

AGENDA
**FOR THE REGULAR MEETING OF THE
CARPINTERIA SANITARY DISTRICT GOVERNING BOARD
TO BE HELD April 4, 2017**

The regular meeting of the Governing Board will be held commencing at 5:30 p.m. The location of the meeting is at 5300 Sixth Street, Carpinteria, California.

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **BOARD APPROVAL OF AGENDA** AS [SUBMITTED] [MODIFIED]
Board President asks the Board, public, staff, and legal counsel if there are any additions and/or modifications to the Agenda.
- IV. **APPROVAL OF MINUTES** AS [SUBMITTED] [MODIFIED]
March 7, 2017 AS [SUBMITTED] [MODIFIED]
March 8, 2017 - Special AS [SUBMITTED] [MODIFIED]
- V. **PUBLIC FORUM**
The public may address the Governing Board on items of interest to the public which are not already on this evening's agenda and are within the subject matter jurisdiction of the Board. The time allotted for this discussion shall be pursuant to Board Bylaws.
- VI. **MATTERS BEFORE THE BOARD**

A. GENERAL REPORTS:

1. General Manager's Status Report (Pages 1 -3)

Description: General Manager to review his written report regarding the following issues:

- Quarterly Incident Report
- Aeration Blower Project Update
- CSRMA Training
- Administration Building Replacement Project
- Chemical Bids
- 3230 Beach Club Road Annexation
- CSMFO Meeting
- CSRMA Long Range Planning
- Operations Update

2. **Draft Wastewater Rate and Fees Study Report** (Pages 4 - 37)
Confirmation of Proposed Rate and Fee structure (FY 2017/18 to FY 2021/22)

Description: Board to review and provide input on the *Draft Wastewater Rate and Fees Study Report* prepared by Raffelis Financial Consultants and confirm proposed updates to the District's rate and fee structure.

Staff Recommendation: Staff recommends that the Board review and consider preliminary approval of the proposed rate and fee structure presented in the *Draft Wastewater Rate and Fee Study Report* prepared by RFC. The Board may direct staff to make modifications or changes to the rate and fee structure as necessary.

3. **Cash Contract No. 449 – Mac Brown Excavating, Inc.** (Pages 38 - 45)
Lateral Replacements

Description: The Board to review and consider approving Cash Contract No. 449 with Mac Brown Excavating, Inc. for replacement of five sewer laterals.

Staff Recommendation: That the Board approve Cash Contract No. 449.

4. **CWEA Statewide Awards** (Pages 46 - 48)

Description: The Board to receive information related to the CWEA Statewide Awards.

Staff Recommendation: None.

5. **Personal Device Communications** (Pages 49-73)
Subject to California Public Records Act

Description: The Board will receive information from Legal Counsel regarding a recent Supreme Court ruling related to the California Public Records Act.

Staff Recommendation: None.

6. **Carpinteria Valley Recycled Water Program**

Description: The Board will receive an update status report on the Carpinteria Valley Recycled Water Program being pursued in conjunction with the Carpinteria Valley Water District. Information on current activities and future tasks or milestones will be presented.

Staff Recommendation: That the Board review information and provide input and direction to staff as necessary.

VII. BOARD ITEMS

A. COMMITTEE REPORTS

Description: Verbal reports by the committee chairperson(s) of the following committees:

- Standing Finance Committee
- Standing Personnel Committee
- Standing Public Relations Committee
- Standing Utilities Committee
- AD-Hoc Facilities Planning Committee

B. GENERAL ITEMS

1. CASA Legislative Committee Report (Jeff Moorhouse)
 - Discussion of pending legislation and/or regulatory matters affecting CASA member agencies, and pending CASA activities.
2. LAFCO Report (Jeff Moorhouse)
3. SBCSDA (Santa Barbara – California Special Districts Association) Report
4. CSRMA Report (Jeff Moorhouse)
5. Board Member Vacation Dates
6. Future Agenda Items

VIII. ADJOURNMENT

FURTHER INFORMATION AVAILABLE

A staff report providing more detailed information is available for most agenda items and may be reviewed in the District office during regular hours (Monday - Friday from 8:00 a.m. to 12:00 p.m. and/or 1:00 p.m. to 5:00 p.m.). Copies of individual reports may be requested at this office. Call (805) 684-7214 extension 10 for more information.

In compliance with the Ralph M. Brown Act and the Americans with Disabilities Act, if you need a disability-related modification, accommodation, or other special assistance to participate in this meeting, please contact the District's Board Secretary at (805) 684-7214, extension 10, at least 48 hours prior to the start of the meeting.

Ordinance Available.....#15

✖

Resolution Available.....R-301

✖

Posting Date.....03/31/17

**MINUTES OF THE REGULAR MEETING OF THE
CARPINTERIA SANITARY DISTRICT GOVERNING BOARD
March 7, 2017**

These are the **minutes** of the **regular** meeting of the Governing Board of the Carpinteria Sanitary District in the City of Carpinteria, County of Santa Barbara, and State of California.

The Governing Board of the Carpinteria Sanitary District held a regular meeting on **March 7, 2017**, at 5:30 p.m. at its District administrative office located at 5300 Sixth Street, Carpinteria, California. The agenda notice for this meeting was posted in the front window of the administrative office of the Carpinteria Sanitary District and on the District's website at least 72 hours in advance of the meeting.

I. CALL TO ORDER

President Graf called the meeting to order at 5:30 p.m. and noted for the record that all Directors were present.

Directors Present: Lin Graf – President
 Mike Modugno – President Pro-Tem
 Jeff Moorhouse – Treasurer
 Mike Damron – Secretary
 Gerald Velasco – Secretary Pro-Tem

Staff Present: Craig Murray – General Manager
 Hamid Hosseini – Finance Director
 Kim Garcia – Board Clerk

Legal Counsel
Present: Anthony Trembley – Musick, Peeler & Garrett, LLP

Public Present: None

II. PLEDGE OF ALLEGIANCE

President Graf led those present in the Pledge of Allegiance.

III. BOARD APPROVAL OF AGENDA

President Graf asked if there were any modifications and/or changes to the agenda. Hearing none, the agenda was approved as submitted.

IV. BOARD APPROVAL OF MINUTES OF THE MEETINGS OF February 7, 2017

Director Damron made a motion, seconded by Director Velasco that the Board approve the Minutes of the March 7, 2017 Regular Board meeting as submitted. The motion carried by the following vote:

AYES:	5	Modugno, Damron, Graf, Velasco, Moorhouse
NOES:	0	None
ABSENT:	0	None
ABSTAIN:	0	None

V. PUBLIC FORUM

None

VI. MATTERS BEFORE THE BOARD

A. GENERAL REPORTS:

1. General Manager's Status Report

General Manager reviewed his written report regarding the following items:

- CWEA Awards
- SAMA Meeting Report
- Aeration Blower Project Update
- Administration Building Replacement Project
- Operations Update

2. Rainfall Event Report – February 17, 2017 – New CIP Project Authorization for FY 2016/17: Used 4-inch Trash Pump

General Manager reviewed his staff report related to the District's response to the February 17, 2017 major rain event and approval of procurement of a used Godwin 4-inch trash pump as a new capital improvement project for FY 2016/17. Nearly 4.5 inches of rain fell over a 24-hour period with associated inflow/infiltration impacts that required substantial staff response to provide additional pumping capacity at remote lift stations. No spills or overflows resulted, but acquisition of another emergency pump was identified as a key emergency preparedness response measure.

The District's purchasing policy allows for negotiated procurement when the amount involved is less than \$15,000. Staff contacted Xylem for pricing. Their quoted price was \$13,800. If authorized, this procurement would be added to the list of approved CIP projects for the current fiscal year.

Director Modugno made a motion, seconded by Director Damron that the Board authorize the procurement of a used Godwin portable trash pump from Xylem on a negotiated procurement basis as proposed. The motion carried by the following vote:

AYES:	5	Moorhouse, Damron, Graf, Modugno, Velasco
NOES:	0	None
ABSENT:	0	None
ABSTAIN:	0	None

3. Carpinteria Valley Recycled Water Program

General Manager said that this item was on the agenda as requested by the Board for the purpose of providing regular updates related to the Carpinteria Valley Recycled Water Program.

General Manager provided a brief report on the current status of the Recycled Water Program. There was discussion regarding the upcoming Special Joint Meeting of the Carpinteria Sanitary District Board and the Carpinteria Valley Water District Board.

No Board action was taken on this item.

4. 2017 Rate and Fee Study

General Manager said this item was on the agenda at the request of the Finance Committee to discuss further the upcoming proposed rate increase. Staff received direction from the Board to continue with a 4% rate increase each year for the next 5 years and to proceed with rate hearing and noticing in accordance with Proposition 218 requirements.

No Board action was taken on this item.

VII. BOARD ITEMS

A. COMMITTEE REPORTS

Standing Finance Committee

Director Moorhouse reported on the meeting held February 23, 2017.

Standing Personnel Committee

None.

Standing Public Relations Committee

None.

Standing Utilities Committee

None.

Ad-Hoc Facilities Planning Committee

None.

B. GENERAL ITEMS

CASA Legislative Committee Report

Director Moorhouse reported on the CASA Washington DC Conference.

LAFCO Report (Jeff Moorhouse)

None.

SBCSDA (Santa Barbara California Special Districts Association) Report

None.

CSRMA Report (Jeff Moorhouse)

None.

Board Member Vacation Dates

Modugno 3/21 meeting. Graf 3/21 meeting.

Future Agenda Items

Public Records Act – Disclosure of records on personal devices.

I. ADJOURNMENT

There being no further items to discuss, President Graf adjourned the meeting at 7:08 p.m.

Lin Graf
President

Mike Modugno
President Pro-Tem

Michael Damron
Secretary

Gerald Velasco
Secretary Pro-Tem

Jeff Moorhouse
Treasurer

**MINUTES OF THE SPECIAL MEETING OF THE
CARPINTERIA SANITARY DISTRICT GOVERNING BOARD
March 8, 2017**

These are the **minutes** of the **special** meeting of the Governing Board of the Carpinteria Sanitary District in the City of Carpinteria, County of Santa Barbara, and State of California.

The Governing Board of the Carpinteria Sanitary District held a special joint meeting with the Carpinteria Valley Water District Board on **March 8, 2017**, at 5:30 p.m. at its District administrative office located at 5300 Sixth Street, Carpinteria, California. The agenda notice for this meeting was posted in the front window of the administrative office of the Carpinteria Sanitary District and on the District's website at least 24 hours in advance of the meeting.

1. CALL TO ORDER

President Graf called the meeting to order at 5:30 p.m. and noted for the record that all Directors were present. President Graf led those present in the Pledge of Allegiance.

Directors Present: Lin Graf – President
 Mike Modugno – President Pro-Tem
 Jeff Moorhouse – Treasurer
 Mike Damron – Secretary
 Gerald Velasco – Secretary Pro-Tem

Staff Present: Craig Murray – General Manager
 Kim Garcia – Board Clerk

Legal Counsel
Present: None

Public Present: Carpinteria Valley Water District Board of Directors
 Carpinteria Valley Water District Legal Counsel
 Rob Morrow – RMC Water and Environment
 Brian Dietrick – RMC Water and Environment
 Erin Maker – City of Carpinteria
 Robert Marks – Pueblo Water Resources

2. PUBLIC FORUM

None

3. ADJOURNMENT

President Graf adjourned the meeting at 5:34 for a walking tour of the wastewater treatment facility.

4. RECONVENED

President Graf reconvened the meeting at 5:50 p.m.

5. Strategic Planning

Rob Morrow of RMC Water and Environment gave a Power Point presentation on the proposed Groundwater Replenishment Project and provided discussion points on developing an MOU. A breakdown of responsibilities spreadsheet highlighting the position of each agency and their

rationale was distributed. Mostly the agencies are in agreement. The discussion focused on ownership and operation of the advanced water treatment facilities and pump station. It was agreed that a joint committee comprised of two CSD Board members and three CVWD Board members should be formed to negotiate further the details of an MOU.

No Board action was taken on this item.

6. ADJOURNMENT

There being no further items to discuss, President Graf adjourned the meeting at 7:23 p.m.

Lin Graf
President

Mike Modugno
President Pro-Tem

Michael Damron
Secretary

Gerald Velasco
Secretary Pro-Tem

Jeff Moorhouse
Treasurer



Carpinteria Sanitary District

Board of Directors Meeting
General Manager's Status Report

TO: Board of Directors
FROM: Craig Murray, P.E. – General Manager
SUBJECT: General Manager's Status Report
DATE: April 4, 2017

Quarterly Incident Report. Attached is a summary table detailing incidents, complaints and other customer interactions during the first quarter of 2017.

Aeration Blower Project Update. The motorized valves were delivered on March 20th. Cushman and their electrical subcontractor mobilized to complete the installation work. APG Neuros technicians are scheduled to be on site beginning April 18th to perform startup on the Master Control Panel and initiate the automated aeration control that will optimize air delivery to achieve consistent dissolved oxygen concentrations in the aeration tank. Once online, The Energy Network will have a third party engineer inspect the installation and then arrange for SCE's post installation inspection and testing so that the energy efficiency rebate can be released.

CSRMA Training. Supervisory and management staff attended a half-day training session sponsored by CSRMA on March 20th at the Goleta Sanitary District. Oliver Yee, an attorney with Leibert Cassidy Whitmore, gave a comprehensive presentation on drugs and alcohol in the workplace which covered recent regulatory changes and current policy issues on this topic.

Administration Building Replacement Project. A biologic assessment of the parcel immediately west of the District's administration building parcel was completed. The presence of an expansive arroyo willow stand and the observed soil characteristics are significant in the Coastal Zone. Based on consultation with the City of Carpinteria's biologist, it is expected that a "riparian" designation will apply, requiring a 50-foot buffer, or setback. The Blackbird team will modify the site design accordingly.

Chemical Bids. The District requested proposals for the provision of bulk sodium hypochlorite and sodium bisulfite in a joint solicitation with the Goleta Sanitary District. Bids were received on March 30th and agreements with the selected chemical providers will come back to Board for consideration at a future meeting. Bid prices were in line with our current chemical contracts.

3230 Beach Club Road Annexation. Staff has worked with LAFCO staff and the applicant's agent to finalize the annexation application package. LAFCO will consider the boundary change at their regular meeting on April 13th.

CSMFO Meeting. The Finance Director attended a meeting of the California Society of Municipal Finance Officers (CSMFO) on March 23rd that included a presenting on CalPERS rates and forecasting. Key information from this presentation will be provided to the Finance Committee.

CSRMA Long Range Planning. I participated in the CSRMA LRP session held in Carlsbad from March 12-14. This was my final duty as a member of the Executive Board, ending what was a very valuable and informative stint of service to our pooled insurance program.

Operations Update: WWTP and Collection System operations updates are as follows:

- The treatment plant is operating in full compliance with our NPDES discharge permit.
- No mainline SSOs or sewer blockages were reported during the period.
- Staff responded to an odor and possible SSO report on March 22nd. Discolored water with a strong odor was observed in Carpinteria Creek near the State Beach. A thorough investigation verified all of our systems were functioning normally. There were no public or private (State Park) sewer lines proximal to this site. Natural processes in this stagnant area of the creek are believed to be the source of the odor and discoloration. Both had dissipated by the following morning.
- Collections staff is continuing with the system-wide cleaning and CCTV program.
- The demonstration of the used 4-inch trash pump was completed successfully and staff will issue a purchase order to Xylem for this emergency equipment.
- Several staff members attended the CWEA March Workshop on March 16th at the City of Oxnard WWTP. Casey Balch was a presenter at a number of training sessions.

**CARPINTERIA SANITARY DISTRICT
 QUARTERLY SUMMARY INCIDENT REPORT
 January 1 - March 31, 2017**

Date	Location	Incident/Complaint	Determination/Resolution
1/8/2017	Franciscan Village	Stoppage	Collection staff responded to a call of a blocked line. Main line flow was checked and was normal. Caller was notified that the problem was within the private portion of the line.
1/12/2017	Avenue Del Mar	E-One	Collection staff responded to a call of a high level alarm. Pump was not operating. Staff replaced pump and cycled unit.
1/30/2017	Called Ocho	Stoppage	Private plumbing company notified the District of a clogged lateral. Plumber cleared lower lateral.
2/23/2017	Avenue Del Mar	E-One	Collection staff responded to an odor complaint. Staff ran complete check on E-One. Everything was working fine.
3/26/2017	El Carro	Manhole cover	Staff responded to a report that a manhole cover was removed. Manhole cover belonged to the water district or to COMB. CVWD was notified.
3/22/2017	State Park	Odor	Staff responded to a report of a foul odor and water discoloration at the State Park near the creek. There was no indication that the odor or foggy water was a result of District facilities. Staff followed up the next day. Odor had dissipated and the water was clearer.



Carpinteria Sanitary District

Board of Directors Meeting

STAFF REPORT

TO: Board of Directors

FROM: Craig Murray, P.E. - General Manager

**SUBJECT: Draft Wastewater Rate and Fees Study Report
Confirmation of Proposed Rate and Fee Structure (FY 2017/18 to FY 2021/22)**

DATE: April 4, 2017

REQUESTED ACTIONS: Review and provide input on the Draft Wastewater Rates and Fees Study Report prepared by Raftelis Financial Consultants and confirm proposed updates to the District’s rate and fee structure.

BACKGROUND: The District is working with Raftelis Financial Consultants (RFC) on a comprehensive financial study and fiscal model for the purpose of updating the District’s sewer service charges and other fees assessed for service. The objective is to complete all necessary steps to allow an updated schedule of rates and fees to become effective on July 1, 2017.

On February 7, 2017 the Board of Directors received a comprehensive presentation from RFC on the financial study, fiscal model and proposed updates to the District’s rate and fee structure. The Board participated in the discussion and provided input to staff and the consultant. A second review of the model and preliminary rate structure was performed by the Board, with assistance from District finance staff, on March 7, 2017. This has culminated in a **Draft Wastewater Rate and Fees Study Report** which describes the methods/procedures used in the study and presents updates to the following rates and fees based that are based on the actual cost to provide service:

- Residential and Non-Residential Sewer Service Charges
- Development Impact Fees

Based on projected operating and maintenance costs, debt service requirements, bond ratio obligations and targeted reserve levels, the financial modeling indicates a necessary revenue increase of 4.0% per year through FY 2021/22. A comprehensive cost of service analysis was performed and resulted in reallocation of costs in the first year of this five year program to reestablish equitable distribution between residential and non-residential user classes. The proposed wastewater rate structure is shown in the following table.

