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Policy/Procedure
Reviewed and Approved 09/15/2021
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GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 4. Financial Affairs [53600 - 53997] (Chapter 4 added by Stats. 1949, Ch. 81.)

ARTICLE 4.6. Proposition 218 Omnibus Implementation Act [53750 - 53758] (Article 4.6 added by Stats. 1997, Ch. 38, Sec. 5.)

53750. For purposes of Article XIII C and Article XIII D of the California Constitution and this article, the following words have the following meanings, and shall be read and interpreted in light of the findings and declarations contained in Section 53751:

- (a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII C of the California Constitution.
- (b) "Assessment" means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment," and "special assessment tax."
- (c) "District" means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.
- (d) "Drainage system" means any system of public improvements that is intended to provide for erosion control, for landslide abatement, or for other types of water drainage.
- (e) "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.
- (f) "Flood control" means any system of public improvements that is intended to protect property from overflow by water.
- (g) "Identified parcel" means 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.
- (h) (1) "Increased," when applied to a tax, assessment, or property-related fee or charge, means 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.
- (2) 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, 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, 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.

(3) 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, 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.

(i) "Notice by mail" means 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.

(j) "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.

(k) "Sewer" includes systems, all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate sewage collection, treatment, or disposition for sanitary or drainage purposes, including lateral and connecting sewers, interceptors, trunk and outfall lines, sanitary sewage treatment or disposal plants or works, drains, conduits, outlets for surface or storm waters, and any and all other works, property, or structures necessary or convenient for the collection or disposal of sewage, industrial waste, or surface or storm waters. "Sewer system" shall not include a sewer system that merely collects sewage on the property of a single owner.

(l) "Registered professional engineer" means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(m) "Vector control" means any system of public improvements or services that is intended to provide for the surveillance, prevention, abatement, and control of vectors as defined in subdivision (k) of Section 2002 of the Health and Safety Code and a pest as defined in Section 5006 of the Food and Agricultural Code.

(n) "Water" means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.

(Amended by Stats. 2017, Ch. 536, Sec. 1. (SB 231) Effective January 1, 2018.)

53750.5. (a) The Legislature finds and declares all of the following:

(1) Fire service is a different and distinct service from water service, which is one of several other property-related services that aids in the provision of fire service provided to properties.

(2) Hydrants are part of the system of public improvements described in subdivision (n) of Section 53750.

(3) Hydrants are generally designed, installed, and used to provide an immediately available water service to aid in extinguishing fires that threaten property served by a water service provider, and are generally not designed or installed to provide water service to aid in extinguishing fires that threaten property not served by a water service provider or wildfires. Hydrants are also used by a water service provider for water system operations and maintenance.

(4) Hydrants are generally located in proximity to properties served by a water service provider to facilitate water service to those properties. Hydrants and the water distributed through them have a direct relationship to property ownership because hydrants are generally sized based upon property use and then are installed when parcels are developed or connected to a water system.

(5) Hydrants and the water distributed through them are not available to the public at large in substantially the same manner as they are to property owners served by a water service provider because hydrants are designed, installed, and used to serve properties receiving water service, and the public at large does not generally have access to water through those hydrants. Incidental or other de minimis use of hydrants and the water distributed through them for other purposes does not change their essential character as a property-related service.

(6) Hydrants and the water distributed through them are part of the property-related water service provided to all property owners served by a water service provider. Through hydrants, water is immediately available to those properties to aid in extinguishing a fire that directly threatens them. The cost associated with this aspect of water service is proportionately allocable among properties that may receive a reasonably similar level of service from the immediate availability of water to aid in extinguishing fires that directly or indirectly threaten those properties.

(7) Property-related water service costs may include, but are not limited to, any costs associated with constructing, maintaining, repairing, upgrading, and replacing hydrants, and costs associated with obtaining,

treating, and distributing adequate volumes of water to meet the water demands of properties served by the water service provider, including water supplied for firefighting purposes. The fees or charges related to those costs are imposed upon a parcel or person as an incident of property ownership.

(b) The fees or charges for property-related water service imposed or increased pursuant to Section 6 of Article XIII D of the California Constitution may include the costs to construct, maintain, repair, or replace hydrants as needed or consistent with applicable fire codes and industry standards, and may include the cost of water distributed through hydrants. In addition to any other method consistent with Section 6 of Article XIII D of the California Constitution, fees or charges for the aspects of water service related to hydrants and the water distributed through them may be fixed and collected as a separate fee or charge, or included in the other water rates and charges fixed and collected by a public agency, as provided for in Section 53069.9 of the Government Code.

