

**City of Santa Rosa**  
**Responses to Written Objections**

**1.) Telesmanic Objection**

**Procedural Requirements**

The Telesmanic Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies and utilized the City's Proposition 218 written objection form.

**Substantive Requirements**

However, the Telesmanic Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding." The Telesmanic Objection contains policy rationale, not legal argument, for why the proposed rate change should not proceed.

Both the City's Notice and its written objection form state that "[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement". The City finds and determines that Telesmanic has not complied with the City's substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Telesmanic is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

**Conclusion and Reservation of Rights**

Regarding the Telesmanic Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Telesmanic Objection.

**2.) Cox Objection**

**Procedural Requirements**

The Cox Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies and utilized the City's Proposition 218 written objection form.

### Substantive Requirements

However, the Cox Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding." The Cox Objection contains conclusory assertions without any supporting factual basis and most of the assertions do not relate to the City's substantive or procedural compliance with Proposition 218. For example, Cox notes "we intend to prove that there is adequate water supply that is not being utilized and has been cut off from the public use aftermore [sic], controlling or manipulating the water market." This does not provide "specific reference to statutes, rules, constitutional provisions, regulations, and/or cases that are alleged to be violated if the proposed rates are adopted", as required by the City's written objection form. As demonstrated in the 2024 Comprehensive Water and Wastewater Rate Study Report, prepared by independent expert consultant Hildebrand Consulting, LLC, the City's proposed water and wastewater rate increase seeks to recover the City's cost of service for its water and wastewater enterprises. Consequently, the City is not engaging in "price gouging" as alleged by the Cox Objection.

The Cox Objection does not "describe, with reference to your property and usage of water or wastewater services, how the proposed rates violate the provisions of law you cited above", as required by the City's written objection form.

Both the City's Notice and its written objection form state that "[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement". The City finds and determines that the Cox Objection does not comply with the City's substantive requirements for filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Cox is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

### Conclusion and Reservation of Rights

Regarding the Cox Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Cox Objection.

### **3.) Hunter Objection**

#### *Procedural Requirements*

The Hunter Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies and utilized the City's Proposition 218 written objection form.

#### *Substantive Requirements*

However, the Hunter Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding." The Hunter Objection contains policy rationale related to the human right to water, not legal argument, for why the proposed rate change should not proceed.

Both the City's Notice and its written objection form state that "[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement". The City finds and determines that Hunter has not complied with the City's substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Hunter is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

#### *Conclusion and Reservation of Rights*

Regarding the Hunter Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Hunter Objection.

### **4.) Paule Objection**

#### *Procedural Requirements*

The Paule Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies and utilized the City's Proposition 218 written objection form.

#### *Substantive Requirements*

However, the Paule Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that

they intend to pursue in a judicial action or proceeding.” The Paule Objection contains policy rationale citing “unreasonable” rate increases, not legal argument, for why the proposed rate change should not proceed.

Both the City’s Notice and its written objection form state that “[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement”. The City finds and determines that Paule has not complied with the City’s substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Paule is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

*Conclusion and Reservation of Rights*

Regarding the Paule Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Paule Objection.

**5.) Silva (1) Objection**

*Procedural Requirements*

The Silva (1) Objection was timely received prior to the City’s March 5, 2025, deadline to exhaust administrative remedies and utilized the City’s Proposition 218 written objection form.

*Substantive Requirements*

However, the Silva (1) Objection does not comply with the City’s substantive requirements for properly submitting a written objection, including that “(1) each part of this form must be filled out completely” and “(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding.” The Silva (1) Objection contains policy rationale related to unfair impacts to low-income households and urges the city “to reconsider cost-saving alternatives”. These are not legal arguments for why the proposed rate change should not proceed.

The Silva (1) Objection alleges that Proposition 218 “requires rates to reflect actual service costs, yet there is no clear justification for this increase.” The City disagrees; the 2024 Comprehensive Water and Wastewater Rate Study Report, prepared by independent expert consultant Hildebrand Consulting, LLC, demonstrates compliance with Proposition 218 by, among other things, demonstrating that the proposed change in rates for water and wastewater service do not exceed the funds required to provide those services. (Cal. Const., Art. XIII D, § 6, subd. (b).)