	Previous Rate		Effective Date				
	7/1/2016	7/1/2017	7/1/2018	7/1/2019	7/1/2020	7/1/2021	
Residential per Dwelling Unit	\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55	
Non-Residential Minimum Charge (per parcel)	\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55	
Strength Classes (combined BOD and TSS)*							
Low	less than 380 mg/L	\$7.86	\$9.52	\$9.90	\$10.30	\$10.72	\$11.15
Medium Low	380 to 500 mg/L	\$8.65	\$10.18	\$10.59	\$11.02	\$11.47	\$11.93
Medium	501 to 710 mg/L	\$9.45	\$10.52	\$10.94	\$11.38	\$11.84	\$12.32
Medium High	711 to 1100 mg/L	\$10.17	\$12.00	\$12.48	\$12.98	\$13.50	\$14.04
High	1101 to 1700 mg/L	\$14.53	\$14.24	\$14.81	\$15.41	\$16.03	\$16.68
Very High	over 1700 mg/L	[Indiv. Calc]					

RFC also proposed an updated Development Impact Fee (DIF) structure that is based on a widely accepted methodology for wastewater utilities. The proposed DIF would increase from \$3,324 to \$4,600 per Equivalent Dwelling Unit (EDU). The basic formula for determining non-residential impact fees, on a per EDU basis, was not changed.

A copy of the **Draft Wastewater Rate and Fees Study Report** is attached for your review and consideration. Ultimately, the decision on whether or not to implement a rate and fee increase comes at the end of the public process at the time an updated ordinance is approved by the Board. Such an action could be precluded if written protests are received from a majority of landowners with the District. However, this is the point at which the Board would consider preliminary approval of the rate and fee structure described in the report.

At the Board's next regular meeting on April 18th, an item to authorize distribution of notices to ratepayers referred to as Prop 218 notices will be considered. These notices will detail proposed rate and fee increases and provide instructions for filing a written protest. A 45-day review and protest period is required prior to a public hearing at which the Board would consider adopting the modified rate and fee structure. Tentatively, this hearing is scheduled for June 6th.

RECOMMENDATION: Staff recommends that the Board review and consider preliminary approval of the proposed rate and fee structure presented in the **Draft Wastewater Rate and Fees Study Report** prepared by RFC. The Board may direct staff to make modifications or changes to the rate and fee structure as deemed necessary.

SUGGESTED MOTION: I move that the Board grant preliminary approval of the proposed rate and fee structure presented in the **Draft Wastewater Rate and Fees Study Report** prepared by RFC.

M _____ S _____

Ayes: _____ Nays: _____ Abstentions: _____

Prepared By:  _____
Craig Murray, P.E. - General Manager

Attachments: Draft Wastewater Rate and Fees Study

CARPINTERIA SANITARY DISTRICT

Wastewater Rates and Fees Study Report



Raftelis Financial Consultants, Inc.

March 2017



March 16, 2017

Mr. Craig Murray
District General Manager
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, CA 93013

Subject: Wastewater Rates and Fees Study Report

Dear Mr. Hosseini:

Raftelis Financial Consultants Inc. (RFC) is pleased to present this report on the 2017 wastewater rates and fees study to the Carpinteria Sanitary District (District). We are confident that the results, developed based on a cost of service analysis, will provide the District’s users with fair and equitable rates. This report summarizes the methods, findings, and recommendations of the study.

The study involved a comprehensive review of the District’s financial plan, user classes, and wastewater rate structure. RFC reviewed the District’s revenue requirements to determine appropriate reserve targets and revenue adjustments needed to maintain financial sufficiency and rate stability. Based on our findings, RFC recommends that the District implement the following revenue adjustments from fiscal years (FY) 2018 through 2022, in order to fund operating and capital expenses and meet reserve requirements.

Effective	Revenue Adjustments
July 1, 2018	4.0 percent
July 1, 2019	4.0 percent
July 1, 2020	4.0 percent
July 1, 2021	4.0 percent
July 1, 2022	4.0 percent

Rates were calculated using a cost of service approach that is consistent with current California standards and legislative requirements, including Proposition 218. All assumptions factored into the rate calculations, including increases in operating and capital costs, are contained in this report. Various tables describing the calculation of the rates are included as well.

It was a pleasure working with you during the course of the study, and we appreciate the assistance you and Mr. Hamid Hosseini provided. If you have any questions, please do not hesitate to call us at (626) 583-1894.

Sincerely,

Sudhir Pardiwala
Vice President

Karter Harmon
Associate Consultant

TABLE OF CONTENTS

SECTION 1 – EXECUTIVE SUMMARY	1
WASTEWATER RATE STUDY	1
DEVELOPMENT IMPACT FEES	4
SECTION 2 – INTRODUCTION	5
BACKGROUND	5
Scope of the Study	5
SECTION 3 – WASTEWATER RATE STUDY	7
WASTEWATER SYSTEM	7
Wastewater System Infrastructure.....	7
Existing Wastewater Rates.....	7
WASTEWATER USER ACCOUNTS.....	8
Existing User Classifications	8
WASTEWATER REVENUE REQUIREMENTS.....	9
Wastewater System Revenues.....	9
Wastewater System Expenditures	10
Proposed Revenue Adjustments.....	14
COST OF SERVICE	16
Costs of Service to Be Allocated.....	16
Unit Cost of Service	18
RATE DESIGN	20
Rate Structure	20
Proposed Wastewater Rates.....	20
IMPACT ANALYSIS	21
SECTION 4 – DEVELOPMENT IMPACT FEES	23
DEVELOPMENT IMPACT FEES	23
Proposed Approach for the Determination of Development Impact Fees.....	24
APPENDIX A: COST OF SERVICE ALLOCATION TABLES	26

SECTION 1 – EXECUTIVE SUMMARY

The Carpinteria Sanitary District (District) engaged Raftelis Financial Consultants, Inc. (RFC) to conduct a comprehensive study of wastewater rates and fees, with the goal of determining wastewater rates over the planning period from fiscal year (FY) 2018 to 2022. This report documents the findings, analyses, and proposed changes that RFC developed with input from District staff and Board members.

The major objectives of the study include the following:

1. Ensure *Revenue Sufficiency* to provide adequate operating and capital reserves, and to meet the District’s operation and maintenance (O&M), debt service, and capital requirements
2. Plan for *Rate and Revenue Stability* to preclude rate spikes and ensure the overall financial health of the wastewater enterprise
3. Ensure that rates are *Fair and Equitable* and are based on *Cost of Service* guidelines used in the industry and outlined in California Proposition 218

This executive summary provides an overview of the study and includes findings and recommendations for wastewater rates and fees.

WASTEWATER RATE STUDY

System Background

The District was established in 1928 as a special district to provide wastewater collection, treatment, and disposal services to the residents and businesses of the City of Carpinteria and surrounding unincorporated areas in the Carpinteria Valley. The District currently serves a population of approximately 16,500 with a wastewater collection system comprised of approximately 42 linear miles of pipelines and eight pump stations, and a 2.5 million gallons per day (MGD) wastewater treatment plant. Average dry weather flow is about 1.1 MGD, reflecting a substantial reduction in system flows over the past several years due to prolonged drought conditions.

Currently, residential customers are charged a flat service fee of \$614.16 per year per dwelling unit, applied to the property tax bill. Service fees for non-residential customers are calculated using a fee schedule based on the strength of discharge, with a minimum charge of \$614.16.

Revenue Requirements

In order to determine wastewater rates, RFC projected the revenue requirements, including operations and maintenance (O&M), capital improvement expenses, debt service costs, reserve requirements, etc., for the study period of FY 2018 to 2022. O&M expenses include the cost of operating and maintaining wastewater collection, treatment, and disposal facilities, as well as the costs of providing technical services such as laboratory services and other administrative costs of the wastewater system. The O&M projections are based on the District’s FY 2017 budget. Projections for future years were based on an inflationary factor of 3 percent for all O&M expenditures, except personnel and energy costs, which are increasing at 5 percent. Projected O&M expenditures for the study period are detailed in **Table 1-1**.

**Table 1-1
Wastewater Operations & Maintenance Expenses**

Line No.		FY 2017 <i>Budgeted</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
	Operating Expenses						
1	Wages	\$1,552,400	\$1,630,020	\$1,711,521	\$1,797,097	\$1,886,952	\$1,981,299
2	Benefits	\$763,300	\$801,465	\$841,538	\$883,615	\$927,796	\$974,186
3	General	\$227,100	\$233,913	\$240,930	\$248,158	\$255,603	\$263,271
4	Environment & Monitoring	\$54,500	\$56,135	\$57,819	\$59,554	\$61,340	\$63,180
5	Utilities	\$238,300	\$220,215	\$231,226	\$242,787	\$254,926	\$267,673
6	Sludge Disposal	\$100,000	\$103,000	\$106,090	\$109,273	\$112,551	\$115,927
7	Supplies & Equipment	\$222,200	\$228,866	\$235,732	\$242,804	\$250,088	\$257,591
8	Repairs & Maintenance	\$217,000	\$223,510	\$230,215	\$237,122	\$244,235	\$251,562
9	Professional Services	\$189,500	\$195,185	\$201,041	\$207,072	\$213,284	\$219,682
10	Other Expenses	\$19,200	\$19,776	\$20,369	\$20,980	\$21,610	\$22,258
11	Total Operating Expenses	\$3,583,500	\$3,712,085	\$3,876,482	\$4,048,462	\$4,228,386	\$4,416,631

Capital expenditures are based on the District's Capital Improvement Program (CIP) and are funded by development impact fees, debt proceeds, and rate revenues. The total projected CIP expenditure over the 5-year period is \$7.59 million, of which \$5.28 million will be recovered from rate revenues. Existing debt service consists of annual payments of approximately \$1.19 million, which are used to pay off Wastewater Revenue Bonds issued in 2012. Additional bonds to be issued in FY 2018 to finance capital projects will result in \$160,500 in additional annual debt service. **Table 1-2** shows the annual revenue requirements from rates over the 5-year period.

**Table 1-2
Annual Revenue Requirements from Rates**

Line No.		FY 2017 <i>Estimated</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
1	O&M Expenses	\$3,583,500	\$3,712,085	\$3,876,482	\$4,048,462	\$4,228,386	\$4,416,631
2	Existing Debt Service	\$1,185,500	\$1,186,300	\$1,185,900	\$1,181,400	\$1,180,800	\$1,181,900
3	Proposed Debt Service	\$0	\$160,500	\$160,500	\$160,500	\$160,500	\$160,500
4	Capital Projects - Rate Funded	\$2,671,000	\$591,580	\$1,425,336	\$1,137,630	\$1,063,491	\$1,061,619
5	Total Expenses	\$7,440,000	\$5,650,465	\$6,648,218	\$6,527,992	\$6,633,176	\$6,820,649

Proposed Revenue Adjustments

In order to meet projected revenue requirements and to maintain desired reserve fund balances, the following revenue adjustments are proposed:

Annual Revenue Increases

Effective	Revenue Adjustments
July 1, 2018	4.0 percent
July 1, 2019	4.0 percent
July 1, 2020	4.0 percent
July 1, 2021	4.0 percent
July 1, 2022	4.0 percent

Proposed Wastewater Rates

After review and analysis, RFC recommends that the District continue to classify its non-residential customers into six strength classes, ranging from Low to Very High strength. These classes are constructed based on combined strength factors (total suspended solids plus biological oxygen demand). Non-residential customers include business, mixed-use, contracted, and state park parcels, all of which are assigned a strength class based on the District's Ordinance 12 or on calculations original to this study.

Table 1-3 shows the definitions of the strength classes and the proposed wastewater rates for the next five years.

Table 1-3
Proposed Wastewater Rates

		Previous Rate		Effective Date			
		7/1/2016	7/1/2017	7/1/2018	7/1/2019	7/1/2020	7/1/2021
Residential per Dwelling Unit		\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55
Non-Residential Minimum Charge (per parcel)		\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55
Strength Classes (combined BOD and TSS)*							
Low	less than 380 mg/L	\$7.86	\$9.52	\$9.90	\$10.30	\$10.72	\$11.15
Medium Low	380 to 500 mg/L	\$8.65	\$10.18	\$10.59	\$11.02	\$11.47	\$11.93
Medium	501 to 710 mg/L	\$9.45	\$10.52	\$10.94	\$11.38	\$11.84	\$12.32
Medium High	711 to 1100 mg/L	\$10.17	\$12.00	\$12.48	\$12.98	\$13.50	\$14.04
High	1101 to 1700 mg/L	\$14.53	\$14.24	\$14.81	\$15.41	\$16.03	\$16.68
Very High	over 1700 mg/L	[Indiv. Calc]					
Septage Rate	(per 100 gallons)		\$9.45	\$9.83	\$10.23	\$10.64	\$11.07

Customer Impacts

As indicated in **Table 1-3**, the residential wastewater charge will increase to \$625 per dwelling unit in 2018, which represents a 1.8% increase over the current charge of \$614. The relatively modest rate increase results from our models indicating a lower proportion of treatment plant flows from residential customers than previously assumed. Average residential wastewater flows for each dwelling unit,

previously estimated at 180 gallons per day (gpd), are now estimated at 142 gpd (55 gallons per capita per day) due to conservation.

Table 1-4 below shows the impacts of the proposed rate structure for a typical non-residential customer in each user class. Several factors impact non-residential user charges. Because the study suggests that non-residential customers contribute a larger portion of total wastewater flows than previously assumed, rates are increased for all strength classes except the ‘High’ strength class under the proposed rate structure. Higher-volume users may experience larger increases than low-volume users.

**Table 1-4
Non-Residential Customer Impacts**

Non-Residential Customers	BOD	TSS	Water Usage	Rate	Proposed Charge	Existing Charge	\$ Change	% Change
<i>Example per strength class</i>	<i>mg/L</i>	<i>mg/L</i>	<i>kgal/yr</i>	<i>\$/kgal</i>				
Low (Laundromat)	150	110	1,406	\$9.52	\$13,377	\$11,048	\$2,329	21%
Medium Low (Machine Shop)	150	280	166	\$10.18	\$1,690	\$1,437	\$253	18%
Medium (Medical)	250	300	619	\$10.52	\$6,514	\$5,853	\$661	11%
Medium High (Church)	250	640	363	\$12.00	\$1,088	\$922	\$166	18%
High (Fast Food)	825	775	1,130	\$14.24	\$16,095	\$16,425	(\$329)	-2%
Very High			[individually calculated]					

DEVELOPMENT IMPACT FEES

RFC also reviewed the District’s development impact fee calculation to ensure that new customers are paying their fair share when connecting to the District’s wastewater system. RFC used the system buy-in approach and the replacement cost less depreciation methodology (see Section 4) in determining the development impact fees. RFC recommends that the District update its development impact fees from the current \$3,324 per equivalent dwelling unit (EDU) to \$4,600 per EDU.

SECTION 2 – INTRODUCTION

BACKGROUND

The Carpinteria Sanitary District (District) engaged Raftelis Financial Consultants, Inc. (RFC) to conduct a comprehensive wastewater rates and fees study that could be utilized to evaluate and optimize user charges for the District’s wastewater service, while ensuring a proportionate recovery of costs from the various user classes. This report documents the resultant findings, analyses, and recommendations.

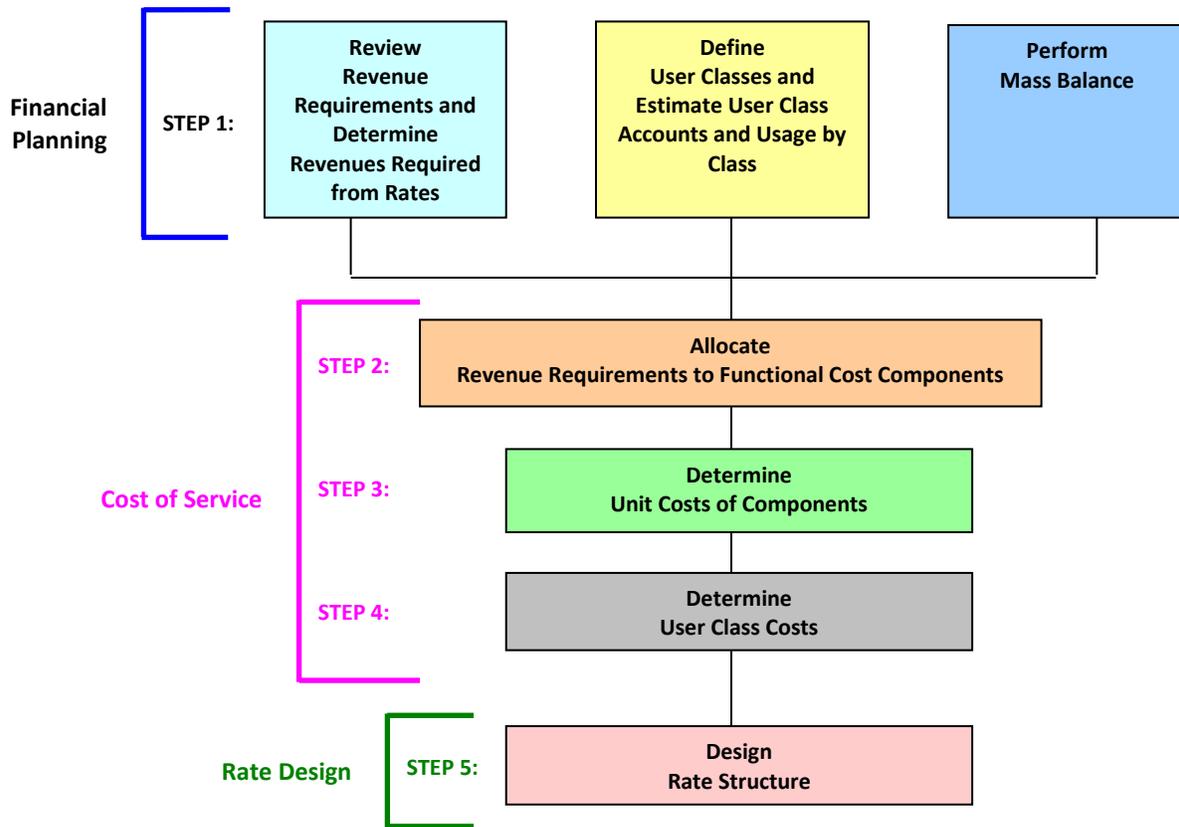
The District provides sewer services to a population of approximately 16,500. It is responsible for the operation and maintenance of the 2.5 MGD wastewater treatment plant, 42 miles of pipelines, and 8 pump stations.

