assets, the budget and the current number of customers, as provided by the GM.



From the list of assets, the required reserves are calculated (Section 4 of this report) and fed into a 5-year Budget projection (Section 5)

The Budget is adjusted for 2.0% inflation.

The expenses are then split between fixed and variable expenses.

² In this report all yellow cells contain data obtained outside the model. All blue cells are calculated.

The fixed expenses are then allocated among the different customers according to their hydrological potential, as determined by their meter size, and gives us a recommended Base Rate.

The Usage Charge is calculated based on the variable expenses.

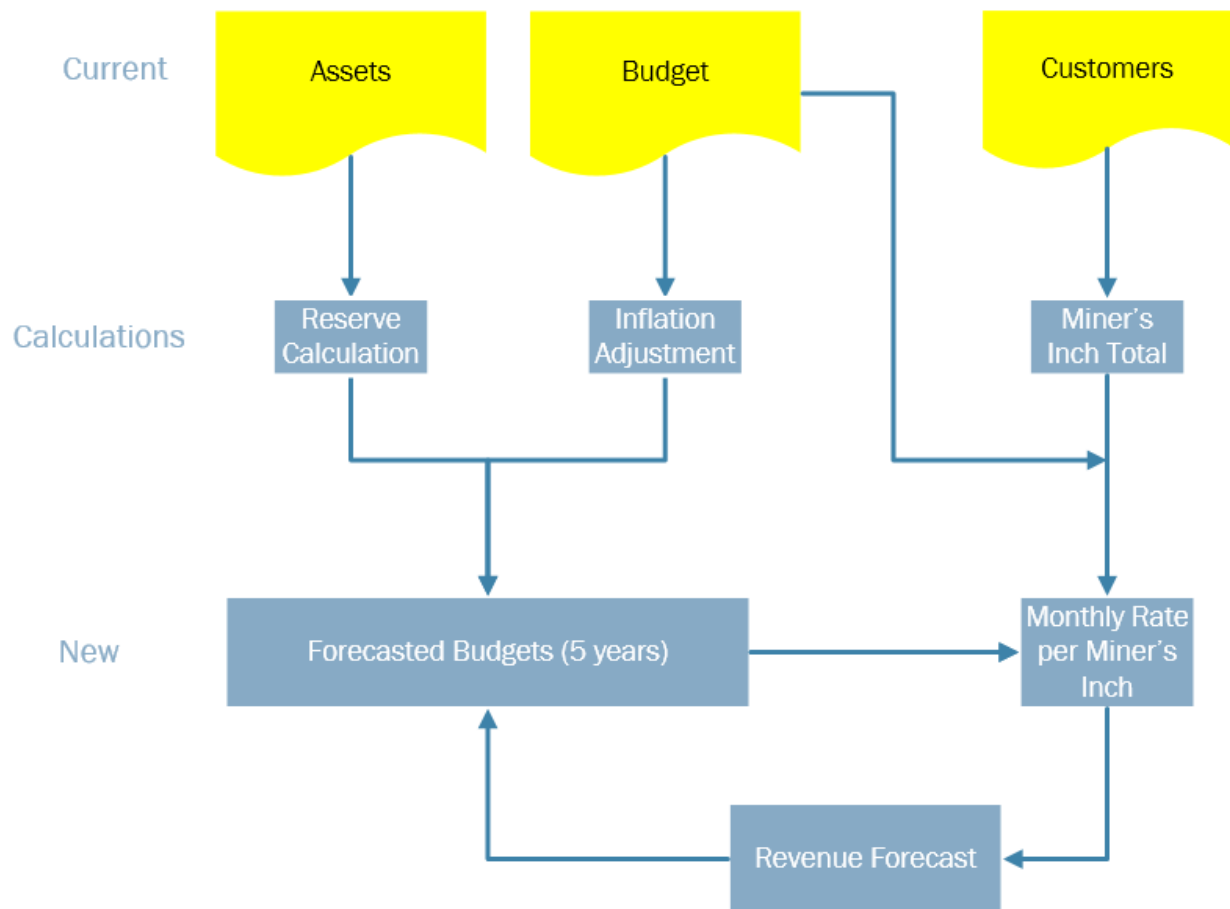
The Sales Forecast (in CF or gallons) is adjusted for future growth and water conservation, and is then applied against the Base Rate and Usage Charge, to arrive at a Revenue Forecast.

This Revenue Forecast is then inserted in the forecasted Budget.

If the Budget does not balance with the selected Base Rate and Usage Charge, they are adjusted until they balance the Budget.

To lessen the impact on District customers, rate increases could be spread over five years.

The same principle works for the irrigation rates, except that the rate, per miner's inch, is calculated by dividing the total expenses by the total miner's inches.



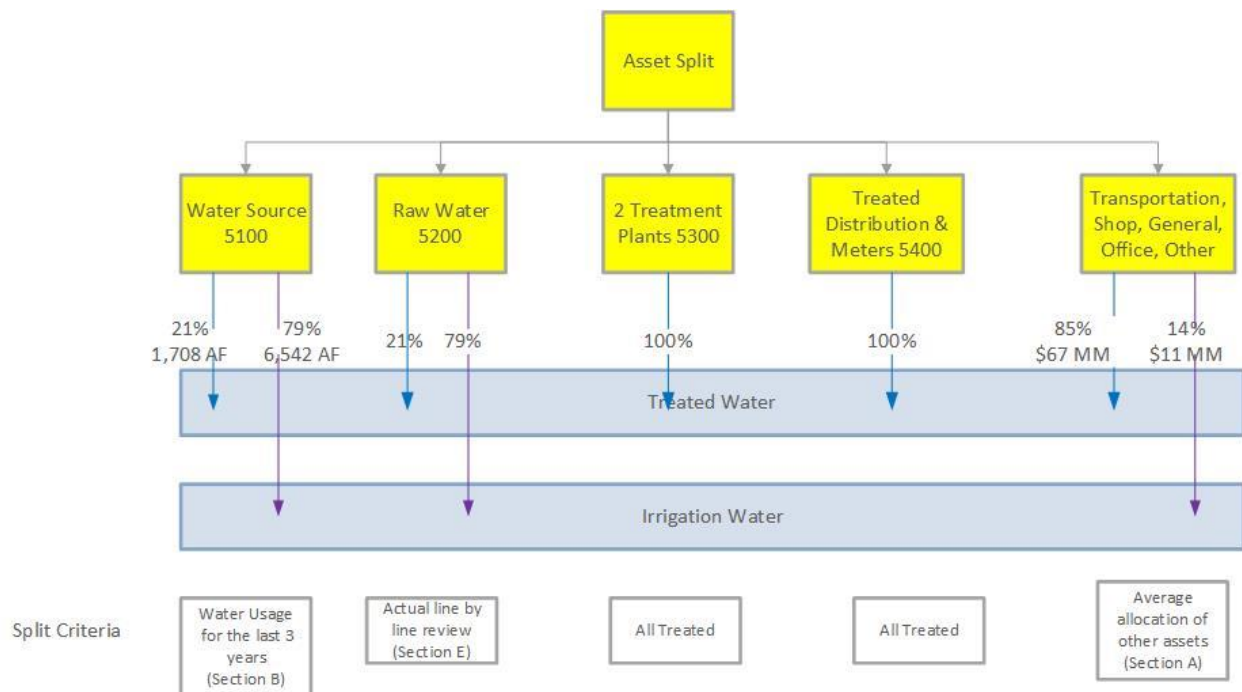
4. Capital Replacement Program

Source of the Data

The data in the Capital Replacement Program (CRP) comes from the data supplied by the District's General Manager and AWWA standards. It is attached as Exhibit 1T³ and Exhibit 1I.

The list of the components, their installation date and their original costs were all supplied by the General Manager (GM) and thoroughly reviewed by the operations manager.

Since this list contained assets used for Treated Water, Irrigation Water and some assets were used by both, the assets needed to be split between the two classes of service. The graphic below shows how the assets were split between Treated Water, Irrigation Water and Waste Water.

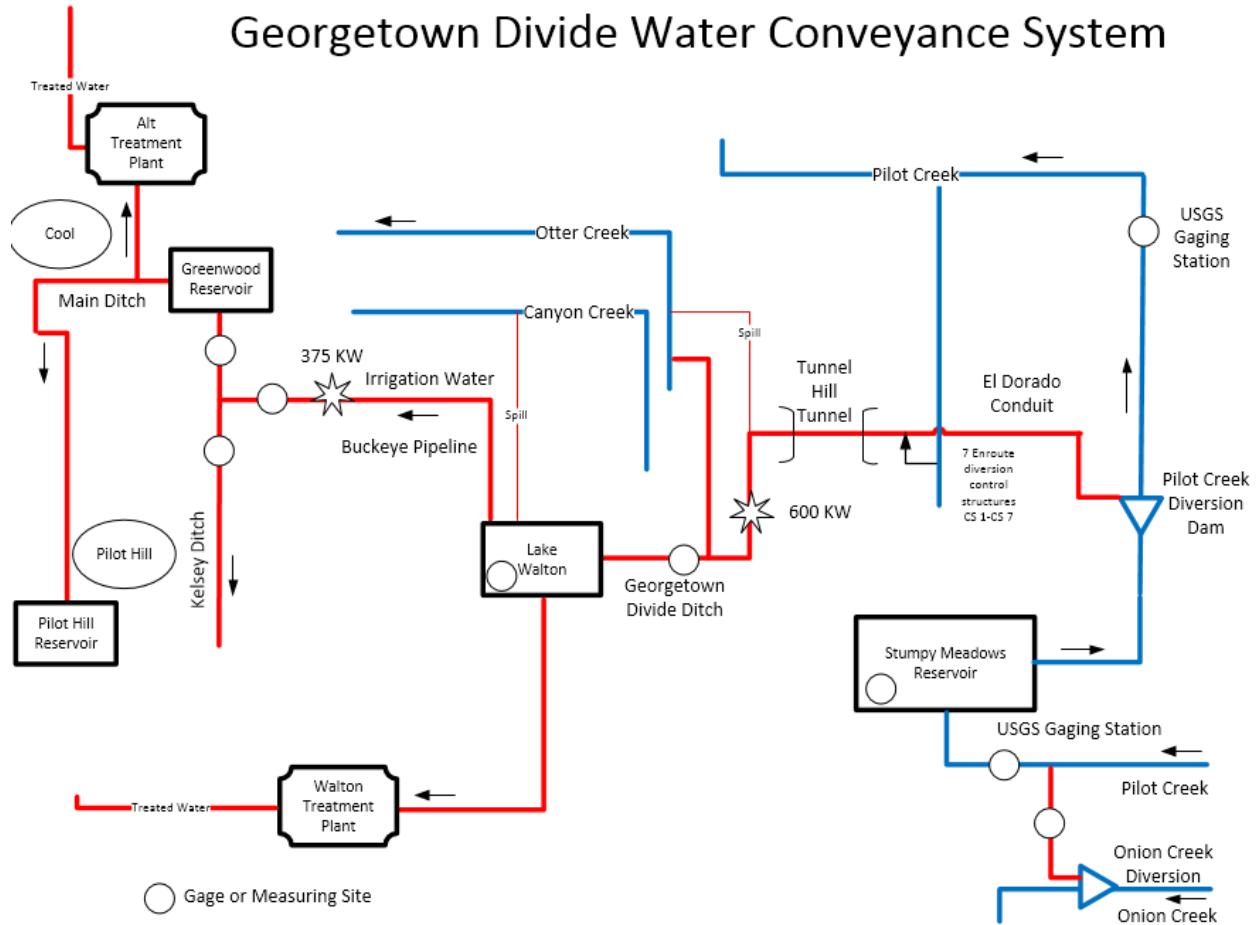


Split Criteria of Assets

Assets were split between treated and irrigation water according to the use of the asset by either treated or irrigation customers. Assets pertaining to the sewer system were excluded also. Since many assets are used by both irrigation and treated water, assets were split according to certain rules explained below.

³ The suffix of the exhibits refers to T for "treated" and I for "irrigation".

In the graphic below, all red lines and black blocks are owned by the district and need to be split between treated and irrigation. The graphic shows the shared assets between irrigation and treated water assets.



Assets listed in accounting account series 5100 (Water Source) were split according to the volume of water (acre feet) flowing through the “water source” assets.

The table below shows the water usage split between treated and irrigation water of 21% and 79% respectively. Water volume during the drought years of 2014 and 2015 were not included.

	2012	2013	2016	Average
Drinking Sales	1,591	1,671	1,262	1,508
Drinking Loss	200	200	200	200
Total	1,791	1,871	1,462	1,708
Irrigation Sales	4,681	4,692	4,654	4,676
Irrigation Loss	2,000	1,800	1,800	1,867
Total	6,681	6,492	6,454	6,542
			% Treated	21%
			% Irrigation	79%

Source: Water Supply & Demand Summary 2012, 2013 and 2016

Assets listed in accounting account series 5200 (Raw Water) were more difficult to split. Staff went through the list of assets and determined the use of each asset. When an asset was used by both treated and irrigation water, it was split by volume.

Since most raw water assets are used by both irrigation and treated water, the raw water (5200) asset split between treated and irrigation water turned out to be the same as the water source (5100) split: 21% and 79% respectively for treated and irrigation water.

Assets associated with the treatment plant (5300) and the distribution system (5400) were all allocated to treated water.

Assets associated with Customer Service (5500) were split according to the number of customers.

The table below shows the customer service assets split between treated and irrigation water of 71% and 8% respectively.

Number of Customers		
Drinking Water	3,774	71%
Irrigation Water	408	8%
Waste Water	1,099	21%
Total	5,281	100%

Assets associated with everything else (transportation, shop, office, etc.) were split according to the percentages of all the other assets.

The table below shows the other assets split between treated and irrigation water of 85% and 14% respectively.

	\$	\$	\$
	IW	TW	Septic
	Current	Current	Current Value
	Value	Value	
SOURCE OF SUPPLY PLANT #5100	\$8,429,083.56	\$2,240,642.47	
LAKE WALTON PLANT #5300	\$0.00	\$4,354,198.53	
AUBURN LAKE TRAILS PLANT	\$0.00	\$3,339,546.34	
T&D RAW WATER #5200	\$2,143,708.19	\$8,045,221.12	
T & D METERS & METER BOXES	\$35,811.43	\$316,860.95	
T & D TREATED WATER #5400	\$0.00	\$48,487,228.12	
TRANSPORTATION EQUIPMENT			
SHOP & FIELD EQUIPMENT			
GENERAL PLANT			
OFFICE EQUIPMENT			
SEPTIC COLLECTION PLANT			\$1,035,877
TRANSPORTATION EQUIPMENT & OTHER			
	\$10,608,603.18	\$66,783,697.53	\$1,035,876.51
	14%	85%	1%

Exhibit 1 shows the list of all the assets and their cost, split according to the above split criteria. For example, a water source asset of an original cost of \$1,000,000 is split between treated and irrigation water, according to 79%-21%. Therefore, \$790,000 is listed in Exhibit 1T and the same asset is listed as \$290,000 in Exhibit 1I.

Life Expectancy of Assets

The Normal Estimated Life of all assets listed in Exhibit 1 is based on AWWA standards and adjusted for actual conditions.

The Estimated Remaining Life in Exhibit 1 is based on the best judgement of the GM, the Operator and RCAC, after a visual inspection of the condition of the component.

Sources of Funding

Funding of the replacement of components can only come from cash saved by the District, a grant obtained or a loan.

The Board has made a policy for funding of capital assets as shown in the table below:

Assets Cost between	and	Cash	Grant	Loan
\$0	\$50,000	100%	0%	0%
\$50,001	\$100,000	75%	0%	25%
\$100,001	\$500,000	50%	20%	30%
\$500,001	\$9,999,999	25%	20%	55%

For example, a capital replacement project costing \$200,000, would ideally be funded by 50% cash, 20% grant and 30% loan.

While the possibility of receiving substantial grants to replace certain components of the system is good at this time, these possibilities will diminish over time as government funding capabilities will diminish.

The current Median Household Income (MHI) of \$46,700 (“Disadvantaged”, but not “Severely Disadvantaged”) makes it difficult for Georgetown to rely heavily on grants.

Staff and RCAC went through the list of all assets and determined the realistic split between cash, grant and loan funding of projects. In aggregate, 26% will be funded with cash, 1% with grants and 73% with loans.

This study assumes the average interest rate on the loans will be 2.5% APR.

Existing Reserves

Existing funds in all accounts were manually allocated to treated and irrigation water.

The District has about \$6,753,000 in cash and liquid assets allocated to the treated water system and \$322,564 to irrigation water. Of these liquid assets, \$5,142,000 is available as reserves for future replacement of deteriorating components of the treated water system and \$166,432 is available for the irrigation system replacement.

These amounts were calculated based on the January 2017 Cash & Investment balances in the district’s accounts (Exhibit 4). Funds that pertained to both Irrigation and Treated water were split according to past revenue percentages of each service category.

Description of Exhibit 1T and 1I

The CRP provides us with a detail of the reserves needed to replace the capital assets.

The total line of the CRP table (Exhibit 1T \$1,544,026 and Exhibit 1I \$250,172) are the amount the District must put aside each year to be able to fund the replacement of equipment for the treated water or irrigation system.

Alternative

If the District decides not to fund the annual capital reserve requirement, the District will have to come up with these amounts from other sources, or from steeper rate increases in future years. The District can’t count on the future generosity of the state or other government sources to provide any sizable grants.

It will require a substantial effort of the District’s staff to obtain these grants and loans. The amount of grants obtained for future projects has a large impact on the rates. Therefore, this study recommends a new rate study when new loans or grants are obtained.

5. Budget

Board Member Analysis Request (Board Scenario)⁴

At the October 18, 2017 Board Meeting, the Board asked staff to analyze a scenario that funds general and administrative (G&A) expenses (Department 6500 with tax revenue for the first year.

- Estimated Available Tax Revenue: \$1,569,000
- G&E Expenses for the first year are: \$1,198,350
- The remaining \$371,000 was proposed to be allocated to:
 - Ditch maintenance and water meter replacement programs
 - \$35,000 for water bill relief for low-income household subsidies
 - \$336,000 up to bring down irrigation costs

Analysis of the Board Scenario

For purposes of calculating the rates, we can apply tax revenues to the G&A expenses. However, this will have to be assumed for all future years, not just the first year.

The ditch maintenance and water meter replacement programs are already included in the CIP section of the rate setting calculation, and hence need not be funded separately.

The funding for a low-income household water bill subsidy program can be added to the budget used for the rate calculations.

The impact of this scenario on the rates is discussed at the end of this report.

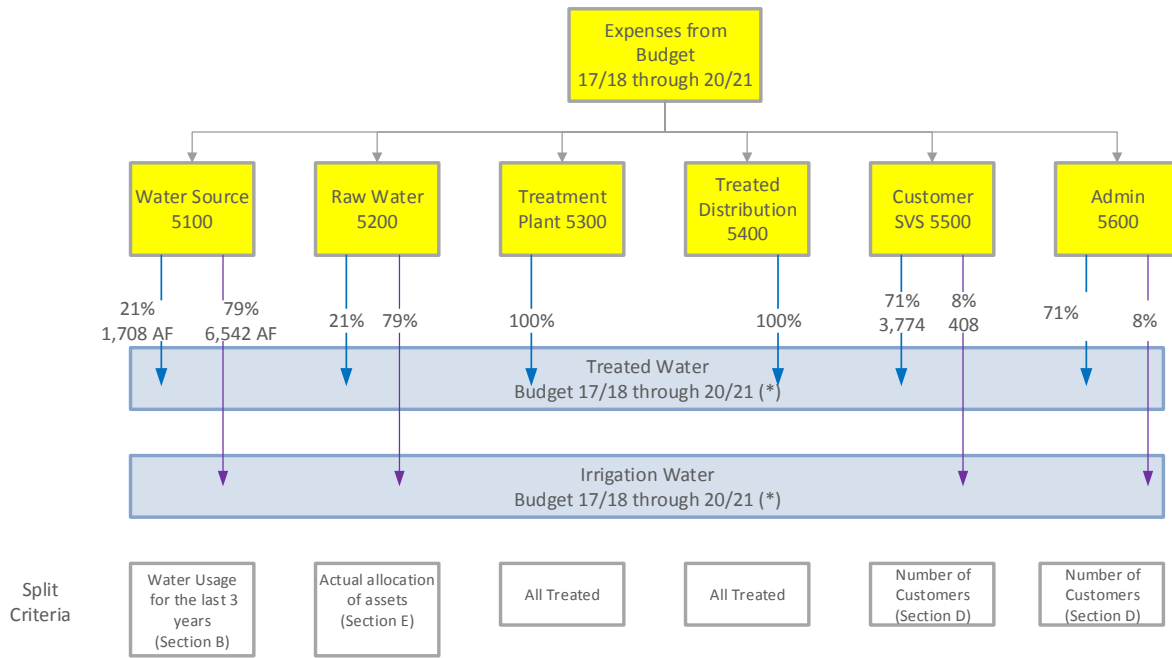
Source of Data⁵

All expenses shown in Exhibit 2 (5-Year Budget sheet) are based on the budget provided by the District for 2016-17 to 2020-21. The forecasted budget for the 2021/22 year was extrapolated. This budget assumed full staffing.

This Budget was then split between treated water and irrigation water, as explained in the graphic below.

⁴ We shall call this the “Board Scenario”. The alternative scenario, we shall call “recommended scenario.”

⁵ Unless indicated otherwise, the Board Scenario and the Recommended Scenario” are the same.



(*) 2021/22 Budget was extrapolated from previous years

Source: 2016-2017 Working Budget + Split

The split of the budget between Treated and Irrigation water of accounts 5100, 5200, 5300, 5400 and 5500 were discussed in the section about the split of the assets on page 10. The split of the General and Administration expenses (5600) is split according to the number of customers served by the District.

Reserve Funding

Exhibit 4 shows all the funds in the District’s accounts, as of January 2017. These funds were split between treated and irrigation water.

These funds were further split in the four types of reserves the District should consider, according to AWWA standards: Debt Reserve, Operating Reserve, Emergency Reserve and Capital Reserve.

Treated Water

Existing Reserves	Amount	
Debt Reserve	\$335,511	As per lending agreement(s)
Operating Reserve	\$876,629	
Emergency Reserve	\$778,569	
Capital Reserve	\$4,762,189	
Total	\$6,752,898	

Reserve Targets	Amount	Annual Reserve Addition	Excess funds to be transfer to CRP
Debt Reserve	\$335,511	\$0	\$0
Operating Reserve	\$856,341	\$0	\$20,288
Emergency Reserve	\$443,000	\$0	\$335,569
Capital Reserve	\$5,118,046	This is the total amount currently available for CIP. Transferred to CIP sheet.	

We compare the existing reserves against the target reserves. Any excess in Debt, Operating or Emergency Reserves is allocated to Capital Reserves. Any shortfall in Debt, Operating or Emergency Reserves is added to the budget in five installments, so the shortfall is eliminated in five years.

1. Debt Reserve: Your lenders require that you keep \$335,511 in a Debt Reserve Account for your treated water loans (or the drinking water portion of joint loans). The District is in compliance with that provision, hence, we need not include funds in the Budget to fund this type of reserve.
2. Operating Reserve: Operating reserves are established to provide the District with the ability to withstand short term cash-flow fluctuations. A 45-day operating reserve is a frequently used industry norm which computes to \$856,341 in Operating Reserves. As of July 2017, you have this in the bank, hence, we need not include additional Operating Reserves in our Budget. In fact, you have \$20,288 more than that. It is recommended that you transfer this amount into your Capital Reserve account.
3. Emergency Reserve: Emergency reserves are intended to help utilities deal with short-term emergencies, such as main breaks or pump failures. An emergency reserve is intended to fund the immediate replacement or reconstruction of the system's single most critical asset. We estimate that \$443,000 would be sufficient for emergency reserves for the treated water. As of July 2017, you have \$778,569 in the bank for treated water. It is recommended that you transfer the excess of \$335,569 from Emergency Reserves to Capital Reserves.
4. Capital Replacement Reserve: This reserve is strictly to be used to fund the District portion of any replacement of capital assets that are worn out. We assume that the balance of the liquid assets can be used for Capital Reserves. You currently have \$4,762,189 in Capital reserves dedicated to the treated water system. Add to that the \$20,288 in excess Operating Reserves and \$335,569 in excess Emergency Reserves, for a current Capital Reserve of \$5,118,046.

Irrigation Water

Existing Reserves	Amount	Goal
Debt Reserve	\$0	As per lending agreement(s)
Operating Reserve	\$106,131	45 days of expenses
Emergency Reserve	\$94,259	Critical equipment replacement cost
Capital Reserve	\$122,173	Funds available to replace existing assets

Total \$322,564

Reserve Targets	Amount	Annual Reserve Addition	Excess funds to be transfer to CIP
Debt Reserve	\$0	\$0	\$0
Operating Reserve	\$122,595	\$3,293	\$0
Emergency Reserve	\$50,000	\$0	\$44,259
Capital Reserve	\$166,432	This is the total amount currently available for CIP. Transferred to CIP sheet.	

We compare the existing reserves against the target reserves. Any excess in Debt, Operating or Emergency Reserves is allocated to Capital Reserves. Any shortfall in Debt, Operating or Emergency Reserves is added to the budget in five installments, so the shortfall is eliminated in five years.

Four type of reserves:

1. Debt Reserve: None of the debt associated with the irrigation system requires any debt reserve.
2. Operating Reserve: Operating reserves are established to provide the District with the ability to withstand short term cash-flow fluctuations. A 45-day operating reserve is a frequently used industry norm which computes to \$122,595 in Operating Reserves. As of July 2017, you only have \$106,131 in the bank, hence we need to budget an extra \$3,293 for the next 5 years to bring this amount up to the target. This amount of \$3,293 is added to the Budget.
3. Emergency Reserve: Emergency reserves are intended to help utilities deal with short-term emergencies, such as main breaks or pump failures. An emergency is intended to fund the immediate replacement or reconstruction of the system's single most critical asset. We estimate that \$50,000 would be sufficient for emergency reserves for the irrigation water. As of July 2017, you have \$94,259 in the bank for irrigation water emergencies. It is recommended that you transfer the excess of \$44,259 from Emergency Reserves to Capital Reserves.
4. Capital Replacement Reserve: This reserve is strictly to be used to fund the District portion of any replacement of capital assets that are worn out. We assume that the balance of the liquid assets can be used for Capital Reserves. You currently have \$122,173 in Capital Reserves dedicated to the irrigation water system. Add to that the \$44,259 in excess Emergency Reserves this gives us a current Capital Reserve of \$166,432.

Allocation of Property Taxes

The District has about \$1,569,000 in annual property tax revenue. The board has full discretion on how to spend these funds for any District-related purpose.

Board Scenario

At the October 18, 2017 Board meeting, it was suggested that the tax revenue be split as follows:

- To cover G&A expenses (Department 5600): \$1,198,000
- Water bill subsidies for low-income families: \$35,000
- Allocation to irrigation services: \$336,000

Recommended Scenario

Since the Board has discretion to allocate these outside funds, we would ask the Board to allocate \$1,006,000 (64%) to treated water and 563,000 (36%) to irrigation. These numbers are necessary to avoid a negative cash flow for the irrigation service, without having to increase the rates for customers with 1 miner's inch of usage, by more than 100% in the first year.

Reserve Accounting and Investment Opportunities

The District has multiple checking and savings accounts that do not correspond to AWWA standards for reserve accounts. It is recommended that the District have:

1. One Operating account
2. Debt reserve accounts for each loan
3. At least one Emergency account for each class of service: treated, irrigation, waste water
4. At least one Capital reserve account for each class of service

The names of these accounts should correspond with the four reserves recommended by the AWWA.

The District should also have policies in place regarding:

1. who can access these accounts
2. for what purposes funds can be withdrawn
3. how often the reserve accounts are funded from the operating account

By design, cash will accumulate in the Operating account. Periodically any excess funds above the target set on page 18 should be transferred to the Capital Reserve accounts.

Operating cash should remain in the checking account.

Debt Reserve funds can be invested for a long time, preferably maturing at the same time as the associated debt.

Emergency Reserves should be kept in a savings account for immediate liquidity.

Capital Reserves could be invested in a series of maturities that correspond with the Capital Improvement plan horizon.

By following the above principles, you can maximize your return on your reserves.

6. Rate Calculation

The District is planning to change all 5/8" meters with 3/4" meters in the next two years. New homes will probably be required to install fire suppression sprinklers, which require 1" meters. An analysis of the usage data indicates that customers with 5/8", 3/4" or 1" use about the same quantity of water and the extra capacity of their meter is only needed for emergencies. Therefore we recommend that the rates for the bottom three sizes of meters be the same.

AWWA recommends that expenses be split between fixed and variable expenses. Fixed expenses are expenses that don't change when the volume of water changes. (Example: insurance) Variable expenses are those that change with the volume of water sold. (Example: utilities)

In theory, fixed expenses need to be funded with Base Charges and variable expenses determine the Usage Charge.

The fixed expenses are allocated to the different meter sizes according to their hydrological potential draw.

The "Theoretical Base Rate by Meter Size per 2M" in the tables below was calculated using this method. California courts have determined that this national standard, is compliant with Prop 218.

