

**BIG BEAR AREA REGIONAL WASTEWATER AGENCY**

Regular Board Meeting Agenda  
January 25, 2023 at 5:00 p.m.  
121 Palomino Drive, Big Bear City, California  
**John Green via teleconference**  
**20839 SE Sunniberg Ln, Bend, Oregon 97702**

**Join Zoom Meeting:**

<https://us06web.zoom.us/j/82081323987?pwd=dWsyZl6NlJoMTVPMTJrdmI4WGtEdz09>

**Meeting ID: 820 8132 3987**

**Passcode: 128862**

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**1. CALL TO ORDER**

**1.A. In accordance with AB 2449, which modifies Government Code 54953, Vice-Chair Green has requested to participate remotely for just cause. Vice-Chair Green will provide a general description of the need to participate remotely, disclose whether any individuals 18 years of age or older are present in the room at the remote location, and the general nature of their relationship. The Governing Board will vote on allowing participation.**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. PUBLIC FORUM**

Public testimony is permitted at this time only on consent calendar items and other matters not listed on the posted agenda that are within the subject matter jurisdiction of the Agency. State law prohibits the Agency from taking action on any items not listed on the posted agenda. Public comment on items listed on the posted agenda will be taken at the time each item is called for discussion.

**Please note that the Governing Board is making efforts to follow the spirit and intent of the Brown Act and other applicable laws regulating the conduct of public meetings, in order to maximize transparency and public access. Comments may be submitted via the Zoom chat feature during the meeting. Every effort will be made to attempt to review the Zoom chat during the course of the meeting. The Chair will endeavor to take a brief pause before Governing Board action is taken on agenda items to allow the Board Secretary time to review the public's electronic communications. Every effort will be made during the meeting to read aloud all electronically submitted comments. Please note, all electronically submitted correspondence relating to this meeting will become part of the meeting record and will be cited within the meeting minutes. Please limit written comments to 300 words or less. In addition, prior to the close of public comment portions of the meeting, the Chair will provide the public an opportunity to verbally state their comment live via Zoom teleconference.**

5. **PRESENTATION AND INTRODUCTION**

- 5.A. Replenish Big Bear Project Update by Water Systems Consulting, Inc.
- 5.B. Replenish Big Bear Financing Update by Fieldman Rolapp & Associates, Inc.

6. **INFORMATION/COMMITTEE REPORTS**

- 6.A. General Manager's Report
- 6.B. Finance Committee

7. **CONSENT CALENDAR**

All matters listed on the Consent Calendar will be enacted by one motion at the appropriate time. There will be no separate discussion of these items. If a detailed discussion is necessary, any Governing Board Member may request that an item be removed from the Consent Calendar and considered separately.

- 7.A. Approval of the Meeting Minutes from the December 13, 2022 Special Meeting
- 7.B. Monthly Disbursements Report for December - Informational
- 7.C. Investment Report Identifying Agency Investments and Reporting Interest Income for December – Informational

8. **ITEMS REMOVED FROM CONSENT CALENDAR**

**9. OLD BUSINESS**

**9.A.** Appropriate \$31,045 for a Rate Study Update from the Contingency Fund

**10. NEW BUSINESS – DISCUSSION/ACTION ITEMS**

**10.A.** An Approving Resolution Related to Funding for the Replenish Big Bear Project: Resolution No. R. 01-2023, A Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency Authorizing Execution and Delivery of a Loan Agreement and Promissory Note and Approving Other Actions in Connection Thereto

**11. COMMENTS AND ANNOUNCEMENTS**

**11.A.** General Manager Comments

**11.B.** Governing Board Member Comments

**12. ADJOURNMENT**

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if you need special assistance to participate in an Agency meeting or other services offered by the Agency, please contact the Agency at (909) 584-4018. Notification at least 48 hours prior to the meeting or time when services are needed will assist Agency staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are on file in the office of the Big Bear Area Regional Wastewater Agency and are available for public inspection during normal business hours.

Visit [www.bbarwa.org](http://www.bbarwa.org) to view and/or print the Agenda Package.



Big Bear Area Regional  
Wastewater Agency  
*Rick Herrick – Chair*  
*John Green – Vice-Chair*  
*Jim Miller – Director*  
*Bynette Mote – Director*  
*Larry Walsh – Director*

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## AGENDA ITEM: 6.A.

**MEETING DATE:** January 25, 2023

**TO:** Governing Board of the Big Bear Area Regional Wastewater Agency

**FROM:** David Lawrence, P.E., General Manager

**REVIEWED BY:** Christine Bennett, Finance Manager; and John Shimmin, Plant Manager

**SUBJECT:** General Manager's Report

**DISCUSSION:**

Operations

*On-Call Electrical Services Contractor for Wastewater Treatment Facilities Pre-Bid Report*

The Agency is requesting proposals to provide electrical services on an as-needed basis, along with electrical services for capital projects. Proposals are due by 2:00 p.m. on February 2, 2023. A copy of the RFP can be found on the Agency website at: <https://www.bbarwa.org/rfps-rfqs-procurement>.

*Sewer System Management Plan (SSMP)*

The State Water Resources Control Board adopted order WQ 2022-0103-DWQ on December 6, 2022 with an effective date of June 5, 2023. Changes include revisions to reporting, spills, system reliability, and training sections of the SSMP.

*Headworks Grit System Rehabilitation Project*

The Contractor notified the Agency of additional procurement delays and will provide an updated project schedule to include completing items as the material is available.

*Solar Production*

The December 2022 monthly performance report is attached.

2022 Treatment Plant Data

There were no reportable violations during December 2022 for the plant. The influent flow (MG) chart is attached to this report.

<b>Flow Percentages</b>			
<b>Member Agency</b>	<b>October</b>	<b>November</b>	<b>December</b>
City of Big Bear Lake	44.27%	49.84%	53.96%
Big Bear City	52.11%	46.81%	42.99%
County of San Bernardino	3.62%	3.35%	3.05%

Connections

MONTH	FYE 6/30/2023									
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	CITY-BBL	CSD	CSA-53B
July	3	4	3	7	3	11	2	1	1	0
August	12	6	10	2	12	5	13	5	8	0
September	4	6	3	7	3	7	8	2	6	0
October	9	8	3	5	10	9	6	1	5	0
November	5	11	5	2	2	5	4	1	3	0
December	4	2	3	1	2	3	2	0	1	1
January	0	0	1	1	2	2	0	0	0	0
February	1	0	0	1	0	6	0	0	0	0
March	2	0	3	1	3	9	0	0	0	0
April	3	0	3	7	12	12	0	0	0	0
May	4	0	5	5	6	7	0	0	0	0
June	16	0	6	6	13	11	0	0	0	0
TOTAL	63	37	45	45	68	87	35	10	24	1

Replenish Big Bear

The General Manager and Water Systems Consulting, Inc. (WSC) presented the Project at the Upper Santa Ana River Division I Water Forum on January 19, 2023 at the request of Valley District. The discussion was based around the economic and community benefits of wastewater.

*Environmental Review*

BBARWA’s Governing Board adopted the Notice of Exemption for the Piloting Study. The 35-day statute of limitations began on December 14, 2022 and ended on January 8, 2023.

The Notice of Preparation and Project Description comment period ended on January 17, 2023. Questions and concerns will be incorporated into the draft Environmental Impact Report (EIR). Coordination with key stakeholders for the draft EIR is scheduled to begin in early 2023 and it is anticipated that the draft EIR will be ready for public review in April/May 2023.

WSC is preparing maps showing the limits of ground disturbance for the Project pipeline and treatment plant upgrades in response to the San Manuel Band of Mission Indians’ request.

The target completion date for the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes is the summer of 2023.

#### *Regulatory Analysis and Coordination*

WSC continues development of the overall monitoring plan, which includes the pilot phase, to inform the next steps in response to the Regional Board comments. The Regional Board confirmed the Project does not meet the definition of a Surface Water Source Augmentation Project (SWSAP).

WSC has requested a quote to complete an aerial survey of Stanfield Marsh to update the contour information for the Division wells and to support the future outfall design. Tom Harder & Co. will complete the work plan once they receive the survey information. WSC will send the work plan to the Division of Drinking Water (DDW) and request a meeting to discuss.

The Project Team continues work on the Recycled Water Title 22 Engineering Report (ER).

#### *Preliminary Engineering*

The Notice of Exemption for the Pilot Study was filed on December 14, 2022. The 35-day statute of limitations ended on January 18, 2023.

The Pilot Plan is under development. WSC is coordinating with vendors to confirm proposals. Equipment deliveries are expected to begin soon with full pilot startup in 2023.

WSC is developing a framework to evaluate and support Agency decisions on delivery approaches for each Project component (i.e., Design Bid Build, Fixed Price Design Build, Progressive Design Build, etc.).

Big Bear Municipal Water District (BBMWD) is looking into detailed results of the prior Lake level modeling effort for comparison to Dr. Anderson's model. The purpose is to support refinement of the Lake level benefit messaging in the short term and align with anticipated future tracking and reporting of project benefits after startup.

#### *Agreements and Contracts*

The Agency continues to work with legal counsel and project beneficiaries to develop preliminary terms associated with the distribution of project water and future monetary contributions to the project.

#### *Funding*

The Agency received five proposals and more advantageous terms on the second RFP process for the interim financing. Please refer to attached staff report for details of the interim financing.

The Agency was invited to apply for a loan under the Water Infrastructure Finance and Innovation Act (WIFIA) Program provided by the U.S. Environmental Protection Agency (EPA). Under this loan program the Agency may borrow up to 80 percent of the total eligible project costs. An introductory meeting was held with the EPA on November 10, 2022 wherein the Agency's team met with the EPA underwriter to discuss the application, underwriting and loan close process. The

Agency expects to submit an application by June 2023 and if approved, close the loan by February 2024.

*Grant Status*

<b>Grant</b>	<b>Amount</b>	<b>Status</b>
DCI Technical Assistance	\$500,000	Awarded and Fully Funded
IRWM Prop 1, Round 1	\$4,563,338	Awarded, In Process
2021 Title XVI	\$1,600,000	Awarded, In Process
2022 EPA STAG	\$960,000	CEQA and NEPA must be completed prior to an Award
2023 Community Funding Request	\$1,000,000	Included in Federal Budget
2022 Title XVI	\$8,267,112	Recommended for Funding
<b>Total</b>	<b>\$16,890,450</b>	

Invoice #5 for the IRWM Prop 1 Round 1 grant is due on January 31, 2023.

WateReuse met with the United States Bureau of Reclamation (USBR) to discuss a programmatic Build America, Buy America (BABA) waiver for the 2021 Title XVI grant. USBR is getting closer to a programmatic waiver, but no timeframe has been provided. The Denver office is completing its review of the Financial Capability Assessment. The Notice of Funding Opportunity for the 2023 Title XVI is anticipated to be released in Spring 2023.

WSC and Agency staff participated in the EPA State and Tribal Assistance (STAG) grant training series webinars on December 6, 14, and 15, 2022.

The \$1 million Community Funding Request was included in the Federal budget. We expect to receive information regarding the next steps in the next several months.

The formal award from USBR for the 2022 Title XVI grant in the amount of \$8,267,112 is pending.



**MONTHLY REPORT**  
**January 2023**

Plant Name:	Big Bear Area Regional Wastewater Agency
Plant ID:	P-3998
Capacity (DC):	1660.0
Resource:	Solar
Address:	121 Palomino Drive - 92314 Big Bear - California/United States
Configuration:	Mohawk, GM CPY







MONTHLY REPORT

As Contracted Energy Last Month (kWh)

Energy Produced Last Month (kWh)

Time	Energy (kWh)				
	A	F	Δ	W	Δ
01 Dec 2022	5,925.50	3,285.16	80.37%	3,355.18	76.61%
02 Dec 2022	4,431.50	3,285.16	34.89%	2,774.46	59.72%
03 Dec 2022	6,759.50	3,285.16	105.76%	3,544.39	90.71%
04 Dec 2022	6,906.25	3,285.16	110.23%	3,726.37	85.33%
05 Dec 2022	7,578.75	3,285.16	130.70%	3,979.10	90.46%
06 Dec 2022	4,538.25	3,285.16	38.14%	2,857.98	58.79%
07 Dec 2022	8,202.00	3,285.16	149.67%	4,075.43	101.25%
08 Dec 2022	8,192.00	3,285.16	149.36%	4,128.77	98.41%
09 Dec 2022	8,147.00	3,285.16	147.99%	4,085.13	99.43%
10 Dec 2022	7,776.25	3,285.16	136.71%	3,910.87	98.84%
11 Dec 2022	751.25	3,285.16	-77.13%	782.40	-3.98%
12 Dec 2022	594.25	3,285.16	-81.91%	1,986.04	-70.08%
13 Dec 2022	5,465.25	3,285.16	66.36%	3,879.98	40.86%
14 Dec 2022	7,791.25	3,285.16	137.16%	3,846.19	102.57%
15 Dec 2022	6,480.25	3,285.16	97.26%	3,382.59	91.58%
16 Dec 2022	6,352.75	3,285.16	93.38%	3,375.58	88.20%
17 Dec 2022	5,461.25	3,285.16	66.24%	3,052.23	78.93%
18 Dec 2022	8,041.25	3,285.16	144.77%	3,998.67	101.10%
19 Dec 2022	8,095.50	3,285.16	146.43%	4,057.62	99.51%
20 Dec 2022	6,929.00	3,285.16	110.92%	3,616.37	91.60%
21 Dec 2022	7,946.25	3,285.16	141.88%	3,957.15	100.81%
22 Dec 2022	6,091.50	3,285.16	85.42%	3,303.47	84.40%
23 Dec 2022	7,645.25	3,285.16	132.72%	3,820.74	100.10%
24 Dec 2022	7,870.50	3,285.16	139.58%	3,950.25	99.24%
25 Dec 2022	7,847.75	3,285.16	138.88%	3,965.87	97.88%
26 Dec 2022	5,365.00	3,285.16	63.31%	3,137.22	71.01%
27 Dec 2022	3,357.25	3,285.16	2.19%	2,265.16	48.21%
28 Dec 2022	8,104.25	3,285.16	146.69%	4,099.59	97.68%
29 Dec 2022	1,841.00	3,285.16	-43.96%	1,383.11	33.11%
30 Dec 2022	6,810.00	3,285.16	107.30%	3,476.17	95.90%
31 Dec 2022	3,120.75	3,285.16	-5.00%	2,154.16	44.87%
<b>Totals</b>	<b>190,418.50</b>	<b>101,840.00</b>	<b>86.98%</b>	<b>103,928.25</b>	<b>83.22%</b>

Time	Energy (kWh)				
	Actual	Forecasted	Δ	Weather Adjusted	Δ
01 Dec 2022	5,925.50	5,539.13	6.98%	5,774.52	2.61%
02 Dec 2022	4,431.50	5,539.13	-20.00%	4,775.06	-7.19%
03 Dec 2022	6,759.50	5,539.13	22.03%	6,100.18	10.81%
04 Dec 2022	6,906.25	5,539.13	24.68%	6,413.39	7.68%
05 Dec 2022	7,578.75	5,539.13	36.82%	6,848.35	10.67%
06 Dec 2022	4,538.25	5,539.13	-18.07%	4,918.81	-7.74%
07 Dec 2022	8,202.00	5,539.13	48.07%	7,014.14	16.94%
08 Dec 2022	8,192.00	5,539.13	47.89%	7,105.94	15.28%
09 Dec 2022	8,147.00	5,539.13	47.08%	7,030.84	15.88%
10 Dec 2022	7,776.25	5,539.13	40.39%	6,730.92	15.53%
11 Dec 2022	751.25	5,539.13	-86.44%	1,346.58	-44.21%
12 Dec 2022	594.25	5,539.13	-89.27%	3,418.14	-82.61%
13 Dec 2022	5,465.25	5,539.13	-1.33%	6,677.76	-18.16%
14 Dec 2022	7,791.25	5,539.13	40.66%	6,619.59	17.70%
15 Dec 2022	6,480.25	5,539.13	16.99%	5,821.71	11.31%
16 Dec 2022	6,352.75	5,539.13	14.69%	5,809.64	9.35%
17 Dec 2022	5,461.25	5,539.13	-1.41%	5,253.12	3.96%
18 Dec 2022	8,041.25	5,539.13	45.17%	6,882.04	16.84%
19 Dec 2022	8,095.50	5,539.13	46.15%	6,983.49	15.92%
20 Dec 2022	6,929.00	5,539.13	25.09%	6,224.05	11.33%
21 Dec 2022	7,946.25	5,539.13	43.46%	6,810.58	16.68%
22 Dec 2022	6,091.50	5,539.13	9.97%	5,685.54	7.14%
23 Dec 2022	7,645.25	5,539.13	38.02%	6,575.80	16.26%
24 Dec 2022	7,870.50	5,539.13	42.09%	6,798.69	15.76%
25 Dec 2022	7,847.75	5,539.13	41.68%	6,825.57	14.98%
26 Dec 2022	5,365.00	5,539.13	-3.14%	5,399.40	-0.64%
27 Dec 2022	3,357.25	5,539.13	-39.39%	3,898.52	-13.88%
28 Dec 2022	8,104.25	5,539.13	46.31%	7,055.72	14.86%
29 Dec 2022	1,841.00	5,539.13	-66.76%	2,380.44	-22.66%
30 Dec 2022	6,810.00	5,539.13	22.94%	5,982.77	13.83%
31 Dec 2022	3,120.75	5,539.13	-43.66%	3,707.48	-15.83%
<b>Totals</b>	<b>190,418.50</b>	<b>171,713.00</b>	<b>10.89%</b>	<b>178,868.78</b>	<b>6.46%</b>



# MONTHLY REPORT

## Last Three Months Performance

### Produced Energy (kWh)

Time	Energy (kWh)	
	F	W
Oct 2022	259,047.00	269,953.23
Nov 2022	211,383.00	232,624.59
Dec 2022	171,713.00	178,868.80
Totals	642,143.00	681,446.63

### Availability (%) and PR

Time	Availability (%)			Performance Ratio (fraction)		
	A	F	Δ	A	F	Δ
Oct 2022	100.00	99.20	0.81%	1.04	0.00	100.00%
Nov 2022	100.00	99.20	0.81%	1.20	0.00	100.00%
Dec 2022	100.00	99.20	0.81%	1.20	0.00	100.00%
Totals						

## Closed Events Last 3 Months

Plant ID(s)	Event ID	Event Date	Status	Event Name	Notes	Root Cause
P-3998	93282	13 Oct 2022 09:59	Closed	CM	<p>CM: IR Scans &amp; Follow Up on inverter fuse holders 3/4" strut strap on conduit for weather station</p> <p>pending quote to investigate hotspots in invs 7.1, 9.1, 17.1, 22.1</p> <p>CM: investigate hot fuse in Inv 9.1</p> <p>pending fsp response</p> <p>10/27:</p> <p>3/4" strut strap on conduit for weather station. Make sure FSP has spare fuses. Adding onto next dispatch to site.</p>	-

## Open Events Last 3 Months



## MONTHLY REPORT

### Definitions

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Energy (kwh): Radiant light and heat from the Sun

Irradiation (kwh): The power per unit area produced by the Sun in the form of electromagnetic radiation. The solar irradiance integrated over time is called solar irradiation, solar exposure, or insolation.

