

**AGENDA**  
**REGULAR BOARD MEETING OF THE**  
**SAN ELIJO JOINT POWERS AUTHORITY**  
**MAY 16, 2023 AT 8:30 A.M.**  
**SAN ELIJO WATER CAMPUS – BOARD MEETING ROOM**  
**2695 MANCHESTER AVENUE**  
**CARDIFF BY THE SEA, CALIFORNIA**

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1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. ORAL COMMUNICATIONS/PUBLIC COMMENT PERIOD (NON-ACTION ITEM)
5. AWARDS AND RECOGNITION
6. \* **CONSENT CALENDAR**
7. \* [APPROVAL OF MINUTES FOR APRIL 18, 2023 MEETING](#)
8. \* [APPROVAL FOR PAYMENT OF WARRANTS AND MONTHLY INVESTMENT REPORTS](#)
9. \* [WASTEWATER TREATMENT REPORT](#)
10. \* [RECYCLED WATER REPORT](#)
11. \* [REPORTABLE MEETINGS](#)
12. \* [UPDATE OF EMERGENCY REPAIRS TO RECYCLED WATER PIPELINE IN MANCHESTER AVE.](#)
13. \* **ITEMS REMOVED FROM CONSENT CALENDAR**

*Items on the Consent Calendar are routine matters and there will be no discussion unless an item is removed from the Consent Calendar. Items removed by a "Request to Speak" form from the public will be handled immediately following adoption of the Consent Calendar. Items removed by a Board Member will be handled as directed by the Board.*

## **REGULAR AGENDA**

14. **SAN ELIJO JOINT POWERS AUTHORITY FISCAL YEAR 2023-24 RECOMMENDED BUDGET UPDATE**

1. Discuss and take action as appropriate.

Staff Reference: General Manager

15. **APPROVE PRIVATE PLACEMENT LOAN FOR THE RECYCLED WATER CAPITAL IMPROVEMENT PROGRAM PROJECTS**

1. Authorize General Manager to execute the Private Placement Loan Agreement with Webster National Bank for an amount not-to-exceed \$10,120,000;
2. Adopt Resolution 2023-01 Authorizing Recycled Water Enterprise Financing Via Execution and Delivery of the Loan Agreement, and Authorizing Official Actions Related Thereto; and
3. Discuss and take action as appropriate.

Staff Reference: General Manager

16. **GENERAL MANAGER'S REPORT**

Informational report by the General Manager on items not requiring Board action.

17. **GENERAL COUNSEL'S REPORT**

Informational report by the General Counsel on items not requiring Board action.

18. **BOARD MEMBER COMMENTS**

This item is placed on the agenda to allow individual Board Members to briefly convey information to the Board or public, or to request staff to place a matter on a future agenda and/or report back on any matter. There is no discussion or action taken on comments by Board Members.

19. **CLOSED SESSION**

*The Board will adjourn to Closed Session to discuss item(s) identified below. Closed Session is not open to the public; however, an opportunity will be provided at this time if members of the public would like to comment on any item listed below. (Three-minute limit.) A closed session may be held at any time during this meeting of the San Elijo Joint Powers Authority for the purposes of discussing potential or pending litigation or other appropriate matters pursuant to the "Ralph M. Brown Act".*

A closed session will be held per Government Code Section 54957 (b), Public Employee Employment, Title: General Manager.

20. ADJOURNMENT

The next regularly scheduled San Elijo Joint Powers Authority Board Meeting will be Tuesday, May 16, 2023 at 8:30 a.m.

NOTICE:

The San Elijo Joint Powers Authority's open and public meetings comply with the protections and prohibitions contained in Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C Section 12132), and the federal rules and regulations adopted in implementation thereof. Any person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting of the SEJPA Board of Directors, may request such modification or accommodation from Michael T. Thornton, General Manager, (760) 753-6203 ext. 72.

The agenda package and materials related to an agenda item submitted after the packet's distribution to the Board are available for public review in the lobby of the SEJPA Administrative Office during normal business hours. Agendas and minutes are available at [www.sejpa.org](http://www.sejpa.org). The SEJPA Board meetings are generally held on the third Tuesday of each month, with no scheduled meetings in July.

AFFIDAVIT OF POSTING

I, Michael T. Thornton, Secretary of the San Elijo Joint Powers Authority, hereby certify that I posted, or have caused to be posted, a copy of the foregoing agenda on the SEJPA website at [www.sejpa.org](http://www.sejpa.org), and in the following locations:

San Elijo Water Campus (formerly known as San Elijo Water Reclamation Facility),  
2695 Manchester Avenue, Cardiff, California  
City of Encinitas, 505 South Vulcan Avenue, Encinitas, California  
City of Solana Beach, 635 South Highway 101, Solana Beach, California

The notice was posted at least 72 hours prior to the meeting, in accordance with Government Code Section 54954.2(a).

Date: May 11, 2023



Michael T. Thornton, P.E.  
Secretary / General Manager

SAN ELIJO JOINT POWERS AUTHORITY  
MINUTES OF THE BOARD MEETING  
HELD ON APRIL 18, 2023  
AT THE SAN ELIJO WATER CAMPUS

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David Zito, Chair

Tony Kranz, Vice Chair

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A meeting of the Board of Directors of San Elijo Joint Powers Authority (SEJPA) was held Tuesday, April 18, 2023, at 8:30 a.m., at the San Elijo Water Campus.

1. CALL TO ORDER

Chair Zito called the meeting to order at 8:33 a.m.

2. ROLL CALL

*Directors Present:*

David Zito  
Tony Kranz  
Kristi Becker  
Kellie Hinze

*Others Present:*

General Manager	Michael Thornton
Director of Operations	Chris Trees
Director of Infrastructure and Sustainability	Tom Falk
Director of Finance and Administration	Amy Chang
Administrative Assistant II	Abby Schlenk

*SEJPA Counsel:*

Procopio	Adriana Ochoa
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*City of Solana Beach:*

Director of Engineering/Public Works	Mohammad "Mo" Sammak
City Manager	Greg Wade

*San Dieguito Water District:*

Principal Engineer	Habib Hariri
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*Rising Tide Partners:*

C.E.O.	Neal Bloom
Marketing & Communications Associate	Iris Grootenhuis

3. PLEDGE OF ALLEGIANCE

Board Chair, David Zito, led the Pledge of Allegiance.

4. ORAL COMMUNICATION/PUBLIC COMMENT PERIOD

None.

5. AWARDS AND RECOGNITION

General Manager Michael Thornton shared that the “Autonomous Underwater Vehicle (AUV) Plume Transport Assessments of the San Elijo and Encina Ocean Outfalls” project was awarded the 2023 American Public Works Association (APWA) Environmental Project of the Year Award and the American Society of Civil Engineers (ASCE) Outstanding Environmental Engineering Project Award, by the San Diego chapters.

6. CONSENT CALENDAR

Moved by Vice Chair Kranz and seconded by Board Member Becker to approve the Consent Calendar, except for Agenda Item No. 12. Agenda Item No. 12 was pulled by Chair Zito for discussion.

- |                    |   |
|--------------------|---|
| Agenda Item No. 7  | Approval of Minutes for the March 13, 2023 Meeting                                      |
| Agenda Item No. 8  | Approval for Payment of Warrants and Monthly Investment Report                          |
| Agenda Item No. 9  | Wastewater Treatment Report   |
| Agenda Item No. 10 | Recycled Water Report   |
| Agenda Item No. 11 | Reportable Meetings   |
| Agenda Item No. 13 | Clean Water Service Agreement Amendment for the 22nd District Agricultural Association  |
| Agenda Item No. 14 | Biosolids Dewatering Facility Improvement – Contract Change Order No. 1 (MS-2 Upsizing) |
| Agenda Item No. 15 | Update of Emergency Repairs to Recycled Water Pipeline in Manchester Ave.               |

Motion carried with the following vote of approval:

AYES: Zito, Kranz, Becker, Hinze  
NOES: None  
ABSENT: None  
ABSTAIN: None

- |                    |   |
|--------------------|---|
| Agenda Item No. 12 | San Elijo Joint Powers Authority Contract for Procurement of Ferric Chloride, Aluminum Sulfate, Liquid Calcium Nitrate, and Sodium Hypochlorite for Fiscal Year 2023-24 |
|--------------------|---|

General Manager, Michael Thornton, gave a presentation on the chemical pricing from Agenda Item No. 12, explaining the significant increases from historical prices due to inflation and providing a comparison to other Bay Area Clean Water Agencies (BACWA) bids to give perspective on the pricing for SEJPA.

Moved by Board Chair Kranz and seconded by Board Member Becker to:

1. Authorize the General Manager to enter into an agreement with California Water Technologies, LLC for the procurement of ferric chloride for an amount not-to-exceed \$123,200;
2. Authorize the General Manager to enter into an agreement with Thatcher Company of Nevada, Inc. for the procurement of aluminum sulfate for an amount not-to-exceed \$77,500;
3. Authorize the General Manager to amend the agreement with Evoqua Water Technologies, LLC for the procurement of liquid calcium nitrate for an amount not-to-exceed \$100,450;
4. Authorize the General Manager to amend the agreement with Olin Corporation for the procurement of sodium hypochlorite for an amount not-to-exceed \$229,500; and
5. Discuss and take action as appropriate.

Motion carried with the following vote of approval:

AYES:	Zito, Kranz, Becker, Hinze
NOES:	None
ABSENT:	None
ABSTAIN:	None

17. PRESENTATION OF SAN ELIJO JOINT POWERS AUTHORITY FISCAL YEAR 2023-24 RECOMMENDED BUDGET

Director of Finance and Administration, Amy Chang, presented the FY 2023-24 Recommended Budget, which consists of \$9,974,623 operating expense, \$6,570,000 capital appropriation, and \$2,394,566 debt service payments for a total budget of \$18,939,189. This amount includes the Recycled Water program, which has a total recommended budget of \$8,173,135 including operations and maintenance, capital projects appropriation, and debt service payments. The total recommended budget also includes Leucadia Wastewater District (WWD) Technical Support Services, a new program with a budget of \$22,800 and the second year of service to the 22nd District Agricultural Association clean water services program with a budget of \$136,954. Both programs are fully funded by the organizations that are requesting these services.

SEJPA receives revenues from seven primary sources, with the three largest customers being the City of Encinitas, the City of Solana Beach, and the Recycled Water Utility, which are expected to provide \$4,691,390, \$3,332,966, and \$4,803,713, respectively.

The May 16, 2023 Board Agenda will include a budget discussion item for the Board to publicly discuss any changes or comments on the recommended budget. The final recommended budget will be brought to the June 20, 2023 meeting for Board approval consideration.

No action required. This item was submitted for information only.

18. AWARD OF PROFESSIONAL ENGINEERING AND DESIGN SERVICES FOR STORMWATER CAPTURE, REUSE, AND SITE WATER QUALITY IMPROVEMENTS PROJECT

Director of Infrastructure and Sustainability, Tom Falk, presented on the bidding process for the Stormwater Capture, Reuse, and Site Water Quality Improvements Project (Project).

In March 2023, SEJPA advertised a request for proposals (RFP) through its online procurement portal, Planet Bids. Prospective proposers were given the opportunity to visit the site and discuss the project with SEJPA staff. SEJPA received three proposals from Dudek, Fuscoe Engineering Inc. (Fuscoe), and Hoch Consulting APC (Hoch). A selection panel consisting of SEJPA staff reviewed the proposals and rated the teams in accordance with the selection process defined in the RFP as well as a list of criteria for experience and competency. Staff then met with the highest ranked team, Dudek, to review scope assumptions, clarify project objectives, and confirm expectations for project delivery. Based on the outcome of scope and fee negotiations, staff recommends award to Dudek. The Dudek team demonstrated the best combination of qualifications and experience with industrial stormwater permit compliance, stormwater capture and reuse, and pump station design. They proposed an appropriate staffing plan (level of effort and resources) and are committing key personnel with the skillset and experience most closely aligned with SEJPA's needs for this project.

Moved by Board Chair Kranz and seconded by Board Member Hinze to:

1. Authorize the General Manager to execute Professional Services Agreement with Dudek in an amount not-to-exceed \$268,556 for design of the Stormwater Capture, Reuse, and Site Water Quality Improvements Project with cost shared equally between the Recycled Water Program and Wastewater Program; and
2. Discuss and take action as appropriate.

Motion carried with the following vote of approval:

AYES:	Zito, Kranz, Becker, Hinze
NOES	None
ABSENT:	None
ABSTAIN:	None

19. GENERAL MANAGER'S REPORT

General Manager, Michael Thornton, spoke briefly on SEJPA's attendance at the Olivenhain Municipal Water District (OMWD) Manchester Avenue Recycled Water Pipeline ribbon cutting event hosted at Mira Costa College on April 11, 2023, where

Congressman Mike Levin was present to share some encouraging words on promoting sustainability through collaborative efforts in recycled water.

General Manager Thornton also stated that in light of the awards received by the “Autonomous Underwater Vehicle (AUV) Plume Transport Assessments of the San Elijo and Encina Ocean Outfalls” project, SEJPA will be attending two award recognition ceremonies and invites the Board Members to attend.

20. GENERAL COUNSEL’S REPORT

Procopio Associate Adriana Ochoa gave notification that the next Attorney’s Committee Meeting by the California Association of Sanitation Agencies (CASA) will be hosted in Sacramento on May 19, 2023. As the next SEJPA Board Meeting is May 16, 2023, Adriana expressed her availability to take any questions, suggestions, or concerns on behalf of SEJPA for the purpose of representing SEJPA at the upcoming CASA meeting.

21. BOARD MEMBER COMMENTS

None.

22. CLOSED SESSION

None.