The Silva (1) Objection alleges “Gov. Code 53756 mandates reasonable adjustments.” This misstates section 53756. The City may, under section 53756, include an automatic adjustment that passes through increases in wholesale water rates upon compliance with four conditions:

1. The City’s proposed schedule of fees and charges must be “for a period not to exceed five years pursuant to [Government Code] Section 53755.” (Gov. Code § 53756, subd. (a).) Both the City’s Notice and the 2024 Comprehensive Water and Wastewater Rate Study Report limit the pass through to the 5-year period covered by the notice (2025-2029).
2. The schedule of fees and charges may include a schedule of adjustments, “including a clearly defined formula.” (*Id.* at subd. (b).) The City’s Notice states “the formula for this pass-through rate can be found in the 2024 Rate Study Report.”
3. The schedule of fees and charges for an agency, such as the City, that purchases wholesale water, such as from Sonoma County Water Agency, “may provide for automatic adjustments that pass through the adopted rate increases or decreases in the wholesale charges.” (*Id.* at subd. (c).) The City’s Notice states “It is proposed Santa Rosa Water adopt a policy whereby any changes by Sonoma Water (the wholesale water provider) to its rates will be reflected in Santa Rosa Water’s retail water rates during the 5-year period covered by this Notice.” Similarly, the 2024 Comprehensive Water and Wastewater Rate Study Report outlines the City’s wholesale water purchases from Sonoma Water and the proposed pass through policy.
4. The City must “notice any adjustment pursuant to the schedule...not less than 30 days before the effective date of the adjustment.” (*Id.* at subd. (d).) The City’s Notice states that “Santa Rosa Water customers will be notified of any such pass-through adjustments at least 30 days prior to the change in rates (on or after each July 1 of the 5-year period).”

The City disagrees with Silva (1)’s characterization of the requirements of section 53756. The City finds and determines that it has complied with the requirements of section 53756 in proposing the pass through policy applicable to water purchases from Sonoma County Water Agency.

#### Conclusion and Reservation of Rights

Both the City’s Notice and its written objection form state that “[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement”. The City finds and determines that portions of the Silva (1) Objection do not comply with the City’s substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. As to those portions of the Silva (1) Objection, Silva (1) is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

As to the balance of the Silva (1) Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Silva (1) Objection.

## 6.) Silva (2) Objection

### Procedural Requirements

The Silva (2) Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies and utilized the City's Proposition 218 written objection form.

### Substantive Requirements

However, the Silva (2) Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding." The Silva (2) Objection contains policy rationale related to "unnecessary financial burden on households" and "impacts to residents already struggling with rising living costs." These are not legal arguments for why the proposed rate change should not proceed.

The Silva (2) Objection alleges that the City's proposed rate change violates Proposition 218 "which requires rates to reflect actual service costs" and there is no "clear justification for this increase". The City disagrees; the 2024 Comprehensive Water and Wastewater Rate Study Report, prepared by independent expert consultant Hildebrand Consulting, LLC, demonstrates compliance with Proposition 218 by, among other things, demonstrating that the proposed change in rates for water and wastewater service do not exceed the funds required to provide those services. (Cal. Const., Art. XIII D, § 6, subd. (b).)

The Silva (2) Objection alleges "Gov. Code 53756 mandates reasonable adjustments." This misstates section 53756. The City may, under section 53756, include an automatic adjustment that passes through increases in wholesale water rates upon compliance with four conditions:

1. The City's proposed schedule of fees and charges must be "for a period not to exceed five years pursuant to [Government Code] Section 53755." (Gov. Code § 53756, subd. (a).) Both the City's Notice and the 2024 Comprehensive Water and Wastewater Rate Study Report limit the pass through to the 5-year period covered by the notice (2025-2029).
2. The schedule of fees and charges may include a schedule of adjustments, "including a clearly defined formula." (*Id.* at subd. (b).) The City's Notice states "the formula for this pass-through rate can be found in the 2024 Rate Study Report."

3. The schedule of fees and charges for an agency, such as the City, that purchases wholesale water, such as from Sonoma County Water Agency, “may provide for automatic adjustments that pass through the adopted rate increases or decreases in the wholesale charges.” (*Id.* at subd. (c).) The City’s Notice states “It is proposed Santa Rosa Water adopt a policy whereby any changes by Sonoma Water (the wholesale water provider) to its rates will be reflected in Santa Rosa Water’s retail water rates during the 5-year period covered by this Notice.” Similarly, the 2024 Comprehensive Water and Wastewater Rate Study Report outlines the City’s wholesale water purchases from Sonoma Water and the proposed pass through policy.
4. The City must “notice any adjustment pursuant to the schedule...not less than 30 days before the effective date of the adjustment.” (*Id.* at subd. (d).) The City’s Notice states that “Santa Rosa Water customers will be notified of any such pass-through adjustments at least 30 days prior to the change in rates (on or after each July 1 of the 5-year period).”