A. Board Scenario

Treated Water

Base Rate Calculation for Treated Water

Meter Size	Theoretical Base Rate by Meter Size, per 2M	Base Rate as % of Theoretical Rate	Existing Base Rate	Proposed Base Charge for Year 1	Year 2	Year 3	Year 4	Year 5
	Future Increases				5.0%	5.0%	5.0%	5.0%
5/8"	\$91.25	75%	\$47.14	\$ 68.43	\$71.85	\$75.44	\$79.21	\$83.17
3/4"	\$136.87	50%	\$47.14	\$ 68.43	\$71.86	\$75.45	\$79.22	\$83.18
1"	\$228.12	30%	\$47.14	\$ 68.43	\$71.85	\$75.44	\$79.21	\$83.17
1.5"	\$456.23	50%	\$47.14	\$ 228.12	\$239.52	\$251.50	\$264.08	\$277.28
2"	\$729.97	50%	\$47.14	\$ 364.98	\$383.23	\$402.39	\$422.51	\$443.64
3"	\$1,459.94	50%	\$47.14	\$ 729.97	\$766.47	\$804.79	\$845.03	\$887.28
4"	\$2,281.15	50%	\$50.32	\$ 1,140.58	\$1,197.61	\$1,257.49	\$1,320.36	\$1,386.38

Usage Rate Calculation

Tier	Bottom of Tier	Top of Tier	Year 1, per 100 CF	Year 2	Year 3	Year 4	Year 5	
	Future Increases			5.0%	5.0%	5.0%	5.0%	
1	-	999,999	\$2.2500	\$2.36	\$2.48	\$2.60	\$2.73	
Net Gain/Loss (incl. reserve contrib.)			-648,067	-565,030	-397,733	-316,016	-194,610	
Are contributions to res. enough?			No	No	No	No	No	
Contribution to Reserves (Cashflow)			884,536	963,324	961,788	1,043,506	1,164,911	
Affordability Index MH			46,700.00	1.45%	1.53%	1.62%	1.71%	1.80%
Project funding \$30.16/2 months				0.39%	0.39%	0.39%	0.39%	0.39%
Affordability of total rate				1.84%	1.92%	2.01%	2.10%	2.18%

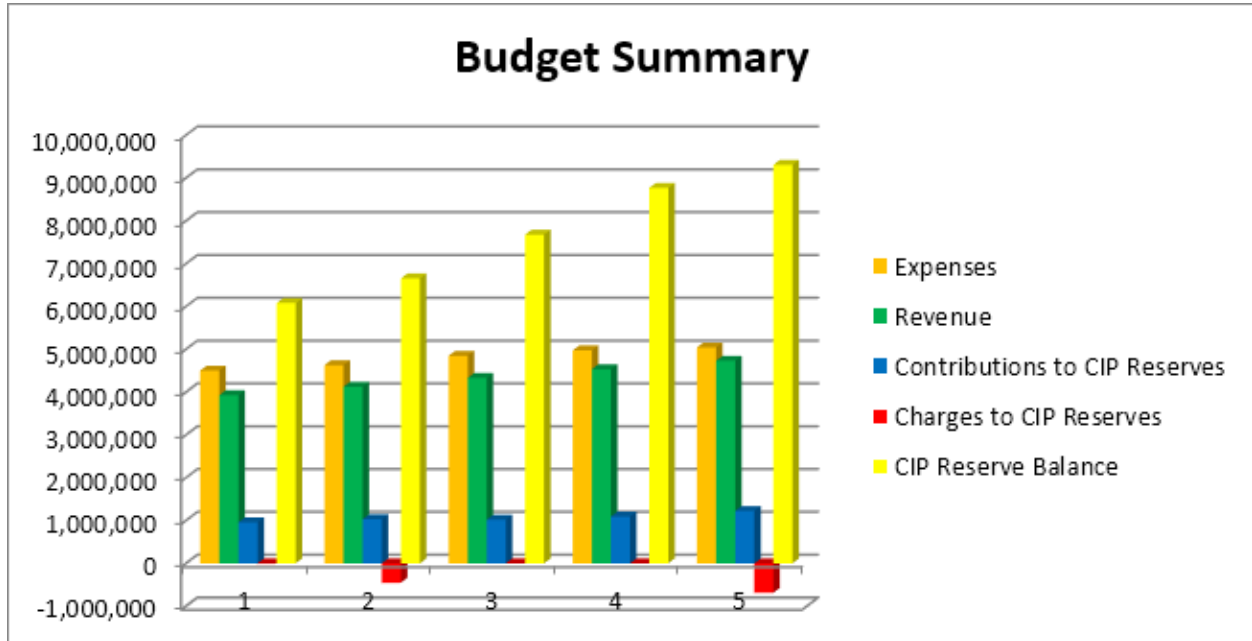
Using the rates in the yellow cells and a 5% rate increase for the next 5 years has the following consequences:

- Treated water customers will see a rate increase of 66% over 5 years.
- The average homeowner will pay about \$139.82 every two months, in the fifth year.
- Reserves are funded in a substantial way, but still 14% short of the target in the fifth year.
- A 15 year projection (not shown) estimates that reserve funds will be exhausted, unless rates are increased after the fifth year of this study.

The graph below shows the trends:

- Expenses (orange bar) grow at the rate of inflation
- Revenue (green bar) grows at 5% per year
- Contributions to reserves (blue bar) are enough to cover the planned capital replacements in year 5 and beyond.
- Charges to Reserves (red bar) are the replacement costs of certain assets, according to the CRP

- The Reserve Balance⁶ (yellow bar) is the total amount of all reserves, which is growing as expected.



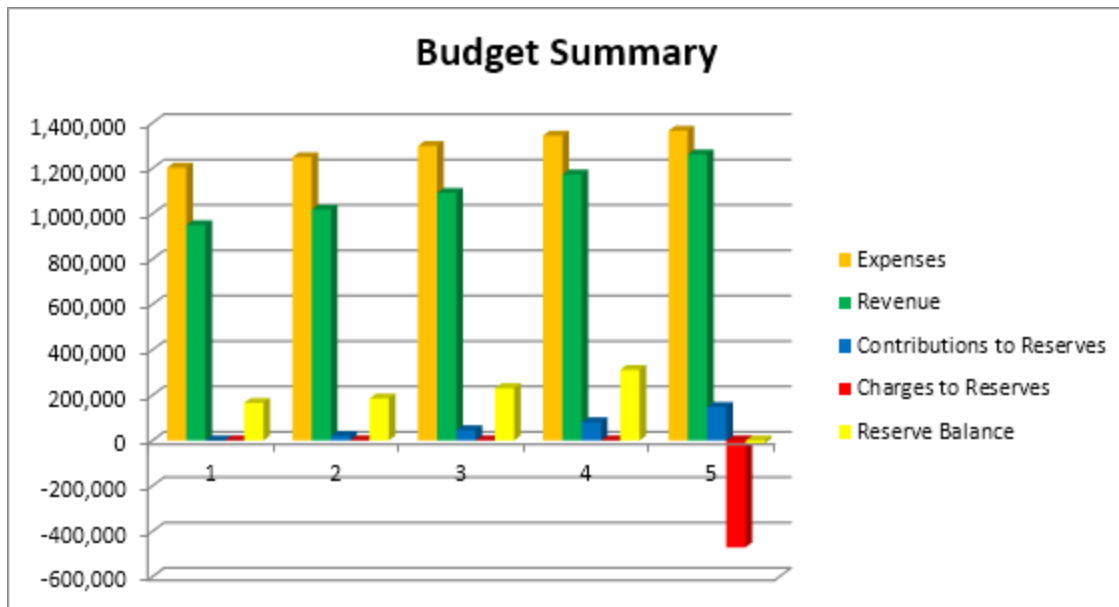
⁶ Total Reserves (Capital Replacement Reserves, Emergency Reserves, Debt Reserves, etc.)

New Irrigation Rates

Meter Size (MI)	Meter Size (metric)	Theoretical Seasonal Rate by MI	as % of Theoretical Rate	Proposed Base Charge for Year 1	Year 2	Year 3	Year 4	Year 5
Future Increases					10.0%	10.0%	10.0%	10.0%
1/2"	0.500	\$966	51%	\$493	\$542	\$596	\$656	\$721
1"	1.000	\$1,932	51%	\$986	\$1,084	\$1,192	\$1,312	\$1,443
1.5"	1.500	\$2,899	51%	\$1,478	\$1,626	\$1,789	\$1,968	\$2,164
2"	2.000	\$3,865	51%	\$1,971	\$2,168	\$2,385	\$2,623	\$2,886
2.5"	2.500	\$4,831	51%	\$2,464	\$2,710	\$2,981	\$3,279	\$3,607
3"	3.000	\$5,797	51%	\$2,957	\$3,252	\$3,577	\$3,935	\$4,329
3.5"	3.500	\$6,763	51%	\$3,449	\$3,794	\$4,174	\$4,591	\$5,050
4"	4.000	\$7,730	51%	\$3,942	\$4,336	\$4,770	\$5,247	\$5,772
5"	5.000	\$9,662	51%	\$4,928	\$5,420	\$5,962	\$6,559	\$7,214
6"	6.000	\$11,594	51%	\$5,913	\$6,504	\$7,155	\$7,870	\$8,657
7"	7.000	\$13,527	51%	\$6,899	\$7,588	\$8,347	\$9,182	\$10,100
8"	8.000	\$15,459	51%	\$7,884	\$8,673	\$9,540	\$10,494	\$11,543
9"	9.000	\$17,391	51%	\$8,870	\$9,757	\$10,732	\$11,805	\$12,986
10"	10.000	\$19,324	51%	\$9,855	\$10,841	\$11,925	\$13,117	\$14,429
12"	12.000	\$23,189	51%	\$11,826	\$13,009	\$14,310	\$15,741	\$17,315
15"	15.000	\$28,986	51%	\$14,783	\$16,261	\$17,887	\$19,676	\$21,643
16"	16.000	\$30,918	51%	\$15,768	\$17,345	\$19,080	\$20,988	\$23,086
18"	18.000	\$34,783	51%	\$17,739	\$19,513	\$21,464	\$23,611	\$25,972
20"	20.000	\$38,648	51%	\$19,710	\$21,681	\$23,849	\$26,234	\$28,858
25"	25.000	\$48,309	51%	\$24,638	\$27,102	\$29,812	\$32,793	\$36,072
30"	30.000	\$57,971	51%	\$29,565	\$32,522	\$35,774	\$39,352	\$43,287
40"	40.000	\$77,295	51%	\$39,421	\$43,363	\$47,699	\$52,469	\$57,716
43"	43.000	\$83,092	51%	\$42,377	\$46,615	\$51,276	\$56,404	\$62,044
Expenses from Budget				\$ 1,201,940	\$ 1,249,058	\$ 1,298,202	\$ 1,343,310	\$ 1,365,138
Income Generated by the Selected Rate				\$ 948,990	\$ 1,017,009	\$ 1,091,292	\$ 1,172,455	\$ 1,261,175
Net Gain or Loss (incl. reserve contributions)				-252,951	-232,049	-206,911	-170,855	-103,963
Are contributions to reserves enough?				No	No	No	No	No
Contributions to Reserve (Cashflow)				\$ (1,026)	\$ 19,876	\$ 45,014	\$ 81,070	\$ 147,962
Target Contribution to Reserve				\$ 251,925	\$ 251,925	\$ 251,925	\$ 251,925	\$ 251,925

Using the rates in the yellow cells and a 10% rate increase for the next 5 years has the following consequences:

- Rates increase for 1 Miner’s inch by 172%.
- This increase ONLY covers operating expenses and NO reserves.
- Rates must be adjusted in year 5 to cover planned capital replacements, or the replacements cannot be funded after the 5th year.



The graph above shows the trends:

- Expenses (orange bar) grow at the rate of inflation
- Revenue (green bar) grows at 10% per year
- Contributions to reserves (blue bar) are barely enough to cover the planned capital replacements in year 5.
- Charges to Reserves (red bar) are the replacement costs of certain assets, according to the CRP
- The Reserve Balance⁷ (yellow bar) is the total amount of all reserves, which will be completely exhausted by the fifth year.

B. Recommended Scenario

The differences between the Board Scenario and the Recommended Scenario are:

- Tax revenue is allocated based on need to keep irrigation customers' increase in the first year to around 109%, vs 197% for the Board Scenario.
- General and Administrative expenses are allocated between treated and irrigation customers, according to the number of customer in the recommended scenario, which is an acceptable "rule" for allocating expenses.

⁷ Total Reserves (Capital Replacement Reserves, Emergency Reserves, Debt Reserves, etc.)

Base Rate Calculation for Treated Water

Meter Size	Theoretical Base Rate by Meter Size, per 2M	Base Rate as % of Theoretical Rate	Existing Base Rate	Proposed Base Charge for Year 1	Year 2	Year 3	Year 4	Year 5
	Future Increases				5.0%	5.0%	5.0%	5.0%
5/8"	\$112.02	52%	\$47.14	\$ 58.81	\$61.75	\$64.84	\$68.08	\$71.48
3/4"	\$168.03	35%	\$47.14	\$ 58.81	\$61.75	\$64.84	\$68.08	\$71.48
1"	\$280.05	21%	\$47.14	\$ 58.81	\$61.75	\$64.84	\$68.08	\$71.48
1.5"	\$560.10	35%	\$47.14	\$ 196.04	\$205.84	\$216.13	\$226.94	\$238.29
2"	\$896.17	35%	\$47.14	\$ 313.66	\$329.34	\$345.81	\$363.10	\$381.26
3"	\$1,792.34	35%	\$47.14	\$ 627.32	\$658.68	\$691.61	\$726.19	\$762.50
4"	\$2,800.52	35%	\$50.32	\$ 980.18	\$1,029.19	\$1,080.65	\$1,134.68	\$1,191.41

Usage Rate Calculation

Tier	Bottom of Tier	Top of Tier	Year 1, per 100 CF	Year 2	Year 3	Year 4	Year 5	
	Future Increases			5.0%	5.0%	5.0%	5.0%	
1	-	999,999	\$2.5500	\$2.68	\$2.81	\$2.95	\$3.10	
Net Gain/Loss (incl. reserve contrib.)			-575,577	-503,979	-513,331	-440,641	-309,025	
Are contributions to res. enough?			No	No	No	No	No	
Contribution to res. (Cashflow)			957,026	1,028,624	1,019,272	1,091,962	1,223,578	
Affordability Index MH			46,700.00	1.40%	1.48%	1.57%	1.66%	1.74%
Project funding \$30.16/2 months				0.39%	0.39%	0.39%	0.39%	0.39%
Affordability of total rate				1.79%	1.87%	1.96%	2.05%	2.13%

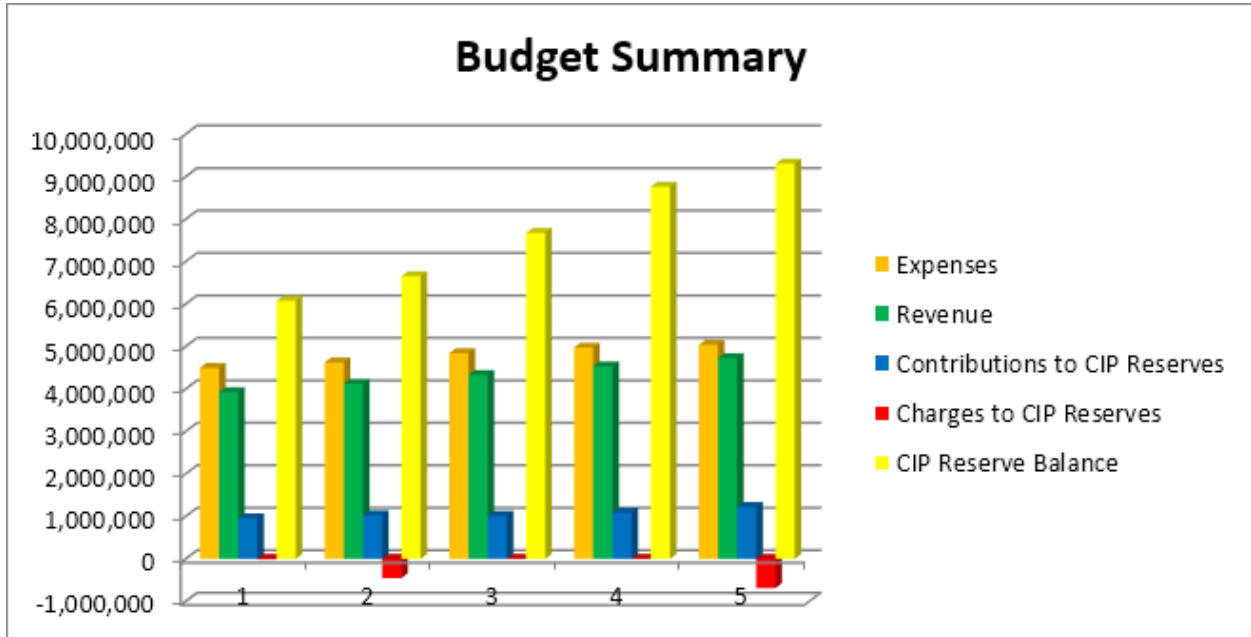
Using the rates in the yellow cells and a 5% rate increase for the next 5 years has the following consequences:

- Treated water customers will see a rate increase of 61% over 5 years. The average homeowner will pay about \$135.67 every two months, in the fifth year.
- Reserves are funded in a substantial way, but still 20% short of the target in the fifth year.
- A 15 year projection (not shown) estimates that reserve funds will be close to exhausted, unless rates are increased after the tenth year of this study.

The graph below shows the trends:

- Expenses (orange bar) grow at the rate of inflation
- Revenue (green bar) grows at 5% per year
- Contributions to reserves (blue bar) are enough to cover the planned capital replacements in year 5 and beyond.
- Charges to Reserves (red bar) are the replacement costs of certain assets, according to the CRP

- The Reserve Balance⁸ (yellow bar) is the total amount of all reserves, which is growing as expected.



⁸ Total Reserves (Capital Replacement Reserves, Emergency Reserves, Debt Reserves, etc.)

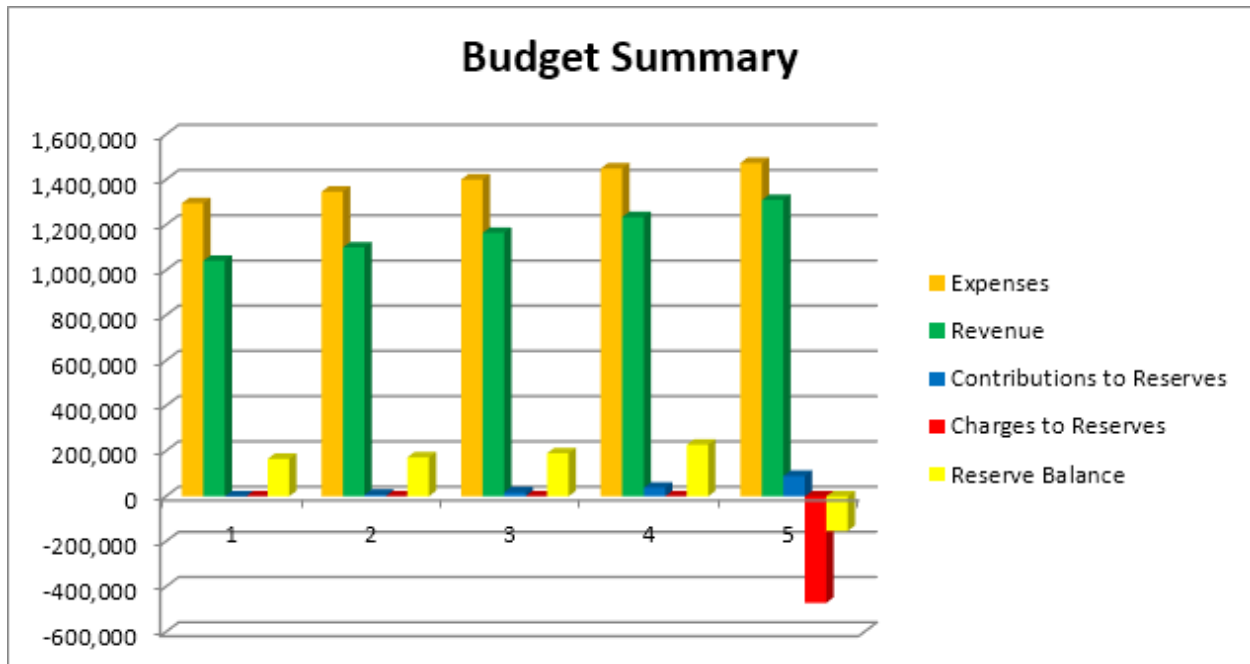
New Irrigation Rates

Meter Size (MI)	Meter Size (metric)	Theoretical Seasonal Rate by MI	% of Theoretical Rate	Proposed Base Charge for Year 1	Year 2	Year 3	Year 4	Year 5
Future Increases					10.0%	10.0%	10.0%	10.0%
1/2"	0.500	\$1,042	37%	\$385	\$424	\$466	\$513	\$564
1"	1.000	\$2,084	37%	\$771	\$848	\$933	\$1,026	\$1,129
1.5"	1.500	\$3,126	37%	\$1,156	\$1,272	\$1,399	\$1,539	\$1,693
2"	2.000	\$4,167	37%	\$1,542	\$1,696	\$1,866	\$2,052	\$2,258
2.5"	2.500	\$5,209	37%	\$1,927	\$2,120	\$2,332	\$2,565	\$2,822
3"	3.000	\$6,251	37%	\$2,313	\$2,544	\$2,799	\$3,078	\$3,386
3.5"	3.500	\$7,293	37%	\$2,698	\$2,968	\$3,265	\$3,592	\$3,951
4"	4.000	\$8,335	37%	\$3,084	\$3,392	\$3,731	\$4,105	\$4,515
5"	5.000	\$10,419	37%	\$3,855	\$4,240	\$4,664	\$5,131	\$5,644
6"	6.000	\$12,502	37%	\$4,626	\$5,088	\$5,597	\$6,157	\$6,773
7"	7.000	\$14,586	37%	\$5,397	\$5,936	\$6,530	\$7,183	\$7,901
8"	8.000	\$16,670	37%	\$6,168	\$6,785	\$7,463	\$8,209	\$9,030
9"	9.000	\$18,753	37%	\$6,939	\$7,633	\$8,396	\$9,235	\$10,159
10"	10.000	\$20,837	37%	\$7,710	\$8,481	\$9,329	\$10,262	\$11,288
12"	12.000	\$25,004	37%	\$9,252	\$10,177	\$11,194	\$12,314	\$13,545
15"	15.000	\$31,256	37%	\$11,565	\$12,721	\$13,993	\$15,392	\$16,932
16"	16.000	\$33,339	37%	\$12,336	\$13,569	\$14,926	\$16,419	\$18,060
18"	18.000	\$37,507	37%	\$13,877	\$15,265	\$16,792	\$18,471	\$20,318
20"	20.000	\$41,674	37%	\$15,419	\$16,961	\$18,657	\$20,523	\$22,576
25"	25.000	\$52,093	37%	\$19,274	\$21,202	\$23,322	\$25,654	\$28,219
30"	30.000	\$62,511	37%	\$23,129	\$25,442	\$27,986	\$30,785	\$33,863
40"	40.000	\$83,348	37%	\$30,839	\$33,923	\$37,315	\$41,046	\$45,151
43"	43.000	\$89,599	37%	\$33,152	\$36,467	\$40,114	\$44,125	\$48,537

Expenses from Budget	\$ 1,296,062	\$ 1,347,227	\$ 1,400,629	\$ 1,450,035	\$ 1,473,966
Income Generated by the Selected Rate	\$ 1,041,543	\$ 1,100,737	\$ 1,164,952	\$ 1,234,671	\$ 1,310,426
Net Gain or Loss (incl. reserve contributions)	-254,519	-246,490	-235,677	-215,364	-163,540
Are contributions to reserves enough?	No	No	No	No	No
Contributions to Reserve (Cashflow)	\$ (1,054)	\$ 6,975	\$ 17,788	\$ 38,101	\$ 89,924
Target Contribution to Reserve	\$ 253,465	\$ 253,465	\$ 253,465	\$ 253,465	\$ 253,465

Using the rates in the yellow cells and a 10% rate increase for the next 5 years has the following consequences:

- Rates increase for 1 Miner’s inch by 109%, from \$363.70 to \$771.00 for the season.
- This increase ONLY covers operating expenses and NO reserves.
- Rates must be adjusted in year 5 to cover planned capital replacements, or the replacements cannot be funded after the 5th year.



The graph above shows the trends:

- Expenses (orange bar) grow at the rate of inflation
- Revenue (green bar) grows at 10% per year
- Contributions to reserves (blue bar) are not enough to cover the planned capital replacements in year 5.
- Charges to Reserves (red bar) are the replacement costs of certain assets, according to the CRP
- The Reserve Balance⁹ (yellow bar) is the total amount of all reserves, which will be completely exhausted by the fifth year.

C. Discussion of Scenarios

We prefer the Recommended Scenario because:

- Tax revenue is allocated based on need to keep irrigation customers' increase in the first year to 109%, vs 197% for the Board Scenario.
- General and Administrative expenses are allocated between treated and irrigation customers, according to the number of customer in the recommended scenario, which is an acceptable "rule" for allocating expenses.
- In both cases, rates for irrigation customers will have to be reviewed in 4-5 years.
- The increase in rates for both treated and irrigation customers are lower under the recommended scenario.

The table below shows the differences in the rates for the first year.

⁹ Total Reserves (Capital Replacement Reserves, Emergency Reserves, Debt Reserves, etc.)

Bi-Monthly Base Rate for Treated Water in first year			
		Board	Recommended
	Current	F	G
5/8"	\$47.14	\$68.43	\$58.81
3/4"	\$47.14	\$68.43	\$58.81
1"	\$47.14	\$68.43	\$58.81
1.5"	\$47.14	\$228.12	\$196.04
2"	\$47.14	\$364.98	\$313.66
3"	\$47.14	\$729.97	\$627.32
4"	\$50.32	\$1,140.58	\$980.18
Usage per 100CF of Treated Water in first year			
All	\$1.38-\$2.21	\$2.25	\$2.55
Average Treated Water Bi-Monthly Bill for 5/8" meter in first year, for 2100 CF			
	84.18	112.7	108.98
	% Increase	34%	29%
Seasonal rate for 1 MI of Irrigation Water in first year			
1 MI	\$363.70	\$986.00	\$771.00
	% Increase	171%	112%

7. Next Step

Start the process

The District must follow Proposition 218 (Exhibit 3) in implementing the water rates. The Board must have a hearing and pass a resolution that includes:

1. The selected rates
2. Approve of the wording of the Prop 218 Notice (Sample in Exhibit 6 and emailed to the GM for editing. Make sure the Public Notice reflects the rates, tiers and fees approved by the Board).
3. Set a date for the Notices to be mailed to all the **property owners and renters** within the District. (No need to send them registered mail. Send the Notices to all "property owners of record". Your County Tax Collector or Assessor can provide you with a list of addresses and address labels.)
4. Set a due date for the protest votes to be received, at least 45 days after the Notices are mailed.
5. At the second meeting, the Board must plan to take testimony. You may want to set multiple hearing dates or "educational meetings¹⁰" to explain the rate increases to the public.

¹⁰ "Hearings" imply the presence of the Board and require an agenda and the appropriate notices. "Education Meetings" can be presented by staff, without the presence of Board members or an agenda.

6. Set an effective date for the proposed rates and fees.

Hearing

At the due date of the protest votes, tally the protest votes. If **more** than half of the parcel owners protest (one vote per parcel); then the Board cannot adopt the rates proposed in step 1, but must

- keep the rates unchanged
- or repeat the process starting with step 1

If **less** than half of the property owners protest, the Board can adopt the rates and fees. At that time in the process, the Board can only accept or reject the proposed rates and fees—they cannot change¹¹ them (unless steps 1-6 are repeated.)

Implementation

The rate structure proposed in this model can be implemented through the District’s billing system.

Policies must be put in place to

- set up the appropriate reserve accounts: emergency and capital
- fund the reserves from revenue
- access the accounts
- define the circumstances under which funds can be withdrawn

The Board should also commit to a new rate study within 4 years, to extend rate increases beyond the 5 years, Prop 218 allows us to set rates for.

Finally, the Board should commit to create a subsidy program for low-income customers.

¹¹ Neither raise nor lower them.

8. Exhibits

Exhibit 1T: Capital Replacement Program Treated Water (Same for either scenario)

Exhibit 1I: Capital Replacement Program Irrigation Water (Same for either scenario)

Exhibit 2T: Budget Treated Water (Board)

Exhibit 2I: Budget Irrigation Water (Board)

Exhibit 3T: Budget Treated Water (Recommended)

Exhibit 3I: Budget Irrigation Water (recommended)

Exhibit 4: Cash & Investment Split (Same for either scenario)

Exhibit 5: Prop 218 Text

Exhibit 6: Notice Document

Capital Replacement Program

Georgetown Divide PUD TW

Date: 10/20/17

System Number: 910013

Service Connections: 3774

Exhibit 11

Qty	Component	Year Acquired	Unit Cost (Historic, Current or Future)	Cost Type (H, C, F)	Estimated Historic Cost	Normal Estimated Life	Current Age	Estimated Current Cost	Planned Remaining Life	Estimated Remaining Life	Estimated Future Cost	Fund with Cash	Fund with Grant	Fund with Loan	Existing Reserves	Annual Reserve Required
Existing Capital Replacement Program																
SOURCE OF SUPPLY PLANT #5100																
1	Mark Edison Dam & Slumpy Meadows Res.	1962	\$106,333	H	\$106,333	100	55	\$315,993	45	50	\$850,524	10%	50%	40%	\$0	\$1,072
1	Tunnel Hill Tunnel	1962	\$22,577	H	\$22,577	100	55	\$67,092	45	46	\$166,881	25%	20%	55%	\$6,076	\$586
1	Kaiser Siphon Replacement (1)	1964	\$83,961	C	\$83,961	100	53	\$83,961	47	46	\$208,778	25%	20%	55%	\$7,603	\$734
1	Sand Trap Siphon (1)	1964	\$34,125	C	\$34,125	100	53	\$34,125	47	48	\$88,284	50%	50%	50%	\$6,430	\$587
1	Up. Country Ditch Imp (Pilot Ck Diversion to Tunnell Hill Inlet) (1)	1964	\$424,830	C	\$424,830	100	53	\$424,830	47	56	\$1,287,731	10%	50%	40%	\$18,758	\$1,392
1	5200 SHARED														\$0	
1	Cabin Waste Gate Replacement (1)	1972	\$6,300	C	\$6,300	40	46	\$6,300	-5	20	\$9,361	100%		0%	\$1,364	\$357
1	Bacon Creek Pipe (1)	1964	\$18,363	C	\$18,363	40	53	\$53,576	-13	20	\$79,611	50%		50%	\$5,798	\$1,518
1	Buckeye Conduit (1)	1964	\$94,461	C	\$94,461	40	53	\$84,461	-13	20	\$140,364	25%		75%	\$5,112	\$1,338
1	Up. Country Ditch (Penn Stock Bypass to Schroeder Conduit) (1)	1964	\$156,056	C	\$53,489	40	53	\$156,056	-13	5	\$172,289	25%		75%	\$6,275	\$7,189
1	Main Ditch #1 Imp (1)	1964	\$433,821	C	\$148,694	40	53	\$433,821	-13	5	\$478,973	10%	50%	40%	\$6,977	\$7,994
1	Main Ditch #2 to ALT (1)	1964	\$101,194	C	\$34,685	40	53	\$101,194	-13	5	\$111,726	25%		75%	\$4,069	\$4,662
1	5200 IRRIGATION ONLY (1)														\$0	
1	Main Ditch #2 below ALT	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0
1	Pilot Hill Ditch (Main)	1964	\$0	C	\$0	40	53	\$0	-13	10		50%		50%	\$0	\$0
1	Pilot Hill Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0
1	Kelsey Ditch #1	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0
1	Kelsey Ditch #2 Imp	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0
1	Spanish Dry Diggins Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		100%		0%	\$0	\$0
1	Taylor Mine Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		100%		0%	\$0	\$0
1	5300 - Lake Walton WTP														\$0	
1	Lake Walton Plant Replacement (4)	1992	\$12,728,909	C	\$7,681,448	50	25	\$12,728,909	25	25	\$20,883,124	25%		75%	\$760,506	\$154,431
1	Raw Water Bypass (1)	1974	\$500,000	C	\$209,745	40	43	\$500,000	-3	19	\$728,406	25%		75%	\$26,527	\$7,354
1	Lake Walton Outlet Works (1)	1974	\$50,000	C	\$20,874	40	43	\$50,000	-3	19	\$72,841	100%		0%	\$10,611	\$2,942
1	Lake Walton Dredging (1)	1974	\$500,000	C	\$301,732	40	25	\$500,000	15	22	\$772,960	25%		75%	\$28,150	\$6,617
1	5300 - AUBURN LAKE TRAILS PLANT														\$0	
1	ALT Water Treatment Plant (4)	2018	\$12,728,909	C	\$12,988,683	50	-1	\$12,728,909	51	59	\$40,945,042	25%		75%	\$1,491,105	\$102,887
1	5400 T & D METERS & METER BOXES														\$0	
1	Automated Meter Reading and Meter Replacement Project (5)	2018	\$1,745,800	C	\$1,781,429	20	-1	\$1,745,800	21	2	\$1,816,330	25%		75%	\$66,146	\$192,839
1	T & D TREATED WATER #5400 (2)														\$0	
1	Argei Camp Tank (0.5 MG)	1974	\$76,602	C	\$325,777	40	43	\$76,602	-3	10	\$946,674	25%		75%	\$34,475	\$19,174
1	Deer Ravine Tank (0.25 MG)	1974	\$88,301	C	\$162,888	40	43	\$88,301	-3	10	\$473,357	50%		50%	\$34,475	\$19,174
1	Pilot Hill Tank (0.47 MG)	1974	\$730,006	C	\$306,230	40	43	\$730,006	-3	10	\$889,873	25%		75%	\$32,407	\$18,023
1	Black Ridge Road Tank (0.06 MG)	1974	\$93,192	C	\$89,093	40	43	\$93,192	-3	10	\$113,601	75%		25%	\$12,411	\$6,903
1	Hotchkiss Hill Tank (0.06 MG)	1974	\$93,192	C	\$89,093	40	43	\$93,192	-3	10	\$113,601	75%		25%	\$12,411	\$6,903
1	Spanish Dry Diggins Tank (0.2 MG)	1971	\$310,641	C	\$122,647	40	46	\$310,641	-6	10	\$378,670	50%		50%	\$27,580	\$15,339

