

EXHIBIT 16-D

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May 1, 2018

TO: David Stoldt
FROM: David C. Laredo, General Counsel
RE: Initiative Petition – Summary of Process

I understand the Monterey County Registrar of Voters has reviewed signatures on the petition submitted by Public Water Now (Initiative Petition) and found that the measure contains sufficient qualified signatures to require an election.

Elections Code, Division 9, Chapter 4, District Elections, pertains to handling of the Initiative Petition. Pursuant to Elections Code § 9309 (d),¹ the District's Elections Officer is required to notify Initiative proponents of the certification. Subsection (f) provides when the petition is found sufficient, the District elections official shall certify the results of the examination to the governing board of the district at the next regular meeting of the board. At that meeting, the District Board of Directors may: 1) adopt the ordinance, without alteration, either at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented; or 2) adopt a Resolution to immediately order that the ordinance be submitted to the voters, without alteration, pursuant to subdivision (a) of Section 1405. (Elec. Code § 9310).

Section 1405(a) provides that a special election for a district initiative that qualifies pursuant to Section 9310 shall be held not less than 88 nor more than 103 days after the date of the order of election. But because the petition did not request a special election, pursuant to section 1405, the election on the Initiative may be consolidated with the state regular or special election. The next general election is set for **November 6, 2018**.

Printing Requirement

Section 9312 provides that whenever an ordinance is required to be submitted to the voters of a district at any election, the District elections official shall cause the ordinance to be printed. A copy of the ordinance shall be made available to any voter upon request.

Here, the Initiative Petition contains a proposed Ordinance that adds Rule 19.8 to the District Rules

¹ All references are to the California Elections Code unless otherwise provided.

and Regulations.² Based upon the plain language of the statutory provision, the District could choose to excerpt and print only the Ordinance from the Initiative Petition. The Monterey County Registrar's office should be contacted for guidance as to whether the full text of Initiative Petition must be printed. If possible, to defray printing costs, in addition to printed copies, the District could post the Ordinance on its website, and the County and Registrar's office can be asked to provide links to the Ordinance on their websites.

The Registrar's office should confirm it will prepare an agreement for District approval to set forth the scope of services provided by the Registrar's office, that among other things, provides for the Registrar to mail the sample ballot to the voters with the notification required by section 9312.

Impartial Analysis

Section 9314 provides that "whenever any petition is submitted to the voters of a water district, the district elections official shall transmit a copy of the measure to the legal counsel for the water district." "Water district" means a water district as defined in Section 20200 of the Water Code, which includes "California water districts." Accordingly, the District is considered a water district under section 9314.

District Counsel is required to "prepare, subject to review and revision by the county counsel, an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure" unless District Counsel and Monterey County Counsel agree the County Counsel will instead prepare the impartial analysis. The Office of the Monterey Counsel has confirmed it is prepared to draft the required impartial analysis in accord section 9314. I recommend that this path to ensure impartiality.

The Registrar's Office has established an election calendar for the November 6, 2018 election. Pursuant to that schedule, the impartial analysis is to be submitted on or before **August 16, 2018**.

Written Arguments

Section 9315 provides that Initiative proponents may file a written argument in favor of the ordinance, and the District Board "may submit an argument against the ordinance." The Registrar's office should confirm that when the County conducts an election on behalf of a district, arguments and rebuttals fall within section 9162. Section 9162 (a) provides,

"The board of supervisors or any member or members of the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of these voters and associations may file a written argument for or against any county measure. No argument shall exceed 300 words in length. . ."

Section 9162 sets forth the requirements for the length and form of the argument. Section 9167

² The Ordinance requires the General Manager to complete a Feasibility Analysis and Acquisition Plan for the acquisition, long-term ownership, and management by the District of California-American Water Company's assets. If the acquisition is feasible, the District shall take all necessary and proper actions consistent with its powers under District Law and Eminent Domain Law to acquire Cal-Am's water system assets.

allows both parties to submit rebuttal arguments, or to authorize others to prepare, submit or sign rebuttal arguments.

The District Election Official “charged with the duty of conducting the election shall fix and determine a reasonable date prior to the election for the submission to the district elections official of an argument in favor of and against the ordinance, and additional rebuttal arguments as provided in Section 9317.” (§ 9316.)

The District Election Official should therefore set a time limit by which any proposed argument in favor of or against the ordinance should be received by the District to enable sufficient time for review of those arguments in advance of their transmission to the Registrar’s Office.

We understand the Registrar’s Office election calendar for the November 6, 2018 election to require arguments be submitted to that office on or before **August 16, 2018**, and rebuttal arguments to be submitted to that office on or before **August 23, 2018**.

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