23. ADJOURNMENT

The meeting adjourned at 9:24 a.m. The next Board of Directors meeting is scheduled to be held on Tuesday, May 16, 2023 at 8:30 a.m.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager



**SAN ELIJO JOINT POWERS AUTHORITY  
PAYMENT OF WARRANTS  
23-05  
For the Month of April 2023**

<b>Warrant #</b>	<b>Vendor Name</b>	<b>G/L Account</b>	<b>Warrant Description</b>	<b>Amount</b>
42147	Akeso Occupation Health	Services - Medical	New hire and Hepatitis B vaccine	\$ 428.00
42148	Ardurra Group, Inc	Services - Engineering	Wancket tanket refurbish support from 02/01/23 to 02/28/23	18,383.99
42149	AT&T	Utilities - Telephone	Phone service - 02/13/23 - 03/12/23	634.18
42150	American Water Works Assoc.	Dues & Memberships	Membership - M. Piper	311.00
42151	Bay City Electric Works	Services - Maintenance	Preventative maintenance - Generators	310.00
42152	Black & Veatch	Services - Engineering	Dewatering facilities upgrades through 12/02/22	15,003.76
42153	Boot World, Inc.	Uniforms - Boots	Safety boots - D. Suda, F. Abeyta, M. Henke, S. Best	775.83
42154	Brax Process and Pump Equip.	Repair Parts Expense	Primary #6 drive motor tilt-pipe	1,749.42
42155	California Water Technologies	Supplies - Chem - Ferric Chlo	Ferric Chloride Solution	16,454.00
42156	CWEA	Dues & Memberships, Seminars/Education	Membership - S. Best and F. Abeyta, Annual conference - D. Mc	1,526.00
42157	Tamara Cooper	Subsistence - Travel/Rm & Bd	Employee reimbursement - Mileage	25.68
42158	CSI Services, Inc.	Services - Maintenance	DAFT rehab inspection services	18,060.00
42159	CA Sanitation Risk Mgmt Auth.	Insurance - Liability	Pooled liability - 12/31/22 - 12/31/23	45,396.00
42160	D&H Water Systems	Services - Maintenance	Annual maintenance - chlorine analyzers	3,855.16
42161	D & R Crane, Inc.	Services - Maintenance	Emergency repair services	1,176.94
42162	EDCO Waste & Recycling Service	Utilities - Trash	Mar	467.48
42163	City of Encinitas	Service - IT Support	Admin Network - Mar	8,511.29
42164	Eurofins Calscience, LLC	Services - Laboratory	Testing water samples	3,248.00
42165	Evoqua Water Technologies	Supplies - Chem - Odor	Bioxide	6,555.72
42166	Excel Landscape, Inc.	Services - Landscape	Grounds maintenance service - March	4,202.00
42167	Government Finance Officers As	Training	GFOA - annual gov. GAAP update training	135.00
42168	Grainger, Inc.	Repair Parts Expense	Various parts	492.74
42169	Hach Company	Supplies - Shop & Field	Dissolved oxygen calibration bags	56.32
42170	Hardy Diagnostics	Supplies - Lab	Various supplies	4,500.69
42171	Harrington Industrial Plastics	Repair Parts Expense	Bleach tank sump improvements	1,234.30
42172	Idexx Distribution, Inc.	Supplies - Lab	Various supplies	5,236.83
42173	Leaf & Cole, LLP	Services - Accounting	Audit services	1,560.00
42174	Liquid Environmental Solution	Services - Grit & Screenings	Roll off box - 03/15/23	1,285.00
42175	McMaster-Carr Supply Co.	Repair Parts Expense, Lab Supplies	Various parts and supplies	2,699.96
42176	MetLife - Group Benefits	Dental/Vision	Dental - Apr	3,140.55
42177	Midas Shop	Vehicle Maintenance	Oil change	223.55
42178	Mission Square	ICMA Retirement	ICMA - 401a	6,055.57
42179	Mission Square - 304175	EE Deduction Benefits	ICMA - 457	10,282.74
42180	Morrow-Meadow Corporation	Capital Outlay	Emergency generator procurement and installation	7,488.27
42181	Nash Fabricators	Services - Maintenance	DAFT tank corroded metal patching	8,656.47
42182	Octavio Navarrete	Subsistence - Travel/Rm & Bd	Employee reimbursement - Mileage	94.78
42183	Cosby Oil Company, Inc	Fuel	Fuel - Mar	582.04
42184	OneSource Distributors, Inc.	Supplies - Shop & Field	Connector and conduit repair parts	2,355.88
42185	Pacific Safety Center	Training - Safety	Annual membership renewal	145.00
42186	Parada Painting	Services - Maintenance	AWP structure painting	49,780.00
42187	ProBuild Company, LLC	Supplies - Safety	Shop & field supplies and gloves	387.15
42188	Procopio Cory Hargreaves	Services - Legal	General	4,875.00
42189	Quality Microscope Service	Services - Maintenance	Microscope service	150.00
42190	ReadyRefresh	Supplies - Lab	Lab and breakroom supplies	917.13
42191	RS Instruments & Services	Services - Maintenance	Annual calibration	7,766.37
42192	RSF Security Systems	Services - Alarm	Cellular fire system monitoring	247.00
42193	Santa Fe Irrigation District	Utilities - Water	Water	95.67
42194	San Dieguito Water District	Utilities - Water	Water	48.07
42195	San Dieguito Water District	Utilities - Water	Water	1,434.96
42196	U.S. CAD	Licenses	Bluebeam annual license renewals	3,897.00
42197	Unifirst Corporation	Services - Uniforms	Uniform service	750.10
42198	Univar Solutions USA Inc.	Supplies - Chemicals	Citric acid	4,694.77
42199	US Bank PARS Acct.#6746050100	Contribution to PARS Trust	FY 2021 - 22 Contribution to PARS trust	185,000.00
42200	USA Bluebook	Supplies - Lab, Safety, Shop & Field	Various supplies	1,624.02
42201	Verizon Wireless	Utilities - Telephone	02/11/23 - 03/10/23	620.19
42202	Volt Management Corp	Services - Temp	Internship program	6,702.91
42203	Benefits Coordinators Corp.	Dental/Vision	Vision - Apr	354.20
42204	WageWorks	Payroll Processing Fees	Admin fee - Mar	160.25
42205	West Coast Arborists, Inc	Services - Landscape	Tree maintenance services	1,200.00
42206	Adam Kaye	Services - Professional	Public communications	400.00
42207	Affordable Drain Services	Services - Maintenance	Jett/Vac Truck	3,080.00
42208	Ahrens Corporation	Services - Construction	Emergency repairs to recycled water pipeline	39,968.83
42209	Applied Best Practices, LLC	Services - Accounting	Professional audit services	350.00
42210	AT&T	Utilities - Telephone	Alarm service - Mar	380.22
42211	BAVCO	Repair Parts Expense	Backflow rubber repair kit	101.36
42212	Clean Water SoCal	Prepaid - Other	Annual membership dues FY 2023/2024	8,570.00
42213	Tamara Cooper	Direct Salaries and Wages	Health and wellness - T. Cooper	120.00
42214	Corodata	Rent	Record storage - Mar	118.62
42215	County of San Diego	Fees - Permits	DEH2011-HUPFP-213701 - Olivenhain	548.00
42216	County of San Diego	Fees - Permits	2260 Jimmy Durante	79.00
42217	Denali Water Solutions LLC	Services - Biosolids Hauling	Biosolids hauling and reuse - September	7,210.53
42218	Dickson	Shop Tools and Equip.	Data recorders	1,437.77
42219	Westbound Solar 2, LLC	Utilities - Solar Power	Solar - Mar	12,109.18
42220	eMaint Enterprises, LLC	Subscriptions	Software for maintenance management	1,260.35
42221	Encina Wastewater Authority	Services - Laboratory	Heterotrophic plate count analysis	85.00
42222	City of Encinitas	Service - IT Support	Admin Network - Apr	8,511.29
42223	Enthalpy Analytical, LLC	Services - Laboratory	Laboratory toxicity testing services for Feb 2023	1,050.00
42224	Environmental Express, Inc.	Supplies - Lab	BOD bottles	761.61
42225	Eurofins Calscience, LLC	Services - Laboratory	Testing water samples	477.50
42226	Evoqua Water Technologies	Supplies - Chem - Odor	Bioxide	6,249.51
42227	Fisher Scientific	Repair Parts Expense, Lab Supplies	Various parts and supplies	1,909.53
42228	Grainger, Inc.	Repair Parts Expense	Various parts	526.21
42229	The Hardwood & Hardware Co.	Supplies - Office	Wood supplies - locker room	235.48
42230	Hardy Diagnostics	Supplies - Lab	Various supplies	419.96

**SAN ELIJO JOINT POWERS AUTHORITY**  
**PAYMENT OF WARRANTS**  
**23-05**  
**For the Month of April 2023**

<b>Warrant #</b>	<b>Vendor Name</b>	<b>G/L Account</b>	<b>Warrant Description</b>	<b>Amount</b>
42231	Liquid Environmental Solution	Services - Grease & Scum	Pumping service - 03/22/23	337.00
42232	McMaster-Carr Supply Co.	Repair Parts Expense, Lab Supplies	Various parts and supplies	4,072.19
42233	MetLife - Group Benefits	Dental/Vision	Dental - May	2,607.40
42234	Michael R. Welch, Ph.D., P.E.	Services - Professional	As-needed regulatory support services	4,255.00
42235	Napa Auto Parts	Repair Parts Expense	Generator battery	214.80
42236	Cosby Oil Company, Inc	Fuel	Fuel - Apr	691.61
42237	Oasis Palm Nursery, Inc.	Services - Maintenance	Winter service - Palm maintenance	600.00
42238	Olivenhain Municipal Water Dis	Services - Landscape and Maintenance, Rent	Wanket Reservoir 1/3 landscape maintenance, Wiegand Zone	4,408.63
42239	Pall Corporation	Services - Professional	24/7 Technical phone service	4,950.00
42240	Peerless Materials Co., LLC	Supplies - Shop & Field	Rags	678.12
42241	Polydyne Inc.	Supplies - Chem - Polymer	Clarifloc WE-007	16,929.42
42242	Procopio Cory Hargreaves	Services - Legal	General	3,471.00
42243	Quality Assurance Solutions	Services - Professional	Laboratory Consulting Services - 02/15/23 - 04/03/23	2,910.00
42244	Rusty Wallis, Inc.	Services - Maintenance	Water softener, tank service, salt bags	324.42
42245	Santa Fe Irrigation District	SFID Distribution Pipeline	Pipeline purchase payment	2,191.12
42246	San Diego County Water Authori	Services - Professional	2015 IRWM Prop 84 Rd 4	5,779.15
42247	San Dieguito Water District	Utilities - Water	Water	1,257.63
42248	San Dieguito Water District	Utilities - Water	Water	1,213.54
42249	Southland Manufacturing, Inc.	Supplies - Shop & Field	Stormwater erosion supplies	1,475.54
42250	Specialty Seals & Accessories	Repair Parts Expense	Pump repair parts	6,164.28
42251	State Water Resources Control	Dues & Memberships	Certificate renewal, grade II - M. Piper	150.00
42252	Terminix Processing Center	Services - Maintenance	Pest control service	544.00
42253	Trussell Technologies, Inc	Services - Professional	T1 - Operational support	1,152.00
42254	Unifirst Corporation	Services - Uniforms, Supplies - Safety	Uniform service and gloves	585.80
42255	UPS	Postage/Shipping	Shipping	148.37
42256	USA Bluebook	Supplies - Lab	Various supplies	1,146.81
42257	Vaughn Irrigation Services, In	Repair Parts Expense	CRD rubber repair kits	1,206.80
42258	Verizon Wireless	Utilities - Telephone	Cell phone - 03/08/23 - 04/07/23	1,015.62
42259	Volt Management Corp	Services - Temp	Internship program	1,129.48
42260	VWR International, Inc.	Supplies - Lab	Various supplies	1,347.64
42261	WM Corporate Services, Inc.	Services - Grit & Screenings	10 yard roll of disposal	578.08
On-line 771	Public Employees- Retirement	Retirement Plan - PERS	Retirement - 03/18/23 - 03/31/23	18,040.26
On-line 772	Aflac	EE Deduction Benefits	Aflac - Apr	630.36
On-line 773	BankCard Center	Utilities - Telephone	Various supplies	10,465.12
On-line 774	P.E.R.S.	Medical Insurance - Pers	Health - May	33,548.46
On-line 775	San Diego Gas & Electric	Utilities - Gas & Electric	Gas and electric 03/10/23 - 04/09/23	81,666.99
On-line 776	Sun Life Financial	Life Insurance/Disability	Life and disability - Apr, May	4,518.63
	San Elijo Payroll Account	Payroll	Payroll - 03/10/2023	90,253.41
	San Elijo Payroll Account	Payroll	Payroll - 03/24/2023	117,021.82
				<b>\$ 999,645.38</b>

SAN ELIJO JOINT POWERS AUTHORITY

PAYMENT OF WARRANTS SUMMARY

**For the Month of April 2023  
As of April 30, 2023**

PAYMENT OF WARRANTS		\$ 999,645.38
Reference Number	23-05	

I hereby certify that the demands listed and covered by warrants are correct and just to the best of my knowledge, and that the money is available in the proper funds to pay these demands. The cash flows of the SEJPA, including the Member Agency commitment in their operating budgets to support the operations of the SEJPA, are expected to be adequate to meet the SEJPA's obligations over the next six months. I also certify that the SEJPA's investment portfolio complies with the SEJPA's investment policy.



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Amy Chang  
Director of Finance & Administration

STATEMENT OF FUNDS AVAILABLE FOR PAYMENT OF WARRANTS  
AND INVESTMENT INFORMATION  
As of April 30, 2023

FUNDS ON DEPOSIT WITH	AMOUNT
<b>LOCAL AGENCY INVESTMENT FUND</b> <i>(MARCH 2023 YIELD 2.831%)</i>	
UNRESTRICTED DEPOSITS	\$ 22,017,782.48
<b>CALIFORNIA BANK AND TRUST</b> <i>(APRIL 2023 YIELD 0.01%)</i>	
REGULAR CHECKING	1,056,421.06
PAYROLL CHECKING	5,000.00
<b>PARS - TRUSTEE (POST-EMPLOYMENT BENEFITS TRUST)</b> <i>(MARCH 2023 YIELD 1.61%)</i>	407,999.56
<b>TOTAL RESOURCES</b>	\$ 23,487,203.10

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SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: WASTEWATER TREATMENT REPORT

RECOMMENDATION

No action required. This memorandum is submitted for information only.

DISCUSSION

Monthly Treatment Plant Performance and Evaluation

Wastewater treatment for the San Elijo Joint Powers Authority (SEJPA) met all National Pollutant Discharge Elimination System (NPDES) ocean effluent limitation requirements for the month of March 2023. The primary indicators of treatment performance include the removal of Total Suspended Solids (TSS) and Carbonaceous Biochemical Oxygen Demand (CBOD). The SEJPA is required to remove a minimum of 85 percent of the TSS and CBOD from the wastewater. Treatment levels for **TSS** and **CBOD** were **96.6** and **97.9** percent removal, respectively, during the month of March.

## Exceptional Water Treatment

A large, stylized water drop graphic with a dark blue-to-teal gradient. It is positioned on the left side of the graphic area.

