No. S226036

[Exempt From Filing Fee
Government Code §6103]

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

CITY OF SAN BUENAVENTURA,
Plaintiff and Respondent / Cross-Appellant,

v.

UNITED WATER CONSERVATION DISTRICT AND BOARD OF DIRECTORS OF UNITED WATER CONSERVATION DISTRICT,
Defendants and Appellants / Cross-Respondents,

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND PROPOSED AMICUS CURIAE BRIEF OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Review of a Published Decision of the
Second Appellate District, Division 6, Case No. B251810

Reversing a Judgment of the Superior Court of the State of California
for the County of Santa Barbara, Case Nos. VENCI-00401714 and 1414739
Honorable Thomas P. Anderle, Judge Presiding

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APPLICATION FOR PERMISSION TO FILE

AMICUS CURIAE BRIEF

TO THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Pursuant to Rule 8.520, subdivision (f), of the California Rules of Court, The Metropolitan Water District of Southern California ("Metropolitan") respectfully requests permission to file the accompanying brief as *amicus curiae*.

INTEREST OF AMICUS AND ISSUES TO BE BRIEFED

Amicus Curiae Metropolitan is a public agency organized under the Metropolitan Water District Act operating as a cooperative of 26 member agencies – also public agencies themselves (12 special districts and 14 municipalities, all of which provide water at wholesale and/or retail for municipal, domestic, and industrial use). (Stats. 1969, ch. 209 as amended; West's California Water Code Append. §§ 109-134 (2015)). Metropolitan sells wholesale, supplemental water (imported from the Feather River in Northern California and the Colorado River) and provides other water services to its member agencies. Those member agencies, or their own member agencies, in turn serve nearly 19 million people throughout Southern California.

Water delivered by Metropolitan —which is then sold by the member agencies and their member agencies, often combined with water

from local and alternative sources—makes up approximately 50% of the water consumed within Metropolitan's service area. Residents and businesses within the service area that do not consume water originating from Metropolitan also benefit from the availability of Metropolitan's water supplies, conservation efforts, and distribution system. Indeed, in times of drought, Metropolitan's role as a supplemental water wholesaler is particularly critical, as its member agencies rely on Metropolitan storage and distribution system when local or alternative supplies are unavailable or restricted.

The rates Metropolitan charges its member agencies have been challenged under Proposition 26.[1] As a result, like many water agencies, Metropolitan has an interest in obtaining clarification regarding the applicability of Proposition 26, particularly the interpretation of its exemptions, for public agencies that provide water and water services.

In the present case, the Court has granted review to determine whether United Water Conservation District's groundwater pumping charges violate Proposition 218 or Proposition 26. As the Court has recognized, the constitutional provisions resulting from each of the Propositions are distinct. Each governs the imposition of different kinds of

[1] Metropolitan contends that its rates – which are wholesale rates for supplemental water and water services, set by a Board of Directors comprised entirely of representatives of Metropolitan's only customers, its member agencies – are not governed by either Proposition 26 or 218.

government levies, but does so in different ways. Proposition 218 sets certain restrictions on real property-related levies. Proposition 26 covers all local charges that are imposed, except those that are expressly exempted. Nevertheless, Proposition 218's restrictions and Proposition 26's exemptions are often referred to collectively and interchangeably as "cost of service requirements," leading to confusion about what Proposition 26 exempts and what it does not. Absent a clear judicial interpretation from this Court, local agencies lack the certainty they need to secure the necessary funding from exempted payor-specific charges for essential government services. For water agencies, specifically, uncertainty regarding the requirements and level of deference that may apply to their charges for government benefits, services, products, and property may prevent them from continuing those essential functions.

The present case presents a rare opportunity for the Court to consider the applicability of both Proposition 218 and Proposition 26. As a result, Metropolitan respectfully requests the Court grant permission to address in its *Amicus Curiae* Brief the distinctions between the proportional cost of service requirements of Proposition 218 and the "reasonable cost" standard contained in three of the exemptions to Proposition 26.[2] Metropolitan

[2] Similar questions regarding the cost standard of the Proposition 26 exemptions are currently pending before this Court in *Citizens for Fair REU Rates v. City of Redding* (2015) 233 Cal.App.4th 402, review granted, Mar. 3, 2015, 347 P.3d 89 (Cal. 2015), Cal. Sup. Ct. Case No. S224779.

believes its perspective in this matter is worthy of the Court's consideration and its additional briefing will assist the Court in deciding this matter. No party other than Metropolitan and its counsel authored the proposed *Amicus Curiae* Brief in whole or in part or made a monetary contribution to its preparation or submission.