(c) For the purpose of this section, "hydrants" means all hydrants and other infrastructure used to distribute water that aids in the protection of property from fire, and all related or appurtenant infrastructure and facilities owned by a water service provider necessary or convenient for distributing water that aids in the protection of property from fire, including adequately sized and pressurized lines, pumps, and all appurtenances, but does not include privately owned hydrants or other private fire response related infrastructure.

(d) This section is declaratory of existing law.

(Added by Stats. 2020, Ch. 240, Sec. 1. (SB 1386) Effective January 1, 2021.)

53751. The Legislature finds and declares all of the following:

(a) The ongoing, historic drought has made clear that California must invest in a 21st century water management system capable of effectively meeting the economic, social, and environmental needs of the state.

(b) Sufficient and reliable funding to pay for local water projects is necessary to improve the state's water infrastructure.

(c) Proposition 218 was approved by the voters at the November 5, 1996, statewide general election. Some court interpretations of the law have constrained important tools that local governments need to manage storm water and drainage runoff.

(d) Storm waters are carried off in storm sewers, and careful management is necessary to ensure adequate state water supplies, especially during drought, and to reduce pollution. But a court decision has found storm water subject to the voter-approval provisions of Proposition 218 that apply to property-related fees, preventing many important projects from being built.

(e) The court of appeal in *Howard Jarvis Taxpayers Ass'n v. City of Salinas* (2002) 98 Cal.App.4th 1351 concluded that the term "sewer," as used in Proposition 218, is "ambiguous" and declined to use the statutory definition of the term "sewer system," which was part of the then-existing law as Section 230.5 of the Public Utilities Code.

(f) The court in *Howard Jarvis Taxpayers Ass'n v. City of Salinas* (2002) 98 Cal.App.4th 1351 failed to follow long-standing principles of statutory construction by disregarding the plain meaning of the term "sewer." Courts have long held that statutory construction rules apply to initiative measures, including in cases that apply specifically to Proposition 218 (see *People v. Bustamante* (1997) 57 Cal.App.4th 693; *Keller v. Chowchilla Water Dist.* (2000) 80 Cal.App.4th 1006). When construing statutes, courts look first to the words of the statute, which should be given their usual, ordinary, and commonsense meaning (*People v. Mejia* (2012) 211 Cal.App.4th 586, 611). The purpose of utilizing the plain meaning of statutory language is to spare the courts the necessity of trying to divine the voters' intent by resorting to secondary or subjective indicators. The court in *Howard Jarvis Taxpayers Ass'n v. City of Salinas* (2002) 98 Cal.App.4th 1351 asserted its belief as to what most voters thought when voting for Proposition 218, but did not cite the voter pamphlet or other accepted sources for determining legislative intent. Instead, the court substituted its own judgment for the judgment of voters.

(g) Neither the words "sanitary" nor "sewerage" are used in Proposition 218, and the common meaning of the term "sewer services" is not "sanitary sewerage." In fact, the phrase "sanitary sewerage" is uncommon.

(h) Proposition 218 exempts sewer and water services from the voter-approval requirement. Sewer and water services are commonly considered to have a broad reach, encompassing the provision of clean water and then addressing the conveyance and treatment of dirty water, whether that water is rendered unclean by coming into contact with sewage or by flowing over the built-out human environment and becoming urban runoff.

(i) Numerous sources predating Proposition 218 reject the notion that the term "sewer" applies only to sanitary sewers and sanitary sewerage, including, but not limited to:

(1) Section 230.5 of the Public Utilities Code, added by Chapter 1109 of the Statutes of 1970.