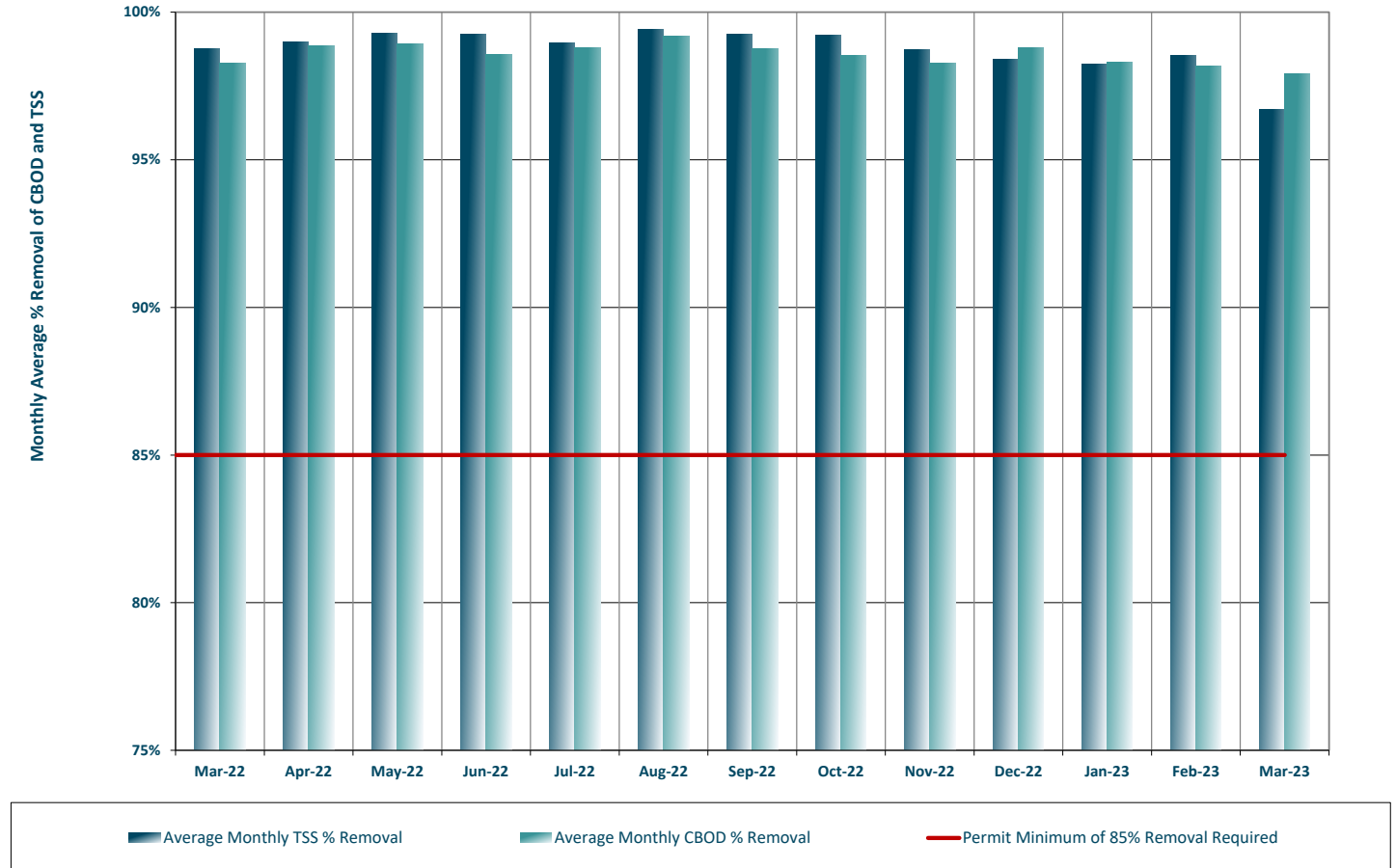
Treatment Removed  
96.6% of TSS

A large, stylized water drop graphic with a dark blue-to-teal gradient. It is positioned on the right side of the graphic area.

Treatment Removed  
97.9% of CBOD

Figure 1 (below) shows historic treatment performance trends for the removal of TSS and CBOD over the last 13 months compared to the permit minimum removal requirement of 85%.

Figure 1: Wastewater Treatment Performance of the SEJPA % Removal of Total Suspended Solids (TSS) and Carbonaceous Biochemical Oxygen Demand (CBOD)



Figures 2 and 3 (below) show historic influent vs effluent TSS and CBOD concentration fluctuations in the strength of the wastewater being received and discharged by the SEJPA.

FIGURE 2: TREATED EFFLUENT FLOWS REMOVAL OF TSS

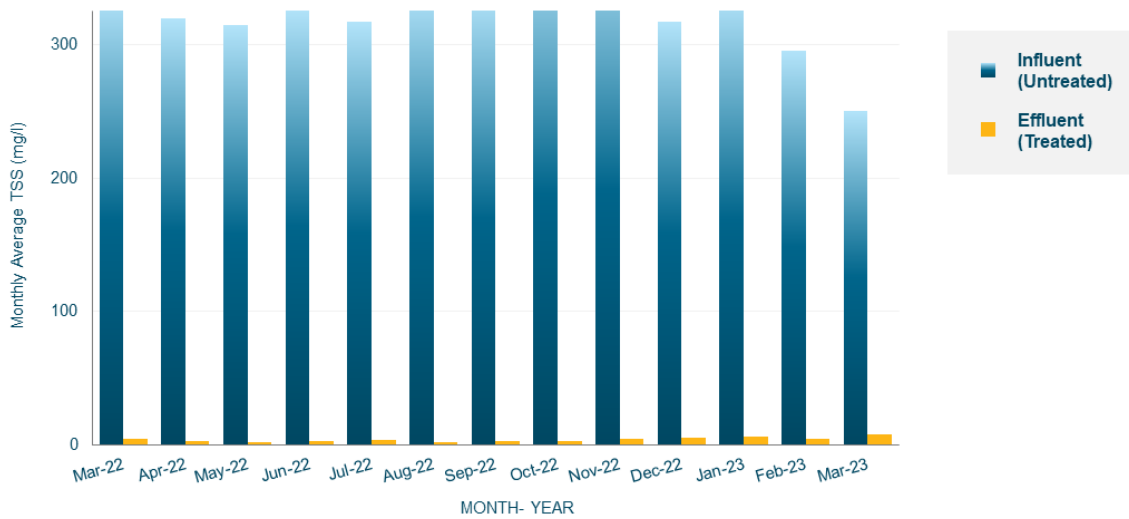
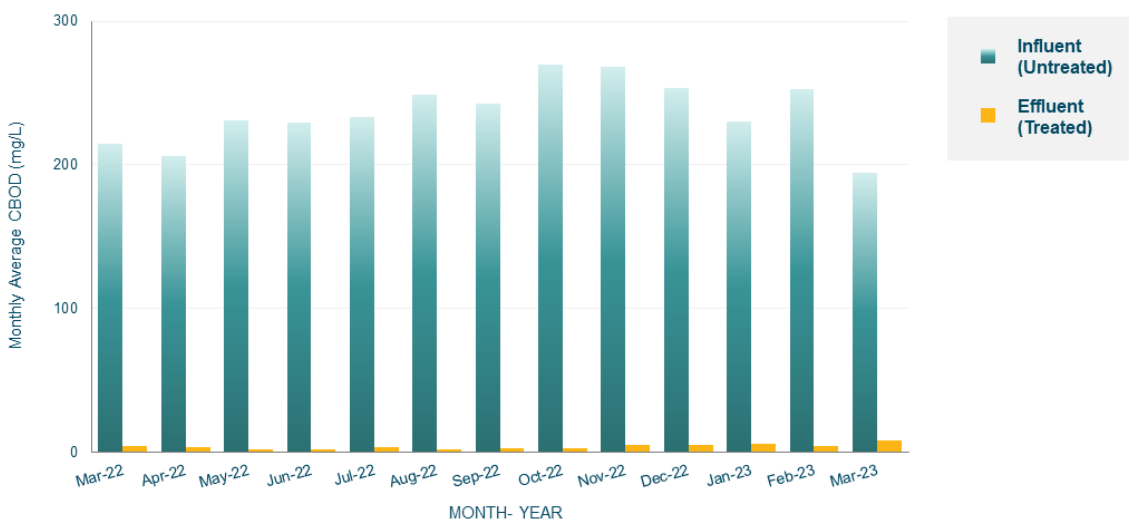


FIGURE 3: TREATED EFFLUENT FLOWS REMOVAL OF CBOD



Member Agency Flows

Table 1 (below) presents the influent and effluent flows for the month of March. Average daily influent flows were recorded for each Member Agency. Total effluent flow was calculated for the San Elijo Water Campus. Approximately 7% of the influent flow was diverted for recycled water use in March.

TABLE 1 - INFLUENT AND EFFLUENT FLOWS IN MARCH

MARCH			
	Influent (mgd)	Recycled Water (mgd)	Effluent (mgd)*
Cardiff Sanitaru Division	1.892	0.138	1.754
Citu of Solana Beach	1.044	0.076	0.968
Rancho Santa Fe SID	0.255	0.018	0.237
Citu of Del Mar	0.392	0.029	0.363
<b>Total San Elijo Water Campus Flow</b>	<b>3.583</b>	<b>0.261</b>	<b>3.322</b>

\* Effluent is calculated by subtracting the recycled water production from the influent wastewater.



Table 2 (below) presents the historical average and unit influent rates per month for each of the Member Agencies during the past 3 years. It also presents the number of connected Equivalent Dwelling Units (EDUs) for each of the Member Agencies during this same time.

**TABLE 2 - SAN ELIJO WATER CAMPUS MONTHLY REPORT - FLOWS AND EDUS**

MONTH	AVERAGE DAILY INFLUENT FLOW RATE (MGD)					CONNECTED EDUs					AVERAGE UNIT INFLUENT FLOW RATE (GAL/EDU/DAY)				
	CSD	RSF	SB	DM	TOTAL PLANT	CSD	RSF	SB	DM	TOTAL EDUS	CSD	RSF	SB	DM	TOTAL PLANT
Jan-20	1.194	0.163	0.917	0.410	2.684	8,517	571	8,105	2,612	19,805	140	286	113	157	136
Feb-20	1.176	0.146	0.919	0.352	2.593	8,517	571	8,105	2,612	19,805	138	256	113	135	131
Mar-20	1.432	0.185	0.907	0.389	2.913	8,519	572	8,105	2,612	19,808	168	324	112	149	147
Apr-20	1.720	0.231	0.912	0.377	3.240	8,522	572	8,105	2,612	19,811	202	404	113	153	164
May-20	1.293	0.158	0.853	0.304	2.608	8,523	573	8,105	2,612	19,813	152	276	105	133	132
Jun-20	1.251	0.164	0.897	0.434	2.746	8,534	576	8,105	2,612	19,826	147	285	111	179	139
Jul-20	1.231	0.157	0.937	0.548	2.873	8,535	576	8,110	2,616	19,837	144	273	116	222	145
Aug-20	1.226	0.156	0.950	0.478	2.810	8,540	577	8,110	2,616	19,843	144	271	117	194	142
Sep-20	1.225	0.151	0.956	0.362	2.694	8,540	578	8,110	2,616	19,844	143	261	118	146	136
Oct-20	1.197	0.142	0.940	0.316	2.595	8,543	579	8,110	2,616	19,848	140	245	116	128	131
Nov-20	1.200	0.142	0.927	0.341	2.610	8,543	579	8,110	2,616	19,848	140	245	114	138	131
Dec-20	1.217	0.141	0.893	0.304	2.555	8,543	579	8,110	2,616	19,848	142	244	110	123	129
Jan-21	1.238	0.150	0.909	0.323	2.620	8,543	579	8,110	2,616	19,848	145	259	112	129	132
Feb-21	1.224	0.151	0.926	0.306	2.607	8,548	579	8,110	2,616	19,853	143	261	114	121	131
Mar-21	1.291	0.160	0.968	0.332	2.751	8,548	579	8,110	2,616	19,853	151	277	119	131	139
Apr-21	1.232	0.160	0.925	0.320	2.637	8,552	579	8,110	2,616	19,857	144	277	114	129	133
May-21	1.189	0.157	0.932	0.323	2.601	8,552	579	8,110	2,616	19,857	139	271	115	130	131
Jun-21	1.218	0.148	0.938	0.358	2.662	8,554	579	8,110	2,616	19,859	142	256	116	145	134
Jul-21	1.183	0.144	0.972	0.435	2.734	8,554	579	8,124	2,616	19,873	138	249	120	178	138
Aug-21	1.178	0.150	0.966	0.480	2.774	8,556	579	8,124	2,616	19,875	138	259	119	196	140
Sep-21	1.153	0.129	0.948	0.353	2.583	8,557	579	8,124	2,616	19,876	135	223	117	144	130
Oct-21	1.225	0.126	0.885	0.329	2.565	8,557	579	8,124	2,616	19,876	143	218	109	139	129
Nov-21	1.156	0.131	0.911	0.329	2.527	8,557	581	8,124	2,616	19,878	135	226	112	135	127
Dec-21	1.264	0.145	0.913	0.310	2.632	8,557	581	8,124	2,616	19,878	148	250	112	127	132
Jan-22	1.174	0.140	0.906	0.357	2.577	8,557	581	8,124	2,616	19,878	137	241	112	145	130
Feb-22	1.113	0.158	0.929	0.300	2.500	8,557	581	8,124	2,616	19,878	130	272	114	120	126
Mar-22	1.176	0.142	0.946	0.307	2.571	8,557	581	8,124	2,616	19,878	137	245	116	123	129
Apr-22	1.134	0.140	0.875	0.315	2.464	8,557	582	8,124	2,616	19,879	133	241	108	129	124
May-22	1.146	0.140	0.877	0.301	2.464	8,557	582	8,124	2,616	19,879	134	241	108	123	124
Jun-22	1.133	0.138	0.921	0.452	2.644	8,557	583	8,124	2,616	19,880	132	237	113	184	133
Jul-22	1.124	0.129	0.948	0.438	2.639	8,557	583	8,142	2,616	19,898	131	221	116	179	133
Aug-22	1.163	0.133	0.929	0.448	2.673	8,557	583	8,142	2,616	19,898	136	228	114	185	134
Sep-22	1.139	0.125	0.904	0.381	2.549	8,557	584	8,142	2,616	19,899	133	214	111	158	128
Oct-22	1.083	0.128	0.890	0.295	2.396	8,557	584	8,142	2,616	19,899	127	219	109	122	120
Nov-22	1.205	0.124	0.879	0.336	2.544	8,557	585	8,142	2,616	19,900	141	212	108	138	128
Dec-22	1.186	0.133	0.906	0.374	2.599	8,557	585	8,142	2,616	19,900	139	228	111	151	131
Jan-23	1.630	0.200	0.979	0.379	3.188	8,557	585	8,142	2,616	19,900	190	342	120	153	160
Feb-23	1.323	0.167	0.930	0.371	2.791	8,557	585	8,142	2,616	19,900	155	286	114	149	140
Mar-23	1.892	0.255	1.044	0.392	3.583	8,557	585	8,142	2,616	19,900	221	436	128	154	180