The City disagrees with Silva (2)’s characterization of the requirements of section 53756. The City finds and determines that it has complied with the requirements of section 53756 in proposing the pass through policy applicable to water purchases from Sonoma County Water Agency.

#### Conclusions and Reservation of Rights

Both the City’s Notice and its written objection form state that “[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement”. The City finds and determines that portions of the Silva (2) Objection do not comply with the City’s substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. As to those portions of the Silva (2) Objection, Silva (2) is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

As to the balance of the Silva (2) Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Silva (2) Objection.

#### **7.) Paterson Objection**

##### Procedural Requirements

The Paterson Objection was timely received prior to the City’s March 5, 2025, deadline to exhaust administrative remedies and utilized the City’s Proposition 218 written objection form.

### Substantive Requirements

However, the Paterson Objection does not comply with the City's substantive requirements for properly submitting a written objection, including that "(1) each part of this form must be filled out completely" and "(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding." The Paterson Objection contains policy rationale, not legal argument, for why the proposed rate change should not proceed by simply stating "I object to the proposed rate increase".

Both the City's Notice and its written objection form state that "[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement". The City finds and determines that Paterson has not complied with the City's substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Paterson is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

### Conclusion and Reservation of Rights

Regarding the Paterson Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Paterson Objection.

## **8.) Fitch Objection**

### Procedural Requirements

The Fitch Objection was timely received prior to the City's March 5, 2025, deadline to exhaust administrative remedies, using a slightly modified version of the City's written objection form.

### Substantive Requirements

The Fitch Objection alleges the proposed water and wastewater rate increases violate (a) Proposition 218, (b) Government Code section 1090 and (c) Business and Professions Code section 17200. Each is discussed hereafter.

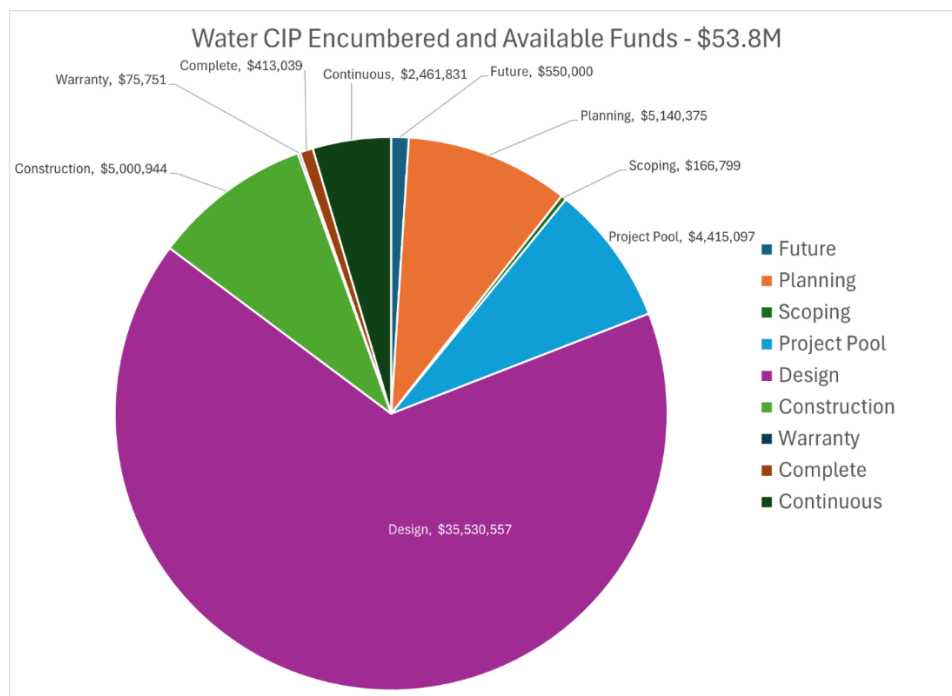
#### *a. Fitch Objection – Proposition 218 Allegations*