Scope of the Study

The scope of this study includes the development of cost-based wastewater rates through a comprehensive cost of service analysis and rate-design study process. **Figure 2-1** provides a graphical representation of the various steps involved in the study. The three major processes are as follows:

- **Financial Planning:** User information and 3-year average water usage data for non-residential users are compiled. Operating and capital costs are compiled and revenue requirements are projected for a five-year period from Fiscal Year (FY) 2018 through FY 2022. Financial planning involves estimation and projection of annual O&M and capital expenditures, annual debt service and reserve requirements, operating and capital revenue sources, and the determination of required revenues from rates and charges.
- **Cost of Service Analysis:** Cost of Service Analysis apportions annual revenue requirements to the different user classes, demonstrating nexus between the cost of providing wastewater service to the various user classes and the revenue collected from each class. This approach is based on standard industry practice and commensurate with the legal requirements of Proposition 218.
- **Rate Design:** Rate Design involves the development of a schedule of rates for each of the different user classes, to proportionately recover the costs attributable to them while considering the pricing objectives of the District.

**Figure 2-1
Cost of Service/Rate Design Process**



This Study report includes two sections (in addition to the Executive Summary and Introduction). The two remaining sections can be summarized as follows:

- **Section 3** describes the findings and results of the wastewater rate study. It includes a description of the wastewater system, the current wastewater rates for the various types of customers, and the existing and suggested user classifications. This section also discusses the wastewater system revenues and expenditures, the determination of annual revenues required from user rates, a detailed discussion of the Cost of Service (which includes allocation of costs to wastewater parameters and the determination of unit costs), and a detailed discussion of the merits of the proposed rate structure and its expected impact on the different user classes.
- **Section 4** describes the methodology and calculation of Development Impact Fees as carried out in this Study.

SECTION 3 – WASTEWATER RATE STUDY

The following subsections present the findings and recommendations of the rate study, including cost of service analysis, rate design, and projected customer impacts.

WASTEWATER SYSTEM

Below is a brief description of the District’s current wastewater system and rate structure.

Wastewater System Infrastructure

The District-owned wastewater system collects, treats, and disposes of wastewater from a population of approximately 16,500 at the start of FY 2017. Wastewater is treated at the District-owned wastewater treatment and disposal facility with a total capacity of 2.5 million gallons per day (MGD). In addition to the treatment plant, the wastewater system includes 42 miles of sewer pipes, over 800 manholes, and 8 pump stations. A brief description of some of the major facilities is provided below.

Wastewater Treatment Plant (WWTP): The WWTP was originally constructed in 1951 with a capacity of 0.5 MGD. Major expansions occurred in 1961 to increase the capacity to 2.0 MGD, and in 1993 to reach the current capacity of 2.5 MGD. The current treatment plant includes preliminary screening and grit removal, primary clarification, extended aeration biological treatment, final clarification, chemical disinfection, aerobic digestion and odor control systems.

Wastewater Discharge: Treated wastewater is discharged to the Pacific Ocean via an outfall pipe along the western bank of Carpinteria Creek.

Wastewater Collection System: Untreated wastewater is conveyed to the WWTP using the District’s 42 miles of pipelines and 8 pump stations.

Existing Wastewater Rates

The current wastewater rates structure consists of a fixed annual charge for each dwelling unit to residential customers. Non-residential customers are charged a variable annual service charge that is based on a percentage of the 3-year average water usage, using a rate schedule broken down by strength class. Strength classes are based on the combined strength of wastewater influent, a combination of the total pounds of biochemical oxygen demand (BOD) and total suspended solids (TSS) discharged per year, as shown in **Table 3-1**. Non-residential customers are required to pay a charge equal to the residential fixed charge at minimum, regardless of strength class. Residential customers are billed on a per-unit basis, while non-residential users are billed per-parcel.

**Table 3-1
Existing Wastewater Rates**

Line No.	Ordinance 12 - Table A Rate Designator	Effective Date 7/1/2016
1	Residential Charge (per unit)	\$614.16
2	Non-Residential Minimum Charge (per parcel)	\$614.16
3	Non-Residential Strength Class Rate (per 1000gal)	
4	Low (<380mg/L)	\$7.86
5	Medium-Low (380 to 500 mg/L)	\$8.65
6	Medium (501 to 710 mg/L)	\$9.45
7	Medium-High (711 to 1100 mg/L)	\$10.17
8	High (1101 to 1700 mg/L)	\$14.53
9	Very High (>1700 mg/L)	[Indiv. Calc]

WASTEWATER USER ACCOUNTS

The District’s existing accounts are summarized by user class in **Table 3-2** below.

Existing User Classifications

Table 3-2 shows that the majority of the District’s wastewater accounts are residential customers. Since the District charges residential customer per dwelling unit, each dwelling unit within multi-family residential properties (for example, each apartment within an apartment complex) is considered an individual wastewater account. The wastewater accounts are projected to increase by approximately 30 accounts per year from FY 2018 to 2022, based on an assumed accounts growth rate of 0.5% per year.

**Table 3-2
Wastewater Accounts – Current & Projected**

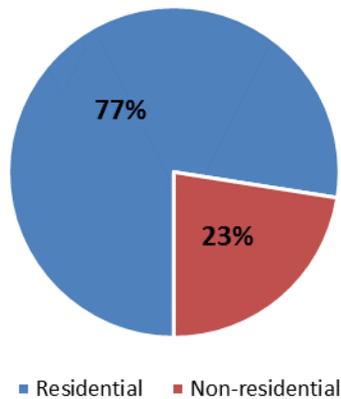
Line No.		FY 2017 <i>Actual</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
1	Single-Unit Residential	3,844	3,863	3,882	3,901	3,921	3,941
2	Multi-Unit Residential	1,485	1,492	1,499	1,506	1,514	1,522
3	Mobile Homes	861	865	869	873	877	881
4	Residential Mixed-Use	95	95	95	95	95	95
5	Commercial Mixed-Use (Parcel)	33	33	33	33	33	33
6	Commercial Business (Parcel)	210	211	212	213	214	215
7	Contracted Accounts (Parcel)	31	31	31	31	31	31
8	State Parks (Parcel)	3	3	3	3	3	3
9	Total Accounts	6,318	6,348	6,378	6,408	6,440	6,472

Growth Assumptions

RFC assumed that the District will experience account growth rates of 0.5% from FY 2018 to 2022. However, water usage rates are assumed to stay constant due to conservation measures throughout the study period. We assume a 2.0% annual inflation in property tax revenue, and no increases in other revenues.

Figure 3-1 shows the percentage of wastewater revenue collected from each customer class. Approximately 77 percent of the total revenue is from residential customers. The remaining 23 percent comes from non-residential customers.

Figure 3-1
FY 2017 Revenue from Customer Classes



WASTEWATER REVENUE REQUIREMENTS

A review of a utility's revenue requirements is a key first step in the rate design process. The review involves an analysis of annual operating revenues under the current rates, development impact fee revenues, operation and maintenance (O&M) expenses, capital expenditures, transfers between funds, and reserve requirements. This section of the report provides a discussion of the projected revenues, O&M and capital expenditures, capital improvement financing plan, debt service requirements, and the revenue adjustments required to ensure the financial stability of the wastewater enterprise. The wastewater system revenues and expenditures are discussed from a District perspective and the discussion on required revenue adjustments relates exclusively to the District's users.

Wastewater System Revenues

The District owns and operates the wastewater system. The District derives its required annual operating and capital revenues from a number of sources. The principal sources of operating revenues from rates are the wastewater service charges from the District's users, which are expected to increase from \$4.99 million in FY 2017 to \$5.10 million by FY 2022 without any adjustments. Capital revenue sources include wastewater development impact fees, bond proceeds, and interest earnings. Other revenue sources include property taxes, miscellaneous fees, and other Districts' contributions.

RFC reviewed the various sources of operating and capital revenues in the District's current financing plan. **Table 3-3** presents the details of the projected revenues. Note that the Sewer Service Charge revenues

are baseline projections, before any revenue adjustments or cost-of-service analysis. The table does not reflect other available (but untapped) sources of funds such as bond proceeds and capital grant funds. Development impact fee revenues beyond FY 2017 are based on projected account growth and the new fees calculated in this study.

**Table 3-3
Baseline Revenue Summary**

Line No.		FY 2017 <i>Budgeted</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
REVENUES							
1	Sewer Service Charges (SSC)	\$4,991,000	\$5,005,594	\$5,029,655	\$5,053,744	\$5,079,089	\$5,104,463
2	Property Tax	\$566,500	\$577,830	\$589,387	\$601,174	\$613,198	\$625,462
3	Interest Income	\$18,000	\$51,697	\$46,562	\$79,527	\$108,388	\$140,785
4	Other Fees & Income	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000
5	Development Impact Fees (DIF)	\$0	\$99,720	\$99,720	\$99,720	\$106,368	\$106,368
6	Other Sources of Cash/Grant	\$0	\$0	\$0	\$0	\$0	\$0
7	Other Districts' Contribution/Safety Officer	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000
8	TOTAL REVENUES	\$5,664,500	\$5,823,842	\$5,854,323	\$5,923,165	\$5,996,043	\$6,066,078

Wastewater System Expenditures

For sound financial operation of the District's wastewater system, the revenues generated must be sufficient to meet the revenue requirements of the system. Revenue requirements include operations and maintenance expenses (e.g., collection, treatment, and disposal costs), capital improvement program (CIP) expenditures, principal and interest payments on existing debt, and other obligations.

Operations and Maintenance Expenses

O&M expenditures include the cost of operating and maintaining wastewater collection, treatment, and disposal facilities. O&M expenses also include the costs of providing technical and professional services, along with the administrative costs of the wastewater system. These costs are a normal, year-to-year obligation of the system, and are financed using operating revenues as they are incurred. The comprehensive forecasted annual O&M expenditures are based on the District's budgeted FY 2017 expenditures, adjusted for anticipated changes in operations and the effect of inflation in future years. The District conservatively uses an inflationary factor of three percent in projecting all O&M expenditures, except personnel and energy, which are projected to increase at five percent per year. Projected O&M expenditures for the study period are detailed in **Table 3-4**.

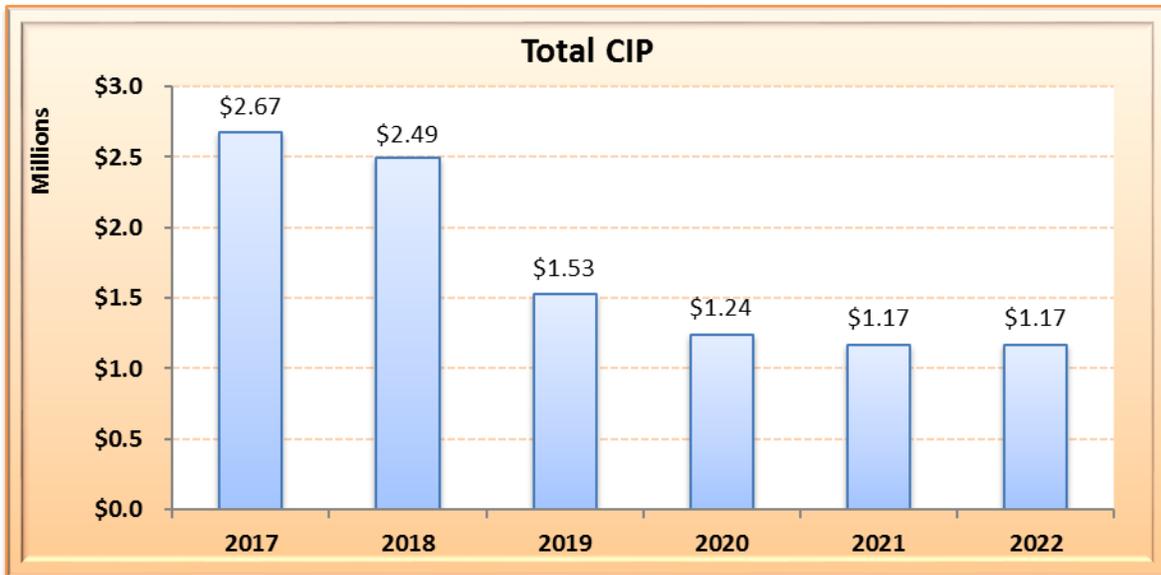
**Table 3-4
Wastewater Operations & Maintenance Expenses**

Line No.		FY 2017 <i>Budgeted</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
Operating Expenses							
1	Wages	\$1,552,400	\$1,630,020	\$1,711,521	\$1,797,097	\$1,886,952	\$1,981,299
2	Benefits	\$763,300	\$801,465	\$841,538	\$883,615	\$927,796	\$974,186
3	General	\$227,100	\$233,913	\$240,930	\$248,158	\$255,603	\$263,271
4	Environment & Monitoring	\$54,500	\$56,135	\$57,819	\$59,554	\$61,340	\$63,180
5	Utilities	\$238,300	\$220,215	\$231,226	\$242,787	\$254,926	\$267,673
6	Sludge Disposal	\$100,000	\$103,000	\$106,090	\$109,273	\$112,551	\$115,927
7	Supplies & Equipment	\$222,200	\$228,866	\$235,732	\$242,804	\$250,088	\$257,591
8	Repairs & Maintenance	\$217,000	\$223,510	\$230,215	\$237,122	\$244,235	\$251,562
9	Professional Services	\$189,500	\$195,185	\$201,041	\$207,072	\$213,284	\$219,682
10	Other Expenses	\$19,200	\$19,776	\$20,369	\$20,980	\$21,610	\$22,258
11	Total Operating Expenses	\$3,583,500	\$3,712,085	\$3,876,482	\$4,048,462	\$4,228,386	\$4,416,631

Wastewater Capital Improvement Program

The District has developed a wastewater Capital Improvement Program (CIP) to address current and future wastewater system needs. The total estimated CIP expenditure for the study period is \$7.59 million, as shown in **Figure 3-2**. **Table 3-5** shows the detailed CIP in inflated dollars. These projected costs include a four percent annual inflation factor due to anticipated increases in construction costs over time. This inflation rate is a conservative estimate intended to ensure that the District has adequate resources reserved to complete the necessary projects.

**Figure 3-2
Wastewater Capital Improvement Program - inflated**



**Table 3-5
Capital Improvement Program (inflated)**

Line No.		FY 2017 <i>Budget</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
6	CCTV Inspection Unit Replacement	\$0	\$0	\$0	\$0	\$0	\$243,331
7	Holly Avenue Sewer Replacement	\$0	\$0	\$0	\$1,237,350	\$0	\$0
8	Collection System Rehabilitation Project - Phased	\$0	\$0	\$811,200	\$0	\$877,394	\$0
9	Lower Lateral Rehabilitation Project - Phased	\$0	\$0	\$216,320	\$0	\$233,972	\$0
10	Sewer System Hydraulic Model Update	\$0	\$36,400	\$0	\$0	\$0	\$0
14	Garage/Maintenance Building Extension	\$110,000	\$0	\$0	\$0	\$0	\$0
17	Lab and Breakroom Improvements	\$50,000	\$0	\$0	\$0	\$0	\$0
20	Plant Water System Tank and Pump Replacement	\$0	\$52,000	\$0	\$0	\$0	\$0
21	Lab/Operations HVAC Replacement	\$30,000	\$0	\$0	\$0	\$0	\$0
22	Disinfection Monitoring System Improvements	\$30,000	\$0	\$0	\$0	\$0	\$0
23	Screenings Washer/Compactor	\$0	\$93,600	\$0	\$0	\$0	\$0
24	WWTP Security Gate Replacement	\$17,000	\$0	\$0	\$0	\$0	\$0
25	Vehicle Replacements	\$28,000	\$31,200	\$0	\$0	\$58,493	\$0
26	CARB Engine Replacements (pumps/generators)	\$55,000	\$52,000	\$0	\$0	\$0	\$72,999
27	Primary Clarifier Cover Replacement	\$0	\$0	\$216,320	\$0	\$0	\$0
29	Secondary Clarifier Mechanical Upgrade	\$0	\$0	\$140,608	\$0	\$0	\$0
30	Magnesium Hydroxide Odor Control System	\$15,000	\$0	\$0	\$0	\$0	\$0
31	Climbing Bar Screen (redundant)	\$0	\$0	\$140,608	\$0	\$0	\$0
32	Primary Clarifier Valve Replacement	\$0	\$26,000	\$0	\$0	\$0	\$0
33	Influent Flow Meter Replacement	\$0	\$20,800	\$0	\$0	\$0	\$0
35	Wetwell Rehabilitation - Lift Stations 1, 2 and 3	\$0	\$104,000	\$0	\$0	\$0	\$0
36	Lift Station No. 1 Comminutor Pit Modifications	\$0	\$46,800	\$0	\$0	\$0	\$0
37	Lift Station No. 2 Force Main Realignment	\$0	\$0	\$0	\$0	\$0	\$851,657
38	Administration Building Replacement Project	\$0	\$1,872,000	\$0	\$0	\$0	\$0
39	Server Replacement Project	\$15,000	\$0	\$0	\$0	\$0	\$0
40	Standby Generators	\$0	\$156,000	\$0	\$0	\$0	\$0
41	Carryover Projects	\$2,321,000	\$0	\$0	\$0	\$0	\$0
42	Total Capital Improvement Program (inflated)	\$2,671,000	\$2,490,800	\$1,525,056	\$1,237,350	\$1,169,859	\$1,167,987

Debt Service Requirements

Debt service requirements consist of principal and interest payments on existing debt. The District currently has debt service obligations associated with outstanding 2012 Wastewater Revenue Bonds. Existing annual debt service payments are approximately \$1.18 million. **Table 3-6** shows the existing debt service of the wastewater utility over the study period.