CSD: Cardiff Sanitary Division

RSF: Ranch Santa Fe Community Service District

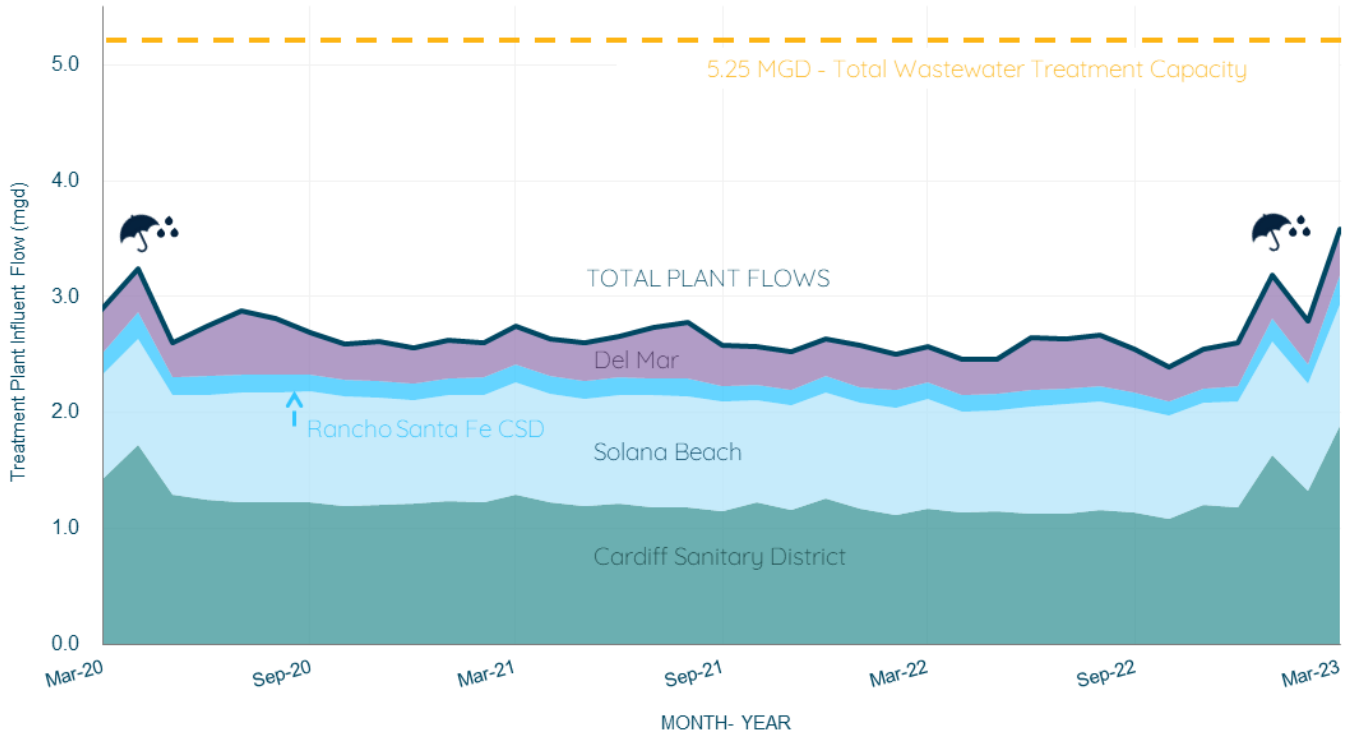
SB: Solana Beach

DM: City of Del Mar

EDU: Equivalent Dwelling Unit

Figure 4 (below) presents the 3-year historical average daily flows per month for each Member Agency. This is to provide a historical overview of the average flow treated for each agency. Also shown in Figure 4 is the total wastewater treatment capacity of the water campus, 5.25 mgd, of which each Member Agency has the right to 2.2 mgd, Rancho Santa Fe Community Service District leases 0.25 mgd, and the City of Del Mar leases 0.60 mgd.

FIGURE 4: SEJPA AVERAGE DAILY FLOWS OVER THE PAST 3 YEARS



City of Escondido Flows

The average and peak flow rate for the month of March 2023 from the City of Escondido's Hale Avenue Resource Recovery Facility, which discharges through the San Elijo Ocean Outfall, is reported below in Table 3.

TABLE 3 - CITY OF ESCONDIDO FLOWS

	Flow (mgd)
Escondido (Average flow rate)	14.5
Escondido (Peak flow rate)	18.7

Connected Equivalent Dwelling Units

The Cities of Encinitas, Solana Beach and Del Mar updated the number of connected EDUs that are reported to the SEJPA in July 2022. The Rancho Santa Fe CSD update their connected EDUs report every month. The number of EDUs connected for each of the Member Agencies and lease agencies is reported in Table 4 below.

TABLE 4 - CONNECTED EDUs BY AGENCY

	Connected (EDU)
Cardiff Sanitary Division	8,557
Rancho Santa Fe SID	585
City of Solana Beach	7,806
San Diego (to Solana Beach)	337
City of Del Mar	2,616
<b>Total EDUs to System</b>	<b>19,900</b>

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

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AGENDA ITEM NO. 10

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: RECYCLED WATER REPORT

RECOMMENDATION

No action required. This memorandum is submitted for information only.

DISCUSSION

*Recycled Water Production*

For the month of March 2023, recycled water demand was 16.2 acre-feet (AF), which was met using 16.2 AF of recycled water and supplemented with 0.0 AF of potable water. March demand was 76.6% below budget expectations of 69 AF due to heavy rain. The total water production of 1,098 AF for the first nine months of FY 2022-23 was slightly below budget by 2.3%.

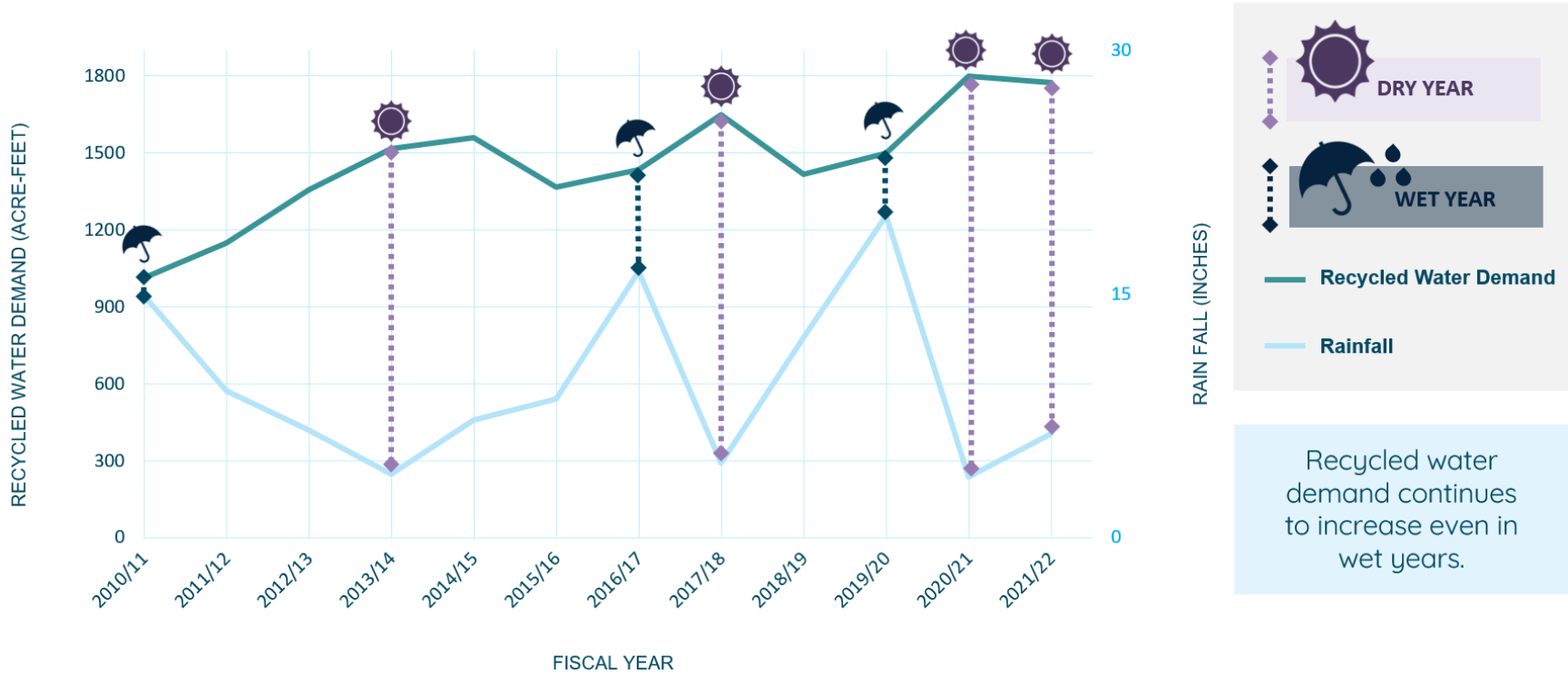
Figure 1 (attached) provides a graphical view of annual recycled water demand spanning the last 10 fiscal years, with the overlay of annual rainfall. Since the recycled water program primarily serves outdoor irrigation, annual demand is reduced during wet periods and increases during times of drought. Figure 2 (attached) shows the monthly recycled water demand for each March for the last ten years to provide a year-over-year comparison. Figure 3 (attached) compares budget versus actual recycled water sales for FY 2022-23.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

FIGURE 1: RECYCLED WATER DEMAND AND RAINFALL COMPARISON



**DRY YEAR**

**WET YEAR**

**Recycled Water Demand**

**Rainfall**

Recycled water demand continues to increase even in wet years.

FIGURE 2: MARCH RECYCLED WATER DEMAND

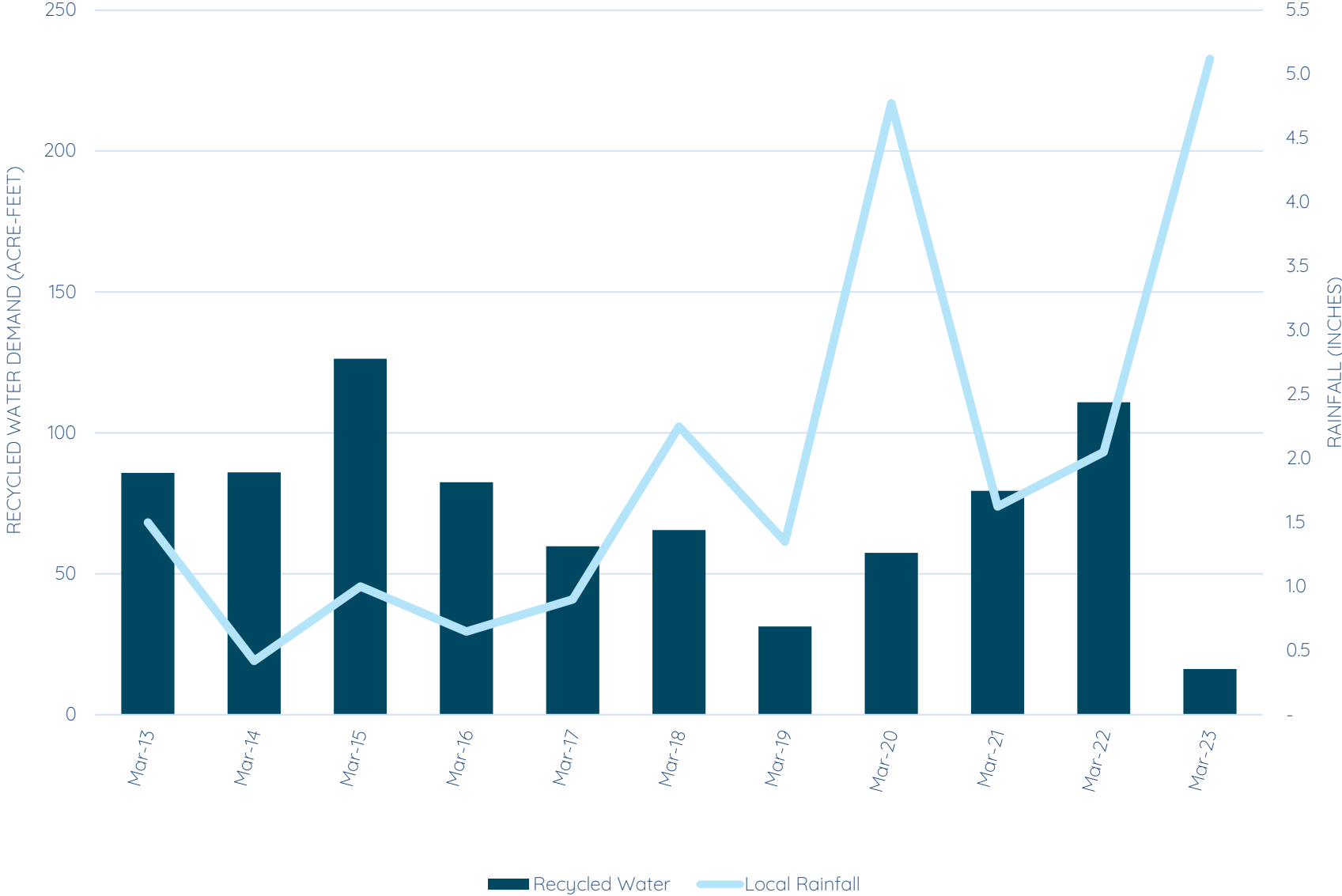
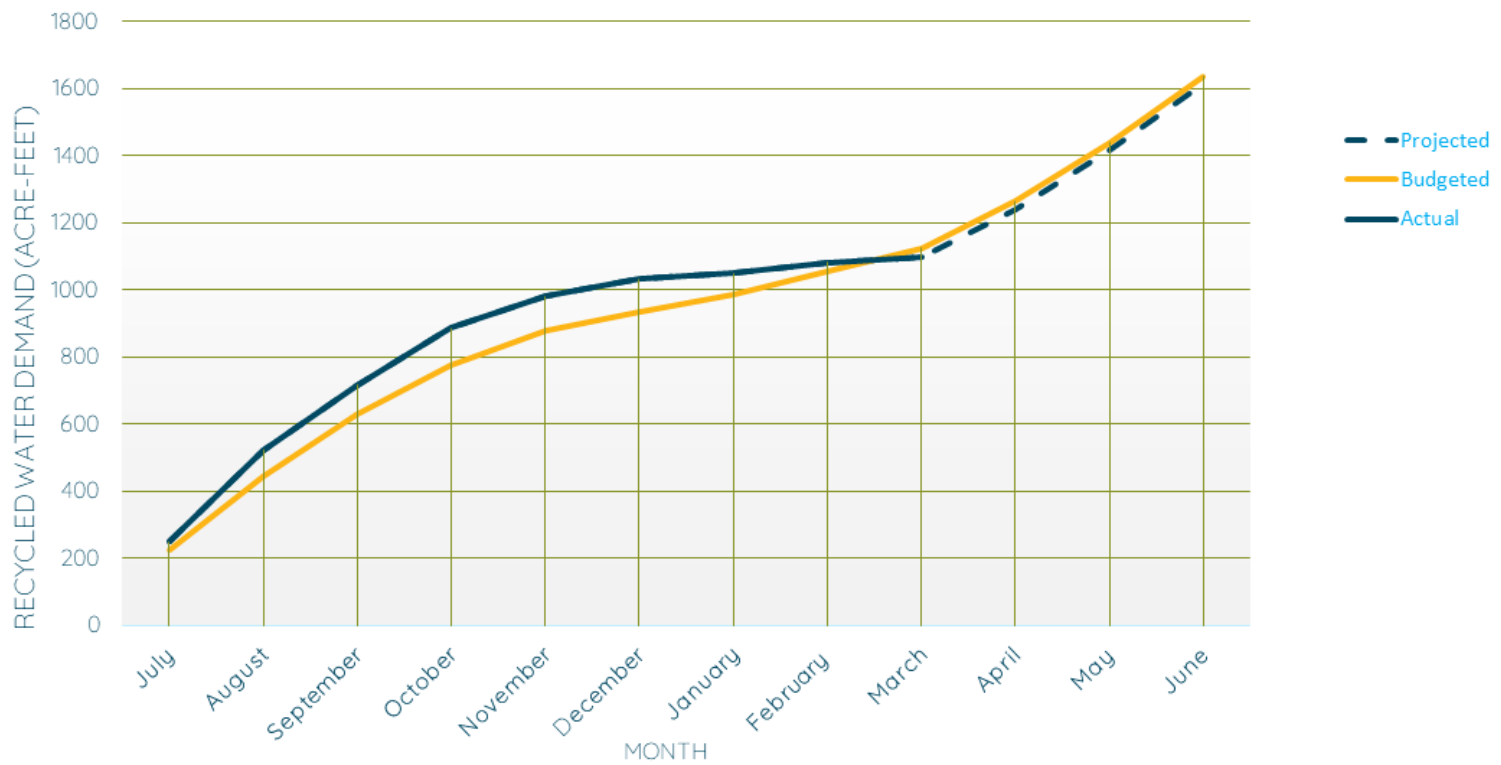


FIGURE 3: FY2022/23 CUMULATIVE DEMAND VS BUDGET



\*

AGENDA ITEM NO. 11

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: REPORTABLE MEETINGS

RECOMMENDATION

No action required. This memorandum is submitted for information only.