Produced Energy (kwh): Energy generated by your system, transferred through an API

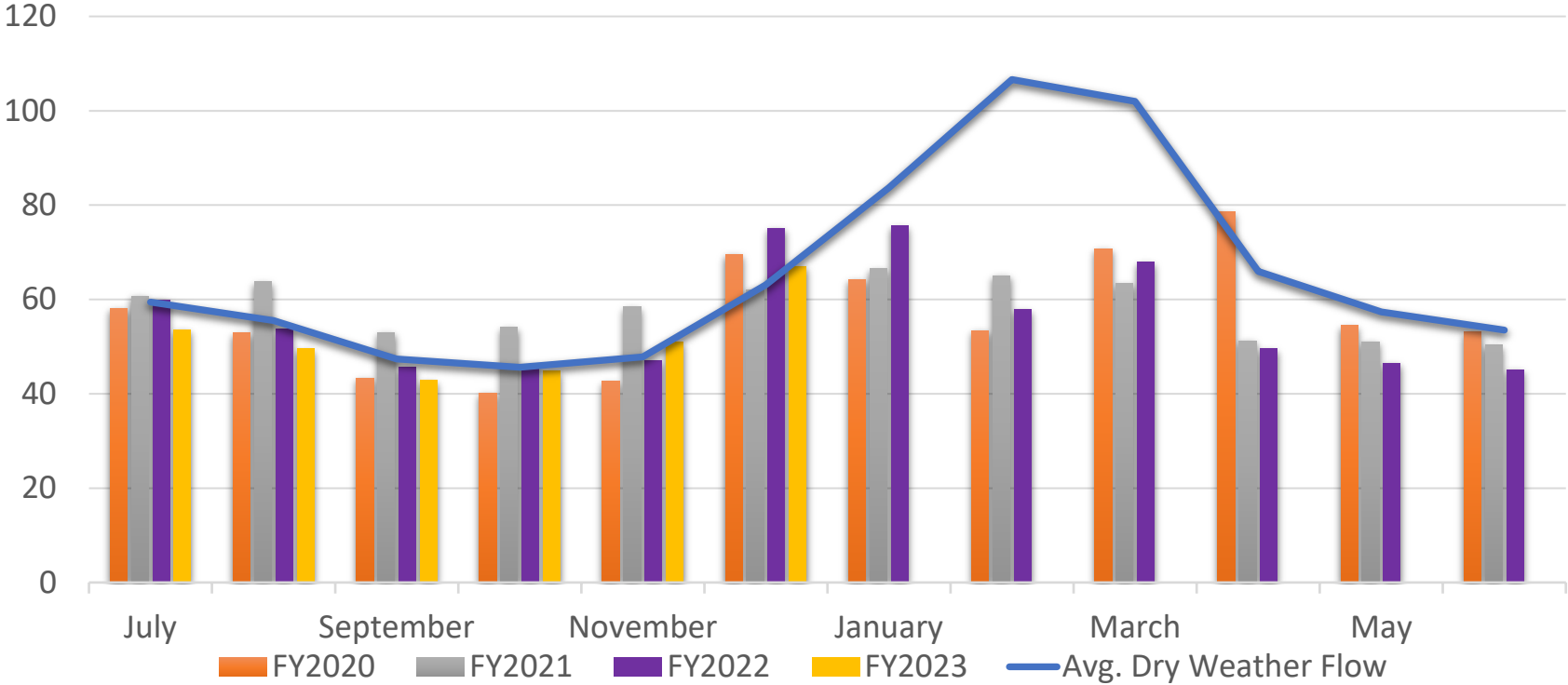
As Contracted Energy: (kWh) Energy proposed to be generated by your system contractually

Change ( $\Delta$ ): The % difference between actual and forecasted production

Availability (%): The Max theoretical generation capacity

PR (Performance Ratio): The ratio measured output to the expected output for a given reporting period based on the system name-plate rating

### Influent Flow (MG)



**BIG BEAR AREA REGIONAL WASTEWATER AGENCY**

**SPECIAL BOARD MEETING MINUTES**

December 13, 2022

**1. CALL TO ORDER**

A Special Meeting of the Governing Board of the Big Bear Area Regional Wastewater Agency was called to order by Chair Herrick at 5:00 p.m. on December 13, 2022 at 121 Palomino Drive, Big Bear City, California.

**BOARD MEMBERS PRESENT**

Rick Herrick, Chair  
John Green, Vice-Chair  
Jim Miller, Director  
Bynette Mote, Director  
Larry Walsh, Director

**BOARD MEMBERS ABSENT**

None

**STAFF MEMBERS PRESENT**

David Lawrence, General Manager  
Christine Bennett, Finance Manager  
Jennifer McCullar, Finance Manager  
John Shimmin, Plant Manager  
Sonja Kawa, Human Resources Coordinator/Accounting Technician  
Bridgette Burton, Management Analyst/Board Secretary  
Ryan Connelly, Plant Operator II (departed at 5:08 p.m.)

**OTHERS**

None

Members of the public who signed in:

None

**2. PLEDGE OF ALLEGIANCE**

Director Walsh

**3. APPROVAL OF THE AGENDA**

Upon motion by Director Walsh, seconded by Vice-Chair Green and carried, the Governing Board approved the agenda as presented.

Ayes: Green, Miller, Mote, Walsh, Herrick

Noes: None

Absent: None

Abstain: None

**4. PUBLIC FORUM**

No comments

**5. PRESENTATIONS AND INTRODUCTIONS**

**5.A.** Retirement – Jennifer McCullar

The General Manager and Governing Board thanked Ms. McCullar for her service and congratulated her on retirement.

**5.B. Ryan Connelly 5-year recognition**

The General Manager presented Mr. Connelly with his five-year pin and thanked him for his service.

**6. INFORMATION/COMMITTEE REPORTS**

**6.A. General Manager's Report**

The General Manager explained the status of the Replenish Big Bear short-term financing and advised that the Agency will be going back out to market. This item will be brought back to the Governing Board for consideration in 2023. The Governing Board requested information on the Big Bear Municipal Water District, Visit Big Bear, and the City of Big Bear Lake, and instructed the Agency to ensure that the Project partners are still committed to the Replenish Big Bear Project before the short-term financing is considered by the Governing Board.

**7. CONSENT CALENDAR**

**7.A.** Approval of the Meeting Minutes from the October 26, 2022 Regular Meeting

**7.B.** Monthly Disbursements Report for October and November

**7.C.** Investment Report Identifying Agency Investments and Reporting Interest Income for October and November

**7.D.** First Quarter Report, Three Months Ended September 30, 2022

Upon motion by Director Walsh, seconded by Director Miller and carried, the Governing Board approved the Consent Calendar as presented.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

**8. ITEMS REMOVED FROM THE CONSENT CALENDAR**

None

**9. OLD BUSINESS**

None

**10. NEW BUSINESS**

- 10.A.** Resolution No. R. 12-2022, A Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency Finding the Replenish Big Bear Piloting Study Project Exempt from the California Environmental Quality Act under both a Statutory Exemption for Feasibility and Planning Studies (Section 15262) and a Class 6 Categorical Exemption (Section 15306) and Approving the Replenish Big Bear Piloting Study Project

The Board Secretary explained the purpose of the piloting study and summarized the environmental analysis. The Governing Board inquired about funding for this project and confirmed that legal counsel reviewed the staff report and attachments. Discussion ensued between the Governing Board and staff.

Upon motion by Director Miller, seconded by Director Walsh and carried, the Governing Board adopted Resolution No. R. 12-2022 Finding the Replenish Big Bear Piloting Study Project Exempt from the California Environmental Quality Act under both a Statutory Exemption for Feasibility and Planning Studies (Section 15262) and a Class 6 Categorical Exemption (Section 15306) and Approving the Replenish Big Bear Piloting Study Project.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

- 10.B.** Appropriate \$30,000 for Sludge Building Concrete Floor Repair from the Contingency Fund

The General Manager described the need for the concrete floor repair. The Governing Board requested additional information about the repair work and the bid process. Discussion ensued between the Governing Board and staff.

Upon motion by Director Mote, seconded by Director Walsh and carried, the Governing Board appropriated \$30,000 for the Sludge Building concrete floor repair from the Contingency Fund.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

- 10.C.** Appropriate \$31,045 for a Rate Study Update from the Contingency Fund

The Finance Manager explained that Replenish Big Bear costs would be included in the rate study update. The results would need to be presented to the Governing

Board before the Budget Workshop to meet the budget deadline of May 1<sup>st</sup>. Rates will need to be in place prior to the WIFIA application (June 2023). The Governing Board clarified that operations and maintenance costs would be included in the study and how alternative funding scenarios would be represented in the update. The Governing Board expressed concern regarding approval of the rate study update before confirming commitment of Project partners as well as concern with the many project variables. The Governing Board instructed the Agency to present the rate study scope of work to the Finance Committee. Discussion ensued between the Governing Board and staff.

Upon motion by Director Miller, seconded by Director Walsh and carried, the Governing Board postponed this item to the January 25, 2023 regular meeting.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

**10.D.** Resolution No. R. 13-2022, A Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency for Exception to the 180-day Waiting Period in Accordance with California Government Code Sections 7522.56 and 21224 to Appoint Jennifer McCullar to an Extra-Help Retired Annuitant Position Effective January 2, 2023

The General Manager recommended adopting the resolution for exception to the 180-day waiting period and appointing Jennifer McCullar as an extra-help retired annuitant to assist the Agency with the FY 2024 budget and rate schedule and the WIFIA loan program. The Governing Board clarified the retirement date and CalPERS requirements. Discussion ensued between the Governing Board and staff.

Upon motion by Director Mote, seconded by Director Miller and carried, the Governing Board adopted Resolution No. R. 13-2022 for exception to the 180-day waiting period in accordance with California Government Code Sections 7522.56 and 21224 and appointed Jennifer McCullar to an extra-help retired annuitant position effective January 2, 2023.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

**10.E.** Appropriate \$79,335 for an Extra-Help Retired Annuitant Position from the Contingency Fund

Based upon adoption of the previous item, the General Manager recommended appropriating funds for the extra-help retired annuitant position. The Governing



Board confirmed that Ms. McCullar's retirement and extra-help annuitant position are separate from one another and the extra-help annuitant position does not affect her retirement. Discussion ensued between the Governing Board and staff.

Upon motion by Director Mote, seconded by Director Walsh and carried, the Governing Board appropriated \$79,335 for an extra-help retired annuitant position from the Contingency Fund.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

**10.F. Schedule Budget Workshop**

The Board Secretary suggested the week of March 6<sup>th</sup>, 2023 for the Budget Workshop. Discussion ensued between the Governing Board and staff.

Upon motion by Director Mote, seconded by Director Walsh and carried, the Governing Board scheduled the Budget Workshop for Tuesday, March 7, 2023 at 10:00 a.m.

Ayes: Green, Miller, Mote, Walsh, Herrick  
Noes: None  
Absent: None  
Abstain: None

**11. COMMENTS AND ANNOUNCEMENTS**

**11.A. General Manager Comments**

None

**11.B. Governing Board Member Comments**

The Governing Board wished everyone Happy Holidays.

**12. ADJOURNMENT**

With no further business to come before the Governing Board, Chair Herrick adjourned the meeting at 5:42 p.m.

ATTEST: \_\_\_\_\_  
Bridgette Burton, Secretary to the Governing Board  
Big Bear Area Regional Wastewater Agency



Big Bear Area Regional  
Wastewater Agency  
*Rick Herrick – Chair*  
*John Green – Vice-Chair*  
*Jim Miller – Director*  
*Bynette Mote – Director*  
*Larry Walsh – Director*

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**AGENDA ITEM: 7.B.**

**MEETING DATE:** January 25, 2023

**TO:** Governing Board of the Big Bear Area Regional Wastewater Agency

**FROM:** David Lawrence, P.E., General Manager

**PREPARED BY:** Christine Bennett, Finance Manager

**SUBJECT:** Monthly Disbursements Report

**BACKGROUND:**

Attached is the Agency's December check register which reflects accounts paid during the period.

**FINANCIAL IMPACT:**

There is no financial impact. The funds have previously been appropriated.

**RECOMMENDATION:**

Informational

**Big Bear Area Regional Wastewater Agency**  
**Check Register**  
**For the Period From Dec 1, 2022 to Dec 31, 2022**

Filter Criteria includes: 1) Accounts Payable only. Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
CASH 23657	12/2/22	PRINCIPAL FINANCIAL GROUP	1000-20	3,859.33
CASH 23658	12/2/22	CALPERS HEALTH	1000-20	29,106.31
CASH 23659	12/2/22	VISION SERVICE PLAN	1000-20	350.24
CASH 23683	12/2/22	PAYA	1000-20	19.99
22679	12/8/22	ACCENT COMPUTER SOLUTIONS, INC.	1000-20	3,174.24
22680	12/8/22	AMAZON CAPITAL SERVICES	1000-20	793.58
22681	12/8/22	ARAMARK UNIFORM SERVICES	1000-20	1,226.92
22682	12/8/22	BEST BEST & KRIEGER LLP	1000-20	3,950.80
22683	12/8/22	BIG BEAR CITY COMMUNITY SERVICES DI	1000-20	449.67
22684	12/8/22	BUTCHER'S BLOCK & BUILDING	1000-20	1,066.96
22685	12/8/22	BEAR VALLEY ELECTRIC	1000-20	11,553.11
22686	12/8/22	CAR QUEST OF BIG BEAR	1000-20	107.45
22687	12/8/22	CLINICAL LAB OF SAN BERNARDINO	1000-20	130.00
22688	12/8/22	JOHN CONNELLY	1000-20	812.50
22689	12/8/22	DIY HOME CENTER-BIG BEAR	1000-20	341.83
22690	12/8/22	TOM DODSON & ASSOCIATES	1000-20	5,992.50
22691	12/8/22	DISTRIBUTED SOLAR DEVELOPMENT, LLC	1000-20	17,628.37
22692	12/8/22	DIRECT TV	1000-20	44.99
22693	12/8/22	DEPARTMENT OF WATER & POWER	1000-20	48.75
22694	12/8/22	FLYERS ENERGY	1000-20	4,154.00
22695	12/8/22	FRONTIER COMMUNICATIONS	1000-20	1,007.04
22696	12/8/22	GRAINGER	1000-20	2,814.30
22697	12/8/22	BIG BEAR GRIZZLY	1000-20	346.50
22698	12/8/22	BEAR VALLEY BASIN GSA	1000-20	67.61
22699	12/8/22	GSM ENGINEERED FABRICS, LLC	1000-20	5,376.21
22700	12/8/22	HAZ MAT TRANS, INC.	1000-20	6,358.95
22701	12/8/22	HUGHESNET	1000-20	102.33
22702	12/8/22	MCMASTER-CARR SUPPLY COMPANY	1000-20	252.73
22703	12/8/22	CONSTANCE M. ALVARADO	1000-20	55.00
22704	12/8/22	PITNEY BOWES GLOBAL FINANCIAL SERVI	1000-20	127.67
22705	12/8/22	S PORTER, INC.	1000-20	35,119.60
22706	12/8/22	ROGERS, ANDERSON, MALODY & SCOTT,	1000-20	6,330.00
22707	12/8/22	R.I.C. CONSTRUCTION CO., INC.	1000-20	39,355.53
22708	12/8/22	SPECTRUM BUSINESS	1000-20	1,023.93