GENERAL PLANT (3)													
1	Office Building	1976	\$137,335	H	\$137,335	40	41	\$309,307	-1	15	\$416,286	25%	\$0
1	Chip, Seal Parking Lot	1985	\$2,953	H	\$2,953	10	32	\$5,565	-22	1	\$5,677	100%	\$0
1	Yard Fence	1986	\$3,088	H	\$3,088	10	31	\$5,704	-21	5	\$6,298	100%	\$0
1	Generator & Electrical	1986	\$2,210	H	\$2,210	20	31	\$4,084	-11	5		100%	\$0
1	Gas Heat/Air System	1987	\$1,650	H	\$1,650	20	30	\$2,989	-10	5		100%	\$0
1	Rheem Cooling & Heating Unit	1989	\$1,751	H	\$1,751	20	28	\$3,048	-8	5		100%	\$0
1	Metal Building	1990	\$5,811	H	\$5,811	20	27	\$9,918	-7	5	\$10,950	100%	\$1,595
1	Office & Shop Privacy Fence	2004	\$6,080	H	\$6,080	10	13	\$7,865	-3	5	\$8,663	100%	\$1,265
1	Hanglow Fence - Add'l Ground Fencing	2006	\$4,895	H	\$4,895	10	11	\$6,086	-1	5	\$6,720	100%	\$979
1	Carpet Replacement	2007	\$3,724	H	\$3,724	7	10	\$4,540	-3	5	\$5,012	100%	\$720
1	Partial Re-roof of Main Maintenance Building	2016	\$3,088	H	\$3,088	30	1	\$3,149	29	30	\$5,704	100%	\$831
OFFICE EQUIPMENT (3)													
1	Computer Network	2001	\$3,254	H	\$3,254	10	16	\$4,468	-6	5		100%	\$0
1	Canon Copier	2002	\$4,795	H	\$4,795	10	15	\$6,454	-5	5	\$7,125	100%	\$1,038
1	Phone System (Equip.&Software)	2002	\$4,744	H	\$4,744	3	15	\$6,385	-12	5	\$7,049	100%	\$1,027
1	Dell Server & software	2005	\$2,185	H	\$2,185	3	12	\$2,771	-9	5		100%	\$0
1	15 DELL Computers	2007	\$4,637	H	\$4,637	5	10	\$5,652	-5	5	\$6,240	100%	\$909
DISTRIBUTION (3)													
38	Pressure Reducing Valves	1987	\$2,455	H	\$3,278	40	30	\$168,960	10	10	\$205,961	50%	\$15,001
172	Air Relief Valves	1987	\$709	H	\$121,970	40	30	\$220,932	10	10	\$269,315	50%	\$19,615
422	Isolation Valves	1987	\$2,291	H	\$966,816	40	30	\$1,751,254	10	10	\$2,134,769	25%	\$77,742
247	Other Valves	1987	\$2,018	H	\$498,518	40	30	\$902,997	10	10	\$1,100,748	25%	\$40,086
581	Firehydrants	1987	\$3,273	H	\$1,901,558	60	30	\$3,444,410	30	35	\$6,888,439	25%	\$250,858
20	Pressure Reducing Valves	2017	\$5,000	C	\$100,000	40	0	\$100,000	40	40	\$220,804	50%	\$16,082
Subtotal Existing Capital Assets											\$135,559,165	26%	\$5,118,046
											\$0	73%	\$1,544,028

Capital Replacement Program

Georgetown Divide PUD IW

Exhibit 11

Date: 10/20/17

System Number: 910013

Service Connections: 408

Qty	Component	Year Acquired	Unit Cost (Historic, Current or Future)	Cost Type (H, C, F)	Estimated Historic Cost	Normal Estimated Life	Current Age	Estimated Current Cost	Planned Remaining Life	Estimated Remaining Life	Estimated Future Cost	Fund with Cash Grant	Fund with Loan	Existing Reserves	Annual Reserve Required
Existing Capital Replacement Program															
	SOURCE OF SUPPLY PLANT #5100														
1	Mark Edison Dam & Stumpy Meadows Res.	1962	\$400,015	H	\$400,015	100	55	\$1,188,737	45	50	\$3,199,689	10%	50%	\$0	\$4,664
1	Tunnel Hill Tunnel	1962	\$84,931	H	\$84,931	100	55	\$252,383	45	46	\$627,604	25%	20%	\$15,980	\$2,543
1	Kaiser Siphon Replacement (1)	1964	\$315,852	C	\$108,259	100	53	\$315,852	47	46	\$785,402	25%	20%	\$9,193	\$3,183
1	Sand Trap Siphon (1)	1964	\$128,375	C	\$44,001	100	53	\$128,375	47	48	\$332,115	50%	50%	\$7,775	\$2,550
1	Up Country Ditch Imp (Pilot Ck Diversion to Tunnel Hill Inlet) (1)	1964	\$1,598,171	C	\$547,779	100	53	\$1,598,171	47	56	\$4,844,320	10%	50%	\$2,681	\$6,090
														\$0	
														\$0	
	5200 SHARED													\$0	
1	Cabin Waste Gate Replacement (1)	1972	\$23,700	C	\$9,548	40	45	\$23,700	-5	20	\$35,217	100%		\$0	\$1,649
1	Bacon Creek Pipe (1)	1964	\$201,549	C	\$69,082	40	53	\$201,549	-13	20	\$299,491	50%	50%	\$7,011	\$6,450
1	Buckeye Conduit (1)	1964	\$355,352	C	\$121,798	40	53	\$355,352	-13	20	\$528,035	25%	75%	\$6,180	\$5,686
1	Up Country Ditch (Penn Stock Bypass to Schroeder Conduit) (1)	1964	\$587,070	C	\$201,220	40	53	\$587,070	-13	5	\$648,172	25%	75%	\$7,587	\$30,250
1	Main Ditch #1 Imp (1)	1964	\$1,631,992	C	\$559,371	40	53	\$1,631,992	-13	5	\$1,801,651	10%	50%	\$8,436	\$35,636
1	Main Ditch #2 to ALT (1)	1964	\$380,682	C	\$130,480	40	53	\$380,682	-13	5	\$420,304	25%	75%	\$4,920	\$19,615
														\$0	
														\$0	
	5200 IRRIGATION ONLY (1)													\$0	
1	Main Ditch #2 below ALT	1964	\$663,376	C	\$227,375	40	53	\$663,376	-13	10	\$808,652	25%	75%	\$9,465	\$18,377
1	Pilot Hill Ditch (Main)	1964	\$429,126	C	\$147,084	40	53	\$429,126	-13	10	\$523,102	50%	50%	\$12,246	\$23,775
1	Pilot Hill Ditch	1964	\$1,070,876	C	\$367,047	40	53	\$1,070,876	-13	10	\$1,305,392	25%	75%	\$15,279	\$29,665
1	Kelsey Ditch #1	1964	\$571,625	C	\$195,927	40	53	\$571,625	-13	10	\$686,808	25%	75%	\$8,156	\$15,835
1	Kelsey Ditch #2 Imp	1964	\$1,112,665	C	\$381,336	40	53	\$1,112,665	-13	10	\$1,356,211	25%	75%	\$15,874	\$30,820
1	Spanish Dry Diggins Ditch	1964	\$37,375	C	\$12,810	40	53	\$37,375	-13	10	\$45,560	100%	0%	\$2,133	\$4,141
1	Taylor Mine Ditch	1964	\$36,563	C	\$12,532	40	53	\$36,563	-13	10	\$44,570	100%	0%	\$2,087	\$4,051
														\$0	
														\$0	
	5300 - Lake Walton WTP													\$0	
0	Lake Walton Plant Replacement (4)	1992	\$0	C	\$0	50	25	\$0	25	25	\$0	25%	75%	\$0	\$0
0	Raw Water Bypass (1)	1974	\$0	C	\$0	40	43	\$0	-3	19	\$0	25%	75%	\$0	\$0
0	Lake Walton Outlet Works (1)	1974	\$0	C	\$0	40	43	\$0	-3	19	\$0	100%	0%	\$0	\$0
0	Lake Walton Dredging (1)	1974	\$0	C	\$0	40	25	\$0	15	22	\$0	25%	75%	\$0	\$0
														\$0	
	5300 - AUBURN LAKE TRAILS PLANT													\$0	
0	ALT Water Treatment Plant (4)	2018	\$0	C	\$0	50	-1	\$0	51	59	\$0	25%	75%	\$0	\$0
														\$0	
														\$0	
	5400 T & D METERS & METER BOXES													\$0	
0	Automated Meter Reading and Meter Replacement Project (5)	2018	\$0	C	\$0	20	-1	\$0	21	2	\$0	25%	75%	\$0	\$0
														\$0	
														\$0	
	T & D TREATED WATER #5400 (2)													\$0	
0	Angel Camp Tank (0.5 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10	\$0	25%	75%	\$0	\$0
0	Deer Ravine Tank (0.25 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10	\$0	50%	50%	\$0	\$0
0	Pilot Hill Tank (0.47 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10	\$0	25%	75%	\$0	\$0
0	Black Ridge Road Tank (0.06 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10	\$0	75%	25%	\$0	\$0
0	Holchless Hill Tank (0.06 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10	\$0	75%	25%	\$0	\$0

Five Year Forecasted Budget

Georgetown Divide PUD TW

No Admin

Date: 10/20/17

Exhibit 2T

Inflation Factor (%): 2.00

System Number: 910013

EXPENSES AND SOURCES OF FUNDS	2017	2018	2019	2020	2021
OPERATIONS & MAINTENANCE EXPENSES					
Personnel Related	1,532,146.01	1,596,007.14	1,663,530.07	1,727,504.03	1,762,054.11
Materials and Supplies	147,315.56	154,681.34	162,415.40	170,536.17	173,946.90
Rental/Durable	9,191.05	9,650.60	10,133.13	10,639.79	10,852.58
Staff Development	5,655.44	5,938.21	6,235.12	6,546.88	6,677.82
Travel--Conference	2,000.00	2,100.00	2,205.00	2,315.25	2,361.56
Utilities	167,485.44	175,859.71	184,652.69	193,885.33	197,763.03
Vehicle & Equipment Maintenance	2,627.81	2,759.20	2,897.16	3,042.02	3,102.86
Vehicle Operations	20,484.03	21,508.23	22,583.64	23,712.82	24,187.08
Building Maintenance	1,000.00	1,050.00	1,102.50	1,157.63	1,180.78
Govt. Reg./Lab Fees	53,700.85	56,385.90	59,205.19	62,165.45	63,408.76
Outside Service/Consultants	22,721.92	23,858.01	25,050.91	26,303.46	26,829.53
		0.00	0.00	0.00	0.00
Total Operation and Maintenance Expenses:	1,964,328.11	2,049,798.34	2,140,010.83	2,227,808.82	2,272,365.00
GENERAL & ADMINISTRATIVE EXPENSES					
Low Income Subsidy	35,000.00	35,700.00	36,414.00	37,142.28	37,885.13
Debt Reserve	0.00	0.00	0.00	0.00	0.00
Operating Reserve	0.00	0.00	0.00	0.00	0.00
Emergency Reserve	0.00	0.00	0.00	0.00	0.00
Existing Capital Replacement Program	1,532,603.28	1,528,353.70	1,359,521.48	1,359,521.48	1,359,521.48
Funded Project Replacement Program	0.00	0.00	0.00	0.00	0.00
Future Capital Improvement Program	0.00	0.00	0.00	0.00	0.00
Debt Payments (Principle + Interest)	59,348.26	59,348.26	144,112.12	144,112.12	144,112.12
Legal, Audit, Insurance,	35,558.69	37,336.62	39,203.45	41,163.63	41,986.90
Other General & Administrative	17,985.74	18,885.02	19,829.27	20,820.74	21,237.15
Total General and Administrative Expenses:	1,680,495.97	1,679,623.61	1,599,080.33	1,602,760.25	1,604,742.78
TOTAL EXPENSES	3,644,824.07	3,729,421.95	3,739,091.16	3,830,569.07	3,877,107.78
SOURCE OF FUNDS / REVENUES RECEIVED					
Water Revenue	2,753,457.25	2,916,226.12	3,088,228.77	3,256,361.53	3,419,141.54
Property Tax	0.00	0.00	0.00	0.00	0.00
SMUD, Hydro, Leases, Interest, etc	293,300.00	299,166.00	305,149.32	311,252.31	317,477.35
Hydro	-60,000.00	-61,200.00	-62,424.00	-63,672.48	-64,945.93
Capital Facility Charges	10,000.00	10,200.00	10,404.00	10,612.08	10,824.32
		0.00	0.00	0.00	0.00
TOTAL REVENUE (Lines 29 through 37):	2,996,757.25	3,164,392.12	3,341,358.09	3,514,553.43	3,682,497.29
NET LOSS OR GAIN:	-648,066.82	-565,029.83	-397,733.07	-316,015.64	-194,610.49
NET CASH FLOW (Contribution to Reserves)	884,536.46	963,323.87	961,788.40	1,043,505.84	1,164,910.98

Cash Budget**Georgetown Divide PUD IW**

Date: 10/20/17

Exhibit 21

Inflation Factor (%): 2.00

System Number: 910013

EXPENSES AND SOURCES OF FUNDS	2017	2018	2019	2020	2021
OPERATIONS & MAINTENANCE EXPENSES					
Personnel Related	790,287.84	829,470.96	871,328.64	907,688.96	925,842.74
Materials and Supplies	28,784.44	30,223.66	31,734.85	33,321.59	33,988.02
Rental/Durable	15,808.95	16,599.40	17,429.37	18,300.84	18,666.86
Staff Development	1,932.64	2,029.27	2,130.73	2,237.27	2,282.02
Travel--Conference	0.00	0.00	0.00	0.00	0.00
Utilities	8,191.32	8,600.88	9,030.92	9,482.47	9,672.12
Vehicle & Equipment Maintenance	2,372.19	2,490.80	2,615.34	2,746.10	2,801.02
Vehicle Operations	15,015.97	15,766.77	16,555.11	17,382.87	17,730.53
Building Maintenance	0.00	0.00	0.00	0.00	0.00
Govt. Reg./Lab Fees	27,199.15	28,559.10	29,987.06	31,486.41	32,116.14
Outside Service/Consultants	29,578.08	31,056.99	32,609.84	34,240.33	34,925.13
		0.00	0.00	0.00	0.00
Total Operation and Maintenance Expenses:	919,170.58	964,797.84	1,013,421.86	1,056,886.84	1,078,024.58
GENERAL & ADMINISTRATIVE EXPENSES					
					0.00
Debt Reserve	0.00	0.00	0.00	0.00	0.00
Operating Reserve	1,753.04	1,753.04	1,753.04	1,753.04	1,753.04
Emergency Reserve	0.00	0.00	0.00	0.00	0.00
Existing Capital Replacement Program	250,172.04	250,172.04	250,172.04	250,172.04	250,172.04
Funded Project Replacement Program	0.00	0.00	0.00	0.00	0.00
Future Capital Improvement Program	0.00	0.00	0.00	0.00	0.00
Debt Payments (Principle + Interest)	1,043.74	1,043.74	0.00	0.00	0.00
Legal, Audit, Insurance,	15,726.75	16,513.09	17,338.74	18,205.68	18,569.79
Other General & Administrative	14,074.21	14,777.92	15,516.82	16,292.66	16,618.51
Total General and Administrative Expenses:	282,769.78	284,259.82	284,780.63	286,423.41	287,113.38
TOTAL EXPENSES	1,201,940.36	1,249,057.66	1,298,202.50	1,343,310.26	1,365,137.96
SOURCE OF FUNDS / REVENUES RECEIVED					
Water Revenue	612,989.58	674,288.54	741,717.39	815,889.13	897,478.05
Property Tax	336,000.00	342,720.00	349,574.40	356,565.89	363,697.21
		0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00
TOTAL REVENUE (Lines 29 through 37):	948,989.58	1,017,008.54	1,091,291.79	1,172,455.02	1,261,175.25
NET LOSS OR GAIN:	-252,950.77	-232,049.12	-206,910.70	-170,855.23	-103,962.71
NET CASH FLOW (Contribution to Reserves)	-1,025.70	19,875.95	45,014.37	81,069.84	147,962.37

Cash Budget**Georgetown Divide PUD TW**

Date: 10/20/17

Exhibit 3T

Inflation Factor (%): 2.00

System Number: 910013

EXPENSES AND SOURCES OF FUNDS	2017	2018	2019	2020	2021
OPERATIONS & MAINTENANCE EXPENSES					
Personnel Related	2,032,357.05	2,115,849.60	2,204,051.75	2,288,147.45	2,333,910.39
Materials and Supplies	147,315.56	154,681.34	162,415.40	170,536.17	173,946.90
Rental/Durable	9,191.05	9,650.60	10,133.13	10,639.79	10,852.58
Staff Development	8,614.04	9,044.74	9,496.98	9,971.83	10,171.26
Travel--Conference	8,163.75	8,571.93	9,000.53	9,450.56	9,639.57
Utilities	181,660.27	190,743.28	200,280.45	210,294.47	214,500.36
Vehicle & Equipment Maintenance	2,627.81	2,759.20	2,897.16	3,042.02	3,102.86
Vehicle Operations	20,484.03	21,508.23	22,583.64	23,712.82	24,187.08
Building Maintenance	7,074.42	7,428.14	7,799.55	8,189.52	8,353.31
Govt. Reg./Lab Fees	56,059.16	58,862.11	61,805.22	64,895.48	66,193.39
Outside Service/Consultants	60,474.78	63,498.52	66,673.45	70,007.12	71,407.26
Low Income Fund	35,000.00	35,000.00	35,000.00	35,000.00	35,000.00
Total Operation and Maintenance Expenses:	2,569,021.91	2,677,597.69	2,792,137.25	2,903,887.22	2,961,264.97
GENERAL & ADMINISTRATIVE EXPENSES					
Retiree Health Premium	97,190.68	102,050.22	107,152.73	112,510.37	114,760.57
Debt Reserve	0.00	0.00	0.00	0.00	0.00
Operating Reserve	0.00	0.00	0.00	0.00	0.00
Emergency Reserve	0.00	0.00	0.00	0.00	0.00
Existing Capital Replacement Program	1,532,603.00	1,532,603.00	1,532,603.00	1,532,603.00	1,532,603.00
Funded Project Replacement Program	0.00	0.00	0.00	0.00	0.00
Future Capital Improvement Program	0.00	0.00	0.00	0.00	0.00
Debt Payments (Principle + Interest)	59,348.26	59,348.26	144,112.12	144,112.12	144,112.12
Legal, Audit, Insurance,	131,891.81	138,486.40	145,410.72	152,681.25	155,734.88
Other General & Administrative	111,153.73	116,711.41	122,546.98	128,674.33	131,247.82
Total General and Administrative Expenses:	1,932,187.48	1,949,199.29	2,051,825.55	2,070,581.08	2,078,458.39
TOTAL EXPENSES	4,501,209.39	4,626,796.98	4,843,962.80	4,974,468.30	5,039,723.36
SOURCE OF FUNDS / REVENUES RECEIVED					
Water Revenue	2,676,332.82	2,838,471.64	3,010,237.50	3,176,352.03	3,335,080.67
Property Tax	1,006,000.00	1,036,180.00	1,067,265.40	1,099,283.36	1,132,261.86
SMUD, Hydro, Leases, Interest, etc	293,300.00	299,166.00	305,149.32	311,252.31	317,477.35
Hydro	-60,000.00	-61,200.00	-62,424.00	-63,672.48	-64,945.93
Capital Facilities Charge	10,000.00	10,200.00	10,404.00	10,612.08	10,824.32
		0.00	0.00	0.00	0.00
TOTAL REVENUE (Lines 29 through 37):	3,925,632.82	4,122,817.64	4,330,632.22	4,533,827.30	4,730,698.28
NET LOSS OR GAIN:	-575,576.56	-503,979.34	-513,330.59	-440,641.00	-309,025.08
NET CASH FLOW (Contribution to Reserves)	957,026.44	1,028,623.66	1,019,272.41	1,091,962.00	1,223,577.92

Cash Budget
Georgetown Divide PUD IW

Date: 10/20/17

Exhibit 3I

Inflation Factor (%): 2.00

System Number: 910013

EXPENSES AND SOURCES OF FUNDS	2017	2018	2019	2020	2021
OPERATIONS & MAINTENANCE EXPENSES					
Personnel Related	844,364.71	885,670.15	929,763.42	968,299.06	987,665.04
Materials and Supplies	28,784.44	30,223.66	31,734.85	33,321.59	33,988.02
Rental/Durable	15,808.95	16,599.40	17,429.37	18,300.84	18,666.86
Staff Development	2,252.49	2,365.11	2,483.37	2,607.54	2,659.69
Travel--Conference	666.35	699.67	734.65	771.38	786.81
Utilities	9,723.73	10,209.92	10,720.41	11,256.43	11,481.56
Vehicle & Equipment Maintenance	2,372.19	2,490.80	2,615.34	2,746.10	2,801.02
Vehicle Operations	15,015.97	15,766.77	16,555.11	17,382.87	17,730.53
Building Maintenance	656.69	689.53	724.00	760.21	775.41
Govt. Reg./Lab Fees	27,454.10	28,826.80	30,268.14	31,781.55	32,417.18
Outside Service/Consultants	33,659.47	35,342.45	37,109.57	38,965.05	39,744.35
		0.00	0.00	0.00	0.00
Total Operation and Maintenance Expenses:	980,759.10	1,028,884.25	1,080,138.23	1,126,192.62	1,148,716.47
GENERAL & ADMINISTRATIVE EXPENSES					
Ritiree Health Premium	10,507.10	11,032.46	11,584.08	12,163.28	12,406.55
Debt Reserve	0.00	0.00	0.00	0.00	0.00
Operating Reserve	3,292.75	3,292.75	3,292.75	3,292.75	3,292.75
Emergency Reserve	0.00	0.00	0.00	0.00	0.00
Existing Capital Replacement Program	250,172.04	250,172.04	250,172.04	250,172.04	250,172.04
Funded Project Replacement Program	0.00	0.00	0.00	0.00	0.00
Future Capital Improvement Program	0.00	0.00	0.00	0.00	0.00
Debt Payments (Principle + Interest)	1,043.74	1,043.74	0.00	0.00	0.00
Legal, Audit, Insurance,	26,141.14	27,448.20	28,820.61	30,261.64	30,866.87
Other General & Administrative	24,146.43	25,353.75	26,621.44	27,952.51	28,511.56
Total General and Administrative Expenses:	315,303.20	318,342.93	320,490.91	323,842.22	325,249.76
TOTAL EXPENSES	1,296,062.30	1,347,227.18	1,400,629.14	1,450,034.83	1,473,966.23
SOURCE OF FUNDS / REVENUES RECEIVED					
Water Revenue	479,543.05	527,497.35	580,247.09	638,271.80	702,098.98
Property Tax	562,000.00	573,240.00	584,704.80	596,398.90	608,326.87
		0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00
TOTAL REVENUE (Lines 29 through 37):	1,041,543.05	1,100,737.35	1,164,951.89	1,234,670.70	1,310,425.85
NET LOSS OR GAIN:	-254,519.25	-246,489.83	-235,677.25	-215,364.14	-163,540.38
NET CASH FLOW (Contribution to Reserves)	-1,054.46	6,974.96	17,787.54	38,100.65	89,924.41

Split of cash and investments between (4) Reserve Types and Treaded/Irrigation water

Exhibit 4

		Debt	Operating	Reserves Emergency	Capital	Other/WW
SMUD Fund	\$ 324,069				\$ 324,069	
CABY Grant	\$ (29,222)				\$ -	\$ (29,222)
General Fund	\$ 1,175,636		\$1,175,636			
Insurance Reserve	\$ -					\$ -
Dental/Optical	\$ -					\$ -
Retiree	\$ 538,071					\$ 538,071
Stewart Mine	\$ 28,825	\$ 28,825				
Bayne Road & Other Assessment Districts	\$ 65,804	\$ 65,804				
Georgetown-Buckeye Water Improvement District	\$ -	\$ -				
Water Development	\$ 399,753				\$ 399,753	
Bond & Interest for Debt Service	\$ -					
Buffalo Pipeline	\$ -					
Sand Trap Siphon	\$ -					
Stumpy Meadows Emergency Reserve Fund (SMERF)	\$ 1,044,130			\$ 1,044,130		
Capital Reserve Cash Clearing	\$ 1,029,266				\$ 1,029,266	
Pilot Hill North	\$ (7,481)	\$ (7,481)				
Pilot Hill South	\$ 50,136	\$ 50,136				
Kelsey North	\$ 119,154	\$ -				
Kelsey South	\$ -	\$ -				
State Revolving Fund	\$ 7,499	\$ 7,499				
Federal Emergency Management Agency	\$ -					
Wrench/Valve Deposit Fund	\$ -					
Small Hydro Fund	\$ 592,262				\$ 592,262	
Pipeline Extension Holding Fund to 26	\$ -				\$ -	
Environmental Protection Agency	\$ 315,098				\$ 315,098	
Garden Valley Water Improvement District	\$ 71,574	\$ 71,574				
Capital Facility Charges	\$ 1,679,822				\$ 1,679,822	
ALT - WTP Capital Reserve	\$ 766,122				\$ 766,122	
Auburn Lake Trails (ALT) Zone Fund	\$ 963,527					\$ 963,527
ALT Tank Replacement Loans & Repair Activity	\$ 33,791					\$ 33,791
ALT CDS Reserve Connection Fund	\$ 181,840					\$ 181,840
	\$ 9,349,676					

Split of Reserves, based on average historic sales (Section C)

	Sales	%	Debt	Operating	Emergency	Capital
Treated Water	\$ 1,613,052	75%	\$ 216,357	\$ 876,629	\$ 778,569	\$ 4,762,189
Irrigation Water	\$ 195,288	9%		\$ 106,131	\$ 94,259	\$ 122,173
Other	\$ 354,905	16%				
	\$ 2,163,245	100%				

Red=Treated water only Green=Treated + Irrigation to be split according to prior sales \$ in Section C

Reserve	Definition	Target
Debt	Amount set aside per debt agreements	Per agreement with lender
Operating	Money in checking account	1.5 times revenue in a billing cycle (calculated from Budget)
Emergency	Immediately accessible funds for emergency	Largest asset that could fail
Capital	Funds to replace equipment when it wears	As calculated in the CIP

Exhibit 5

Proposition 218 Certification

CALIFORNIA CONSTITUTION

ARTICLE 13C (VOTER APPROVAL FOR LOCAL TAX LEVIES)

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

CALIFORNIA CONSTITUTION

ARTICLE 13C (VOTER APPROVAL FOR LOCAL TAX LEVIES)

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

CALIFORNIA CONSTITUTION

ARTICLE 13C (VOTER APPROVAL FOR LOCAL TAX LEVIES)

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges.

Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter

shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIIIIC shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes.

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SEC. 2. Definitions. As used in this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIIIIC.

(b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."

(c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.

(f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) "Property-related service" means a public service having a direct relationship to property ownership.

(i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the

ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges a fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

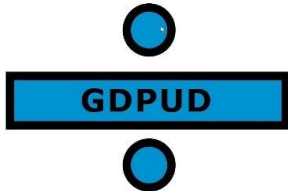
(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section.



Proposition 218 Notification

NOTICE TO PROPERTY OWNERS OF PUBLIC HEARING ON PROPOSED INCREASE TO WATER RATES

Hearing Date: December 12, 2017
Time: 5:30 PM
Location: Georgetown Elementary School
6530 Wentworth Springs, Georgetown CA 95634

Why are you receiving this notice? This notice is being furnished to you by the Georgetown Divide Public Utility District (District) pursuant to the California Constitution Article XIID (also known as "Proposition 218"). Under Proposition 218, the District is required to notify property owners of proposed changes to property-related fees such as water and sewer service. This letter serves as notice that the District will hold a public hearing on December 12, 2017, to consider changes to its current treated water and irrigation water rates.

What do water rates fund? The District provides treated water service to approximately 3,774 customers (residential and commercial) and 408 irrigation water customers. The water system must be financially self-sufficient. Monthly rates paid by users of the system are the primary source of revenue. All revenue generated from your water bill is used to maintain and operate the water system. These revenues must meet costs such as system maintenance, licensing, electricity, chemicals, reserve funds for emergency repairs and replacement of aging pipes and other equipment, administrative costs, and salaries and benefits for staff. Revenue generated from these rates is also used to pay off debt used to rebuild aging components of the system.

Why is the rate change required? District's rates were last reviewed in 2011. The water system requires extensive investment, primarily in the replacement and repair of aging pipes and other equipment, in order to maintain a safe and reliable system. The District has insufficient reserve funds to pay for needed replacements and preventative maintenance; and rates are too low to qualify for loans and grants.

Additionally, the District was recently the subject of a Grand Jury Investigation which concluded that the District needed to initiate a rate increase.

Lastly, the District rates must be updated to comply with recent court decisions that require tiered water rates to accurately reflect the cost of service. The District is proposing a standardized system based on American Water Works Association standards to ensure that water rates are equivalent with providing that level of service.

How are rates calculated for treated water? The proposed rate structure for treated water service fees has two components: (1) a fixed monthly base charge; and (2) a variable (water consumption-based) usage rate. The first component is a fixed amount calculated to recover the District's fixed costs of operating and maintaining the water system and is based on the potential volume of water a customer could potential draw, as determined by the size of their water meter

The variable component of the rate structure is based on water consumption (usage).

How are rates calculated for irrigation water? Since irrigation water users are charged for a fixed volume of water, the proposed rate structure for irrigation water service fees consists only of a monthly base charge. The monthly base charge is based on the size of the service connection, in miner's inches.

Current and proposed treated water rates

Treated water rates will increase over a five-year period.

