

**BEFORE THE BOARD OF DIRECTORS OF
THE TRI-COUNTY WATER AUTHORITY**

RESOLUTION NO. 17-04

RESOLUTION OF THE TRI-COUNTY WATER AUTHORITY BOARD OF DIRECTORS ESTABLISHING PROPOSITION 218 ASSESSMENT BALLOT PROCEDURES AND CALLING FOR AN ASSESSMENT BALLOT PROCEEDING ON A PROPOSED ADOPTION OF AN ACREAGE-BASED ASSESSMENT FOR ADMINISTRATION, GSP DEVELOPMENT, GSP IMPLEMENTATION, PLANNING, ANALYSIS AND ENVIRONMENTAL REVIEW FOR PROJECT(S), AND ACTUAL PROJECT(S), SUPPORTING THE GSP; ESTABLISHING PRELIMINARY AMOUNT OF ASSESSMENT AND SETTING OF NOTICED HEARING.

WHEREAS, this Board has previously determined to become a Groundwater Sustainability Agency (“GSA”) under the California Sustainable Groundwater Management Act of 2014 (“SGMA”, or “the Act”) and has taken action necessary to qualify the Authority as an exclusive GSA for the land area within its jurisdiction; and

WHEREAS, this Board has determined that it is both necessary and in the best interests of the GSA and its landowners to fully comply with the requirements of the Act in all relevant respects to maximize groundwater management and sustainable production, including ancillary recharge and surface water conjunctive use support conveyance facilities, to enhance administration, analysis, planning, plan implementation and GSA operations and to assess each acre of land within the GSA by means of an Acreage-based Assessment referenced further herein in order to recover the actual costs associated with the compliance with the Act, to its users on a proportional basis; and,

WHEREAS, the reason for the Assessment is that the GSA is the entity responsible for the preparation and implementation of the Groundwater Sustainability Plan and for the achievement of a sustainable groundwater condition within its boundary, and the Sub-basin(s) within which it resides, and further, to provide revenue to cover the cost associated with providing for compliance with the Act. The Authority's anticipated costs are generally described and detailed in the Engineer's Report for the Tri-County Water Authority Groundwater Sustainability Agency, produced by the Authority's engineering consultant. Without the herein referenced Assessment, the Authority will be unable to meet its payment obligations for the identified SGMA requirements; and

WHEREAS, the Authority finds it necessary that the Authority levy an acreage-based assessment; and

WHEREAS, in certain circumstances, the State of California's Constitution, through the adoption of Proposition 218 adding Articles XIIC and XIID, requires that public agencies present proposed increases in assessments on property to the owners of said property for approval or rejection; and,

WHEREAS, this Board believes it to be in the best interest of the Authority's landowners to place this assessment up for a vote in accordance with the provisions of Proposition 218 and Articles XIII C and XIII D of the California Constitution;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS, AS FOLLOWS:

1. Statement of Legislative Intent.

A. The foregoing findings and recitals are true and correct.

B. It is the Authority's intent in adopting this resolution, to adopt assessment ballot procedures which are consistent, and in compliance, with Articles XIII C and XIII D of the California Constitution and with Proposition 218's Omnibus Implementation Act codified in Government Code Sections 53750 *et seq.*

2. Assessment Ballot Proceedings. As required by Article XIII D, Section 4 of the California Constitution and said Implementing Act, the following procedures shall be used in an assessment ballot proceeding:

A. **Amount of Assessment.** The amount assessed is proportionate to and no greater than the benefits conferred on the individual property. In particular, the amount of the assessment is each identified parcel's proportionate share of the funds necessary to provide the GSA with funds to cover the cost associated with providing landowner properties with SGMA compliance. The Authority's costs generally include the items contained and detailed in the Engineer's Report for the Tri-County Water Authority Groundwater Sustainability Agency submitted to the Authority by its contract engineering consultant; and

B. **Cost Report.** The Authority has previously determined by formal bid and through completed work product of the engineering consultant as referenced herein, the amount reasonably considered to be the cost of the contemplated requirements and, as such, provides the evidence upon which this Board finds that a special benefit is conferred upon each parcel to be assessed and that the assessment imposed on each parcel does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

C. **Notice.** The following guidelines shall apply to giving notice of the proposed assessment for compliance by the Authority, acting as the GSA, with the Act.

1. The Treasurer of the Authority or its designee shall prepare a roll setting forth the assessee parcels and assessee names for each tract of land in the Authority against whom such charges have been fixed and the acreage assessed to such assessee. Rates shall be computed to the closest multiple of \$.10 per acre. Said roll, and preliminary rates shall be filed with the Authority's Secretary and be

open for the public at the Authority's offices and linked to the Authority's website in sufficient time to give notice required by Paragraph 2 hereof. Based on the Cost Report, the maximum annual amount to be collected under the assessment is approximately \$10.00 per assessable acre.