**Table 3-6
Existing Debt Service**

Current Debt Service	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
2012 Wastewater Revenue Bonds	\$1,185,500	\$1,186,300	\$1,185,900	\$1,181,400	\$1,180,800	\$1,181,900

Additionally, RFC is proposing that the District issue \$2 million in new Wastewater Revenue Bonds in FY 2018 to help finance capital projects (specifically, a required project to replace the District's existing administration building). The proposed debt results in a new debt service obligation of \$160,500 per year for a 20-year term at an assumed interest rate of 5 percent per year.

Debt Service Coverage

The District must meet debt service coverage requirements on its outstanding bond issues. The required debt coverage ratio is 1.25, which means that the District's Net System Revenues shall amount to at least 1.25 times the Annual Debt Service. Net System Revenues include funds derived from the ownership and operation of the system including wastewater service charges from the District's users, property taxes, service charges, revenues received from contracts, and interest income. Annual Debt Service includes annual principal and interest payments on outstanding debt. **Table 3-7** at the end of this subsection shows that the District will meet its debt coverage obligations under the proposed plan.

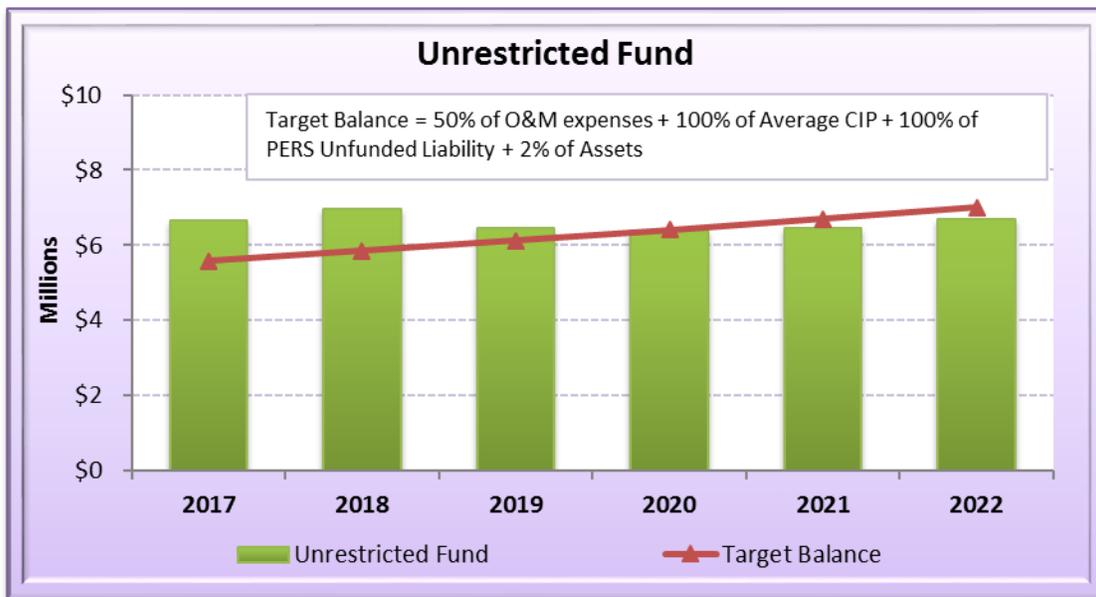
Reserves

The District maintains cash reserves to meet its operating, capital, and debt service requirements. Operating reserves may be used to meet ongoing cash flow requirements as well as emergency costs. RFC proposes that the District maintain a 6-month operating reserve (i.e., a balance of 50% of total annual O&M expenses) to meet its working capital requirements. The capital reserve target is set at 100% of average annual CIP expenditures, to provide for adequate cash to cover critical capital improvements. Additionally, the District Board of Directors elected to include a reserve fund component that would set aside money to offset its CalPERS unfunded actuarial liability. A phase-in approach to building this reserve element is proposed, resulting in reserves of \$1M for the CalPERS unfunded liability by the end of the planning period. Finally, the fixed asset reserve is needed to provide the necessary funds for repair and replacement of wastewater infrastructure, since these expenditures can be significant. The target is set at 2% of the total replacement cost of the treatment plant and other fixed assets.

The beginning reserve balance in FY 2017 was approximately \$8.46 million, not including debt reserves. Approximately \$2.6M of this total is committed to capital projects that are underway or previously authorized for implementation by the District. Based on the projections of this study, the reserve fund will remain at or slightly above target for the first three years and slightly under the target balance over the last two years of the study, with an ending balance in FY 2022 of \$6.69 million.

Figure 3-3 shows the total fund balance and the target reserves level from FY 2018 to FY 2022.

**Figure 3-3
Wastewater Fund Balance**



Proposed Revenue Adjustments

The operating financial plan presented in **Table 3-7** provides a basis for evaluating the timing and level of wastewater revenue increases necessary to meet the revenue requirements over the study period. Note that revenues from mixed-use, contracted, and institutional parcels are shown separately from residential and commercial rate revenues. However, revenues from mixed-use, contracted, and institutional customers are inflated by the 4.0% revenue adjustment in the operating financial plan, and are included in the cost-of-service analysis.

**Table 3-7
Wastewater Operating Financial Plan**

Line No.		FY 2017 <i>Estimated</i>	FY 2018 <i>Projected</i>	FY 2019 <i>Projected</i>	FY 2020 <i>Projected</i>	FY 2021 <i>Projected</i>	FY 2022 <i>Projected</i>
1	Residential & Commercial Service Charges:	\$4,824,932	\$4,848,182	\$4,871,455	\$4,894,753	\$4,919,304	\$4,943,879
	Additional Revenue Required:						
	Fiscal Year	Revenue Adjustments	Months Effective				
2	FY 2018	4.0%	12	\$193,927	\$194,858	\$195,790	\$196,772
3	FY 2019	4.0%	12		\$202,653	\$203,622	\$204,643
4	FY 2020	4.0%	12			\$211,767	\$212,829
5	FY 2021	4.0%	12				\$221,342
6	FY 2022	4.0%	12				\$231,346
7	Total Additional Revenue	\$0	\$193,927	\$397,511	\$611,178	\$835,586	\$1,071,106
8	Total Res & Comm Revenue	\$4,824,932	\$5,042,109	\$5,268,966	\$5,505,932	\$5,754,890	\$6,014,985
9	Other Revenue						
10	Mixed Use, Contract, & State Park Charges	\$156,629	\$163,709	\$164,527	\$165,350	\$166,177	\$167,008
11	Property Tax	\$566,500	\$577,830	\$589,387	\$601,174	\$613,198	\$625,462
12	Interest Income	\$18,000	\$51,697	\$46,562	\$79,527	\$108,388	\$140,785
13	Other Fees & Income	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000
14	Other Districts' Contr./ Safety Officer	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000
15	Other Sources of Cash/Grant	\$0	\$0	\$0	\$0	\$0	\$0
16	Total Revenue	\$5,655,062	\$5,924,346	\$6,158,442	\$6,440,984	\$6,731,652	\$7,037,239
17	O&M Expenses	\$3,583,500	\$3,712,085	\$3,876,482	\$4,048,462	\$4,228,386	\$4,416,631
18	Existing Debt Service	\$1,185,500	\$1,186,300	\$1,185,900	\$1,181,400	\$1,180,800	\$1,181,900
19	Proposed Debt Service	\$0	\$160,500	\$160,500	\$160,500	\$160,500	\$160,500
20	Capital Projects - Rate Funded	\$2,671,000	\$591,580	\$1,425,336	\$1,137,630	\$1,063,491	\$1,061,619
21	Total Expenses	\$7,440,000	\$5,650,465	\$6,648,218	\$6,527,992	\$6,633,176	\$6,820,649
22	Net Cash Flow	(\$1,784,938)	\$273,881	(\$489,776)	(\$87,009)	\$98,476	\$216,590
23	Debt Coverage Ratio	175%	164%	169%	178%	187%	195%
24	Required Coverage	125%	125%	125%	125%	125%	125%

In order to meet projected revenue requirements and to maintain desired operating, capital, and fixed assets reserve balances, the following revenue adjustments are proposed:

<u>Effective Date</u>	<u>Increases</u>
July 1, 2018	4.0 percent
July 1, 2019	4.0 percent
July 1, 2020	4.0 percent
July 1, 2021	4.0 percent
July 1, 2022	4.0 percent

COST OF SERVICE

The total revenue requirement (net of miscellaneous revenue credits) is, by definition, the net cost of providing service. This cost of service is then used as the basis to develop unit rates for the wastewater parameters and to allocate costs to the various user classes. The concept of proportionate allocation to user classes implies that allocations should take into consideration the quantity of wastewater a user contributes as well as the strength (i.e., treatment requirements) of the wastewater.

The cost of service analysis and rate calculations consist of the following steps:

1. Determination of the total costs to be recovered from rates (cost of service)
2. Determination of the wastewater loadings for each customer class, to ensure costs are allocated to each class proportionately
3. Allocation of the cost of service to the loading parameters- Flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS)
4. Calculation of unit costs for the three parameters, and the costs to serve the various user classes based on their loadings
5. Calculation of rates for each user class

This section of the report discusses the allocation of operating and capital costs to the Flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) parameters, the determination of unit rates, and the calculation of user class cost responsibility.

In this study, wastewater rates were calculated for FY 2018, and accordingly FY 2018 revenue requirements are used in the cost allocation process.

Costs of Service to Be Allocated

The annual cost of service to be recovered from wastewater rates (i.e., revenue requirement) includes O&M expenses (**Table 3-4**), costs associated with annual renewal and replacements, and other capital-related costs (**Table 3-5**). O&M expenses include costs directly related to the collection, treatment, and disposal of wastewater and maintenance of system facilities. Renewals and replacements represent the annual recurring capital outlay for minor system improvements and purchase of equipment.

The total FY 2018 net cost of service to be recovered from the District's wastewater users, as shown on line 15 in **Table 3-8**, is estimated at \$5.21 million, of which \$3.27 million are operating costs and the remaining \$1.94 million are net capital costs including debt service costs. The cost of service analysis is based on the need to generate revenues adequate to meet this estimated revenue requirement. As part of the cost of service analysis, revenues from sources other than wastewater rates and charges are deducted from the appropriate cost elements. Additional deductions are made for interest income and other non-operating income during FY 2018. Adjustments are also made for addition to reserves on line 12.

**Table 3-8
Allocation of Revenue Requirements**

Line No.		FY 2018		
		Operating	Capital	Total
	Revenue Requirements			
1	O&M Expenses	\$3,712,085		\$3,712,085
2	Existing Debt Service		\$1,186,300	\$1,186,300
3	Proposed Debt Service		\$160,500	\$160,500
4	Capital Projects - Rate Funded		\$591,580	\$591,580
5	Total Revenue Requirements	\$3,712,085	\$1,938,380	\$5,650,465
	Less: Revenue from Other Sources			
6	Property Tax	\$577,830		\$577,830
7	Interest Income	\$51,697		\$51,697
8	Other Fees & Income	\$38,000		\$38,000
9	Other Districts' Contr./ Safety Officer	\$51,000		\$51,000
10	Other Sources of Cash/Grant		\$0	\$0
11	Total Revenue from Other Sources	\$718,527	\$0	\$718,527
	Less: Adjustments			
12	Adjustments to Annual Cash Balance	(\$273,881)		(\$273,881)
13	Adjustments to Annualize Rate Increase	\$0		\$0
14	Total Adjustments	(\$273,881)	\$0	(\$273,881)
15	Cost to be Recovered from Rates	\$3,267,438	\$1,938,380	\$5,205,818

To allocate the cost of service to the various user classes in proportion to their flow and strength contributions, costs first need to be allocated to selected wastewater parameters. The following subsection describes the allocation of the operating and capital cost of service amounts to the parameters of Flow, BOD, and TSS.

Cost Allocation to Wastewater Parameters

The three main cost allocation parameters are Flow, BOD, and TSS. BOD and TSS constitute the strength components of the wastewater discharge. Costs are assigned based on the parameters which dictate the design of each process. The allocation of costs to the three parameters involves:

- Detailed breakdown of O&M costs.
- Itemization of the capital costs by functions such as collection, treatment, outfall, etc.
- Allocation of the functional costs to the wastewater parameters.

In the absence of a detailed breakdown of fixed assets by process, the treatment plant costs are allocated to flow, BOD, and TSS at 50 percent, 25 percent, and 25 percent, respectively. This allocation is representative of other secondary treatment plants. Pipelines, outfall, and pumping stations costs are all allocated to flow. Similarly, operating costs identified with the collection system are allocated to flow, and operating treatment costs are allocated in the same manner as the fixed asset costs. Costs that could not be specifically identified were allocated as general costs. General costs are ultimately reallocated based on the proportions of other costs—in this study, general costs are allocated to flow, BOD, and TSS at 70

percent, 15 percent, and 15 percent, respectively (see **Table 3-10** below). The allocation of O&M and capital costs is shown in Appendix A.

The cost of service allocations in this study are based on RFC's experience with secondary treatment plants and are consistent with the revenue program guidelines of the State Water Resources Control Board (SWRCB) and the Water Environment Federation (WEF).

Unit Cost of Service

The next step of the cost of service analysis is to calculate unit costs for flow, BOD, and TSS. The unit costs of service are developed by dividing the total annual costs allocated to each parameter by the total annual loadings for each parameter. To determine the flow and loadings of each customer class, RFC conducted a mass balance analysis based on the total influent loadings. Since we use 3-year average usage data for non-residential customers, we use the corresponding influent loadings. The last three years for which the mass balance analysis was performed have been very dry years and the flows into the plant have dropped significantly. Based on the flow data and discussions with District staff, RFC estimated an infiltration and inflow (I&I) flow rate of 0 percent—this reflects the assumption that no significant inflows have entered the system through manholes and pipelines. The net plant loadings (total influent less I&I) provide a basis for determining unit costs.

Next, the loadings of the non-residential customers are determined. The strength of different types of non-residential customers is based on District's data, supplemented by data from the City of Los Angeles and the County Sanitation Districts of Los Angeles County (LACSD) where necessary. RFC retained the District's current schedule of strength factors by customer class for all non-residential customers.

The flow of non-residential customers is based on the average water usage for the last five years, and the wastewater flow is estimated to be 90 percent of the water usage. This 90% return factor is the standard in the industry where most of the water used is returned to sewer. The return rate is adjusted for some customers based on the District's own adjustment factors used in calculating sewer service charges; these adjustments are based on assumptions about water use (e.g., water used for irrigation is not returned directly to the wastewater stream.). After calculating the non-residential share of treatment plant loadings, the remainder is then attributed to residential customers. Because of the recent emphasis on conservation and usage reductions mandated by the State, residential flows have fallen considerably. A normalization factor of 10 percent is used to adjust residential flows to the State standard of 55 gal per capita per day. These calculations of the mass balance are shown in **Table 3-9**.

**Table 3-9
Mass Balance**

	Flow (mgd)	BOD (lbs/yr)	TSS (lbs/yr)
Total Flow	1.097	1,090,832	1,213,627
Less: I&I 0.0%	-	-	-
Net Plant	1.097	1,090,832	1,213,627
Non-Residential	0.284	261,138	374,926
Residential	0.894	912,664	922,571

To verify the validity of the assumptions made, the net calculated loading for a residential account is compared against the expected flow and strength from a residential customer. There are 6,285 residential units served by the District. The calculated loading for each residential unit is:

Flow	142 gpd or 55 gallons per capita per day*
BOD	335 mg/L
SS	339 mg/L

**Based on an average density of 2.6 persons per household,
from the 2005-2009 American Community Survey*

The calculated loadings for a residential customer are reasonable given the emphasis on conservation and reductions in water usage achieved by residential customers in recent years.

The residential and non-residential wastewater loadings are used in **Table 3-10** to develop the FY 2018 unit costs for each of the wastewater parameters. These unit costs are then used along with the loadings to develop the cost to be collected from the different customer classes. Note that general costs are reallocated based on the proportions of the other costs.

**Table 3-10
Development of Unit Costs**

	Flow	BOD	TSS	General	Total
Operating Costs	\$1,476,372	\$391,824	\$391,824	\$1,007,417	\$3,267,438
Capital Costs	\$1,448,714	\$225,084	\$225,084	\$39,499	\$1,938,380
Total Cost of Service	\$2,925,087	\$616,908	\$616,908	\$1,046,916	\$5,205,818
Allocation of General Costs	\$736,329	\$155,294	\$155,294	(\$1,046,916)	
Revised Cost of Service	\$3,661,415	\$772,201	\$772,201	\$0	\$5,205,818
	70%	15%	15%		
Total Units	429,920	11,738	12,975		
Unit	kgal/yr	100 lbs/yr	100 lbs/yr		
Unit Cost	\$8.52	\$65.79	\$59.52		

RATE DESIGN

The revenue requirements and cost of service analyses provide a basis for the design of wastewater rates. Rate design involves the development of rate schedules so as to recover the annual cost of service determined for each user class. This subsection of the report presents a schedule of rates for the District's user classes, and analyzes the impact of the proposed rates on the various user classes.

Rate Structure

The primary emphasis in the design of rate structures is ordinarily placed on achieving fairness and equity, with the objective being to ensure that each customer class pays their fair share of costs. In addition, rate structures should be easy to understand, simple to administer, and compliant with regulatory requirements. A review of the existing District wastewater rate structure provides insights into the equitability of the current methodology and the changes, if any, that should be considered.

Residential Customers

RFC proposes that the District retain its existing fixed charge for all residential customers. The residential charge is based on the unit rates calculated above and applied to the loadings in the mass balance described earlier.

Non-Residential Customers

For simplicity and ease of administration, non-residential customers remain grouped into six classes based on the combined strength of wastewater (BOD and TSS). As discussed in the preceding section, the actual loadings based on the flow and strength of wastewater are used to determine the costs to be borne by each customer class, and the calculated rates are determined based on the funds required to cover that cost. Wastewater flow is estimated to be 90% of water use for most customers, although customers with a return rate adjustment based on the nature of their water usage retain this adjustment. Since most of the wastewater system costs are fixed, SWRCB guidelines allow collection of a fixed charge from each customer based on the lowest fixed charge collected from any customer class (in this case, a single family residence). Each non-residential parcel will therefore pay the single family residential charge if the calculated charge based on unit rates is lower than the fixed charge. This minimum charge recovers a portion of the fixed costs of the system, recognizing that system maintenance costs are incurred irrespective of whether a customer discharges any wastewater.