Meter Size	Monthly Base Charge					
	Current	Jan 1, 2018	Jan 1, 2019	Jan 1, 2020	Jan 1, 2021	Jan 1, 2022
5/8, 3/4, 1"	\$ 23.57	\$ 29.41	\$ 30.88	\$ 32.42	\$ 34.04	\$ 35.74
1.5"	\$ 23.57	\$ 98.02	\$ 102.92	\$ 108.07	\$ 113.47	\$ 119.15
2"	\$ 23.57	\$ 156.83	\$ 164.67	\$ 172.91	\$ 181.55	\$ 190.63
3"	\$ 23.57	\$ 313.66	\$ 329.34	\$ 345.81	\$ 363.10	\$ 381.25
4"	\$ 25.16	\$ 490.09	\$ 514.60	\$ 540.33	\$ 567.34	\$ 595.71

Tier	Usage Rate (per CF)					
	Current	Jan 1, 2018	Jan 1, 2019	Jan 1, 2020	Jan 1, 2021	Jan 1, 2022
<1000 CF	--	\$ 0.0255	\$ 0.0268	\$ 0.0281	\$ 0.0295	\$ 0.0310
1000-2000	\$ 0.0138	\$ 0.0255	\$ 0.0268	\$ 0.0281	\$ 0.0295	\$ 0.0310
2001-3000	\$ 0.0165	\$ 0.0255	\$ 0.0268	\$ 0.0281	\$ 0.0295	\$ 0.0310
3001-4000	\$ 0.0193	\$ 0.0255	\$ 0.0268	\$ 0.0281	\$ 0.0295	\$ 0.0310
>4001 CF	\$ 0.0221	\$ 0.0255	\$ 0.0268	\$ 0.0281	\$ 0.0295	\$ 0.0310

Current and proposed irrigation water rates

Irrigation water rates will increase over a five-year period.

Meter Size	Monthly Base Charge					
	Current	Jan 1, 2018	Jan 1, 2019	Jan 1, 2020	Jan 1, 2021	Jan 1, 2022
1/2"	\$ 47.00	\$ 77.00	\$ 84.80	\$ 93.20	\$ 102.60	\$ 112.80
Per each 1"	\$ 72.74	\$ 154.20	\$ 169.60	\$ 186.60	\$ 205.20	\$ 225.80

You can be heard Water rates are subject to majority protest, which means if a majority of impacted property owners or tenants of a parcel submit **written protests** against the increase, the District cannot institute the new rates. For your protest to be counted, please include the following:

1. Your name;
2. The address of the impacted property (or APN number); and,
3. Your signature.

Written protests are accepted by mail or personal delivery to the *Clerk of the Board, Georgetown Divide Public Utility District, PO Box 4240, Georgetown, California 95634*; or in person at the public hearing on the date and time specified above, until the close of the public hearing. Protests submitted by fax or email will not be accepted.

Questions? Detailed information regarding the proposed changes in rates are available on the District website, www.gd-pud.org. If you have any questions, please call the District at (530) 333-4356.

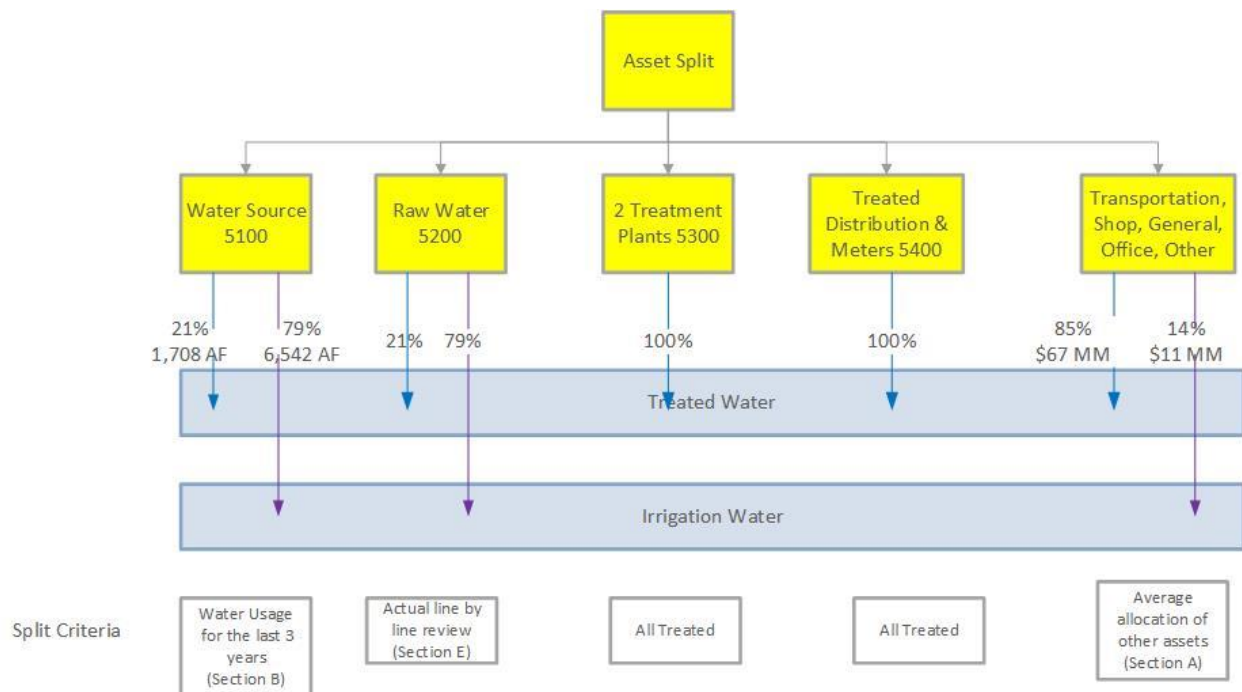
4. Capital Replacement Program

Source of the Data

The data in the Capital Replacement Program (CRP) comes from the data supplied by the District's General Manager and AWWA standards. It is attached as Exhibit 1T³ and Exhibit 1I.

The list of the components, their installation date and their original costs were all supplied by the General Manager (GM) and thoroughly reviewed by the operations manager.

Since this list contained assets used for Treated Water, Irrigation Water and some assets were used by both, the assets needed to be split between the two classes of service. The graphic below shows how the assets were split between Treated Water, Irrigation Water and Waste Water.



Split Criteria of Assets

Assets were split between treated and irrigation water according to the use of the asset by either treated or irrigation customers. Assets pertaining to the sewer system were excluded also. Since many assets are used by both irrigation and treated water, assets were split according to certain rules explained below.

³ The suffix of the exhibits refers to T for "treated" and I for "irrigation".

Capital Replacement Program																Exhibit 11	
Georgetown Divide PUD TW																Date:	10/20/17
																System Number:	910013
																Service Connections:	3774
Qty	Component	Year Acquired	Unit Cost (Historic, Current or Future)	Cost Type (H, C, F)	Estimated Historic Cost	Normal Estimated Life	Current Age	Estimated Current Cost	Planned Remaining Life	Estimated Remaining Life	Estimated Future Cost	Fund with Cash	Fund with Grant	Fund with Loan	Existing Reserves	Annual Reserve Required	
Existing Capital Replacement Program																	
SOURCE OF SUPPLY PLANT #5100																	
1	Mark Edson Dam & Stumpy Meadows Res.	1962	\$106,333	H	\$106,333	100	55	\$315,993	45	50	\$850,524	10%	50%	40%	\$12,389	\$1,072	
1	Tunnel Hill Tunnel	1962	\$22,577	H	\$22,577	100	55	\$67,092	45	46	\$166,831	25%	20%	55%	\$6,076	\$586	
1	Kaiser Siphon Replacement (1)	1964	\$83,961	C	\$28,778	100	53	\$83,961	47	46	\$208,778	25%	20%	55%	\$7,603	\$734	
1	Sand Trap Siphon (1)	1964	\$34,125	C	\$11,696	100	53	\$34,125	47	48	\$88,284	50%		50%	\$6,430	\$587	
1	Up Country Ditch Imp (Pilot Ck Diversion to Tunnell Hill Inlet) (1)	1964	\$424,830	C	\$145,612	100	53	\$424,830	47	56	\$1,287,731	10%	50%	40%	\$18,758	\$1,392	
																\$0	
																\$0	
5200 SHARED																	
1	Cabin Waste Gate Replacement (1)	1972	\$6,300	C	\$2,538	40	45	\$6,300	-5	20	\$9,361	100%		0%	\$1,364	\$357	
1	Bacon Creek Pipe (1)	1964	\$53,576	C	\$18,363	40	53	\$53,576	-13	20	\$79,611	50%		50%	\$5,798	\$1,518	
1	Buckeye Conduit (1)	1964	\$94,461	C	\$32,377	40	53	\$94,461	-13	20	\$140,364	25%		75%	\$5,112	\$1,338	
1	Up Country Ditch (Penn Stock Bypass to Shroeder Conduit) (1)	1964	\$156,056	C	\$53,489	40	53	\$156,056	-13	5	\$172,299	25%		75%	\$6,275	\$7,189	
1	Main Ditch #1 Imp (1)	1964	\$433,821	C	\$148,694	40	53	\$433,821	-13	5	\$478,973	10%	50%	40%	\$6,977	\$7,994	
1	Main Ditch #2 to ALT (1)	1964	\$101,194	C	\$34,685	40	53	\$101,194	-13	5	\$111,726	25%		75%	\$4,069	\$4,662	
																\$0	
																\$0	
5200 IRRIGATION ONLY (1)																	
1	Main Ditch #2 below ALT	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0	
1	Pilot Hill Ditch (Main)	1964	\$0	C	\$0	40	53	\$0	-13	10		50%		50%	\$0	\$0	
1	Pilot Hill Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0	
1	Kelsey Ditch #1	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0	
1	Kelsey Ditch #2 Imp	1964	\$0	C	\$0	40	53	\$0	-13	10		25%		75%	\$0	\$0	
1	Spanish Dry Diggins Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		100%		0%	\$0	\$0	
1	Taylor Mine Ditch	1964	\$0	C	\$0	40	53	\$0	-13	10		100%		0%	\$0	\$0	
																\$0	
																\$0	
5300 - Lake Walton WTP																	
1	Lake Walton Plant Replacement (4)	1992	\$12,728,909	C	\$7,681,448	50	25	\$12,728,909	25	25	\$20,883,124	25%		75%	\$760,506	\$154,431	
1	Raw Water Bypass (1)	1974	\$500,000	C	\$209,745	40	43	\$500,000	-3	19	\$728,406	25%		75%	\$26,527	\$7,354	
1	Lake Walton Outlet Works (1)	1974	\$50,000	C	\$20,974	40	43	\$50,000	-3	19	\$72,841	100%		0%	\$10,611	\$2,942	
1	Lake Walton Dredging (1)	1974	\$500,000	C	\$301,732	40	25	\$500,000	15	22	\$772,990	25%		75%	\$28,150	\$6,617	
							43		-43							\$0	
5300 - AUBURN LAKE TRAILS PLANT																	
1	ALT Water Treatment Plant (4)	2018	\$12,728,909	C	\$12,988,683	50	-1	\$12,728,909	51	59	\$40,945,042	25%		75%	\$1,491,105	\$102,887	
																\$0	
																\$0	
5400 T & D METERS & METER BOXES																	
1	Automated Meter Reading and Meter Replacement Project (5)	2018	\$1,745,800	C	\$1,781,429	20	-1	\$1,745,800	21	2	\$1,816,330	25%		75%	\$66,146	\$192,839	
																\$0	
T & D TREATED WATER #5400 (2)																	
1	Angel Camp Tank (0.5 MG)	1974	\$776,602	C	\$325,777	40	43	\$776,602	-3	10	\$946,674	25%		75%	\$34,475	\$19,174	
1	Deer Ravine Tank (0.25 MG)	1974	\$388,301	C	\$162,888	40	43	\$388,301	-3	10	\$473,337	50%		50%	\$34,475	\$19,174	
1	Pilot Hill Tank (0.47 MG)	1974	\$730,006	C	\$306,230	40	43	\$730,006	-3	10	\$889,873	25%		75%	\$32,407	\$18,023	
1	Black Ridge Road Tank (0.06 MG)	1974	\$93,192	C	\$39,093	40	43	\$93,192	-3	10	\$113,601	75%		25%	\$12,411	\$6,903	
1	Hotchkiss Hill Tank (0.06 MG)	1974	\$93,192	C	\$39,093	40	43	\$93,192	-3	10	\$113,601	75%		25%	\$12,411	\$6,903	
1	Spanish Dry Diggins Tank (0.2 MG)	1971	\$310,641	C	\$122,647	40	46	\$310,641	-6	10	\$378,670	50%		50%	\$27,580	\$15,339	

	GENERAL PLANT (3)															\$0
1	Office Building	1976	\$137,335	H	\$137,335	40	41	\$309,307	-1	15	\$416,286	25%		75%	\$15,160	\$5,455
1	Chip, Seal Parking Lot	1985	\$2,953	H	\$2,953	10	32	\$5,565	-22	1	\$5,677	100%		0%	\$827	\$4,850
1	Yard Fence	1986	\$3,088	H	\$3,088	10	31	\$5,704	-21	5	\$6,298	100%		0%	\$917	\$1,051
1	Generator & Electrical	1986	\$2,210	H	\$2,210	20	31	\$4,084	-11	5		100%		0%	\$0	
1	Gas Heat/Air System	1987	\$1,650	H	\$1,650	20	30	\$2,989	-10	5		100%		0%	\$0	
1	Rheem Cooling & Heating Unit	1989	\$1,751	H	\$1,751	20	28	\$3,048	-8	5		100%		0%	\$0	
1	Metal Building	1990	\$5,811	H	\$5,811	20	27	\$9,918	-7	5	\$10,950	100%		0%	\$1,595	\$1,828
1	Office & Shop Privacy Fence	2004	\$6,080	H	\$6,080	10	13	\$7,865	-3	5	\$8,683	100%		0%	\$1,265	\$1,449
1	Hangtown Fence - Add'l Ground Fencing	2006	\$4,895	H	\$4,895	10	11	\$6,086	-1	5	\$6,720	100%		0%	\$979	\$1,122
1	Carpet Replacement	2007	\$3,724	H	\$3,724	7	10	\$4,540	-3	5	\$5,012	100%		0%	\$730	\$837
1	Partial Re-roof of Main Maintenance Building	2016	\$3,088	H	\$3,088	30	1	\$3,149	29	30	\$5,704	100%		0%	\$831	\$136
																\$0
	OFFICE EQUIPMENT (3)															\$0
1	Computer Network	2001	\$3,254	H	\$3,254	10	16	\$4,468	-6	5		100%		0%	\$0	
1	Canon Copier	2002	\$4,795	H	\$4,795	10	15	\$6,454	-5	5	\$7,125	100%		0%	\$1,038	\$1,189
1	Phone System (Equip&Software)	2002	\$4,744	H	\$4,744	3	15	\$6,385	-12	5	\$7,049	100%		0%	\$1,027	\$1,177
1	Dell Server &software	2005	\$2,185	H	\$2,185	3	12	\$2,771	-9	5		100%		0%	\$0	
1	5 DELL Computers	2007	\$4,637	H	\$4,637	5	10	\$5,652	-5	5	\$6,240	100%		0%	\$909	\$1,042
																\$0
	DISTRIBUTION (3)															\$0
38	Pressure Reducing Valves	1987	\$2,455	H	\$93,278	40	30	\$168,960	10	10	\$205,961	50%		50%	\$15,001	\$8,343
172	Air Relief Valves	1987	\$709	H	\$121,970	40	30	\$220,932	10	10	\$269,315	50%		50%	\$19,615	\$10,909
422	Isolation Valves	1987	\$2,291	H	\$966,816	40	30	\$1,751,254	10	10	\$2,134,769	25%		75%	\$77,742	\$43,237
247	Other Valves	1987	\$2,018	H	\$498,518	40	30	\$902,997	10	10	\$1,100,748	25%		75%	\$40,086	\$22,294
581	Firehydrants	1987	\$3,273	H	\$1,901,558	60	30	\$3,444,410	30	35	\$6,888,439	25%		75%	\$250,858	\$34,170
20	Pressure Reducing Valves	2017	\$5,000	C	\$100,000	40	0	\$100,000	40	40	\$220,804	50%		50%	\$16,082	\$1,856
																\$0
	Subtotal Existing Capital Assets				\$45,159,718			\$78,663,010			\$135,559,165	26%	1%	73%	\$5,118,046	\$1,544,026

Capital Replacement Program																	Exhibit 11	
Georgetown Divide PUD IW																	Date:	10/20/17
																	System Number:	910013
																	Service Connections:	408
Qty	Component	Year Acquired	Unit Cost (Historic, Current or Future)	Cost Type (H, C, F)	Estimated Historic Cost	Normal Estimated Life	Current Age	Estimated Current Cost	Planned Remaining Life	Estimated Remaining Life	Estimated Future Cost	Fund with Cash	Fund with Grant	Fund with Loan	Existing Reserves	Annual Reserve Required		
Existing Capital Replacement Program																		
	SOURCE OF SUPPLY PLANT #5100																	
1	Mark Edson Dam & Stumpy Meadows Res.	1962	\$400,015	H	\$400,015	100	55	\$1,188,737	45	50	\$3,199,589	10%	50%	40%	\$14,980	\$4,664		
1	Tunnel Hill Tunnel	1962	\$84,931	H	\$84,931	100	55	\$252,393	45	46	\$627,604	25%	20%	55%	\$7,346	\$2,543		
1	Kaiser Siphon Replacement (1)	1964	\$315,852	C	\$108,259	100	53	\$315,852	47	46	\$785,402	25%	20%	55%	\$9,193	\$3,183		
1	Sand Trap Siphon (1)	1964	\$128,375	C	\$44,001	100	53	\$128,375	47	48	\$332,115	50%		50%	\$7,775	\$2,550		
1	Up Country Ditch Imp (Pilot Ck Diversion to Tunnell Hill Inlet) (1)	1964	\$1,598,171	C	\$547,779	100	53	\$1,598,171	47	56	\$4,844,320	10%	50%	40%	\$22,681	\$6,090		
																\$0		
																\$0		
																\$0		
	5200 SHARED																	
1	Cabin Waste Gate Replacement (1)	1972	\$23,700	C	\$9,548	40	45	\$23,700	-5	20	\$35,217	100%		0%	\$1,649	\$1,517		
1	Bacon Creek Pipe (1)	1964	\$201,549	C	\$69,082	40	53	\$201,549	-13	20	\$299,491	50%		50%	\$7,011	\$6,450		
1	Buckeye Conduit (1)	1964	\$355,352	C	\$121,798	40	53	\$355,352	-13	20	\$528,035	25%		75%	\$6,180	\$5,686		
1	Up Country Ditch (Penn Stock Bypass to Shroeder Conduit) (1)	1964	\$587,070	C	\$201,220	40	53	\$587,070	-13	5	\$648,172	25%		75%	\$7,587	\$30,250		
1	Main Ditch #1 Imp (1)	1964	\$1,631,992	C	\$559,371	40	53	\$1,631,992	-13	5	\$1,801,851	10%	50%	40%	\$8,436	\$33,636		
1	Main Ditch #2 to ALT (1)	1964	\$380,682	C	\$130,480	40	53	\$380,682	-13	5	\$420,304	25%		75%	\$4,920	\$19,615		
																\$0		
																\$0		
																\$0		
	5200 IRRIGATION ONLY (1)																	
1	Main Ditch #2 below ALT	1964	\$663,376	C	\$227,375	40	53	\$663,376	-13	10	\$808,652	25%		75%	\$9,465	\$18,377		
1	Pilot Hill Ditch (Main)	1964	\$429,126	C	\$147,084	40	53	\$429,126	-13	10	\$523,102	50%		50%	\$12,246	\$23,775		
1	Pilot Hill Ditch	1964	\$1,070,876	C	\$367,047	40	53	\$1,070,876	-13	10	\$1,305,392	25%		75%	\$15,279	\$29,665		
1	Kelsey Ditch #1	1964	\$571,625	C	\$195,927	40	53	\$571,625	-13	10	\$696,808	25%		75%	\$8,156	\$15,835		
1	Kelsey Ditch #2 Imp	1964	\$1,112,565	C	\$381,336	40	53	\$1,112,565	-13	10	\$1,356,211	25%		75%	\$15,874	\$30,820		
1	Spanish Dry Diggins Ditch	1964	\$37,375	C	\$12,810	40	53	\$37,375	-13	10	\$45,560	100%		0%	\$2,133	\$4,141		
1	Taylor Mine Ditch	1964	\$36,563	C	\$12,532	40	53	\$36,563	-13	10	\$44,570	100%		0%	\$2,087	\$4,051		
																\$0		
																\$0		
																\$0		
	5300 - Lake Walton WTP																	
0	Lake Walton Plant Replacement (4)	1992	\$0	C	\$0	50	25	\$0	25	25		25%		75%	\$0	\$0		
0	Raw Water Bypass (1)	1974	\$0	C	\$0	40	43	\$0	-3	19		25%		75%	\$0	\$0		
0	Lake Walton Outlet Works (1)	1974	\$0	C	\$0	40	43	\$0	-3	19		100%		0%	\$0	\$0		
0	Lake Walton Dredging (1)	1974	\$0	C	\$0	40	25	\$0	15	22		25%		75%	\$0	\$0		
							43		-43							\$0		
																\$0		
	5300 - AUBURN LAKE TRAILS PLANT																	
0	ALT Water Treatment Plant (4)	2018	\$0	C	\$0	50	-1	\$0	51	59		25%		75%	\$0	\$0		
																\$0		
																\$0		
																\$0		
	5400 T & D METERS & METER BOXES																	
0	Automated Meter Reading and Meter Replacement Project (5)	2018	\$0	C	\$0	20	-1	\$0	21	2		25%		75%	\$0	\$0		
																\$0		
																\$0		
	T & D TREATED WATER #5400 (2)																	
0	Angel Camp Tank (0.5 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		25%		75%	\$0	\$0		
0	Deer Ravine Tank (0.25 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		50%		50%	\$0	\$0		
0	Pilot Hill Tank (0.47 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		25%		75%	\$0	\$0		
0	Black Ridge Road Tank (0.06 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		75%		25%	\$0	\$0		
0	Hotchkiss Hill Tank (0.06 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		75%		25%	\$0	\$0		

0	Spanish Dry Diggins Tank (0.2 MG)	1971	\$0	C	\$0	40	46	\$0	-6	10		50%	50%	\$0	
0	Black Oak Mine Tank (0.3 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		25%	75%	\$0	
0	Garden Park Tank (0.2 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		50%	50%	\$0	
0	Kelsey Tank (0.21 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		50%	50%	\$0	
0	Hotchkiss Hill Subtank (0.06 MG)	1974	\$0	C	\$0	40	43	\$0	-3	10		75%	25%	\$0	
0	Black Ridge Road Pump Station	1974	\$0	C	\$0	40	43	\$0	-3	5		75%	25%	\$0	
0	Chipmunk Trail Pump Station	1974	\$0	C	\$0	40	43	\$0	-3	5		75%	25%	\$0	
0	Reservoir Road Pump Station	1974	\$0	C	\$0	40	43	\$0	-3	5		75%	25%	\$0	
0	4-Inch Pipelines (42,130 AC, 50,771 PVC If)	1974	\$0	C	\$0	60	43	\$0	17	15		10%	90%	\$0	
0	6-Inch Pipelines (175,142 AC, 3,981 DI, 235,640 PVC If)	1974	\$0	C	\$0	60	43	\$0	17	15		10%	90%	\$0	
0	8-Inch Pipelines (42,068 AC, 85,394 PVC If)	1974	\$0	C	\$0	60	43	\$0	17	15		10%	90%	\$0	
0	10-Inch Pipelines (36,484 AC, 10,359 PVC If)	1974	\$0	C	\$0	60	43	\$0	17	15		10%	90%	\$0	
0	12-Inch Pipelines (42,346 AC If)	1974	\$0	C	\$0	60	43	\$0	17	15		10%	90%	\$0	
															\$0
0	Highway 193/Sliger Mine Main Relocation (2)	1974	\$0	C	\$0	60	43	\$0	17	5		50%	50%	\$0	
0	Tank Telemetry Enhancements (2)	2020	\$0	C	\$0	15	-3	\$0	18	5		100%	0%	\$0	
															\$0
															\$0
	TRANSPORTATION EQUIPMENT (3)														\$0
1	Mobile Radios	1971	\$668	H	\$668	5	46	\$1,661	-41	5		100%	0%	\$0	
1	Truck	2017	\$6,300	C	\$6,300	15	0	\$6,300	15	15	\$8,479	100%	0%	\$397	\$500
1	Excavator	2017	\$9,100	C	\$9,100	15	0	\$9,100	15	15	\$12,247	100%	0%	\$573	\$723
1	Trailer for excavator	2017	\$1,750	C	\$1,750	20	0	\$1,750	20	20		100%	0%	\$0	
1	Trailer & Hookups	1991	\$1,560	H	\$1,560	15	26	\$2,610	-11	10		100%	0%	\$0	
1	1998 Ford Pickup Truck	1998	\$1,703	H	\$1,703	15	19	\$2,481	-4	10		100%	0%	\$0	
1	1999 Ford F150 Pickup	1999	\$1,697	H	\$1,697	15	18	\$2,424	-3	10		100%	0%	\$0	
1	2002 Ford F-150 4x4	2001	\$1,886	H	\$1,886	15	16	\$2,588	-1	10		100%	0%	\$0	
1	Chevy Truck - 1500	2003	\$1,861	H	\$1,861	15	14	\$2,455	1	10		100%	0%	\$0	
1	2004 Chevy 1500 Pickup	2004	\$1,855	H	\$1,855	15	13	\$2,400	2	10		100%	0%	\$0	
1	2004 Chevy 4 WD Pickup	2004	\$3,034	H	\$3,034	15	13	\$3,925	2	10		100%	0%	\$0	
1	2005 Chevy ID#1GBHK24U95E333348	2005	\$2,950	H	\$2,950	15	12	\$3,741	3	10		100%	0%	\$0	
1	2006 Chevy Colorado	2006	\$1,988	H	\$1,988	15	11	\$2,471	4	10		100%	0%	\$0	
1	2007 Chevy CK2500 Regular Cab	2007	\$2,981	H	\$2,981	15	10	\$3,633	5	10		100%	0%	\$0	
1	2008 Chevy 1500	2008	\$2,385	H	\$2,385	15	9	\$2,850	6	10		100%	0%	\$0	
1	Sundowner Trailer	2010	\$756	H	\$756	15	7	\$868	8	10		100%	0%	\$0	
1	Re-manufactured Long block Unit #32	2013	\$575	H	\$575	20	4	\$622	16	17		100%	0%	\$0	
1	2016 Ford F-150	2016	\$2,332	H	\$2,332	15	1	\$2,379	14	10		100%	0%	\$0	
															\$0
	SHOP & FIELD EQUIPMENT (3)														\$0
			\$478							6		100%	0%	\$0	
1	Tool Set	2017	\$914	C	\$914	10	0	\$914	10	10		100%	0%	\$0	
1	New Radio System	1989	\$1,185	H	\$1,185	10	28	\$2,062	-18	5		100%	0%	\$0	
1	Steam Cleaner (Pressure Washer)	1989	\$311	H	\$311	10	28	\$541	-18	5		100%	0%	\$0	
1	Welder	1991	\$249	H	\$249	10	26	\$418	-16	5		100%	0%	\$0	
1	Backhoe	1991	\$4,511	H	\$4,511	20	26	\$7,548	-6	5	\$8,334	75%	25%	\$293	\$1,167
1	Dump Truck	1991	\$4,383	H	\$4,383	20	26	\$7,334	-6	5	\$8,098	75%	25%	\$284	\$1,134
1	Tilt-bed Trailer	1992	\$786	H	\$786	15	25	\$1,290	-10	5		100%	0%	\$0	
1	Dozer	1996	\$2,249	H	\$2,249	20	21	\$3,409	-1	5		100%	0%	\$0	
1	Mini Excavator	2000	\$3,712	H	\$3,712	20	17	\$5,197	3	5	\$5,738	100%	0%	\$269	\$1,071
1	IR Portable Air Compressor	2003	\$1,204	H	\$1,204	20	14	\$1,588	6	7		100%	0%	\$0	
1	2008 Chevy Truck 3500 1 ton Dump Truck	2008	\$4,373	H	\$4,373	15	9	\$5,226	6	5	\$5,770	100%	0%	\$270	\$1,077
1	Clark Equip.-excavator	2010	\$3,900	H	\$3,900	20	7	\$4,480	13	14	\$5,911	100%	0%	\$277	\$376
1	Meters	2014	\$1,101	H	\$1,101	20	3	\$1,169	17	18		100%	0%	\$0	
1	Ditch Witch FX30 Vac Trailer	2015	\$5,087	H	\$5,087	20	2	\$5,293	18	19	\$7,710	75%	25%	\$271	\$264
1	Rammer Small Compactor	2016	\$676	H	\$676	20	1	\$690	19	20		100%	0%	\$0	

																		\$0	
	GENERAL PLANT (3)																	\$0	
1	Office Building	1976	\$22,620	H	\$22,620	40	41	\$50,945	-1	15	\$68,565	25%	75%	\$803	\$1,011				
1	Chip, Seal Parking Lot	1985	\$486	H	\$486	10	32	\$917	-22	1		100%	0%	\$0					
1	Yard Fence	1986	\$509	H	\$509	10	31	\$940	-21	5		100%	0%	\$0					
1	Generator & Electrical	1986	\$364	H	\$364	20	31	\$673	-11	5		100%	0%	\$0					
1	Gas Heat/Air System	1987	\$272	H	\$272	20	30	\$492	-10	5		100%	0%	\$0					
1	Rheem Cooling & Heating Unit	1989	\$288	H	\$288	20	28	\$502	-8	5		100%	0%	\$0					
1	Metal Building	1990	\$957	H	\$957	20	27	\$1,634	-7	5		100%	0%	\$0					
1	Office & Shop Privacy Fence	2004	\$1,001	H	\$1,001	10	13	\$1,295	-3	5		100%	0%	\$0					
1	Hangtown Fence - Add'l Ground Fencing	2006	\$806	H	\$806	10	11	\$1,002	-1	5		100%	0%	\$0					
1	Carpet Replacement	2007	\$613	H	\$613	7	10	\$748	-3	5		100%	0%	\$0					
1	Partial Re-roof of Main Maintenance Building	2016	\$509	H	\$509	30	1	\$519	29	30		100%	0%	\$0					
																		\$0	
	OFFICE EQUIPMENT (3)																	\$0	
0	Computer Network	2001	\$536	H	\$0	10	16	\$0	-6	5		100%	0%	\$0					
1	Canon Copier	2002	\$790	H	\$790	10	15	\$1,063	-5	5		100%	0%	\$0					
1	Phone System (Equip&Software)	2002	\$781	H	\$781	3	15	\$1,052	-12	5		100%	0%	\$0					
			\$360							5		100%	0%	\$0					
1	5 DELL Computers	2007	\$764	H	\$764	5	10	\$931	-5	5		100%	0%	\$0					
																		\$0	
																		\$0	
	Existing Capital Replacement Program				\$3,731,376			\$10,749,508			\$18,433,245			\$166,432	\$250,172				