- (2) Section 23010.3, added by Chapter 1193 of the Statutes of 1963.
- (3) The Street Improvement Act of 1913.
- (4) L.A. County Flood Control Dist. v. Southern Cal. Edison Co. (1958) 51 Cal.2d 331, where the California Supreme Court stated that “no distinction has been made between sanitary sewers and storm drains or sewers.”
- (5) Many other cases where the term “sewer” has been used interchangeably to refer to both sanitary and storm sewers include, but are not limited to, County of Riverside v. Whitlock (1972) 22 Cal.App.3d 863, Ramseier v. Oakley Sanitary Dist. (1961) 197 Cal.App.2d 722, and Torson v. Fleming (1928) 91 Cal.App. 168.
- (6) Dictionary definitions of sewer, which courts have found to be an objective source for determining common or ordinary meaning, including Webster’s (1976), American Heritage (1969), and Oxford English Dictionary (1971).
- (j) Prior legislation has affirmed particular interpretations of words in Proposition 218, specifically Assembly Bill 2403 of the 2013–14 Regular Session (Chapter 78 of the Statutes of 2014).
- (k) In *Crawley v. Alameda Waste Management Authority* (2015) 243 Cal.App.4th 396, the Court of Appeal relied on the statutory definition of “refuse collection services” to interpret the meaning of that phrase in Proposition 218, and found that this interpretation was further supported by the plain meaning of refuse. Consistent with this decision, in determining the definition of “sewer,” the plain meaning rule shall apply in conjunction with the definitions of terms as provided in Section 53750.
- (l) The Legislature reaffirms and reiterates that the definition found in Section 230.5 of the Public Utilities Code is the definition of “sewer” or “sewer service” that should be used in the Proposition 218 Omnibus Implementation Act.
- (m) Courts have read the Legislature’s definition of “water” in the Proposition 218 Omnibus Implementation Act to include related services. In *Griffith v. Pajaro Valley Water Management Agency* (2013) 220 Cal.App.4th 586, the Court of Appeal concurred with the Legislature’s view that “water service means more than just supplying water,” based upon the definition of water provided by the Proposition 218 Omnibus Implementation Act, and found that actions necessary to provide water can be funded through fees for water service. Consistent with this decision, “sewer” should be interpreted to include services necessary to collect, treat, or dispose of sewage, industrial waste, or surface or storm waters, and any entity that collects, treats, or disposes of any of these necessarily provides sewer service.
- (Added by Stats. 2017, Ch. 536, Sec. 2. (SB 231) Effective January 1, 2018.)*

53752. The Department of General Services shall develop compliance standards in the State Administrative Manual (SAM) to inform owners of state property of their duties and responsibilities pursuant to this article and Articles XIII C and XIII D of the California Constitution.

(Added by Stats. 2002, Ch. 981, Sec. 2. Effective January 1, 2003.)

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice, protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.

(b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner’s parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and 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 for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment. On the face of the envelope mailed to the record owner, in which the notice and ballot

are enclosed, there shall appear in substantially the following form in no smaller than 16-point bold type: "OFFICIAL BALLOT ENCLOSED." An agency may additionally place the phrase "OFFICIAL BALLOT ENCLOSED" on the face of the envelope mailed to the recorded owner, in which the notice and ballot are enclosed, in a language or languages other than English.

(c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the ballot and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed until the tabulation of ballots pursuant to subdivision (e) commences, provided that an assessment ballot may be submitted, or changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the hearing required pursuant to subdivision (d). An agency may provide an envelope for the return of the assessment ballot, provided that if the return envelope is opened by the agency prior to the tabulation of ballots pursuant to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in this section.

(d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. For the purposes of this section, an impartial person includes, but is not limited to, the clerk of the agency. If the agency uses agency personnel for the ballot tabulation, or if the agency contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the assessment, the ballots shall be unsealed and tabulated in public view at the conclusion of the hearing so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

(2) The governing body of the agency may, if necessary, continue the tabulation at a different time or location accessible to the public, provided the governing body announces the time and location at the hearing. The impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots. During and after the tabulation, the assessment ballots and the information used to determine the weight of each ballot shall be treated as disclosable public records, as defined in Section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment. The ballots shall be preserved for a minimum of two years, after which they may be destroyed as provided in Sections 26202, 34090, and 60201.

(3) In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(4) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(5) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.

(6) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the Elections Code.

(Amended by Stats. 2009, Ch. 580, Sec. 1. (SB 321) Effective January 1, 2010.)

53753.5. (a) If an agency has complied with the notice, protest, and hearing requirements of Section 53753, or if an agency is not required to comply with those requirements because the assessment is exempt from the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, then those

requirements shall not apply in subsequent fiscal years unless the assessment methodology is changed to increase the assessment, or the amount of that assessment is proposed to exceed an assessment formula or range of assessments adopted by an agency in accordance with Article XIII D of the California Constitution or Section 53753.

(b) Notwithstanding subdivision (a), the following assessments existing on the effective date of Article XIII D of the California Constitution shall be exempt from the procedures and approval process set forth in Section 4 of that article:

(1) 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.

(2) 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.

(3) 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.

(4) Any assessment that previously received majority voter approval from the voters voting in an election on the issue of the assessment.

Any subsequent increases in an assessment listed in paragraph (1), (2), or (4) shall be subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(c) For purposes of this section, the following words and phrases shall have the following meanings:

(1) "Assessments existing on the effective date of Article XIII D of the California Constitution" means assessments levied by the legislative body of the agency on or before November 6, 1996.