**Big Bear Area Regional Wastewater Agency**  
**Check Register**  
**For the Period From Dec 1, 2022 to Dec 31, 2022**

Filter Criteria includes: 1) Accounts Payable only. Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
22709	12/8/22	STREAMLINE	1000-20	300.00
22710	12/8/22	NANCY R. BOHL, INC.	1000-20	75.00
22711	12/8/22	UNDERGROUND SERVICE ALERT	1000-20	102.59
22712	12/8/22	VIKING MAINTENANCE SERVICES, LLC	1000-20	1,350.00
22713	12/8/22	WATER SYSTEMS CONSULTING, INC.	1000-20	43,787.52
22714	12/8/22	TROY BEMISDARFER	1000-20	50.00
22715	12/8/22	CHRISTINE BENNETT	1000-20	50.00
22716	12/8/22	BRIDGETTE BURTON	1000-20	50.00
22717	12/8/22	SONJA KAWA	1000-20	50.00
22718	12/8/22	DAVID LAWRENCE	1000-20	50.00
22719	12/8/22	JENNIFER MCCULLAR	1000-20	50.00
22720	12/8/22	JOHN SHIMMIN	1000-20	50.00
CASH 23660	12/9/22	EMPLOYMENT DEVELOPMENT DEPARTME	1000-20	3,070.68
CASH 23661	12/9/22	THE LINCOLN NAT'L LIFE INS CO	1000-20	3,899.85
CASH 23662	12/9/22	INTERNAL REVENUE SERVICE	1000-20	8,854.50
CASH 23663	12/12/22	AMERICAN FIDELITY ASSURANCE CO	1000-20	525.41
CASH 23664	12/12/22	CALPERS RETIREMENT	1000-20	3,361.42
CASH 23665	12/12/22	CA PERS 457 PROGRAM	1000-20	4,318.98
CASH 23666	12/12/22	CALPERS RETIREMENT	1000-20	9,571.26
22721	12/22/22	AMAZON CAPITAL SERVICES	1000-20	2,272.84
22722	12/22/22	RICK M. BOWERS	1000-20	140.08
22723	12/22/22	BUSINESS CARD	1000-20	1,918.73
22724	12/22/22	BRYCE CONSULTING, INC.	1000-20	4,560.00
22725	12/22/22	BEAR VALLEY ELECTRIC	1000-20	7,601.63
22726	12/22/22	BEAR VALLEY PAVING, INC.	1000-20	995.00
22727	12/22/22	CANON SOLUTIONS AMERICA, INC.	1000-20	1,493.87
22728	12/22/22	CLINICAL LAB OF SAN BERNARDINO	1000-20	85.00
22729	12/22/22	COUNTY OF SAN BERNARDINO SOLID WA	1000-20	5,502.95
22730	12/22/22	E-TRAINING, INC	1000-20	225.00
22731	12/22/22	EVANTEC CORPORATION	1000-20	2,866.69
22732	12/22/22	FEDEX	1000-20	11.02
22733	12/22/22	FIELDMAN, ROLAPP & ASSOCIATES, INC.	1000-20	990.50
22734	12/22/22	GOVERNMENT FINANCE OFFICERS ASSN	1000-20	460.00

**Big Bear Area Regional Wastewater Agency  
Check Register  
For the Period From Dec 1, 2022 to Dec 31, 2022**

Filter Criteria includes: 1) Accounts Payable only. Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
22735	12/22/22	NAVY MEN, LLC	1000-20	225.65
22736	12/22/22	GLENN B. DORNING, INC.	1000-20	31,495.28
22737	12/22/22	GRAINGER	1000-20	34.17
22738	12/22/22	HACH COMPANY	1000-20	488.73
22739	12/22/22	LAKESIDE EQUIPMENT CORP	1000-20	47,700.93
22740	12/22/22	MCMASTER-CARR SUPPLY COMPANY	1000-20	2,434.23
22741	12/22/22	MCR TECHNOLOGIES, INC.	1000-20	2,925.20
22742	12/22/22	MITEL	1000-20	373.92
22743	12/22/22	RANDY J. SPITZ	1000-20	17.00
22744	12/22/22	READY REFRESH	1000-20	274.22
22745	12/22/22	R.I.C. CONSTRUCTION CO., INC.	1000-20	35,150.00
22746	12/22/22	ROI ENGINEERING LLC	1000-20	1,800.00
22747	12/22/22	SOUTHERN CALIFORNIA EDISON	1000-20	22.86
22748	12/22/22	SOUTHWEST GAS	1000-20	2,551.20
22749	12/22/22	SWRCB - ANNUAL FEES	1000-20	210,276.00
22750	12/22/22	SWRCB-WWOC	1000-20	170.00
22751	12/22/22	SYNAGRO-WWT, INC.	1000-20	35,718.98
22752	12/22/22	TWIN BEAR EQUIPMENT RENTAL, INC	1000-20	254.63
22753	12/22/22	USA BLUEBOOK	1000-20	831.98
22754	12/22/22	VERIZON WIRELESS	1000-20	249.03
22755	12/22/22	REGINA A. WEISS	1000-20	200.00
22756	12/22/22	RICHARD T. HERRICK	1000-20	150.00
22757	12/22/22	JENNIFER MCCULLAR	1000-20	183.71
22758	12/22/22	JAMES J. MILLER	1000-20	150.00
CASH 23667	12/22/22	THE LINCOLN NAT'L LIFE INS CO	1000-20	3,899.85
CASH 23668	12/23/22	INTERNAL REVENUE SERVICE	1000-20	8,816.10
CASH 23669	12/23/22	BYNETTE L. MOTE	1000-20	150.00
CASH 23670	12/23/22	JOHN GREEN	1000-20	150.00
CASH 23671	12/23/22	LAWRENCE C. WALSH	1000-20	150.00
CASH 23672	12/27/22	AMERICAN FIDELITY ASSURANCE CO	1000-20	525.41
CASH 23673	12/27/22	EMPLOYMENT DEVELOPMENT DEPARTME	1000-20	3,050.46
CASH 23674	12/27/22	CALPERS RETIREMENT	1000-20	3,362.15
CASH 23675	12/27/22	CALPERS RETIREMENT	1000-20	9,571.26
CASH 23676	12/27/22	CA PERS 457 PROGRAM	1000-20	4,319.42

**Big Bear Area Regional Wastewater Agency**  
**Check Register**  
**For the Period From Dec 1, 2022 to Dec 31, 2022**

Filter Criteria includes: 1) Accounts Payable only. Report order is by Date.

<b>Check #</b>	<b>Date</b>	<b>Payee</b>	<b>Cash Account</b>	<b>Amount</b>
CASH 23677	12/29/22	LEGALSHIELD	1000-20	67.80
CASH 23678	12/29/22	TEXAS LIFE INSURANCE COMPANY	1000-20	213.00
CASH 23679	12/29/22	AMERICAN FIDELITY ASSURANCE CO	1000-20	663.90
CASH 23684	12/29/22	PAYA	1000-20	10,817.33
CASH 23680	12/30/22	THE LINCOLN NAT'L LIFE INS CO	1000-20	692.32
CASH 23681	12/30/22	EMPLOYMENT DEVELOPMENT DEPARTME	1000-20	6,939.34
CASH 23682	12/30/22	INTERNAL REVENUE SERVICE	1000-20	19,729.47
CASH 23685	12/30/22	PAYA	1000-20	47.39
<b>Total</b>				<b>738,682.38</b>



Big Bear Area Regional  
Wastewater Agency  
*Rick Herrick – Chair*  
*John Green – Vice-Chair*  
*Jim Miller – Director*  
*Bynette Mote – Director*  
*Larry Walsh – Director*

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**AGENDA ITEM: 7.C.**

**MEETING DATE:** January 25, 2023

**TO:** Governing Board of the Big Bear Area Regional Wastewater Agency

**FROM:** David Lawrence, P.E., General Manager

**PREPARED BY:** Christine Bennett, Finance Manager

**SUBJECT:** Investment Report Identifying Agency Investments and Reporting Interest  
Income

**BACKGROUND:**

Attached is the December Monthly Investment Report pursuant to the Agency's Investment Policy.

**FINANCIAL IMPACT:**

There is no financial impact.

**RECOMMENDATION:**

Informational

BBARWA  
 Monthly Investment Report  
 December 2022

<u>INVESTMENT TYPE</u>	<u>COST</u>	<u>FAIR MARKET VALUE (1)</u>	<u>YEAR TO DATE INTEREST(2)</u>	<u>INTEREST RATE</u>	<u>MATURITY DATE</u>
LOCAL AGENCY INVESTMENT FUND	\$ 5,884,155	\$ 5,770,950	\$ 34,200	2.173%	DAILY
TOTAL	\$ 5,884,155	\$ 5,770,950	\$ 34,200		

The Investment Portfolio of the Big Bear Area Regional Wastewater Agency is in compliance with the investment policy approved in Sept 2022. The Agency will be able to meet its expenditure requirements for the next six months.

(1) LOCAL AGENCY INVESTMENT FUND (LAIF) IS A STATE-RUN INVESTMENT POOL PROVIDED FOR PUBLIC AGENCIES. THE LAIF MARKET VALUE SHOWN ON THIS TREASURER'S REPORT REPRESENTS BBARWA'S SHARE OF THE **LIQUID VALUE** OF LAIF'S PORTFOLIO IF IT WAS LIQUIDATED AS OF THE END OF THE REPORTED MONTH. THIS NUMBER SERVES AS AN INDICATOR OF WHETHER OR NOT THE **MARKET VALUE** OF LAIF'S INVESTMENTS IS ABOVE OR BELOW THE **COST** OF THOSE INVESTMENTS.

(2) Interest paid quarterly on LAIF investment. Amount reflects interest income received at the reporting date during FY 2023 and excludes accrued interest.

Attachment (s): Monthly LAIF Statement



California State Treasurer  
**Fiona Ma, CPA**



Local Agency Investment Fund  
P.O. Box 942809  
Sacramento, CA 94209-0001  
(916) 653-3001

January 03, 2023

[LAIF Home](#)  
[PMIA Average Monthly Yields](#)

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BIG BEAR AREA REGIONAL WASTEWATER AGENCY

FINANCE MANAGER  
P.O. BOX 517  
BIG BEAR CITY, CA 92314

[Tran Type Definitions](#)

**Account Number:**

December 2022 Statement

Effective Date	Transaction Date	Tran Type	Confirm Number	Web Confirm Number	Authorized Caller	Amount
12/19/2022	12/19/2022	RD	1719297	N/A	CHRISTINE BENNETT	1,400,000.00
12/23/2022	12/22/2022	RW	1719567	1679901	CHRISTINE BENNETT	-500,000.00

**Account Summary**

Total Deposit:	1,400,000.00	Beginning Balance:	4,984,155.26
Total Withdrawal:	-500,000.00	Ending Balance:	5,884,155.26



Big Bear Area Regional  
Wastewater Agency  
*Rick Herrick – Chair*  
*John Green – Vice-Chair*  
*Jim Miller – Director*  
*Bynette Mote – Director*  
*Larry Walsh – Director*

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## AGENDA ITEM: 9.A.

**MEETING DATE:** January 25, 2023

**TO:** Governing Board of the Big Bear Area Regional Wastewater Agency

**FROM:** David Lawrence, P.E., General Manager

**PREPARED BY:** Christine Bennett, Finance Manager; Jennifer McCullar, Retired Annuitant

**SUBJECT:** Appropriate \$31,045 for a Rate Study Update from the Contingency Fund

### **BACKGROUND & DISCUSSION:**

A rate study was completed in 2022 (the 2022 Study) by HDR Engineering, Inc. (HDR). The 2022 Study included a rate component for the Replenish Big Bear Project (RBB) that covered interest expense only on debt borrowed to fund RBB pre-construction costs. The 2022 Study needs to be updated to include the estimated costs associated with RBB (both pre and post start up), and the respective rates needed to fund these costs. A rate schedule will be developed that will transition the necessary rate adjustments over a multi-year period.

### **FINANCIAL IMPACT:**

There are adequate funds available in the Contingency Fund to make the appropriation. Based on prior studies performed, the current proposal of up to \$31,045 for the update is reasonable.

### **RECOMMENDATION:**

Appropriate \$31,045 for a rate study update from the Contingency Fund.



Big Bear Area Regional  
Wastewater Agency  
*Rick Herrick – Chair*  
*John Green – Vice-Chair*  
*Jim Miller – Director*  
*Bynette Mote – Director*  
*Larry Walsh – Director*

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**AGENDA ITEM: 10.A.**

**MEETING DATE:** January 25, 2023

**TO:** Governing Board of the Big Bear Area Regional Wastewater Agency

**FROM:** David Lawrence, P.E., General Manager

**PREPARED BY:** Jennifer McCullar, Retired Annuitant

**SUBJECT:** An Approving Resolution Related to Funding for the Replenish Big Bear Project: Resolution No. R. 01-2023, A Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency Authorizing Execution and Delivery of a Loan Agreement and Promissory Note and Approving Certain Other Actions in Connection Thereto

**BACKGROUND AND DISCUSSION:**

The Replenish Big Bear Project (the Project) began in FY 2019, and through FY 2022 the Agency has funded much of the preliminary work with contributions from its cost-sharing partners and grant funding:

Project Funding Through FY 2022

Project Costs	\$2,072,138
Grant Funding	<u>1,033,564</u>
Net Contributions, Cost-Sharing Partners	\$1,038,574
BBARWA Net	\$259,643

It was recognized last year during the budget development process that the Project would be moving past the feasibility (cost-sharing) stage, and that financing would be needed to cover the costs associated with the pre-construction period, now running through the early part of FY 2025 (August 2024), the “Interim Financing”. A rate of \$5.79/EDU was approved to cover the interest expense associated with the Interim Financing.

In July 2022, the Agency conducted a professional services, request for proposal and in August 2022 engaged the services of Fieldman, Rolapp and Associates (FRA) to advise the Agency on a comprehensive financing plan for the Project, including the Interim Financing.

FRA worked with a placement agent to secure competitive proposals for the Interim Financing. In summary, Capital One Public Funding LLC (the Lender) has provided the most competitive loan terms: a principal amount of \$3.4 million, a term of 3-years, an interest rate of 4.25%, and debt service requirements of interest only (no principal payments) with a lump-sum payment or

“balloon” in the final year. This loan is expected to be refunded or paid prior to maturity with the Construction Funding (financing to repay this loan prior to maturity and to cover the costs of construction expected to begin in FY 2025).

**FINANCIAL IMPACT:**

The rate of \$5.79/EDU is adequate to cover the interest expense on the Interim Financing, with annual rate collection of approximately \$146,418 (\$5.79 x 25,288 EDUs) and interest expense of \$144,500 per year.

If the Project does not move forward to construction, and thus the Construction Funding is not utilized to refund this loan, the Agency could approach the market, or the Lender, for a new, conventional, amortizing loan to repay the Interim Financing prior to maturity. The Agency is financially strong, and its existing rate structure can support an amortizing loan of this size. The Agency’s proforma debt service coverage with 1) the new loan assuming interest only and 2) an amortizing loan (\$3.4 million, 15 years, 5%) exceed 2.0X.

Proforma Debt Service Coverage (Net Revenues/Debt Service)

	<u>FY 2022 (a)</u>	<u>Proforma Interest Expense Only</u>	<u>Proforma Amortizing Loan</u>
Net Revenues	\$ 1,937,661	\$ 1,937,661	\$ 1,937,661
Debt Service (b)	\$ 511,944	\$ 656,444	\$ 836,832
Debt Service Coverage	<b>3.78</b>	<b>2.95</b>	<b>2.32</b>
(a) Excluding GASB Adjustments			
(b) New Debt Service	\$ -	\$ 144,500	\$ 324,888

Further, it should be noted that if the Agency has to issue an amortizing loan as in the example above, and coverage drops to 2.32x as indicated above, the Agency will still maintain additional debt capacity of approximately \$1 - \$3 million.

**RECOMMENDATION:**

Approve Resolution No. R. 01-2023, authorizing the execution of the Loan Agreement, the Note and the Placement Agent Agreement referenced thereto.