November 18, 2015 Respectfully submitted,

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INTRODUCTION

The Court has granted review to determine whether a groundwater pumping charge violates Proposition 218 or Proposition 26. As the Court's question suggests, each Proposition is separate and distinct. Thus, whether a charge is subject to Proposition 26 must be analyzed pursuant to the specifically applicable standard of that Proposition, and not the separate restrictions of Proposition 218.

Specifically, Proposition 218 requires that certain property-related fees and charges be *both* limited to the charging agencies' reasonable cost of providing related services *and* limited to the proportional cost of providing related services and benefits to payors. By contrast, three of Proposition 26's exemptions remove from the definition of "taxes" covered by Proposition 26 certain government-imposed levies to the extent they do not exceed the reasonable cost of the agency's related activities. These exemptions contain no standard based on the proportional cost of providing services and benefits to individual payors.

Yet, the standards of each Proposition are often confused and misapplied, which is highlighted in the briefing in this case. However, the Court of Appeal in the present case correctly limited its Proposition 26 exemption analysis to the "reasonable cost" standard, without reference or application of Proposition 218's *proportional* cost standards. (*City of Buenaventura v. United Water Conservation Dist.* (2015) 235 Cal.App.4th

228, 254-255, citing *Cal. Farm Bureau Fed'n v. State Water Res. Control Bd.* (2011) 51 Cal.4th 421, 438.) Metropolitan respectfully requests that the Court affirm that distinction to provide much needed clarification and guidance particularly for water service providers whose services and charges vary significantly and who, like Metropolitan, may face challenges to their rates under varying and often inconsistent theories.

BACKGROUND OF THE PROPOSITIONS

Although Proposition 26 is the latest of a number of voter initiatives on taxes since Proposition 13 was passed in 1978, each initiative was passed for a specific purpose. The requirements of these voter initiatives are not simply interchangeable with the other. The applicability of each depends upon the type of exaction governed.

California voters passed Proposition 13 in 1978, which added article XIII A to the California Constitution and imposed limitations upon taxes and assessments on real property, and a two-thirds voting requirement on State and local taxes relating to real property. (*See Schmeer v. County of Los Angeles* (2013) 213 Cal.App.4th 1310, 1317; *see also Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 218.) This Court explained in *Amador*, that the various new requirements resulting from Proposition 13 "formed 'an interlocking package' with the purpose of providing effective real property tax relief." (*Schmeer, supra,* 213 Cal.App.4th at 1317, emphasis added, quoting

Amador, supra, 22 Cal.3d at 220.) Thus, this Court concluded general taxes and special assessments were not special taxes subject to the Proposition 13 voting requirement. (*See City and County of San Francisco v. Farrell* (1982) 32 Cal.3d 47, 57; *see also Knox v. City of Orland,* (1992) 4 Cal.4th 132, 141-145, superseded on other grounds by Cal. Const.[3] art. XIII D, § 6, subd. (b)(5).)

In response, California voters passed Proposition 218 in 1996 adding Articles XIII C and XIII D to the California Constitution to add express voting requirements and limitations similar to Proposition 13 to "assessments, fees, and charges relating to real property." (*See Schmeer, supra,* 213 Cal.App.4th at 1319-1320, citing *Apartment Assn. of Los Angeles County, Inc. v. City of Los Angeles* (2007) 24 Cal.4th 830, 837.) The voters through Proposition 218 expressly imposed a liberal interpretation mandate in favor or ratepayers, which they had not previously done in Proposition 13. (*Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, 448, [noting Proposition 218 specifically states "[t]he provisions of this act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent."]; *see also* Prop. 218 Ballot Pamp., Gen. Elec., Nov. 5, 1996, text of Prop. 218, § 5, p. 109; see,

[3] All references to articles are to articles of the California Constitution, unless otherwise stated.

Historical Notes, 2A West's Ann. Const. (2008 supp.) foll. art. XIII C, p. p. 85, available at http://vigarchive.sos.ca.gov/1996/general/pamphlet/218.htm.)