(2) "Procedures and approval process set forth in Section 4 of Article XIII D" means all of the requirements set forth in Section 4 of Article XIII D of the California Constitution, including, but not limited to, the requirement to separate general and special benefits and the requirement to assess parcels that are owned or used by an agency, the State of California, or the United States of America.

(Added by Stats. 1997, Ch. 38, Sec. 5. Effective July 1, 1997.)

53754. (a) The legislative body collecting assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) shall designate an office, department, or bureau of the local agency that shall be responsible for annually preparing the current tax roll of assessment installment obligations by assessor's parcel number on property within the assessment district. The designated office, department, or bureau shall be the same office, department, or bureau that prepares the "NOTICE OF SPECIAL TAX" required by Section 53340.2. If notice is required under both this section and Section 53340.2, the notices shall, to the extent feasible, be combined into a single notice document. The designated office, department, or bureau shall establish procedures to promptly respond to inquiries concerning installments on the current tax roll. Neither the designated office, department, or bureau, nor the legislative body, shall be liable if any estimate of assessment installments on the current tax roll is inaccurate, nor for any failure of any seller to request a Notice of Special Assessment or to provide the notice to a buyer.

(b) For purposes of enabling sellers of real property subject to the levy of assessments to satisfy the notice requirements of subdivision (b) of Section 1102.6 of the Civil Code, the designated office, department, or bureau shall furnish a Notice of Assessment to any individual requesting the notice or any owner of property subject to an assessment levied by the local agency within five working days of receiving a request for such notice. The local agency may charge a reasonable fee for this service not to exceed ten dollars (\$10).

(c) The notice shall contain the heading "NOTICE OF SPECIAL ASSESSMENT" in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately present the required information or to consolidate information about two or more assessment districts that collect installments of assessments with respect to the lot, parcel, or unit. The notice shall be completed by the designated office, department, or bureau except for the signatures and date of signing:

NOTICE OF SPECIAL ASSESSMENT
ASSESSMENT DISTRICT NO. _____ OF
(CITY) (COUNTY) (SPECIAL DISTRICT), CALIFORNIA
TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

Assessor's Parcel Number: _____
 Street Address: _____
 _____.

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR PURCHASING THIS PROPERTY.

This property is within the above-named assessment district. The assessment district has issued bonds to finance the acquisition or construction of certain public improvements that are of direct and special benefit to property within the assessment district. The bonds will be repaid from annual assessment installments on property within the assessment district.

This property is subject to annual assessment installments of the assessment district that will appear on your property tax bills, but which are in addition to the regular property taxes and any other charges and levies that will be listed on the property tax bill. If you fail to pay assessment installments when due each year, the property may be foreclosed upon and sold.

The annual assessment installment against this property as shown on the most recent tax bill for the ____ - ____ tax year is ____ dollars (\$ ____). Assessment installments will be collected each year until the assessment bonds are repaid.

The public facilities that are being paid for by the money received from the sale of bonds that are being repaid by the assessments, are:

(LIST)

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

YOU SHOULD TAKE THIS ASSESSMENT AND THE BENEFITS FROM THE PUBLIC FACILITIES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

YOU MAY OBTAIN A COPY OF THE RESOLUTION CONFIRMING ASSESSMENTS THAT SPECIFIES MORE PRECISELY HOW THE ASSESSMENTS ARE APPORTIONED AMONG PROPERTIES IN THE ASSESSMENT DISTRICT FROM THE ____ (name of jurisdiction) BY CALLING ____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.

DATE:	_____

Buyer	_____

Buyer	_____

(Added by Stats. 2001, Ch. 673, Sec. 3. Effective January 1, 2002.)

53755. (a) (1) The notice required by paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution of a proposed increase of an existing fee or charge for a property-related service being provided to a parcel may be given by including it in the agency's regular billing statement for the fee or charge 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.

(2) The notice required by paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution of a proposed new fee or charge may be given in the manner authorized for notice of an increase of a

fee or charge if the agency is currently providing an existing property-related service to the address.

(3) If the agency desires to preserve any authority it may have to record or enforce a lien on the parcel to which service is provided, the agency shall also mail notice to the recordowner's address shown on the last equalized assessment roll if that address is different than the billing or service address.

(b) One written protest per parcel, filed by an owner or tenant of the parcel, shall be counted in calculating a majority protest to a proposed new or increased fee or charge subject to the requirements of Section 6 of Article XIII D of the California Constitution.

(c) Any agency that bills, collects, and remits a fee or charge on behalf of another agency may provide the notice required by Section 6 of Article XIII D of the California Constitution on behalf of the other agency.