BACKGROUND

The General Manager or his designee may meet monthly with one or more Board Members in preparation for the Board Meeting.

DISCUSSION

The following meetings have taken place since the previous Board Meeting:

1. Meeting to review Board Meeting Agenda with Board Chair Zito on April 13, 2023.

FINANCIAL IMPACT

Per the SEJPA Restatement Agreement, SEJPA pays the Board Member \$160 for each reportable meeting. These meetings are accounted for in our annual budget.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager



\*

AGENDA ITEM NO. 12

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: UPDATE OF EMERGENCY REPAIRS TO RECYCLED WATER PIPELINE IN  
MANCHESTER AVE.

RECOMMENDATION

It is recommended that the Board of Directors:

1. Confirm the continuation of the Agreement with GEM Site Development, LLC pursuant to San Elijo Joint Power Authority's Resolution 2022-01 "Purchasing Policies and Procedures" and Public Contract Code 22050, pending completion of final grind and overlay pavement restoration.

BACKGROUND

On February 5, 2023, staff observed a pipeline leak just east of the intersection of the San Elijo Water Campus entrance on Manchester Avenue. As reported to the Board on February 21<sup>st</sup>, staff investigated the situation and enacted emergency provisions of our Purchasing Policy and Procedures to retain a local pipeline contractor, GEM Site Development, LLC (GEM) under a time and materials (T&M) contract. SEJPA's Resolution 2022-01 "Purchasing Policies and Procedures", Part 3.1.d provided for emergency contract in this situation under the General Manager's authority.

The Contractor located the on February 6, 2023, and under SEJPA's direction, GEM proceeded with repair work including material purchases, removing a section of damaged pipe, and replacement of the pipe with repair couplings, joint restraints, and a new service saddle. Trench preparation, pipe bedding, backfill and trench repair were completed in accordance with City of Encinitas standards and the pipeline was returned to service on February 11, 2023. Pursuant to City of Encinitas requirements, the Contractor was to return at a future date to perform a final grind and overlay patch on the trench.

Pursuant to Section 22050 of the Public Contract Code (PCC) SEJPA is to provide an update to the governing Board until the action (here, the emergency repair contract) is terminated.

## DISCUSSION

Although the pipeline repair and initial road paving has been completed, final pavement restoration consistent with the City's paving requirements is still outstanding. Providing a time between initial and final pavement restorage provides allowance for potential settling and correction. However, wet weather has extended the period between initial and final paving. Upon completion of all work, SEJPA will reconcile the time and materials charges in order to approve and pay-out GEM's final invoice. After this final reconciliation is performed, the General Manager will terminate the time and materials contract with GEM.

## FINANCIAL IMPACT

Funding for this emergency event will be allocated from the recycled water reserve fund. Board action on February 21, 2023, confirmed the Emergency Condition and ratified the emergency repair contract with GEM Site Development, LLC for an amount not to exceed an estimated value of \$50,000. SEJPA is monitoring the Time and Material (T&M) costs and does not anticipate the repair work to exceed the authorized amount.

## RECOMMENDATION

It is recommended that the Board of Directors:

1. Confirm the continuation of the Agreement with GEM Site Development, LLC pursuant to San Elijo Joint Power Authority's Resolution 2022-01 "Purchasing Policies and Procedures" and Public Contract Code 22050, pending completion of final grind and overlay pavement restoration.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

\*

AGENDA ITEM NO. 14

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: SAN ELIJO JOINT POWERS AUTHORITY FISCAL YEAR 2023-24  
RECOMMENDED BUDGET UPDATE

RECOMMENDATION

It is recommended that the Board of Directors:

1. Discuss and take action as appropriate.

BACKGROUND

Each year, the San Elijo Joint Powers Authority (SEJPA) prepares a recommended budget for the upcoming fiscal year. This budget was presented to the Board in April, and became a public document for comments and suggested changes by the Board, Member Agencies, the public, and other government agencies that receive services from the SEJPA. In addition, the budget has been reviewed with staff from both Member Agencies and with other government agencies that utilize SEJPA services.

DISCUSSION

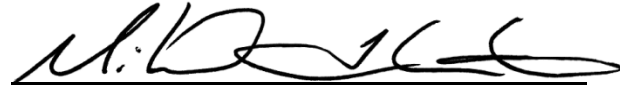
As of now, SEJPA has not received any proposed changes or public comments on the recommended budget for FY 2023-24. However, staff have identified one change: adding \$14,832 of Other Revenue to account for laboratory rental revenue that SEJPA is scheduled to receive in FY 2023-24. While significant, this addition did not have a material effect on the overall budget.

The FY 2023-24 budget, along with the investment policy and appointment of SEJPA Treasurer for that year, will be presented to the Board of Directors for adoption at the June meeting.

It is therefore recommended that the Board of Directors:

1. Discuss and take action as appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Thornton", written over a horizontal line.

Michael T. Thornton, P.E.  
General Manager

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

May 16, 2023

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: APPROVE PRIVATE PLACEMENT LOAN FOR THE RECYCLED WATER  
CAPITAL IMPROVEMENT PROGRAM PROJECTS

RECOMMENDATION

It is recommended that the Board of Directors:

1. Authorize Board Chair and General Manager to execute the Private Placement Loan Agreement with Webster Bank, National Association for an amount not-to-exceed \$10,120,000;
2. Adopt Resolution 2023-01 Authorizing Recycled Water Enterprise Financing Via Execution and Delivery of the Loan Agreement, and Authorizing Official Actions Related Thereto; and
3. Discuss and take action as appropriate.

PROJECT BACKGROUND

San Elijo Joint Powers Authority (SEJPA) plans to construct four infrastructure projects totaling an estimated \$18.3 million (Phase 4) over the next three years. These projects will advance the agency's recycled water program through new treatment improvements, capturing and reusing stormwater, and expanding water storage facilities. The projects have qualified for approximately \$5.8 million in grant funding, which will be combined with an estimated \$2.5 million in cash, and \$10 million in financing.

PROPOSED PROJECT FINANCING PLAN

SEJPA retained Fieldman Rolapp & Associates as the agency's financial advisor, Jones Hall as bond counsel, and Oppenheimer & Company as the placement agent. In April 2023, Oppenheimer sent requests for loan proposals to 18 banks, of which seven banks provided proposals for 15-year terms (Table 7-1).

**Table 7-1**

	Bank of the West	Cal B&T	Capital One	Chase	Flarstar Bank	Key Bank	Webster Bank
<b>Interest Rate:</b> 15-Year Term:	4.60%	5.00%	4.54%	A: 3.73% / B: 3.95%	4.25%	4.69%	4.29%
<b>Rate Lock Terms:</b>	Rate locked 5 days prior to closing	Locked through May 25, 2023	Rate can be locked once numbers are finalized. Subject to change until then.  Once locked, locked through May 25, 2023.	Rate locked when term sheet is signed. Locked through closing once signed.	Rate locked 30 days prior to closing	Locked for 45 days	Locked through June 1, 2023
<b>Prepayment Terms:</b>	Anytime at par	Anytime at par	<u>15-Year Term</u> In whole on any payment date on or after 6/2/31 at par	A: Non-Callable B: Callable in whole or in part on any int pmt date on or after 6/2/30 at par	Year 1-5 at 101.5% Year 6 at 101% Year 7 at 100.5% thereafter at par	Anytime at par	In whole only on any pmt date Year 3 at 102% Year 4 at 101% thereafter at par
<b>Costs(1):</b> Bank Counsel	\$10,000	None	None	\$10,000	\$5,000	None	None
<b>Covenants:</b> Rate Covenant Additional Bonds Test	1.00x 1.15x	1.15x 1.15x	1.15x 1.15x	1.15x 1.15x	1.15x 1.15x		1.15x 1.15x
<b>Expiration:</b>	May 31, 2023		April 20, 2023	April 18, 2023			April 21, 2023
<b>Additional Notes:</b>			Rate tracks with 10 year treasury until locked.	Breakage fees apply.			

In general, the 15-year term resulted in an annual debt payment in excess of \$880,000, and the higher annual debt payment could impact the building of future reserves. Due to the current market volatility, few lenders competed for the 20-year term (Table 7-2), however Webster Bank provided a very competitive proposal that achieved the desired financing goals.

**Table 7-2**

	Cal B&T	Capital One	Webster Bank
<b>Interest Rate:</b> 20-Year Term:	*5.08% *15-yr fixed 5-yr variable	4.69%	4.58%
<b>Rate Lock Terms:</b>	Locked through May 25, 2023	Rate can be locked once numbers are finalized. Subject to change until then.  Once locked, locked through May 25, 2023.	Locked through June 1, 2023
<b>Prepayment Terms:</b>	Anytime at par	<u>20-Year Term</u> In whole on any payment date on or after 6/2/33 at par	In whole only on any pmt date Year 3 at 102% Year 4 at 101% thereafter at par
<b>Costs(1):</b> Bank Counsel	None	None	None
<b>Covenants:</b> Rate Covenant Additional Bonds Test	1.15x 1.15x	1.15x 1.15x	1.15x 1.15x
<b>Expiration:</b>		April 20, 2023	April 21, 2023
<b>Additional Notes:</b>		Rate tracks with 10 year treasury until locked.	

The Webster Bank 20-year proposal includes an interest rate of 4.58% and the option to refund the loan at year 5 with no prepayment penalties. The annual debt payment for this proposal is approximately \$780,000, which equates to a total debt service value of \$15,572,228 over the life of the loan.

The loan will provide approximately \$10 million of funding for the recycled water capital program and includes approximately \$120,000 in expenses for bond counsel, underwriting, and financial advisory services, resulting in a total estimated loan amount of \$10,120,000.

Staff have reviewed the financial model, which indicates that the program can sustain the annual debt payment of this loan.

### LOAN APPROVAL

At this time, staff requests the Board to authorize the Board Chair and General Manager to execute the loan documents with Webster Bank.

It is therefore recommended that the Board of Directors:

1. Authorize Board Chair and General Manager to execute the Private Placement Loan Agreement with Webster Bank, National Association for an amount not-to-exceed \$10,120,000;
2. Adopt Resolution 2023-01 Authorizing Recycled Water Enterprise Financing Via Execution and Delivery of the Loan Agreement, and Authorizing Official Actions Related Thereto; and
3. Discuss and take action as appropriate.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

Attachment 1: Webster Bank National Association Loan Agreement

Attachment 2: Resolution No. 2023-01

# Attachment 1

Jones Hall, A Professional Law Corporation

Draft of May 10, 2023

## LOAN AGREEMENT

This Loan Agreement (this “Loan Agreement”), dated May 25, 2023, is between Webster Bank, National Association, a national banking association, as lender (together with its successors and assigns, the “Lender”), and the San Elijo Joint Powers Authority, a joint powers authority duly organized and existing under the Constitution and laws of the State of California, as borrower (the “Authority”).

### BACKGROUND:

1. The Authority is a joint powers authority, organized and existing under that certain First Amended Restatement of Agreement between Cardiff Sanitation District and Solana Beach Sanitation District Establishing the San Elijo Joint Powers Authority, dated September 1, 2021.

2. The Authority owns and operates a system for the supply, treatment and distribution of reclaimed/recycled water (as further defined herein, the “Enterprise”).

3. In order to provide funds to finance capital improvements to the Enterprise, the Authority has determined to borrow the amount of \$10,120,000 from the Lender under this Loan Agreement and to make loan repayments (the “Loan Repayments”) to the Lender, secured by a pledge of and lien on the Net Revenues as set forth in this Loan Agreement, which pledge and lien shall be on a parity with the Parity Obligations (defined herein).

4. The Authority is authorized to enter into this Loan Agreement and to borrow amounts hereunder for the foregoing purposes under the laws of the State of California, including the Bond Law (defined herein).

### AGREEMENT:

In consideration of the foregoing and the material covenants hereinafter contained, the Authority and the Lender formally covenant, agree and bind themselves as follows:

## ARTICLE I DEFINITIONS AND APPENDICES

SECTION 1.1. *Definitions.* All terms defined in this Section 1.1 have the meanings herein specified for all purposes of this Loan Agreement.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Authority from time to time concerning or relating to bribery or corruption.



“Anti-Terrorism Laws” means any of the Laws relating to terrorism or money laundering, including Executive Order No. 13224, the PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by OFAC.

“Authority” means the San Elijo Joint Powers Authority, a joint powers authority duly organized and existing under the Constitution and laws of the State of California.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970 as codified in 31 U.S.C. 5311-5314e, as now and hereafter in effect, or any successor statute.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

“Bond Law” means Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Section 6586 et seq.).

“Closing Date” means the date of execution and delivery of this Loan Agreement by the Authority and the Lender, being May 25, 2023.