In *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866, this Court held regulatory fees not exceeding the "reasonable cost" of providing the service for which the regulatory fees are charged are not "special taxes" subject to the voting requirements of Proposition 13 or 218; they serve a regulatory purpose and represent an exercise of an agency's police power, rather than its taxing power. (*Id.* at p. 876.) This decision was followed by extensive disagreement over what constituted a "regulatory fee" unlimited by Constitutional amendments, and what constituted a "special tax" subject to a two-thirds voting requirement, which became the subject of subsequent disputes in different contexts. (*See, e.g., Barratt American, Inc. v. City of Rancho Cucamonga* (2005) 37 Cal.4th 685, 700-701 [surplus building permit was not regulatory fee or a tax]; *In re Attorney Discipline System* (1998) 19 Cal.4th 582 [regulatory fee imposed upon attorneys for the purpose of supporting an attorney discipline system was a regulatory fee and not a tax].)

Then, in 2010, the voters passed Proposition 26. "[L]argely a response to *Sinclair*" and subsequent cases relating to the distinction between regulatory fees and taxes, Proposition 26 was enacted "to close perceived loopholes in Proposition 13 and 218" . (*Schmeer, supra,* 213

Cal.App.4th at 1322, petition for review denied, 2013 Cal. LEXIS 4326, May 15, 2013.) Proposition 26 added to the California Constitution the first affirmative definition of "taxes" for state and local governments. The new definition of local taxes at Article XIII C, Section (1)(e) is broadly written to define local taxes as: "any levy, charge, or exaction of any kind imposed by a local government," excepting levies, charges, or exactions that fall into seven categories listed therein (the seven exemptions). (Art. XIII C, §1, subd. (e).)

As the text of Proposition 26 states, Proposition 26 was adopted to address a myriad of taxes paid by individuals and businesses and to ensure *general* revenue-raising taxes "disguised" as "fees" are subject to the existing voting requirements. (Prop. 26 Ballot Pamp., Gen. Elec., Nov. 2, 2010, text of Proposition 26, §1, subd. (c)-(e), p. 114, available at http://voterguide.sos.ca.gov/past/2010/general/propositions/26/index.htm) As the Legislative Analyst explained, "[g]enerally, the types of fees and charges that would become taxes under the measure are ones that government imposes to address health, environmental, or other societal or economic concerns." (*Id.* at Analysis by the Legislative Analyst, p. 3 of 5.) "This is because these fees pay for many services that benefit the public broadly, rather than providing services directly to the fee payer." (*Ibid.*, emphasis added.) In other words, Proposition 26 does not cover payor-specific charges. The Analyst explained to voters that the measure "would

not affect most user fees, property development charges, and property assessments." (*Ibid.*) As the proponents of Proposition 26 argued, they intended to address "hidden taxes" (fees intended to collect general revenue) and leave unaffected "legitimate fees" charged in exchange for a service, benefit, or imposed for regulatory purpose or in response to wrongdoing. (Prop. 26 Ballot Pamp. *supra,* arguments in favor at p. 60.)

Notably, Proposition 26 does not contain the "liberal construction" language the voters included in Proposition 218 and instead its legislative history contains language expressly directing that the exempted charges remain unaffected. (*See* Prop. 26 Ballot Pamp., *supra,* legislative analysis, p. 58; *cf.* Prop. 218 Ballot Pamp., *supra,* text of Proposition 218, p. 109.)

ARGUMENT

I. PROPOSITION 26 DOES NOT INCORPORATE INTO ITS EXEMPTIONS THE PROPORTIONAL COST REQUIREMENT OF PROPOSITION 218

Both Article XIII C (Proposition 26) and Article XIII D (Proposition 218) contain language referencing a "cost" standard. However, the cost standard of Article XIII C, subdivision (e)'s first three exemptions are not one and the same with those of Article XIII D. The voters added each of the "cost" standards for different purposes, which should be effectuated by the courts.

A. Proposition 218 Requires *Proportional* Cost Allocation

As relevant here, Proposition 218 added Article XIII D to the California Constitution, establishing voting requirements and limitations on exactions imposed directly or indirectly on real property (through assessments and property-related fees). (*Silicon, supra,* 44 Cal.4th 437.)

Article XIII D specifically addresses exactions having a direct relationship to the property upon which the exaction is imposed. (Art. XIII D, §§4-6.) Assessments and property-related fees covered by Article XIII D relate to government services or benefits that are typically directly related to a particular parcel or property. (*Silicon, supra,* 44 Cal.4th at 437.) Although the specific substantive cost allocation and limitations differ between assessments and property-related fees, Article XIII D consistently requires cost allocation proportional to specific parcels. (*See,* art. XIII D, §4, subd. (a) and §6, subd. (b)(3).)