CIP Estimate Created 2021

QTY	Component	Year Acquired	Life Span	Remaining Life	Annual Maintenance	Replacement	Annual Cost Complete	Annual Cost Repair Only	Replaement Cost
Source of Supply 5100									
1	Mark Edson Dam and Stump Meadow Res	1962	100	45	\$10,000		\$10,000	\$10,000	
1	Tunnel Hill	1962	100	45	\$100,000		\$100,000	\$100,000	
1	Kaiser Siphon Replacement	1964	100	47	\$500		\$500	\$500	
1	Sand Trap Siphon	1964	100	47	\$5,000		\$5,000	\$5,000	
1	Up Country Ditch (Pilot Creek to Tunnel)	1964	100	47	\$45,000		\$45,000	\$45,000	
Shared Transmission 5200									
1	Cabin Waste Gate Replacement	1972	40						
1	Bacon Creek Pipe	1964	40						
1	Buckeye Conduit	1964	40						
1	Up Country(Penn Stock to Shroeder Conduit)	1964	40		\$10,000		\$10,000	\$10,000	
1	Main Ditch #1 Imp	1964	40	40	\$5,000		\$5,000	\$5,000	
1	Main Ditch #2 ALT	1964	40	40	\$5,000		\$5,000	\$5,000	
5200 Irrigation Only									
1	Main Ditch #2 Below ALT	1964	40	40	5000		5000	\$5,000	
1	Pilot Hill Ditch (Main)	1964	40	40	5000		5000	\$5,000	
1	Pilot Hiull Ditch	1964	40	40	5000		5000	\$5,000	
1	Kelsey Ditch #1	1964	40	40	5000		5000	\$5,000	
1	Kelsey Ditch #2 IMP	1964	40	40	5000		5000	\$5,000	
1	Spanish Dry Diggings Ditch	1964	40	40	5000		5000	\$5,000	
1	Taylor Mine Ditch	1964	40	40	5000		5000	\$5,000	
Water Treatment 5300									
1	Lake Walton WTP	1992	50	25		\$2,000,000	\$80,000		\$2,000,000
1	Raw Water Bypass	1974	40	30	\$500			\$500	
1	Lake Walton Outlet Works	1974	40	30	\$1,000			\$1,000	
1	Lake Walton Dredging	1974	40	20	\$10,000			\$10,000	
1	ALT Water Treatment Plant	2018	50	48		\$3,000,000	\$62,500		\$3,000,000
Transmission / Distribution 5400									
1	Angel Camp Tank .5 MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Deer Ravine Tank .25MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Pilot Hill Tank .47MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Black Ridge Road Tank .06MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Hotchkiss Hill Tank .06MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Spanish Dry Diggins .2MG	1971	40	40	\$3,000		\$3,000	\$3,000	
1	Black Oak Mine .3MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Garden Park .2MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Kelsey Tank .2MG	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Hotchkiss Hill Subtank .06MG	1974	40	40	\$3,000		\$3,000	\$3,000	

CIP Estimate Created 2021

QTY	Component	Year Acquired	Life Span	Remaining Life	Annual Maintenance	Replacement	Annual Cost Complete	Annual Cost Repair Only	Replaement Cost
1	Black Ridge Pump Station	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Chipmunk Trail Pump Station	1974	40	40	\$3,000		\$3,000	\$3,000	
1	Reservoir Pump Station	1974	40	40	\$3,000		\$3,000	\$3,000	
1	4 inch (42,130 AC and 50,771 PVC)	1974	70/100	23/53		\$418,452	\$418,452		\$13,935,150
1	6 inch (175,142 AC and 3,981 DI and 235,640 PVC)	1974	70/100/100	23/53/53		\$1,820,403	\$1,820,403		\$62,214,450
1	8 inch (42,068 AC and 85,394 PVC)	1974	70/100	23/53		\$516,038	\$516,038		\$19,119,300
1	10 inch(36,484 AC and 10,359 PVC)	1974	70/100	23/53		\$267,257	\$267,257		\$7,026,450
1	12 inch (42,346 AC)	1974	70/100	23		\$276,170	\$276,170		\$6,351,900
Transportation Equipment									
1	Mobile Radios	1971	10	1		\$15,000	\$15,000	\$15,000	
1	Truck	2017	15	10		\$51,000	\$5,100	\$5,100	
1	Excavator	2017	20	20		\$74,000	\$3,700	\$3,700	
1	Trailer for excavator	2017	20	20		\$15,000	\$750	\$750	
1	Trailer & Hookups	1991	15	10		\$19,000	\$1,900	\$1,900	
1	1998 Ford Pickup	1998	15	10		\$20,000	\$2,000	\$2,000	
1	1999 Ford F150	1999	15	10		\$20,000	\$2,000	\$2,000	
1	2002 Ford F-150 4X4	2001	15	10		\$20,000	\$2,000	\$2,000	
1	Chevy 1500	2003	15	10		\$20,000	\$2,000	\$2,000	
1	2004 Chevy 4X\$	2004	15	10		\$20,000	\$2,000	\$2,000	
1	2005 Chevy	2005	15	10		\$30,000	\$3,000	\$3,000	
1	2006 Chevy Colorado	2006	15	10		\$20,000	\$2,000	\$2,000	
1	2007 Chevy CK2500	2007	15	10		\$25,000	\$2,500	\$2,500	
1	2008 Chevy 1500	2008	15	10		\$20,000	\$2,000	\$2,000	
1	Sundowner Trailer	2010	15	10		\$6,000	\$600	\$600	
1	Re-Manufactured Long Block Unit 32	2013	20	20		\$5,500	\$275	\$275	
1	2016 Ford F-150	2016	15	15		\$20,000	\$1,333	\$1,333	
1	2004 Chevy 1500	2004	15	10		\$30,000	\$3,000	\$3,000	
Shop and Equipment									
1	Tool Set	2017	15	10		\$6,765	\$677	\$677	
1	New Radio System	1989	20	5		\$13,825	\$2,765	\$2,765	
1	Steam Cleaner	1989	20	5		\$5,000	\$1,000	\$1,000	
1	Welder	1991	20	5		\$5,000	\$1,000	\$1,000	
1	Backhoe	1991	30	10		\$50,000	\$5,000	\$5,000	
1	Dump Truck	1991	30	10		\$50,000	\$5,000	\$5,000	
1	Tilt Bed Trailer	1992	25	10		\$9,000	\$900	\$900	
1	Dozer	1996	40	15		\$25,000	\$1,667	\$1,667	
1	Mini Excavator	2000	20	7		\$34,000	\$4,857	\$4,857	
1	IR Portable Air Compressor	2003	20	7		\$11,000	\$1,571	\$1,571	
1	2008 Chevy 3500	2008	15	10		\$35,000	\$3,500	\$3,500	
1	Clark Excavator	2010	20	14		\$35,000	\$2,500	\$2,500	
1	Ditch Witch FX 350 Vac	2015	20	19		\$46,000	\$2,421	\$2,421	
1	Rammer Small Compactor	2016	20	20		\$6,221	\$311	\$311	

CIP Estimate Created 2021

QTY	Component	Year Acquired	Life Span	Remaining Life	Annual Maintenance	Replacement	Annual Cost Complete	Annual Cost Repair Only	Replaement Cost
General Plant									
1	Office Building	1976	40	15		\$100,000	\$6,667		\$100,000
1	Parking Lot	2021	50	50		\$50,000	\$1,000		\$50,000
1	Yard Fence	1986	50	10		\$6,298	\$630		\$6,298
1	Generator	1986	20	5		\$23,000	\$4,600		\$23,000
1	HVAC	1987	in office building						
1	Metal Building	1990	40	15		\$10,000	\$667		
Office Equipment									
1	Computer Network	2001	5	7		\$2,500	\$357	\$357	
1	Copier	2002	5	rental					
1	Phone System	2002	5	5		\$5,000	\$1,000	\$1,000	
1	Dell Server	2005	5	5		\$1,200	\$240	\$240	
5	Dell Compters	2007	5	5		\$6,000	\$1,200	\$1,200	
Diistribution									
38	Preassure Regulating Valves	1987	40	10		\$500,000	\$50,000	\$50,000	
172	Air Releif Valves	1987	40	10		\$500,000	\$50,000	\$50,000	
422	Isolation Valves	1987	40	10	\$20,000		\$20,000	\$20,000	
247	Other Valvews	1987	40	10	\$15,000		\$15,000	\$15,000	
581	Firehydrants	1987	60	35	\$50,000		\$50,000	\$50,000	
20	Pressure Reducing Valves	2017	40	10		\$100,000	\$10,000	\$10,000	
Annual Total:							\$3,991,007	\$548,124	\$113,826,548

Distribution System

We currently have over 137 miles of water main above 4 inch in diameter that has been installed in 1974. The age of the pipe is on average of 47 years old and should be replaced within the next 30 to 60 years dependent upon what kind of pipe it is. It costs \$50 – 250 per linear foot to install water main. For the calculations I used \$150/foot.

The asbestos concrete pipe has an outside lifespan of 70 years before the pipe starts to degrade and asbestos starts to enter the water. For ductile iron the life expectancy is 100 years. Plastic pipe is a relatively new pipe material, but its life expectancy is 100+ years. In the table the cost of replacement is divided by how many years of expected life is left.

Pipeline replacement is not a choice. It must be done at some point. Currently there are some districts that have put replacement cycle out to 300 years such as Los Angeles Water, which is completely unrealistic. Washington D.C. has a 30-inch water main that was installed in 1860 which is one year before Abraham Lincoln took office. On the other side of the spectrum is the asbestos pipe in our system starts to fail all at once in 23 years at that point it is too late to save for. A rate increase at that time would need to be huge to cover cost of replacement or to get a loan. These things should be considered as we move forward into a rate study.

Currently, the district has a surplus of \$861,693 in 2021/2022 proposed budget this amount will be included in the tables. Also, each year the average rate of inflation for the past 40 years is approximately 2.79% (in2013dollars.com, 2021) which will be added to the costs yearly. The unfunded amount each year will become the costs for the next year. I didn't include any grant funding in any of the calculations.

Treatment Plants, Office Building and Water Tanks

For the treatment plants office building and water tanks I took the approach of maintaining what is there. There will come a point in the next 40 years where a refurbish or retrofit cost will be incurred, that is the cost that is represented in the table.

Charts

What is not included in the charts is the inflation of services that we already pay. This is the day-to-day activities of the district. The actual amount that we will need to be pay is going to be higher than predicted.

Chart A:

In Chart A, the cost of repairs is projected into the future with the rates staying the same. With average inflation increasing at a rate of 2.79% a year, the inflation costs increase faster than the surplus can pay. After 42 years, the unfunded costs to repair the district would be roughly \$294,341,136 and \$36,191,106 of rate payer's money would have gone to repairs. Total repair costs would be \$330,532,242 if we added the unfunded portion to the money spent by the rate payers.

GDPUD Construction Costs Chart A

GDPUD Construction Costs Chart A					
			2.79 % Inflation		
Year	Surplus	Costs	Unfunded	Total Paid	
1	\$861,693	\$113,826,548	\$116,140,616	\$861,693	
2	\$861,693	116,140,616	\$118,519,246	\$1,723,386	
3	\$861,693	118,519,246	\$120,964,240	\$2,585,079	
4	\$861,693	120,964,240	\$123,477,449	\$3,446,772	
5	\$861,693	123,477,449	\$126,060,777	\$4,308,465	
6	\$861,693	126,060,777	\$128,716,180	\$5,170,158	
7	\$861,693	128,716,180	\$131,445,668	\$6,031,851	
8	\$861,693	131,445,668	\$134,251,309	\$6,893,544	
9	\$861,693	134,251,309	\$137,135,228	\$7,755,237	
10	\$861,693	137,135,228	\$140,099,608	\$8,616,930	
11	\$861,693	140,099,608	\$143,146,694	\$9,478,623	
12	\$861,693	143,146,694	\$146,278,793	\$10,340,316	
13	\$861,693	146,278,793	\$149,498,279	\$11,202,009	
14	\$861,693	149,498,279	\$152,807,588	\$12,063,702	
15	\$861,693	152,807,588	\$156,209,226	\$12,925,395	
16	\$861,693	156,209,226	\$159,705,771	\$13,787,088	
17	\$861,693	159,705,771	\$163,299,869	\$14,648,781	
18	\$861,693	163,299,869	\$166,994,242	\$15,510,474	
19	\$861,693	166,994,242	\$170,791,688	\$16,372,167	
20	\$861,693	170,791,688	\$174,695,084	\$17,233,860	
21	\$861,693	174,695,084	\$178,707,383	\$18,095,553	
22	\$861,693	178,707,383	\$182,831,626	\$18,957,246	
23	\$861,693	182,831,626	\$187,070,936	\$19,818,939	
24	\$861,693	187,070,936	\$191,428,522	\$20,680,632	
25	\$861,693	191,428,522	\$195,907,685	\$21,542,325	
26	\$861,693	195,907,685	\$200,511,816	\$22,404,018	
27	\$861,693	200,511,816	\$205,244,403	\$23,265,711	
28	\$861,693	205,244,403	\$210,109,029	\$24,127,404	
29	\$861,693	210,109,029	\$215,109,377	\$24,989,097	
30	\$861,693	215,109,377	\$220,249,236	\$25,850,790	
31	\$861,693	220,249,236	\$225,532,497	\$26,712,483	
32	\$861,693	225,532,497	\$230,963,160	\$27,574,176	
33	\$861,693	230,963,160	\$236,545,340	\$28,435,869	
34	\$861,693	236,545,340	\$242,283,262	\$29,297,562	
35	\$861,693	242,283,262	\$248,181,272	\$30,159,255	
36	\$861,693	248,181,272	\$254,243,836	\$31,020,948	
37	\$861,693	254,243,836	\$260,475,546	\$31,882,641	
38	\$861,693	260,475,546	\$266,881,121	\$32,744,334	
39	\$861,693	266,881,121	\$273,465,411	\$33,606,027	
40	\$861,693	273,465,411	\$280,233,403	\$34,467,720	
41	\$861,693	280,233,403	\$287,190,222	\$35,329,413	
42	\$861,693	287,190,222	\$294,341,136	\$36,191,106	

Chart B:

Chart B projects the costs and payoff of the repairs with a 5% rate increase initially and 5% every 5 years which is a 55% total increase. The unfunded amount to repair the system would be \$196,583,681 after 42 years with \$100,324,408 of rate payer's money spent. The total amount for repairs would be \$296,908,089

In comparison to Chart A this would result in a savings to the rate payers of \$33,624,153 over 42 years.

5% Rate Increase Initially and 5% every 5 Years

GDPUD Construction Costs Chart B

2.79 % Inflation					
Year	Surplus	Costs	Unfunded	Total Paid	
1	\$861,693	\$113,826,548	\$116,140,616	\$861,693.00	
2	\$1,135,422	116,140,616	\$118,245,517	\$1,997,114.90	
3	\$1,135,422	118,245,517	\$120,409,145	\$3,132,536.90	
4	\$1,135,422	120,409,145	\$122,633,138	\$4,267,958.90	
5	\$1,422,837	122,633,138	\$124,631,765	\$5,690,796.25	
6	\$1,422,837	124,631,765	\$126,686,154	\$7,113,633.25	
7	\$1,422,837	126,686,154	\$128,797,861	\$8,536,470.25	
8	\$1,422,837	128,797,861	\$130,968,485	\$9,959,307.25	
9	\$1,422,837	130,968,485	\$133,199,668	\$11,382,144.25	
10	\$1,724,623	133,199,668	\$135,191,316	\$13,106,767.36	
11	\$1,724,623	135,191,316	\$137,238,531	\$14,831,390.36	
12	\$1,724,623	137,238,531	\$139,342,863	\$16,556,013.36	
13	\$1,724,623	139,342,863	\$141,505,905	\$18,280,636.36	
14	\$1,724,623	141,505,905	\$143,729,297	\$20,005,259.36	
15	\$2,041,498	143,729,297	\$145,697,846	\$22,046,757.78	
16	\$2,041,498	145,697,846	\$147,721,318	\$24,088,255.78	
17	\$2,041,498	147,721,318	\$149,801,245	\$26,129,753.78	
18	\$2,041,498	149,801,245	\$151,939,202	\$28,171,251.78	
19	\$2,041,498	151,939,202	\$154,136,807	\$30,212,749.78	
20	\$2,374,217	154,136,807	\$156,063,007	\$32,586,966.96	
21	\$2,374,217	156,063,007	\$158,042,948	\$34,961,183.96	
22	\$2,374,217	158,042,948	\$160,078,129	\$37,335,400.96	
23	\$2,374,217	160,078,129	\$162,170,092	\$39,709,617.96	
24	\$2,374,217	162,170,092	\$164,320,421	\$42,083,834.96	
25	\$2,723,572	164,320,421	\$166,181,388	\$44,807,407.11	
26	\$2,732,572	166,181,388	\$168,085,277	\$47,539,979.11	
27	\$2,732,572	168,085,277	\$170,042,284	\$50,272,551.11	
28	\$2,732,572	170,042,284	\$172,053,892	\$53,005,123.11	
29	\$2,732,572	172,053,892	\$174,121,623	\$55,737,695.11	
30	\$3,099,395	174,121,623	\$175,880,222	\$58,837,090.02	
31	\$3,099,395	175,880,222	\$177,687,885	\$61,936,485.02	
32	\$3,099,395	177,687,885	\$179,545,982	\$65,035,880.02	
33	\$3,099,395	179,545,982	\$181,455,920	\$68,135,275.02	
34	\$3,099,395	181,455,920	\$183,419,145	\$71,234,670.02	
35	\$3,484,559	183,419,145	\$185,051,980	\$74,719,229.07	
36	\$3,484,559	185,051,980	\$186,730,371	\$78,203,788.07	
37	\$3,484,559	186,730,371	\$188,455,590	\$81,688,347.07	
38	\$3,484,559	188,455,590	\$190,228,942	\$85,172,906.07	
39	\$3,484,559	190,228,942	\$192,051,770	\$88,657,465.07	
40	\$3,888,981	192,051,770	\$193,521,033	\$92,546,446.32	
41	\$3,888,981	193,521,033	\$195,031,289	\$96,435,427.32	
42	\$3,888,981	195,031,289	\$196,583,681	\$100,324,408.32	

Chart C:

Chart C projects the costs and payoff of the deferred maintenance with a 10% initial increase and 10 % every 5 years which is a total increase of 135%. With the cost of unfunded repairs getting paid after 39 years. The total rate payer money spent would be \$236,121,890. This would be a \$94,410,352 saving when compared to Chart A and a \$60,786,199 savings when compared to Chart B and in Chart B the repairs still had not been completed.

10% Initial Rate Increase and 10% every 5 years

GDPUD Construction Costs Chart C

2.79 % Inflation					
Year	Surplus	Costs	Unfunded	Total Paid	
1	\$861,693	\$113,826,548	\$116,140,616	\$861,693.00	
2	\$1,409,151	116,140,616	\$117,971,788	\$2,270,843.80	
3	\$1,409,151	117,971,788	\$119,854,050	\$3,679,994.80	
4	\$1,409,151	119,854,050	\$121,788,827	\$5,089,145.80	
5	\$2,270,302	121,788,827	\$122,916,433	\$7,359,447.92	
6	\$2,270,302	122,916,433	\$124,075,500	\$9,629,749.92	
7	\$2,270,302	124,075,500	\$125,266,904	\$11,900,051.92	
8	\$2,270,302	125,266,904	\$126,491,549	\$14,170,353.92	
9	\$2,270,302	126,491,549	\$127,750,361	\$16,440,655.92	
10	\$3,217,568	127,750,361	\$128,097,028	\$19,658,224.15	
11	\$3,217,568	128,097,028	\$128,453,367	\$22,875,792.15	
12	\$3,217,568	128,453,367	\$128,819,648	\$26,093,360.15	
13	\$3,217,568	128,819,648	\$129,196,148	\$29,310,928.15	
14	\$3,217,568	129,196,148	\$129,583,152	\$32,528,496.15	
15	\$4,259,561	129,583,152	\$128,938,961	\$36,788,057.01	
16	\$4,259,561	128,938,961	\$128,276,798	\$41,047,618.01	
17	\$4,259,561	128,276,798	\$127,596,159	\$45,307,179.01	
18	\$4,259,561	127,596,159	\$126,896,531	\$49,566,740.01	
19	\$4,259,561	126,896,531	\$126,177,383	\$53,826,301.01	
20	\$5,405,753	126,177,383	\$124,291,979	\$59,232,054.15	
21	\$5,405,753	124,291,979	\$122,353,972	\$64,637,807.15	
22	\$5,405,753	122,353,972	\$120,361,895	\$70,043,560.15	
23	\$5,405,753	120,361,895	\$118,314,239	\$75,449,313.15	
24	\$5,405,753	118,314,239	\$116,209,453	\$80,855,066.15	
25	\$6,666,564	116,209,453	\$112,785,133	\$87,521,630.50	
26	\$6,666,564	112,785,133	\$109,265,274	\$94,188,194.50	
27	\$6,666,564	109,265,274	\$105,647,211	\$100,854,758.50	
28	\$6,666,564	105,647,211	\$101,928,204	\$107,521,322.50	
29	\$6,666,564	101,928,204	\$95,261,640	\$114,187,886.50	
30	\$8,053,456	95,261,640	\$87,208,184	\$122,241,342.99	
31	\$8,053,456	87,208,184	\$79,154,728	\$130,294,798.99	
32	\$8,053,456	79,154,728	\$71,101,272	\$138,348,254.99	
33	\$8,053,456	71,101,272	\$63,047,816	\$146,401,710.99	
34	\$8,053,456	63,047,816	\$54,994,360	\$154,455,166.99	
35	\$9,579,038	54,994,360	\$45,415,322	\$164,034,204.73	
36	\$9,579,038	45,415,322	\$35,836,284	\$173,613,242.73	
37	\$9,579,038	35,836,284	\$26,257,246	\$183,192,280.73	
38	\$9,579,038	26,257,246	\$16,678,208	\$192,771,318.73	
39	\$9,579,038	16,678,208	\$7,099,170	\$202,350,356.73	
40	\$11,257,178	7,099,170	(\$4,158,008)	\$213,607,534.64	
41	\$11,257,178	-4,158,008	(\$15,415,186)	\$224,864,712.64	
42	\$11,257,178	-15,415,186	(\$26,672,364)	\$236,121,890.64	

Analysis

In doing a comparison, instituting the bigger rate increase saves the district millions of dollars long term due to the construction inflation costs. The larger the initial rate increase the more the district will save.

If the district pursues a rate increase, then they should look in to monthly residential billing instead of billing bi-monthly. With monthly billing, what is paid gets cut in half and helps people on a fixed income pay the bill. With bi-monthly billing even a small rate increase appears as double on the bill.

I wanted to some analysis prior to a rate study so the board can anticipate costs and structure the rate study for long term financial security of the district.

References

Inflation Rate between 1981-2021: Inflation Calculator:
<https://www.in2013dollars.com/us/inflation/1981?amount=100>

SETTING THE STAGE FOR WATER RATES: POLICY DIRECTION SHOULD BE A PRIORITY

By Greg Clumpner, Posted November 16, 2016, in Featured, Research Article.

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Introduction

In the vast majority of cases, important water rate policy issues are never really discussed until the Proposition 218 hearing, which is undoubtedly the worst time to have that discussion. If the rate adoption process is going to blow up, that's when it will happen. Discussing and adopting well-vetted and well-understood rate-related policies beforehand can reduce the heated battles and tone down the rate-payer venom by settling some key questions, such as: (1) Are we willing to minimize rate increases at the expense of adequately funding capital replacement costs? (2) How do we make trade-offs between revenue stability vs. water conservation?^[1] or (3) Are we accumulating sufficient reserves to position ourselves to issue new debt? This paper discusses practical measures to consider prior to the heated debates about rate increases.

Why Are Policies Important?

It is difficult to objectively examine and evaluate important policies in the midst of a heated Prop 218 hearing, when the over-riding concern is the size of the rate increase. At that point, most of the audience, as well as elected officials, cannot focus on anything else. But broader, and maybe more important, issues get lost in the face of strong public opposition to rate increases. Is anyone asking what the guiding policies are that contributed to the increases?

Carefully constructed policies that establish a rationale and a consistent approach to the financial health of the agency, be it a city, special district, or county, should be key factors in rate design, level of rate increases, and longer-term financial goals – but they rarely are. Identifying potentially contentious rate concerns well ahead of the rate study is just common sense. What are some key policies to consider? How about these as policy statements:

- Our agency will establish predictable and cost-based rates to the extent practical.
- Rates will be set to promote efficient and wise use of a limited resource (i.e., water).
- Rates will reflect a balance between debt funding vs. pay-as-you-go in a manner that minimizes rate increases.
- Rates will meet the “fair and equitable” requirements of Prop 218 – based on advice of our attorney.

- Rates will not differentiate costs by area or within a customer class.
- Rates will collect fixed costs from fixed charges and variable costs from volumetric rates – to the extent practical and without unduly impacting low income customers.
- Rates will fully fund costs related to compliance with regulatory mandates.
- Rates will fund at least a minimum level of system maintenance – as defined by our engineering staff.

What's the Strategy for Using Policies as part of the Rate Setting Process?

Raising rates on customers will always meet some level of rate-payer hostilities. So, resolving or at least openly discussing specific criteria for raising rates in a rational and calm setting prior to rate adoption can minimize the surprise, anger, and pressure from customers. For example:

- Do our rates allow for timely replacement of system assets, or do they by default follow a “wait until it breaks to fix it” mentality?
- Should we minimize rate increases for capital improvements by issuing more debt?
- Should our rates reflect actual costs of service that vary significantly within the service area due to elevation differences and related pumping costs?
- Should older sections of the service area, which require higher levels of maintenance and repair, be considered in rates or not?
- Should the costs of expensive storage facilities be solely allocated to customers with high summertime peaking requirements?

There are pros and cons to each of these policy questions. Costs, and often the winners and losers in terms of rate impacts, can be evaluated and contribute to a rational decision by elected officials... if that discussion takes place before voting on rate increases. Building a defensible basis for rate increases is ***always*** more effective earlier in the process.

A proactive, forward-thinking process should incorporate a review and discussion of key rate-related policies first, followed by a financial analysis and development of rate design alternatives. Why is it an extremely rare case to see that process included in a rate-study RFP (Request for Proposals)? One answer might be wishful thinking – we hope it's an easy rate adoption process, even though we're not even sure yet how big the rate increases are going to be. Another might just be poor planning – we didn't think that far ahead, and there's always time to discuss those problems during the study, right?

Bottom line is we should try to be proactive and thoughtful so that we can minimize controversies at the most critical point in the process (that would be the night that elected officials vote to adopt or reject rate increases).

General Concepts

Here are some general concepts to consider as you are planning your next water rate study:

- Ask yourself what the key objectives of the study are and whether you have established policies related to the rate issues that will likely come up during the study.
- Lay out a timeline and process that allows for a discussion (and ideally a confirmation and/or adoption) of the rate-related policies.
- Include a discussion of the pros and cons of each policy so that decision makers can develop an informed opinion when considering adopting each policy.
- Formalize the policies by adopting them after discussion at a public meeting (this allows you to tell rate payers that they were openly discussed and adopted with the intent that they would guide the rate-setting process).
- During development and discussions of rate alternatives, provide references to specific policies as justification for things like rate design alternatives, level of capital expenditures, new debt issuances, etc.

“Providing Advanced Warning”

The last thing you want happening during the rate adoption process is for the elected officials to say something like “Why is this the first time I’m seeing these rate increases?” The best approach is to thoroughly vet the alternatives and the levels of rate increases with decision-makers in one or more study sessions or hearings so that they are on-board prior to the final public hearing. This is typically the role of a City Manager or General Manager – you are the liaison with your elected officials.

What Policies Should I Consider Adopting?

A number of policy topics are noted above. Basically, these policies should demonstrate that you understand what it takes to create and maintain a well-run and professionally managed utility. They are the fundamental guidelines that should be used during the rate-setting process, and should be available to rate payers so that they understand the rationale for the financial decisions your agency will be making.

Keep in mind that we are in a period when more water agencies are seeing larger rate increases than ever before:

- Free grant money to build infrastructure is no longer available as it was 50 years ago.
- System assets are, unfortunately, approaching the peak of the replacement cycle as assets are aging out; not replacing worn out pipes and tanks not only risks system failures, but can create huge financial liabilities as well as public perception nightmares.

- Generally poor economic conditions, which are likely to continue for the foreseeable future, create an even more difficult environment for passing rate increases.
 - Rate-related policies can play a significant role in minimizing resistance to higher rates.
-

We have created ten examples of positive policies to ensure that there is “full disclosure” of both the positive and negative aspects of rate-related policies.

Principles for Guiding the Rate-Setting Process

The following principles are provided for discussion purposes and are subject to modification by the Utility Rate Advisory Committee (*or the Board or City Council*).

Principle 1 – Establish rates in compliance with all applicable federal, state, and local laws and regulations.

Discussion: Certain federal, state, and local laws and regulations have an impact on processes involved in setting the City’s (County or Special District) rate structure – most notably Proposition 218. It is imperative that the rate structure be established in compliance with these laws and regulations.

Advantages of the Principle: Clearly states the City’s intent to establish rates in compliance with applicable federal, state, and local laws and regulations.

Disadvantages of the Principle: None.

Principle 2 – Establish rates that are fair and equitable within the limitations of reasonable and attainable data and the City’s administrative systems, personnel, and finances.

Policy Statement: The City recognizes the need for reasonable allocation of the costs of water, wastewater, and solid waste services, as well as the need to provide an easily understood rate structure for its customers. Rates should generally be perceived by the City’s customers as fair, reasonable, and equitable to all customers.

Discussion: This principle highlights the importance of the customer’s perception of fairness and equity, while also recognizing that it is not practical to promise absolute equity among all customers and customer classes.

Advantages of the Principle: Reinforces the City Council’s priority of treating all customers fairly. It also underscores the importance of a perception of fairness and equity for the entire service area as opposed to pacifying the “squeaky wheel.” Finally, it acknowledges the practical obstacles that prevent perfect equity.

Disadvantage of the Principle: This principle ultimately does not clearly define the terms “fair and equitable” and will still require the City Council to apply its discretion and judgment.

Principle 3 – Attempt to make rates simple for the public to understand and reasonable for the City to administer.

Policy Statement: Rates should be easily understood by customers and cost-efficient for the City to administer.

Discussion: The City’s unwritten policy has been to keep rate structures and the process of administering rates simple. Customer education and clarity of customer bills should be considered part of this principle.

Advantages of the Principle: Creating rates that are easy for customers to understand will minimize rate-related customer-service issues. If customers understand the basis for their bills, they will have a greater ability to comprehend their billing statement and conclude that it is fair. Rates that are simple to understand may be more important than a higher degree of equity, as long as any resulting inequities are not viewed as “gross inequities.”

Disadvantages of the Principle: There are tensions between “fairness and equity” and simplicity of the rate structure. Simplifying the rate structure does not always provide a maximum degree of fairness and equity, and may suggest to some customers that a degree of inequity does, in fact, exist.

Principle 4 – Establish stable and predictable rates over time to the extent possible within the City’s overall financial plan.

Policy Statement: Rates should be stable and predictable over time, which requires striving for a balance between generating sufficient revenue for utility operations, funding capital improvements, and improving customer perception of the rates as fair and equitable.

Discussion: It is imperative to establish rates that generate adequate revenues from year to year, regardless of weather and consumption characteristics. Large and unexpected year-to-year rate changes impose financial hardships on customers and promote customer perceptions that the City is arbitrary in its rate-related decisions and/or poorly managed. This principle recognizes the need to establish an appropriate balance between minimizing large rate adjustments without discouraging annual smaller systematic rate adjustments.

Advantages of the Principle: The principle attempts to stabilize the cash flow of the utilities and, at the same time, improve the predictability and customer perceptions of fair and equitable rates and management approach of the City.

Disadvantages of the Principle: It is difficult to define “stable,” since this term has different meanings for different people. Customers may construe stable to mean no increases from year to year.

Principle 5 – Make rates cost-based to the extent possible.

