SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-G**

FROM: Ed Fortner, General Manager

Meeting Date: August 6, 2020

SUBJECT: Proposed District Tax Lien Policy

RECOMMENDED ACTION: Receive report and approve the Proposed District Tax Lien Policy Changes. Approve Resolution 20-19.

FISCAL IMPACT: N/A

DISCUSSION:

The Covid-19 Disaster has created a need to view many policies and procedures of the District differently. At the July 2nd Board meeting, direction was given to the GM to bring back a resolution clarifying the District's right to lien property taxes to collect delinquent billing. I have consulted with our legal counsel and with the County Tax Collections Department to confirm that the District is authorized to use this lien process.

I recommend that the District begin this process on an annual basis at the end of our fiscal year, in June 2021, and bring forward to the Board a list of delinquent accounts over 90 days overdue that have not been in contact with the District to set up a payment plan. A public hearing would be scheduled concurrent with the June, 2021 Board meeting where approval by the Board of the delinquent accounts scheduled for lien would occur. The list of delinquent accounts owners would be sent to the County to impose a lien on the property's current property tax bill. These collections would then be transferred to the District much as our annual assessment collections are handled. Resolution 20-19 is on tonight's agenda for review and approval.

Resolution No. 20-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT ESTABLISHING A PROCEDURE FOR THE IMPOSITION OF LIENS AND COLLECTION BY PROPERTY TAX ROLL

WHEREAS, the Sweetwater Springs Water District ("District") is a county water district formed pursuant to the County Water District Law, Water Code Section 30000, *et seq*.; and

WHEREAS, pursuant to Water Code Sections 31007 and 31025, the District provides domestic water services to its residents and collects from such customers certain rates and charges to fund the operation and maintenance the District; and

WHEREAS, the District Board of Directors ("Board") is authorized by Water Code Section 31024 to establish rules and regulations for the sale, distribution, and use of water, which are codified in the Sweetwater Springs Water District Policies & Procedures ("SSWD Policies" or "SSWD Policy") and related actions by the Board; and

WHEREAS, pursuant to subdivision (e) of Water Code Section 31701, the District is authorized to submit to the county auditor, on an annual basis, a statement of delinquent and unpaid charges for water and other services that have been unpaid for sixty (60) days or more on July 1st; and

WHEREAS, pursuant to Water Code Section 31701.5, the delinquent charges listed on such statement shall be added to and become a part of the annual taxes next levied upon the property subject to such charges and will constitute a lien against the property; and

WHEREAS, pursuant to Water Code Section 31701.7, the District is authorized to secure unpaid water charges at any time by a certificate specifying the amount of such charges and the name and address of the person liable therefor in the county recorder's office; and

WHEREAS, SSWD Policy 3020.120 states that the District has reserved the right to lien properties on the tax rolls for unpaid water charges in a manner adopted by resolution of the board; and

WHEREAS, SSWD Policy 3070.50 states that the District has reserved the right to seek any remedy available to the District, including imposing a property lien, to collect delinquent bills; and

WHEREAS, subdivision (G) of SSWD Policy 3070.70 states that the General Manager is authorized to impose a lien on properties where water services charges are incurred by a tenant; and

WHEREAS, the Board now desires to adopt a procedure impose a lien on properties with delinquent water service charges, penalties, and interest by recording a lien on the property with the Sonoma County Clerk-Recorder-Assessor or to have such delinquent charges, penalties, and interest collected on the county property tax roll by submitting a statement of such delinquencies to the Sonoma County Auditor-Controller-Treasurer-Tax Collector, or both.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Sweetwater Springs Water District as follows:

Section 1. **Recitals.** The foregoing recitals are true and correct and made a part of this Resolution.

Section 2. **Procedure to record lien for unpaid water service charges and penalties.**

A. At any time, the General Manager or his or her designee may prepare a list of properties within the District that have unpaid charges for water services that have remained delinquent and unpaid for sixty (60) days or more.

B. At least fourteen (14) days prior to the date on which the Board will consider the list of delinquent properties, the General Manager shall deliver notice to the address of the delinquent property and the address of the property owner, if known, informing the property owner that the account is delinquent and that the unpaid charges and penalties could become a lien on the property if not paid. The notice shall include the date, time, and location of the meeting where the matter will be considered by the Board.

C. The General Manager shall present the list of delinquent properties to the Board at the regular or special meeting specified in the notice.

D. After receiving written and/or oral comment on the matter, the Board may approve, revise and approve, or disapprove the list of delinquent properties by resolution.

E. Upon approval by the Board, the General Manager or his or her designee shall record a certificate with the Sonoma County Clerk-Recorder-Assessor specifying the amount of such charges, penalties, and interest and the name and address of the person liable therefor.

F. If, after the filing of the lien certificate, the full amount of the delinquent charges, penalties, and interest are paid, the General Manager or his or her designee shall take such steps necessary to remove the lien.

[continued on following page]

Section 3. **Procedure for collection of unpaid water service charges and penalties on county property tax roll.**

A. Each year, the General Manager or his or her designee shall prepare a list of all properties within the District that have unpaid charges for water services that have remained delinquent and unpaid for sixty (60) days or more on July 1.

B. At least fourteen (14) days prior to the date on which the Board will consider the list of delinquent properties, the General Manager shall deliver notice to the address of the delinquent property and the address of the property owner, if known, informing the property owner that the account is delinquent and that the unpaid charges and penalties could become a lien on the property if not paid. The notice shall include the date, time, and location of the meeting where the matter will be considered by the Board.

C. Before August 1 of each year, the General Manager shall present the list of delinquent properties to the Board at the regular or special meeting specified in the notice.

D. After receiving written and/or oral comment on the matter, the Board may approve, revise and approve, or disapprove the list of delinquent properties.

E. Upon approval by the Board, the General Manager or his or her designee shall submit the statement of delinquencies to the Sonoma County Auditor-Controller-Treasurer-Tax Collector and, if necessary, the Sonoma County Board of Supervisors on or before August 1 and request such unpaid charges and penalties be collected with the annual property taxes..

Section 4. **General Authorization.** The General Manager is hereby authorized and directed, for and in the name of and on behalf of the District, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of this Resolution, including negotiating and executing an agreement with the county for the collection of charges on behalf of the District. All actions heretofore taken by officers, employees, and agents of the District that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

Section 5. **Severability.** If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Resolution. The District Board of Directors hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 6. **Supersession and Repeal.** Any and all other resolutions and parts thereof in conflict with the provisions of this Resolution are superseded and repealed, effective on the effective date of this Resolution.

Section 7. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 6th day of August, 2020.

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Richard Holmer
President, Board of Directors

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on August 6, 2020, by the following vote.

Director	Aye	No
Sukey Robb-Wilder	_____	_____
Tim Lipinski	_____	_____
Richard Holmer	_____	_____
Gaylord Schaap	_____	_____
Larry Spillane	_____	_____

_____
Attest: Julie Kenny
Clerk of the Board of Directors