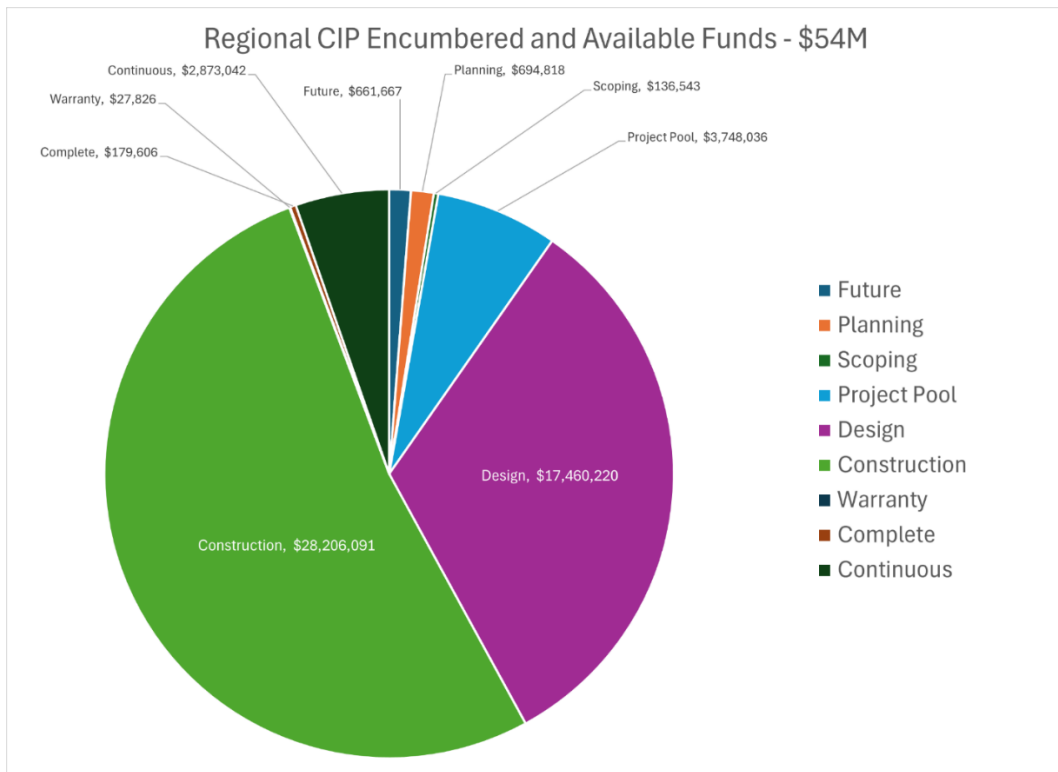
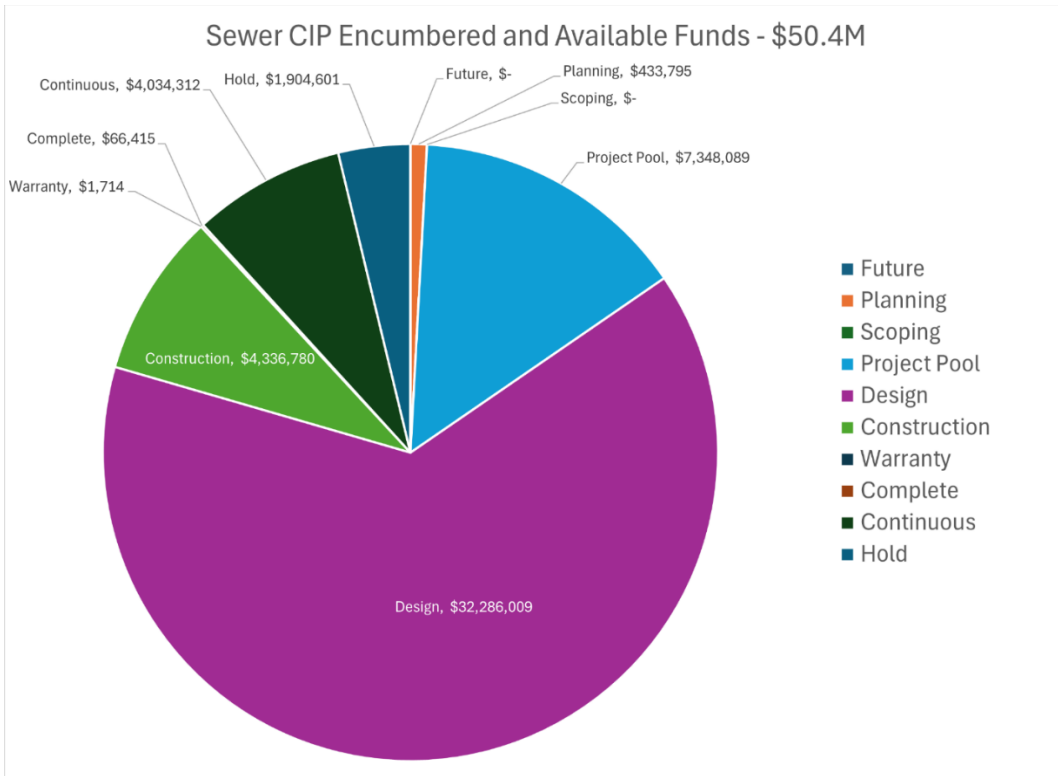
The Fitch Objection alleges that the City's proposed rate change violates California Constitution Article XIII D, section 6, subdivision (b)(3), because the proposed rates "are likely to generate revenue that exceeds the actual cost of providing service, as evidenced by excessive reserve levels, high debt coverage ratios, and the lack of an independent unbiased rate study." The City disagrees with this allegation.