Policy Statement: Rates should be cost-based to the extent possible, meaning that other rate-setting policies of the City and the financial impacts to customers must also be considered. Fundamentally, “cost-based” rates are rates that meet a utility’s overall revenue requirements for the City’s water, wastewater, and solid waste enterprises. From the customer’s perspective, “cost-based” means fair and reasonable allocation of costs to customers based on the degree to which customers cause the City to incur costs.

Discussion: Cost-based rates are generally recognized as being the most fair and equitable. However, this principle again needs to strike a balance between establishing cost-based rates in an excessively detailed and confusing manner vs. establishing overly simplified rates. The City should strive for rates that satisfy both the City revenue requirements and the customer’s perception of fairness and equity.

Advantages of this Principle: Striving for cost-based rates is an important element in achieving rates that will generally be perceived as fair and equitable, and also meet the City’s financial needs. Although cost responsibility among classes of service is not essential to the financial stability of the City, it is important if customers are to perceive rates as fair and equitable, as well as meeting the requirements of state law (i.e. Proposition 218).

Disadvantages of the Principle: A commitment to cost-based rates may imply different levels of refinement and detail in the rates for various customer groups. Therefore, this principle could be misconstrued as requiring an excessively detailed and costly approach to establish rates.

Principle 6 – Set rates to promote efficient customer use.

Policy Statement: Rates should recognize the value of water and wastewater system capacities as limited resources and should encourage efficient use of these resources.

Discussion: This principle is intended to recognize the limited resources and the environment. In light of the 20x2020 State Water Conservation Plan, the California Urban Water Conservation Council’s Best Management Practice (BMP) related to retail conservation pricing (BMP 1.4), and the recently enacted Senate Bill 814 (SB 814), the City’s rates should encourage efficient use of water. However, recent court cases such as the San Juan Capistrano decision place an additional requirement on tiered rates – that the City be able to demonstrate the cost basis for each tier and how much of the “cheaper” sources of supply are allocated to customer classes. Similarly, the City’s wastewater treatment plant capacity is limited, and plant expansions are very expensive. This principle is not intended to discourage reasonable uses of the resources, but instead,

by attempting to price commodities roughly equal to their true costs, the City will be encouraging efficient use of its limited resources.

Advantages of the Principle: This principle recognizes the multiple uses of our natural resources and makes a positive statement to all customers and outside parties that the City encourages the efficient use of its resources.

Disadvantages of the Principle: Some customers and outside parties may believe this principle implies the need to adopt highly aggressive conservation-based water and wastewater rates, and/or a mandate for the City to consider complex water-budget based rates.

Principle 7 – Establish uniform rates within a service class; do not differentiate by area or within a service class.

Policy Statement: Rates for the City shall be uniform for all customers within a class of service and shall not be differentiated by location within the service area or by the particular facilities required to provide them service, such as pumping to different elevation zones or length the of transmission or collection system.

Discussion: Establishing rates that are uniform for a class of service is the approach most commonly used by utilities across the United States. Utilities generally recognize that cost differences for service exist within a customer class of service, but also recognize the advantages of a uniform rate structure. Policymakers are usually willing to accept some level of inherent inequities to gain the advantages and benefits derived from uniform rates by class of service.

Furthermore, industry standards, such as the American Water Works Association[2], support an approach that considers other community priorities:

“...the costs of water rates and charges should be recovered costs from classes of customers in proportion to the cost of serving those customers. However...other considerations may be equally or more important in determining rates and charges and may better reflect emerging objectives of the utility or the community it serves.”

and

“...pricing policies may support a community’s social, economic, political, and environmental concerns.”

Advantages of the Principle: Any rate-setting principle that results in the same rate structure for all customers within a class of service recognizes, and is willing to accept, some obvious cost differences because the benefits outweigh the disadvantages, and is likely to be perceived by customers as fair and equitable. It will be more cost-efficient for the City to administer, since no consideration is given to the particular facilities used to serve individual customers or the location of the customer. It can also eliminate the dramatic rate differentials that can occur when specific areas need costly infrastructure improvements. The principle may also help to eliminate the perception that there are “multiple service areas” within the City (i.e., this principle establishes the idea that the City has only one service area).

Disadvantages of the Principle: This principle does not recognize the cost differences associated with serving different areas of the City (e.g., old vs. new areas, higher- vs. lower elevations, etc.). Customers who believe rates should be individually defined to the greatest extent possible may object to this principle.

Principle 8 – Calculate water and wastewater rates independently and, where practicable, without subsidies.

Policy Statement: Although some shared costs such as administrative overhead must be appropriately allocated between water and wastewater utilities, other costs will be separately identified and allocated to each utility, such as: capital improvements, operating and maintenance costs, and debt service payments. There should be no subsidy of one utility by another.

Discussion: This principle recognizes that each utility has different customers and, therefore, subsidizing one utility by another can create inequities.

Advantages of the Principle: This approach holds closely to Proposition 218 requirements that rates reasonably reflect the proportional costs of service to a particular property, and minimizes dissatisfaction by customers who believe their rates are subsidizing other customers or that they are paying for benefits they are not receiving.

Disadvantages of the Principle: The disadvantage of this principle is that it does not allow for the possibility of allocating costs in a manner that may result in a win-win outcome for all customers (e.g., water customers sharing some wastewater treatment costs if it makes recycled water available for landscaping purposes and, thereby, reduce the overall use of more costly sources of potable water supplies).

Principle 9 – Consider financial tests, such as debt-service coverage, in all financial planning and rate adjustments.

Policy Statement: The City is legally obligated to meet certain financial tests specified in the documents resulting from issuing revenue bonds or similar debt instruments. These obligations need to be considered and reflected in financial plans and future rate increases.

Discussion: While these requirements are intended to assure bond holders that the City will have sufficient revenue to repay them, they are also beneficial in that they force the City to maintain adequate reserves and meet annual revenue requirements, which contributes to the overall financial health of the City.

Advantages of the Principle: This principle can help ease political pressure to not increase rates except in the most dire circumstances. Meeting the coverage ratios specified in bond covenants can help the City avoid falling into disrepair because it provides a specific means for the City to adhere to its current legal obligations of maintaining the general financial health of the City's water and wastewater utilities.

Disadvantages of the Principle: The City is already legally obligated to maintain its debt-service ratios and the principle may be redundant to those obligations.

Principle 10: Establish water and wastewater rates that collect fixed costs from fixed charges and variable costs from variable charges.

Discussion: Water and wastewater rates typically have a combination of fixed and variable charges. The fixed charges are intended to cover debt service, capital costs, and those operation and maintenance costs that do not vary with the amount of water consumed or wastewater discharged. The variable cost component is the actual volumetric rate that is based on the amount of water used or wastewater discharged.

Advantages of the Principle: Recovering fixed costs from fixed charges provides greater revenue stability. It would also reduce average monthly single-family water bills for customers using more than the average amount of water consumption. This approach more closely reflects the cost of service and proportionality requirements of Proposition 218.

Disadvantages of the Principle: Conflicts with the California Urban Water Conservation Council's BMP #1.4, in that it would collect less than 70 percent of water-rate revenue from volumetric charges. It would also increase average single-family monthly water bills for customers using less than the average monthly water consumption.

[1] This is related to the percent of rate revenue collected from volumetric rates vs. fixed charges.

[2] *Principles of Water Rates, Fees, and Charges*, Manual of Water Supply Practices, M1, AWWA, sixth edition, 2012. Also, see *Financing and Charges for Wastewater Systems*, Manual of Practice No. 27, Water Environment Federation, 2004, page 91.

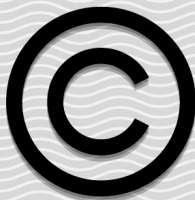
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Principles of Water Rates, Fees, and Charges

AWWA MANUAL M1
Sixth Edition



**American Water Works
Association**



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Section I

Introduction

I.1 Overview of Cost-Based Water Utility Rate Making



Chapter I.1

Overview of Cost-Based Water Utility Rate Making

INTRODUCTION

Establishing cost-based rates, fees, and charges is an important component in a well-managed and operated water utility. Cost-based rates provide sufficient funding to allow communities to build, operate, maintain, and reinvest in their water system that provides the community with safe and reliable drinking water and fire protection. Properly and adequately funded water systems also allow for the economic development and sustainability of the local community. The purpose of this manual is to discuss standard practices in financial planning and rate making that a utility can use to establish cost-based rates, fees, and charges to recover the full costs associated with their water system.

The methods and analyses used to establish cost-based rates, fees, and charges have a long history within the water utility industry. Operators of some of the earliest water systems recognized the need for sufficient funding and rates to properly operate, maintain, and expand their water systems. The American Water Works Association (AWWA) appointed the Committee on Water Rates in 1949. As time passed, the utility industry recognized the need for a manual of standard practice. Through the work of this committee, the first AWWA M1 manual, *Water Rates Manual*, was published in 1954. Many of the same concepts, methodologies, and analyses used in 1954 remain relevant today. As time has passed, the AWWA M1 manual has been updated and expanded to reflect the changing industry and its current financial and rate issues. The development of AWWA's Sixth Edition of the M1 manual continues the efforts of many dedicated rate professionals to provide a manual of standard practice for the development and establishment of cost-based water rates, fees, and charges.

As a manual of standard practice, AWWA advocates the use of the generally accepted cost-based principles and methodologies for establishing rates, charges, and fees contained and discussed within this manual. Establishing cost-based and

equitable rates is technically challenging and requires, at some level, knowledge and understanding of finance, accounting, budgeting, engineering, system design and operations, customer service, public outreach and communication, and the legal environment as it may relate to setting rates, fees, and charges.

OBJECTIVES OF COST-BASED RATE MAKING ---

Water rates developed using the methodologies discussed in this manual, when appropriately applied, are generally considered to be fair and equitable because these rate-setting methodologies result in cost-based rates that generate revenue from each class of customer in proportion to the cost to serve each class of customer. Water rates are considered fair and equitable when each customer class pays the costs allocated to the class and thus cross-class subsidies are avoided.

While recovery of the full revenue requirement in a fair and equitable manner is a key objective of a utility using a cost-of-service rate-making process, it is often not the only objective. The following list contains the typical objectives in establishing cost-based rates:*

- Effectiveness in yielding total revenue requirements (full cost recovery)
- Revenue stability and predictability
- Stability and predictability of the rates themselves from unexpected or adverse changes
- Promotion of efficient resource use (conservation and efficient use)
- Fairness in the apportionment of total costs of service among the different ratepayers
- Avoidance of undue discrimination (subsidies) within the rates
- Dynamic efficiency in responding to changing supply and demand patterns
- Freedom from controversies as to proper interpretation of the rates
- Simple and easy to understand
- Simple to administer
- Legal and defensible

OVERVIEW OF THE GENERALLY ACCEPTED RATE-SETTING METHODOLOGY ---

This manual outlines the methodologies and analyses that are used to establish cost-based rates. As displayed in Figure I.1-1, the generally accepted rate-setting methodology includes three categories of technical analysis. The first is the revenue requirement analysis. This analysis examines the utility's operating and capital costs to determine the total revenue requirement and the adequacy of the utility's existing rates. Next, a cost-of-service analysis is used to functionalize, allocate, and equitably distribute the revenue requirements to the various customer classes of service (e.g., residential, commercial) served by the utility. The final technical analysis is the rate-design analysis. The rate-design analysis uses the results from the revenue

* Paraphrased from *Principles of Public Utility Rates*, James C. Bonbright, Albert L. Daniels, and David R. Kamerschen, Public Utilities Reports, Arlington, Va., Second Edition, p. 383–384.

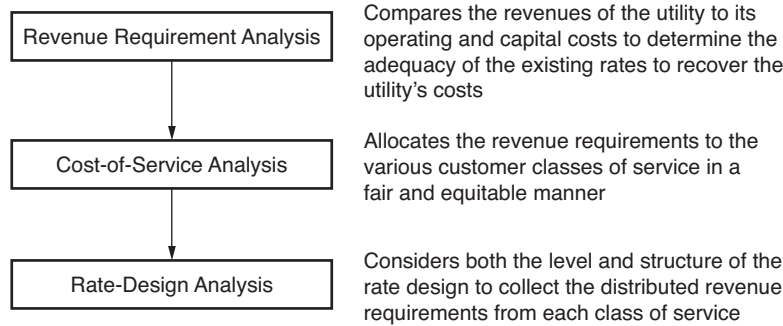


Figure I.1-1 Overview of the analytical steps of cost-based rate making

requirement and cost-of-service analysis to establish cost-based water rates that meet the overall rate-design goals and objectives of the utility.

A section of the manual has been dedicated to providing a detailed discussion of each type of analysis previously referenced. Section II of this manual discusses the various technical components of establishing a utility's revenue requirements. Section III discusses the various methodologies that may be used to conduct a cost-of-service analysis. Finally, Section IV reviews the various issues and technical considerations in designing water rates.

OVERVIEW OF THE KEY TECHNICAL ANALYSES ASSOCIATED WITH COST-BASED RATE MAKING

In establishing cost-based water rates, it is important to understand that a cost-of-service methodology does not prescribe a single approach. Rather, as the First Edition of the M1 manual noted, "the (M1 manual) is aimed at outlining the basic elements involved in water rates and suggesting alternative rules of procedure for formulating rates, thus permitting the exercise of judgment and preference to meet local conditions and requirements."^{*} This manual, like those before it, provides the reader with an understanding of the options that make up the generally accepted methodologies and principles used to establish cost-based rates. From the application of these options within the principles and methodologies, a utility may create cost-based rates that reflect the distinct and unique characteristics of that utility and the values of the community.

Revenue Requirement Analysis

The purpose of the revenue requirements analysis is to determine the adequate and appropriate funding of the utility. Revenue requirements are the summation of the operation, maintenance, and capital costs that a utility must recover during the time period for which the rates will be in place. There are two generally accepted approaches discussed in this manual for establishing a utility's revenue requirements: the cash-needs approach and the utility-basis approach. Section II of the manual provides a detailed discussion and numerical examples about how to establish a utility's revenue requirement using these two approaches, and this section provides a framework for determining how to select between the two approaches.

* AWWA M1 manual, *Water Rates Manual*, First Edition, 1954, p. 1.

Cost-of-Service Analysis

The purpose of the cost-of-service analysis is to equitably distribute the revenue requirements between the various customer classes of service served by the utility. The cost-of-service analysis determines what cost differences, if any, exist between serving the various customer classes of service. There are two generally accepted methodologies for conducting the cost-of-service analysis. They are called the base-extra capacity methodology and the commodity-demand methodology. The functionalization, allocation, and distribution process of the base-extra capacity and commodity-demand methodologies are generally considered fair and equitable because both approaches result in the revenue requirements being distributed to each class in proportion to each class's contribution to the system cost components. A discussion of both cost-of-service methodologies, along with numerical examples to illustrate their differences, are provided in Section III of this manual.

Rate-Design Analysis

The final technical analysis is the rate-design analysis. This analysis determines how to recover the appropriate level of costs from each customer class of service. There are different rate structures that may be used to collect the appropriate level of revenues from each customer class of service. Section IV of this manual covers the selection and development of rate designs in detail.

OTHER WATER RATE ISSUES AND CONSIDERATIONS _____

In addition to the topics previously discussed, this manual also contains guidance on a variety of other water rate and cost recovery issues, capacity and development charges, and water rate implementation issues. These topics are discussed in Sections V through VII.

Section V provides an overview of many distinct situations and pricing considerations that utilities may need to address. It is not unusual for a utility to face situations where a customer or group of customers has unique characteristics and circumstances. These situations include establishing inside- versus outside-city rates, standby rates, drought and surcharge rates, low-income and affordability rates, negotiated contract and economic development rates, indexed rates, price elasticity of rates, and marginal cost pricing. Regardless of the distinctive situation and pricing considerations, the cost-based principles and methodologies as discussed within this manual should be adapted for the cost analysis to provide proper support for the rates.

In recent years, the cost of system expansion and customer growth has had a significant financial impact on utilities. The development of cost-based connection fees, system development charges, or dedicated capacity charges are the topics reviewed in Section VI.

Finally, while cost-of-service principles for rate making and related fees and charges relies on significant amounts of financial analysis, engineering analysis, and policy decisions, it is necessary to engage the public and to understand the legal environment in which fair and equitable rates are set. These topics, along with the data needs for developing cost-based rates, are discussed in Section VII of the manual.



**California Special
Districts Association**

Districts Stronger Together

Proposition 218 Guide for Special Districts



A GUIDE TO UNDERSTANDING THE IMPACTS OF PROPOSITION 218 ON SPECIAL DISTRICTS.



Introduction

The nature of the services provided by a special district will generally dictate what types of revenue sources the special district will use to fund its services. For example, special districts that provide water, sewer and solid waste disposal rely primarily on fees and charges imposed on the property owners or tenants who directly receive those services.

Special districts are limited special purpose local governments that are separate from cities and counties. Within their jurisdictions, special districts provide particular public services such as water, sewer, sanitation, fire protection, emergency medical services, parks and recreation, cemeteries, resource conservation, flood control, and mosquito abatement, among others. Special districts fund these services and generate revenue from several sources, including property taxes, special assessments, fees and charges.

The nature of the services provided by a special district will generally dictate what types of revenue sources the special district will use to fund its services. For example, special districts that provide water, sewer and solid waste disposal rely primarily on fees and charges imposed on the property owners or tenants who directly receive those services. As described in the following pages, these are now referred to as “property-related fees and charges.” Other special districts that provide more generalized services to communities, such as fire protection and emergency medical services, public cemeteries, mosquito abatement, and flood control rely primarily on real property taxes, special taxes or special assessments to fund their services.



On November 5, 1996, California voters approved Proposition 218, the so-called “Right to Vote on Taxes Act.”

On November 5, 1996, California voters approved Proposition 218, the so-called “Right to Vote on Taxes Act.” Proposition 218 amended the California Constitution by adding articles XIII C (“Article XIII C”) and XIII D (“Article XIII D”), which affect the ability of special districts and other local governments to levy and collect existing and future taxes, assessments, and property-related fees and charges. Article XIII C established voter approval requirements for general and special taxes and provided the initiative power to voters to reduce or repeal any local tax, assessment, fee or charge. It further made the power of initiative applicable to all local governments. Article XIII D established a new category of fees and charges, referred to as “property-related fees and charges.”¹ Additionally, Article XIII D established new procedural requirements for levying assessments and imposing new, or increasing existing, property-related fees and charges, and it placed substantive limitations on the use of the revenues collected from assessments and property-related fees and charges, as well as on the amount of the assessment, fee, or charge that may be imposed on each parcel.

Proposition 218 can best be understood against its historical background, beginning with the adoption of Proposition 13 in 1978. Proposition 13 added Article

XIII A to the California Constitution. Billed as a property-taxpayer relief measure, it included an “interlocking package” comprised of a real property tax rate limitation (Article XIII A, § 1), a real property assessment limitation (Article XIII A, § 2), a restriction on state taxes (Article XIII A, § 3), and a restriction on local taxes (Article XIII A, § 4). Additionally, Article XIII A, section 4 limited local governments by establishing a two-thirds voter approval requirement for any special tax to be imposed by cities, counties, and special districts.

Proposition 218’s findings and declarations provide further clarification of its purposes:

The people of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.²



Proposition 218 was thus intended to bolster Proposition 13's limitations on ad valorem property taxes and special taxes by placing new restrictions on the imposition of taxes, assessments, fees, and charges.³

This guide addresses the requirements for the adoption of taxes under Article XIII C, explains the substantive limitations on—and procedural requirements for—imposing any new, or increasing any existing, assessment or property-related fee or charge. It also addresses court cases interpreting Proposition 218's provisions. While this guide is designed to help special districts interpret and comply with the current requirements of Proposition 218, future court decisions, constitutional amendments, and clarifying legislation adopted by the state Legislature may impose different compliance requirements. It is not possible to predict how courts will further interpret Article XIII C and Article XIII D, and what, if any, further implementing legislation will be enacted.



Important

All special districts should consult their respective legal counsel for further clarification and compliance with these constitutional provisions and specific statutory provisions governing their agency that may be implicated by the adoption of a tax, assessment or property-related fee or charge. This guide is only meant to be an overview.

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Taxes (Article XIII C)

Article XIII C is divided into three sections.

Article XIII C is divided into three sections. Section 1 provides the definitions of specific terms applicable to Article XIII C. Section 2 establishes local government tax limitations. Section 3 establishes the initiative power to reduce or repeal local taxes, assessments, and fees and charges.

Definitions

Section 1 provides definitions of the terms “general tax,” “local government,” “special district,” and “special tax.”

- A “general tax” is defined as “any tax imposed for general governmental purposes.”⁴
- A “special tax” is defined as “any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.”⁵ Parcel taxes are special taxes.⁶
- “Local government” is defined as “any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.”⁷
- “Special district” is defined as “an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.”⁸



Significantly, all taxes imposed by special districts are by definition special taxes because they are imposed for specific purposes.

Local Government Tax Limitation

Article XIII C, section 2 establishes local government tax limitations by characterizing all taxes as either general or special taxes.⁹ By definition, a tax is a general tax only if its revenues are placed into the general fund of a local agency and made available for any and all governmental purposes. A local government may not impose, extend, or increase a general tax unless and until the tax is submitted to the electorate and approved by a majority vote of the qualified electors voting in the election.¹⁰ The election to approve a general tax must be “consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.”¹¹

Significantly, all taxes imposed by special districts are by definition special taxes because they are imposed for specific purposes.¹² Article XIII C, section 2(a) provides that “[s]pecial purpose districts or agencies, including school districts, shall have no power to levy general taxes.”¹³ However, special districts are specifically authorized to impose a special tax pursuant to California Government Code section 50077.¹⁴ A special district may not impose, extend, or increase any special tax unless and until the tax is submitted to the electorate and approved by two-thirds of the votes cast by the qualified voters voting

on the proposition.¹⁵ “The revenues from any special tax shall be used only for the purpose or service for which [the tax] was imposed, and for no other purpose whatsoever.”¹⁶

What does it mean to impose, extend, or increase a tax?

- A tax is “imposed” when (1) a special district adopts the ordinance or resolution enacting the tax and establishing the legal obligation of the taxpayer to pay the tax; and (2) the tax is collected.¹⁷ This means that a tax is imposed anew each time it is collected.¹⁸
- A tax is “extended” when a special district makes a decision to change the stated effective period for the tax, including any amendment or removal of a sunset provision or expiration date.¹⁹
- A tax is “increased” when a special district makes a decision that either (1) increases any applicable rate used to calculate the tax; or (2) revises the methodology²⁰ by which the tax is calculated, if that revision results in an increased amount being levied on any person or parcel.²¹ A tax is not deemed increased when a special district makes a decision that either (1) adjusts the

Taxes (Article XIII C) continued

amount of a tax in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996; or (2) implements or collects a previously approved tax, so long as the rate is not increased beyond the level previously approved by the special district, and the methodology previously approved by the special district is not revised so as to result in an increase in the amount being levied on any person or parcel.²²

A proposed special tax may state a range of rates or amounts.²³ If the range of rates is approved by the voters, the governing body of the special district may impose the tax at any rate or amount that is less than or equal to the maximum amount approved.²⁴ Alternatively, any proposed special tax may provide for inflationary adjustments to the rate or amount pursuant to a clearly defined formula,²⁵ *unless* the special tax is to be determined by using a percentage calculation.²⁶ If the amount or rate of a tax is determined using a percentage calculation, the ordinance or resolution establishing the tax may not provide that the percentage will be adjusted for inflation.²⁷ Additionally, if approved by the voters, the legislative body of the special district may thereafter impose the special tax at any rate that is less than or equal to the inflation-adjusted maximum amount authorized by the voter-approved ordinance.²⁸ These same

provisions apply to any ordinance presented for voter approval pursuant to Article XIII D.

Because of these requirements, when adopting any special tax a special district should consider including escalators and maximum rate provisions in the tax ordinance submitted for voter approval, in order to avoid having to seek voter approval for any future tax increases.

Initiative Power for Local Taxes, Assessments, Fees, and Charges

There are two ways in which a measure may be placed on a local ballot. A local legislative body has the ability to place tax measures, bond measures, charter measures, and proposed changes in law on the ballot.²⁹ Alternatively, local voters can put an initiative or a referendum on the ballot. Article XIII C, section 3 extends the initiative power to reduce or repeal any local tax, assessment, fee or charge. This section of the Constitution is applicable to all local governments, including special districts. This extension of the initiative power is not limited to taxes imposed on or after November 6, 1996 (the effective date of Proposition 218), and could result in retroactive repeal or reduction in any existing taxes, assessments, fees and charges, subject to overriding federal and state constitutional principles relating to the impairment of contracts. Moreover, neither the state Legislature or any local government charter may impose a signature requirement higher than that applicable to statewide statutory initiatives.³⁰

In *Bighorn-Desert View Water Agency v. Verjil*, the California Supreme Court held that under Article XIII C, section 3, a public agency's water fees and charges may be reduced by the initiative process.³¹ However, the court also recognized that there is nothing in Article XIII C that authorizes initiative measures that impose voter-approval requirements for future increases in fees or charges.³² The court declined to determine whether the electorate's initiative power is subject to the statutory provision requiring that water service charges be set at a level that "will pay the operating expenses of the agency, . . . provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due."³³

As of May 2013, the courts have still not addressed the question of whether an initiative measure to reduce taxes, assessments, and fees and charges is limited by a public agency's rate setting or contractual obligations, including outstanding bonds and other forms of indebtedness.

Taxes, assessments, fees, and charges may be pledged to repay bonds or other forms of indebtedness. In general, bonds and other public securities constitute contracts that fall within the purview of state and federal constitutional prohibitions against impairing the obligations of contracts.³⁴ Most public lawyers therefore believe that the impairment of contracts provisions of the state and federal constitutions would seem to preclude an initiative that reduces or repeals taxes, assessments, fees, or charges pledged as the source of payment of a bonded indebtedness if the initiative would impair the obligations of the agency to the bond holders.³⁵

Table 1

Type of Tax	Voter Approval
General Tax ⁽¹⁾	Majority
Special Tax	Two-thirds

(1) Cities and Counties only.





Assessments, Fees and Charges (Article XIII D)

Article XIII D is divided into six sections.

Article XIII D is divided into six sections. Section 1 governs the application of Article XIII D to all assessments, fees, and charges, whether imposed pursuant to state statute or local government charter authority. Article XIII D, section 1 provides that nothing in Article XIII C or Article XIII D shall be construed to:

- provide any new authority to any agency to impose a tax assessment, fee or charge;
- affect existing laws relating to the imposition of fees or charges as a condition of property development; or
- affect existing laws relating to the imposition of timber yield taxes.³⁶

Section 2 provides the definitions of certain terms applicable to the imposition of assessments and property-related fees and charges under Article XIII D. Those definitions are as follows:

- “Agency” means any local government, as defined in subdivision (b) of Section 1 of Article XIII C.
- “Assessment” means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. “Assessment” includes, but is not limited to, “special assessment,” “benefit assessment,” “maintenance assessment” and “special assessment tax.”

Assessments, fees and charges continued

- “Capital cost” means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.
- “District” means an area determined by an agency to contain all parcels that will receive a special benefit from a proposed public improvement or property-related service.
- “Fee” or “charge” means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service.
- “Maintenance and operation expenses” means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.
- “Property ownership” includes tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.
- “Property-related service” means a public service having a direct relationship to property ownership.
- “Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General

enhancement of property value does not constitute “special benefit.”³⁷

Section 3 provides an exclusive list of the types of levies that may be imposed on property. According to this section, no tax, assessment, fee, or charge may be assessed by any agency upon any parcel or property or upon any person as an incident of property ownership except:

- the ad valorem property tax imposed pursuant to Article XIII and Article XIII A;
- any special tax receiving a two-thirds vote pursuant to Article XIII A, section 4;
- assessments adopted pursuant to Article XIII D, section 4; and
- fees or charges for property-related services adopted pursuant to Article XIII D, section 6.³⁸

Section 3 specifically exempts fees and charges imposed by local governments for the provision of electrical or gas service from the provisions of Article XIII D, section 6, which govern property-related fees and charges.³⁹ However, fees and charges for the provision or gas or electrical services are subject to the provisions of Article XIII C, section 1(e), as amended by Proposition 26, which was adopted in November 2010. Sections 4 and 5 of Article XIII D affect the imposition of assessments. Sections 4 and 5 are described in greater detail in the following section.





Assessments (Article XIII D, Sections 4 and 5)

Assessments are levied pursuant to statutory authority or, in some instances charter city authority. Of significance is the requirement that the property must be specially benefitted by the improvements or services for which the assessment is imposed.

As noted previously, Article XIII D, section 2 defines “assessment” as any levy or charge upon real property by an agency for a special benefit conferred upon the real property. Assessments are sometimes referred to as “special assessments” or “special benefit assessments,” and are not to be confused with a tax assessment or special tax.⁴⁰ Taxes are generally imposed for revenue purposes, rather than in return for a specific benefit conferred or privilege granted.⁴¹ An assessment, however, is a charge levied and imposed on property to pay for special benefits that parcels receive from local government improvements (e.g., water facilities, sewer facilities, undergrounding of utilities, or landscape improvements) or services (e.g., maintenance of storm water facilities, landscape improvements, or street lighting improvements). Assessments are levied pursuant to statutory authority or, in some instances charter city authority. Of significance is the requirement that the property must be specially benefitted by the improvements or services for which the assessment is imposed.

Beginning July 1, 1997, with a few limited exceptions, all existing,⁴² new, or increased assessments must comply with the substantive limitations and procedural requirements of Article XIII D, section 4, including the requirement that public agencies must hold a public hearing and provide property owners with an opportunity to protest any proposed new assessment or increase to an existing assessment. An overview of these substantive and procedural requirements follows.

Compliance with the Substantive Provisions of Article XIII D, Section 4

Before imposing an assessment, a public agency must first identify all parcels that will receive a special benefit from the proposed improvements or services for which the assessment is proposed to be levied.⁴³ The assessments must be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.⁴⁴ Only special benefits are assessable, and local governments may not impose assessments to pay for the cost of providing a general benefit to the community.⁴⁵ If a proposed project provides both special benefits and general benefits, the assessment engineer's report must separate the benefits, and only the special benefits may be assessed.⁴⁶ The requirement that a public agency separate the general benefits from the special benefits helps ensure that the special benefit requirement is met.⁴⁷ Moreover, every parcel that receives a special benefit from the proposed improvements or services must be assessed, including any parcels owned or used by a public agency, the State of California, or the United States.⁴⁸

The assessment engineer's report must quantify the proportionate special benefit derived by each identified parcel⁴⁹ subject to the proposed assessment in relationship to the entirety of the capital cost of the public improvements or services being provided, and must calculate the amount of the assessment to be imposed on each identified parcel.⁵⁰ Additionally, no assessment may be imposed that exceeds the reasonable cost of the proportional special benefit that is conferred on a parcel.⁵¹

The special benefit and proportionality requirements are perhaps best understood as being interrelated, not separate, requirements. The proportionality requirement ensures that the *aggregate* assessment imposed on *all* parcels is distributed *among* all assessed parcels in *proportion* to the special benefits conferred on *each parcel*. The special benefit requirement is thus part and parcel of the proportionality requirement.⁵²

Assessments (Article XIII D, Sections 4 and 5) continued

Special Benefit Analysis: “If everything is special, then nothing is special”

The Supreme Court’s decision in *Silicon Valley Taxpayers Association v. Santa Clara Open Space Authority* best illustrates the issues that a special district should consider in determining whether a proposed assessment complies with the special benefit and proportionality requirements of Article XIII D, section 4.⁵³ Prior to the adoption of Proposition 218, the Santa Clara Open Space Authority formed an assessment district in 1992 pursuant to the Landscape and Lighting Act of 1972 (California Streets & Highways Code sections 22500 *et. seq.*) for the purpose of acquiring and preserving open space land within Santa Clara County. In 2000, Santa Clara Open Space Authority determined it needed additional funding to purchase open space land and considered forming a second assessment district for this purpose.