**ATTACHMENTS:**

- Resolution No. R. 01-2023
- Form of Loan Agreement and Note
- Terms and Conditions
- Placement Agent Agreement

**RESOLUTION NO. R. 01-2023**

**RESOLUTION OF THE GOVERNING BOARD OF THE  
BIG BEAR AREA REGIONAL WASTEWATER AGENCY  
AUTHORIZING EXECUTION AND DELIVERY OF A  
LOAN AGREEMENT AND PROMISSORY NOTE AND  
APPROVING CERTAIN OTHER ACTIONS IN  
CONNECTION THERETO**

**WHEREAS**, the Big Bear Area Regional Wastewater Agency (the “Agency”) entered into a Loan Agreement dated November 1, 2011 with Compass Bank (the “2011 Loan Agreement”) which refunded certain outstanding obligations which were issued to finance certain improvements to the Agency's wastewater system; and

**WHEREAS**, the Agency subsequently entered into an Installment Purchase Agreement, dated as of September 1, 2018, with Compass Bank (the “2018 Installment Purchase Agreement,” together with the 2011 Loan Agreement, the “Senior Obligations”) on a parity basis with the 2011 Loan Agreement to finance improvements to the Agency’s wastewater system; and

**WHEREAS**, the Agency now desires to enter into that certain Loan Agreement dated as of February 1, 2023, to finance the (a) Replenish Big Bear Project which consists of treatment plant upgrades and improvements to distribute treated water to the lake for re-use purposes such as 1) landscape irrigation, dust control, and snowmaking at the golf course and ski resort and for water supply purposes such as 2) direct groundwater recharge in Sand Canyon and (b) improvements to the Oxidation Ditch Wall and (c) asphalt repair and replacement of Palomino Drive and parking lot (the “Project”); and

**WHEREAS**, the Agency is authorized under the provisions of the Agreement and Articles 1 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with Section 6500 of said Code (the “Law”), to issue “bonds” as defined therein, including “bonds, notes, warrants and other evidence of indebtedness” for the purpose of financing the Project; and

**WHEREAS**, the Agency has determined that it is in the interests of the Agency at this time to obtain the proceeds of a loan pursuant to this Loan Agreement dated February 1, 2023 by and between the Agency and Capital One Public Funding, LLC on a subordinate basis to the Senior Obligations to finance the Project in accordance with the Law; and

**WHEREAS**, the Agency may apply for a Water Infrastructure Financing and Innovation (“WIFIA”) Loan and grants from various agencies and if such funding is received, may refinance the Loan Agreement with proceeds of the WIFIA Loan and grants; and

**WHEREAS**, the obligations of the Agency under the Loan Agreement will be evidenced by a Promissory Note to be executed and delivered by the Agency, in an aggregate principal amount not to exceed \$3.4 million (the “Note”); and

**WHEREAS**, the principal of and interest and prepayment premium (if any) on the Note, and any bonds or other obligations issued on a parity therewith as provided herein, will be

payable from and secured by a pledge of and lien on the Net Revenues of the Agency's wastewater system, as more particularly defined in the Loan Agreement; and

**WHEREAS**, in order to provide for the execution and delivery of the Note, to establish and declare the terms and conditions upon which the Note is to be made and secured, and to secure the payment of the principal thereof, prepayment premium (if any) and interest thereon, the Agency has determined it is in the best interest to authorize the execution and delivery of this Loan Agreement and the Note; and

**WHEREAS**, forms of the Loan Agreement and the Note are on file with the Secretary to the Governing Board of the Agency (the "Board") and have been made available to the Board; and

**WHEREAS**, Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the Board obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the Loan Agreement, good faith estimates of: (a) the true interest cost of the Note, (b) the finance charge of the Note, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Loan received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Loan Agreement and (d) the sum total of all Loan Payments (as defined in the Loan Agreement) under the Loan Agreement calculated to the final maturity of the Note plus the fees and charges paid to third parties not paid with the proceeds of the Loan Agreement; and

**WHEREAS**, in accordance with Section 5852.1, the Board has obtained such good faith estimates from the Agency's Municipal Advisor, Fieldman, Rolapp & Associates, Inc., to the Agency and such estimates are disclosed in Exhibit A attached hereto (the "SB 450 Summary"); and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have been met; and

**NOW, THEREFORE, THE GOVERNING BOARD OF THE BIG BEAR AREA REGIONAL WASTEWATER AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. Appointment of Professionals.** In connection with the financing, (a) Fieldman, Rolapp & Associates, Inc. is hereby approved as the municipal advisor, (b) Brandis Tallman, a Division of Oppenheimer & Co. Inc. (the "Placement Agent") is hereby appointed as placement agent and (c) Best Best & Krieger LLP is hereby appointed as special counsel. The Placement Agent Agreement between the Placement Agent and the Agency is hereby approved in the form presented at this meeting.

**SECTION 2. Approval of Loan Agreement and Note.** The forms of the Loan Agreement and the Note presented at this meeting are approved, and the General Manager, the Finance Manager, and the Secretary to the Board (each, an "Authorized Officer") are each, acting alone, authorized to execute, acknowledge and deliver the Loan Agreement and the Note on behalf of the

Agency. The principal of the Note shall be in an amount not to exceed \$3.4 million and the true interest cost of the Note shall not exceed 4.25%

**SECTION 3.** Modifications. The approval of the Loan Agreement, the Note and the Placement Agent Agreement given by this Resolution shall apply to any modification or amendment of any of said documents which are agreed upon and approved by the Authorized Officer executing the Loan Agreement, the Note and the Placement Agency Agreement and Best Best & Krieger LLP as general counsel and special counsel to the Agency, as being necessary to carry out the provisions thereof and the authorizations and direction provided in this Resolution.

**SECTION 4.** Further Action. Each Authorized Officer and the other officers of the Agency are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the execution and delivery of the agreements approved hereby and to otherwise effectuate the purpose of this Resolution, and such actions previously taken by such officers are hereby ratified and confirmed.

**SECTION 5.** Effective Date. This resolution shall take effect immediately upon its adoption.

**SECTION 6.** The Board Secretary shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, ADOPTED, AND APPROVED** this 25th day of January, 2023.

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Rick Herrick, Chair of the Governing Board  
Big Area Regional Wastewater Agency

ATTEST:

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Bridgette Burton, Secretary to the Governing Board  
Big Bear Area Regional Wastewater Agency

I, Bridgette Burton, Secretary to the Governing Board of the Big Bear Area Regional Wastewater Agency, DO HEREBY CERTIFY that the foregoing Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency Authorizing Execution and Delivery of a Loan Agreement and Promissory Note and Approving Certain Other Actions in Connection Thereto, being Resolution No. R. 01-2023, was adopted at a regular meeting on January 25, 2023 of said Agency by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:



## EXHIBIT A

### SB 450 SUMMARY

Set forth below are **good faith estimates** provided by Fieldman, Rolapp & Associates, Inc., the municipal advisor, as required under Section 5852.1 of the California Government Code (the “Code”) for the Loan Agreement. **The following estimates are based on market conditions as of January 10, 2023 and have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by resolution.**

- (a) The true interest cost of the loan is estimated at 4.25%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- (b) The finance charge of the loan, including all fees and charges paid to third parties, is estimated at \$70,850.
- (c) Proceeds of the loan expected to be received by the Agency for the sale of the loan less the finance charge described in (b) above and any capitalized interest or reserves paid from proceeds of the loan (if any), is equal to \$3,329,150.
- (d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$3,874,441.

The foregoing are estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth above.

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LOAN AGREEMENT

Dated as of February 1, 2023

By and Between

BIG BEAR AREA REGIONAL WASTEWATER AGENCY

And

CAPITAL ONE PUBLIC FUNDING, LLC

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## **LOAN AGREEMENT**

THIS LOAN AGREEMENT, (this “Loan Agreement”), dated for convenience as of February 1, 2023, is by and between CAPITAL ONE PUBLIC FUNDING, LLC, a limited liability company (the “Lender”), and the BIG BEAR AREA REGIONAL WASTEWATER AGENCY, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “Agency”);

### **W I T N E S S E T H:**

**WHEREAS**, the Agency entered into a Loan Agreement dated November 1, 2011 with Compass Bank (the “2011 Loan Agreement”) which refunded certain outstanding obligations which were issued to finance certain improvements to the Agency’s wastewater system; and

**WHEREAS**, the Agency subsequently entered into an Installment Purchase Agreement, dated as of September 1, 2018, with Compass Bank (the “2018 Installment Purchase Agreement,” together with the 2011 Loan Agreement, the “Senior Obligations”) on a parity basis with the 2011 Loan Agreement to finance improvements to the Agency’s wastewater system; and

**WHEREAS**, the Agency now desires to enter into this Loan Agreement to finance the (a) Replenish Big Bear Project which consists of treatment plant upgrades and improvements to distribute treated water to the lake for re-use purposes such as 1) landscape irrigation, dust control, and snowmaking at the golf course and ski resort and for water supply purposes such as 2) direct groundwater recharge in Sand Canyon (the “Project”) and (b) improvements to the Oxidation Ditch Wall and (c) asphalt repairing and replacement of Palomino Drive and parking lot; and

**WHEREAS**, the Agency is authorized under the provisions of the Agreement and Articles 1 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with Section 6500 of said Code (the “Law”), to issue “bonds” as defined therein, including “bonds, notes, warrants and other evidence of indebtedness” for the purpose of financing the Project; and

**WHEREAS**, the Agency has determined that it is in the interests of the Agency at this time to obtain the proceeds of a Loan (as defined herein) from the Lender pursuant to this Loan Agreement on a subordinate basis to the Senior Obligations to finance the initial planning and design of the Project (the “Initial Project Costs”) in accordance with the Law; and

**WHEREAS**, the Agency may apply for a WIFIA Loan (as defined below) and grants from various agencies and if such funding is received, may refinance the Loan Agreement with the proceeds of the WIFIA Loan and such other grants; and

**WHEREAS**, the obligations of the Agency under this Loan Agreement are evidenced by a Promissory Note, dated [February 3], 2023, executed and delivered by the Agency, in the principal amount of \$ \_\_\_\_\_ (the “Note”); and

**WHEREAS**, the principal of and interest and prepayment premium (if any) on the Note, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Net Revenues (as defined herein); and

**WHEREAS**, in order to provide for the execution and delivery of the Note, to establish and declare the terms and conditions upon which the Note is to be made and secured, and to secure the payment of the principal thereof, prepayment premium (if any) and interest thereon, the Agency has authorized the execution and delivery of this Loan Agreement and the Note; and

**WHEREAS**, all things necessary to make the Note when issued, executed and delivered, the valid and binding obligation of the Agency, and to secure the Agency's obligations under this Loan Agreement and the Note by a valid pledge of the Net Revenues herein pledged to the payment of the principal of, prepayment premium (if any) and interest on the Note have been done and performed, as required by law, and the Agency is now fully authorized to enter into this Loan Agreement and the Note, subject to the terms hereof.

**NOW, THEREFORE, THIS LOAN AGREEMENT WITNESSETH**, that in order to secure the payment of the principal of and the interest and prepayment premium (if any) on the Note at any time outstanding under this Loan Agreement, and to secure the performance and observance of all the covenants and conditions herein and therein set forth, and to declare the terms and conditions upon and subject to which the Loan Agreement is premised, and in consideration of the premises and of the mutual covenants herein contained and of the making of the Loan Agreement by the Lender, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Agency does hereby covenant and agree, for the benefit of the Lender from time to time of the Loan Agreement, as follows:

## **ARTICLE I**

### **DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY**

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“2011 Loan Agreement” means that certain Loan Agreement dated November 1, 2011 between the Agency and Compass Bank.

“2018 Installment Purchase Agreement” means that certain Installment Purchase Agreement, dated as of September 1, 2018 between the Agency and Compass Bank.

“Agency” means the Big Bear Area Regional Wastewater Agency, a duly organized and validly existing joint powers agency under the laws of the State of California.

“Assignee” means any entity to whom the rights of the Lender shall be lawfully assigned hereunder.

“Authorized Representative” means the General Manager or the Finance Manager and the Secretary or any other person designated as an Authorized Representative of the Agency by a Certificate of the Secretary.

“Blue Sky Law” means state level anti-fraud statutes which regulate both the offer and sale of securities as well as the registration and reporting requirements for broker-dealers and individual stock brokers doing business (both directly and indirectly) in each state, as well as investment advisers seeking to offer their investment advisory services in the state, and enforced by each individual states’ attorney-general.

“Board” means the Board of Directors of the Agency.

“Business Day” means a day other than a Saturday, Sunday or legal holiday, on which banking institutions in the State are closed.

“Certificate” and “Request” of the Agency means a written certificate or, request signed in the name of the Agency by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“Chair” means the Chair of the Board of Directors of the Agency.

“Closing Date” means the date on which the Loan is funded by the Lender.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury regulations.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the Agency relating to the execution and delivery of this Loan Agreement.

“Debt Service” means, for any Fiscal Year, the sum of (1) the interest falling due during such Fiscal Year on all Parity Obligations that are outstanding under the documents or agreements pursuant to which they were issued, assuming that all outstanding serial Parity Obligations are retired as scheduled and that all outstanding term Parity Obligations are redeemed from sinking fund payments as scheduled (except to the extent that such interest has been fully capitalized and is invested in Federal Securities that mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged), (2) the principal amount of all serial Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) falling due by their terms during such Fiscal Year (but excluding Excluded Principal), and (3) the minimum amount of term Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) required to be paid or called and redeemed during such Fiscal Year, together with the redemption premiums, if any, thereon; provided that, (A) whenever interest as described herein accrues at other than a fixed rate, such interest rate shall be assumed to be at 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 twelve months, the average rate over the twelve 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 Code, the most recently published SIFMA Index plus basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus one hundred (100) basis points, and (B) for purposes of calculating the Debt Service on any Parity Obligation requiring a

balloon payment at maturity, such interest, if accrued at other than a fixed rate shall be assumed to be at a rate equal to the greater of (i) the actual rate on the date of calculation, or (ii) the fifteen year maturity published for the Municipal Market Data Index plus thirty (30) basis points, and the principal (and such principal is not Excluded Principal) shall be assumed to be fully amortized, solved for substantially level debt service, over a period of fifteen (15) years from the date of calculation.

“Event of Default” means an event described in Section 6.1 hereof.

“Excluded Principal” means each payment of principal of any Parity Obligation for which there is on file with the Lender a certificate of an Independent Financial Consultant to the effect that such Parity Obligation is commercial paper or otherwise of a short term or revolving nature and has a maturity of less than sixty (60) months and (b) a certificate of the General Manager to the effect that the Agency intends to pay such principal from the proceeds of Parity Obligations, other bonds, notes or other obligations of the Agency. No such determination shall affect the security for such Parity Obligations or the obligation of the Agency to pay such Parity Obligations from Net Revenues.

“Federal Securities” means: (a) any direct general 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), for which the full faith and credit of the United States of America are pledged; and (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are fully, unconditionally and directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“Finance Manager” means the Finance Manager of the Agency.

“First Redemption Date” shall have the meaning given such term in Section 3.4 hereof.

“Fiscal Year” means any consecutive twelve-month period extending from July 1 in one calendar year to June 30 of the next succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Agency, as applicable, as its official fiscal year period.

“Generally Accepted Accounting Principles” means the accounting rules, requirements and practices issued by the Financial Accounting Standards Board and Governmental Accounting Standards Board.

“General Manager” means the General Manager of the Agency.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, authority 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.



“Independent Certified Public Accountant” means a certified public accountant or any firm of certified public accountants appointed by the Agency that is independent according to the Statement of Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Financial Consultant” means a financial consultant qualified in the field of municipal finance, appointed and paid by the Agency, and who:

(i) is in fact independent and not under the domination of the Agency or any member thereof;

(ii) does not have a substantial financial interest, direct or indirect, in the operations of the Agency; and

(iii) is not connected with the Agency as an officer or employee of the Agency or any member thereof, but may be regularly retained to audit the accounting records of and make reports thereon to the Agency.

“Initial Project Costs” means the planning and design costs for the Project, including consultant fees and charges.

“Insurance Consultant” means any nationally recognized independent actuary, insurance company or broker that has actuarial personnel knowledgeable with respect to insurance carried, by, required for and available to special operating facilities similar to the Project, including a pooled self-insurance program in which premiums are established on the basis of the recommendation of an actuary of national reputation.

“Interest Component” means the portion of each Loan Payment designated as Interest Component, as such is set forth on Exhibit A hereto.

“Interest Rate” means the rate of interest on the Note of 4.25%.

“Lender” means (a) initially, Capital One Public Funding, LLC, a limited liability company, or (b) any Assignee of Lender’s right, title or interest in this Loan Agreement and the Note and other amounts due hereunder. Whenever in this Loan Agreement any reference is made to the Lender and such reference concerns rights which the Lender has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

“Loan” means the Loan made by the Lender to the Agency in exchange for the Note.

“Loan Agreement” means this Loan Agreement, dated as of February 1, 2023, between the Lender and the Agency, as originally executed and as from time to time supplemented or amended in accordance with the terms hereof.

“Loan Payments” means all payments required to be paid by the Agency, as such is set forth on Exhibit A hereto, on each Loan Payment Date pursuant to Section 4.2, and including any prepayment thereof pursuant to Section 3.4 hereof.

“Loan Payment Date” or “Payment Date” means each payment date set forth in Exhibit A hereto, and continuing to and including the date on which the Loan Payments have been paid in full; provided that if any Loan Payment Date shall fall on a non-Business Day, the Loan Payment Date shall be the next succeeding Business Day and interest on such payment shall accrue to and including such next succeeding Business Day.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the Agency, (b) the ability of the Agency 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

“Material Litigation” means any action, suit, proceeding, inquiry or investigation against the Agency in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the Agency has notice or knowledge and which, (i) if determined adversely to the Agency, may have a Material Adverse Effect, (ii) seeks to restrain or enjoin any of the transactions contemplated hereby, or (iii) may adversely affect the ability of the Agency to perform its obligations under this Loan Agreement.

“Net Revenues” means, for any Fiscal Year, all Revenues received by the Agency less the Operations and Maintenance Costs and Senior Obligations Debt Service for such Fiscal Year.

“Note” means the Promissory Note executed and delivered by the Agency on February [3], 2023, in the original principal amount of \$ \_\_\_\_\_, in the form attached hereto as Exhibit C.

“Operations and Maintenance Costs” means the reasonable and necessary costs paid or incurred by the Agency for maintaining and operating the System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of the Agency that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums (including payments required to be paid into any self-insurance funds), and including all other reasonable and necessary costs of the Agency or charges required to be paid by it to comply with the terms of this Loan Agreement or of any resolution authorizing the execution of any Parity Obligation Documents, and fees and expenses of consultants, including but not limited to Independent Certified Public Accountants; but excluding in all cases (i) the principal of and interest payable on Parity Obligations, and payment of Subordinate Obligations, (ii) costs of capital additions, replacements, betterments, extensions or improvements which under Generally Accepted Accounting Principles are chargeable to a capital account, and (iii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles.

“Parity Obligations” means the Note and corresponding Loan Payments, and all other bonds, notes, loan agreements, installment sale agreements, leases, or other obligations of the Agency currently outstanding or outstanding in the future payable from and secured by a pledge of and lien upon any of the Net Revenues incurred on a parity with the Note, issued in accordance with Section 5.5 hereof, including any WIFIA Loan to be issued in the future.

“Parity Obligations Documents” means, collectively, any indenture of trust, trust agreement, installment sale agreement, loan agreement or other document authorizing the issuance of any Parity Obligations or any securities which evidence Parity Obligations.