2. The general form of notice is attached to this resolution as Exhibit A.
3. The final as adopted notice shall be mailed to the record owner of each identified parcel at least forty-five (45) days prior to the date set for the public hearing on the proposed increases.
4. Failure of any person to receive notice shall not invalidate the proceedings.

D. Assessment Ballot. The following guidelines shall apply to the ballot:

1. The official adopted ballot required by Article XIID, Section 4(d) of the California Constitution shall be mailed to all property owners of record receiving notice as described in Section C herein at least forty-five (45) days prior to the date of the public hearing on the proposed special assessment.
2. The general form of the ballot shall be attached to this resolution as Exhibit B.
3. As required by Article XIID, Section 4(e) of the California Constitution and Government Code Section 53753(b), the ballots will be weighted according to the proportional financial obligation on the affected property.
4. *All ballots must be returned to the District's offices by mail or in person, sealed in the envelope provided* no later than the date for return of ballots described in the notice accompanying the ballot.
5. A ballot must be signed under penalty of perjury. For properties with more than one owner of record, ballots will be accepted from each owner of record. Each owner of record is entitled to vote. The Authority's engineering consultant shall apportion the voting rights between owners based upon the respective interests as the Authority's engineering consultant deems correct, proper and appropriate. However, if only one owner of record votes, the Authority's engineering consultant shall tabulate and designate that vote on behalf of the entire parcel. Additionally, if a parcel has more than one owner but not all of the owners submit a ballot the Authority's engineering consultant will apportion the received ballots in proportion to reflect a one-hundred percent (100%) vote for the parcel. Therefore, if a parcel has three (3) recorded owners but only two (2) ballots are submitted the submitted ballots will each be apportioned to reflect fifty percent (50%) of the vote for the parcel so that a total vote of one-hundred percent (100%) is recorded for the parcel.

6. In cases where land is leased or rented, because the proposed special assessment if not paid it is ultimately the responsibility of the owner of the real property, only landowners shall have the authority to vote on the proposed special assessment.
7. Only ballots with original signatures, not photocopies of signatures, will be accepted.
8. The Authority, or its engineering consultant designee, may issue a duplicate ballot, until conclusion of the public hearing, to any property owner who wishes to change their submitted vote or whose original ballot was lost or destroyed. Such duplicate ballot shall be clearly marked as duplicate and shall be accompanied by sufficient information for the Authority's engineering consultant to verify the location and ownership of the property in question and the identity of the individual casting the ballot in order to verify its authenticity.
9. As provided for in Government Code section 53753(e)(6), this "assessment ballot proceeding" is not an election for purposes of conforming to the Election Code or Article II of the California Constitution.

E. Procedures for Tabulating Ballots. The following guidelines shall apply to the tabulating of the assessment ballots:

1. This Board designates the Authority's engineering consultant as a disinterested party to tabulate the ballots. To the extent the Authority's engineering consultant relies on Authority staff to assist in the tabulation of ballots, the Authority's engineering consultant shall directly oversee their activities.
2. In accordance with Article XIID, Section 4(e) of the California Constitution and Government Code Section 53753(b), the ballots will be weighted according to the proportional financial obligation on the affected property.
3. The Authority's engineering consultant shall determine the validity of all ballots and shall accept as valid all ballots except those in the following categories:
 - a) A photocopy of a ballot which does not contain an original signature;
 - b) An unsigned ballot;
 - c) A ballot which lacks an identifiable "yes" or "no" vote;