“Determination of Taxability” means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the Authority files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have occurred;

(ii) on the date when the Lender notifies the Authority that it has received a written opinion from Bond Counsel to the effect that an Event of Taxability has occurred, which notice shall be accompanied by a copy of such opinion of Bond Counsel, unless, within 180 days after receipt by the Authority of such notification and copy of such opinion from the Lender, the Authority shall deliver to the Lender a ruling or determination letter issued to or on behalf of the Authority by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the Authority shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon any review or audit or upon any other ground whatsoever, an Event of Taxability has occurred; or

(iv) on the date when the Authority shall receive notice from the Lender that the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest on the Loan Repayments as includable in the gross income of the Lender due to the occurrence of an Event of Taxability and the

Lender has provided a copy of document(s) received from the Internal Revenue Service to the Authority;

*provided, however,* that no Determination of Taxability shall occur under subparagraph (iii) or subparagraph (iv) above unless the Authority has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided, further, however,* that upon demand from the Lender following an event listed in subparagraphs (i), (ii), (iii) or (iv), the Authority shall reimburse the Lender for any payments, including any taxes, interest, penalties or other charges, Lender shall be obligated to make to the Internal Revenue Service as a result of the Determination of Taxability.

“Enterprise” means the existing facilities and property owned by the Authority in connection with the reclaimed/recycled water supply services of the Authority, together with the Project and all extensions thereof and improvements thereto hereafter acquired, constructed or installed by the Authority; *provided,* that the term “Enterprise” shall not include any facilities of the Authority used for the treatment and disposal of wastewater, including any sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, treatment, purification or disposal of sewage, and any necessary lands, rights of way and other real or personal property useful in connection therewith.

“Enterprise Fund” means the recycled water enterprise fund established and maintained by the Authority into which the Gross Revenues are deposited and maintained by the Authority. This is known as the “Revenue Fund” in the 2011 Loan Agreement.

“Environmental Laws” means any and all federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

“Event of Default” means any of the events of default as defined in Section 5.1.

“Event of Taxability” means any action taken or not taken by the Authority which has the effect of causing interest paid or payable on the Loan Repayments to be includable, in whole or in part, in the gross income of the holder of the Loan Repayments for federal income tax purposes.

“Federal Securities” means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations

the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

“Fiscal Consultant” means any consultant or firm of such consultants appointed by the Authority and who, or each of whom: (a) is judged by the Authority to have experience in matters relating to the financing of recycled water system enterprises; (b) is in fact independent and not under domination of the Authority; (c) does not have any substantial interest, direct or indirect, with the Authority other than as purchaser of any debt obligations of the Authority; and (d) is not connected with the Authority as an officer or employee of the Authority, but who may be regularly retained to make reports to the Authority.

“Fiscal Year” means each twelve-month period during the Term of this Loan Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the Authority as its fiscal year period.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Gross Revenues” means , for any period all gross charges received for, and all other gross income and receipts derived by the Authority from, the ownership and operation of the Enterprise or otherwise arising from the Enterprise, including but not limited to connection charges and earnings on the investment of any reclaimed/recycled water funds held by the Authority; but excluding (a) the proceeds of any ad valorem property taxes levied for the purpose of paying bonded indebtedness of the Authority and (b) the proceeds of any special assessments or special taxes levied upon real property within any improvement district served by the Authority for the purpose of paying special assessment bonds or special tax obligations of the Authority.

“Law” means any treaty or any Federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, policy, guideline, supervisory standard, order or decree of any court or other Governmental Authority.

“Lender” means Webster Bank, National Association, a national banking association, and its successors or assigns.

“Loan” means the loan made by the Lender to the Authority in the aggregate principal amount of \$10,120,000 under Section 3.1.

“Loan Agreement” means this Loan Agreement, between the Lender and the Authority, as may be amended in accordance with the terms hereof.

“Loan Repayment Date” means June 2 and December 2 in each year, commencing December 2, 2023 and continuing until repayment of the Loan in full.

“Loan Repayments” means all payments required to be paid by the Authority under Section 3.4, including any prepayment thereof under Section 6.1.

“Maintenance and Operation Costs” means the reasonable and necessary costs and expenses paid by the Authority for maintaining and operating the Enterprise, determined in accordance with generally accepted accounting principles, including but not limited to the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Enterprise in good repair and working order, and including but not limited to administrative costs of the Authority attributable to the Enterprise and the financing thereof, but in all cases excluding depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature, such as pension and OPEB accruals.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the Enterprise or the other assets, liabilities, condition (financial or otherwise), business, facilities or operations of the Authority, (b) the ability of the Authority to carry out its business in the manner conducted as of the date of this Loan Agreement or to meet or perform its obligations under this Loan Agreement on a timely basis, or (c) the validity or enforceability of this Loan Agreement.

“Maximum Annual Debt Service” means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year during the Term of this Loan Agreement by totaling the aggregate amount of (a) Loan Repayments coming due in such Fiscal Year and (b) the principal and interest coming due and payable in such Fiscal Year on any Parity Obligations then outstanding, including the principal amount coming due and payable by operation of mandatory sinking fund redemption; *provided, however*, that whenever interest as described herein accrues at other than a fixed rate, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or if the Parity Obligations are not yet outstanding, the initial rate (if established and binding), (ii) if the Parity Obligations have been outstanding for at least 12 months, the average rate over the 12 months immediately preceding the date of calculation, and (iii) (x) if interest on the Parity Obligations is excludable from gross income under the applicable provisions of the Tax Code, the most recently published The Bond Buyer Bond Revenue Index (or, if no longer published, a comparable index chosen by the Authority) plus fifty (50) basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. treasury obligations with comparable maturities, plus fifty (50) basis points

“Net Revenues” means, for any Fiscal Year, all Gross Revenues received by the Authority for such Fiscal Year, less the Maintenance and Operation Costs for such Fiscal Year.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control, and any successor thereto.

“OFAC Lists” means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224 and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable executive orders.

“Parity Obligations” means, collectively, (a) the 2011 Loan Agreement, (b) the 2012 Reimbursement Agreement, (c) the 2020 Reimbursement Agreement, and (d) any bonds, notes or other obligations of the Authority payable from and secured by a pledge of and lien of Net Revenues on a parity with the Loan Repayments, which are issued or incurred by the Authority in accordance with Section 4.7.

“Project” means the capital improvements to the Enterprise which are financed from the proceeds of the Loan, anticipated to consist of biological and dewatering treatment improvements at the San Elijo Water Campus, renovation of the Wanket Tank Reservoir and connecting recycled water piping, and improvements associated with the capture and reuse of stormwater at the San Elijo Water Campus, and any other capital improvement projects designated in writing by the Authority to the Lender hereafter.

“Project Costs” means all costs and expenses relating to the Project, including but not limited to the following:

- (a) obligations incurred or assumed for labor, materials and equipment in connection with the Project,
- (b) the costs of performance, labor and material bonds of insurance of all kinds that may be required or necessary during the course of constructing or equipping the Project, to the extent not purchased by contractors or subcontractors for the Project,
- (c) all costs of engineering services, including the costs incurred or assumed for preliminary design and development work, test borings, surveys, estimates, plans and specifications, and for supervising improvements as well as for the performance of all of the duties required by or consequent upon the proper improvement of the System, and all costs of architectural services in connection with the preparation of the plans and specification for the Project,
- (d) all expenses incurred in connection with the preparation and execution of this Loan Agreement and the performance of the duties of the Authority hereunder and related hereto,
- (e) all costs incurred in preparing or obtaining permits or approval from regulatory agencies in connection with the Project and the constructing and equipping of the Project, and
- (f) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not affect the exemption from federal income taxes of interest on any of the Loan Repayments.

“Project Fund” means the fund by that name and established and held by the Authority under Section 3.2 for the purpose of disbursing the proceeds of the Loan to finance the acquisition and construction of the Project.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published thereunder.

“Term of this Loan Agreement” or “Term” means the time during which this Loan Agreement is in effect, as provided in Section 3.3.

“2011 Loan Agreement” means Loan Agreement #11-020, dated as of November 1, 2011, between Municipal Finance Corporation and the Authority, as assigned by Municipal Finance Corporation to City National Bank.

“2012 Reimbursement Agreement” means the Pipeline Transfer and Cost Reimbursement Agreement, dated December 27, 2012, between the Santa Fe Irrigation District and the Authority.

“2020 Reimbursement Agreement” means the Pipeline Transfer and Cost Reimbursement Agreement, dated December 21, 2020, between the City of Solana Beach and the Authority.

SECTION 1.2. *Appendix A.* The following Appendix is attached to, and by reference made a part of, this Loan Agreement:

APPENDIX A: The schedule of Loan Repayments to be paid by the Authority during the Term.

## **ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS**

The Authority represents, warrants and covenants to the Lender as follows:

- (a) Due Organization and Existence. The Authority is a joint powers authority organized and existing under the Constitution and laws of the State of California.
- (b) Authorization. The Authority is authorized under the laws of the State of California to enter into this Loan Agreement, to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and the Board of Directors of the Authority has duly adopted its resolution authorizing the execution and delivery of this Loan Agreement.
- (c) No Violations. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the

Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the Authority, other than as set forth herein.

- (d) Prior Indebtedness. The Authority has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Gross Revenues or Net Revenues over the payment of the Loan Repayments. The pledge of Net Revenues to the repayment of the Loan Repayments is on a parity with the pledge to the repayment of (i) the 2011 Loan Agreement, (ii) the 2012 Reimbursement Agreement and (iii) the 2020 Reimbursement Agreement
- (e) Financial Condition. The financial statements of the Authority for the year ended June 30, 2022, supplied to the Lender (i) were prepared in accordance with generally accepted accounting principles, consistently applied, and (ii) fairly present the Authority's financial condition as of the date of the statements. Other than as described in such financial statements or otherwise disclosed to the Lender, there has been no material adverse change in the Authority's financial condition subsequent to June 30, 2022.
- (f) No Financial Advisory or Fiduciary Relationship. The Authority represents, warrants and acknowledges that: (i) the transaction contemplated herein is an arm's length commercial transaction among the Authority and the Lender and its affiliates, (ii) in connection with such transaction, the Lender and its affiliates are acting solely as a principal and not as an advisor including, without limitation, a "Municipal Advisor" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"), agent or a fiduciary of the Authority, (iii) the Lender and its affiliates are relying on the bank exemption in the Municipal Advisor Rules, (iv) the Lender and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the Authority with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Lender, or any affiliate of the Lender, has provided other services or advised, or is currently providing other services or advising the Authority on other matters), (v) the Lender and its affiliates have financial and other interests that differ from those of the Authority, and (vi) the Authority has consulted with their own financial, legal, accounting, tax and other advisors, as applicable, to the extent it deemed appropriate.
- (g) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority or of the voters of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Loan

Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

- (h) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the Authority, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Loan Agreement or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the financial conditions, assets, properties or operations of the Authority.
- (i) No Defaults. The Authority has never not appropriated or defaulted under any of its payment or performance obligations or covenants, either under any loan agreement of the same general nature as this Loan Agreement, or under any of its bonds, notes, or other debt obligations.
- (j) Fee Title. The Authority is the owner in fee of title, or has necessary rights of access, to the property where the Enterprise is located. No lien or encumbrance on such property materially impairs the Authority's use of the property for the purposes for which it is, or may reasonably be expected to be, used.
- (k) Accuracy of Information. All information, reports and other papers and data furnished by the Authority to the Lender were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Lender a true and accurate knowledge of the subject matter and were provided in expectation of the Lender's reliance thereon in entering into the transactions contemplated by this Loan Agreement. No fact is known to the Authority which has had or, so far as the Authority can now reasonably foresee, may in the future have a material adverse effect on the Authority, which has not been set forth in the financial statements previously furnished to the Lender or in other such information, reports, papers and data or otherwise disclosed in writing to the Lender prior to the Closing Date. Any financial, budget and other projections furnished to the Lender by the Authority or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as



of the date of this representation, represent the Authority's best estimate of its future financial performance.

- (l) Rate Setting. The Authority is empowered to set rates, fees and charges for the services furnished by the Enterprise without review or approval by any state or local government agency.
- (m) Environmental Laws. In the ordinary course of its business, the Authority conducts an ongoing review of Environmental Laws on the business, operations and the condition of its property, in the course of which it identifies and evaluates associated liabilities and costs (including, but not limited to, any capital or operating expenditures required for clean-up or closure of properties currently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review, the Authority does not believe that Environmental Laws are likely to have a Material Adverse Effect.
- (n) No Sovereign Immunity. The Authority is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or its revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Loan Agreement, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be made subject in any action, suit or proceeding relating to this Loan Agreement, and no such immunity (whether or not claimed) may be attributed to the Authority or its revenues.
- (o) Insurance. As of the Closing Date, the Authority maintains such insurance, including self-insurance, as is required by Section 4.3.
- (p) Anti-Corruption Laws. The Authority and its respective officers and directors and to the knowledge of the Authority, its employees and agents, are in compliance with Anti-Corruption Laws in all material respects. None of (i) the Authority, any of its directors or officers or employees, or (ii) to the knowledge of the Authority, any agent of the Authority that will act in any capacity in connection with or benefit from the Loan established hereby, is a sanctioned person (as defined in the Anti-Corruption Laws). The transaction contemplated by this Loan Agreement does not violate Anti-Corruption Laws.

- (q) Compliance with Laws, Etc. The Authority is in compliance with its investment policy and all laws applicable to the Authority, non-compliance with which could reasonably be expected to have a Material Adverse Effect.
  
- (r) No Material Breach. The Authority is not in any material respect in breach of or default under any constitutional provision, law or administrative regulation of the State of California or of the United States or any agency or instrumentality of either or any judgment or decree or any loans, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or to which the Authority or any of its property or assets is otherwise subject (including, without limitation, this Loan Agreement), and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument; and the execution and delivery of this Loan Agreement and compliance with the Authority's obligations herein will not in any material respect conflict with, violate or result in a breach of or constitute a default under, any constitutional provision, law, administrative regulation, judgment, decree, indenture, agreement, mortgage, lease or other instrument to which the Authority is a party or to which the Authority or any of its property or assets is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Authority or under the terms of any such law, regulation or instruments, except as provided by this Loan Agreement.
  
- (s) Consents and Approvals. All consents, approvals, authorizations, orders, licenses or permits of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter, that are required for the due authorization by, or that would constitute a condition precedent to or the absence of which would materially adversely affect the making or accepting of this Loan Agreement and the execution, delivery of and performance of this Loan Agreement by the Authority have been duly obtained (except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of this Loan Agreement, as to which no representation is made).

## **ARTICLE III TERMS OF THE LOAN**

SECTION 3.1. *Obligation to Make Loan; Amount of Loan.* The Lender hereby agrees to lend to the Authority, and the Authority hereby agrees to borrow from the Lender, the Loan in the amount of \$10,120,000.00 under the terms and provisions set forth in this Loan Agreement.

SECTION 3.2. *Application of Loan Proceeds.*

(a) Transfers to Project Fund and Costs of Issuance. The Lender hereby agrees on the Closing Date to wire:

(i) \$10,007,970.00 to the Authority for deposit into the Project Fund;  
and

(ii) \$112,030.00, constituting the remainder of the proceeds of the Loan, to the payees set forth in a written certificate or closing memorandum signed by an authorized officer of the Authority and delivered to the Lender, as costs of issuance of this Loan Agreement.