“Parity Obligation Payment Date” means the Loan Payment Date and any other payment date for Parity Obligations (other than the Note).

“Principal Component” means the portion of each Loan Payment designated as Principal Component, as such is set forth on Exhibit A hereto.

“Project” means (a) the Replenish Big Bear Project, which consists of treatment plan upgrades and improvements to distribute treated water to the lake for re-use purposes such as 1) landscape irrigation, dust control, and snowmaking at the golf course and ski resort and for water supply purposes such as 2) direct groundwater recharge in Sand Canyon, (b) improvements to the Oxidation Ditch Wall and (c) asphalt repairing and replacement of Palomino Drive and parking lot.

“Project Fund” means the fund by such name established in Section 3.7 hereof.

“Request of the Agency” or “Written Request” means a request in writing signed by the Chair, or by any other officer of the Agency duly authorized for that purpose.

“Resolution” means the Resolution No. \_\_\_\_\_, adopted by the Board on [January 25], 2023, authorizing the execution and delivery of this Loan Agreement, and otherwise providing for the execution and delivery of the Note.

“Revenue Fund” means the fund by such name established in Section 4.3 hereof.

“Revenues” means all gross income, receipts and revenue received or receivable by the Agency from the ownership or operation of the System, determined in accordance with Generally Accepted Accounting Principles, including all fees, rates, charges and all amounts paid under any contracts received or owed by the Agency in connection with the ownership or operation of the System and all proceeds of insurance covering business interruption loss relating to the System and all other income and revenue howsoever derived by the Agency from the ownership or operation of the System or arising from the System.

“Second Redemption Date” shall have the meaning given such term in Section 3.4 hereof.

“Secretary” means the Secretary of the Board.

“Securities Act” means the United States Securities Act of 1933.

“Senior Obligations” means the 2011 Loan Agreement and the 2018 Installment Purchase Agreement.

“Senior Obligations Debt Service” means, for any Fiscal Year, the sum of (1) the interest falling due during such Fiscal Year on all Senior Obligations that are outstanding under the documents or agreements pursuant to which they were issued, assuming that all outstanding serial

Senior Obligations are retired as scheduled and that all outstanding term Senior Obligations are redeemed from sinking fund payments as scheduled (except to the extent that such interest has been fully capitalized and is invested in Federal Securities that mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged), (2) the principal amount of all serial Senior Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) falling due by their terms during such Fiscal Year, and (3) the minimum amount of term Senior Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) required to be paid or called and redeemed during such Fiscal Year, together with the redemption premiums, if any, thereon.

“Special Counsel” means Best Best & Krieger LLP, or any other attorney or firm of attorneys acceptable to the Agency of nationally recognized expertise with respect to legal matters relating to debt obligations of political subdivisions.

“State” means the State of California.

“Subordinate Debt” means indebtedness or other obligations (including but not limited to loans, leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues subordinate to the pledge and lien securing the Loan Payments.

“System” means all land, facilities and equipment owned or used by the Agency for the collection and treatment of wastewater by the Agency, together with all additions, betterments, extensions or improvements to such land, facilities and equipment or any part thereof hereafter acquired or constructed by the Agency.

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

“WIFIA” means the Water Infrastructure Finance and Innovation Act.

“WIFIA Loan” means any loan, note, bond, agreement, or other form of indebtedness issued pursuant to any WIFIA entered into by and between the Agency and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (as may be amended, modified or supplemented from time to time).

Section 1.2. Liability of Agency Limited to Net Revenues. Notwithstanding anything to the contrary contained in this Loan Agreement, the Agency shall not be required to advance any money derived from any source of income other than the Net Revenues, for the payment of the principal of or interest or prepayment premiums, if any, on the Note or for the performance of any covenants herein contained, from any source of income other than the Net Revenues. The Agency may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring any indebtedness. The Note shall be payable exclusively from the Net Revenues as in this Loan Agreement provided. The credit of the Agency is not pledged for the payment of the Note or its interest. The principal of and interest on the Note and any prepayment premiums upon the prepayment thereof shall not be payable from or secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the

Agency or any of its income, receipts, or revenues, except the Net Revenues pledged to the payment thereof as provided in this Loan Agreement.

Section 1.3. Benefits of Loan Agreement Limited to Parties. Nothing contained herein and except as it relates to the holders of Parity Obligations other than the Note, expressed or implied, is intended to give to any person other than the Agency and the Lender any right, remedy or claim under or pursuant hereto. Any agreement or covenant required herein to be performed by or on behalf of the Agency shall be for the sole and exclusive benefit of the Lender.

Section 1.4. Successor Is Deemed Included in all References to Predecessor. Whenever the Agency is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Agency, and all agreements and covenants required hereby to be performed by or on behalf of the Agency shall bind and inure to the benefit of the successors thereof whether so expressed or not.

Section 1.5. Waiver of Personal Liability. No member of the Board and no officer, agent, or employee of the Agency, or of any department or agency thereof, shall be individually or personally liable for the payment of the principal of or interest on the Note, but nothing contained herein shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or hereby.

Section 1.6. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. Words of any gender shall be deemed and construed to include all genders. All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and other words of similar import refer to the Loan Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 1.7. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Agency shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or the Note; but the Lender shall retain all the rights and benefits accorded to it under any applicable provisions of law. The Agency hereby declares that it would have adopted this Loan Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the

application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the Agency. The Agency makes the following representations and warranties to the Lender as of the date of the execution and delivery of this Loan Agreement:

(a) The Agency is a duly organized and validly existing joint powers authority formed under the laws of the State.

(b) The Agency has full legal right, power and authority under the laws of the State to adopt the Resolution and to enter into this Loan Agreement and the Note and the transactions contemplated herein, and to pledge the Net Revenues and carry out its obligations hereunder and thereunder.

(c) The Agency has full legal right, power and requisite authority under the laws of the State to collect the Revenues.

(d) With the exception of the Senior Obligations, the Revenues have not otherwise been pledged and there are no other liens against the Net Revenues, senior to, or on parity with the Loan Payments. The Lender hereby acknowledges that the Agency may apply to the United States Environmental Protection Agency to procure a WIFIA Loan and, if approved, shall be considered a Parity Obligation hereunder. The Lender expressly consents to the entry by the Agency into such WIFIA Loan.

(e) By all necessary official action, the Agency has duly adopted the Resolution, has duly authorized and approved the execution and delivery of, and the performance of its obligations under, this Loan Agreement and the Note and the consummation by it of all other transactions contemplated by this Loan Agreement and the Note. When executed and delivered by the Agency, this Loan Agreement and the Note will be in full force and effect and will constitute legal, valid and binding agreements or obligations of the Agency, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors rights generally, the application of equitable principles, the exercise of judicial discretion and the limitations on legal remedies against public entities in the State. As currently conducted, the Agency's business is in all material respects in compliance with all applicable laws, administrative regulations of the State and of the United States and any agency or instrumentality of either, and any judgment or decree to which the Agency is subject.

(f) To the best of its knowledge, after reasonable investigation, the Agency is not in any material respect in breach of or default under any constitutional provision, law or administrative regulation of the State or of the United States or any agency or instrumentality of either or any judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Agency is a party or to which the Agency or any of its

property or assets is otherwise subject (including, without limitation, the Senior Obligations, the Note and 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 adoption of the Resolution, the execution, delivery the Note and the execution and delivery of this Loan Agreement and compliance with the Agency's obligations therein and 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, loan agreement, indenture, agreement, mortgage, lease or other instrument to which the Agency is a party or to which the Agency 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 Agency or under the terms of any such law, regulation or instruments, except as provided by the Note and this Loan Agreement.

(g) No action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, government agency, public board or body, is pending and served or, to the best of the Agency's knowledge, threatened against the Agency: (i) in any way affecting the existence of the Agency or in any way challenging the respective powers of the several offices or the titles of the officials of the Agency to such offices; (ii) affecting or seeking to prohibit, restrain or enjoin the making, execution or delivery of the Note or this Loan Agreement or the application of the proceeds of the Loan; (iii) in any way contesting or affecting, as to the Agency, the validity or enforceability of the Note or this Loan Agreement; (iv) in any way contesting the powers of the Agency or its authority with respect to the adoption of the Resolution, or the execution and delivery of the Note or this Loan Agreement; or (v) in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby or that might materially adversely affect the ability of the Agency to perform and satisfy its obligations under the Note or this Loan Agreement; nor to the best of the Agency's knowledge is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the proceedings authorizing the Note or this Loan Agreement or the performance by the Agency of its obligations thereunder, or the authorization, execution, delivery or performance by the Agency of the Note or this Loan Agreement.

(h) 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 the Loan and the execution, delivery of and performance of the Note and this Loan Agreement by the Agency 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 the Loan or Note, as to which no representation is made).

(i) The Agency has the legal authority to apply and will apply, or cause to be applied, the proceeds from the Loan as provided in and subject to all of the terms and provisions of the Law, the Resolution, the Note and this Loan Agreement.

(j) Any certificate, signed by any official of the Agency authorized to do so in connection with the transactions described in this Loan Agreement, shall be deemed a representation and warranty by the Agency to the Lender as to the statements made therein.

(i) There has been no change in the assets, liabilities, financial position or results of operations of the Agency which might reasonably be anticipated to cause a Material Adverse Effect; and

(ii) The Agency has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(k) In the past 10 years, the Agency has not had an event of non-appropriation or defaulted under any of its payment or performance obligations or covenants, either under any of its bonds, notes, or other debt obligations.

(l) In connection with the Agency's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by the Agency pursuant to Securities and Exchange Commission Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule 15c2-12"), the Agency may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system or its successor ("EMMA") notice of its incurrence of its obligations with respect to the Loan Agreement and related documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with the Loan Agreement and related documents, in each case including a full copy thereof or a description of the material terms thereof (each such posting, an "EMMA Posting"). The Agency agrees that it shall not file or submit or permit the filing or submission of any EMMA Posting that includes information relating to the Lender, including the following: unredacted sensitive or confidential information about the Lender or its affiliates in any portion of an EMMA Posting, address and account information of the Lender or any affiliates, e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lender or its affiliates. The Agency acknowledges and agrees that the Lender and its affiliates are not responsible for the Agency's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule 15c2-12, any Continuing Disclosure Agreement or any applicable securities or other laws, including but not limited to those relating to the Rule 15c2-12.

(m) The Agency acknowledges and agrees that:

(i) The Lender is acting solely for its own loan account and not as a fiduciary for the Agency or in the capacity of broker, dealer, municipal securities underwriter, placement agent, or municipal advisor;

(ii) The Lender has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the Agency (including to any financial advisor or placement agent engaged by the Agency) with respect to the structuring of the financing or the execution and delivery of the Loan Agreement;



(iii) The Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934, as amended, to the Agency with respect to the transactions relating to the structuring of the financing or the execution and delivery of the Loan Agreement and the discussions, undertakings, and procedures leading thereto;

(iv) Each of the Agency, its financial advisor, and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the Loan Agreement financing transaction from its financial, legal, and other advisors (and not the Lender or its affiliates) to the extent that the Agency, its financial advisor, or its placement agent desires to, should, or needs to obtain such advice;

(v) The Lender has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the Agency's financial advisor or its placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to the Agency's financial advisor or placement agent, with respect to any such matters; and

(vi) The transactions between the Agency and the Lender are arm's-length, commercial transactions in which the Lender is acting and has acted solely as a principal and for its own interest, and the Lender has not made recommendations to the Agency with respect to the transactions relating to the Loan Agreement.

Section 2.2. Representations and Warranties of the Lender. The Lender makes the following representations and warranties to the Agency as of the date of the execution and delivery of this Loan Agreement:

(a) The Lender is a \_\_\_\_\_, with all right and authority to conduct business in the State and with full corporate power to enter into and undertake its duties and obligations hereunder and has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the economic risks and merits of the extension of its credit represented by this Loan Agreement and Note.

(b) The execution, delivery and performance of this Loan Agreement has been duly authorized by all necessary corporate actions on the part of the Lender and do not require any further approvals or consents.

(c) To the knowledge of the Lender, the execution, delivery and performance of this Loan Agreement does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Lender is a party by which it or its property is bound.

(d) There is no pending or, to the knowledge of the Lender, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Lender to perform its obligations under this Loan Agreement.

(e) The Lender will deliver to the Agency a certificate or letter substantially in the form set forth in Exhibit B attached hereto, and will abide by all transfer restrictions herein and therein.

### ARTICLE III

#### TERMS OF THE LOAN; ISSUANCE OF THE NOTE

Section 3.1. Proceeds; Issuance and Transfer of Note. The Lender hereby agrees to make the loan to the Agency in the aggregate principal amount of \$ \_\_\_\_\_, and the Agency hereby agrees to borrow such amount from the Lender.

The obligations of the Agency under this Loan Agreement shall be evidenced by the Note executed and delivered by the Agency on the Closing Date in the aggregate principal amount of \$ \_\_\_\_\_, in substantially the form set forth in Exhibit C attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Loan Agreement and the Law.

Section 3.2. Deposit and Application of Proceeds. The Loan shall be made by the Lender to the Agency in immediately available funds on the Closing Date and shall be used and applied by the Agency to pay the Initial Project Costs and the Costs of Issuance. The Agency hereby instructs, and the Lender hereby agrees, to wire the total amount of the proceeds of the Loan in the amount of \$ \_\_\_\_\_ directly to the Agency to be deposited in the Project Fund and the amount of \$ \_\_\_\_\_ for the payment of the Costs of Issuance.

Section 3.3. Term of this Loan Agreement. The Term of this Loan Agreement shall commence on the Closing Date, and shall end on the date on which the Note shall be paid in full or provision for such payment shall be made as provided herein.

#### Section 3.4. Prepayment.

(a) The Note is subject to optional prepayment, in whole, on any Business Day on or after May 15, 2024, at a prepayment price equal to the outstanding principal amount of the Note plus accrued interest to the optional prepayment date, without premium, with thirty (30) days prior written notice to the Lender, subject to the following: (a) ninety percent (90%) of the principal amount to be redeemed shall be redeemed on a date selected by the Agency (the "First Redemption Date") and (b) the remaining ten percent (10%) of the principal amount to be redeemed shall be redeemed on a date selected by the Agency which is at least 60 days following the First Redemption Date (the "Second Redemption Date").

Any prepayment notice given to the Lender shall identify the principal to be redeemed on the First Redemption Date and the Second Redemption Date and may be conditional upon the receipt of funds necessary to prepay the Note and shall be subject to cancellation if funds are not received as contemplated.

Section 3.5. Execution of the Loan Agreement. The execution of this Loan Agreement by an Authorized Representative shall constitute conclusive evidence of such officers' and the

Board's approval hereof, including any changes, insertions, revisions, corrections, or amendments as may have been made hereto.

Section 3.6. Assignment by the Lender. The Lender's right, title and interest in and to this Loan Agreement and the Note and all proceeds, with prior written notice to the Agency, may be assigned and reassigned in whole to (i) an affiliate of the Lender or (ii) a bank, trust, custodian, insurance company or other financial institution or an affiliate thereof, without the necessity of obtaining the consent of the Agency; provided that the Lender has filed with the Agency at least five Business Days' prior written notice thereof along with an executed copy of a letter addressed to the Agency and the Lender substantially in the form of the letter delivered by the Lender on the Closing Date attached hereto as Exhibit B. The Agency shall pay all Loan Payments hereunder to the Lender, as provided in Section 4.2 hereof, or under the written direction of the assignee named in the most recent assignment or notice of assignment filed with the Agency. During the term of this Loan Agreement, the Agency shall each keep a complete and accurate record of all such notices of assignment.

Nothing herein limits the right of the Lender or its assignees to sell or assign participation interests in the Loan Agreement and the Note, in minimum amounts of \$250,000, to one or more entities listed in (i) or (ii), provided that any participation, custodial or similar agreement under which multiple ownership interests in the Loan Agreement and the Note are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single entity, owner, servicer or other fiduciary or agent acting on behalf of all of the assignees (herein referred to as the "Loan Servicer") to act on their behalf with respect to the rights and interests of the Lender under the Loan Agreement and the Note, including with respect to the exercise of rights and remedies of the Lender on behalf of such owners upon the occurrence of an event of default under the Loan Agreement.

Section 3.7. Project Fund. The Agency shall establish a special fund to be held in trust at the Agency designated as the "Project Fund," shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided herein. Amounts in the Project Fund shall be used for the payment of Initial Project Costs.

Section 3.8. Closing Conditions. The Lender has entered into this Loan Agreement in reliance upon the representations and warranties of the Agency contained in this Loan Agreement and to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the Agency of the obligations of the Agency pursuant to this Loan Agreement at or prior to the Closing Date. Accordingly, the obligation of Lender to consummate the Loan and execute this Loan Agreement is subject to the fulfillment to the reasonable satisfaction of the Lender of the following conditions:

(a) The representations and warranties of the Agency contained in this Loan Agreement shall be true, complete and correct on the Closing Date.

(b) All representations, warranties and covenants made herein, and in certificates or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Lender notwithstanding any investigation heretofore or hereafter made by the Lender or on their behalf.

(c) On the Closing Date, the Resolution, the Note and this Loan Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Lender.

(d) On the Closing Date, the Agency will have adopted and there will be in full force and effect such resolutions as in the opinion of Special Counsel shall be necessary in connection with the transactions contemplated by this Loan Agreement, and all necessary action of the Agency relating to the issuance of the Note will have been taken, will be in full force and effect and will not have been amended, modified or supplemented, except as may have been agreed to in writing by the Lender.