- d) A ballot which appears to be tampered with or otherwise invalid based upon its appearance, method of delivery or other circumstances.
 4. The Authority's engineering consultant's determination, after consultation with District Counsel, that a ballot is invalid shall be final.
 5. The Authority's engineering consultant may not, and will not, begin tabulation of the ballots prior to the conclusion of the public hearing. All ballots are to remain sealed until the tabulation begins after the conclusion of the public hearing.
 6. A property owner has the right to withdraw a ballot submitted previously and to submit a new ballot up until the conclusion of the public hearing. To facilitate this submission of a new ballot, the Authority's engineering consultant shall issue a duplicate ballot. Such duplicate ballot shall be clearly marked as duplicate and shall be accompanied by sufficient information for the Authority's engineering consultant to verify the location and ownership of the property in question and the identity of the individual casting the ballot in order to verify its authenticity. The withdrawn ballot, or ballots, shall not be used in vote tabulation even if the newly submitted ballot is rejected for some reason.
 7. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings conducted under this section and Article XIID, Section 4 of the California Constitution.
- F. Public Hearing.** In accordance with the California Constitution and with Proposition 218's Omnibus Implementation Act codified in Government Code Sections 53750 *et seq.*, a public hearing shall be commenced to hear comments on the ballot measure. The hearing is set to be held at 1:00 P.M. on March 1, 2018, at 944 Whitley Ave, #A, Corcoran, CA 93212. The hearing will largely follow the procedures set forth herein:
1. At the public hearing, the Authority's Board of Directors shall hear public testimony regarding the proposed special assessment.
 2. The then presiding Chairman of the Board of Directors may impose reasonable time limits on both the length of the hearing and the length of each speaker's testimony.
 3. The Authority's Board of Directors may continue the hearing as it deems appropriate.
 4. The Authority's Board of Directors shall accept ballots on the proposal until the close of the public hearing. No Ballots shall be accepted for tabulation after the conclusion of the public hearing.

5. Upon conclusion of the hearing, the Authority's Secretary shall deliver certified copies of this resolution to the District Treasurer.
6. Upon conclusion of the hearing, or shortly thereafter, a disinterested party designated by the Authority's Board of Directors shall begin the tabulation of the ballots, including those received during the public hearing. Presently, the disinterested party designated by the Authority's Board of Directors is the Authority's engineering consultant and District staff that he may rely upon.
7. **The special assessment shall be subject to election.** If according to the final tabulation, weighted according to the proportional financial obligation of the affected property, votes submitted against the proposed assessment exceed the votes submitted in favor of said proposed special assessment, a "majority protest" shall exist and the Authority's Board of Directors shall not impose the proposed charges. **Neither the approval or denial of this assessment shall affect any other assessment, assessment proceedings, or water rates already in place or proposed.**
8. The results of the election shall be posted at the Authority's office and read into the minutes of the next scheduled Board meeting following the election.
9. If the proposed special assessment is ratified by the voters in the election, then as soon thereafter as deemed appropriate by the Board of Directors resolutions shall be adopted which both certify the election results and formally adopts the ratified proposed special assessment.
10. If approved, the special assessment shall be payable in quarterly installments due thirty (30) days following billing therefore; and

G. Call for Assessment Ballot Proceeding. Having carefully and fully reviewed the Engineer's Report, the Board of Directors hereby:

1. Adopts the findings and conclusions found in the Engineer's Report.
2. Calls for an "assessment ballot proceeding" for the proposed special assessment herein.
3. Calls for a Public Hearing on the changes to be held at 1:00 P.M. on March 1, 2018, at 944 Whitley Ave, #A, Corcoran, CA 93212. The hearing will largely follow the procedures set forth herein.
4. The District's personnel are hereby directed to prepare and mail notices and ballots as described herein for that proceeding, and to take all actions necessary and proper to carry out same.

THE FOREGOING, being on motion of Director Cory VanderHam, seconded by Director Kayode Kadara, was hereby authorized by the following vote, to wit:

AYES: Cory VanderHam, Kayode Kadara, Matthew Hurley

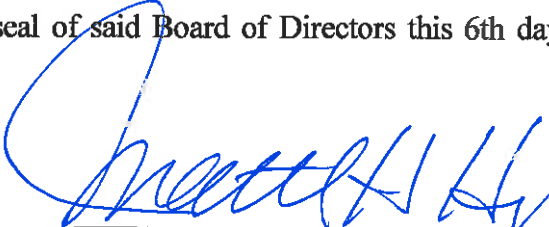
NOES:

ABSTAIN:

ABSENT:

I **HEREBY CERTIFY** that the foregoing is a true copy of the Resolution of the Board of Directors of the Tri-County Water Authority as duly passed and adopted by said Board at a Special meeting held this 6th day of December, 2017.

WITNESS my hand and official seal of said Board of Directors this 6th day of December, 2017.



Chairman of the Board of Directors

Attachments: Exhibit A: Form of Notice
Exhibit B: Form of Assessment Ballot

EXHIBIT A

TRI-COUNTY WATER AUTHORITY

NOTICE OF PROPOSED ASSESSMENT

The purpose of this Notice is to provide you with information about the “assessment ballot proceeding” being conducted by the Tri-County Water Authority, which is a Groundwater Sustainability Agency (the “Agency”) and its effect on real property that you own. This notice is being sent to you in accordance with an Agency Resolution adopted on December 6, 2017, Section 53753 of the California Government Code, and Section 4, Article XIID of the California Constitution. Please be advised that a Public Hearing on this matter will be held **at 1:00 p.m. on March 1, 2018 at the Agency office located at 944 Whitley Avenue, Suite A, Corcoran, CA 93212.**