In reference to excessive reserve levels, the City is implementing a program that will more aggressively deliver capital projects that have been previously encumbered. The delivery of capital projects has historically been delayed by staff turnover and delays in hiring. The rate study reflects the City’s plan to increase capital spending and draw down on current reserve levels until target reserves are achieved. The financial plans for both water and wastewater show a decrease in reserves over the course of the 10-year period. The increase to the targeted Catastrophic Reserve is justified based on a 2020 engineering analysis prepared by a third party.

Capital projects take multiple years to deliver, starting with planning, scoping, design, permitting, and ultimately construction of the project. As of January 31, 2025, here is the status of the various capital projects for the water system, funded by water rates, and the wastewater and regional system, funded by wastewater rates, as follows:





In reference to a high debt coverage ratio, this metric is only useful in indicating when the ratio is too low. The debt coverage ratio is not designed to measure whether the ratio is “too high”, as suggested in the Fitch Objection. A high debt coverage ratio simply indicates that the enterprise does not rely heavily on debt. For example, if the enterprise had no debt, the ratio would be infinitely large. Therefore, a high debt coverage ratio is not an indication of excessive revenue and does not indicate that rate revenue will exceed the cost of service.

In reference to the unbiased rate study, the allegation of a conflict of interest is addressed in Section 7.b. below.

The 2024 Comprehensive Water and Wastewater Rate Study Report, prepared by independent expert consultant Hildebrand Consulting, LLC, demonstrates that the City’s proposed rates for water and wastewater services do not exceed the cost of providing those services.

The Fitch Objection alleges that the City’s proposed rate change violates California Constitution Article XIII D, section 6, subdivision (b)(4), because the pass through provision violates Proposition 218’s proportionality requirement. The City disagrees that the proposed pass through policy violates Proposition 218. Wholesale pass-through is explicitly authorized by California Government Code section 53756, which states that “[a]n agency providing water, sewer, or refuse collection service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water....” The City has complied with all the requirements of section 53756, including the limitation of a 5-year period for the pass-through provision, the publication of a clearly defined formula for the adjustments, and the City will provide notice of adjustments not less than 30 days before the effective date of each adjustment. The annual increases to the wholesale cost of water delivered by Sonoma County Water Agency (“Sonoma Water”, Santa Rosa Water’s wholesale supplier) undergo a rigorous review process each year prior to approval and adoption. The proposed increases are presented to Sonoma Water’s contracting agencies each year as the “Water Transmission Budget”. As defined by the Restructured Agreement for Water Supply between Sonoma Water and its water contractors, which includes the City, a Water Advisory Committee (“WAC”) consisting of an elected official from each of the contractors, and a Technical Advisory Committee (“TAC”) consisting of technical staff from each of the contractors, provides input to the Sonoma Water Board of Directors. Every year, the TAC appoints contracting agency personnel to the “TAC Finance Subcommittee” which meets with Sonoma Water personnel to review the proposed Sonoma Water budget, ask questions, and get more detail on line items and budget factors driving the proposed water transmission budget and rates. At the conclusion of that process, the TAC Finance Subcommittee members, on behalf of their respective agencies, vote on the proposal.