(e) At or prior to the Closing Date, the Lender will have received the following documents:

(i) the approving opinion of Special Counsel, dated the Closing Date and addressed to the Lender, in form and content satisfactory to the Lender, to the effect that the Loan Agreement and the Note are valid and binding agreements of the Agency and that the Interest Components thereunder are excluded from gross income for federal income tax purposes, subject to customary exceptions;

(ii) a certificate or certificates, dated the date of the Closing and signed on behalf of the Agency by an Authorized Representative, to the effect that (A) the representations and warranties contained in this Loan Agreement are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the Closing Date; (B) no litigation of any nature is then pending or, to his or her knowledge, threatened, seeking to restrain or enjoin the issuance and delivery of the Note or the collection of Revenues to pay the principal thereof and interest thereon from Net Revenues, questioning the proceedings and authority by which such pledge is made, affecting the validity of the Note or contesting the existence or boundaries of the Agency or the title of the present officers to their respective offices; (C) no authority or proceedings for the issuance and delivery of the Note has been repealed, revoked or rescinded and no petition or petitions to revoke or alter the authorization to issue and deliver the Note has been filed with or received by the Agency; and (D) the Agency has complied with all the agreements and covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to, and to the extent possible before, the Closing Date;

(iii) a copy of the tax certificate of the Agency with respect to the Loan;

(iv) a certified copy of the Resolution;

(v) the opinion of the Agency's general counsel, dated the Closing Date, addressed to the Lender, to the effect that:

(A) the Agency is a duly organized and validly existing joint exercise of powers authority, and has all requisite power and authority thereunder: (1) to adopt the Resolution, and to enter into, execute, deliver and perform its covenants and agreements under this Loan Agreement and the Note; (2) to make, execute and deliver the Note; (3) to pledge the Net Revenues as contemplated by this Loan Agreement; and (4) to carry on its activities as currently conducted;

(B) the Agency has taken all actions required to be taken by it prior to the Closing Date material to the transactions contemplated by this Loan Agreement and the Note, and the Agency has duly authorized the execution and delivery of, and the due performance of its obligations under, this Loan Agreement and the Note;

(C) the adoption of the Resolution, the execution and delivery by the Agency of this Loan Agreement and the Note and the compliance with the provisions of this Loan Agreement and the Note, to the best of such counsel's knowledge after due inquiry, do not and will not conflict with or violate in any material respect any State constitutional, statutory or regulatory provision, or, to the best of such counsel's knowledge after due inquiry, conflict with or constitute on the part of the Agency a material breach of or default under any agreement or instrument to which the Agency is a party or by which it is bound;

(D) except as has been disclosed to the Lender, no litigation is pending with service of process completed or, to the best of such counsel's knowledge after due inquiry, threatened against the Agency in any court in any way affecting the titles of the officials of the Agency to their respective positions, or seeking to restrain or to enjoin the execution and delivery of the Loan Agreement or the Note, or the collection of revenues, pledged or to be pledged to pay the principal of and interest on the Note, or in any way contesting or affecting the validity or enforceability of the Loan Agreement or the Note, or contesting the powers of the Agency or its authority with respect to the Loan Agreement or the Note;

(E) to the best of such counsel's knowledge after due inquiry, no authorization, approval, consent or other order of the State or any local agency of the State, other than such authorizations, approvals and consents which have been obtained, is required for the valid authorization, execution and delivery by the Agency of the Note or this Loan Agreement;

(F) to the best of such counsel's knowledge after due inquiry, the Agency is not in breach of or default under any applicable law or administrative regulation of the State or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Agency is a party or is otherwise subject, which breach or default would materially adversely affect the Agency's ability to enter into or perform its obligations under the Note or 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 an event of default under any such instrument; and

(vi) such additional legal opinions, certificates, instruments and other documents as the Lender or its counsel may reasonably request to evidence the truth and accuracy, as of the date of this Loan Agreement and as of the Closing Date, of the representations, warranties, agreements and covenants of the Agency contained herein and the due performance or satisfaction by the Agency at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the Agency.

Section 3.9. Letter of Representation. On the Closing Date, the Lender shall deliver a letter addressed to the Agency substantially in the form of letter attached hereto as Exhibit B.

## ARTICLE IV

### SECURITY

Section 4.1. Pledge of Net Revenues. All Parity Obligations, including the Note and related Loan Payments, shall be secured by a lien on and pledge of Net Revenues, and within such lien priority, such Parity Obligations shall be of equal rank without preference, priority or distinction of any Parity Obligations over any other Parity Obligations. The Agency does hereby grant such lien on and pledge of Net Revenues to secure the Note, Loan Payments, and all Parity Obligations.

Section 4.2. Repayment of the Note. The Agency hereby agrees to repay the Note from Net Revenues as provided herein in the aggregate principal amount of \$\_\_\_\_\_ together with interest (calculated at the Interest Rate on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semi-annual Loan Payments in the respective amounts and on the respective Loan Payment Dates specified in Exhibit A hereto, and by this reference made a part hereof.

So long as the Note is owned by the Lender, all principal and interest payments with respect to the Note shall be made by wire transfer using such wiring instructions as shall be provided by the Lender pursuant to Section 7.1.

Section 4.3. Revenues; Establishment and Application of Revenue Fund. In order to carry out and effectuate the commitment and pledge contained in Section 4.1 hereof, the Agency agrees and covenants that all Revenues shall be received by the Agency in trust and shall be deposited when and as received by the Agency in the Agency's existing fund (referred to herein as the "Revenue Fund"), which fund the Agency agrees and covenants to maintain so long as any Parity Obligations remain outstanding, and all moneys in the Revenue Fund shall be so held in trust and applied and used to pay the following amounts in accordance with the priority set forth below during such Fiscal Year.

1. All Operations and Maintenance Costs for such Fiscal Year;
2. The Senior Obligations Debt Service payable during such Fiscal Year;
3. All payments required for compliance with the terms of this Loan Agreement, the Note or any other Parity Obligations Documents, including without limitation, any obligation to maintain a reserve fund at a certain level for such Fiscal Year;
4. All payments to meet any other obligations of the Agency which are charges, liens or encumbrances upon, or payable from, the Net Revenues for such Fiscal Year; and
5. Payment with respect to the Subordinate Obligations as they become due and payable for such Fiscal Year.

All Net Revenues remaining in the Revenue Fund on each Parity Obligation Payment Date, shall transferred by the Agency from the Revenue Fund and allocated to the following respective accounts (each of which the Agency shall establish and maintain within the Revenue Fund), the following amounts in the following order of priority, the requirements of each such payment or account (including the funding of any deficiencies in any such payment or account resulting from insufficient Net Revenues necessary to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made for any other payment or to any account subsequent in priority:

(a) Interest Component. On each Parity Obligation Payment Date, the Agency shall allocate for the payment of interest an amount equal to the Interest Component becoming due and payable on such Parity Obligation Payment Date on all outstanding Parity Obligations on such Parity Obligation Payment Date. All moneys allocated for the payment of interest shall be used by the Agency solely for the purpose of paying the Interest Component on the Parity Obligations as it shall become due and payable (including accrued interest on any Parity Obligations purchased or redeemed prior to maturity pursuant to this Loan Agreement). In the event that the amounts allocated for the payment of interest on any Parity Obligation Payment Date are insufficient for any reason to pay the aggregate amount of Interest Component then coming due and payable on the outstanding Parity Obligations, the Agency shall apply such amounts to the payment of the Interest Component then due on each of the outstanding Parity Obligations on a pro rata basis.

(b) Principal Component. On each Parity Obligation Payment Date, the Agency shall allocate for the payment of the principal of an amount equal to the Principal Component becoming due and payable on such Parity Obligation Payment Date on all outstanding Parity Obligations on such Parity Obligation Payment Date. All moneys allocated for the payment of principal shall be used by the Agency solely for the purpose of paying the Principal Component on the Parity Obligations as it shall become due and payable. In the event that the amounts allocated for the payment of principal on any Parity Obligation Payment Date are insufficient for any reason to pay the aggregate amount of Principal Component then coming due and payable on the outstanding Parity Obligations, the Agency shall apply such amounts to the payment of the Principal Component then due on each of the outstanding Parity Obligations on a pro rata basis.

(c) Reserve Accounts. Payments required to replenish any debt service reserve accounts established for Parity Obligations shall be made in accordance with the terms hereof and such Parity Obligations Documents, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(d) Subordinate Debt Repayment. Payments relating to principal and interest on or with respect to Subordinate Debt in accordance with the terms of such Subordinate Debt, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(e) Subordinate Debt Reserve Accounts. To make payments required with respect to Subordinate Debt to replenish reserve accounts established therefor in accordance with the terms of such Subordinate Debt, without preference or priority, and in the event of any insufficiency of

such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(f) General Expenditures. For any lawful and authorized purpose of the Agency.

Section 4.4. Special Obligation of the Agency; Obligations Absolute. The Agency's obligation to pay the Loan Payments shall be a special obligation of the Agency limited solely to Net Revenues as provided herein. Under no circumstances shall the Agency be required to advance moneys derived from any source of income other than Net Revenues and other sources specifically identified herein for the payment of the Loan Payments, nor shall any other funds or property of the Agency be liable for the payment of the Loan Payments. Notwithstanding the foregoing provisions of this Section, however, nothing herein is intended to prohibit the Agency voluntarily from making any payment hereunder from any source of available funds of the Agency.

The obligations of the Agency to pay the Loan Payments from Net Revenues, and to perform and observe the other agreements contained herein, shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the Agency, the Lender of any obligation to the Agency or otherwise with respect to the Net Revenues, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the Agency by the Lender. Until such time as all of the Loan Payments shall have been fully paid or prepaid, the Agency (a) will not suspend or discontinue payment of any Loan Payments, (b) will perform and observe all other agreements contained in this Loan Agreement, and (c) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State 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 4.5. Reduction upon Partial Prepayment. In the event the Agency prepays less than all of the remaining Principal Components of the Loan Payments pursuant to Section 3.4 hereof, the amount of such prepayment shall be applied by the Lender to the outstanding Principal Components on a pro-rata basis amongst Loan Payment Dates, unless otherwise requested by Agency and agreed to by Lender in its reasonable discretion.

## ARTICLE V

### COVENANTS OF THE AGENCY

Section 5.1. Collection of Revenues. The Agency will, at all times while any of the Loan Payments remain outstanding, fix, prescribe and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts during such Fiscal Year:

1. All current Operation and Maintenance Costs;
2. The Senior Obligations Debt Service payable during such Fiscal Year;



3. All payments required for compliance with the terms of this Agreement, the Note or any other Parity Obligations Documents, including without limitation, any obligation to maintain a reserve fund at a certain level;

4. All payments to meet any other obligations of the Agency which are charges, liens or encumbrances upon, or payable from, the Net Revenues; and

5. Payment with respect to the Subordinate Obligations as they become due and payable.

In addition to the requirements described above, the Agency will, at all times while this Agreement and any Parity Obligation Documents remain outstanding, to the maximum extent permitted by law, fix, prescribe and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield Revenues during such Fiscal Year equal to at least one hundred ten per cent (110%) of the Operation and Maintenance Costs for such Debt Service in such Fiscal Year and Senior Obligations Debt Service. The Agency shall provide a written statement within its audited financial statement as to whether or not the Revenues as of the end of such Fiscal Year were equal at least one hundred ten per cent (110%) of the Operation and Maintenance Costs for such Debt Service in such Fiscal Year and Senior Obligations Debt Service. For avoidance of doubt, so long as the Agency has complied with its obligations set forth in this section, the failure of Net Revenues to meet the thresholds set forth in this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the Agency has complied with this section at the commencement of the succeeding Fiscal Year.

Section 5.2. Compliance with Law and Contracts. The Agency will faithfully comply with, keep, observe, and perform all valid and lawful obligations or regulations now or hereafter imposed on its operation of the Project by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board, or commission having jurisdiction or control.

Section 5.3. Punctual Payment. The Agency will punctually pay the principal and interest to become due on the Note, in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not rescind this Loan Agreement for any cause.

Section 5.4. Protection of Security and Rights of the Lender. The Agency will preserve and protect the security of the Note and the rights of the Lender and will warrant and defend the Lender's rights against all claims and demands of all persons. From and after the Closing Date, the Note shall be incontestable by the Agency.

Section 5.5. Parity Obligations.

(a) Other than the Senior Obligations, the Agency shall not issue or incur any indebtedness which is senior to the Note. The Agency may at any time issue Parity Obligations payable from Net Revenues on a parity with the Note in such principal amount as shall be determined by the Agency subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Obligations:

(i) No Event of Default shall have occurred and be continuing;

(ii) Except with respect to the Note, and at the Agency's sole discretion, there may be established from the proceeds of such Parity Obligations a reserve fund for the security of such Parity Obligations, in an amount equal set forth in the applicable Parity Obligation Document; and

(iii) The Revenues, either (i) as shown in the audited financial statements of the Agency for the most recent Fiscal Year for which an audit is available, or (ii) as shown by the books of the Agency for any more recent twelve (12) month period selected by the Agency, as verified by an Independent Financial Consultant of the Agency, (a) were at least equal to one hundred ten percent (110%) of the (1) Debt Service payable on all outstanding Parity Obligations during such period and (2) the Senior Obligation Debt Service payable on all Senior Obligations during such period and, (b) shall be at least equal to one hundred ten percent (110%) of the amount of Debt Service payable on all outstanding (1) Parity Obligations, (2) the Senior Obligation Debt Service payable on all Senior Obligations during such period and (3) the Parity Obligations to be issued calculated on a combined basis for the twelve month period following the date of issuance of any such Parity Obligation.

(b) The Lender hereby acknowledges that the Agency may apply to the United States Environmental Protection Agency to procure a WIFIA Loan and, if approved, shall be considered a Parity Obligation hereunder. The Lender expressly consents to the entry by the Agency into such WIFIA Loan.

(c) The Agency may issue or incur Subordinate Debt.

(d) For purposes of this section, the amount of Revenues may be increased to give effect as of the first day of such Fiscal Year increases in rates and charges for the System approved and in effect as of the date of calculation, as evidenced by both a calculation prepared by an Authorized Representative and a report prepared by an Independent Certified Public Accountant or an Independent Financial Consultant on such calculation on file with the Agency.

Section 5.6. Against Encumbrances. The Agency hereby covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that is senior to the pledge and lien on the Net Revenues contained herein. The Agency will not make any pledge of or place any lien on the Net Revenues except as provided and as permitted herein. The Agency may pledge Net Revenues to secure Parity Obligations issued in accordance with Section 5.5 hereof. The Agency may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on Net Revenues that is subordinate in all respects to the pledge of and lien on the Net Revenues provided herein.

Further, the Agency shall not, directly or indirectly, create, incur, assume or suffer to exist any lien or encumbrance with respect to the System, other than as herein contemplated, which would have a Material Adverse Effect with respect to the collection of Revenues. If any such lien or encumbrance shall arise at any time, the Agency will promptly, at its own expense, take such action as may be necessary to duly discharge or remove such lien or encumbrance.

Section 5.7. Further Assurances. The Agency will adopt, make, execute and deliver any and all further resolutions, instruments, and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Lender of the rights and benefits provided to it herein.

Section 5.8. Additional Information. No later than two hundred and ten (210) days after the close of each Fiscal Year of the Agency (unless otherwise agreed upon by Lender) and upon request of the Lender, the Agency shall deliver to the Lender, the Agency's annual audited financial statements. The Agency agrees to furnish to the Lender, promptly, from time to time, such information regarding the operations, financial condition and property of the Agency as the Lender may reasonably request.

Section 5.9. Observance of Laws and Regulations. The Agency will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the Agency, including the Agency's right to exist and carry on business as a joint powers agency, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.10. Notices. The Agency shall provide to the Lender:

(a) Immediate notice by electronic mail of any event, action or failure to take any action which constitutes an Event of Default under this Loan Agreement, together with a detailed statement by an Authorized Representative of the steps being taken by the Agency to cure the effect of such Event of Default.

(b) Prompt written notice (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the Agency or the Net Revenues which constitute a Material Adverse Effect.

(c) Prompt written notice of any Material Litigation, Material Adverse Effect or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could materially impact Net Revenues.

(d) With reasonable promptness, such other information respecting the Agency and the operations, affairs and financial condition of the Agency as the Lender may from time to time reasonably request.

Section 5.11. Tax Covenants.

(a) The Agency hereby covenants that, notwithstanding any other provision of this Loan Agreement, it will make no use of the proceeds of the Loan or of any other amounts, regardless of the source, or of any property or take any action, or refrain from taking any action, that would cause the Loan Agreement and Note to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) The Agency will not use or permit the use of the Project or any portion thereof by any person other than a governmental unit as such term is used in Section 141 of the Code, in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the portion of the Loan Payments constituting interest under Section 103 of the Code.

(c) The Agency will not make any use of the proceeds from the sale of the Project or any other funds of the Agency, or take or omit to take any other action, that would cause the obligation provided herein to be “federally guaranteed” within the meaning of Section 149(b) of the Code or “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Loan Payments are unpaid, the Agency, with respect to such proceeds and such other funds, will comply with all requirements of such Sections and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Internal Revenue Code of 1954, as amended, to the extent such requirements are, at the time, applicable and in effect.

(d) The Agency will assure the filing of an information report for the Loan in compliance with Section 149 (e) of the Tax Code.

(e) The Agency hereby designates the Loan as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Tax Code.

(f) The Agency shall comply with the Code, with respect to the Loan, and the Agency shall not knowingly take or omit to take any action that, under existing law, may adversely affect the exclusion from gross income for federal income tax purposes, or the exemption from any applicable State tax of the interest on the Loan.