(b) Payment of Fees. The fees and disbursements of counsel to the Authority, the fees and disbursements of the placement agent, fees of the California Debt and Investment Advisory Commission (CDIAC), and other miscellaneous expenses of the Authority incurred in connection with this Loan Agreement (if any) shall all be the obligation of the Authority. The Lender shall have no responsibility for any expenses incurred by the Authority associated with this Loan Agreement, including, but not limited to, the expenses identified above as the obligation of the Authority.

(c) Use of Moneys in Project Fund. All money deposited in the Project Fund shall be used by the Authority for the payment of the costs of the acquisition and construction of capital improvements to the Enterprise (or for making reimbursements to the Authority for such costs previously paid by the Authority), including payment of costs incidental to, or connected with, such acquisition and construction. The Authority shall maintain records of each withdrawal from the Project Fund. Upon completion of the capital improvements to the Enterprise to be financed by this Loan Agreement, as determined in the sole discretion of the Authority, amounts remaining in the Project Fund (if any) shall be withdrawn from the Project Fund and used to pay the Loan Repayments.

SECTION 3.3. *Term.* The Term of this Loan Agreement commences on the Closing Date, and ends on the date on which the Loan is paid in full or provision for such payment is made as provided herein.

SECTION 3.4. *Loan Repayments.*

(a) Obligation to Pay. The Authority hereby agrees to repay the Loan to the Lender in the aggregate principal amount of \$10,120,000, together with interest on the unpaid principal balance thereof.

(b) Payments. Interest on the unpaid principal balance of the Loan shall be calculated at a rate of interest of 4.58% on the basis of a 360-day year of twelve 30-day months , and the Loan Repayments shall be payable to the Lender by wire transfer or other form of electronic payment in accordance with written instructions provided by the Lender or, with the Lender's consent, by such other commercially reasonable method of payment, in the amounts set forth on Appendix A.

(c) Default Rate. If an Event of Default under this Loan Agreement occurs, the Authority agrees to pay amounts due the Lender with interest thereon, to the extent permitted by law, from the occurrence thereof to the applicable date of payment at the rate of 8.00% per annum.

(d) Taxable Rate. From and after an Event of Taxability, following a Determination of Taxability, interest on the unpaid principal balance of the Loan shall be calculated at a rate of interest of 5.80%, calculated on the basis of a 360-day year of twelve 30-day months. In such event, the Loan Repayment schedule shall be updated in Appendix A.

(e) Optional Prepayment; Security Deposit. The Loan Repayments may be optionally prepaid and/or a security deposit may be made by the Authority with respect to some or all of the Loan Repayments in accordance with Article VI.

#### SECTION 3.5. *Nature of Authority's Obligations.*

(a) Special Obligation. The Authority's obligation to pay the Loan Repayments is a special obligation of the Authority limited solely to the Net Revenues. Under no circumstances is the Authority required to advance moneys derived from any source other than the Net Revenues for the payment of the Loan Repayments, and no other funds or property of the Authority are liable for the payment of the Loan Repayments. Notwithstanding the foregoing, nothing prohibits the Authority voluntarily from making any payment hereunder from any source of available funds of the Authority.

(b) Obligations Absolute. The obligation of the Authority to pay the Loan Repayments from the Net Revenues and the obligation of the Authority to perform and observe the other agreements contained herein, are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the Authority or the Lender of any obligation to the Authority or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the Authority by the Lender. Until such time as all of the Loan Repayments have been fully paid or prepaid, the Authority:

- (i) will not suspend or discontinue payment of any Loan Repayments,
- (ii) will perform and observe all other agreements contained in this Loan Agreement, and
- (iii) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of

title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

SECTION 3.6. *Pledge and Application of Net Revenues.*

(a) Pledge. All of the Net Revenues are hereby irrevocably pledged to the punctual payment of the Loan Repayments, on a parity with the pledge and lien which secures the Parity Obligations. The Net Revenues may not be used for any other purpose so long as the Loan Repayments remain unpaid; except that out of the Net Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by this Section 3.6.

Pursuant to Section 5451 of the Government Code of the State of California, the pledge of the Net Revenues by the Authority for the repayment of the principal and interest components of the Loan Repayments constitutes a first lien and security interest which immediately attaches to the Net Revenues, and is effective and binding against the Authority and its successors and creditors and all others asserting rights therein irrespective of whether those parties have notice of the pledge, irrespective of whether such amounts are or may be deemed to be a fixture and without the need for physical delivery, recordation, filing or further act.

(b) Deposit of Gross Revenues; Transfers to Make Loan Repayments. The Authority has heretofore established a special fund designated the "Enterprise Fund," which the Authority agrees to continue to maintain so long as any Loan Repayments remain unpaid. The Authority shall continue to deposit all Gross Revenues in the Enterprise Fund promptly upon the receipt thereof. All Gross Revenues will be held by the Authority in the Enterprise Fund in trust for the benefit of the Lender and for the benefit of the holders of Parity Obligation, subject to the prior application thereof for Maintenance and Operation Costs. The Authority shall apply amounts in the Enterprise Fund as set forth in this Loan Agreement, and in the Parity Obligations. The Authority shall apply amounts on deposit in the Enterprise Fund to pay when due the following amounts in the following order of priority:

- (i) all Maintenance and Operation Costs;
- (ii) the Loan Repayments, and all payments of principal of and interest on any Parity Obligation;
- (iii) any other payments required to comply with the provisions of this Loan Agreement and the Parity Obligations; and
- (iv) any other purposes authorized under subsection (d) of this Section.

(c) No Preference or Priority. Payment of the Loan Repayments and the principal of and interest on any Parity Obligation shall be made without preference or priority. If the amount of Net Revenues on deposit in the Enterprise Fund is at any time

insufficient to enable the Authority to pay when due the Loan Repayments and the principal of and/or interest on any Parity Obligation, such payments shall be made by the Authority on a pro rata basis.

(d) Other Uses Permitted. The Authority shall manage, conserve and apply the Gross Revenues in such a manner that all deposits required to be made under the preceding provisions of this Section 3.6 will be made at the times and in the amounts so required. Subject to the foregoing sentence and Section 4.7, so long as no Event of Default has occurred and is continuing hereunder, the Authority may at any time and from time to time use and apply the Gross Revenues for (i) the acquisition and construction of improvements to the Enterprise; (ii) the prepayment of any Parity Obligation to the extent permitted by the applicable Parity Obligations, or (iii) any other lawful purpose of the Authority.

## **ARTICLE IV COVENANTS OF THE AUTHORITY**

SECTION 4.1. *Release and Indemnification Covenants*. The Authority shall indemnify and hold the Lender and its officers, agents, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on or about the Enterprise by the Authority,
- (b) any breach or default on the part of the Authority in the performance of any of its obligations under this Loan Agreement,
- (c) any intentional misconduct or negligence of the Authority or of any of its agents, contractors, servants, employees or licensees with respect to the Enterprise, and
- (d) any intentional misconduct or negligence of any lessee of the Authority with respect to the Enterprise.

No indemnification is made under this Section 4.1 or elsewhere in this Loan Agreement for willful misconduct, gross negligence, or breach of duty under this Loan Agreement by the Lender, its officers, agents, employees, successors or assigns. The provisions of this Section shall survive the termination of this Loan Agreement.

SECTION 4.2. *Sale or Eminent Domain of Enterprise*. Except as provided herein, the Authority covenants that the Enterprise will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the Authority to pay the Loan Repayments or any Parity Obligation or would materially adversely affect its ability to comply with the terms of this Loan Agreement and the Parity Obligations. The Authority shall not enter into any agreement which impairs the operation of the Enterprise or any part of it necessary to secure adequate Net Revenues to pay the Loan Repayments or

any Parity Obligation, or which otherwise would impair the rights of the Lender with respect to the Net Revenues. If any substantial part of the Enterprise is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay or fund a security deposit for the Loan Repayments and any Parity Obligation.

Any amounts received as awards as a result of the taking of all or any part of the Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the Authority, shall either (a) be used for the acquisition or construction of improvements and extension of the Enterprise, or (b) be applied to prepay or fund a security deposit for the Loan Repayments and any Parity Obligation.

SECTION 4.3. *Insurance.* The Authority shall at all times maintain with responsible insurers all such insurance on the Enterprise as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Enterprise. If any useful part of the Enterprise is damaged or destroyed, such part shall be restored to usable condition. All amounts collected from insurance against accident to or destruction of any portion of the Enterprise shall be used to repair or rebuild such damaged or destroyed portion of the Enterprise, and to the extent not so applied, shall be applied to pay the Loan Repayments or any Parity Obligation in the manner provided in this Loan Agreement and the Parity Obligations. The Authority shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the Authority and the Lender. Any insurance required to be maintained hereunder may be maintained by the Authority in the form of self-insurance or in the form of participation by the Authority in a program of pooled insurance. The Authority shall cause evidence of the insurance required by this Section to be provided to the Lender upon request.

SECTION 4.4. *Records and Accounts; Audited Financials; Budget.* The Authority shall keep proper books of records and accounts of the Enterprise, separate from all other records and accounts, in which complete and correct entries are made of all transactions relating to the Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection of the Lender. The Authority shall cause the books and accounts of the Enterprise to be audited annually by an independent certified public accountant or firm of certified public accountants, not more than 270 days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2023), and shall furnish a copy of such report to the Lender; provided, that the audit of the accounts of the Enterprise may be included as part of a general Authority-wide audit. In the event that the audit is not available within 270 days after the close of a Fiscal Year, the Authority will furnish unaudited financial statements to the Lender in the manner described in this paragraph within such period, and will then supply such audit immediately upon the availability thereof. In addition, the Authority shall provide to the Lender (a) a copy of the Authority's annual budget, as adopted or amended, within 60 days of such adoption or amendment and (b) in a reasonably timely manner, such other financial or operational information of the Authority as requested by the Lender from time-to-time (for example, long-term capital improvement plans).

The Authority shall cause to be published annually, not more than 270 days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2023),

(a) a summary statement showing the amount of Gross Revenues and the disbursements of amounts from Gross Revenues in reasonable detail and (b) a debt service coverage calculation for the Enterprise and all obligations payable from the Net Revenues thereof. The Authority shall furnish a copy of the statement, upon reasonable written request, to the Lender.

SECTION 4.5. *Rates and Charges.* The Authority shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield Net Revenues which are at least equal to 115% of the Loan Repayments and the principal of and interest on all outstanding Parity Obligation coming due and payable during such Fiscal Year.

SECTION 4.6. *No Priority for Additional Obligations; Compliance with Parity Obligations.* The Authority may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the Net Revenues over the Loan Repayments. The Authority shall observe and perform all of the covenants, agreements and conditions on its part required to be observed and performed under the Parity Obligations. The Authority shall not take or omit to take any action within its control which would, or which if not corrected with the passage of time would, constitute an event of default under any Parity Obligations.

SECTION 4.7. *Issuance of Additional Parity Obligation.* The Authority may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the Net Revenues over the Loan Repayments. In addition, the Authority may not issue or incur any Parity Obligation unless:

- (a) The Authority is not then in default under the terms of this Loan Agreement.
- (b) The amount of Net Revenues as shown by the books of the Authority for the latest Fiscal Year for which audited financial statements are available, or as shown by the books of the Authority for any more recent 12-month period selected by the Authority, in either case verified by a certificate or opinion of an independent certified public accountant (which may be, but not need be, the outside firm providing auditing services) or other financial advisor employed by the Authority, are at least equal to 115% of Maximum Annual Debt Service. For purposes of determining the amount of Net Revenues under this subsection (b), such amount may be increased by any or all of the following amounts as determined by the Authority:
  - (i) an allowance for Net Revenues from any additions or improvements to or extensions of the Enterprise to be made by the Authority during the 36 month period following the issuance of such Parity Obligation, in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from all properties which are improved with a structure the construction of which has been completed prior to the date of issuance of such Parity Obligation and to which service will be provided by such additions, improvements and



extensions, all as shown by the certificate or opinion of a Fiscal Consultant who is a registered public utilities engineer or a firm of registered public utilities engineers; and

- (ii) an allowance for Net Revenues arising from any increase in the charges made for service from the Enterprise which has become effective prior to the incurring of such Parity Obligation but which was not in effect during the Fiscal Year or other 12-month period described above, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or other 12-month period, all as shown by the certificate or opinion of a Fiscal Consultant who is a certified public accountant or a firm of certified public accountants.
- (c) All conditions to the issuance of such Parity Obligation as set forth in the Parity Obligations shall be met, and the Authority shall file with the Lender a written certificate to such effect, signed on behalf of the Authority by an authorized officer of the Authority.

SECTION 4.8. *Assignment by the Lender.* The Lender has the right to assign its interests herein to an affiliate or to a bank, insurance company or other financial institution, or an affiliate of any such entity, but no such assignment will be effective as against the Authority unless and until the Lender provides the Authority written notice thereof. The Authority shall pay all Loan Repayments hereunder under the written direction of the Lender named in the most recent assignment or notice of assignment provided to the Authority. During the Term of this Loan Agreement, the Authority shall keep a complete and accurate record of all such notices of assignment.

SECTION 4.9. *Assignment by the Authority.* Neither the Loan nor this Loan Agreement may be assigned by the Authority, other than to a public agency which succeeds to the interests of the Authority in and to the Enterprise and which (by operation of law, by contract or otherwise) becomes legally bound to all of the terms and provisions hereof.

SECTION 4.10. *Amendment of this Loan Agreement.* This Loan Agreement may be amended pursuant to a written amendment by and between the Authority and the Lender.

SECTION 4.11. *Tax Covenants.*

(a) Generally. The Authority shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Loan Repayments to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The Authority shall assure that the proceeds of the Loan are not so used as to cause the Loan to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The Authority may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Loan Repayments to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The Authority may not take, or permit or suffer to be taken, any action with respect to the proceeds of the Loan Repayments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Loan Repayments to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(e) Authority's Notice Filings Related to this Loan Agreement for SEC Rule 15c2-12. In connection with the Authority's compliance with any continuing disclosure undertakings (each, a “Continuing Disclosure Agreement”) entered into by the Authority on and after February 27, 2019, pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the “Rule”), the Lender acknowledges that the Authority may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor (“EMMA”), notice that the Authority has incurred obligations hereunder and notice of certain subsequent events reflecting financial difficulties in connection herewith. The Authority agrees that it shall not file or submit, or permit to be filed or submitted, with EMMA any documentation that includes the following unredacted sensitive or confidential information about the Lender or its affiliates: address and account information of such registered owner or its affiliate, e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lender or its affiliates, unless otherwise required for compliance with the Rule or otherwise required by law. The Authority acknowledges that the Lender is not responsible for the Authority's compliance or noncompliance with the Rule or any Continuing Disclosure Agreement

(f) Arbitrage Rebate. The Authority shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Loan.

(g) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the Authority covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Loan Agreement, or otherwise containing gross proceeds of the Loan (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Loan Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code).

