

AGENDA
SPECIAL MEETING OF THE
SAN ELIJO JOINT POWERS AUTHORITY
MONDAY, NOVEMBER 18, 2019 AT 8:30 AM
SAN ELIJO WATER RECLAMATION FACILITY – CONFERENCE ROOM
2695 MANCHESTER AVENUE
CARDIFF BY THE SEA, CALIFORNIA

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. ORAL COMMUNICATIONS (NON-ACTION ITEM)
5. AWARDS AND RECOGNITION
6. * **CONSENT CALENDAR**
7. * APPROVAL OF MINUTES FOR OCTOBER 28, 2019 MEETING
8. * APPROVAL FOR PAYMENT OF WARRANTS AND MONTHLY INVESTMENT REPORTS
9. * SAN ELIJO WATER RECLAMATION FACILITY TREATED EFFLUENT FLOWS – MONTHLY REPORT
10. * SAN ELIJO JOINT POWERS AUTHORITY RECYCLED WATER PROGRAM – MONTHLY REPORT
11. * ITEMS REMOVED FROM CONSENT CALENDAR

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

REGULAR AGENDA

12. SAN ELIJO JOINT POWERS AUTHORITY PURCHASING POLICY REVISION
 1. Adopt Resolution No. 2020-01, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Purchasing Policies and Procedures for the San Elijo Joint Powers Authority; and
 2. Discuss and take action as appropriate.

Staff Reference: Director of Finance and Administration

13. SAN ELIJO JOINT POWERS AUTHORITY CLAIMS POLICY REVISION

1. Adopt Resolution No. 2020-02, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Claim Policies and Procedures for the San Elijo Joint Powers Authority; and
2. Discuss and take action as appropriate.

Staff Reference: Director of Finance and Administration

14. CONTRACT FOR PROCUREMENT TO REMOVE AND REPLACE DIGESTER GAS BOILER NO. 1

1. Authorize the General Manager to enter into an agreement with California Boiler for the procurement and installation of a digester gas boiler for a lump sum contract of \$192,946; and
2. Discuss and take action as appropriate.

Staff Reference: General Manager

15. PROPOSED SOLAR PHOTOVOLTAIC SYSTEM LOCATED AT THE SAN ELIJO WATER CAMPUS

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

Staff Reference: General Manager

16. GENERAL MANAGER'S REPORT

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

17. GENERAL COUNSEL'S REPORT

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

18. BOARD MEMBER COMMENTS

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

19. CLOSED SESSION

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

Public Employee Performance Evaluation pursuant to Government Code § 54957(b)
Title: General Manager

20. OPEN SESSION

Potential revisions to Joint Powers Agreement (discussion only)

21. ADJOURNMENT

The next regularly scheduled San Elijo Joint Powers Authority Board Meeting will be Monday, December 9, 2019 at 8:30 a.m.

NOTICE:

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

The agenda package and materials related to an agenda item submitted after the packet's distribution to the Board is available for public review in the lobby of the SEJPA Administrative Office during normal business hours. Agendas and minutes are available at www.sejpa.org. The SEJPA Board meetings are held on the second Monday of the month, except August.

AFFIDAVIT OF POSTING

I, Michael T. Thornton, Secretary of the San Elijo Joint Powers Authority, hereby certify that I posted, or have caused to be posted, a copy of the foregoing agenda in the following locations:

San Elijo Water Reclamation Facility, 2695 Manchester Avenue, Cardiff, California
City of Encinitas, 505 South Vulcan Avenue, Encinitas, California
City of Solana Beach, 635 South Highway 101, Solana Beach, California

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

Date: November 13, 2019



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

SAN ELIJO JOINT POWERS AUTHORITY
MINUTES OF THE SPECIAL BOARD MEETING
HELD ON OCTOBER 28, 2019
AT THE
SAN ELIJO WATER RECLAMATION FACILITY

David Zito, Chair

Jody Hubbard, Vice Chair

A special meeting of the Board of Directors of San Elijo Joint Powers Authority (SEJPA) was held Monday, October 28, 2019, at 8:30 a.m., at the San Elijo Water Reclamation Facility at 2695 Manchester Avenue, Cardiff by the Sea, California.

1. CALL TO ORDER

Chair Zito called the meeting to order at 8:30 a.m.

