



June 2, 2022

**TO:** LOCSO Board of Directors

**FROM:** Ron Munds, General Manager

**SUBJECT: Agenda Item 2A – 6/2/2022 Board Meeting**

Public Hearing to Consider and Tabulate Written Protests from Water Customers and Property Owners within the District's Water Service Area Regarding Proposed Water Rates

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**Vice President**  
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### DESCRIPTION

The Proposition 218/Article XIID of the California Constitution protest was duly noticed for the proposed water rate increase and a Public Hearing was noticed and scheduled for the June 2, 2022 meeting to hear all testimony and protests. The proposed water rates were thoroughly analyzed and examined by the working group, committees and by the District Board of Directors at public meetings. This report summarizes the steps moving forward in the water rate adoption process.

### RECOMMENDED PROCEDURE

1. **Open the Public Hearing.**
2. Consider staff presentation and report.
3. Consider public comment, and receive written protests and withdrawal of previously filed written protests until the close of the Public Hearing.
4. **Close Public Hearing.**
5. Have Staff tabulate the number of valid written protests that have been submitted per Proposition 218/Article XIID of the California Constitution and report findings.
6. Either adopt the resolution or direct Staff to develop alternatives to an additional Prop 218 Protest or return to the Utility Advisory Committee for evaluation.
7. After tabulation of valid written protests that have been submitted per Proposition 218/Article XIID of the California Constitution and the finding that there is not a majority protest, Staff recommends adoption of the new water rates pursuant to Resolution 2022-15.

### STAFF RECOMMENDATION

**Motion:** *I move that the Board adopt Resolution 2022-15, approving a water rate increase which will become effective according to law.*

### DISCUSSION

#### **Background**

Staff began work on the Water Rate Study in December 2021. The Water Rate Working Group (Working Group) was convened and reviewed the information required to make a recommendation to the District's committees and Board. The following table provides the process that was undertaken to arrive at the recommended action made in this report.

<b>Action</b>	<b>Date</b>
UAC Review/Input	✓ February 16, 2022
FAC Review/Input	✓ February 28, 2022
Board Input	✓ March 3, 2022
UAC Follow-up	✓ March 16, 2022
FAC Follow-up	✓ April 4, 2022
Board Tentative Approval of the Rates	✓ April 7, 2022
Proposition 218 Notification	✓ April 15, 2022
<b>Public Hearing for Adoption of the Rates</b>	✓ <b>June 2, 2022</b>
<b>Effective Date</b>	<b>July 1, 2022</b>

Pursuant to the requirements of Proposition 218 and Article XIID of the California Constitution, notices regarding this Public Hearing were mailed to owners within the LOCSA water service area more than 45 days prior to the June 2, 2022 Public Hearing. There are an estimated combined 2,750 owners of record for parcel(s) plus tenants directly responsible for payment for water service within the LOCSA water service area. In the event that a majority (i.e. more than 50%) of such owners and tenants submit valid written protests prior to the close of the Public Hearing, then the proposed rate structure cannot be adopted and another rate structure would have to be proposed.

### **Proposed Rates**

The following are the rates being proposed for adoption:

<b>Proposed Three-Year Water Rates</b>					
		<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>
<b>Base Fee</b>		\$70.00	\$73.00	\$74.00	\$75.00
<b>Tier 1</b>	1 - 5 ccf	\$6.00	\$6.25	\$6.45	\$6.65
<b>Tier 2</b>	6 -10 ccf	7.75	8.10	8.40	8.65
<b>Tier 3</b>	11-20 ccf	9.50	9.90	10.25	10.55
<b>Tier 4</b>	>20 ccf	11.25	11.70	12.10	12.45

### **FINANCIAL IMPACT**

Increase in revenue as stipulated in the attached resolution will help to fund future Capital Improvement Projects and operational requirements.

If the Prop 218 Protest fails, staff would re-engage the Working Group and committees to revise the rate increase proposal. This would increase the cost to the District for the rate-setting process and delay the collection of the needed revenue to meet the District's operating goals.