Proposed Wastewater Rates

Table 3-11 shows the proposed wastewater rates for the next five years. After the rate adjustments in the first year, the rates increase by 4.0% in subsequent years for all customer classes.

**Table 3-11
Proposed Wastewater Rates**

		Previous Rate		Effective Date			
		7/1/2016	7/1/2017	7/1/2018	7/1/2019	7/1/2020	7/1/2021
Residential per Dwelling Unit		\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55
Non-Residential Minimum Charge (per parcel)		\$614.16	\$625.31	\$650.33	\$676.35	\$703.41	\$731.55
Strength Classes (combined BOD and TSS)*							
Low	less than 380 mg/L	\$7.86	\$9.52	\$9.90	\$10.30	\$10.72	\$11.15
Medium Low	380 to 500 mg/L	\$8.65	\$10.18	\$10.59	\$11.02	\$11.47	\$11.93
Medium	501 to 710 mg/L	\$9.45	\$10.52	\$10.94	\$11.38	\$11.84	\$12.32
Medium High	711 to 1100 mg/L	\$10.17	\$12.00	\$12.48	\$12.98	\$13.50	\$14.04
High	1101 to 1700 mg/L	\$14.53	\$14.24	\$14.81	\$15.41	\$16.03	\$16.68
Very High	over 1700 mg/L		[Indiv. Calc]				

IMPACT ANALYSIS

RFC performed an impact analysis to evaluate the impact of the proposed changes to the rate structure. The impacts on user classes and within user classes are discussed below.

Residential Customer Impacts

Table 3-11 shows that the residential wastewater charge will increase to \$625 per dwelling unit in 2018, which represents a 1.8% increase over the current charge of \$614.

Non-Residential Customer Impacts

Non-residential customers will be impacted under the new rate structure in the first year for the following reasons:

1. The proportion of total loadings attributed to non-residential customers is higher than in the previous rate study. Therefore, a higher share of costs will be recovered from non-residential users than in the existing rate structure.
2. Because influent flow has reduced significantly, the unit cost allocated to flow has increased. Because the flow component now encompasses a larger share of the rate calculation than the strength component, the difference in rates between strength classes is smaller. Therefore, the lower strength classes will experience higher rate increases.
3. High-strength non-residential users will experience a slight reduction in wastewater charges, as their calculated rate based on the cost of service is lower than the FY 2017 rate.

Impacts for subsequent years will be equal for all customers, at 4.0% per year. Overall, the cost of service analysis shows that non-residential customers will be more significantly impacted, especially high-volume users that discharge more wastewater. The impacts will vary depending on the flow and strength of different customers. **Table 3-12** shows the impacts of a typical customer in each user class.

**Table 3-12
Non-Residential Rate Impacts**

Non-Residential Customers		BOD	TSS	Water Usage	Rate	Proposed Charge	Existing Charge	\$ Change	% Change
<i>Example per strength class</i>		<i>mg/L</i>	<i>mg/L</i>	<i>kgal/yr</i>	<i>\$/kgal</i>				
Low	(Laundromat)	150	110	1,406	\$9.52	\$13,377	\$11,048	\$2,329	21%
Medium Low	(Machine Shop)	150	280	166	\$10.18	\$1,690	\$1,437	\$253	18%
Medium	(Medical)	250	300	619	\$10.52	\$6,514	\$5,853	\$661	11%
Medium High	(Church)	250	640	363	\$12.00	\$1,088	\$922	\$166	18%
High	(Fast Food)	825	775	1,130	\$14.24	\$16,095	\$16,425	(\$329)	-2%
Very High				[individually calculated]					

Table 3-13 illustrates the overall bill impacts for most non-residential customers in the District. The table shows that 21% of the non-residential users will see a reduction in their wastewater bills, and that only 4% see an increase of over \$2,500. 64% will see an increase in their bills between \$0 and \$1000 annually.

**Table 3-13
Non-Residential Rate Impacts**

Range	% of bills		Range	% of bills	
<=0%		21%	<=\$0		21%
0%	5%	26%	\$0	\$100	27%
5%	10%	3%	\$100	\$300	19%
10%	15%	8%	\$300	\$500	8%
15%	20%	38%	\$500	\$1,000	10%
20%	30%	4%	\$1,000	\$2,500	10%
30%	40%	0%	\$2,500	\$5,000	3%
>40%		0%	>\$5000		1%

SECTION 4 – DEVELOPMENT IMPACT FEES

RFC reviewed and updated the Development Impact Fees charged by the District since these fees have not been updated since 2011. The sections below show the methodology and calculations used in the determination of these fees.

DEVELOPMENT IMPACT FEES

In California, the basic statutory standards governing water and sewer connection, or development impact, fees are embodied in Government Code Sections 66013 et seq. (The Mitigation Fee Act). An important requirement in designing connection fees is enumerated in Government Code 66013, which requires that connection fees must be based on an estimate of the reasonable cost of providing capacity. Thus, the primary objectives of establishing full cost recovery connection fees are to achieve equity in distributing costs and to provide a mechanism by which new users can pay for the cost of the facilities required to serve them, without burdening existing users. In short, the goal of full cost recovery connection fees is to ensure that growth pays its own way.

There are several methods that could be used to calculate development impact fees. Three computational approaches are discussed:

Equity Buy-in Method

The buy-in concept is based on the premise that new users buy into the system and achieve a financial position that is on par with other existing users of the system. In publicly owned systems, most of the assets used to provide service are paid for by users through a system of rates, charges and taxes. In service areas that experience growth in customers and in quantity of service provided, it is generally true that facilities used by previous customers now serve existing customers. Thus, it is the existing customers who have made the “up-front” investment in the existing system capacity including the unused or “surplus” capacity that is available to serve newly connecting customers.

To foster equity between existing and new users, the new users pay for the cost or value associated with equity of the existing user. If the existing system has 100 units of use and the new user requires one unit of use, then the new user would pay for 1/100 of the value of the existing system. This approach is termed the “equity buy-in” method because by paying for the required capacity, the new user buys into the existing system and thereby achieves financial parity with other existing users. Together, the new and existing users will face future capital challenges on equal footing since equivalent investments have been made. This method is applicable in situations where the existing system has adequate surplus capacity and does not require major upgrades or improvements.

Incremental-Cost Pricing Method

The incremental-cost pricing concept is based on the principle that new users pay for the incremental portion of the existing capacity that they will utilize upon connection. When new users connect to the water or wastewater system, they either use reserve capacity available in existing facilities, which must then be replaced, or require new capacity which must be added to the system to accommodate their needs. Under

this method, new users would pay for their use of the reserve capacity or for new facilities necessary to provide service to them.

Specific Capacity Method

The specific capacity method determines connection fees based on actual costs to provide the incremental capacity. For example, if it costs \$X to construct Y units of capacity then the connection fee is determined to be \$X/Y. This method does not take into account existing surplus capacity in the facilities and is therefore most applicable in situations where there is no available capacity in the existing facilities, and the new users have to be served entirely through the creation of additional capacity.

Proposed Approach for the Determination of Development Impact Fees

The approach used in determining development impact fees needs to reflect the system characteristics in addition to meeting regulatory requirements and policy considerations. In determining development impact fees, we recommend the equity buy-in method where capacity is available in the system. The District is essentially built out and there is capacity available in the existing system for new users.

For the equity buy-in approach, we used the replacement cost less depreciation (RCLD) method to determine the value of the system. This method considers the cost to build new facilities but recognizes that capacity available in existing facilities is not new and is adjusted for depreciation.

Development Impact Fees Calculation

The District provided RFC with a list of capital projects through fiscal year (FY) 2016. In order to determine the capacity cost, RFC calculated the replacement cost (RC) of the system for FY 2017 by inflating historical costs using the annual average ENR 20-City Construction Cost Index (CCI). To recognize that the system is not new, RFC subtracted the accumulated depreciation of those assets from the replacement cost to determine the value of the system, termed replacement cost less depreciation (RCLD). The RCLD of the system for FY 2017 is \$39.76 million.

When new users join the system, they will benefit from the District's cash reserves and be responsible for debt payments. It is therefore necessary to add cash reserves (\$6.67 million) and subtract the principal (\$10.99 million) still owed on the District's outstanding 2012 Wastewater Revenue Bonds.

Once the value of the system is determined, the utilized capacity of the system is used to calculate the unit capacities. The total wastewater flow received at the treatment plant in FY 2016 was approximately 1.1 million gallons per day (MGD). Therefore, we applied the 1.1 MGD capacity as the basis to determine the development impact fees.

Knowing the total cost basis of the assets and the capacity of the assets, the unit cost of capacity in \$/gpd can be readily calculated (\$32.32/gpd). The amount of capacity to be assigned to an equivalent dwelling unit (EDU) needs to be defined. The District's current development impact fees define an EDU as 180 gallons per day (gpd). However, based on the mass balance and water usage trends in recent years, RFC estimates that an EDU discharges approximately 142 gpd at 325 mg/l of BOD and SS. Since the unit cost of capacity in the system is \$32.32 per gpd, the capacity cost per EDU is \$4,600 as shown in **Table 4-1** below.

**Table 4-1
Development Impact Fees Calculation**

Total Assets	\$39,762,472
Plus: Total Reserves	\$6,672,995
Less: Outstanding Debt	(\$10,990,000)
Total Buy-In Cost	\$35,445,467
Total Flow (gpd)	1,096,583
Cost per gallon per day	\$32.32
Residential Flow (gpd)	142
Residential Fee	\$4,600

Development impact fees for non-residential customers will be calculated on an EDU basis according to the following formula.

$$\text{Development Impact Fee} = \text{EDU Factor} \times \$4,600,$$

where EDU Factor =

$$\left[\frac{\text{Flow}}{142 \text{ gpd}} \times 70\% \right] + \left[\frac{\text{BOD}}{325 \text{ mg/L}} \times 15\% \right] + \left[\frac{\text{TSS}}{325 \text{ mg/L}} \times 15\% \right]$$

In the above equation, flow is in gpd, and BOD and TSS are in mg/L. Loadings for BOD and TSS are derived from the mass balance analysis. The allocation factors for flow, BOD and TSS are based on the asset allocations used in this report.

APPENDIX A: COST OF SERVICE ALLOCATION TABLES

**Table A-1
O&M Cost Allocation Percentages**

Line No.		Flow	BOD	TSS	General	Total
O&M EXPENSES						
Administration						
1	Wages				100%	100%
2	Benefits				100%	100%
3	General				100%	100%
4	Environment & Monitoring				100%	100%
5	Utilities				100%	100%
6	Sludge Disposal				100%	100%
7	Supplies & Equipment				100%	100%
8	Repairs & Maintenance				100%	100%
9	Professional Services				100%	100%
10	Other Expenses				100%	100%
Plant						
		<i>Allocation to Plant</i>				
11	Wages	73%	50%	25%	25%	100%
12	Benefits	73%	50%	25%	25%	100%
13	General	50%	50%	25%	25%	100%
14	Environment & Monitoring	80%	50%	25%	25%	100%
15	Utilities	50%	50%	25%	25%	100%
16	Sludge Disposal	100%	50%	25%	25%	100%
17	Supplies & Equipment	90%	50%	25%	25%	100%
18	Repairs & Maintenance	35%	50%	25%	25%	100%
19	Professional Services	50%	50%	25%	25%	100%
20	Other Expenses	50%	50%	25%	25%	100%
Collection						
		<i>Allocation to Collection</i>				
21	Wages	27%	100%			100%
22	Benefits	27%	100%			100%
23	General	50%	100%			100%
24	Environment & Monitoring	20%	100%			100%
25	Utilities	50%	100%			100%
26	Sludge Disposal	0%	100%			100%
27	Supplies & Equipment	10%	100%			100%
28	Repairs & Maintenance	65%	100%			100%
29	Professional Services	50%	100%			100%
30	Other Expenses	50%	100%			100%
Safety & Training						
31	Wages				100%	100%
32	Benefits				100%	100%
33	General				100%	100%
34	Environment & Monitoring				100%	100%
35	Utilities				100%	100%
36	Sludge Disposal				100%	100%
37	Supplies & Equipment				100%	100%
38	Repairs & Maintenance				100%	100%
39	Professional Services				100%	100%
40	Other Expenses				100%	100%

**Table A-2
O&M Cost Allocations**

Line No.		Flow	BOD	TSS	General	Total
O&M EXPENSES						
Administration						
1	Wages	\$0	\$0	\$0	\$506,625	\$506,625
2	Benefits	\$0	\$0	\$0	\$231,000	\$231,000
3	General	\$0	\$0	\$0	\$156,869	\$156,869
4	Environment & Monitoring	\$0	\$0	\$0	\$0	\$0
5	Utilities	\$0	\$0	\$0	\$15,015	\$15,015
6	Sludge Disposal	\$0	\$0	\$0	\$0	\$0
7	Supplies & Equipment	\$0	\$0	\$0	\$0	\$0
8	Repairs & Maintenance	\$0	\$0	\$0	\$11,227	\$11,227
9	Professional Services	\$0	\$0	\$0	\$125,145	\$125,145
10	Other Expenses	\$0	\$0	\$0	\$19,776	\$19,776
Plant						
12	Wages	\$386,515	\$193,257	\$193,257	\$0	\$773,029
13	Benefits	\$203,089	\$101,545	\$101,545	\$0	\$406,178
14	General	\$18,566	\$9,283	\$9,283	\$0	\$37,132
15	Environment & Monitoring	\$22,454	\$11,227	\$11,227	\$0	\$44,908
16	Utilities	\$51,064	\$25,532	\$25,532	\$0	\$102,128
17	Sludge Disposal	\$51,500	\$25,750	\$25,750	\$0	\$103,000
18	Supplies & Equipment	\$102,990	\$51,495	\$51,495	\$0	\$205,979
19	Repairs & Maintenance	\$36,861	\$18,431	\$18,431	\$0	\$73,722
20	Professional Services	\$17,253	\$8,626	\$8,626	\$0	\$34,505
21	Other Expenses	\$0	\$0	\$0	\$0	\$0
Collection						
23	Wages	\$289,886	\$0	\$0	\$0	\$289,886
24	Benefits	\$152,317	\$0	\$0	\$0	\$152,317
25	General	\$37,132	\$0	\$0	\$0	\$37,132
26	Environment & Monitoring	\$11,227	\$0	\$0	\$0	\$11,227
27	Utilities	\$102,128	\$0	\$0	\$0	\$102,128
28	Sludge Disposal	\$0	\$0	\$0	\$0	\$0
29	Supplies & Equipment	\$22,887	\$0	\$0	\$0	\$22,887
30	Repairs & Maintenance	\$136,913	\$0	\$0	\$0	\$136,913
31	Professional Services	\$34,505	\$0	\$0	\$0	\$34,505
32	Other Expenses	\$0	\$0	\$0	\$0	\$0
Safety & Training						
34	Wages	\$0	\$0	\$0	\$60,480	\$60,480
35	Benefits	\$0	\$0	\$0	\$11,970	\$11,970
36	General	\$0	\$0	\$0	\$2,781	\$2,781
37	Environment & Monitoring	\$0	\$0	\$0	\$0	\$0
38	Utilities	\$0	\$0	\$0	\$945	\$945
39	Sludge Disposal	\$0	\$0	\$0	\$0	\$0
40	Supplies & Equipment	\$0	\$0	\$0	\$0	\$0
41	Repairs & Maintenance	\$0	\$0	\$0	\$1,648	\$1,648
42	Professional Services	\$0	\$0	\$0	\$1,030	\$1,030
43	Other Expenses	\$0	\$0	\$0	\$0	\$0
Total O&M Allocation		\$1,677,284	\$445,145	\$445,145	\$1,144,511	\$3,712,085
		45%	12%	12%	31%	

**Table A-3
Capital Asset Allocation Percentages**

Line No.	ASSETS	Flow	BOD	TSS	General	Total
1	Building	100%				100%
2	Autos & Mobile Equipment				100%	100%
3	Ocean Outfall	100%				100%
4	Lab Equipments		50%	50%		100%
5	Safety Equipment				100%	100%
6	Office				100%	100%
7	Plant	50%	25%	25%		100%
8	Underground Lines	100%				100%
9	Land				100%	100%

**Table A-4
Capital Asset Allocations**

Line No.	ASSETS	Flow	BOD	TSS	General	Total
1	Building	\$1,381,895	\$0	\$0	\$0	\$1,381,895
2	Autos & Mobile Equipment	\$0	\$0	\$0	\$463,413	\$463,413
3	Ocean Outfall	\$657,771	\$0	\$0	\$0	\$657,771
4	Lab Equipments	\$0	\$5,588	\$5,588	\$0	\$11,176
5	Safety Equipment	\$0	\$0	\$0	\$0	\$0
6	Office	\$0	\$0	\$0	\$113,212	\$113,212
7	Plant	\$9,223,219	\$4,611,610	\$4,611,610	\$0	\$18,446,438
8	Underground Lines	\$18,454,948	\$0	\$0	\$0	\$18,454,948
9	Land	\$0	\$0	\$0	\$233,619	\$233,619
10	Total Capital Allocation	\$29,717,833	\$4,617,197	\$4,617,197	\$810,244	\$39,762,472
		75%	12%	12%	2%	

**Table A-5
Operating and Capital Revenue Requirement Allocations**

Line No.		FY 2018		
		Operating	Capital	Total
Revenue Requirements				
1	O&M Expenses	\$3,712,085		\$3,712,085
2	Existing Debt Service		\$1,186,300	\$1,186,300
3	Proposed Debt Service		\$160,500	\$160,500
4	Capital Projects - Rate Funded		\$591,580	\$591,580
5	Total Revenue Requirements	\$3,712,085	\$1,938,380	\$5,650,465
Less: Revenue from Other Sources				
6	Property Tax	\$577,830		\$577,830
7	Interest Income	\$51,697		\$51,697
8	Other Fees & Income	\$38,000		\$38,000
9	Other Districts' Contr./ Safety Officer	\$51,000		\$51,000
10	Other Sources of Cash/Grant		\$0	\$0
11	Total Revenue from Other Sources	\$718,527	\$0	\$718,527
Less: Adjustments				
12	Adjustments to Annual Cash Balance	(\$273,881)		(\$273,881)
13	Adjustments to Annualize Rate Increase	\$0		\$0
14	Total Adjustments	(\$273,881)	\$0	(\$273,881)
15	Cost to be Recovered from Rates	\$3,267,438	\$1,938,380	\$5,205,818



Carpinteria Sanitary District
Board of Directors Meeting

STAFF REPORT

TO: Board of Directors
FROM: Craig Murray, P.E. - General Manager
SUBJECT: **Cash Contract No. 449 – Mac Brown Excavating, Inc. Lateral Replacements**
DATE: April 4, 2017

REQUESTED ACTION: Board approval of Cash Contract No. 449 between the Carpinteria Sanitary District and Mac Brown Excavating, Inc., of Carpinteria, CA.