The next body to discuss the Sonoma Water budget and rate proposal is the TAC, also comprised of contracting agency representatives, including the Director of Santa Rosa Water. Once the TAC review process is complete, the TAC then holds a formal vote on the proposal. Following the TAC vote, the wholesale rate increase proposal is then brought before Santa Rosa’s Board of Public Utilities (“BPU”) as a report item in an open and public meeting, for consideration. At the end of the report item, the BPU votes on whether to recommend to the

Santa Rosa City Council that they have their Water Advisory Committee (WAC) Representative, a City Council member, vote in favor of the Sonoma Water budget and rate proposal. The item then in an open and public meeting goes before the Santa Rosa City Council for consideration of how they would like their WAC representative to vote on the proposal when the WAC ultimately holds its vote. The process of approving wholesale water rates culminates with a vote in an open and public meeting by the Sonoma Water Board of Directors, who hold the final authority as to what rate increase (or decrease) shall be implemented for the following fiscal year. As such, the annual process to establish wholesale water rates is heard at a minimum of 5 public meetings prior to adoption, with the public having ample opportunity to participate in decisionmaking on the budget and rate proposals prior to adoption.

The Fitch Objection alleges that the City's proposed rate change "potentially violates" California Constitution Article XIII D, section 6, subdivision (b)(5) by not "demonstrably linking the fee to actual use or availability". The City disagrees because it only charges customers that are physically connected to the water and/or wastewater systems, which establishes the availability of the services, and the rate schedule for both water and wastewater includes a "usage" rate which charges for "actual use." The City's 2-tier water rate structure for single-family residential and duplex accounts is individual to each customer account as the first tier is based on each customer's winter water use or sewer cap, and any water use above the sewer cap is billed at the second tier. The sewer cap is calculated for each individual account as the average of that account's water use for complete billing periods from November through March, when water is primarily used for indoor purposes. The individual sewer cap is also used to bill each account for wastewater. The City's 2-tier water rate structure for dedicated irrigation accounts is billed on a water budget that is customized for each account based on property's irrigated area and plant type, as well as actual evapotranspiration rates per billing period. The first tier includes water usage up to 125 percent of the water budget, while any water usage over tier one is billed at the second tier. The current rate structure provides the ability for customers to reduce their monthly charges by reducing their water use. While the City has considered alternative rate structures in the past, and intends on doing so in the future, there is no legal obligation to "conduct a comprehensive and unbiased evaluation of alternative rate structures".

The Fitch Objection alleges that the City's proposed rate change violates California Constitution Article XIII D, section 6, subdivision (a) by not providing "meaningful opportunity for protest". The City disagrees. On January 15, 2025 the City mailed Notices to all property owners and water and wastewater users. The Notice contained all content required by Proposition 218. Additionally, while not legally required, the Notice included directions on how to protest and how to obtain an example written protest form. The Notice and supporting documentation were publicly available for 76 days (January 15, 2025, through the protest hearing on April 1, 2025), well beyond the minimum 45-days required by Proposition 218.

The Fitch Objection alleges that the City's proposed 5-year schedule of proposed water and wastewater rate increases violates Government Code section 53759.1 because it does not have

“adequate annual review”. The City disagrees because Government Code section 53759.1 does not require a process of annual reviews. The current rate study provided transparent data and explanations for the proposed rates for a 5-year period. Government Code section 53756 authorizes water and wastewater providers, such as the City, to adopt a schedule for up to 5-years. Neither Proposition 218, nor Government Code section 53759, require an annual review process. However, when the City adopts a multi-year water and wastewater rate schedule, as part of the City’s annual budget preparation and ultimate adoption, Santa Rosa Water staff, the Board of Public Utilities and the City Council reviews the adopted water and sewer rates for the next fiscal years’ budget and determines if the adopted rates are still appropriate or need to be reduced. For example, for the FY 2016/17 wastewater budget, after review of the budget and the adopted rate, the Council decided to reduce the Proposition 218 allowable rate increase from 3% and instead implemented a 2% rate increase.

The portion of water rates subject to the proposed pass through policy and attributable to Sonoma Water’s changes to its wholesale rates will be reviewed annually and customers will receive at least 30 days’ notice of changes in water rates attributable to changes in wholesale rates.