As it relates specifically to property-related fees, Article XIII D provides, "The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel." (Article XIII D, § 6, subd. (b)(3).) While Article XIII D refers to "the parcel," courts have consistently acknowledged that charges may be imposed uniformly across a group of reasonably similar payors. (See *Capistrano Taxpayers Ass'n, Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, 1502; *Griffith*

v. Pajaro Valley Water Mgmt. Agency ["*Griffith v. Pajaro*"] (2013) 220 Cal. App. 4th 586, 601 .)

It is clear from the plain language of Article XIII D that the standard set forth therein is a real property-specific standard. The proportionality imposed by Article XIII D, or Proposition 218, has a purpose founded in real property and other specifically identifiable property rights. Consistently, this Court has explained that the required proportionality for Proposition 218 is determined by reference to particular properties or parcels. (*Silicon, supra,* 44 Cal.4th at 443; see also *Ventura Group Ventures v. Ventura Port Dist.* (2001) 24 Cal.4th 1089, 1106.) No similar proportionality language or reference to real property appears in the exemptions to Proposition 26 at Article XIII C, Section (1)(e), and none should be incorporated in the absence of evidence of the voters' intent to do so.

B. The Applicability of the Exemptions to Proposition 26 at Subdivision (e)(1) Through (e)(3) Is Determined Pursuant To A "Reasonable Cost" Standard.

Proposition 26 added the first constitutional definition of local "taxes" to Article XIII C[4] in order to ensure that existing requirements for voter approval of taxes applied to so-called "hidden taxes" that voters believed had incorrectly been treated as "regulatory fees." (Prop. 26 Ballot Pamp., *supra,* Leg. Analyst at p. 58.) All other exactions, the voters were told, "are not affected" as they are "legitimate [government] fees" expressly exempt from Proposition 26. (*Ibid.*; see also arguments in favor, at p. 60; *see also* art. XIII C, §1, subd. (e)(1)-(7).) Each of those legitimate fees is exempted by an express provision that "repeat[s] nearly verbatim the language of prior cases assessing" those types of charges. (*Id.; see also Griffith v. City of Santa Cruz* (2012) 207 Cal.App.4th 892, 996 (*Griffith v. City of Santa Cruz*) [noting the exemption for regulatory fees repeats the legal standard applied prior to Proposition 26].) Moreover, only three of the exemptions contain any cost standard. (Art. XIII C, §1, subd. (e)(1)-(3).) The first three exemptions at (e)(1) through (e)(3) are for charges imposed for benefits, services, or regulatory government functions, *so long as the charges do not exceed the "reasonable cost"* to the government of providing that benefit, service, or regulatory function to the payor. (*Ibid.*, emphasis added). This reasonableness standard has been the subject of dispute and confusion.

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[4] This *Amicus* Brief focuses solely on the applicability of Proposition 26 to local charges, pursuant to Article XIII C, and not to state taxes, addressed at Article XIII A.

Neither these cost-limited exemptions nor any of the other exemptions in Proposition 26 incorporate Proposition 218's "proportional" cost restrictions. (Compare Art. XIII C, § 1, subd. (e)(1), with Art. XIII D, s 6, subd. (b)(3).) Instead, only the "reasonable cost" standard set forth in Proposition 26's plain language, which existed in common law prior to the passage of Proposition 26, carries over. (*See, e.g., Griffith v. City of Santa Cruz, supra,* 207 Cal.App.4th at 996 [noting the language in Proposition 26 regulatory exception "repeats nearly verbatim the language of prior cases assessing whether a purported regulatory fee was indeed a fee or a special tax."].) Indeed, that is what the Court of Appeal concluded in this case, citing this Court's *Cal. Farm Bureau Fed'n v. State Water Res. Control Bd.* decision, when it applied the Proposition 26 payor-specific exemptions. (*Buenaventura, supra,* 235 Cal.App.4th at 254-255, citing *Cal. Farm Bureau, supra,* 51 Cal.4th at 438.)