### **Attachment**

Resolution 2022-15

**RESOLUTION 2022-15**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT AMENDING APPENDIX A TO TITLE 2 OF THE LOS OSOS COMMUNITY SERVICES DISTRICT CODE TO ESTABLISH NEW WATER RATES AND CHARGES**

**WHEREAS**, it is a responsibility of the Los Osos Community Services District (“District”) to Operate and maintain its water distribution facilities so as to provide adequate water service and fire protection to District water customers; and

**WHEREAS**, it is also the responsibility of the District to maintain adequate levels of revenue, equitably collected from District water customers, to meet the District’s financial commitments; and

**WHEREAS**, Government Code §61115 authorizes the District to adopt rates and charges by Resolution; and

**WHEREAS**, utilizing the information in the adopted Water Master Plan and the technical memo updating the Plan in 2010, together with all updates to those documents as well as the Basin Management Plan, a working group developed a proposed rate structure in collaboration with the Utilities Advisory Committee and Financial Advisory Committee, and presented the plan to the Board of Directors at multiple duly noticed public meetings; and

**WHEREAS**, the proposed new water rate structure and water rates are necessary for the District to meet its water sales revenue goals and to provide reliable and sustainable water service to its customers; and

**WHEREAS**, the District has issued public notice to the affected water customers and property owners, allowing sufficient time for the public to protest the proposed water rate changes, in accordance with the provisions of Proposition 218; and

**WHEREAS**, on June 2, 2022, the District conducted a Public Hearing, considered public comment in support and in opposition to the proposed rate increase and whether or not a majority protest exists pursuant to Section 6 of Article XIII D of the California Constitution; and

**WHEREAS**, at the June 2, 2022 Public Hearing, the District General Manager and Secretary to the Board attested that written protest against the water rates had not been filed by a majority of property owners and tenant customers; and

**WHEREAS**, based on the foregoing the Board of Directors finds:

A. The valid written protests received by the District prior to the close of the June 2, 2022 Public Hearing do not constitute a majority protest.

B. That the rates and charges adopted by this Resolution:

1. Are for the purposes of meeting operation, maintenance and capital replacement expenses for providing water service within the District’s water service area.
2. Do not exceed the funds required to provide water service within the District’s water service area; and
3. Do not exceed the proportional cost of services attributable to those parcels receiving water service within the District’s water service area.
4. Will not be used for any purpose other than that for which the charge is imposed.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of Directors of the Los Osos Community Services District as follows:

Section 1. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and/or support the findings of the District in support of this Resolution.

Section 2. Water Rates and Charges

Effective July 1, 2022, Appendix A to Title 2 of the District Code related to bi-monthly water rates and charges is repealed in its entirety and replaced with the following:

**APPENDIX A  
BI-MONTHLY WATER RATES AND CHARGES**

<b>Proposed Three-Year Water Rates</b>					
		<b>2021-22 (Current)</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>
<b>Base Fee</b>		\$70.00	\$73.00	\$74.00	\$75.00
<b>Tier 1</b>	1 - 5 ccf	\$6.00	\$6.25	\$6.45	\$6.65
<b>Tier 2</b>	6 -10 ccf	7.75	8.10	8.40	8.65
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Section 3. Repeal of Prior Ordinances and Resolutions

All Ordinances, Resolutions and sections of Ordinances and Resolutions that are inconsistent with this Resolution are hereby repealed.

Section 4. Effect of Repeal on Past Actions and Obligations

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any prior Resolution or Ordinance.

Section 5. CEQA Findings

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273.

Section 6. Severance Clause

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 7. Effective Date

This Resolution shall take effect immediately. The rates and charges adopted by this Resolution shall take effect July 1, 2022.

On the motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_,  
and on the following roll call vote, to wit:

Ayes: \_\_\_\_\_  
Noes: \_\_\_\_\_  
Abstain: \_\_\_\_\_  
Absent: \_\_\_\_\_

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 2<sup>nd</sup> day of June 2022.

\_\_\_\_\_  
Matthew D. Fourcroy, President  
LOCSD Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Ron Munds  
General Manager and Secretary to the Board

\_\_\_\_\_  
Jeffrey A. Minnery  
District Legal Counsel