The Fitch Objection repeatedly references “*HdL Companies v. City of Hemet*” as supportive of the City’s alleged Proposition 218 issues. However, after a diligent search, the City is unable to find a case matching or even close to that name or involving either/both parties in the Proposition 218 setting. The City’s written objection form required “specific reference to statutes, rules, constitutional provisions, regulations, and/or cases that are alleged to be violated...”. The City is unable to respond to the *HdL Companies* reference because Fitch did not provide specific reference to this dispute.

*b. Fitch Objection – Allegations Related to Government Code section 1090*

The Fitch Objection asserts that “a potential conflict of interest” exists under Government Code section 1090 because the City retained Hildebrand Consulting, LLC, to assist with the development of the 2024 Comprehensive Water and Wastewater Rate Study Report. The City disagrees.

Hildebrand Consulting, LLC, was selected through a competitive process. On or about August 17, 2023, the City published a request for proposals for water and wastewater rate consultant services. The City received five responses all of which were reviewed by a selection committee who then scored the responses based on the following criteria: overall responsiveness; experience with similar agency’s rates and rate structures; references; and cost. The City determined that Hildebrand Consulting, LLC, was the most responsive and qualified bidder to perform the required rate study and develop the 2025-2029 rate schedules. Hildebrand Consulting, LLC, disclosed its experience with similar projects in its response, which identified ten public entities for which it had prepared rate studies. The selection committee’s recommendation was presented to the Board of Public Utilities on November 2, 2023 and approved.

On or about November 7, 2023 the City entered into a contract with Hildebrand Consulting, LLC. In executing the Agreement, Hildebrand Consulting, LLC, specifically attested that it had no conflict of interest:

**14. CONFLICTS OF INTEREST**

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City or that would in any way hinder Consultant’s performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of City. Consultant agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City at all times during the performance of this Agreement.

The Fitch Objection asserts that City’s use of Hildebrand Consulting, LLC “creates a potential conflict of interest and undermines the independence of the rate study” because Hildebrand Consulting was employed by neighboring cities to perform similar studies. Even assuming Hildebrand Consulting, LLP, is a “public official” subject to section 1090 (it is not), the Fitch Objection provided no authority to support the claim that Hildebrand Consulting’s prior performance of work in the same general geographical area as the City is a violation of Government Code section 1090. The contention that a consultant performing a rate study must not have performed work in the surrounding area is unfounded and in fact undermines the request for proposal’s goal of ensuring that qualified and *experienced* professionals provide the service.

The Fitch Objection does not allege facts, nor is the City aware of any facts, that support that any of the City’s public officials involved in the approval of the consultant agreement with Hildebrand Consulting, LLC, had a disqualifying conflict of interest under section 1090.

Hildebrand Consulting was paid on an hourly basis. Hildebrand Consulting did not receive any financial benefit, direct or indirect, based on the conclusions of its study or from any potential subsequent adoption of the rate increases by the City Council. Fitch provides no facts to suggest otherwise.

The Fitch Objection claims that the failure to disclose the “conflict of interest” prohibited him from making an informed decision regarding rate increases and effectively exercising his right to protest. As there is no Government Code section 1090 conflict to disclose, both arguments lack merit.

*c. Fitch Objection – Allegations Related to Business & Professions Code § 17200*

The Fitch Objection alleges that the “undisclosed conflict of interest and resulting artificially inflated rates, driven by a consultant serving multiple municipalities in a self-referential cycle,

could potential constitute an “Unfair, deceptive, or unlawful” business practice” in violation of Business and Professions Code section 17200. The Fitch Objection provides no facts or authority to support this claim. For this reason, alone, the Fitch Objection fails to comply with the substantive requirements of the City’s written objection form, including that “[g]eneralized objections are insufficient” and “incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement.”

In addition, the allegation has no substantive basis. First, Business and Professions Code sections 17200 and 17500 have been held not to apply to governmental entities as defendants, even if those entities are acting in a nongovernmental capacity. (See, e.g., *People for Ethical Treatment of Animals, Inc. v. California Milk Producers Advisory Bd.* (2005) 125 Cal.App.4th 871). Second, even assuming, *arguendo*, section 17200 applied to public entities, it is unclear from the Fitch Objection as to whether the allegation relates to (1) unfair competition, (2) untrue or misleading advertising, or (3) some other act prohibited by section 17500 of the Business and Profession Code. The Fitch Objection fails to provide facts to support this vague allegation making it impossible for the City to respond in greater detail.