For purposes of this subsection (g), the term “Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term

"Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

## **ARTICLE V EVENTS OF DEFAULT AND REMEDIES**

SECTION 5.1. *Events of Default Defined.* The following are Events of Default under this Loan Agreement:

- (a) Failure by the Authority to pay any Loan Repayment or other payment required hereunder when due.
- (b) Failure by the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 60 days after written notice specifying such failure and requesting that it be remedied has been given to the Authority by the Lender; *provided, however,* that the Lender may, upon written request of the Authority prior to the expiration of such 60-day period, consent to an extension of such time in order to cure such failure if corrective action has been instituted by the Authority and is being thereafter diligently pursued and will, in the reasonable judgment of the Lender, be diligently pursued until the default is corrected
- (c) The filing by the Authority of a voluntary petition in bankruptcy, or failure by the Authority promptly to lift any execution, garnishment or attachment, or adjudication of the Authority as a bankrupt, or assignment by the Authority for the benefit of creditors, or the entry by the Authority into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Authority in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.
- (d) The occurrence of any event of default under and as defined in any of the Parity Obligations.
- (e) Any representation or certification of the Authority made hereunder or in connection with this Loan Agreement shall have been incorrect or misleading when made.

SECTION 5.2. *Remedies on Default.* Upon the occurrence and during the continuation of an Event of Default, the Lender may, at its option and without any further demand or notice:

- (a) declare all principal components of the unpaid Loan Repayments, together with accrued interest thereon, to be immediately due and payable from the immediately preceding Loan Repayment Date on which payment was made, whereupon the same will immediately become due and payable; and

- (b) take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due or thereafter to become due during the Term of this Loan Agreement, or enforce performance and observance of any obligation, agreement or covenant of the Authority under this Loan Agreement.

The provisions of the preceding clause (a) are subject to the condition that if, at any time after the principal components of the unpaid Loan Repayments have been so declared due and payable under the preceding clause (a), and before any judgment or decree for the payment of the moneys due have been obtained or entered, the Authority deposits with the Lender a sum sufficient to pay all principal components of the Loan Repayments coming due prior to such declaration and all matured interest components (if any) of the Loan Repayments, with interest on such overdue principal and interest components calculated at the rate set forth in the applicable provisions of Section 3.4, and a sum sufficient to pay all reasonable costs and expenses incurred by the Lender in the exercise of its rights and remedies hereunder, and any and all other defaults known to the Lender (other than in the payment of the principal and interest components of the Loan Repayments due and payable solely by reason of such declaration) have been made good, then, and in every such case, the Lender shall, by written notice to the Authority, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 5.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Lender is exclusive, and every such remedy is cumulative and in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender to exercise any remedy reserved to it in this Article V it is not necessary to give any notice, other than such notice as may be required in this Article V or by law.

SECTION 5.4. *Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Loan Agreement defaults under any of the provisions hereof and the nondefaulting party employs attorneys (including in-house counsel) or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including those of in-house counsel) and such other expenses so incurred by the nondefaulting party.

SECTION 5.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Loan Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE VI**  
**SECURITY DEPOSIT;**  
**DISCHARGE OF AUTHORITY’S OBLIGATIONS; OPTIONAL PREPAYMENT**

SECTION 6.1. *Security Deposit; Discharge of Authority’s Obligations.* Notwithstanding any other provision of this Loan Agreement, the Authority may (but is not required to) on any date secure the payment of Loan Repayments in whole or in part, by irrevocably depositing with the Lender, a trustee, escrow agent or other fiduciary an amount of cash which, together with other available amounts, is invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Loan Repayments when due, as the Authority instructs at the time of the deposit.

In the event of a security deposit under this Section 6.1 for the payment in full of all remaining Loan Repayments, (i) the Authority hereby grants a first priority security interest in and lien on the security deposit and all proceeds thereof in favor of the Lender, and (ii) the pledge of Net Revenues and all other security provided by this Loan Agreement for said obligations will cease and terminate, excepting only the obligation of the Authority to make, or cause to be made, all of Loan Repayments from such security deposit.

SECTION 6.2. *Optional Prepayment.* Without limiting Section 6.1, the Authority has the right at its option to prepay the Loan Repayments, in whole but not in part, on any Loan Repayment Date commencing June 2, 2026, at a prepayment price equal to the principal amount of Loan Repayments prepaid, plus the premium set forth in the following table, together with accrued interest thereon to the date of prepayment:

<b>Loan Repayment Dates</b>	<b>Prepayment Premium</b>
Loan Repayment Dates through and including December 2, 2025	No Call
June 2, 2026 and December 2, 2026	2%
June 2, 2027 and December 2, 2027	1%
June 2, 2028 and Loan Repayment Dates thereafter	0%

Notice of prepayment, which may be conditioned upon receipt of funds, shall be given by the Authority not less than 30 days prior to the prepayment date, to the Lender pursuant to this Loan Agreement. Any notice mailed as provided in this paragraph shall be conclusively presumed to have been duly given, whether or not the Lender receives such notice. Repayments of Loan Repayments in part shall be applied to the principal component of remaining Loan Repayments in inverse order of maturity.

## **ARTICLE VII MISCELLANEOUS**

SECTION 7.1. *Notices; Address for Loan Repayments.* Any notice, request, complaint, demand or other communication under this Loan Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopier or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Lender or the Authority may, by written notice to the other, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority:* San Elijo Joint Powers Authority  
2695 Manchester Avenue  
Cardiff by the Sea, CA 92007  
Attention: General Manager

*If to the Lender:* Webster Bank, National Association  
360 Lexington Avenue, 5<sup>th</sup> Floor  
New York, NY 10017  
Attention: Public Sector Finance  
Email: publicfinance@websterbank.com

SECTION 7.2. *Binding Effect.* This Loan Agreement inures to the benefit of and is binding upon the Lender and the Authority and their respective successors and assigns.

SECTION 7.3. *Severability.* If any provision of this Loan Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 7.4. *Further Assurances and Corrective Instruments.* The Lender and the Authority shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

SECTION 7.5. *Execution in Counterparts.* This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.6. *Applicable Law.* This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 7.7. *Captions.* The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Loan Agreement.

SECTION 7.8. Waiver of Sovereign Immunity. To the extent permitted by law, the Authority hereby expressly waives, and agrees not to claim, any sovereign immunity in any suits or judicial proceedings related to or arising out of this Loan Agreement.

SECTION 7.9. Net-net-net Contract. This Loan Agreement is a “net-net-net” contract, and the Authority hereby agrees that the Loan Repayments are an absolute net return to the Lender, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 7.10. Waiver of Jury Trial.

(a) TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF THE AUTHORITY AND THE LENDER IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS LOAN AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE AUTHORITY FURTHER AGREES THAT, IN THE EVENT OF LITIGATION, IT WILL NOT PERSONALLY OR THROUGH ITS AGENTS OR ATTORNEYS SEEK TO REPUDIATE THE VALIDITY OF THIS SECTION 7.9, AND IT ACKNOWLEDGES THAT IT FREELY AND VOLUNTARILY ENTERED INTO THIS LOAN AGREEMENT TO WAIVE TRIAL BY JURY IN ORDER TO INDUCE THE LENDER TO ENTER INTO THIS LOAN AGREEMENT.

(b) To the extent the foregoing waiver of a jury trial is unenforceable under applicable California law, the parties agree to refer, for a complete and final adjudication, any and all issues of fact or law involved in any litigation or proceeding (including all discovery and law and motion matters, pretrial motions, trial matter and post-trial motions up to and including final judgment), brought to resolve any dispute (whether based on contract, tort or otherwise) between the parties hereto arising out of, in connection with or otherwise related or incidental to this Loan Agreement to a judicial referee who shall be appointed under a general reference pursuant to California Code of Civil Procedure Section 638, which referee’s decision will stand as the decision of the court. Such judgment will be entered on the referee’s statement of judgment in the same manner as if the action had been tried by the court. The parties shall select a single neutral referee, who shall be a retired state or federal judge with at least five years of judicial experience in civil matters; provided that the event the parties cannot agree upon a referee, the referee will be appointed by the court. The fees and expense of any referee appointed in such action or proceeding shall be borne by the party who does not prevail, as determined by the referee.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the Lender has caused this Loan Agreement to be executed in its name by its duly authorized officer and the Authority has caused this Loan Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

**WEBSTER BANK, NATIONAL  
ASSOCIATION, *as lender***

By: \_\_\_\_\_  
Senior Managing Director

**SAN ELIJO JOINT POWERS AUTHORITY,  
*as borrower***

By: \_\_\_\_\_  
Michael T. Thornton, P.E.  
General Manager

## APPENDIX A

### SCHEDULE OF LOAN REPAYMENTS (Principal amount: \$10,120,000; Interest rate: 4.58%)\*

Loan Repayment Date	Principal Component	Interest Component	Total Loan Repayment
12/2/23	\$154,000	\$240,760.42	\$394,760.42
6/2/24	156,000	228,221.40	384,221.40
12/2/24	166,000	224,649.00	390,649.00
6/2/25	167,000	220,847.60	387,847.60
12/2/25	175,000	217,023.30	392,023.30
6/2/26	174,000	213,015.80	387,015.80
12/2/26	182,000	209,031.20	391,031.20
6/2/27	183,000	204,863.40	387,863.40
12/2/27	191,000	200,672.70	391,672.70
6/2/28	191,000	196,298.80	387,298.80
12/2/28	199,000	191,924.90	390,924.90
6/2/29	200,000	187,367.80	387,367.80
12/2/29	208,000	182,787.80	390,787.80
6/2/30	210,000	178,024.60	388,024.60
12/2/30	218,000	173,215.60	391,215.60
6/2/31	219,000	168,223.40	387,223.40
12/2/31	228,000	163,208.30	391,208.30
6/2/32	229,000	157,987.10	386,987.10
12/2/32	240,000	152,743.00	392,743.00
6/2/33	239,000	147,247.00	386,247.00
12/2/33	251,000	141,773.90	392,773.90
6/2/34	250,000	136,026.00	386,026.00
12/2/34	261,000	130,301.00	391,301.00
6/2/35	263,000	124,324.10	387,324.10
12/2/35	274,000	118,301.40	392,301.40
6/2/36	274,000	112,026.80	386,026.80
12/2/36	287,000	105,752.20	392,752.20
6/2/37	287,000	99,179.90	386,179.90
12/2/37	300,000	92,607.60	392,607.60
6/2/38	300,000	85,737.60	385,737.60
12/2/38	314,000	78,867.60	392,867.60
6/2/39	314,000	71,677.00	385,677.00
12/2/39	328,000	64,486.40	392,486.40
6/2/40	329,000	56,975.20	385,975.20
12/2/40	343,000	49,441.10	392,441.10
6/2/41	344,000	41,586.40	385,586.40
12/2/41	359,000	33,708.80	392,708.80
6/2/42	360,000	25,487.70	385,487.70
12/2/42	377,000	17,243.70	394,243.70
6/2/43	376,000	8,610.40	384,610.40
<b>Totals</b>	<b>\$10,120,000</b>	<b>\$5,452,227.92</b>	<b>\$15,572,227.92</b>

\* The interest rate above assumes no Event of Default or Event of Taxability has occurred.

## Attachment 2

### RESOLUTION NO. 2023-01

#### RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN ELIJO JOINT POWERS AUTHORITY AUTHORIZING RECYCLED WATER ENTERPRISE FINANCING VIA EXECUTION AND DELIVERY OF LOAN AGREEMENT, AND AUTHORIZING OFFICIAL ACTIONS RELATED THERETO

WHEREAS, the San Elijo Joint Powers Authority (the "Authority") is a joint powers authority, organized and existing under that certain First Amended Restatement of Agreement between Cardiff Sanitation District and Solana Beach Sanitation District Establishing the San Elijo Joint Powers Authority, dated September 1, 2021; and

WHEREAS, the Authority owns and operates a system for the supply, treatment and distribution of reclaimed/recycled water (the "Enterprise"); and

WHEREAS, in order to provide funds to finance capital improvements to the Enterprise, the Authority has determined to borrow an amount not to exceed \$10,120,000 from Webster Bank, National Association (including its successors and assigns, the "Lender") under a Loan Agreement (the "Loan Agreement") and to make loan repayments to the Lender, secured by a pledge of and lien on the net revenues of the Enterprise as set forth in the Loan Agreement, which pledge and lien shall be on a parity with certain parity obligations (defined therein); and

WHEREAS, the Authority is authorized to enter into the Loan Agreement and to borrow amounts thereunder for the foregoing purposes under the laws of the State of California, including Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Section 6586 et seq.); and

WHEREAS, the information required to be obtained and disclosed with respect to the Loan Agreement pursuant to Section 5852.1 of the California Government Code is set forth in the staff report accompanying this Resolution; and

WHEREAS, the Board has duly considered such transaction and wishes at this time to approve said transaction in the public interests of the Authority;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the San Elijo Joint Powers Authority as follows:

Section 1. Execution and Delivery of Loan Agreement. The Board hereby authorizes the borrowing of funds from the Lender under the Loan Agreement. The Board hereby approves the Loan Agreement, in substantially the form on file with the Board, together with any additions thereto or changes therein deemed necessary or advisable by the General Manager or the Director of Operations (each, an "Authorized Officer"); provided, that the maximum principal amount of the Loan Agreement shall not exceed \$10,120,000, and the tax-exempt interest rate shall not exceed 4.58% (although such interest rate may be subject to increase in the circumstances described in the Loan Agreement). Subject to the foregoing, each Authorized Officer is hereby authorized and directed to execute the final form of the Loan Agreement, for and in the name and on behalf of the Authority. The Board hereby authorizes the delivery and performance of the Loan Agreement.

Section 2. Professional Services. In connection with the financing transaction described in this Resolution, Fieldman, Rolapp & Associates, Inc. is designated to serve as municipal advisor, Oppenheimer & Co. Inc. is designated to serve as placement agent, and Jones Hall, A Professional Law Corporation is designated to serve as special legal counsel. Each Authorized Officer is authorized to execute a professional services agreement with any such firm, as deemed necessary, and to the extent any procurement policy of the Authority governs the hiring of said firms, such policy is hereby waived. Compensation to said firms shall be contingent upon the successful execution and delivery of the Loan Agreement, and paid from a portion of the proceeds received by the Authority pursuant to the Loan Agreement or other legally available funds of the Authority.

Section 3. Official Actions. The Authorized Officers, the Chairperson, the Secretary, the Authority's general counsel and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the financing transaction described herein. Whenever in this Resolution any officer of the Authority is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 4. Effectiveness. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023 BY THE FOLLOWING VOTE:

AYES:	Boardmembers:
NOES:	Boardmembers:
ABSTAIN:	Boardmembers:
ABSENT:	Boardmembers:

ATTEST:

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David Zito, Chairperson  
SEJPA Board of Directors

ATTEST:

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Michael T. Thornton, P.E.  
Secretary of the Board