

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 24-

**PROVIDING FOR A LEVY OF AD VALOREM REAL PROPERTY TAXES
IN FISCAL YEAR 2024-25 TO MEET THE COST OF ITS
WATER SUPPLY CONTRACT WITH THE STATE OF CALIFORNIA**

WHEREAS, the Santa Clara Valley Water District (Valley Water) incurs an annual indebtedness to the State of California (State) pursuant to its Water Supply Contract With the State of California dated November 20, 1961 (State Water Supply Contract), and such indebtedness was approved by the voters prior to July 1, 1978, within the meaning of Article XIII A of the California Constitution; and

WHEREAS, Valley Water anticipates that its contractual indebtedness to the State under the State Water Supply Contract during the fiscal year beginning July 1, 2024, and ending June 30, 2025 (Fiscal Year 2024-25), will be at least \$28 million; and

WHEREAS, Section 11652 of the California Water Code requires the Valley Water Board of Directors (Board) to levy a tax sufficient to assure payment of sums due under Valley Water's Water Supply Contract; and

WHEREAS, Section 1(b) of Article XIII A of the California Constitution exempts ad valorem property tax levies to make payments upon indebtedness approved by the voters prior to July 1, 1978, from the limitation set forth in Section 1(a) of Article XIII A; and

WHEREAS, Valley Water's indebtedness from its Water Supply Contract falls within such exemption; and

WHEREAS, Valley Water's Water Supply Contract is protected against impairment under the provisions of Article I, Section 10 of the Constitution of the United States and Article I, Section 9 of the California Constitution prohibiting the impairment of the obligation of contracts; and

WHEREAS, the Board has previously considered, in a public hearing, Staff's recommendation that anticipated Fiscal Year 2024-25 Stater Water Project (SWP) expenses of approximately \$28 million be paid for through the setting of the SWP Tax at \$28 million rather than through further increases to groundwater production charges over and above Staff's recommended FY 2024-2025 groundwater charge increases; and

WHEREAS, this Board is concurrently approving rate increases to all of Valley Water's groundwater, surface water, and recycled water charges for Fiscal Year 2024-25, including a 12.9% increase to North County (Zone W-2)'s municipal and industrial (M&I) groundwater production charge and increases between 6.6% to 14.2% in all other groundwater benefit zones and in the agricultural groundwater charge; and

WHEREAS, if anticipated SWP expenses were not paid through imposition of a \$28 million SWP Tax but rather were paid for through groundwater charges, then Valley Water's North County (Zone W-2) municipal and industrial (M&I) groundwater production charge would have needed to be increased by approximately 21% (from \$1,974/AF to \$2,384/AF) rather than 12.9%. A one-time 21% wholesale water rate increase would be a significant hardship for low-income residents in Santa Clara County, many of whom are already participating in Valley Water's Water Rate Assistance Program (WRAP) in order to avoid water service shut-offs, late fees, and reconnection or reestablishment of service charges. In addition, this 21% wholesale

rate increase does not take into account the additional rate increases that Valley Water's retailers will need to pass on to their customers. Similarly, absent putting SWP charges on the SWP tax, in South County, the M&I charges would have needed to have been increased by an additional: \$33/AF in Zone W-5 (to \$612/AF), \$55/AF in Zone W-7 (to \$805.50/AF), and \$29/AF in Zone W-8 (to \$459/AF). The agricultural groundwater charge would have needed to increase to \$42.50/AF in all zones, and the open space credit would have needed to increase by roughly \$786,588;

WHEREAS, the Board, after reviewing and considering all the facts, information and reports provided by Valley Water staff, and information communicated to the Board during public meetings in which Valley Water's Fiscal Year 2024-25 budget and proposed increase of rates and charges were considered, has determined that it is necessary to raise the amounts hereinafter specified as an ad valorem real property tax, and that it is not feasible to raise said sums from further one-year water rates increases; and

WHEREAS, said ad valorem real property tax is consistent with Valley Water's past practice and is consistent with (Goodman v. County of Riverside (1983) 140 C.A. 3d 900), the approach of other water districts and agencies that maintain water supply contracts with the State.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

1. That said Board has determined that the amounts necessary to be raised by taxation during Valley Water's Fiscal Year 2024-25 to pay indebtedness approved by the voters prior to July 1, 1978, and/or for which a tax levy is required under Article I, Section 10 of the United States Constitution and Article I, Section 9 of the California Constitution is \$28 million for payments on Valley Water's State Water Supply Contract dated November 20, 1961.
2. That, for the reasons stated above, said Board determines that it is infeasible to further increase or raise groundwater production charges or other water charges or rates to pay the \$28 million in expenses associated with Valley Water's State Water Supply Contract dated November 20, 1961.
3. That consistent with the requirements of law and specifically within the limitations imposed by Article XIII A of the Constitution of the State of California there shall be levied in Fiscal Year 2024-25 an ad valorem real property tax within Valley Water sufficient to raise the sum of \$28 million to meet that portion of Valley Water's Water Supply Contract obligation which may be lawfully so raised.
4. That the funds received by Valley Water pursuant to the aforementioned ad valorem tax levy shall be placed in a separate fund identified for the indebtedness set forth above.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on May 14, 2024:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

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Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

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