FUNDING SOURCE: Account 5690 – Collection System Maintenance

BACKGROUND: The District is a participating member in the California Uniform Public Construction Cost Accounting Act following adoption of Board Resolution R-294 in May 2016. For projects valued less than \$45,000, this program allows for negotiated contacts or purchase orders with contractors on the District’s list of interested and qualified providers.

The District has an ongoing program to maintain, repair and replace lower sewer laterals. We have identified those laterals with the highest priority for rehabilitation or replacement through a comprehensive condition assessment effort and a review of maintenance or callout history. Currently, five lower laterals are scheduled for rehabilitation using the pipebursting method.

District staff solicited a proposal from Mac Brown Excavating, Inc. (MBE) for replacement of five lower laterals throughout the District. MBE is on the District’s CUPCCA contractor list and has successfully completed projects of this nature in the past. Their March 15th proposal, attached to Cash Contract No. 449 for reference, presents reasonable unit costs for the lateral replacement work. Adequate funding is available in the current year operating budget to undertake this work. If authorized, MBE would proceed in early April.

RECOMMENDATION: Staff recommends that the Board review and approve Cash Contract No. 449 between the Carpinteria Sanitary District and Mac Brown Excavating, Inc. for lateral replacements as proposed.

SUGGESTED MOTION: I move that the Board approve Cash Contract No. 449 between the Carpinteria Sanitary District and Mac Brown Excavating, Inc. for lateral replacements as proposed.

M _____ S _____

Ayes: _____ Nays: _____ Abstentions: _____

Prepared By: 
Craig Murray, P.E. - General Manager

Attachments: Cash Contract No. 449
\\CARP-DC1\Admin\Board\Staff Reports\2017\04-04-17\CC449_MacBrown.docx

CASH CONTRACT #449
AGREEMENT FOR
Sewer Lateral Replacement

This Agreement is made and entered into effective April 4, 2017, between:

CARPINTERIA SANITARY DISTRICT
(hereinafter referred to as "District")

AND

Mac Brown Excavating, Inc. of Carpinteria, California, a California corporation
(hereinafter referred to as "Contractor")

RECITALS

WHEREAS, the District intends to award a negotiated contract to Contractor for performing the work hereinafter mentioned pursuant to the District's California Uniform Public cost Accounting Act Program for projects valued less than \$45,000.

WHEREAS, Contractor has represented itself to have experience in the construction and repair of sewer systems including trenchless replacement of sewer laterals using the pipebursting method; and

WHEREAS, Contractor submitted a quotation to District for performing said sewer system repairs at five discrete locations within the District's service area, complete and in place; and

WHEREAS, subject to the specific terms and conditions set forth herein, Contractor desires to enter into an agreement with the District for said sewer system lateral replacement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1: Nature of Agreement. This agreement, when fully executed by the Parties, shall constitute a contract whereby Contractor agrees to replace the lower sewer lateral at 1322 Vallecito Rd., 5351 Starpine Rd, 1330 La Manida, 1275 La Pala, and 1287 La Pala in Carpinteria using the pipebursting method. The Scope of Work (Work) for the services is set forth in Contractor's March 15, 2017 quotation, attached as Exhibit "A" hereto. Compensation payable to Contractor pursuant to this agreement shall be paid on a lump sum basis, not to exceed (Twenty Eight Thousand Four Hundred Fifty dollars and no/100) \$28,450.00 without written authorization from the District's General Manager.

Section 2: Term of Agreement. This Agreement shall continue in full force and effect beginning April 5, 2017 and ending May 5, 2017, except as subject to early termination as provided in Section 3 of this Agreement.

Section 3: Early Termination. During its term, this Agreement may be sooner terminated by written notice of termination as follows:

- A. By either Party in the event the defaulting Party fails to cure a material breach of this Agreement within five (5) days of receipt of a written notice from the non-defaulting Party of such material breach.
- B. By the District, without cause and without penalty or cost to the District, immediately upon written notice, given in the sole discretion of the District's General Manager or designee.

Section 4: Safety and Protection

- A. The Contractor shall be solely responsible for supervising its personnel and initiating, maintaining, and supervising all safety precautions and programs in connection with the Scope of Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss, to its personnel at the location of the work and any third parties.
- B. The Contractor shall promptly and fully comply with and carry out and shall, without separate charge to the District, enforce compliance with safety and first aid requirements pertaining to the work stated herein, prescribed by all applicable Laws and Regulations (whether referred to herein or not) of any public body having jurisdiction or charged with the enforcement thereof, for the safety of persons or property or to protect them from damage, injury, or loss, including without limitation all OSHA rules, regulations and guidelines pertaining to confined space entry, and Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify District, owners of adjacent property and utilities when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. The Contractor shall take such other measures as may be necessary to ensure that work is done in a safe manner and that the safety and health of the employees and people of the local communities is safeguarded.
- C. The Contractor shall designate, in writing, a responsible representative at the site whose duty shall be the prevention of accidents, and the maintaining and supervising of safety precautions and programs. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the District.
- D. The Contractor shall designate "competent persons", as defined by OSHA, for confined space entry.

Section 5: Insurance. Contractor shall procure and maintain for the duration of this Agreement, and thereafter as specified in Exhibit "B" incorporated herein by reference, liability insurance naming the District as an additional insured under Contractor's policies for the scope of work performed pursuant to this Agreement, all on the terms set forth in Exhibit "B".

Section 6: Indemnity. Contractor shall investigate, defend, indemnify, and hold harmless the District and its directors, officers, agents, and employees from and against any and all loss, damage, liability, claims, demands, costs, charges, and expenses (including reasonable attorney=s and expert consultant fees), and any fines or penalties from regulatory agencies and any causes of action of whatsoever character which the District may incur, sustain, or be subjected to on account of loss or damage to District property or other real or personal property or loss of use thereof, or for bodily injury to or death of any persons (including but not limited to employees, subcontractors, agents, and invitees of each party hereto), and for violation of any laws, ordinances, rules or regulations (including without limitation safety standards), arising out of or in any way connected with the work to be performed under this Agreement, except and only to the extent where caused by the active negligence, sole negligence, or willful misconduct of District. Contractor's indemnity obligations shall survive the term of this Agreement.

Submission by Contractor of proof of compliance with the insurance requirements of this Agreement shall not relieve Contractor from liability under this indemnity section. The obligations of this indemnity section shall apply whether or not such insurance policy(ies) shall have been determined to apply to any of such losses damage, liability, claims, demands, costs, charges, or expenses.

Section 7: Successors and Assigns; No Subcontracting. No assignment of this Agreement shall be effective without the prior written consent of the non-assigning party. District may withhold such consent in its sole discretion. Contractor may not utilize subcontractors.

Section 8: Independent Contractor. The parties agree that the Contractor is an independent contractor to the District, not an employee of the District, and therefore is not entitled to the salaries, benefits, or privileges of being an employee of the District, including, but not limited to vacation pay, holiday pay, overtime pay, health insurance, disability or retirement benefits, and workers' compensation benefits.

Section 9: Notice. Any notice, payment or instrument required or permitted to be given hereunder shall be deemed received upon personal delivery or upon deposit in the United States mail, registered, postage prepaid and addressed as follows:

DISTRICT:
General Manager
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, CA 93013

CONTRACTOR:
Mike Isaac
Mac Brown Excavating, Inc.
P.O. Box 8
Carpinteria, CA 93014

Section 10: Claims and Disputes. This Agreement shall be governed and construed in accordance with the laws of the State of California. Should litigation be filed concerning this Agreement, such litigation shall be filed and heard in a court of competent jurisdiction for the County of Santa Barbara, State of California.

Section 11: Integration Clause. No claim or right arising out of a breach of this Agreement can be discharge in whole or in part by a waiver unless the waiver is supported by consideration and is in writing signed by the aggrieved party. This Agreement represents the entire agreement between the parties and shall not be modified, except as agreed in writing.

Section 12: No Waiver. No failure or delay by either party in asserting their rights or remedies hereunder as to any default shall operate as a waiver of the default, of any subsequent or other default, or any rights or remedies. No such delay shall deprive the parties of their right to institute and maintain any action or proceeding which may be necessary to protect, assert, or enforce any rights or remedies arising out of this Agreement or the performance thereof. No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver unless the waiver is supported by consideration and is in writing signed by the aggrieved party.

Section 13: Partial Invalidity. If any term, covenant, or condition of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall not be affected, impaired, or invalidated thereby.

Section 14: Recitals. The foregoing recitals are incorporated herein as if fully set forth.

Section 15: Authority. The individuals executing this Agreement on behalf of the respective parties represent and warrant that they have the requisite authority to take such action.

Section 16: Drafting. The provisions of this Agreement shall be construed in accordance with the fair meaning of the language and shall not be construed against the drafting party.

BY SIGNING HEREUNDER, Contractor acknowledges that it has reviewed all of the foregoing provisions of the Agreement and agrees with the terms, requirements, and conditions contained herein,

The parties have executed this Agreement on the day and year first set forth above.

CARPINTERIA SANITARY DISTRICT - District

By: _____
Craig Murray, P.E.
General Manager

COMPANY – Contractor

By: _____
Mac Brown
Mac Brown Excavating, Inc.



P.O. Box 8 | Carpinteria, CA 93014 | P (805) 649-9700 | F (805) 649-9701

Project Name : Lateral Replacements

**Project Address : 1322 Vallecito
5351 Starpine
1330 La Manida
1275 La Pala
1287 La Pala**

Plan Date : NA

Bid Date : 3/15/2017

Mac Brown Excavating, Inc. proposes the following work to be performed in accordance with the guidelines outlined below at the address listed above.

The work described in section 1 below shall be performed in accordance with the plans, soils report, and conversations between the contractor and Mac Brown Excavating, Inc.

Section 1. Scope

1322 Vallecito

Pull new 4" HDPE lateral from cleanout on property to main in street
Strongback HDPE to existing wye in street and cleanout on property
Backfill potholes to grade with appropriate materials
Patch AC in street

Bid Price : \$ 5,500

5351 Starpine

Pull new 4" HDPE lateral from cleanout on property to main in street
Strongback HDPE to existing wye in street and cleanout on property
Backfill potholes to grade with appropriate materials
Patch AC in street

Bid Price : \$ 5,100

1330 La Manida

Pull new 4" HDPE lateral from cleanout on property to main in street
Strongback HDPE to existing wye in street and cleanout on property
Backfill potholes to grade with appropriate materials

Initials

Customer: _____ MBX: _____

Patch AC in street
Reset Pavers in Driveway
Bid Price : \$ 5,950

1275 La Pala

Pull new 4" HDPE lateral from cleanout on property to main in street
Strongback HDPE to existing wye in street and cleanout on property
Backfill potholes to grade with appropriate materials
Patch AC in street

Bid Price : \$ 5,950

1287 La Pala

Pull new 4" HDPE lateral from cleanout on property to main in street
Strongback HDPE to existing wye in street and cleanout on property
Backfill potholes to grade with appropriate materials
Patch AC in street

Bid Price : \$ 5,950

Section 2. Changes in Work

Any alteration or deviation from the supplied information involving extra cost of materials or labor may result in additional billing to the Contractor from Mac Brown Excavating.

Section 3. Rock Clause

The agreed bid price for the services rendered by Mac Brown Excavating, Inc. assumes that the soil and subsurface are not comprised of rocks or sandstone larger than allowed in certified fill. The parties recognize that the composition of the soil and subsurface cannot be determined at the time the contract is executed and can only be evaluated during excavation. The parties also recognize that the excavation of rocks or sandstone will involve the use of additional equipment by Mac Brown Excavating, Inc. and will involve additional time and expenses to separate rock from soils, all of which can not be anticipated or estimated at the time the contract is executed.

Accordingly the parties agree that, should Mac Brown Excavating, Inc. encounter subsurface materials including but not limited to rocks, boulders, sandstone, or other geological formations of such size and composition that cannot easily and in a timely manner be trenched or excavated, Mac Brown Excavating, Inc. shall orally or in writing advise the contractor of the formation. In addition a Time and Materials change order shall be generated stating the issue above and tracking the time needed to resolve the issue. The change orders will be handled as a separate billing matter in addition to the original bid.

Section 4. Nature Clause

All parties work diligently to prepare for all scenarios. When dealing with excavation, no amount of borings or other geological tests can uncover every and all issues that may arise during the entire scope of a job. Mac Brown Excavating can not be held responsible if more work is required due to damage during rain storms, earthquakes and other acts of nature. This also holds true to unforeseen amounts of subterranean water. Any issues pertaining to acts of nature including but not limited to rain, and subterranean water will be handle on a time and materials basis or via a

Initials

Customer: _____ MBX: _____

change order . No work will be done without consulting the contractor first.

Section 5. Hold Harmless Clause

Due to the nature of the job, Mac Brown Excavating Inc. is not held responsible for any damage done to any utilities, tanks, pipes, or other equipment located in the ground. Furthermore, Mac Brown Excavating Inc. is not responsible for any inconvenience that may be caused by the disruption of any utility service or responsible for any costs incurred by the customer directly or indirectly.

Section 6. Demolition Clause

MBX assumes certain values when demolishing structures. Footing sizes for structures are assumed at 24" by 24" unless otherwise specified. Any footings larger than this will be constitute an increase in cost. MBX also assumes that all asbestos abatement has taken place prior to demolition of the house. Any other toxic materials that require special disposal such as paints, oils, gases, etc will also constitute an increase in cost.

Section 7. Trees

MBX does not factor in time to hand dig around existing tree roots. Due to the unpredictable nature of tree roots, MBX can not estimate what kind of time it would take to carefully excavate around sensitive tree roots. Therefore an additional cost will be incurred where MBX is required to hand dig around tree roots. The removal of an excessive amount of roots to create certified fill may also incur and additional cost.

Initials

Customer: _____ MBX: _____



Carpinteria Sanitary District
Board of Directors Meeting

STAFF REPORT

TO: Board of Directors
FROM: Craig Murray, P.E. - General Manager
SUBJECT: **CWEA Statewide Awards**
DATE: April 4, 2017

BACKGROUND: After prevailing at the local section level and participating in comprehensive inspection and evaluation processes, the District was selected to receive the California Water Environment Association (CWEA) Plant of the Year (Small) Award and the Collection System of the Year (Small) Award for 2016. This amazing accomplishment is a reflection of the diligence and hard work put forth by our team and a continuing commitment to excellence agency wide. The awards will be presented at the CWEA Annual Conference held April 25th through 28th at the Palm Springs Convention Center.

RECOMMENDATION: None. Information only.

SUGGESTED MOTION: None.

M _____ S _____

Ayes: _____ Nays: _____ Abstentions: _____

Prepared By:  _____
Craig Murray, P.E. - General Manager

Attachments: CWEA Letters

\\CARP-DC1\Admin\Board\Staff Reports\2017\04-04-17\CWEAAwards.doc



California
Water
Environment
Association
7677 Oakport Street, Suite 600
Oakland, CA 94621-1935

March 16, 2017

Carpinteria Sanitary District
Mark Bennett
5300 6th Street
Carpinteria, CA 93013

Dear Mark:

Congratulations! Carpinteria Sanitary District has been selected as CWEA's 2016 recipient of the Plant of the Year Small Award. Preparations are under way to honor your organization at CWEA's Annual Conference, which will be held at the Palm Springs Convention Center, April 25-28, 2017. We will be honoring your organization's accomplishment at the following CWEA Annual Conference event(s):

CWEA Awards Luncheon (You will receive a plaque)

Friday, April 28

11:00 a.m. - 1:30 p.m.

Leadership Committee Breakfast

Friday, April 28

7:00 a.m. – 8:30 a.m.

Please verify rooms and times on the AC17 onsite guide.

You can register for the Annual Conference at AC17.cwea.org. The early bird registration has been extended to March 24.

Congratulations again! I hope to see you in Palm Springs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ian Mackenzie".

Ian Mackenzie
CWEA Membership & External Relations Committee Chair



California
Water
Environment
Association
7677 Oakport Street, Suite 600
Oakland, CA 94621-1935

March 15, 2017

Carpinteria Sanitary District
Matt Oliver
5351 Sixth Street Carpinteria,
CA 93013

Dear Matt:

Congratulations! Carpinteria Sanitary District has been selected as CWEA's 2016 recipient of the Collection System of the Year Small (0-249 Miles) Award. Preparations are under way to honor your organization at CWEA's Annual Conference, which will be held at the Palm Springs Convention Center, April 25-28, 2017. We will be honoring your organization's accomplishment at the following CWEA Annual Conference event(s):

CWEA Awards Luncheon
Friday, April 28
11:00 a.m. - 1:30 p.m.

Collection System Committee Lunch
Wednesday, April 26
11:50 a.m. – 1:20 p.m.

Please verify rooms and times on the AC17 onsite guide.

You can register for the Annual Conference at AC17.cwea.org. The early bird registration has been extended to March 24.

Congratulations again! I hope to see you in Palm Springs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ian Mackenzie".