All property within Santa Clara County was proposed to be assessed. The assessment engineer’s report prepared in connection with the proposed assessment set the assessment for all single-family residences at the same rate and provided a formula for estimating the special benefit that other properties received. The specific properties to be acquired for open space were not identified in the assessment engineer’s report. Based on the weighted ballots submitted, the assessment was approved by a majority of the property owners.

The assessments were challenged on the ground that Santa Clara Open Space Authority failed to satisfy the special benefit and proportionality requirements of Article XIII D, section 4.

The California Supreme Court acknowledged that Article XIII D, section 4 requires that the general enhancement of property value is not a special benefit and that “general benefit” includes benefits conferred generally on real property located within an assessment district.⁵⁴ The court, however, refined the definition of “special benefit” by determining that “under the plain language of article XIII D, a special benefit must affect the assessed property in a way that is particular and distinct from its effect on other parcels and that real property in general and the public at large do not share.”⁵⁵ By way of example, the court recognized that if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement through its direct relationship to the locality of the improvement (e.g., proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district’s property values).⁵⁶



...an assessment to be imposed on parcels must be based on the entirety of the cost of the improvement or services.

In *Silicon Valley*, the court noted that “[a]lthough it is reasonable to conclude that ‘quality-of-life’ to people living in, working in, and patronizing businesses in the district will, in turn, benefit property in the district, such derivative benefits are only ‘general benefits conferred on real property located in the district or to the public at large.’”⁵⁷ The court concluded that the assessment engineer’s report had failed to recognize that the “public at large” means all members of the public and not just transient visitors.⁵⁸ Further, the report assumed that people and property in the district would receive no general benefit and only special benefits. “But under these circumstances, ‘[i]f everything is special, then nothing is special.’”⁵⁹

The court also found that the assessment engineer’s report did not show any distinct benefits to particular parcels of property beyond the benefits of the general public using and enjoying the open space received. The report did not identify any specific open space to be acquired with the proposed assessment, and thus the report did not demonstrate any specific special benefits that assessed parcels would receive from their direct relationship to the locality of the improvement. Hence, the court concluded the assessment was invalid because the report failed to demonstrate that the assessed properties received a particular and distinct special benefit over and above that shared by the district’s property in general or the public at large.⁶⁰

Proportionality Analysis

In making determinations of proportionality, the courts have determined that the amount of the assessment to be imposed on parcels must not be based on a desired budget or on a property-by-property basis. Instead, an assessment to be imposed on parcels must be based on the entirety of the cost of the improvement or services. Two cases demonstrate how an assessment may fail the proportionality requirements of Article XIII D, section 4(a).

In *Silicon Valley Taxpayers’ Association*, discussed above, the California Supreme Court found that the assessment engineer’s report failed the proportionality requirements of Proposition 218, largely because the special assessment was based on the Santa Clara Open Space Authority’s projected annual budget for its open space acquisition and maintenance program rather than on a calculation or estimation of the cost of the particular public improvement to be financed with the assessment.⁶¹ The purpose of assessments is to require that properties receiving a special benefit from public improvements pay for the public improvements, not to fund an agency’s ongoing budget.⁶² Ultimately, the court found that the assessment engineer’s report failed to identify with sufficient specificity the “permanent public improvement” that the assessment would finance, failed to estimate or calculate the cost of improvements, and failed to directly connect the proportionate

Assessments (Article XIII D, Sections 4 and 5) continued

costs and benefits received from the “permanent public improvement” to the specific assessed properties.⁶³ “[A]n assessment calculation that works backward by starting with an amount taxpayers are likely to pay, and then determines an annual budget based thereon, does not comply with the law governing assessments, either before or after Proposition 218.”⁶⁴

In *Town of Tiburon v. Bonander*, the Town of Tiburon formed an assessment district for the purpose of undergrounding utilities.⁶⁵ The assessment engineer’s report created three benefit zones for which the construction costs were determined and separately apportioned. The court found that the benefit zones were not based on differential benefits enjoyed within each zone, but instead were based largely on variances in the costs of placing the utilities underground in each of the zones. The court concluded that this apportionment methodology resulted in properties that received identical special benefits paying vastly different assessments, and therefore did not proportionately allocate the assessments within the district according to relative special benefit.⁶⁶

The court reasoned that

an assessment is not measured by the precise amount of special benefits enjoyed by the assessed property. Instead, an assessment reflects costs allocated to relative benefit received. As a general matter, an assessment represents the entirety of the cost of the improvement or property-related service, less any amounts attributable to general benefits (which may not be assessed), allocated to individual properties in proportion to the relative special benefit conferred on the property. Proportional special benefit is the “equitable, nondiscriminatory basis” upon which a project’s assessable costs are spread among benefited properties. Thus, the “reasonable cost of the proportional special benefit,” which an assessment may not exceed, simply reflects an assessed property’s proportionate share of total assessable costs as measured by relative special benefits.⁶⁷

Furthermore, “proportionate special benefit is a function of the total cost of a project, not costs determined on a property-by-property or a neighborhood-by-neighborhood basis.”⁶⁸

Finally, the Town excluded certain properties from the district even though the excluded properties would receive special benefits. By excluding those properties from the district, the assessments on properties included in the district necessarily exceeded the proportional special benefit conferred on them. In effect, the assessed properties were subsidizing the special benefit enjoyed by the non-assessed properties.⁶⁹



...an assessment to be imposed on parcels must be based on the entirety of the cost of the improvement or services.

As a consequence of these court decisions, a special district that is considering the formation of an assessment district must carefully identify with sufficient specificity: (1) the specific services or improvements to be funded by the assessment; (2) the special benefit that properties within the proposed assessment district will receive from the services or improvements; (3) an estimate or calculation of the cost of the services or improvements; and (4) the direct connection of any proportionate costs of and special benefits received from the services or improvements to the specific assessed properties in relation to the entirety of the cost of the improvements or services. The special benefit must affect the parcels to be assessed in a way that is particular and distinct from its effect on other parcels and that real property in general and the public at large do not share. The assessment engineer's report must measure and reflect the special benefits that will accrue to each particular parcel within the assessment district. Consequently, an assessment that is levied at the same rate for all parcels of property within an assessment district in some circumstances may not meet the proportionality requirements of Article XIII D, section 4.

Compliance with the procedural requirements of Article XIII D, Section 4(b)

Notice and Ballots

In order to impose an assessment on a property, a special district must hold a public hearing, mail advance notice of the public hearing to the record owner⁷⁰ of each parcel proposed to be assessed, and conduct a ballot protest proceeding.⁷¹ The assessment ballot protest proceeding is not an election or a vote for purposes of California Constitution Article II, nor is it subject to the limitations and requirements of the California Elections Code governing elections.⁷²

The notice must be mailed not less than forty-five calendar days prior to the public hearing, and must include the following information:

- the amount of the proposed assessment to be imposed on the identified parcel;
- the total amount to be imposed in the entire assessment district;
- the duration of the assessment;
- the reason for the assessment;
- the basis upon which the assessment was calculated;
- the date, time, and location of the public hearing on the proposed assessment;
- a ballot; and
- a summary of the procedures applicable to the completion, return, and tabulation of the ballots, including a disclosure statement that if the ballots opposing the proposed assessment exceed the ballots submitted in favor of the assessment (referred to as a majority protest), the assessment may not be imposed.⁷³

Assessments (Article XIII D, Sections 4 and 5) continued

Because an assessment is imposed on property, electors residing within an existing or proposed assessment district who do not own property within the assessment district are not entitled to submit a ballot.⁷⁴ The face of the envelope mailed to the property owner with the ballot and notice must contain, in at least sixteen-point type, the following statement in substantially the following form: "OFFICIAL BALLOT ENCLOSED."⁷⁵ The ballot must include the special district's address for the receipt of any completed ballot and a place for the property owner to indicate his or her name, a reasonable identification of the parcel subject to the proposed assessment, and his or her opposition to or support for the proposed assessment.⁷⁶

The ballot must be in a form that conceals its contents once it is sealed and delivered by the person submitting the ballot.⁷⁷ To be tabulated, a ballot must be:

- signed by the record owner or his or her authorized representative;
- mailed or otherwise delivered to the address indicated in the notice; and
- received by the special district *prior to the close of the public hearing*.⁷⁸

All assessment ballots must remain sealed until the conclusion of the public hearing,⁷⁹ but any person who submitted a ballot may change or withdraw the ballot prior to the close of the public hearing.⁸⁰

Public Hearing

The public hearing must be conducted on the date and time stated in the notice and must not be held less than forty-five calendar days after the notice of the proposed assessment and public hearing is mailed to the record owner(s) of each identified parcel.⁸¹ The day of mailing is excluded from computation of the forty-five day mailing period.⁸² At the public hearing, the special district must consider all objections or protests to the proposed assessments,⁸³ but should consider only valid ballots when determining whether a majority protest exists. The public hearing may be continued from time to time.⁸⁴ The agency's governing body may also continue the tabulation of the ballots to a different time and location accessible to the public, provided that the it announces the time and location of the continued tabulation at the public hearing.⁸⁵

Determining Whether There Is a Majority Protest

At the conclusion of the public hearing, an impartial person designated by the agency—someone who does not have a vested interest in the outcome of the proposed assessment—must tabulate the ballots that were submitted and not withdrawn.⁸⁶ An impartial person includes the clerk or secretary of the agency.⁸⁷ If the agency uses its personnel to tabulate the ballots, or if it contracted with a vendor for the tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the assessment, the

ballots must be unsealed and tabulated in public view at the conclusion of the public hearing.⁸⁸ All interested persons must have an opportunity to meaningfully monitor the tabulation process.⁸⁹

As noted above, the tabulation of the assessment ballots may be continued to a different time or location accessible to the public if the governing body of the special district announces the time and location at the public hearing.⁹⁰ The person tabulating the ballots may use technological methods such as punch cards or optically readable (e.g., bar-coded) ballots.⁹¹

A majority protest exists if, at the conclusion of the public hearing, the ballots submitted and not withdrawn opposing the assessment exceed the ballots submitted in favor of the assessment.⁹² The ballots must be weighted according to the proportional financial obligation of each affected property.⁹³ By way of example, if property owner A's assessment is \$10 and he submits a ballot in opposition to the proposed assessment, and property owner B's assessment is \$1 and she submits a ballot in support of the assessment, property owner A's ballot would be weighted ten times more than property owner B's ballot.

If more than one record owner of a parcel subject to the proposed assessment submits a ballot, the amount of the proposed assessment must be allocated to each ballot submitted in proportion to

the respective record ownership interests, or, as established to the satisfaction of the special district, by documentation provided by the record owners.⁹⁴ If a majority protest exists, the assessments may not be imposed.⁹⁵

Public Records

During and after the tabulation, assessment ballots and the information used to determine their weight are considered to be disclosable public records.⁹⁶ The ballots must be preserved for a minimum of two years, after which they may be destroyed.⁹⁷

Meeting the Burden of Proof

In the event of a challenge to the validity of an assessment, the burden is on the public agency to demonstrate compliance with the substantive and procedural requirements of Article XIII D, section 4. Prior to the adoption of Proposition 218, in cases challenging assessments, the courts gave great deference to local legislative bodies' determinations regarding what lands were benefited and what amount of benefits should be assessed against the parcels of land within a proposed assessment district.⁹⁸ In accordance with that deferential standard of review, special assessments prior to Proposition 218 were presumed to be valid and the burden was on the person challenging the assessment to demonstrate that the record before the legislative body did not clearly demonstrate special benefit or proportionality.⁹⁹

Assessments (Article XIII D, Sections 4 and 5) continued

In *Silicon Valley Taxpayers Association*,¹⁰⁰ discussed previously, the California Supreme Court acknowledged that Proposition 218 targeted this deferential standard of review. Because special assessment law prior to Proposition 218 was primarily statutory, the court reasoned that the doctrine of constitutional separation of powers served as the foundation for a more deferential standard of review by the courts. With the adoption of Article XIII D, section 4, the validity of an assessment became a constitutional question. A local agency acting in a legislative capacity is prohibited from exercising its discretion in a way that violates the constitution or undermines the constitution's effect, and a court is charged with enforcing the constitution in order to effectuate its purposes. More specifically, Article XIII D, section 4(f) shifted the burden of demonstrating special benefit and proportionality in any legal action contesting the validity of an assessment to the agency establishing the assessment. The court recognized, however, that the provisions of Article XIII D, section 4(f) do not specify the scope of the burden now placed on public agencies. Consequently, the court concluded that courts should exercise their independent judgment in reviewing local agency decisions that have determined whether benefits are special and whether assessments are proportional to special benefits within the meaning of Article XIII D, section 4.

Exemptions (Article XIII D, Section 5)

Any assessment existing on November 6, 1996 that falls within one of four exceptions is exempt from the procedures and ballot protest approval process of Article XIII D, section 4 described above.¹⁰¹ The four exceptions are as follows:

- Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets,¹⁰² sewers, water,¹⁰³ flood control, drainage systems, or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in section 4.
- Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in section 4.¹⁰⁴
- Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.
- Any assessment that previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.



Any assessment existing on November 6, 1996 that falls within one of four exceptions is exempt from the procedures and ballot protest approval process of Article XIII D, section 4.

Pursuant Government Code section 53753.5, if an agency has complied with the notice, protest, and hearing requirements of Government Code section 53753, or if an agency is not required to comply with those requirements because it falls within one of the four exceptions identified above, then those requirements do not apply in subsequent fiscal years *unless*: (1) the assessment methodology is changed to increase¹⁰⁵ the assessment; or (2) the amount of the assessment is proposed to exceed an assessment formula or range of assessments adopted by the agency in accordance with Article XIII D, section 4 or Government Code section 53753.¹⁰⁶

Table 2

Special Benefit Assessments		
Purpose	Procedural Requirements⁽¹⁾	Approval
Fund facilities and services, e.g., water and sewer facilities, landscape and lighting facilities and services, park facilities and services	(1) Hold noticed public hearing. (2) Written notice of public hearing and ballots must be mailed to property owners at least 45 days prior to protest hearing. (3) Notice must provide: (a) the total amount chargeable to the entire district; (b) the amount chargeable to the owner's parcel; (c) the duration of the payments; (d) the reason for the assessment and the basis upon which it was calculated; (e) the date, time, location of the public hearing; (f) a ballot; (g) a summary of the procedures for returning and tabulating the ballots; (h) a statement that if a majority protest exists the assessment will not be imposed. (4) The resolution authorizing the special benefit assessment may (a) state a range of rates or amounts; or (b) provide that rate may be adjusted for inflation pursuant to defined formula.	If a majority of the property owners protest the levy of the assessment, the assessment may not be imposed. Ballots are weighted based on the financial obligation of each property owner.

(1) Additional procedures may be required depending on the statutory authority for adopting the specific assessment.





Property-Related Fees and Charges (Article XIII D, Section 6)

Any special district proposing to adopt a new, or increase an existing, property-related fee or charge must therefore comply with both the substantive and procedural requirements of Article XIII D, section 6.

No property-related fee or charge may be extended,¹⁰⁷ imposed, or increased by a special district without first complying with the provisions of Article XIII D, section 6. Article XIII D, section 2(e) defines “fee” or “charge” as “any levy other than an ad valorem tax, special tax or assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service.” Collectively, these are referred to as “property-related fees and charges.” Water, wastewater, solid waste disposal, and stormwater service fees have been determined to be property-related fees and charges within the meaning of Article XIII D, and are therefore subject to the substantive limitations and procedural requirements related thereto.¹⁰⁸ Any special district proposing to adopt a new, or increase¹⁰⁹ an existing, property-related fee or charge must therefore comply with both the substantive and procedural requirements of Article XIII D, section 6.

Compliance with the Substantive Provisions of Article XIII D, Section 6

The substantive provisions of Article XIII D appear in sections 6(b)(1)-(5). In accordance with these provisions, a property-related fee must meet all of the following requirements:

- revenues derived from the fee must not exceed the funds required to provide the property-related service;
- revenues derived from the fee must not be used for any purpose other than that for which the fee is imposed;
- the amount of a fee imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel;

Property-related fees and charges continued

- the fee may not be imposed for a service unless the service is actually used by, or immediately available to, the owner of the property subject to the fee. Fees based on potential or future use of a service are not permitted, and stand-by charges must be classified as assessments subject to the ballot protest and proportionality requirements for assessments; and
- no fee or charge may be imposed for general governmental services, such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners.¹¹⁰

In order for a special district to adopt rate increases to its water, wastewater, solid waste, and stormwater service fees, it must comply with the substantive requirements of Article XIII D. The five substantive requirements in Article XIII D, section 6(b) outlined above are structured to place limitations on (1) the use of the revenue collected from property-related fees and charges; and (2) the allocation of the fee or charge, to ensure that it is proportionally allocated in accordance with the cost of providing the service attributable to each parcel. The five substantive requirements imposed upon property-related fees and charges are similar to existing requirements contained in the California Constitution and state statutes.¹¹¹ Since these constitutional and statutory provisions were adopted, the courts have carefully examined the administrative records and actions of legislative bodies to determine whether

certain fees reasonably allocate the costs necessary to provide the service for which they were imposed, or whether they constitute a special tax requiring a two-thirds voter approval. These cases demonstrate the actions a special district must take in order to ensure that the proposed rate structures for its water, wastewater, solid waste disposal, and stormwater service fees comply with the substantive provisions of Article XIII D, section 6(b). A review of these constitutional and statutory provisions and the cases interpreting them follows.

Proposition 13 added article XIII A, section 4 to the California Constitution (“Article XIII A”). Article XIII A provides that cities may impose special taxes approved by a two-thirds vote of the electorate.¹¹² To implement the authorizations granted to cities, counties, and districts in Article XIII A, the Legislature enacted California Government Code sections 50075 and 50076.¹¹³ California Government Code section 50075 provides that it is the intent of the Legislature to provide all cities, counties and districts with the authority to impose special taxes pursuant to the provisions of Article XIII A.¹¹⁴ In language similar to that provided in Article XIII D, section 6(b), California Government Code section 50076 excludes from the definition of special tax “any fee which does not exceed the *reasonable cost of providing the service* or regulatory activity for which the fee is charged and which is not levied for general revenue purposes.”¹¹⁵ In effect, if a special district’s property-related

fees exceed the costs of providing the services for which the fees are imposed, those fees may be deemed to be a special tax and therefore subject to a two-thirds vote of the electorate.¹¹⁶

In *Beaumont Investors v. Beaumont-Cherry Valley Water District*,¹¹⁷ a real estate developer challenged a facilities fee imposed by a water district, claiming, among other things, that the fee was a special tax imposed without voter approval as required pursuant to Article XIII A. The water district sought to impose the facilities fee on the developer before it could connect to the district's water system. The Court of Appeal analyzed the record of the adoption of the facilities fee and concluded that the water district failed to make a sufficient showing that the facilities fee was reasonably related to the cost of providing the service. At a minimum, the court concluded, the water district should have introduced reports or other

evidence of (1) the estimated construction costs of the proposed water system improvements, and (2) the District's basis for determining the amount of the fee allocated to plaintiff, i.e., the manner in which defendant apportioned the contemplated construction costs among the new users, such that the charge allocated to plaintiff bore a fair or reasonable relation to plaintiff's burden on, and benefits from, the system.¹¹⁸

Article XIII D, section 6(b) expands upon the criteria established in California Government Code section 50076 to ensure that a property-related fee or charge does not exceed the costs of providing the service and is proportionally allocated. This additional criteria suggests that a more rigorous documentation of expenses being paid for with the fee and a more rigorous documented nexus between the fee and the parcel-specific allocation of costs are required. Additionally, Article XIII D, section 6(b)(5) places the burden on the agency to "demonstrate compliance with this article."

Building upon the cases analyzing Proposition 13 and its progeny, in *Howard Jarvis Taxpayers Association v. City of Roseville*¹¹⁹ and *Howard Jarvis Taxpayers Association v. City of Fresno*¹²⁰ the courts addressed what documentation is required of a public agency to ensure compliance with the substantive provisions of Article XIII D, section 6(b) when adopting fees and charges. In each case, the city had adopted an in lieu fee imposed upon its enterprise utilities to compensate the city for expenses related to the utilities.

The courts concluded in each case that under Article XIII D, section 6(b), the city could collect a fee to recover costs attributable to its water, wastewater, and solid waste disposal utilities based upon an analysis of actual costs, but in each case the court determined that the fee violated the provisions of Article XIII D, section 6(b) because neither city had

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analyzed or documented the actual costs required for the city to provide the services for which it charged the in lieu fee. The court in *City of Roseville* articulated the requirement as follows:

The theme of these sections is that fee or charge revenues may not exceed what it costs to provide fee or charge services. Of course, what it costs to provide such services includes all the required costs of providing service, short-term and long-term, including operation, maintenance, financial, and capital expenditures. The key is that the revenues derived from the fee or charge are required to provide the service, and may be used only for that service. In short, the section 6(b) fee or charge must reasonably represent the cost of providing service.

In line with this theme, Roseville may charge its water, sewer, and refuse utilities for the street, alley and right-of-way costs attributable to the utilities; and Roseville may transfer those revenues to its general fund to pay for such costs...Here, however there has been no showing that the in lieu fee reasonably represents these costs.¹²¹

In *City of Fresno*, the court articulated the requirement as follows:

Cities are entitled to recover all of their costs of utility services through user fees. The manner in which they do so, however, is restricted by another portion of Proposition 218: "The amount of the fee or charge imposed...shall not exceed the proportional cost of the service attributable to the parcel."

Together, subdivision (b)(1) and (3) of article XIII D, section 6, make it necessary—if Fresno wishes to recover all of its utilities' costs from user fees—that it reasonably determine the unbudgeted costs of utilities enterprises and that those costs be recovered through rates proportional to the cost of providing service to each parcel. Undoubtedly this is a more complex process than the assessment of the in lieu fee and the blending of that fee into the rate structure. Nevertheless, such a process is now required by the California Constitution.¹²²

Prior to the adoption of Proposition 218, courts gave great deference to the determinations of the legislative bodies that approved property-related fees. In *Brydon v. East Bay Municipal Water District*, the court articulated this standard of review, stating that "[g]iven the quasi-legislative nature of [a public agency's] enactment of the rate structure design, review is appropriate only by means of ordinary mandate where the court is limited to a determination of whether [the public agency's] actions were arbitrary, capricious or entirely lacking in evidentiary support."¹²³ In *City of Palmdale v. Palmdale Water District*, however,

the court determined that, with the adoption of Proposition 218, the validity of property-related fees has become a constitutional question that the courts are obligated to enforce.¹²⁴ Consequently, courts should exercise their independent judgment in reviewing local agency decisions on property-related fee matters.¹²⁵

Based on the foregoing case analyses, and as a consequence of the requirement that a public agency has the burden of demonstrating compliance with Article XIII D, section 6, when establishing rates for property-related fees, a special district must fairly allocate in a fair and reasonable manner the costs of providing the property-related services among all of the parcels served by those services, and must document the methodology used and the justification for the allocation of costs among the various types of properties and users located within the special district. The procedural requirements for adopting new or increasing existing rates for property-related fees follows.

Compliance with the Procedural Requirements of Article XIII D, Section 6

Written Notice of the Public Hearing

Article XIII D, section 6(a)(1) requires that the public agency proposing to impose a new or increase an existing property-related fee or charge provide written notice by mail¹²⁶ to the record owner¹²⁷ of each parcel upon which the fee or charge will be imposed. The notice must contain the following information:

- the amount of the fees or charges proposed to be imposed;
- the basis upon which the fees or charges were calculated;
- a statement regarding the reason for the imposition of the new, or increases to the existing, fees or charges; and
- the date, time, and location of the public hearing at which the legislative body will consider the new fees or charges or proposed increases to the existing fees or charges.¹²⁸

Article XIII D, section 6(a)(2) further requires that the public hearing to consider adoption of the rate increases be held not less than forty-five calendar days after the mailing of the notice.¹²⁹

Article XIII D, section 6(a)(2) provides that a property-related fee or charge may not be imposed or increased if a majority of “owners of identified parcels” submit written protests. However, these sections, when read with the definitional provisions of Article XIII D, section 2, make clear that the procedural and substantive provisions of Article XIII D, section 6 were intended to apply to more than just the “record owner” of a parcel upon which the fee or charge is proposed to be imposed, and include any tenants who are directly liable for the payment of the fee or charge (i.e., customers of record).¹³⁰ Notwithstanding the foregoing requirements, if a special district collects a property-related fee or charge on the tax roll, or allows only property owners to be customers of record,

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the special district need only send notice of proposed rate increases to the property owners of the parcels upon which the fees or charges will be imposed.

Government Code section 53755 was adopted to clarify the provisions of Article XIII D that govern the notice, protest, and hearing procedures for imposing new or increasing existing property-related fees or charges. Specifically section 53755 was intended to address how notice may be mailed, rather than determine who should receive notice pursuant to Article XIII D, section 6(a). Accordingly, section 53755 provides that if a public agency is currently providing an existing property-related service, the agency may give the notice required pursuant to Article XIII D, section 6(a)(1) of an increase to an existing fee or charge by including the notice in (1) the agency's regular billing statement for the fee or charge; or (2) any other mailing by the agency to the address to which the billing statement for the fee or charge is customarily mailed.¹³¹ If a public agency is proposing to impose a new fee or charge, notice may be provided in the same manner as for an increase to an existing fee or charge if the public agency is currently providing a property-related service at that same address.¹³²

It is important to note that an additional mailing may still be required when a special district chooses to include a notice in its billing statement or any other mailing that it regularly sends to its customers. Although the provisions of Government Code section 53755 are intended to address

how to mail the written notice, section 53755's requirements indirectly impact who receives, or more importantly does not receive, the written notice required by Article XIII D, section 6(a)(1). Article XIII D, section 6(a)(1) explicitly requires that notice must be provided to the "record owner."¹³³ In some instances, the record owner may not reside at the address to which the billing statement for a property-related service or other mailer is customarily mailed. In that situation, if notice is sent only to the service address, the public agency will have failed to provide the required notice to the record owner. Thus, in order to ensure that the property owner of record receives written notice,¹³⁴ the notice may be mailed in the billing statement or other mailer as authorized by California Government Code section 53755(a), *and* should also be mailed to the property owner of record at the address identified for such property owner on the last equalized secured property tax assessment roll, if that address is different from the service address.¹³⁵

Multi-Year Rate Increases and Pass Through Charges

California Government Code section 53756 provides that a public agency adopting an increase to a property-related fee or charge may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or adjustments for inflation if the schedule complies with all of the following:



The schedule of inflationary adjustments and any pass-through increases must be included in the notice of the public hearing and may only be authorized for five years.

- the schedule of fees or charges for a property-related service may not exceed five years;¹³⁶
- the schedule of fees or charges may include a schedule of adjustments, including a clearly defined formula for adjusting for inflation, provided that the property-related fee or charge, as adjusted for inflation, does not exceed the cost of providing the service;¹³⁷ and
- if an agency purchases wholesale water, sewage treatment, or wastewater treatment from a public agency, the schedule of fees or charges may provide for automatic adjustments that pass through any increases or decreases in the wholesale water charges adopted by the other agency.¹³⁸

The schedule of inflationary adjustments and any pass-through increases must be included in the notice of the public hearing and may only be authorized for five years. After the five years has elapsed, a public agency must comply with the procedural requirements of Article XIII D, section 6(a) for any additional rate increases.

An agency is not required to follow the forty-five day notice provisions of California Constitution article XIII D, section 6(a) when implementing any adjustment made pursuant to a schedule of fees or charges as authorized pursuant to California Government Code section 53756. However, the agency must provide written notice of the adjustment *not less than thirty calendar*

days prior to the effective date of the adjustment. The agency may provide the required notice, as provided in California Government Code section 53755(a), by including the notice in the agency's regular billing statement for the fee or charge (if there is one), or by any other mailing by the agency to the address to which the agency customarily mails the billing statement for the fee or charge.¹³⁹

Public Hearing and Majority Protest

The next step in the process is the public hearing and determination of whether there is a majority protest against the property-related fee or charge. The public hearing must be conducted on the date and time stated in the notice, but in any event shall not be less than forty-five days after the notice of the proposed fees or charges and public hearing is mailed.¹⁴⁰ At the public hearing, the agency must hear and consider all public comments regarding the fees,¹⁴¹ but only written protests submitted prior to the close of the public hearing should be considered when determining whether a majority protest against the imposition of the fees exists. Upon the conclusion of the public hearing, if written protests against proposed new, or increases to the existing, property-related fees or charges are not presented by a majority of property owners of the identified parcels upon which the rates and charges are proposed to be imposed and any tenants directly liable for the payment of the fees, the legislative body may proceed with imposing the fees or charges.¹⁴²

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This provision of Article XIII D does not, however, provide public agencies with direction regarding how to determine what constitutes a majority protest. That calculation may be impacted by multiple ownership interests in property, and is further complicated if tenants are provided the opportunity to protest in addition to the record owner(s) of affected parcels.

California Government Code section 53755(b) simplifies the process for determining whether a majority protest exists. It provides that one protest per parcel, filed by an owner or a tenant of a parcel subject to the fee or charge, “shall be counted in calculating a majority protest to a proposed new or increased fee or charge subject to the requirements of” Article XIII D, section 6.”¹⁴³

Voter Approval of New or Increased Property-Related Fees and Charges Other Than for Water, Sewer, and Solid Waste Disposal

Water, sewer, and solid waste disposal service fees are required to comply with the notice and majority protest hearing and procedures described above only for the imposition of a new service fee or an increase to an existing service fee. All other property-related fees, including stormwater service fees, must comply with an additional voter approval process, which Article XIII D, section 6(c) refers to as an “election.”¹⁴⁴ The election is held only if, after mailing notice and conducting the majority protest hearing as discussed above, there is not a majority protest. The election must be conducted not

less than forty-five days after the majority protest hearing.¹⁴⁵

Article XIII D provides a limited description of the process for conducting property-related fee and charge elections. It requires that the fee or charge must be submitted to and approved by (1) a majority vote of the property owners of the property subject to the fee; or, *at the option of the agency*, by (2) a two-thirds vote of the electorate residing in the affected area.¹⁴⁶ In the conduct of elections to approve rates for property-related fees and charges, an agency may adopt procedures similar to those for increasing assessments.¹⁴⁷ The procedures for increasing assessments are outlined in California Constitution article XIII D, section 4 and California Government Code section 53753 and are more particularly described above.¹⁴⁸ These procedures include, among others, mailing a ballot to the affected property owners.¹⁴⁹

Although the approval process for the adoption of property-related fees and charges under Article XIII D, section 6(c) is called an “election,” the proceedings for the adoption of assessments fee elections do not constitute an election or voting for purposes of California Constitution article II or the California Elections Code.¹⁵⁰ Any procedures adopted by a special district for the adoption of property-related fees and charges are therefore not required to comply with the voter secrecy requirements of California Constitution article II or other election requirements established under the California Elections Code.