This conclusion is also consistent with the relevant legislative history. (See *Silicon, supra,* 44 Cal.4th at 444-445 [holding ballot materials are relevant to prove voter intent].) The Legislative Analyst explained to the voters "there has been disagreement regarding the difference between regulatory fees and taxes, *particularly when the money is raised to pay for a program of broad public benefit.*" (Prop. 26 Ballot Pamp., *supra,* Leg. Analysis, p. 58 [emph. added].) The Legislative Analyst explained that Proposition 26 would expand the definition of "taxes to include fees that

"pay for many services that benefit the public broadly, rather than providing services directly to the fee payer." (*Ibid.*) Those fees that pay for benefits or services provided directly to the fee payer, or associated with the fee payer directly, the Legislative Analyst explained, would not be affected. (*Ibid.*) Similar representations were made by the *proponents* of the Proposition. (*See* Prop. 26 Ballot Pamp., *supra,* arguments in favor at p 60.)

Clearly, the objective of Proposition 26 was to ensure non-payor-specific fees imposed for general revenue raising purposes would be subject to the two-thirds voting requirements. Payor-specific charges, however, would be exempted, with three of the exemptions containing a broader "reasonable cost" standard as previously applied by this Court.

II. THE "REASONABLE COST" STANDARD IN PROPOSITION 26'S EXEMPTIONS INVOLVES THE OVERALL COST OF THE RELATED GOVERNMENT ACTIVITY

This Court has recently explained that a "reasonable cost" standard refers to the *overall* cost of related government activities, not to the cost of providing services or benefits to individual payors. (*Cal. Farm Bureau, supra,* 51 Cal.4th at 438.) "A regulatory fee does not become a tax simply because the fee may be disproportionate to the service rendered to individual payors." (*Ibid.*, citing *Brydon v. East Bay Mun. Utility Dist.* (1994) 24 Cal.App.4th 178, 194.) "The question of proportionality is not

measured on an individual basis. Rather, it is measured collectively, considering all rate payors." (*Ibid.*, citing *California Assn. of Prof. Scientists v. Department of Fish & Game* (2000) 79 Cal.App.4th 935, 948.)

> Thus, permissible fees must be related to the overall cost of the governmental regulation. They need not be finely calibrated to the precise benefit each individual fee payor might derive. What a fee cannot do is exceed the reasonable cost of regulation with the generated surplus used for general revenue collection. An excessive fee that is used to general revenue becomes a tax.

(*Ibid.*)

While *Cal. Farm Bureau* did not apply Proposition 26—the underlying dispute predated the proposition's enactment—the "reasonable cost" standard referenced in Proposition 26's first three exemptions is intended to apply to exempted charges in the same way that prior case law applied it. (*See, e.g., Griffith v. Santa Cruz, supra,* 207 Cal.App.4th at 905 [noting language of exemption for regulatory fees is "nearly identical" to language established in case law prior to the passage of Proposition 26].) While voters were clear that fees unrelated to the services, benefits, or regulatory charges provided to the payor could no longer treated as payor-specific charges, they did not intend to change the standards governing legitimate payor-specific charges.

To ensure that legitimate government charges continue to serve the purpose they served prior to Proposition 26, the Court should clarify that

the collective "reasonable cost" standard of Proposition 26's first three exemptions continues to apply and that the stricter proportionality standard of Proposition 218 does not apply.

III. EVEN IF THE COST ALLOCATION STANDARDS OF PROPOSITION 218 *WERE* INCORPORATED INTO PROPOSITION 26'S EXEMPTIONS, INDIVIDUAL RATEPAYER COST ALLOCATION IS NOT REQUIRED

Courts have recently held the cost proportionality required by Proposition 218 can be achieved by "grouping similar users together for the same augmentation rate and charging the users according to usage ... ." (*Griffith v. Pajaro, supra,* 220 Cal.App.4th at 601.) Customer class allocation methodology, the Sixth District held, "is a reasonable way to apportion the cost of service" required by Article XIII D. (*Id.*) Therefore, even if one *could* reasonably interpret the cost standard in Proposition 26's first three exemptions as merely an incorporation of the Proposition 218 *proportionality* requirements, it is clear individual ratepayer allocations are not required. If customer classification serves to meet the proportional cost allocation requirements of Proposition 218, it *must* also serve to meet the less specific reasonable cost standard in the Proposition 26 exemptions at (e)(1) through (e)(3).