Ian Mackenzie
CWEA Membership & External Relations Committee Chair



Carpinteria Sanitary District
Board of Directors Meeting

STAFF REPORT

TO: Board of Directors
FROM: Craig Murray, P.E. - General Manager
SUBJECT: **Personal Device Communications Subject to California Public Records Act**
DATE: April 4, 2017

BACKGROUND: District legal counsel will review the recently State Supreme Court adjudicated ruling in the case of City of San Jose vs. Superior Court of Santa Clara County and Ted Smith. This decision makes findings related to disclosure of public records residing on personal electronic devices.

RECOMMENDATION: None. Information only.

SUGGESTED MOTION: None.

M _____ S _____

Ayes: _____ Nays: _____ Abstentions: _____

Prepared By:  _____
Craig Murray, P.E. - General Manager

Attachment: Supreme Court Ruling

\\CARP-DC1\Admin\Board\Staff Reports\2017\04-04-17\Personal Device PRA.doc



Carpinteria Sanitary District
Board of Directors Meeting

STAFF REPORT

TO: Board of Directors
FROM: Craig Murray, P.E. - General Manager
SUBJECT: **Personal Device Communications Subject to California Public Records Act**
DATE: April 4, 2017

BACKGROUND: District legal counsel will review the recent State Supreme Court ruling in the case of City of San Jose vs. Superior Court of Santa Clara County and Ted Smith. This decision makes findings related to disclosure of public records residing on personal electronic devices.

RECOMMENDATION: None. Information only.

SUGGESTED MOTION: None.

M _____ S _____

Ayes: _____ Nays: _____ Abstentions: _____

Prepared By:  _____
Craig Murray, P.E. - General Manager

Attachment: Supreme Court Ruling

\\CARP-DC1\Admin\Board\Staff Reports\2017\04-04-17\Personal Device PRA.doc

IN THE SUPREME COURT OF CALIFORNIA

CITY OF SAN JOSE et al.,)	
)	
Petitioners,)	
)	S218066
v.)	
)	Ct.App. 6 H039498
THE SUPERIOR COURT OF SANTA,)	Santa Clara County
CLARA COUNTY,)	Super. Ct. No. 109CV150427
Respondent;)	
)	
TED SMITH,)	
)	
Real Party in Interest.)	
)	
)	

Here, we hold that when a city employee uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act (CPRA or Act).¹ We overturn the contrary judgment of the Court of Appeal.

I. BACKGROUND

In June 2009, petitioner Ted Smith requested disclosure of 32 categories of public records from the City of San Jose, its redevelopment agency and the agency’s executive director, along with certain other elected officials and their

¹ Government Code section 6250 et seq. All statutory references are to the Government Code unless otherwise specified.

staffs.² The targeted documents concerned redevelopment efforts in downtown San Jose and included emails and text messages “sent or received on private electronic devices used by” the mayor, two city council members, and their staffs. The City disclosed communications made using City telephone numbers and email accounts but did not disclose communications made using the individuals’ personal accounts.

Smith sued for declaratory relief, arguing CPRA’s definition of “public records” encompasses all communications about official business, regardless of how they are created, communicated, or stored. The City responded that messages communicated through personal accounts are not public records because they are not within the public entity’s custody or control. The trial court granted summary judgment for Smith and ordered disclosure, but the Court of Appeal issued a writ of mandate. At present, no documents from employees’ personal accounts have been collected or disclosed.

II. DISCUSSION

This case concerns how laws, originally designed to cover paper documents, apply to evolving methods of electronic communication. It requires recognition that, in today’s environment, not all employment-related activity occurs during a conventional workday, or in an employer-maintained workplace.

Enacted in 1968, CPRA declares that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (§ 6250.) In 2004, voters made this principle part of our Constitution. A provision added by Proposition 59 states: “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, . . . the writings of public officials and agencies shall be open to public scrutiny.” (Cal. Const., art. I, § 3, subd. (b)(1).) Public access laws serve a

² These parties, sued as defendants below and the petitioners here, are collectively referred to as the “City.”

crucial function. “Openness in government is essential to the functioning of a democracy. ‘Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process.’ ”
(International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court (2007) 42 Cal.4th 319, 328-329 (International Federation).)

However, public access to information must sometimes yield to personal privacy interests. When enacting CPRA, the Legislature was mindful of the right to privacy (§ 6250), and set out multiple exemptions designed to protect that right. *(Commission on Peace Officer Standards & Training v. Superior Court (2007) 42 Cal.4th 278, 288 (Commission on Peace Officer Standards); see § 6254.)* Similarly, while the Constitution provides for public access, it does not supersede or modify existing privacy rights. (Cal. Const., art. I, § 3, subd. (b)(3).)

CPRA and the Constitution strike a careful balance between public access and personal privacy. This case concerns how that balance is served when documents concerning official business are created or stored outside the workplace. The issue is a narrow one: Are writings concerning the conduct of public business beyond CPRA’s reach merely because they were sent or received using a nongovernmental account? Considering the statute’s language and the important policy interests it serves, the answer is no. Employees’ communications about official agency business may be subject to CPRA regardless of the type of account used in their preparation or transmission.

A. *Statutory Language, Broadly Construed, Supports Public Access*

CPRA establishes a basic rule requiring disclosure of public records upon request. (§ 6253.)³ In general, it creates “a presumptive right of access to any record *created or maintained* by a public agency that relates in any way to the business of the public agency.” (*Sander v. State Bar of California* (2013) 58 Cal.4th 300, 323, italics added.) Every such record “must be disclosed unless a statutory exception is shown.” (*Ibid.*) Section 6254 sets out a variety of exemptions, “many of which are designed to protect individual privacy.” (*International Federation, supra*, 42 Cal.4th at p. 329.) The Act also includes a catchall provision exempting disclosure if “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.” (§ 6255, subd. (a).)

“When we interpret a statute, ‘[o]ur fundamental task . . . is to determine the Legislature’s intent so as to effectuate the law’s purpose. We first examine the statutory language, giving it a plain and commonsense meaning. We do not examine that language in isolation, but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment. If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did not intend. If the statutory language permits more than one reasonable interpretation, courts may consider other aids, such as the statute’s purpose, legislative history, and public policy.’ [Citation.] ‘Furthermore, we consider portions of a statute in the context of the entire statute and the statutory scheme of which it is a part, giving significance to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose.’ ” (*Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 165-166.)

³ CPRA was modeled on the federal Freedom of Information Act (FOIA) (5 U.S.C. § 552). (*San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 772.)

In CPRA cases, this standard approach to statutory interpretation is augmented by a constitutional imperative. (See *Sierra Club v. Superior Court*, *supra*, 57 Cal.4th at p. 166.) Proposition 59 amended the Constitution to provide: “A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be *broadly* construed if it furthers the people’s right of access, and *narrowly* construed if it limits the right of access.” (Cal. Const., art. I, § 3, subd. (b)(2), italics added.) “ ‘Given the strong public policy of the people’s right to information concerning the people’s business (Gov. Code, § 6250), and the constitutional mandate to construe statutes limiting the right of access narrowly (Cal. Const., art. I, § 3, subd. (b)(2)), “all public records are subject to disclosure unless the Legislature has *expressly* provided to the contrary.” ’ ” (*Sierra Club*, at p. 166.)

We begin with the term “public record,” which CPRA defines to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (§ 6252, subd. (e); hereafter “public records” definition.) Under this definition, a public record has four aspects. It is (1) a writing, (2) with content relating to the conduct of the public’s business, which is (3) prepared by, *or* (4) owned, used, or retained by any state or local agency.

1. *Writing*

CPRA defines a “writing” as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (§ 6252, subd. (g).) It is undisputed that the items at issue here constitute writings.

In 1968, creating a “writing” could be a fairly involved process. Typically, a person would use an implement to type, or record words longhand, or would

dictate to someone else who would write or type a document. Writings were generally made on paper or some other tangible medium. These writings were physically identifiable and could be retrieved by examining the physical repositories where they were stored. Writings exchanged with people outside the agency were generally sent, on paper, through the mail or by courier. In part because of the time required for their preparation, such writings were fairly formal and focused on the business at hand.

Today, these tangible, if laborious, writing methods have been enhanced by electronic communication. Email, text messaging, and other electronic platforms, permit writings to be prepared, exchanged, and stored more quickly and easily. However, the ease and immediacy of electronic communication has encouraged a commonplace tendency to share fleeting thoughts and random bits of information, with varying degrees of import, often to broad audiences. As a result, the line between an official communication and an electronic aside is now sometimes blurred. The second aspect of CPRA's "public records" definition establishes a framework to distinguish between work-related and purely private communications.

2. *Relating to the Conduct of the Public's Business*

The overall structure of CPRA, with its many exemptions, makes clear that not everything written by a public employee is subject to review and disclosure. To qualify as a public record, a writing must "contain[] information relating to the conduct of the public's business." (§ 6252, subd. (e).) Generally, any "record . . . kept by an officer because it is necessary or convenient to the discharge of his official duty . . . is a public record." (*Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 340; see *People v. Purcell* (1937) 22 Cal.App.2d 126, 130.)

Whether a writing is sufficiently related to public business will not always be clear. For example, depending on the context, an email to a spouse complaining "my coworker is an idiot" would likely not be a public record. Conversely, an email to a superior reporting the coworker's mismanagement of an

agency project might well be. Resolution of the question, particularly when writings are kept in personal accounts, will often involve an examination of several factors, including the content itself; the context in, or purpose for which, it was written; the audience to whom it was directed; and whether the writing was prepared by an employee acting or purporting to act within the scope of his or her employment. Here, the City claimed all communications in personal accounts are beyond the reach of CPRA. As a result, the content of specific records is not before us. Any disputes over this aspect of the “public records” definition await resolution in future proceedings.

We clarify, however, that to qualify as a public record under CPRA, at a minimum, a writing must relate in some substantive way to the conduct of the public’s business. This standard, though broad, is not so elastic as to include every piece of information the public may find interesting. Communications that are primarily personal, containing no more than incidental mentions of agency business, generally will not constitute public records. For example, the public might be titillated to learn that not all agency workers enjoy the company of their colleagues, or hold them in high regard. However, an employee’s electronic musings about a colleague’s personal shortcomings will often fall far short of being a “writing containing information relating to the conduct of the public’s business.” (§ 6252, subd. (e).)⁴

Coronado Police Officers Assn. v. Carroll (2003) 106 Cal.App.4th 1001 demonstrates the intricacy of determining whether a writing is related to public

⁴ We recognize that this test departs from the notion that “[o]nly purely personal” communications “totally void of reference to governmental activities” are excluded from CPRA’s definition of public records. (Assem. Statewide Information Policy Com., Final Rep. (Mar. 1970) 1 Assem. J. (1970 Reg. Sess.) appen. p. 9; see *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal.App.3d at p. 774.) While this conception may yield correct results in some circumstances, it may sweep too broadly in others, particularly when applied to electronic communications sent through personal accounts.

business. There, police officers sought access to a database of impeachment material compiled by public defenders. The attorneys contributed to the database and used its contents in their work. (*Id.* at p. 1005.) However, their representation of individual clients, though paid for by a public entity, was considered under case law to be essentially a private function. (*Id.* at pp. 1007-1009; see *Polk County v. Dodson* (1981) 454 U.S. 312, 321-322.) Accordingly, the *Coronado* court concluded the database did not relate to public business and thus was not a public record. (*Id.* at pp. 1007-1009.) The court was careful to note that not all documents related to the database were private, however. Documents reflecting policy decisions about whether and how to maintain the database might well relate to public business, rather than the representation of individual clients. (*Id.* at p. 1009.) Content of that kind would constitute public records. (*Ibid.*)

3. *Prepared by Any State or Local Agency*

The City focuses its challenge on the final portion of the “public records” definition, which requires that writings be “prepared, owned, used, or retained by any state or local agency.” (§ 6252, section (e).) The City argues this language does not encompass communications agency employees make through their personal accounts. However, the broad construction mandated by the Constitution supports disclosure.

A writing is commonly understood to have been prepared by the person who wrote it. If an agency employee prepares a writing that substantively relates to the conduct of public business, that writing would appear to satisfy the Act’s definition of a public record. The City urges a contrary conclusion when the writing is transmitted through a personal account. In focusing its attention on the “owned, used, or retained by” aspect of the “public records” definition, however, it ignores the “prepared by” aspect. (§ 6252, subd. (e).) This approach fails to give “ ‘significance to every word, phrase, sentence, and part’ ” of the Act. (*Sierra Club v. Superior Court, supra*, 57 Cal.4th at p. 166.)

The City draws its conclusion by comparing the Act's definitions of "local" and "state" agency. Under CPRA, " 'Local agency' includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952." (§ 6252, subd. (a), italics added.) The City points out that this definition does not specifically include individual government officials or staff members, whereas individuals *are* specifically mentioned in CPRA's definition of "*state agency*." According to that definition, " 'State agency' means every state office, *officer*, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution."⁵ (§ 6252, subd. (f)(1), italics added.) The City contends this difference shows the Legislature intended to exclude individuals from the local agency definition. If a local agency does not encompass individual officers and employees, it argues, only writings accessible to the agency as a whole are public records. This interpretation is flawed for a number of reasons.

The City's narrow reading of CPRA's local agency definition is inconsistent with the constitutional directive of broad interpretation. (Cal. Const., art. I, § 3, subd. (b)(2); see *Sierra Club v. Superior Court*, *supra*, 57 Cal.4th at p. 175.) Broadly construed, the term "local agency" logically includes not just the discrete governmental entities listed in section 6252, subdivision (a) but also the individual officials and staff members who conduct the agencies' affairs. It is well established that a governmental entity, like a corporation, can act only through its

⁵ Article IV establishes the Legislature, and article VI establishes the state's judiciary. (Cal. Const., arts. IV, VI.) These branches of government are thus generally exempt from CPRA. (See *Sander v. State Bar of California*, *supra*, 58 Cal.4th at p. 318; *Copley Press, Inc. v. Superior Court* (1992) 6 Cal.App.4th 106, 111.)

individual officers and employees. (*Suezaki v. Superior Court* (1962) 58 Cal.2d 166, 174; *Alvarez v. Felker Mfg. Co.* (1964) 230 Cal.App.2d 987, 998; see *United States v. Dotterweich* (1943) 320 U.S. 277, 281; *Reno v. Baird* (1998) 18 Cal.4th 640, 656.) A disembodied governmental agency cannot prepare, own, use, or retain any record. Only the human beings who serve in agencies can do these things. When employees are conducting agency business, they are working for the agency and on its behalf. (See, e.g., *Cal. Assn. of Health Facilities v. Dept. of Health Services* (1997) 16 Cal.4th 284, 296-297; cf. *Competitive Enterprise Institute v. Office of Science & Technology Policy* (D.C. Cir. 2016) 827 F.3d 145, 149 [reaching the same conclusion for federal FOIA requests].) We presume the Legislature was aware of these settled principles. (See *People v. Superior Court (Zamudio)* (2000) 23 Cal.4th 183, 199.) A writing prepared by a public employee conducting agency business has been “prepared by” the agency within the meaning of section 6252, subdivision (e), even if the writing is prepared using the employee’s personal account.

The City also fails to explain how its proposed requirement that a public record be “accessible to the agency as a whole” could be practically interpreted. Even when documents were stored in filing cabinets or ledgers, many writings would not have been considered accessible to all agency employees, regardless of their level of responsibility or involvement in a particular project.

Moreover, although employees are not specifically mentioned in the local agency definition, nothing in the statutory language indicates the Legislature meant to *exclude* these individuals from CPRA obligations. The City argues the omission of the word “officer” from the local agency definition reflects a legislative intent that CPRA apply to individuals who work in *state* agencies but *not* employees in local government. The City offers no reason why the Legislature would draw such an arbitrary distinction. If it intended to impose different disclosure obligations on state and local agencies, one would expect to find this difference highlighted throughout the statutory scheme, particularly when the

obligations relate to a “fundamental and necessary right of every person in this state.” (§ 6250.) Yet there is no mention of such an intent anywhere in the Act. Indeed, under the City’s logic, CPRA obligations would potentially extend only to state *officers*, not necessarily state *employees*. The distinction between tenured public officers and those who hold public employment has long been recognized. (See *In re M.M.* (2012) 54 Cal.4th 530, 542-544.) Considering CPRA’s goal of promoting public access, it would have been odd for the Legislature to establish different rules for different levels of state employment. Contrary to the City’s view, it seems more plausible that the reference to “every state . . . officer” in the state agency definition (§ 6252, subd. (f)) was meant to extend CPRA obligations to elected state officers, such as the Governor, Treasurer, or Secretary of State, who are not part of a collective governmental body nor generally considered *employees* of a state agency.⁶

The City’s position is further undermined by another CPRA provision, which indicates that public records can be held by individual officials and need not belong to an agency as a whole. When it is alleged that public records have been improperly withheld, section 6259, subdivision (a) directs that “the court shall order the officer or person charged with withholding the records” to disclose the records or show cause why they should not be produced. If the court concludes “the public official’s decision to refuse disclosure is not justified,” it can order “the public official to make the record public.” (§ 6259, subd. (b).) If the court

⁶ In one respect the local agency definition is worded more broadly than the state agency definition. Section 6252, subdivision (a) states that the term local agency “includes” a county, city, or one of several other listed entities. In statutory drafting, the term “includes” is ordinarily one “of enlargement rather than limitation.” (*Ornelas v. Randolph* (1993) 4 Cal.4th 1095, 1101.) “The ‘statutory definition of a thing as “including” certain things does not necessarily place thereon a meaning limited to the inclusions.’ ” (*Flanagan v. Flanagan* (2002) 27 Cal.4th 766, 774.) By contrast, the definition of “state agency” is couched in more restrictive language: “ ‘State agency’ *means* every state office, officer . . . ,” and other listed entities. (§ 6252, subd. (f), italics added.)

finds “that the public official was justified in refusing” disclosure, it must “return the item to the public official without disclosing its content.” (*Ibid.*) The Legislature’s repeated use of the singular word “official” in section 6259 indicates an awareness that an individual may possess materials that qualify as public records. Moreover, the broad term “public official” encompasses officials in state *and* local agencies, signifying that CPRA disclosure obligations apply to individuals working in both levels of government.

4. *Owned, Used, or Retained by Any State or Local Agency*

CPRA encompasses writings prepared *by* an agency but also writings it owns, uses, or retains, regardless of authorship. Obviously, an agency engaged in the conduct of public business will use and retain a variety of writings related to that business, including those prepared by people outside the agency. These final two factors of the “public records” definition, use and retention, thus reflect the variety of ways an agency can possess writings used to conduct public business.

