

ORDINANCE NO. 36

AN ORDINANCE OF THE SAN BENITO COUNTY WATER DISTRICT ESTABLISHING AN ANNUAL ASSESSMENT IN ZONE 103 FOR FIXED OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT COSTS AND COSTS FOR DESIGN AND FUNDING SUPPORT

WHEREAS, the San Benito County Water District (District) is vested with the power to any and every lawful act necessary so that sufficient water may be available for any present or future beneficial use or uses on the lands or for the inhabitants within the District including the storage and distribution of water for domestic, fire protection and municipal uses; and

WHEREAS, the San Benito County Water District Board of Directors adopted a Resolution establishing Zone 103 and undertaking a project therein; and

WHEREAS, Resolution 2002-17, as amended, provides that "Rates and Charges to be assessed in said Zone for the purpose of operating, maintaining, extending, repairing, or otherwise improving the Harmony Hills Water system, for service of water within said Zone and for debt repayment, shall be established by ordinance of this District subsequent to the adoption of this Resolution"; and

WHEREAS, the Board of Directors has determined that water rates and charges together with other revenue sources are sufficient to meet the estimated financial obligations of Zone 103 including, but not limited to, the cost of operation, maintenance, and repair of the Zone 103 facilities. (ORDINANCE 35); and

WHEREAS, a special annual assessment is needed to cover certain fixed operation, maintenance, repair and replacement costs as well as costs for design of a replacement water system and funding support; and

WHEREAS, the Board of Directors of the District conducted proceedings pursuant to the California Constitution, Article 13D, Section 4, and on July 30, 2003 conducted a public hearing to consider levying the assessment and to tabulate the ballots submitted; and

WHEREAS, after tabulating the ballots the Board determined that there was no majority protest and that the ballots in favor of the assessment exceeded the ballots opposed to the assessment. The Board proceeded to approve of the assessment as hereinafter set forth and adopted findings in support of its decision.

NOW, BE IT ORDAINED by the Board of Directors of the San Benito County Water District as follows:

1. **Annual Assessment:** The District hereby fixes an annual assessment to fund fixed operation, maintenance, repair and replacement costs (OMR&R) and design and funding support for a replacement water system in Zone 103. A schedule of annual assessments and apportionment among the parcels in Zone 103 is set forth in **EXHIBIT A**, attached hereto. The assessment shall be effective beginning the tax year 2003-2004.

2. **Article 13D, Section 4 of the California Constitution:** The assessment adopted by the District as set forth herein is governed by the provisions of the California Constitution, Article 13D, Section 4. The District Board conducted proceedings pursuant thereto and adopted Findings Re Decision to Levy An Assessment For The Harmony Hills Water System, which findings are attached hereto as **EXHIBIT B**.

The assessment approved herein shall be reviewed annually. Any proceedings to modify the assessment shall comply with the provisions of Article 13D of the California Constitution.

3. **Establishment of Zone 103:** The pre-conditions required to give effect to Resolution 2002-17 have been satisfied. Zone 103 shall finally take effect upon the effective date of this Ordinance. Ordinance 35 entitled "AN ORDINANCE OF THE SAN BENITO COUNTY WATER DISTRICT ESTABLISHING WATER RATES AND CHARGES FOR ZONE 103," shall take effect upon the effective date of this Ordinance.

4. All ordinance(s) and parts of ordinances inconsistent herewith are hereby repealed.

5. In the event that any portion or provision of this ordinance shall be deemed by a court of law or other tribunal to be invalid or unconstitutional, such finding(s) of invalidity or unconstitutionality shall not affect the validity of the remaining provisions of this ordinance, which shall remain in full force and effect.

6. This ordinance shall be in full force and effect as of 12:01 a.m. on the 30th day following its passage and shall be published once in a newspaper of general circulation, published and printed in the County of San Benito, State of California, together with the names of the members of the board of directors voting for and against same, prior to fifteen days from its passage.

The foregoing Ordinance was passed and adopted at a regular meeting of the Board of Directors of the San Benito County Water District held on August 27, 2003, by the following vote:

AYES: DIRECTORS: Perry, Swanson, Keck, Tobias, De La Cruz
NOES: DIRECTORS: None
ABSENT: DIRECTORS: None

Kenneth Perry
President

ATTEST:

Janet L. Miller
Administrative Services Officer