#### Section 5.12. Maintenance and Insurance.

Throughout the term of this Loan Agreement, and once the System is placed into service, the Agency shall maintain the System in proper working order and shall pay for or otherwise arrange for the payment of the cost of all necessary repairs to the System resulting from ordinary wear and tear or want of care on the part of the Agency.

The Agency shall pay or cause to be paid all taxes, assessments, or charges of any nature, if any, charged to the Agency affecting the System or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Agency is obligated to pay on such installments as are required to be paid during the term of this Loan Agreement as and when the same become due. The Agency may in good faith contest any such taxes, assessments, or charges and, in the event of any such contest, may permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom.

Once the System is placed into service, the Agency will procure and maintain, or cause to be procured and maintained, at all times throughout the term of this Loan Agreement, insurance (in a manner determined solely by the Agency) as is customarily maintained with respect to works and properties of like character against accident to, losses or damage to such works or properties,

in an amount at least equal to the outstanding aggregate principal amount of the Note. If any useful part of the System is damaged or destroyed, such part shall be restored to use. The net proceeds of insurance against accident to or destruction of the physical System shall be used for repairing or rebuilding the damaged or destroyed portions of the System (to the extent that such repair or rebuilding is determined by the Agency to be useful or of continuing value to the System) and, to the extent not so applied, shall be applied to the payment of the Senior Obligations and the Parity Obligations on a pro rata basis. Such insurance may be subject to such deductibles as the Agency deems prudent.

Section 5.13. Against Sale or Other Disposition of Property.

Without the prior written consent of the Lender, the Agency will not sell, lease, or otherwise dispose of the System or any part thereof essential to the proper operation of the System or to the maintenance of the Revenues. The Agency will not enter into any agreement or lease that impairs the operation of the System or any part thereof necessary to secure adequate Revenues for the payment of debt service on the Senior Obligations or the Parity Obligations or that would otherwise impair the rights of the Agency with respect to the Revenues or the operation of the System. Any real or personal property that has become non-operative or that is not needed for the efficient and proper operation of the System, or any material or equipment that has become worn out, may be sold. The Agency shall deposit the proceeds of such sale in the Revenue Fund.

The Agency covenants that it will not sell, lease, or otherwise dispose of the System, as a whole or substantially as a whole, without the prior written consent of the Lender.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default and Remedies.

(a) Events of Default. The following shall be Events of Default hereunder:

(1) Failure by the Agency to pay any Principal Component or Interest Component on the Note when due and payable.

(2) Failure by the Agency to observe and perform any covenant, condition or agreement on its part contained in this Loan Agreement and the Note for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Agency by the Lender; *provided, however*, if in the reasonable opinion of the Agency the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Lender shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Agency within such thirty (30) day period and diligently pursued until the default is corrected; provided that such additional period to cure the failure shall not exceed 30 days unless the Lender otherwise consents.

(3) Institution of any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency, or similar law or any law providing for the appointment of a receiver, liquidator, trustee, or similar official of the Agency or of all or

substantially all of its assets, by or with the consent of the Agency, or institution of any such proceeding without its consent that is not permanently stayed or dismissed within sixty (60) days, or agreement by the Agency with the Agency's creditors to effect a composition or extension of time to pay the Agency's debts, or request by the Agency for a reorganization or to effect a plan of reorganization, or for a readjustment of the Agency's debts, or a general or any assignment by the Agency for the benefit of the Agency's creditors.

(4) Any statement, representation or warranty made by the Agency in or pursuant to this Loan Agreement or its execution, delivery or performance proves to have been false, incorrect, misleading, or breached in any material respect on the date made, and is continuing for a period of thirty (30) days after written notice specifying such misrepresentation or breach and requesting that it be remedied has been given to the Agency by the Lender; provided, however, that the Lender and the Agency may agree that action by the Agency to cure such failure may be extended beyond such thirty-day period.

(5) This Loan Agreement or any material provision of this Loan Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the Agency or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the Agency, or the Agency shall renounce the same or deny that it has any further liability hereunder.

(6) Dissolution, termination of existence or insolvency of the Agency.

(7) Any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Loan Agreement shall find or rule that this Loan Agreement is not valid or not binding on the Agency.

(b) Remedies on Default. The Lender shall have the right, at its option, to (i) apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the Agency to collect Revenues sufficient to meet all requirements of this Loan Agreement and (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the Loan Payments 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 Agency under this Loan Agreement, subject to the following paragraph.

Notwithstanding any provision of this Loan Agreement, the Agency's liability to pay the Loan Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Article IV hereof. In the event that Net Revenues shall be insufficient at any time to pay a Principal Component and/or Interest Component in full, the Agency shall not be liable to pay or prepay such delinquent Loan Payment other than from Net Revenues.

Section 6.2. Other Remedies of the Lender. The Lender shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Agency or any director, officer or employee thereof, and to compel the Agency or any such director, officer or employee to perform and carry out its or his duties under the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things that are unlawful or violate the rights of the Lender; or

(c) by suit in equity upon the happening of an Event of Default to require the Agency and its Board, officers and employees to account as the trustee of an express trust.

Section 6.3. Non-Waiver. Nothing in this article or in any other provision hereof, or in the Note, shall affect or impair the obligation of the Agency, which is absolute and unconditional, to pay the principal of and interest on the Note to the Lender when due, as herein provided, out of the Net Revenues herein pledged for such payment, or shall affect or impair the right of the Lender, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied in this Loan Agreement.

A waiver of any default or breach of duty or contract by the Lender shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Lender to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Lender by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Lender. If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Lender, the Agency and the Lender shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 6.4. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

## ARTICLE VII

### NOTICES

Section 7.1. Notices. All written notices 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 at such address as the party may provide to the other party in writing from time to time. Notice is effective either (a) upon transmission by facsimile transmission, (b) upon actual receipt after deposit in the United States mail, postage prepaid, or (c) in any other case, upon actual receipt. The Agency or the Lender may, by written notice to the other parties, from time to time modify the address or number to which communications are given hereunder.

If to the Agency:      Big Bear Area Regional Wastewater Agency  
                                 121 Palomino Drive  
                                 P.O. Box 517  
                                 Big Bear City, CA 92314  
                                 Attn: General Manager

With a copy to:

Best Best & Krieger LLP  
3390 University Avenue, 5<sup>th</sup> Floor  
Riverside, CA 92501  
Attn: Ward Simmons

If to the Lender: Capital One Public Funding, LLC  
1307 Walt Whitman Road, 3rd Floor  
Melville, New York 11747  
Attn: Jonathan Lewis, President

## ARTICLE VIII

### AMENDMENTS; DISCHARGE; GENERAL AUTHORIZATION; EFFECTIVE DATE

#### Section 8.1. Amendments Permitted.

(a) This Loan Agreement and the rights and obligations of the Agency and of the Lender may be modified or amended at any time by a written supplemental agreement entered into by the Agency and the Lender.

(b) From and after the time any supplemental agreement becomes effective pursuant to this Article, this Loan Agreement shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Loan Agreement and the Lender shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such modification and amendments, and all the terms and conditions of any such supplemental agreement shall be deemed to be part of the terms and conditions of this Loan Agreement for any and all purposes.

#### Section 8.2. Discharge of Loan Agreement.

(a) If the Agency shall pay or cause to be paid or there shall otherwise be paid to the Lender the principal of and the interest and the prepayment premium, if any, on this Loan Agreement at the times and in the manner stipulated herein, then all agreements, covenants and other obligations of the Agency to the Lender hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) This Loan Agreement shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case this Loan Agreement is to be prepaid on any date prior to its final principal payment date, the Agency shall have mailed a notice of prepayment to the Lender, (2) there shall have been deposited with the Lender, or an escrow agent reasonably acceptable to the Lender, either money in an amount that shall be sufficient or Federal Securities that are not subject to redemption except by the holder thereof prior to maturity (including any such securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), the interest on and principal of which when paid will provide money that, together with the money, if any, deposited with the Lender or



such escrow agent at the same time, shall be sufficient to pay when due the interest to become due on this Loan Agreement on and prior to the final principal payment date or prepayment date thereof, as the case may be, and the principal of and prepayment premiums, if any, on this Loan Agreement on and prior to the final principal payment date or the prepayment date thereof, as the case may be, and (3) if this Loan Agreement is not subject to prepayment within the next succeeding sixty (60) days, the Agency shall have mailed a notice to the Lender that the deposit required by clause (2) above has been made with the Lender or such escrow agent and that this Loan Agreement is deemed to have been paid in accordance with this section and stating the principal payment dates or prepayment date, as the case may be, upon which money is to be available for the payment of the principal of and prepayment premiums, if any, on this Loan Agreement.

Section 8.3. General Authorization. The Authorized Representatives of the Agency, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the Agency, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to consummate the financing and to effect the purposes of this Loan Agreement. All actions heretofore taken by officers, employees, and agents of the Agency that are in conformity with the purposes and intent of this Loan Agreement are hereby approved, confirmed, and ratified.

Section 8.4. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Lender and the Agency and their respective successors and assigns.

Section 8.5. Severability. In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6. Further Assurances and Corrective Instruments. The Lender and the Agency agree that they will, 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 8.7. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8. 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 8.9. Expenses. The fees and disbursements of special counsel to the Agency, the cost of preparing the Loan documentation, CDIAC fees and other miscellaneous expenses of the Agency incurred in connection with the Loan shall all be the obligation of the Agency. The Lender shall have no responsibility for any expenses associated with the procurement and consummation of the Loan, including, but not limited to, the expenses identified above as the obligation of the Agency.

Section 8.10. Sovereign Immunity. The Agency does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under the Loan Agreement or

otherwise with respect to the Note. To the extent the Agency has or hereafter may acquire under any applicable law any rights to immunity from legal proceedings on the grounds of sovereignty, the Agency hereby waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to the Loan Agreement or otherwise with respect to the Note.

Section 8.11. Net-Net-Net Contract. This Loan Agreement is a “net-net-net contract” and the Agency hereby agrees that the Loan Payments are an absolute net return to the Lender, free and clear of any expenses, charges or set-offs whatsoever.

Section 8.12. 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.

\* \* \* \* \*

*[Signature page to follow]*

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

CAPITAL ONE PUBLIC FUNDING, LLC

a \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Authorized Agent

BIG BEAR AREA REGIONAL  
WASTEWATER AGENCY

By: \_\_\_\_\_  
David Lawrence  
General Manager

*-Signature Page-  
Loan Agreement  
Dated as of February 1, 2023*

**EXHIBIT A**

**LOAN PAYMENT SCHEDULE**

Principal of and interest on the Note shall be payable in installments on the Loan Payment Dates, and in the amounts, as set forth in the following schedule:

<b><u>Loan Payment Date</u></b>	<b><u>Principal Component</u></b>	<b><u>Interest Component</u></b> <sup>(1)</sup>	<b><u>Total Principal and Interest</u></b>
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<sup>(1)</sup> Interest Rate \_\_\_\_%.

## EXHIBIT B

### FORM OF LENDER'S CERTIFICATE

Capital One Public Funding, LLC, Melville, New York (“COPF”) hereby certifies as follows with regard to the Loan Agreement (the “Loan Obligation”), dated as of February 1, 2023, between the Big Bear Area Regional Wastewater Agency (the “Borrower”) and COPF, and the Promissory Note (the “Note”) issued on [February 3], 2023, by the Borrower that evidences its obligations thereunder:

1. COPF has full power and authority to carry on its business as now conducted, deliver this Lender Certificate and make the representations and certifications contained herein.

2. COPF is a lender that regularly extends credit to state and local governments by making loans and acquiring repayment obligations that are evidenced by obligations such as the Note and the Loan Obligation; has knowledge and experience in financial and business matters that make it capable of evaluating the Borrower, the Loan Obligation and the risks associated with the extension of credit evidenced by the Loan Obligation; has the ability to bear the economic risk of extending the credit evidenced by the Loan Obligation; and is a limited liability company controlled by a bank engaged in the primary business of extending credit and making loans to state and local governments and non-profit entities and has total assets in excess of \$1 billion. COPF is not acting as a broker, dealer, municipal securities underwriter, municipal advisor or fiduciary in connection with its extension of credit evidenced by the Loan Obligation.

3. COPF has conducted its own investigation of the financial condition of the Borrower, of the purpose for which the Loan Obligation is being executed and delivered, and of the security for the payment of the principal of and interest on the Loan Obligation and has obtained such information regarding the Loan Obligation and the Borrower and its operations, financial condition, and financial prospects as COPF deems necessary to make an informed lending decision with respect to its extension of credit evidenced by the Loan Obligation.

4. COPF is extending credit to the Borrower evidenced by the Loan Obligation, which is a vehicle for making a commercial loan for its own loan account, with the present intention of holding the Loan Obligation to maturity or earlier prepayment, provided that COPF retains the right at any time to dispose of the Loan Obligation but agrees that any such sale or transfer by COPF shall be made in accordance with applicable law and the provisions of the Loan Obligation and related documents in whole to (a) an affiliate of COPF or (b) a bank, trust, custodian, insurance company or other financial institution or an affiliate thereof.

COPF and its assignees further retain the right to sell or assign participation interests in the Loan Obligation, in minimum amounts of \$250,000, to an entity listed in (a) or (b) of this Section 4, provided that any participation, custodial, or similar agreement under which multiple ownership interests are created in the Loan Obligation shall provide the method by which the owners of such interests shall establish the rights and duties of a single entity, owner, servicer, or other fiduciary or agent acting on behalf of all of the assignees to act on their behalf with respect to the rights and interests of the registered owner of the Loan Obligation, including with respect to the exercise of

rights and remedies of the registered owner on behalf of such owners upon the occurrence of an event of default under the Loan Obligation.

5. COPF acknowledges that (a) the Loan Obligation (i) has not been registered under the Securities Act of 1933, as amended, (ii) has not been registered or otherwise qualified for sale under the securities laws of any state, and (iii) will not be listed on any securities exchange and (b) there is no established market for the Loan Obligation and that none is likely to develop. COPF understands and acknowledges that (a) its extension of credit evidenced by the Loan Obligation is not intended to be subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended, and (b) in connection with COPF's extension of credit evidenced by the Loan Obligation, the Borrower has not prepared or caused to be prepared, any official statement, private placement memorandum or other offering document.

6. COPF is acting solely for its own loan account and not as a fiduciary for the Borrower or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor, or fiduciary. COPF has not provided, and will not provide, financial, legal (including securities law), tax, accounting, or other advice to or on behalf of the Borrower (including to any municipal advisor or any placement agent engaged by the Borrower) with respect to the structuring, issuance, sale, or delivery of the Loan Obligation. COPF has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934, as amended, to the Borrower with respect to the transactions relating to the structuring, issuance, sale, or delivery of the Loan Obligation and the discussions, undertakings, and procedures leading thereto. Each of the Borrower, its municipal advisor, and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting, and other advice (including as it relates to structure, timing, terms, and similar matters and compliance with legal requirements applicable to such parties) with respect to the Loan Obligation from its own financial, legal, tax, and other advisors (and not from the undersigned or its affiliates) to the extent that the Borrower, its municipal advisor, or its placement agent desires to, should, or needs to obtain such advice. COPF expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the Borrower's municipal advisor or placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to the Borrower's municipal advisor or placement agent, with respect to any such matters. The transactions between the Borrower and COPF are arm's-length, commercial transactions in which COPF is acting and has acted solely as a principal and for its own interest, and COPF has not made recommendations to the Borrower with respect to the transactions relating to the Loan Obligation.

7. the undersigned is a duly appointed, qualified, and acting representative of the Lender and is authorized to cause the Lender to make the representations and warranties contained herein on behalf of the Lender.

8. the Lender further acknowledges that it is responsible for consulting with its advisors concerning any obligations, including, but not limited to, any obligations pursuant to federal and state securities and income tax laws it may have with respect to subsequent assignments or assignees of the Note if and when any such future disposition of the Note may occur.

9. the Lender is either:

(a) an “accredited investor” as such term is defined in Rule 501(a) promulgated under the Securities Act of 1933, as amended (the “Securities Act”); or

(b) a “qualified institutional buyer” as such term is defined in Rule 144A promulgated under the Securities Act.

IN WITNESS WHEREOF, Capital One Public Funding, LLC, has caused this Lender Certificate to be executed by its officer thereunto duly authorized, all as of the day and year first above written.

CAPITAL ONE PUBLIC FUNDING, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

**FORM OF PROMISSORY NOTE**

**No. 1**

**\$ \_\_\_\_\_**

**\$ \_\_\_\_\_**

**BIG BEAR AREA REGIONAL WASTEWATER AGENCY**

**EVIDENCING OBLIGATIONS UNDER A LOAN AGREEMENT DESCRIBED HEREIN**

**INTEREST RATE:** \_\_\_\_\_%

**CLOSING DATE:** [February 3], 2023

**MATURITY DATE:**

**REGISTERED OWNER:** CAPITAL ONE PUBLIC FUNDING, LLC

**PRINCIPAL AMOUNT:** \_\_\_\_\_ AND 00/100

The Big Bear Area Regional Wastewater Agency (the “Agency”) for value received, hereby promises to pay to the registered owner named above, or registered assigns (the “Owner”), on the Maturity Date set forth above, unless prepaid prior thereto as hereinafter provided, the principal amount set forth above, and to pay interest on such principal amount from the Closing Date set forth above, or from the most recent Loan Payment Date (as hereinafter defined) to which interest has been paid or duly provided for. Interest on the unpaid principal balance of this Note shall be payable semi-annually on each May 15 and November 15, commencing May 15, 2023 (each, a “Loan Payment Date”) in the amounts set forth on Exhibit A to the Loan Agreement dated as of February 1, 2023 (the “Loan Agreement”) between the Agency and Capital One Public Funding, LLC (the “Lender”), at the interest rate set forth above, until the principal amount hereof is paid in full or made provision for such payment has been made; *provided, however*, that if at the time of authentication of this Note, interest is in default on this Note, this Note shall bear interest from the Loan Payment Date to which interest has previously been paid or made available for payment.