2. ROLL CALL

Directors Present:

David Zito
Jody Hubbard
Kristi Becker
Catherine Blakespear

Directors Absent:

None

Others Present:

General Manager
Director of Operations
Administrative Assistant/Board Clerk
Senior Laboratory Analyst
Intern, Laboratory

Michael Thornton
Chris Trees
Jennifer Basco
Susie Arredondo
Jason Simmons

SEJPA Counsel:

Procopio, Cory, Hargreaves & Savitch

Tracie Stender

City of Encinitas:

Assistant City Manager

Mark Delin

City of Solana Beach:

City Manager
Director of Engineering/Public Works

Greg Wade
Mohammad "Mo" Sammak

Pun Group, LLP

Ken Pun

3. PLEDGE OF ALLEGIANCE

Chair Zito led the Pledge of Allegiance.

4. ORAL COMMUNICATIONS

None

5. AWARDS AND RECOGNITION

None

6. CONSENT CALENDAR

Moved by Board Member Blakespear and seconded by Board Member Becker to approve the Consent Calendar.

Agenda Item No. 7	Approval of Minutes for the September 9, 2019 Meeting
Agenda Item No. 8	Approval for Payment of Warrants and Monthly Investment Report
Agenda Item No. 9	San Elijo Water Reclamation Facility Treated Effluent Flows – Monthly Report
Agenda Item No. 10	San Elijo Joint Powers Authority Recycled Water Program – Monthly Report
Agenda Item No. 11	San Elijo Joint Powers Authority Updated Employee Handbook
Agenda Item No. 12	Contract for Procurement of a Recycled Water Pump and Motor

Motion carried with the following vote of approval:

AYES:	Zito, Hubbard, Becker, Blakespear
NOES	None
ABSENT:	None
ABSTAIN:	None

13. ITEMS REMOVED FROM CONSENT CALENDAR

None

14. SAN ELIJO JOINT POWERS AUTHORITY AND OLIVENHAIN MUNICIPAL WATER DISTRICT RESOURCE SHARING

General Manager Thornton introduced Kim Thorner, General Manager for Olivenhain Municipal Water District (OMWD) to the Board of Directors. Mr. Thornton stated that SEJPA and OMWD have a long history of cooperation and partnership. The two agencies have successfully collaborated on pursuing state and federal grant funding and recently completed the \$10 million Village Park Recycled Water project. The agencies are now considering new resource sharing opportunities that can lead to improved service

performance, cost reductions, and staff development. The Resource Sharing Agreement provides authority to partner on safety training and on the provision of SEJPA providing state certified wastewater operators to OMWD, on a mutually agreeable basis. Mr. Thornton stated that there is no currently planned fiscal impact associated with approving the agreement. Each agency is responsible for funding its own services procured, thereby keeping each agency financially whole.

Moved by Board Member Blakespear and seconded by Vice Chair Hubbard to:

1. Authorize the General Manager to execute an agreement with Olivenhain Municipal Water District for Resource Sharing that includes safety training and wastewater operator services.

Motion carried with the following vote of approval:

AYES:	Zito, Hubbard, Becker, Blakespear
NOES	None
ABSENT:	None
ABSTAIN:	None

15. FISCAL YEAR 2018-19 FINANCIAL AUDIT ACCEPTANCE

General Manager Thornton presented the Fiscal Year 2018-19 Audit to the Board of Directors. Mr. Thornton introduced Ken Pun from The Pun Group, LLP to give an overview of the audit findings. Mr. Pun provided this firm's opinion that the financial statements are presented fairly, in all material aspects, and are prepared in accordance with generally accepted accounting principles (GAAP) and the Government Accounting Standards Board (GASB). In addition, Mr. Pun stated that the financial statement disclosures are neutral, consistent, and clear; there were no difficulties or disagreements with staff or management; and there were no corrected or uncorrected misstatements. Mr. Pun briefly outlined his audit approach to the Board of Directors, reviewed the financials and statement of cash flows, and then answered Board Member questions.

Moved by Vice Chair Hubbard and seconded by Board Member Becker to:

1. Accept and file the Fiscal Year 2018-19 Audited Financial Statements for San Elijo Joint Powers Authority; and
2. Accept and file the Fiscal Year 2018-19 SAS 114 Letter.