In *Griffith v. Parajo, supra,* the Sixth District of the Court of Appeal held the defendant district's method of allocating a groundwater pumping

fee (the augmentation charge in that case) met the requirements of Article XIII D, section 6(b). (*Griffith v. Pajaro, supra,* 220 Cal.App.4th at 600-601, review denied Jan. 21, 2014.) The plaintiff argued the amount of the augmentation charge imposed on his parcel by the defendant district was disproportionate, because plaintiff did not use the specific service the charge was intended to fund. The court rejected the strict proportionality requirements the plaintiff read into Article XIII D.

The court in *Griffith v. Pajaro, supra,* held that the proportionality requirements of Article XIII D do not prohibit setting rates by (1) setting revenue requirements and deducting all other sources of revenue ("working backwards" from revenue needs, or (2) grouping similar users together for the same [water] rate and charging the users according to usage." (*Id.* at 601.) Proposition 218, the court clarified does not compel a "parcel-by-parcel proportionality analysis, because:

> Apportionment is not a determination that lends itself to precise calculation. (*White v. County of San Diego* (1980) 26 Cal.3d 897, 903.) ... "The question of proportionality is not measured on an individual basis. Rather, it is measured collectively, considering all rate payors." (*California Farm Bureau Federation v. State Water Resources Control Bd.* (2011) 51 Cal.4th 421, 438.)

> Given that Proposition 218 prescribes no particular method for apportioning a fee or charge other than that the amount shall not

> exceed the proportional cost of the service attributable to the parcel, defendant's method of grouping similar users together for the same augmentation rate and charging the users according to usage is a reasonable way to apportion the cost of service. That there may be other methods favored by plaintiffs does not render defendant's method unconstitutional. Proposition 218 does not require a more finely calibrated apportion.

(*Id.*) Therefore, whether the plaintiff in *Griffith v. Pajaro* specifically used or benefitted from a particular project was not the relevant question for proportionality. Instead, the proper question is whether his property had been properly classified with similar users. *See, Ibid.*

More recently, the Fourth District of the Court of Appeal similarly held the proportional cost allocation requirement of Article XIII D permits a holistic approach to rate-setting. (*Capistrano Taxpayers Ass'n, Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, 1502.) There, the Court of Appeal concluded that a city may allocate the costs of recycled water services and projects to all of its water customers, even though they do not all use the specific service. (*Ibid.*) The court reasoned that delivery of recycled services to one group of customers benefitted the other customers by reducing demand on the potable water system.

Thus, given the history of charges imposed for regulatory and other payor-specific government services, it would be unreasonable to apply a stricter cost allocation standard in the exemptions to Proposition 26 at

(e)(1) through (e)(3) than applies to the per-parcel proportionality provisions of Proposition 218.

CONCLUSION

For all these reasons, Metropolitan respectfully requests that the Court affirm the lower court's application of the *Cal. Farm Bureau* collective, reasonable cost standard to the exemptions of Proposition 26, which expressly contain a reasonableness standard. (Art. XIII C, §1, subd. (1)-(3).) Metropolitan further requests that the Court clarify the distinction between the cost standard in the exemptions to Proposition 26, versus the requirements of Proposition 218, to reflect the distinct issues intended to be addressed by the voters.

November 18, 2015

Respectfully submitted,

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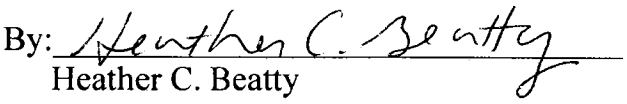
By: 
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CERTIFICATE OF WORD COUNT

The text of APPLICATION FOR PERMISSION BY THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA TO FILE A BRIEF AS AMICUS CURIAE AND PROPOSED BRIEF consists of 3,424 words (including footnotes but excluding the table of contents, the table of authorities, and certificates) as counted by Microsoft Word 2010 word-processing program.

Dated: November 18, 2015

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CERTIFICATE OF SERVICE

I hereby certify that I am a citizen of the United States, over the age of 18 years, with business address at 700 North Alameda Street, Los Angeles, California and am neither a party nor interested in the within action.

On November 18, 2015, in Los Angeles, California, I caused to be served the following: APPLICATION BY THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA TO FILE A BRIEF AS AMICUS CURIAE AND PROPOSED BRIEF

X **OVERNIGHT MAIL:** I caused such true copy of the above document to be delivered to UPS for overnight courier service to the office of the party as set forth below:

SEE ATTACHED SERVICE LIST

X I hereby certify that the document(s) listed above was / were produced on paper purchased as recycled.
X I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 18, 2015

GINA OSORIO

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