#### Conclusion and Reservation of Rights

Regarding the Fitch Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(1) of Government Code section 53759.1 that clarifications set forth in this response are warranted. These clarifications add to the analyses, including the 2024 Comprehensive Water and Wastewater Rate Study Report, the City relied upon in proposing the water and wastewater rate changes under Proposition 218. These clarifications do not warrant any changes to the actual water and wastewater rate increases proposed by the City. Additionally, pursuant to subdivision (d)(4) of Government Code section 53759.1 the City elects to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Fitch Objection.

### **9.) Barbera Objection**

#### Procedural Requirements

The Barbera Objection was timely received prior to the City’s March 5, 2025, deadline to exhaust administrative remedies and utilized the City’s Proposition 218 written objection form.

#### Substantive Requirements

However, the Barbera Objection does not comply with the City’s substantive requirements for properly submitting a written objection, including that “(1) each part of this form must be filled out completely” and “(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that

they intend to pursue in a judicial action or proceeding.” The Barbera Objection contains policy rationale, not legal argument, for why the proposed rate change should not proceed by describing the proposed rate changes as “unfair” and noting that “[t]hroughout my research I could not find any violations of statutes, rules, constitutional provisions or regulations.”

Both the City’s Notice and its written objection form state that “[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement.” The City finds and determines that Barbera filed a noncompliant or incomplete written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Barbera is prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

#### Conclusion and Reservation of Rights

Regarding the Barbera Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Barbera Objection.

### **10.) Hawkins Objection**

#### Procedural Requirements

The Hawkins Objection was timely received prior to the City’s March 5, 2025, deadline to exhaust administrative remedies and utilized the City’s Proposition 218 written objection form.

#### Substantive Requirements

However, the Hawkins Objection does not comply with the City’s substantive requirements for properly submitting a written objection, including that “(1) each part of this form must be filled out completely” and “(3) generalized objections are insufficient. To satisfy this exhaustion of administrative remedies requirement, objecting parties must present the exact issue(s) that they intend to pursue in a judicial action or proceeding.” The Hawkins Objection contains policy rationale, not legal argument, for why the proposed rate change should not proceed by describing the proposed rate changes as “lack[ing] specifics” and expressing a desire to receive a more detailed analysis of the City’s expenses.

Both the City’s Notice and its written objection form state that “[l]ate-filed, noncompliant, or incomplete written objections will not be considered as satisfying the exhaustion of administrative remedies requirement.” The City’s finds and determines that Hawkins has not complied with the City’s substantive requirements for properly filing a written objection and for these reasons the objection is not resulting in amendments to the proposed rate changes. Consequently, Hawkins is prohibited from bringing a judicial action or proceeding alleging



noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b).

Additionally, Hawkins alleges that “Per Proposition 218 the district [sic] must show how the increase is necessary and how it will be spent.” The 2024 Comprehensive Water and Wastewater Rate Study Report, prepared by independent expert consultant Hildebrand Consulting, LLC, details how the City’s proposed water and wastewater rate increase seeks to recover the City’s cost of service for its water and wastewater enterprises. The Rate Study Report sets forth detailed analysis of the proposed rate changes, including how the rates satisfy the substantive requirements of Proposition 218. (Cal. Const. Art. XIII D § 6, subds. (b)(1)-(5).)

*Conclusion and Reservation of Rights*

Regarding the Hawkins Objection, in exercising its legislative discretion, the City determines pursuant to subdivision (d)(4) of Government Code section 53759.1 to proceed with the protest hearing required under section 6 of Article XIII D of the California Constitution.

The City reserves all rights, claims, and defenses in the event of litigation concerning the Hawkins Objection.

**11.) All Other Objections**

The City’s written objection deadline was close of business March 5, 2025. If the City receives objections after this deadline, the City deems them untimely and will not be considered as satisfying the exhaustion of administrative remedies requirement.

Similarly, if the City receives amendments to any timely received written objection after its March 5, 2025, deadline, the amended objections will be considered untimely and will not be considered as satisfying the exhaustion of administrative remedies requirement.

Oral objections, including those that may be communicated at the City’s April 1, 2025 protest hearing, will not be considered as satisfying the exhaustion of administrative remedies requirement.

Any person submitting a late-filed objection, a late-amended objection, or an oral objection is prohibited from bringing judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for new, increased, or extended fees under Government Code section 53759.1, subdivision (b). The City reserves all rights, claims and defenses in the event of litigation concerning any such objections.