

ATTACHMENT A

DISCUSSION

The Pajaro Sunny Mesa Community Services District is a Community Services District formed pursuant to state law and subject to the jurisdiction of the Local Agency Formation Commission of Monterey County (“LAFCo”) with respect to its boundaries. In about 2008, the District acquired a number of water systems through a federal district court receivership proceeding. The systems included real and personal property (such as land, water rights, pipes and pumps). The sale was “free of any and all liabilities, liens, and claims,” When initially acquired the systems were outside the boundaries of the District as established by the Local Agency Formation Commission of Monterey County (“LAFCo”), and, pursuant to provisions of the California Constitution, were taxable at the time of acquisition because they had previously been owned by a private company (Alisal Water Company, commonly known as “ALCO”).

It appears that title to the real property acquired in the sale was not immediately transferred from ALCO to the District. In 2011, the Assessor’s Office sent ALCO a letter indicating that by that time only three of the properties affected by the sale were transferred on the Assessor’s records from ALCO to the District, and that the remaining properties would remain under ALCO’s name in the records. The letter also indicated that property taxes on the remaining properties would continue to be assessed to ALCO. The taxes were never paid, resulting in tax liens being placed on the Parcels.

In 2012, in an effort to perfect the transfer of title, the District caused to be recorded an “Addendum to Bill of Sale” which contained the legal description of two of the remaining properties (the “Parcels”); however, title to the Parcels remained with ALCO.

Sometime in late 2014 or early 2015, the District applied to LAFCo for annexation of the water systems acquired in 2008, including the Parcels. In April of 2015, LAFCo approved the annexation, which became final on June 1 of that year. Prior to that date, due to the unpaid property taxes, the County had commenced proceedings to conduct a tax sale of the Parcels on the basis that the District had not paid property taxes once it acquired the Parcels. In April of 2015, the Board of Supervisors approved an auction list that included both Parcels, although the ownership was still listed in ALCO (technically as “AWC Holdings Trust” and “AWC II Holdings Trust”).

The Parcels were sold at auction, for the total price of \$216,293.15 (purchase price plus fees), on August 24, 2015, to Salinas Land Holding Trust, listing “Steve Pacheco” apparently as the Trustor/Trustee/Beneficiary and “Purchaser.”

California law provides that property acquired by a public entity outside its jurisdictional boundaries remains taxable if it was taxable when acquired. Here, the Parcels were acquired from a private company and were taxable, and the Parcels were outside the jurisdictional boundaries of the District when acquired. Thus, the parcels remained taxable.

California law further provides; however, that once taxable property owned by a

public entity is annexed into the jurisdictional boundaries of that entity it becomes tax exempt and all prior tax liens are extinguished. Here, while tax liens were properly placed for non-payment of taxes on the Parcels prior to June 1, 2015, they were extinguished as of that date due to the annexation of the Parcels into the jurisdictional boundaries of the District. Thus, the tax sale should not have occurred.

California Revenue and Taxation Code section 3731 provides that the County may rescind the erroneous tax sale either with or without the permission of the purchaser, and further provides that the purchaser is to receive a refund of all monies paid for the purchase including any property taxes subsequently paid by the purchaser, plus interest. The County requested the Purchaser's permission, but permission has not been granted. Accordingly, the Purchaser was notified that the Board would hold a public hearing to consider the rescission of the tax sale.

The total proceeds that would be due the Purchaser are \$234,253.16, which includes the purchase price of \$216,293.15, and subsequent tax payments of \$17,960.01. Interest at 3% will be calculated and included when the refund is made. The County will benefit from excess proceeds received from the sale and retained in the amount of \$32,791.22, making the net refund \$201,461.94 plus interest.