As to retention, the City argues “public records” include only materials in an agency’s possession or directly accessible to the agency. Citing statutory arguments and cases limiting the duty to obtain and disclose documents possessed by others, the City contends writings held in an employee’s personal account are beyond an agency’s reach and fall outside CPRA. The argument fails.

Appellate courts have generally concluded records related to public business are subject to disclosure if they are in an agency’s actual *or constructive* possession. (See, e.g., *Board of Pilot Comrs. for the Bays of San Francisco, San Pablo and Suisun v. Superior Court* (2013) 218 Cal.App.4th 577, 598; *Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 710 (*Consolidated Irrigation*)). “[A]n agency has constructive possession of records if it has the right to control the records, either directly or through another person.” (*Consolidated Irrigation*, at p. 710.) For example, in *Consolidated Irrigation*, a city did not have constructive possession of documents in files maintained by subconsultants who prepared portions of an environmental impact report because

the city had no contractual right to control the subconsultants or their files. (*Id.* at pp. 703, 710-711.) By contrast, a city had a CPRA duty to disclose a consultant's field survey records because the city had a contractual ownership interest and right to possess this material. (See *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1426, 1428-1429 (*Community Youth*).

An agency's actual or constructive possession of records is relevant in determining whether it has an obligation to search for, collect, and disclose the material requested. (See § 6253, subd. (c).) It is a separate and more fundamental question whether a document located outside an agency's walls, or servers, is sufficiently "owned, used, or retained" by the agency so as to constitute a public record. (See § 6252, subd. (e).) In construing FOIA, federal courts have remarked that an agency's public records "do not lose their agency character just because the official who possesses them takes them out the door." (*Competitive Enterprise Institute v. Office of Science and Technology Policy*, *supra*, 827 F.3d at p. 149.) We likewise hold that documents otherwise meeting CPRA's definition of "public records" do not lose this status because they are located in an employee's personal account. A writing retained by a public employee conducting agency business has been "retained by" the agency within the meaning of section 6252, subdivision (e), even if the writing is retained in the employee's personal account.

The City argues various CPRA provisions run counter to this conclusion. First, the City cites section 6270, which provides that a state or local agency may not transfer a public record to a private entity in a manner that prevents the agency "from providing the record directly pursuant to this chapter." (Italics added.) Taking the italicized language out of context, the City argues that public records are only those an agency is able to access "directly." But this strained interpretation sets legislative intent on its head. The statute's clear purpose is to prevent an agency from evading its disclosure duty by transferring custody of a record to a private holder and then arguing the record falls outside CPRA because it is no longer in the agency's possession. Furthermore, section 6270 does not

purport to excuse agencies from obtaining public records in the possession of *their own employees*. It simply prohibits agencies from attempting to evade CPRA by transferring public records to an intermediary not bound by the Act's disclosure requirements.

Next, the City relies on section 6253.9, subdivision (a)(1), which states that an agency must make a public record available "in any electronic format in which *it holds* the information" (italics added), and on section 6253, subdivision (a), which requires that public records be available for inspection "during . . . office hours." These provisions do not assist the City. They merely address the mechanics of how public records must be disclosed. They do not purport to define or limit what constitutes a public record in the first place. Moreover, to say that only public records "in the possession of the agency" (§ 6253, subd. (c)) must be disclosed begs the question of whether the term "agency" includes individual officers and employees. We have concluded it does.

Under the City's interpretation of CPRA, a document concerning official business is only a public record if it is located on a government agency's computer servers or in its offices. Indirect access, through the agency's employees, is not sufficient in the City's view. However, we have previously stressed that a document's status as public or confidential does not turn on the arbitrary circumstance of where the document is located.

In *Commission on Peace Officer Standards, supra*, 42 Cal.4th at pages 289 to 290, a state agency argued certain employment information was exempt from disclosure under CPRA because it had been placed in confidential personnel files. In considering a Penal Code provision that deems peace officer personnel records confidential, we rejected an interpretation that made confidentiality turn on the type of file in which records are located, finding it "unlikely the Legislature intended to render documents confidential based on their location, rather than their content." (*Commission*, at p. 291.) Although we made this observation in analyzing the scope of a CPRA exemption, the same logic applies to the Act's

definition of what constitutes a public record in the first place. We found it unlikely “the Legislature intended that a public agency be able to shield information from public disclosure simply by placing it in” a certain type of file. (*Commission*, at p. 291.) Likewise, there is no indication the Legislature meant to allow public officials to shield communications about official business simply by directing them through personal accounts. Such an expedient would gut the public’s presumptive right of access (*Sander v. State Bar of California*, *supra*, 58 Cal.4th at p. 323), and the constitutional imperative to broadly construe this right (Cal. Const., art. I, § 3, subd. (b)(2)).

In light of these principles, and considering section 6252, subdivision (e) in the context of the Act as a whole (see *Smith v. Superior Court* (2006) 39 Cal.4th 77, 83), we conclude a city employee’s communications related to the conduct of public business do not cease to be public records just because they were sent or received using a personal account. Sound public policy supports this result.

B. *Policy Considerations*

Both sides cite policy considerations to support their interpretation of the “public records” definition. The City argues the definition reflects a legislative balance between the public’s right of access and individual employees’ privacy rights, and should be interpreted categorically. Smith counters that privacy concerns are properly addressed in the case-specific application of CPRA’s exemptions, not in defining the overall scope of a public record. Smith also contends any privacy intrusion resulting from a search for records in personal accounts can be minimized through procedural safeguards. Smith has the better of these arguments.

The City’s interpretation would allow evasion of CPRA simply by the use of a personal account. We are aware of no California law requiring that public officials or employees use only government accounts to conduct public business. If communications sent through personal accounts were categorically excluded from CPRA, government officials could hide their most sensitive, and potentially

damning, discussions in such accounts. The City's interpretation "would not only put an increasing amount of information beyond the public's grasp but also encourage government officials to conduct the public's business in private." (Senat, *Whose Business Is It: Is Public Business Conducted on Officials' Personal Electronic Devices Subject to State Open Records Laws?* (2014) 19 Comm. L. & Pol'y 293, 322.)

It is no answer to say, as did the Court of Appeal, that we must presume public officials conduct official business in the public's best interest. The Constitution neither creates nor requires such an optimistic presumption. Indeed, the rationale behind the Act is that it is for the *public* to make that determination, based on information to which it is entitled under the law. Open access to government records is essential to *verify* that government officials are acting responsibly and held accountable to the public they serve. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651.) "Such access permits checks against the arbitrary exercise of official power and secrecy in the political process." (*Ibid.*) The whole purpose of CPRA is to ensure transparency in government activities. If public officials could evade the law simply by clicking into a different email account, or communicating through a personal device, sensitive information could routinely evade public scrutiny.

The City counters that the privacy interests of government employees weigh against interpreting "public records" to include material in personal accounts. Of course, public employees do not forfeit all rights to privacy by working for the government. (*Long Beach City Employees Assn. v. City of Long Beach* (1986) 41 Cal.3d 937, 951.) Even so, the City essentially argues that the contents of personal email and other messaging accounts should be categorically excluded from public review because these materials have traditionally been considered private. However, compliance with CPRA is not necessarily inconsistent with the privacy rights of public employees. Any personal information not related to the conduct of public business, or material falling under

a statutory exemption, can be redacted from public records that are produced or presented for review. (See § 6253, subd. (a).)

Furthermore, a crabbed and categorical interpretation of the “public records” definition is unnecessary to protect employee privacy. Privacy concerns can and should be addressed on a case-by-case basis. (See *International Federation, supra*, 42 Cal.4th at p. 329.) Beyond the definition of a public record, the Act itself limits or exempts disclosure of various kinds of information, including certain types of preliminary drafts, notes, or memoranda (§ 6254, subd. (a)), personal financial data (§ 6254, subd. (n)), personnel and medical files (§ 6254, subd. (c)), and material protected by evidentiary privileges (§ 6254, subd. (k)). Finally, a catchall exemption allows agencies to withhold any record if the public interest served by withholding it “clearly outweighs” the public interest in disclosure. (§ 6255, subd. (a).) This exemption permits a balance between the public’s interest in disclosure and the individual’s privacy interest. (*International Federation*, at pp. 329-330; *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 755-756.) The analysis here, as with other exemptions, appropriately focuses on the *content* of specific records rather than their location or medium of communication. (See *Commission on Peace Officer Standards, supra*, 42 Cal.4th at p. 291.)⁷

⁷ While admitting it invoked no CPRA exemptions in the proceedings below, the City nevertheless asks us to decide that messages in employees’ personal accounts are universally exempt from disclosure under section 6255. This issue has not been preserved and is beyond the scope of our grant of review. It also appears impossible to decide on this record. Answering threshold questions about whether employees have a reasonable expectation of privacy (see *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35), or whether their messages are covered by the “deliberative process” privilege (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1339-1344) would require a fact-intensive review of the City’s policies and practices regarding electronic communications, if not the contents of the challenged documents themselves. The record here is insufficient.

The City also contends the search for public records in employees' accounts would itself raise privacy concerns. In order to search for responsive documents, the City claims agencies would have to demand the surrender of employees' electronic devices and passwords to their personal accounts. Such a search would be tantamount to invading employees' homes and rifling through their filing cabinets, the City argues. It urges no case has extended CPRA so far.

Arguments that privacy interests outweigh the need for disclosure in CPRA cases have typically focused on the sensitive content of the documents involved, rather than the intrusiveness involved in searching for them. (See, e.g., *International Federation, supra*, 42 Cal.4th 319; *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272.) Assuming the search for responsive documents can also constitute an unwarranted invasion of privacy, however, this concern alone does not tip the policy balance in the City's favor. Searches can be conducted in a manner that respects individual privacy.

C. *Guidance for Conducting Searches*

The City has not attempted to search for documents located in personal accounts, so the legality of a specific kind of search is not before us. However, the City and some amici curiae do highlight concerns about employee privacy. Some guidance about how to strike the balance between privacy and disclosure may be of assistance.

CPRA requests invariably impose some burden on public agencies. Unless a records request is overbroad or unduly burdensome, agencies are obliged to disclose all records they can locate "with reasonable effort." (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.) Reasonable efforts do not require that agencies undertake extraordinarily extensive or intrusive searches, however. (See *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 453; *Bertoli v. City of Sebastopol* (2015) 233 Cal.App.4th 353, 371-372.) In general, the scope of an agency's search for public records "need only be reasonably calculated to locate responsive documents."

(American Civil Liberties Union of Northern Cal. v. Superior Court (2011) 202 Cal.App.4th 55, 85; see *Community Youth, supra*, 220 Cal.App.4th at p. 1420.)

CPRA does not prescribe specific methods of searching for those documents. Agencies may develop their own internal policies for conducting searches. Some general principles have emerged, however. Once an agency receives a CPRA request, it must “communicate the scope of the information requested to the custodians of its records,” although it need not use the precise language of the request. (*Community Youth, supra*, 220 Cal.App.4th at p. 1417.) As to requests seeking public records held in employees’ nongovernmental accounts, an agency’s first step should be to communicate the request to the employees in question. The agency may then reasonably rely on these employees to search *their own* personal files, accounts, and devices for responsive material.

Federal courts applying FOIA have approved of individual employees conducting their own searches and segregating public records from personal records, so long as the employees have been properly trained in how to distinguish between the two. (See *Ethyl Corp. v. U.S. Environmental Protection Agency* (4th Cir. 1994) 25 F.3d 1241, 1247.) A federal employee who withholds a document identified as potentially responsive may submit an affidavit providing the agency, and a reviewing court, “with a sufficient factual basis upon which to determine whether contested items were ‘agency records’ or personal materials.” (*Grand Cent. Partnership, Inc. v. Cuomo* (2d Cir. 1999) 166 F.3d 473, 481.) The Washington Supreme Court recently adopted this procedure under its state public records law, holding that employees who withhold personal records from their employer “must submit an affidavit with facts sufficient to show the information is not a ‘public record’ under the PRA. So long as the affidavits give the requester and the trial court a sufficient factual basis to determine that withheld material is indeed nonresponsive, the agency has performed an adequate search under the PRA.” (*Nissen v. Pierce County* (Wn. 2015) 183 Wn.2d 863 [357 P.3d 45, 57].)

We agree with Washington’s high court that this procedure, when followed in

good faith, strikes an appropriate balance, allowing a public agency “to fulfill its responsibility to search for and disclose public records without unnecessarily treading on the constitutional rights of its employees.” (*Id.*, 357 P.3d at p. 58.)

Further, agencies can adopt policies that will reduce the likelihood of public records being held in employees’ private accounts. “Agencies are in the best position to implement policies that fulfill their obligations” under public records laws “yet also preserve the privacy rights of their employees.” (*Nissen v. Pierce County, supra*, 357 P.3d at p. 58.) For example, agencies might require that employees use or copy their government accounts for all communications touching on public business. Federal agency employees must follow such procedures to ensure compliance with analogous FOIA requests. (See 44 U.S.C. § 2911(a) [prohibiting use of personal electronic accounts for official business unless messages are copied or forwarded to an official account]; 36 C.F.R. § 1236.22(b) (2016) [requiring that agencies ensure official email messages in employees’ personal accounts are preserved in the agency’s recordkeeping system]; *Landmark Legal Foundation v. Environmental Protection Agency* (D.D.C. 2015) 82 F.Supp.3d 211, 225-226 [encouraging a policy that official emails be preserved in employees’ personal accounts as well].)

We do not hold that any particular search method is required or necessarily adequate. We mention these alternatives to offer guidance on remand and to explain why privacy concerns do not require categorical exclusion of documents in personal accounts from CPRA’s “public records” definition. If the City maintains the burden of obtaining records from personal accounts is too onerous, it will have an opportunity to so establish in future proceedings. (See *Connell v. Superior Court* (1997) 56 Cal.App.4th 601, 615-616; *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1188.)

D. Conclusion

Consistent with the Legislature’s purpose in enacting CPRA, and our constitutional mandate to interpret the Act broadly in favor of public access (Cal.

Const., art. I, § 3, subd. (b)(2)), we hold that a city employee's writings about public business are not excluded from CPRA simply because they have been sent, received, or stored in a personal account.

DISPOSITION

The judgment is reversed, and the case is remanded for further proceedings consistent with this opinion.

CORRIGAN, J.

WE CONCUR:

CANTIL-SAKAUYE, C. J.
WERDEGAR, J.
CHIN, J.
LIU, J.
CUÉLLAR, J.
KRUGER, J.

See last page for addresses and telephone numbers for counsel who argued in Supreme Court.

Name of Opinion City of San Jose v. Superior Court

Unpublished Opinion
Original Appeal
Original Proceeding
Review Granted XXX 225 Cal.App.4th 75
Rehearing Granted

Opinion No. S218066
Date Filed: March 2, 2017

Court: Superior
County: Santa Clara
Judge: James P. Kleinberg

Counsel:

Richard Doyle, City Attorney, Nora Frimann, Assistant City Attorney, and Margo Laskowska, Deputy City Attorney, for Petitioners.

Keith J. Bray, Joshua Rosen Daniels; Dannis Woliver Kelley, Sue Ann Salmon Evans and William B. Tunick for Education Legal Alliance of the California School Boards Association as Amicus Curiae on behalf of Petitioners.

Jennifer B. Henning for California State Association of Counties as Amicus Curiae on behalf of Petitioners.

Best, Best & Krieger, Shawn D. Hagerty and Hong Dao Nguyen for League of California Cities, California Association of Sanitation Agencies and California Special Districts Association Amici Curiae on behalf of Petitioners.

No appearance for Respondent.

McManis Faulkner, James McManis, Matthew Schechter, Christine Peek, Tyler Atkinson and Jennifer Murakami for Real Party in Interest.

Mastagni Holstedt, David E. Mastagni, Isaac S. Stevens and Jeffrey R.A. Edwards for Sacramento Police Officers' Association, Stockton Police Officers' Association, Sacramento County Deputy Sheriffs' Association, Sacramento County Law Enforcement Managers Association, San Bernardino County Public Attorneys Association, Deputy Sheriffs' Association of Alameda County, Statewide University Police Association, Sacramento Area Firefighters, International Association of Firefighters, Local 552, AFL-CIO, Palo Alto Firefighters, International Association of Firefighters, Local 1319, AFL-CIO, San Mateo County Deputy Sheriffs' Association, Rialto Professional Firefighters, International Association of Firefighters, Local 3688, AFL-CIO, Vallejo Police Officers' Association, Elk Grove Police Officers Association, Ontario Police Officers' Association, Placer County Deputy Sheriffs' Association, Federated University Police Officers' Association and Los Angeles Airport Peace Officers' Association as Amici Curiae on behalf of Real Party in Interest.

Page 2 – S208181 – counsel continued

Counsel:

Jack Cohen as Amicus Curiae on behalf of Real Party in Interest.

Ram, Olson, Cereghino & Kopczynski, Karl Olson; Juan F. Comejo; Jeffrey D Glasser; and James W. Ewert for California Newspaper Publishers Association, Los Angeles Times Communications LLC, McClatchy Newspapers, Inc., Hearst Corporation, First Amendment Coalition, Society of Professional Journalists, Californians Aware and the Reporters Committee for Freedom of the Press as Amici Curiae on behalf of Real Party in Interest.

Michael T. Risher, Matthew T. Cagle, Christopher J. Conley; Peter Bibring, Peter Eliasberg; David Loy; and Jennifer Lynch for American Civil Liberties Union Foundation of Northern California, Inc., American Civil Liberties Union of Southern California, Inc., American Civil Liberties Union of San Diego & Imperial County, Inc., and Electronic Frontier Foundation as Amici Curiae on behalf of Real Party in Interest.

Counsel who argued in Supreme Court (not intended for publication with opinion):

Nora Frimann
Assistant City Attorney
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113-1905
(408) 535-1900

James McManis
McManis Faulkner
50 West San Fernando Street, 10th Floor
San Jose, CA 95113
(408) 279-8700

Karl Olson
Ram, Olson, Cereghino & Kopczynski
555 Montgomery Street, Suite 820
San Francisco, CA 94111
(415) 433-4949