RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE CITY COUNCIL ADOPTING PROCEDURES FOR RECEIVING AND TABULATING PROTESTS AGAINST WATER AND SEWER RATE INCREASES UNDER PROPOSITION 218.

WHEREAS, the California Constitution, Article XIIID, section 6 (Proposition 218) requires the City to consider written protests to proposed increases to water and sewer rates; and

WHEREAS, Proposition 218 does not offer specific guidance as to who is allowed to submit protests, how written protests are to be submitted, or how the City is to tabulate the protests; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the following procedures are hereby adopted for submitting protests against proposed increases to water and/or sewer rates:

1. Notice of a proposed change in water and/or sewer fees, required under section 6(a) of Article XIIID of the California Constitution, shall be mailed to: a) all owners of record of each identified parcel, as provided in Government Code § 53750(g) and (j), and b) all water and/or sewer customers of the City as reflected in the billing records of the City at the time the notice is given. Notice shall be mailed at least forty-five days prior to the date of the public hearing on the proposed fees.
2. Any property owner or utility customer may submit a written protest at the public hearing or to the City Clerk, Mail Station No. _____, City Administration Building, 202 C Street, San Diego, CA 92101, before the end of the noticed public hearing. Protests must be received by the end of the public hearing. No protests received after that time, even if postmarked prior to that time, will be accepted.

3. Each protest must be in writing and identify the affected property (by assessor's parcel number or street address) and include the signature of a record property owner or utility customer. Protests submitted by e-mail will not be accepted. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City Council welcomes input from the community during the public hearing on the proposed fees.

4. If a parcel served by the City is owned by more than a single record owner or more than one name appears on the City's records as the customer for the property, or if the customer is not the record owner, each owner or customer may submit a protest, but only one protest will be counted per parcel. Any one protest submitted in accordance with these rules will be sufficient to count as a protest for that property.

5. To be valid, a protest must bear the original signature of a record owner or customer of record with respect to the property identified on the protest. Protests not bearing the original signature of a record owner or customer shall not be counted.

6. Any person who submits a protest may withdraw it by submitting a written request that the protest be withdrawn in person at the public hearing or to the City Clerk, Mail Station No. _____, City Administration Building, 202 C Street, San Diego, CA 92101, before the end of the public hearing. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or record customer who submitted both the protest and the request that it be withdrawn. Only the individual who submitted a protest may withdraw it.

7. The public hearing and protest required under Article XIII D, § 6(a) of the California Constitution (i.e., Proposition 218) prior to the adoption of new or changed fees for water and sewer service is not an election.

8. To ensure transparency and accountability in the fee protest tabulation, protests shall constitute disclosable public records from and after the time they are opened at the close of the public hearing. To protect the privacy interests of those participating in the proceeding and the integrity of the balloting process, protests shall not be open to public inspection prior to the close of the public hearing. The City Clerk shall establish appropriate and reasonable administrative, technical, and physical safeguards to ensure the security and confidentiality of protests as required by this paragraph.

BE IT FURTHER RESOLVED, that the following procedures are hereby adopted for tabulating protests against proposed increases to water and/or sewer rates:

1. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines that any of the following conditions exist:

    a. The protest does not identify a property served by the City utility for which the proposed fee is to be imposed.

    b. The protest does not bear an original signature of a record owner of the parcel identified on the protest or a record customer with respect to the parcel identified on the protest.

    c. The protest does not state its opposition to the proposed fee which is the subject of the protest proceeding.

    d. The protest was not received by the City Clerk before the close of the public hearing on the proposed fee.

    e. A request to withdraw the protest is received prior to the close of the public hearing on the proposed fee.

2. The City Clerk's decision regarding the validity of a protest shall constitute a final action of the City and shall not be subject to any internal appeal.

3. The City Clerk may begin tabulating written protests at any time following the close of the public hearing on the proposed fees. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of, or customers with respect to, a majority of the properties subject to the proposed fee.

4. During and after the tabulation of the protests, the protests shall be treated as disclosable public records, as defined in Section 6252 of the Government Code, and shall be equally available for public inspection to both supporters and opponents of the proposed fee.

5. At the conclusion of the public hearing, the City Clerk shall complete the tabulation of all protests received, including those received during the public hearing and shall report the results of the tabulation to the City Council upon completion. If cursory review of the protests received demonstrates that the number received is manifestly less than one-half of the parcels served by the City with respect to the fee which is the subject of the protest, then the Clerk may advise the City Council of the absence of a majority protest without tabulating the protests.

BE IT FURTHER RESOLVED, that this activity is not subject to the California Environmental Quality Act because it will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to CEQA Guidelines section 15060(c)(2).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Thomas C. Zeleny
Deputy City Attorney

TCZ:mb
12/15/06
Or.Dept:MWWD
MWD-
R-2007-655

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND, City Clerk

By _____
Deputy City Clerk

Approved: _____ _____
(date) JERRY SANDERS, Mayor

Vetoed: _____ _____
(date) JERRY SANDERS, Mayor