(d) The agency shall maintain all written protests for a minimum of two years following the date of the hearing to consider written protests.

(Amended by Stats. 2016, Ch. 248, Sec. 1. (AB 2801) Effective January 1, 2017.)

53755.5. When an agency proposes to impose or increase any fee or charge subject to Section 6 of Article XIII D of the California Constitution that is not exempt from the requirements of subdivision (c) of Section 6 of Article XIII D of the California Constitution, the following procedures, in addition to any other procedures adopted by the agency pursuant to subdivision (c) of Section 6 of Article XIII D of the California Constitution, shall apply to the election:

(a) If the agency opts to submit the proposed fee or charge for approval by a two-thirds vote of the registered voters residing in the affected area, the election shall be conducted by the agency's elections official or his or her designee. If the election is conducted by the county elections official, the agency, if other than the county, shall reimburse the county for the actual and reasonable costs incurred by the county elections official in conducting the election.

(b) If the agency opts to submit the proposed fee or charge for approval by a majority vote of the property owners who will be subject to the fee or charge, then in addition to the procedures set forth in Section 6 of Article XIII D of the California Constitution, the following procedures shall apply to the election:

(1) On the face of the envelope in which the notice of election and ballot are mailed, there shall appear in substantially the following form in no smaller than 16-point bold type: "OFFICIAL BALLOT ENCLOSED." Below that, an agency may repeat the phrase "OFFICIAL BALLOT ENCLOSED" in a language or languages other than English.

(2) The ballot shall include the agency'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 shall be tabulated in a location accessible to the public. The ballot shall be in a form that conceals its content once it is sealed by the person submitting it. The ballot shall remain sealed until the ballot tabulation pursuant to paragraph (3) commences.

(3) An impartial person designated by the agency who does not have a vested interest in the outcome of the proposed fee shall tabulate the ballots submitted in support of or opposition to the proposed fee. For the purposes of this section, an impartial person includes, but is not limited to, the clerk of the agency. If the agency uses agency personnel for the ballot tabulation, or if the agency contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the fee, the ballots shall be unsealed and tabulated in public view to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

(4) The ballot tabulation may be continued to a different time or different 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. The impartial person may use technological methods to tabulate the ballots, including, but not limited to, punchcard or optically readable (bar-coded) ballots. During and after the tabulation, the ballots and, if applicable, the information used to determine the weight of each ballot, shall be treated as public records, as defined in Section 6252, subject to public disclosure and made available for inspection by any interested person. The ballots shall be preserved for a minimum of two years, after which they may be destroyed as provided in Sections 26202, 34090, and 60201.

(c) The proceedings described in subdivision (b) shall not constitute an election or voting for purposes of Article II of the California Constitution or of the Elections Code.

(d) This section shall become operative on July 1, 2014.

(Added by Stats. 2013, Ch. 215, Sec. 1. (SB 553) Effective January 1, 2014. Section operative July 1, 2014, by its own provisions.)

53756. An agency providing water, wastewater, sewer, or refuse collection service 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 it complies with all of the following:

- (a) It adopts the schedule of fees or charges for a property-related service for a period not to exceed five years pursuant to Section 53755.
- (b) The schedule of fees or charges may include a schedule of adjustments, including a clearly defined formula for adjusting for inflation. Any inflation adjustment to a fee or charge for a property-related service shall not exceed the cost of providing that service.
- (c) The schedule of fees or charges for an agency that purchases wholesale water, sewage treatment, or wastewater treatment from a public agency may provide for automatic adjustments that pass through the adopted increases or decreases in the wholesale charges for water, sewage treatment, or wastewater treatment established by the other agency.
- (d) Notice of any adjustment pursuant to the schedule shall be given pursuant to subdivision (a) of Section 53755, not less than 30 days before the effective date of the adjustment.

(Amended by Stats. 2012, Ch. 103, Sec. 1. (AB 2567) Effective January 1, 2013.)

53758. For purposes of Article XIII C of the California Constitution and this article:

- (a) "Specific benefit" means a benefit that is provided directly to a payor and is not provided to those not charged. A specific benefit is not excluded from classification as a "specific benefit" merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.
- (b) "Specific government service" means a service that is provided by a local government directly to the payor and is not provided to those not charged. A specific government service is not excluded from classification as a "specific government service" merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor. A "specific government service" may include, but is not limited to, maintenance, landscaping, marketing, events, and promotions.
- (c) The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the reasonable costs to the local government in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

(Added by Stats. 2013, Ch. 552, Sec. 2. (AB 483) Effective October 4, 2013.)