The assessment is necessary to generate sufficient revenue to fund both annual Agency operation costs and expenses associated with the development and implementation of a Groundwater Sustainability Plan (“GSP”). The annual operational costs will begin in 2018 and will fund Agency operations and activities required by the Sustainable Groundwater Management Act (“SGMA”), including retaining consulting firms and legal counsel to provide Agency oversight and lead the Agency through the steps for SGMA compliance. Expenses incurred for GSP support, GSP development, and GSP implementation are anticipated to occur over the next several years with the highest annual costs anticipated during the five-year period of 2018 through 2022. The annual estimated expenses also include an annual 3% inflation factor. The assessments are planned to apply to all farmable lands within the Agency’s boundaries (defined as five acres or greater regardless of current land use).

The Agency is requesting landowner approval to levy assessments up to the maximum amount shown in the table below, specifically \$10.00 per acre for parcels five acres or greater. This table is an approximation of what the Agency’s Board may choose to assess in each year, but the Board is asking for authority to levy an assessment, in any year, of up to and including \$10.00 per acre for those parcels that are five acres or more.

Land Type	2018	2019	2020	2021	2022
5 acres or >	\$10.00	\$8.85	\$5.19	\$5.25	\$5.32

The assessment and its components are more particularly described in “Engineer’s Report for Tri-County Water Authority Groundwater Sustainability Agency: Proposition 218 Procedures for Benefit Assessment” prepared by Provost & Pritchard Consulting Group for the Agency. Copies of this Engineer’s Report are available upon request.

Enclosed with this notice, you will find an assessment ballot. Please follow the directions listed below and on the assessment ballot to express your view on the proposed assessment.

A ballot will not be accepted nor tabulated: 1) which is a photocopy without an original signature; 2) which is unsigned; 3) which lacks an identifiable "yes" or "no" vote; or 4) which appears to have been

tampered with or otherwise invalid based upon its appearance or method of delivery. At the conclusion of the public hearing on March 1st, the Designated Individual will begin tabulating ballots, including those received during the public hearing, and will post the results in the Agency's office by that time as soon as practical after the hearing. The Board of Directors will not impose the proposed assessment unless there is a majority of the ballots returned in favor of levying the assessment. Under the provisions of Proposition 218, votes are weighted according to the proportional increase in the financial obligation of the affected property.

To express your view on the proposed assessment, please check the line before the word "YES" or "NO," and then sign, date and place the ballot in the enclosed self-addressed envelope. Please note your name and address on the return envelope and mail or hand deliver your ballot to the Agency at 944 Whitley Avenue, Suite A Corcoran, CA 93212. Ballots may be mailed or hand delivered at any time, including at the public hearing, but *MUST* be received no later than the conclusion of the public hearing set for 1:00 p.m. on March 1, 2018 at the Agency office. Ballot return envelopes will not be opened until the conclusion of the hearing and votes will be weighted according to the proportional increased financial obligation on the affected property. Additionally, if you wish, you may change your vote at any time prior to the conclusion of the public hearing on this matter. However, because the ballots must remain sealed until the tabulation begins regardless of your method of delivery, we ask that you please seal your ballot in the enclosed return envelope and include your name and address on the envelope so that we may return your ballot to you if you wish.

Note, if your parcel(s) has more than one ownership interest, the various owners may submit their own ballots. In the event, all of the separate owners fail to submit their own ballots, the Agency will tabulate the submitted ballots proportionally to reflect a one hundred percent (100%) vote. For example, if a parcel(s) had five ownership interests and only one ballot is submitted, that ballot will be counted as the vote for all five owners. On the other hand, if the Agency receives two ballots on the property, one YES and one NO, the Agency will apportion fifty percent (50%) of that parcel(s)'s vote to YES and fifty percent (50%) to NO.

Notice is further given that a copy of the preliminary roll prepared pursuant to a resolution of the Agency's Board of Directors fixing the amount of the proposed assessment for each parcel subject to said assessment, is available for public inspection upon request to Matthew Hurley at 944 Whitley Avenue, Suite A, Corcoran, CA 93212. Objections to the roll or charges established for the respective parcels of land in accordance with said preliminary roll will also be heard at said hearing on March 1, 2018.

Should you have any questions, please call or write to: Tri-County Water Authority, 944 Whitley Avenue, Suite A, Corcoran, CA 93212; telephone (559) 992-8980.

Dated: December 6, 2017

Matthew Hurley, Chairman

EXHIBIT B
TRI-COUNTY WATER AUTHORITY
OFFICIAL ASSESSMENT BALLOT