This Note evidences the obligations of the Agency under the Loan Agreement, under which the Lender has made a loan (the “Loan”) to the Agency for the purpose of financing certain Initial Project Costs of the Agency as defined and described in the Loan Agreement. The Agency is authorized to enter into the Loan Agreement and to issue this Note in the aggregate principal amount of \$ \_\_\_\_\_ pursuant to Resolution No. \_\_\_\_\_, adopted by the Board of Directors of Agency on [January 25], 2023 (the “Resolution”), and Articles 1 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with section 6500 of said Code (the “Law”). Reference is made to the Loan Agreement for the complete provisions thereof, and by acceptance hereof the registered owner of this Note assents to said terms and conditions as if fully set forth herein. The Loan Agreement is authorized under, and this Note is issued under, and both are to be construed in accordance with, the Law and other laws of the State of California.



Pursuant to the Loan Agreement, the principal of and interest on this Note are payable from Net Revenues (as defined in the Loan Agreement), and funds held under the Loan Agreement to the extent provided in the Loan Agreement. The Agency has agreed in the Loan Agreement to collect Revenues sufficient to pay the payments on the Loan and the Note from Net Revenues when due to the extent provided in the Loan Agreement.

This Note is subject to optional prepayment, in whole, on any Business Day on or after May 15, 2024, at a prepayment price equal to the outstanding principal amount of the Note plus accrued interest to the optional prepayment date, without premium, with thirty (30) days prior written notice to the Lender, subject to the following: (a) ninety percent (90%) of the principal amount to be redeemed shall be redeemed on a date selected by the Agency (the "First Redemption Date") and (b) the remaining ten percent (10%) of the principal amount to be redeemed shall be redeemed on a date selected by the Agency which is at least 60 days following the First Redemption Date (the "Second Redemption Date").

Any prepayment notice given to the Lender shall identify the principal to be redeemed on the First Redemption Date and the Second Redemption Date and may be conditional upon the receipt of funds necessary to prepay the Note and shall be subject to cancellation if funds are not received as contemplated.

This Note shall be registered in the name of the Owner hereof, as to both principal and interest. Each registration and transfer of registration of this Note shall be entered by the Agency in books kept by it for this purpose and authenticated by its manual signature upon the certificate of authentication endorsed hereon. Prior to each transfer, the transferee shall provide to the Agency a Lender's Certificate in substantially similar form as the one attached as Exhibit B to the Loan Agreement.

The Loan Agreement and the rights and obligations of the Agency thereunder may be modified or amended as set forth therein.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED by the Agency that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Note have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this Note, together with all other indebtedness of the Agency, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

IN WITNESS WHEREOF, the Agency has caused this Note to be dated the Closing Date shown first above, to be signed by the manual signature of General Manager, and attested to by the manual signature of its Secretary, and has caused this Note to be dated as of the dated date set forth above.

BIG BEAR AREA REGIONAL  
WASTEWATER AGENCY

By: \_\_\_\_\_  
David Lawrence  
General Manager

ATTEST:

By: \_\_\_\_\_  
Bridgette Burton  
Secretary of the Governing Board

ASSIGNMENT

For value received, the undersigned does hereby sell, assign and transfer unto \_\_\_\_\_ the within Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer such Note on the register of the Agency, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Note: The signature(s) to this Assignment must correspond with the name(s) as written on the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.



REVISED January 13, 2023

Michael Garcia  
[michael.garcia@opco.com](mailto:michael.garcia@opco.com)

Jeff Land  
[jeffrey.land@opco.com](mailto:jeffrey.land@opco.com)

Subject: Big Bear Area Regional Wastewater Agency  
 2023 Loan Financing (Replenish Big Bear) (the "Loan")

Dear Michael and Jeff:

This term sheet is presented in response to that certain RFP dated December 12, 2022 ("RFP") that you have presented to Capital One Public Funding, LLC ("COPF"). All terms, provisions and covenants set forth in the RFP are incorporated herein except as described below. We are very interested in working with Big Bear Area Regional Wastewater Agency ("Borrower") in connection with the above-described potential Loan transaction and are pleased to present the following summary terms:

<b>Structure</b>	Directly purchased Loan Financing, Series 2023.	
<b>Estimated Amount</b>	\$3,400,000	
<b>Use of Proceeds</b>	Fund pre-construction costs related to the Replenish Big Bear Project.	
<b>Security Provisions / Repayment Sources</b>	Secured by a pledge and lien from net revenues of the Agency's Wastewater Enterprise, subordinate to the Agency's outstanding 2011 Loan Agreement and 2018 Installment Purchase Contract. Rate covenant and ABT 1.10x.	
<b>Loan Rate*</b>	4.25%	4.25%
<b>Payments</b>	Payments of interest due semi-annually and bullet principal payment. The Loan will be payable in installments on the dates and in the amounts set forth on the payment schedule identifying payment dates, principal, interest and total payment due, which shall be attached to the loan.	
<b>Avg Life / Final</b>	Approximate average life of 3.3 years; 05/15/26.	Approximate average life of 5.3 years; final maturity 05/15/28.
<b>Call Provisions</b>	<p>The Bonds are not callable prior to 05/15/24. The Bonds are subject to redemption at the option of the Borrower, in whole or in part (pro rata by maturity) at any time on and after 05/15/24, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the date of redemption; provided that:</p> <p>A. The Borrower must give COPF at least thirty (30) days prior written notice of its intent to redeem the Bonds ("Redemption Notice") which Redemption Notice shall identify the principal amount of the Bonds to be redeemed ("Principal Amount to Be Redeemed") and the hereinafter defined First Redemption Date and the Second Redemption Date;</p>	



	<p>B. Ninety percent (90%) of the Principal Amount to Be Redeemed must be redeemed by the Borrower on a date (on or after 05/15/24) selected by the Borrower (the “First Redemption Date”); and</p> <p>C. Ten percent (10%) of the Principal Amount to Be Redeemed must be redeemed by the Borrower on a date at least 60 days following the First Redemption Date (“Second Redemption Date”).</p>
<b>Tax Treatment</b>	Tax-exempt

\*The Loan Rate is subject to change as described below.

**Interest Rate Assumptions**

The above-quoted interest rate is based upon the assumptions set forth above regarding average life and final maturity. Any changes from the assumptions may require an adjustment to the quoted rate. The rate may also be subject to change if the contemplated Loan is not closed by February 3, 2023.

**Documentation**

Loan documentation shall be prepared by qualified bond counsel subject to review by COPF and its counsel. Borrower shall provide, at its expense, an opinion of legal counsel (acceptable to COPF) attesting to the legal, valid, and binding nature of the transaction and the tax-exempt nature of the interest component of the Loan payments. Upon selection of COPF, the Borrower shall provide COPF the draft authorizing document for its review and comment.

**Costs of Issuance**

The Borrower shall be responsible for normal borrower costs of issuance including a financial advisor, placement agent, CDIAAC fee and bond counsel. No fees will be due to COPF, which shall be responsible for the costs of its own legal review.

**Direct Purchase**

The Loan shall be directly funded/purchased by (and registered in the name of) COPF and delivered in physical, non-book-entry, certificated form. The Loan shall not be (i) assigned a separate rating by any rating agency; (ii) registered with the Depository Trust Company or any other securities depository; (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document; or (iv) assigned a CUSIP number.

**Audited Financial Statements**

Upon request, as soon as available, the Borrower shall send COPF a copy of its audited financial statements as of the end of the fiscal year.

**Municipal Advisor Rules**

As noted, this term sheet is submitted in response to your Request for Proposals dated December 12, 2022. The contents of this Term Sheet and any subsequent discussions between us, including any and all information, recommendations, opinions, indicative pricing, quotations and analysis with respect to the Loan, are provided to you in reliance upon the exemption provided for responses to requests for proposals or qualifications under the municipal advisor rules of the Securities and Exchange Commission (Rule 15Ba1-1 et seq.).

**Role of Capital One Public Funding, LLC**

The Borrower acknowledges and agrees that: (i) the information contained in this term sheet is for discussion purposes only and sets forth certain proposed terms and conditions of an arm’s-length commercial transaction between the Borrower and COPF and does not constitute advice, an opinion or a recommendation by COPF; (ii) the Borrower will make its own determination regarding whether to enter into the proposed transaction and the terms thereof, and will consult with and rely on the advice of its own financial, accounting, tax, legal and other advisors; (iii) COPF is acting solely for its own account in connection with the proposed transaction, and is not acting as a municipal advisor, financial advisor, agent



or fiduciary to the Borrower or any other person or entity (including to any financial advisor or placement agent engaged by the Borrower) and the Borrower, its financial advisor and placement agent are free to retain the services of such advisors (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) as it deems necessary or appropriate; (iv) COPF has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to the Borrower with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto; (v) neither COPF nor any of its affiliates is acting as a broker, dealer, underwriter or placement agent with respect the transactions contemplated hereby; (vi) the only obligations COPF has to the Borrower with respect to the transaction contemplated hereby expressly are set forth in this term sheet; and (vii) COPF is not recommending that the Borrower take an action with respect to the transaction contemplated by this term sheet. Before taking any action with respect to the Loan, the Borrower should discuss the information contained herein with the Borrower's own legal, accounting, tax, financial and other advisors, as it deems appropriate. If the Borrower would like a municipal advisor in this transaction that has legal fiduciary duties to it, Borrower is free to engage a municipal advisor to serve in that capacity.

**Other Information**

To the extent that updated financial and other credit materials have not already been provided to COPF or are not available through public resources, COPF may require and request reasonable and customary information relevant to the Borrower's credit quality and the source(s) of repayment.

**Confidentiality**

The information contained herein is strictly confidential and is intended for review by the parties, their advisors and legal counsel only and may not be disclosed to any other person or entity, except as required by law or otherwise consented to by COPF.

**Closing**

This term sheet shall expire if not accepted by the Borrower by January 13, 2023. Once accepted, this term sheet shall expire if the transaction has not closed by February 3, 2023, unless extended by COPF at its sole discretion.

**Subject to Final Credit and Documentation Approval**

This is not a commitment; rather, the funding of the Loan will occur only after, among other things, (i) COPF's final internal committee approval, and (ii) COPF and the Borrower, and their respective counsels, are fully satisfied with the terms of the Loan documents and all of the terms and conditions contained herein and in the Loan documents have been met. Any obligation of COPF to provide financing or otherwise shall arise only upon the execution of final Loan documents signed by authorized signatories of COPF and not from statements (oral or written) made during the course of discussions among the parties (whether or not prior to or after the date hereof).

*Should the above-stated terms be acceptable to you, formal approval through COPF's internal credit process will be pursued as quickly as possible.*

Thank you for the opportunity to offer this term sheet. Should you have any questions, please do not hesitate to contact me at (505) 400-0860 or jeffrey.sharp@capitalone.com.

Sincerely,

Jeffrey D. Sharp



Senior Vice President, Director of Business Development  
Capital One Public Funding, LLC

cc: Jonathan Lewis, Capital One Public Funding, LLC  
Brenda Barnes, Capital One Public Funding, LLC

**ACCEPTED BY: Big Bear Area Regional Wastewater Agency**

  
\_\_\_\_\_

By DAVID P. M. LAWRENCE

Name General Manager

Title

## PLACEMENT AGENT AGREEMENT

February 1, 2023

Big Bear Area Regional Wastewater Agency  
122 Palomino Drive  
Big Bear City, CA 92314

Attention: David Lawrence, General Manager

The undersigned, Oppenheimer & Co. Inc. (the “Placement Agent”), offers to enter into the following agreement (this “Agreement”) with the Big Bear Area Regional Wastewater Agency (the “Issuer”), which, upon acceptance by the Issuer, will be binding upon the Issuer and the Placement Agent.

The Issuer acknowledges and agrees that (i) the placement of the 2023 Loan Agreement (the “Obligations”) pursuant to this Placement Agent Agreement is an arm’s-length commercial transaction between the Issuer and the Placement Agent, (ii) in connection therewith and with the discussion, undertakings and procedures leading up to the consummation of such transaction, the Placement Agent is not acting as a fiduciary of or a financial advisor to the Issuer, (iii) the Placement Agent has not assumed an advisory or fiduciary responsibility in favor of the Issuer with respect to (a) the offering of the Obligations or the process leading thereto (whether or not the Placement Agent has advised or is currently advising the Issuer on other matters) or (b) any other obligation to the Issuer except the obligations expressly set forth in this Placement Agent Agreement, and (iv) the Issuer has consulted with its own legal and other professional advisors to the extent it deemed appropriate in connection with the offering of the Obligations.

The Obligations shall be issued under and pursuant to the Loan Agreement, dated as of February 1, 2023 (the “Issuing Document”), by and between the Issuer and Capital One Public Funding, LLC (the “Purchaser”).

Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Placement Agent and the Issuer hereby agree as follows:

### **1. Appointment of Placement Agent; Placement of Obligations; Closing.**

(a) The Issuer hereby appoints the Placement Agent to act, and the Placement Agent hereby agrees to act, as the exclusive placement agent for the Issuer in connection with the private sale and issuance of its Obligations, and the Placement Agent hereby accepts such appointment. As compensation for its services hereunder, the Placement Agent shall charge a fee not in excess of \$20,000.00, plus any placement agent expenses. At the closing of any such sale, the Issuer shall pay or cause to be paid such fee to the Placement Agent by wire transfer or immediately available funds. The above fee does not include any services the Placement Agent may render in the future to the Issuer with respect to any offering or placement of municipal securities other than the Obligations.

(b) The Issuer understands that the Placement Agent will be acting as the agent of the Issuer in the offering and sale of the Obligations and agrees that, in connection therewith, the Placement Agent will use its “best efforts” to place the Obligations. The Placement Agent agrees that,



in furtherance of its obligations hereunder, it shall provide substantially accurate and complete information to potential purchasers of the Obligations to the extent that it is able.

(c) The Issuer expressly agrees that nothing in this Agreement evidences or creates any expressed or implied commitment by the Placement Agent to purchase or place any of the Obligations.

(d) On the closing date, the Issuer will cause to be delivered (a) a final approving opinion of Best Best & Krieger, as Bond Counsel to the Issuer (“Bond Counsel”), dated the closing date, addressed to or with a reliance letter to the Placement Agent, in a form acceptable to the Placement Agent, to the effect that the Obligations constitute valid and legally binding obligations of the Issuer payable from and secured by a pledge of Net Revenues of the Issuer’s Wastewater System, as set forth in the Issuing Document, (b) one or more certificates in form and tenor satisfactory to the Placement Agent evidencing the proper execution and delivery of the Obligations and receipt of payment therefor, including statements of the Issuer, dated as of the date of such delivery, to the effect that there is no litigation pending or, to the knowledge of the signer or signers thereof, threatened relating to the issuance, sale and delivery of the Obligations, (c) a letter or certificate of the Purchaser, addressed to the Placement Agent, in form and content acceptable to the Placement Agent.

**2. Reliance.** The Issuer recognizes that, in providing services under this Agreement, the Placement Agent will rely upon and assume the accuracy and completeness of the financial, accounting, tax and other information discussed with or reviewed by the Placement Agent for such purpose, and the Placement Agent does not assume responsibility for the accuracy and completeness thereof. The Placement Agent will have no obligation to conduct any independent evaluation or appraisal of the assets or the liabilities of the Issuer or any other party or to advise or opine on related solvency issues. Nothing in this Agreement is intended to confer upon any other person (including creditors, employees or other constituencies of the Issuer) any rights or remedies hereunder or by reason hereof.

**3. Termination.** The Placement Agent’s authorization to carry out its duties hereunder may be terminated by the Issuer or the Placement Agent at any time with or without cause, effective upon receipt of written notice to that effect by the other party. Notwithstanding the foregoing, in the event the Issuer terminates this Agreement and within twelve (12) months after the Issuer sells the Obligations to an investor identified by the Placement Agent prior to such termination, the amounts payable under Section 1(a) shall be immediately due and payable to the Placement Agent by the Issuer.

**4. Notices.** Any notice or other communication to be given to any of the parties to this Agreement may be given by delivering the same in writing as follows: to the Issuer at 122 Palomino Drive, Big Bear City, CA 92314, Attention: General Manager, and to the Placement Agent at 580 California Street, Suite 2300, San Francisco, California 94104, Attention: Municipal Capital Markets Group.

**5. Survival of Representations, Warranties and Agreements.** This Agreement is made solely for the benefit of the Issuer and the Placement Agent, and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the Issuer contained in this Agreement shall remain operative and in full force and effect regardless of delivery of any payment for the Obligations.

**6. Counterparts.** The 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.

**7. Effectiveness.** This Agreement shall become effective upon the execution of the acceptance hereof by duly authorized signatory of the Issuer, which acceptance hereof shall be indicated on the signature page hereof, and shall be valid and enforceable as of the time of such acceptance. This Agreement may be executed by facsimile transmission and in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

**8. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Very truly yours,

**OPPENHEIMER & CO. INC.**

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

**BIG BEAR AREA REGIONAL WASTEWATER AGENCY**

By: \_\_\_\_\_  
Authorized Officer