In *Greene v. Marin County Flood Control and Water Conservation District*,¹⁵¹ the California Supreme Court considered what it means in a property-related fee or charge election to adopt procedures similar to those for increases in assessments. To answer that question, the court identified the kinds of election or balloting procedures set forth in Article XIII D, section 4, governing approval of assessment increases to determine which of these procedures may have been incorporated into Article XIII D, section 6 elections. The court noted that the procedures in Article XIII D, section 4 pertaining to the conduct of voting on assessments may be separated into three categories:

- (1) Procedures specifying the manner in which the affected property owners will be notified of the assessment (Article XIII D, section 4(c)).
- (2) Procedures prescribing the basic content of the ballot and requiring voter self-identification (Article XIII D, section 4(d)).
- (3) Procedures prescribing the manner in which a public hearing should be conducted, during which the ballots are tabulated (Article XIII D, section 4(e)).

The notice provisions of Article XIII D, section 4(c) are similar to those provided in Article XIII D, section 6(a)(1). The court acknowledged that Article XIII D, section 6(a)(2) has rules for conducting a public hearing at which protests will be considered before an election that are similar to those set forth in Article XIII D, section 4(e). But Article XIII D, section 6 does not contain any provision regarding the composition of the ballot to be

sent to property owners in the event of an election. The court therefore concluded that the plain language of the article provides the reasonable inference that procedures similar to those for increases in assessments in the conduct of elections under Article XIII D, section 6(c) include the use of a ballot for property owner fee elections that is similar to the ballot used to register assessment protests, as set forth in Article XIII D, section 4(d), including identification of both the voter's name and the property.¹⁵²

Notably, the court rejected the argument that "procedures similar to those for increases in assessments in the conduct of elections" for property-related fees refers only to the procedures to conduct the election exclusively by mail, and not the contents or features of the ballot.¹⁵³ Consequently, property owners submitting ballots in an election to approve property-related fees or charges may be required to indicate their names, provide reasonable identification of their parcels, and sign the ballot.¹⁵⁴ That information is important for purposes of verifying whether the person submitting a ballot is a property owner authorized to submit a ballot.

One open question the court did not resolve is how the ballots should be tabulated for a property-related fee election. Article XIII D, section 6(c) refers to the fees being submitted to and approved by a majority vote of the affected property owners, thereby suggesting one-parcel, one-vote and that only property

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owners may participate in such an election. “On the other hand, the reference in [Article XIII D, section 6(c)] to ‘procedures similar to those for increases in assessments in the conduct of elections’... may arguably include weighted voting procedures.”¹⁵⁵ The weighted voting procedures of Article XIII D, section 4 provide that the ballots submitted are weighted according to the proportional financial obligation of the affected property.¹⁵⁶ Under this scenario, and by way of example, if Property Owner A had an annual stormwater service fee of \$200 and Property Owner B had an annual stormwater service fee of \$100, Property Owner A’s ballot would be accorded twice the weight of Property Owner B’s ballot. The district in *Greene*, however, did not use a weighted ballot procedure in tabulating the ballots. It is reasonable to conclude, therefore, that one-person, one-vote is a reasonable means for tabulating ballots in a property-related fee election, but as noted below, a weighted ballot procedure may also be followed.

Beginning July 1, 2014, additional procedures are required for conducting property-related fee elections. Senate Bill 553 added section 53755.5 to the Government Code. This section provides that where a special district opts to submit a proposed fee to the registered voters residing in the affected area for approval, the election shall be conducted by the special district’s elections official or its designee.¹⁵⁷ If the special district opts to submit the proposed property-related fee for approval by a majority vote of property owners who will be subject to the fee, then in addition

to the procedures required under Article XIII D, section 6, the following procedures must be followed:

- the face of the envelope mailed to the property owner with the ballot and notice must contain, in at least sixteen-point type, the following statement in substantially the following form: “OFFICIAL BALLOT ENCLOSED” and may be repeated in a language other than English;
- the ballot shall include the special district’s address for return of the ballot, the date and location where the ballots will be tabulated, and a place where the person returning it may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed fee;
- the ballots must be tabulated in a location accessible to the public;
- the ballot must be in a form that conceals its content once it is sealed by the person submitting it;
- the ballot must remain sealed until the ballot tabulation commences.¹⁵⁸

At the conclusion of the public hearing, an impartial person designated by the agency—someone who does not have a vested interest in the outcome of the proposed assessment—must tabulate the ballots that were submitted. An impartial person includes the clerk or secretary of the agency. If the agency uses its personnel to tabulate the ballots, or if it contracted with a vendor for the tabulation and the vendor or its affiliates



A special district must preserve the ballots for a minimum of two years, after which they may be destroyed.

participated in the research, design, engineering, public education, or promotion of the fee, the ballots must be unsealed and tabulated in public view.¹⁵⁹

The ballot tabulation may be continued to a different time or location accessible to the public, provided that the time and location are announced at the location at which the tabulation commenced and posted by the agency in a location accessible to the public. Additionally, the impartial person may use technological methods to tabulate the ballots, including, but not limited to, punchcard or optically readable (bar-coded) ballots. This section also provides that during and after the tabulation, the ballots and, if applicable, the information used to determine the weight of each ballot, are public records, subject to public disclosure and must be made available for inspection by any interested person. With the reference to a “weighted ballot,” this section confirms that a special district may use a weighted ballot procedure for property-related fee elections similar to that used for assessments. A special district must preserve the ballots for a minimum of two years, after which they may be destroyed.¹⁶⁰

There is a separate authorization in the Government Code governing inflationary adjustments and multi-year rate increases for property-related fees that are subject to voter approval.¹⁶¹ Government Code section 53739 provides that an ordinance or resolution presented for voter approval of a property-related fee or charge pursuant to Article XIII D, section 6 may state a range of rates or amounts.¹⁶² If the ordinance or resolution is approved by the voters, a legislative body may thereafter impose the fee or charge at any rate or amount that is *less* than or equal to the *maximum* amount authorized by the voter-approved ordinance or resolution.¹⁶³ Section 53739 further provides that the voter-approved ordinance or resolution may provide that the property-related fees and charges may be adjusted for inflation pursuant to a clearly defined formula stated in the ordinance or resolution.¹⁶⁴ Once approved by the voters, the legislative body may impose the property-related fee or charge at any rate or amount that is *less* than or equal to the inflation-adjusted *maximum* amount authorized by the voter approved ordinance or resolution.¹⁶⁵ However, if the amount or rate of the property-related fee or charge is determined by using a percentage calculation, the ordinance imposing the fee or charge *may not* provide that the percentage will be adjusted for inflation.¹⁶⁶

Because the authorization under Government Code section 53739 provides that inflationary adjustments and increases based on percentages may only be increased by an amount that is less than or equal to the *maximum* amount authorized in the voter-approved ordinance or resolution, the ordinance or resolution submitted to the voters should include a cap or establish a not-to-exceed amount for any automatic adjustments to its rates. It is important to note that Government Code section 53739, unlike Government Code section 53755, does not require a public agency to mail notice thirty days in advance of any authorized inflationary adjustment, nor does it limit the automatic adjustments to five years.

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Table 3

Property-related Fees and Charges		
Type of Fee or Charge	Procedural Requirements	Approval
Water, Sewer, and Trash	<p>(1) Hold noticed public hearing.</p> <p>(2) Notice of public hearing must be mailed to property owners of record and tenants directly responsible for the fee at least 45 days prior to the public hearing.</p> <p>(3) Notice must contain (a) the amount of the fee or charge proposed to be imposed; (b) the basis upon which it was calculated; (c) the reason for the fee or charge; (d) the date, time, and location of the public hearing.</p> <p>(4) May adopt a schedule of fees with automatic adjustments that pass through increases in wholesale charges for water, sewer treatment, and wastewater treatment from another public agency or adjustments for inflation; provided, (a) the adjustments are for a period not to exceed 5 years; (b) adjustments for inflation must have a clearly defined formula and any adjustment must not exceed the cost of providing the service; (c) notice of any adjustment pursuant to the schedule shall be given not less than 30 days before the effective date of the adjustment.</p>	<p>(1) If a majority of the affected property owners submit written protests prior to the close of the public hearing to the increase to the property-related fee or charge, it may not be increased. (2) Only one written protest per parcel, filed by an owner or a tenant of the parcel, shall be counted in calculating a majority protest.</p>
All other property-related fees and charges other than water, sewer and trash, e.g., stormwater service fees and charges	<p>(1) Hold noticed public hearing.</p> <p>(2) Notice of public hearing must be mailed to property owners of record and tenants directly responsible for the fee at least 45 days prior to the public hearing.</p> <p>(3) If there is not a majority protest, then must conduct an election of either the affected property owners or the electorate residing in the affected area. Election shall be conducted not less than 45 days after the majority protest public hearing.</p>	<p>(1) If a majority of the affected property owners submit written protests prior to the close of the public hearing to the increase to the property-related fee or charge, it may not be increased. (2) Only one written protest per parcel, filed by an owner or a tenant of the parcel, shall be counted in calculating a majority protest. If there is no majority protest, then the fee or charge must be approved by:</p> <p>(1) a majority vote of the property owners of the property subject to the fee; or, at the option of the special district, (2) a 2/3 vote of the electorate residing in the affected area.</p>



Conclusion

Since its adoption in 1996, Proposition 218 has been and is likely to continue to be the subject of ongoing litigation, judicial interpretation, constitutional amendment, and statutory clarification. To avoid challenges to any future taxes, assessments, and property-related fees and charges, special districts should consult their legal counsel to determine if there have been any subsequent changes in the law that may impact them. Additionally, a special district should be prepared to identify in its administrative record for the adoption of any tax, assessment, or property-related fee or charge, that it has complied with the provisions of Article XIII C or Article XIII D for the adoption of the tax, assessment, or property-related fee or charge.



Endnotes

- 1 *Amador Valley Joint Union High Sch. Dist. v. St. Bd. of Equalization*, 22 Cal. 3d 208, 231 (1978) (internal quotations omitted).
- 2 Proposition 218, §2 (1996), 1996 Stats. A-295, available at http://library.uchastings.edu/ballot_pdf/1996g.pdf.
- 3 *Howard Jarvis Taxpayers Ass'n. v. City of Riverside*, 73 Cal. App. 4th 679, 681-62 (1999).
- 4 Cal. Const. art. XIII C, § 1(a). Although not the subject of discussion in this guide, it is worth noting that Article XIII C was amended in November 2010 as a result of the adoption by the California voters of Proposition 26. The Article XIII C was amended by adding section 1(e), which defined the term “tax”:
 - (e) As used in this article, “tax” means any levy, charge, or exaction of any kind imposed by a local government, except the following:
 - (1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
 - (2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
 - (3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.
 - (4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.
 - (5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.
 - (6) A charge imposed as a condition of property development.
 - (7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

- 5 *Id.* § 1(d).
6 Cal. Const. art. XIII D, § 3(a); *Nielson v. City of Cal. City*, 133 Cal. App. 4th 1296, 1308 (2005).
7 Cal. Const. art. XIII C, § 1(b).
8 *Id.* § 1(c).
9 *Id.* § 2(a); Cal. Gov't Code § 53721.
10 *Id.* § 2(b); Cal. Gov't Code § 53723.
11 Cal. Const. art. XIII C, § 2(b).
12 *See Rider v. Cnty. of San Diego*, 1 Cal. 4th 1, 11 (1991) (“[A] ‘special district’ would include any local taxing agency created to raise funds for city or county purposes to replace revenues lost by reason of the restrictions of Proposition 13.”).
13 Notably, article XIII C, section 2(a) uses the term “special purpose districts or agencies” rather than the term “special district” as defined in Article XIII C, section 1(c). It is not clear whether the drafters intended this limitation to mean all special districts, whether created by special act or under general law, or only those that have a very limited purpose such as the agency created in the *Rider* case noted above.
14 Some special districts have other specific statutory authority in their enacting legislation to impose special taxes. These sections should be examined to determine whether there are any other statutory limitations or requirements for the imposition of special taxes.
15 Cal. Const. art. XIII C, § 2(d); Cal. Gov't Code §§ 50077(a), 53722.
16 Cal. Gov't Code § 53724(e).
17 *Howard Jarvis Taxpayers Ass'n v. City of La Habra*, 25 Cal. 4th 809, 815, 824-25 (2001).
18 *Id.*
19 Cal. Gov't Code § 53750(e).
20 “Methodology” has been defined by the courts as “a mathematical equation for calculating taxes that is officially sanctioned by a local taxing entity.” *A.B. Cellular LA, LLC v. City of Los Angeles*, 150 Cal. App. 4th 747, 763 (2007).
21 Cal. Gov't Code § 53750(h)(1).
22 *Id.* § 53750(h)(2); Cal. Const. art. XIII C, § 2(d).
23 Cal. Gov't Code § 53739(a).
24 *Id.*
25 *Id.* § 53739(b)(1).
26 *Id.* § 53739(b)(2).
27 *Id.*
28 *Id.* § 53739(b)(1).
29 *See* Cal. Elections Code 9300 *et seq.*; Cal. Const. art. II, § 11.

ENDNOTES CONTINUED

- 30 Cal. Const. art. XIII C, § 3.
31 *Bighorn-Desert View Water Agency v. Verjil*, 29 Cal. 4th 205, 220 (2006).
32 *Id.*
33 *Id.* at 221.
34 U.S. const. art. I, § 10; Cal. Const. art. I, § 9.
35 The State Legislature restated this position in California Government Code section 5854, which provides that

Section 3 of Article XIII C . . . shall not be construed to mean that any owner or beneficial owner of a municipal security . . . assumes the risk of, or in any way consents to, any action by initiative measure that constitutes an impairment of contractual rights protected by Section 10 of Article I of the U.S. Constitution.

- 36 Cal. Const. art. XIII D, § 1.
37 *Id.* § 2.
38 *Id.* § 3(a).
39 *Id.* § 3(b).
40 *See Spring St. Co. v. City of Los Angeles*, 170 Cal. 24, 29 (1915) (“[A] special assessment is not, in the constitutional sense, a tax at all.”).
41 *Sinclair Paint Co. v. State Bd. of Equalization*, 15 Cal. 4th 866, 874 (1997).
42 An “existing assessment” is any assessment levied by a legislative body of a local government on or before November 6, 1996.
43 Cal Const. art. XIII D, § 4(a).
44 *Id.* § 4(b). A “registered professional engineer” is defined as “an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).” Cal. Gov’t Code § 53750(k).
45 *Id.* § 4(a); *City of Saratoga v. Hinz*, 115 Cal. App. 4th 1202, 1223 (2004).
46 Cal. Const. art. XIII D, § 4(a); *Beutz v. Cnty. of Riverside*, 184 Cal. App. 4th 1516, 1532 (2010) (“[S]eparating the general from the special benefits of a public improvement project and estimating the quantity of each in relation to the other is essential if an assessment is to be limited to the special benefits.”) (emphasis removed). Thus, if special benefits represent fifty percent of the total benefits, a local agency may only levy an assessment for that half of the project or services. *Golden Hill Neighborhood Ass’n v. City of San Diego*, 199 Cal. App. 4th 416, 439 (2011) (holding that, because Article XIII D, section 4 allows only special benefits to be assessed, even minimal general benefits must be separated from the special benefits and quantified so that the costs of general benefits can be deducted from the cost assessed against the properties).
47 Cal. Const. art. XIII D, § 4(a); *Silicon Valley Taxpayers’ Ass’n v. Santa Clara Cnty. Open Space Auth.*, 44 Cal. 4th 431, 443 (2008) (“Because only special benefits are assessable, and public improvements often provide both general benefits to the community and special benefits to a particular property, the assessing agency must first ‘separate the general benefits from the special benefits conferred on a parcel’ and impose the assessment only for the special benefits.”).
48 Cal. Const. art. XIII D, § 4(a). Notwithstanding Article XII D, section 4(a), the federal government is exempt from assessment because of the Supremacy Clause of the United States Constitution, U.S.

Const. art. VI, cl. 2, and the Act for Admission of California into the Union, 9 Stat. 452, § 3 (1850). The federal government may ignore an assessment levied without authorization by an act of Congress. *Novato Fire Prot. Dist. v. United States*, 181 F. 3d 1135, 1138 (9th Cir. 1999); *Palm Springs Spa, Inc. v. Cnty. of Riverside*, 18 Cal. App. 3d 372, 376-77 (1971).

49 “Identified parcel” is defined in California Government Code section 53750(g) to mean “a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.”

50 Cal. Const. art. XIII D, §4(a).

51 *Id.*

52 *Beutz*, 184 Cal. App. 4th at 1522 (citations omitted) (citing *Town of Tiburon v. Bonander*, 180 Cal. App. 4th 1057, 1080-85 (2009)).

53 *Silicon Valley Taxpayers’ Ass’n*, 44 Cal. 4th 431.

54 *Id.* at 443.

55 *Id.* at 452 .

56 *Id.* at 452 n.8.

57 *Id.* at 454 (emphasis removed) (quoting Cal. Const. art. XIII D, § 2(i)).

58 *Id.* at 455.

59 *Id.* (quoting *Ventura Group Ventures, Inc. v. Ventura Port Dist.*, 24 Cal. App. 4th 1089, 1107 (2001)).

60 *Id.* at 455-58.

61 *Id.*

62 *Id.* at 457.

63 *Id.*

64 *Id.*

65 *Town of Tiburon v. Bonander*, 180 Cal. App. 4th 1057, 1063 (2009).

66 *Id.* at 1081-82.

67 *Id.* at 1081 (citations and internal quotation marks omitted).

68 *Id.* at 1083.

69 *Id.* at 1068.

70 “Record owner” is defined as “the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, . . . the representative of that public entity known to the agency.” Cal. Gov’t Code § 53750(j). “Notice by mail” is defined as “any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIII C or XIII D of the California Constitution and this article, including, but not limited to the mailing of a bill for the collection of an assessment or a property-related fee or charge.” Cal. Gov’t Code § 53750(i).

71 Cal. Gov’t Code § 53753.

72 Cal. Gov’t Code § 53753(e)(6); Cal. Elec. Code § 4000(c)(8); *Greene v. Marin Cnty. Flood Control & Water Conservation Dist.*, 49 Cal. 4th 277 (2010).

73 Cal. Const. art. XIII D, § 4(c)-(d); Cal. Gov’t Code § 53753(b)-(d).

74 Cal. Const. art. XIII D, § 4(g).

ENDNOTES CONTINUED

- 75 Cal. Gov't Code § 53753(b). This statement may also be provided in a language other than English. *Id.*
- 76 Cal. Const. art. XIII D, § 4(d); *id.* § 53753(c).
- 77 *Id.* § 53753(c).
- 78 Cal. Gov't Code § 53753(c).
- 79 *Id.* A special district may provide an envelope for the return of the ballot, provided that, if the return envelope is opened by the agency prior to the tabulation of the ballots, the ballot must remain sealed. *Id.*
- 80 *Id.*
- 81 Cal. Const. art. XIII D, § 4(e); Cal. Gov't Code § 53753(b).
- 82 *Dahms v. Downtown Pomona Prop. & Bus. Improvement Dist.*, 174 Cal. App. 4th 708, 714-15 (2009).
- 83 Cal. Gov't Code § 53753(d).
- 84 *Id.*
- 85 *Id.* § (e)(2).
- 86 *Id.* § (e)(1).
- 87 *Id.*
- 88 *Id.*
- 89 *Id.*
- 90 *Id.* § 53753(e)(2).
- 91 *Id.*
- 92 Cal. Const. art. XIII D, § 4(e); Cal. Gov't Code § 53753(e)(4).
- 93 Cal. Const. art. XIII D, § 4(e); Cal. Gov't Code § 53753(e)(4).
- 94 Cal. Gov't Code § 53753(e)(3).
- 95 Cal. Const. art. XIII D, § 4(e); Cal. Gov't Code § 53753(e)(5).
- 96 Cal. Gov't Code § 53753(e)(2).
- 97 Cal. Gov't Code § 53753(e)(2).
- 98 *See, e.g., Knox v. City of Orland*, 4 Cal. 4th 132, 145-49 (1992); *Dawson v. Town of Los Altos Hills*, 16 Cal. 3d 676, 648-85 (1976).
- 99 *See Knox*, 4 Cal. 4th at 149; *Dawson*, 16 Cal. 3d at 684-85.
- 100 *Silicon Valley Taxpayers Ass'n v. Santa Clara Open Space Auth.*, 44 Cal. 4th 431 (2008).
- 101 Cal. Const. art. XIII D, § 5.
- 102 In *Howard Jarvis Taxpayers Association v. City of Riverside*, 73 Cal. App. 4th 679, 685-86 (1999), the court of appeal concluded that streetlights fall within the definition of "streets" for purposes of Article XIII D, section 5(a), which exempts an assessment imposed solely for "street purposes."
- 103 Standby charges are classified as assessments pursuant to Article XIII D, section 6(b)(4). *See Keller v. Chowchilla Water Dist.*, 80 Cal. App. 4th 1006, 1011-12 (2000).
- 104 Cal. Const. art. XIII D, § 5.
- 105 "Increase" is defined in Government Code section 53750(h). See footnote 109 below.
- 106 Cal. Gov't Code § 53753.3.
- 107 California Government Code section 53750(e) provides that the term "'extended,' when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date."
- 108 *Greene v. Marin Cnty. Flood Control & Water Conservation Dist.*, 49 Cal. 4th 277 (2010); *Bighorn-Desert View Water Agency v. Verjil*, 39 Cal. 4th 205, 217 (2006); *Richmond v. Shasta Cmty. Servs. Dist.*, 32 Cal. 4th 409, 426 (2004); *Howard Jarvis Taxpayers Ass'n*, 98 Cal. App. 4th at 1354-55.

109 The term “increase” is defined in California Government Code section 53750(h) to mean a decision by an agency that does either of the following:

- (A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.
- (B) Revises the methodology by which the tax, assessment, fee or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.
... A tax, fee, or charge is not deemed to be “increased” by an agency action that does either or both of the following:
 - (A) Adjusts the amount of a tax or fee or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.
 - (B) Implements or collects a previously approved tax, or fee or charge, so long as the rate is not increased beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.
... A tax, assessment, fee or charge is not deemed to be “increased” in the case in which the actual payments from a person or property are higher than would have resulted when the agency approved the tax, assessment, or fee or charge, if those higher payments are attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land.

110 Cal. Const. art. XIII D, §§ 6(b)(1)-(5).

111 See Cal. Const. art. XIII A & XIII B; Cal. Gov’t Code §§ 50076, 66013, 66016.

112 California Constitution article XIII C, section 1(d) defines “special tax” as “any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.” Article XIII C, section 2(d) restates the requirements of Article XIII A, that any imposition of a special tax must be supported by a two-thirds vote of the electorate.

113 *Mills v. Cnty. of Trinity*, 108 Cal. App. 3d 656, 662 (1980).

114 Cal. Gov’t Code § 50075.

115 *Id.* § 50076 (emphasis added); see also Cal. Const. art. XIII B (generally imposing an appropriations limit, which limits the amount of “proceeds of taxes” that each local agency may appropriate in a given year); Cal. Const. art. XIII B, § 8(c) (providing that “proceeds of taxes” include user fees to the extent that the proceeds of the user fees exceed the costs reasonably related to providing the service).

116 It is worthwhile noting that, in cases examining fees other than property-related fees, the California Supreme Court has recognized that “[s]imply because a fee exceeds the reasonable cost of providing the service or regulatory activity for which it is charged does not transform it into a tax.” *Barratt Am., Inc. v. City of Rancho Cucamonga*, 37 Cal. 4th 685, 700 (2005). These cases were further cited by the California Supreme Court in a recent case determined after the adoption of Proposition 26. The court noted that “a regulatory fee does not become a tax simply because the fee may be disproportionate to the service rendered to individual payors.” *Cal. Farm Bureau Fed’n v. State Water Res. Control Bd.*, 51 Cal. 4th 421, 438 (2011). Significantly, the court noted that “[t]he question of proportionality is not measured on an individual basis. Rather, it is measured collectively, considering all rate payors.” *Id.*

117 *Beaumont Investors v. Beaumont-Cherry Water Valley Dist.*, 165 Cal. App. 3d 227 (1985).

ENDNOTES CONTINUED

- 118 *Id.* at 234-35.
- 119 *Howard Jarvis Taxpayers Ass’n v. City of Roseville*, 97 Cal. App. 4th 637 (2002).
- 120 *Howard Jarvis Taxpayers Ass’n v. City of Fresno*, 127 Cal. App. 4th 914 (2005).
- 121 *City of Roseville*, 97 Cal. App. 4th at 647-48 (citations omitted).
- 122 *City of Fresno*, 127 Cal. App. 4th at 922-23 (citations omitted).
- 123 *Brydon v. E. Bay Mun. Water Dist.*, 24 Cal.App.4th 178, 196 (1994) (internal quotations and citations omitted).
- 124 *City of Palmdale v. Palmdale Water Dist.*, 198 Cal. App. 4th 926, 933 (2011).
- 125 *Id.* In applying its independent judgment to determine if the water service fees complied with the substantive limitations of Article XIII D, section 6(b), the *City of Palmdale* court relied on the decision of the California Supreme Court in *Silicon Valley Taxpayers Association v. Santa Clara Open Space Authority*, 44 Cal. 4th 431 (2008). In *Silicon Valley*, a special benefit assessment was challenged under the substantive provisions of California Constitution article XIII D, section 4. Before the adoption of Proposition 218, courts reviewed quasi-legislative acts of public agencies, such as formation of an assessment district, under a deferential abuse of discretion standard of review. In *Silicon Valley*, the California Supreme Court held that the drafters of Proposition 218 specifically targeted the deferential standard of review for change. Prior to the adoption of Proposition 218, special assessment laws were generally statutory, and the separation of powers doctrine served as a foundation for a more deferential standard of review by the courts. But after the adoption of Proposition 218, an assessment’s validity is now a constitutional question. “Neither the separation of powers nor property owner consent justifies allowing a local legislative body or property owners (both bound by the state Constitution) to usurp the judicial function of interpreting and applying the constitutional provisions that now govern assessments.” *Id.* at 449. Consequently, the courts will now exercise their independent judgment in determining whether assessments comply with the substantive provisions of Proposition 218. *Id.*
- 126 “Notice by mail” is defined in California Government Code section 53750(i) as any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIII C or XIII D of the California Constitution and this article, including, but not limited to, the mailing of a bill for the collection of an assessment or a property-related fee or charge.
- 127 Senate Bill 919, adopted as urgency legislation in July 1997 and referred to as the Proposition 218 Omnibus Implementation Act, attempted to clarify certain provisions of Proposition 218. This legislation, among other things, added Article 4.6 (commencing with section 53750) to the California Government Code. California Government Code section 53750(j) provides that for purposes of Article XIII C and XIII D, the term “record owner” means “the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency.” California Government Code section 53750(i) defines “notice by mail” to include providing notice via a utility bill for a fee or charge, which in some instances may be mailed to a utility customer rather than the record owner of the parcel where the service is provided.
- 128 Cal. Const. art. XIII D, § 6(a)(1).

- 129 Although not required under Article XIII D, section 6(a), it is recommended that the notice also contain an explanation of the process for submitting a protest to the proposed rates and any additional requirements for submitting a written protest, such as that the notice must contain the name, address and signature of the person submitting the protest. For a further discussion of the protest process, see the discussion under the heading “Determining Whether There is a Majority Protest.”
- 130 Article XIII D, section 2(e) defines “fee” or “charge” as “any levy other than an ad valorem tax, special tax or assessment, imposed by an agency upon a parcel or upon a person as an incident of *property ownership*, including user fees or charges for a property related service.” (Emphasis added.) “Property-related service” is defined in Article XIII D, section 2(h) to mean “a public service having a direct relationship to *property ownership*.” (Emphasis added.) In each instance, the phrase “property ownership” is a significant component of the defined term. Finally, Article XIII D, section 2(g) defines “property ownership” to “include tenancies of real property where *tenants are directly liable* to pay the assessment, fee, or charge in question.” (Emphasis added.)
- 131 Cal. Gov’t Code § 53755(a)(1).
- 132 *Id.* § 53755(a)(2).
- 133 The broader reading of “record owner” requires that notice also be mailed to any tenant directly liable for the payment of the fee or charge.
- 134 Identification of the property owner for each parcel upon which fees and charges will be imposed may be obtained from the respective county assessor’s office.
- 135 A special district may use a mail-merge system or other method to eliminate duplicate notices being sent to a property.
- 136 Cal. Gov’t Code § 53756(a).
- 137 *Id.* at § 53756(b).
- 138 *Id.* at § 53756(c).
- 139 *Id.* at § 53756(d).
- 140 Cal. Const. art. XIII D, §6(a)(2).
- 141 *Id.*
- 142 *Id.*
- 143 By way of example, if a special district sends a notice in accordance with Article XIII D, section 6(a) with respect to a rate increase for its water service fees, and receives protests from a husband and wife who both have a property ownership interest in a parcel of property subject to the service fee, the special district is only required to count one protest for the identified parcel to which the service is provided. By way of further example, if the special district received a written protest to the same water rate increase from one property owner of record for an identified parcel subject to the rate increase, and a written statement in support of the rate increase from another property owner of record for the same parcel of property, the special district would be required to accept the written protest and count it as one written protest for that parcel of property. Written protests against the adoption of a rate increase and written statements in support of a rate increase do not cancel each other out. Only written protests are considered in determining whether a majority protest exists.
- 144 Cal. Const. art. XIII D, § 6(c).
- 145 *Id.*
- 146 *Id.*
- 147 *Id.*

ENDNOTES CONTINUED

- 148 Article XIII D, section 4 requires that a public agency hold a public hearing and mail notice of the public hearing to each property owner subject to the proposed assessment. “Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency’s address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.” Subdivision (e) provides:

The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

No such weighted ballot process is required for the adoption of property-related fees such as stormwater service fees.

- 149 Cal. Const. art. XIII D, § 4(d) (providing ballot requirements); Cal. Gov’t Code § 53753(c) (providing notice requirements); *see also* Cal. Elec. Code § 4000 (providing that assessment ballots may be conducted exclusively by mail).
- 150 *See* Cal. Gov’t Code § 53753(e)(6); *Greene v. Marin Cnty. Flood Control & Water Conservation Dist.*, 49 Cal. 4th 277 (2010); Cal. Gov’t Code § 53755.5 (effective July 1, 2014).
- 151 *Greene*, 49 Cal. 4th 277.
- 152 *Id.* at 292.
- 153 *Id.* at 292-93.
- 154 *Id.* at 287-94.
- 155 *Id.* at 293.
- 156 Cal. Const. art XIII D, § 4(e). In accordance with Government Code section 53753(e)(3), in the event that more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot submitted in proportion to the respective ownership interests.
- 157 Cal. Gov’t Code § 53755.5(a).
- 158 *Id.* § 53755.5(b)(1).
- 159 *Id.* § 53755.5(b)(1) (All interested persons must have an opportunity to meaningfully monitor the tabulation process.)
- 160 *Id.* § 53755.5(b)(1) (Ballots must be preserved as provided in California Government Code sections 26202, 34090, and 60201.)
- 161 *See* discussion under the heading “Voter Approval of New or Increased Property-Related Fees and Charges Other Than for Water, Sewer, and Solid Waste Disposal” for a more in-depth discussion of the voter approval requirements for stormwater service fees.
- 162 Cal. Gov’t Code § 53739(a).
- 163 *Id.*
- 164 *Id.* § 53739(b)(1).
- 165 *Id.*
- 166 *Id.* § 53739(b)(2).



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