Motion carried with the following vote of approval:

AYES:	Zito, Hubbard, Becker, Blakespear
NOES	None
ABSENT:	None
ABSTAIN:	None

16. SAN ELIJO JOINT POWERS AUTHORITY END OF YEAR REVIEW OF THE FISCAL YEAR 2018-19 OPERATING AND DEBT SERVICE EXPENSES

General Manager Thornton provided a financial review for Fiscal Year 2018-19. Overall, SEJPA was 1.9% under budget or \$120,380. The pump stations, wastewater treatment, ocean outfall, and the other service programs were below budget by \$117,309 or 2.4%. Recycled Water expenditures were \$3,075 or 0.2% under budget. All debt service payments were paid in accordance with the loan agreements.

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

17. PROPOSED RECYCLED WATER INFRASTRUCTURE PURCHASE

General Manager Thornton gave a brief background on SEJPA's recycled water program. In 2015, SEJPA, City of Solana Beach (COSB), and City of Del Mar (CODM) teamed to extend SEJPA's existing recycled water distribution system to enable both SEJPA and Santa Fe Irrigation District to serve new recycled water customers within both the cities and specifically to serve the Solana Beach Coastal Rail Trail. In 2016, COSB completed construction of a 7,920 linear feet distribution pipeline, which connected to SEJPA's existing recycled water distribution system. COSB funded the design and construction of the distribution pipeline in order to expedite the conversion of the Coastal Rail Trail to recycled water service, and to provide recycled water service to businesses and homeowner associations along Via de la Valle. Mr. Thornton stated that the Pipeline Transfer and Cost Reimbursement Agreement will reimburse COSB \$1,191,652 for design and construction. SEJPA will pay COSB \$450 per acre foot (AF) for new water sales through the pipeline until the debt is retired. The \$450 per AF will be paid from the new water sales, which the current wholesale price is \$1,580 per AF. Project grant funding of approximately \$600,000 from the Proposition 84 IRWM grant program will also be provided to COSB, reducing the reimbursement.

Moved by Board Member Blakespear and seconded by Board Member Becker to:

1. Authorize the General Manager to execute the attached Pipeline Transfer and Cost Reimbursement Agreement by and between the San Elijo Joint Powers Authority and the City of Solana Beach.

Motion carried with the following vote of approval:

AYES:	Zito, Hubbard, Becker, Blakespear
NOES	None
ABSENT:	None
ABSTAIN:	None

18. CAPITAL IMPROVEMENT PROGRAM UPDATE

General Manager Thornton provided status updates on the various projects in SEJPA's Capital Improvement Program. Phase I projects are substantially complete and includes the Land Outfall Replacement, Preliminary Treatment Upgrades, and Odor Control Improvements. Phase II consists of Electrical System Improvements, Encinitas Ranch Recycled Water Expansion, the 2018 Supervisory Control and Data Acquisition (SCADA) Upgrade projects, and Water Campus Improvements. Electrical System Improvements

and Encinitas Recycled Water Expansion are completed. The SCADA Upgrades project was delayed due to critical hardware components damage and is expected to be completed in December 2019. The Water Campus Improvements project is currently in the design and permitting phase; construction is expected to begin in February 2020. The Solids Treatment Project, a Phase III project, is currently in the pre-design phase.

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

19. GENERAL MANAGER'S REPORT

The General Manager introduced Susie Arredondo, Senior Laboratory Analyst, and Jason Simmons, Laboratory Intern, to the Board of Directors. Also, Mr. Thornton informed the Board of Directors that staff will be working with General Counsel to update the Restatement of Agreement between the City of Solana Beach and the City of Encinitas establishing the San Elijo Joint Powers Authority.

20. GENERAL COUNSEL'S REPORT

Tracie Stender informed the Board of Directors that recent updates to California's Surplus Land Act are unlikely to affect SEJPA.

21. BOARD MEMBER COMMENTS

None

22. CLOSED SESSION

None

23. ADJOURNMENT

The meeting adjourned at 10 a.m. The next Board of Directors meeting will be held on Tuesday, November 12, 2019 at 8:30 a.m.

Respectfully submitted,

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

Michael T. Thornton, P.E.
General Manager

SAN ELIJO JOINT POWERS AUTHORITY**PAYMENT OF WARRANTS****20-11****For the Month of October 2019**

Warrant #	Vendor Name	G/L Account	Warrant Description	Amount
37793	NeWest Construction	Services - Contractors	Final Payment - Preliminary Treatment Upgrades	120,000.00
37794	AT&T	Utilities - Telephone	Phone service - 09/13/19 - 10/12/19	418.07
37795	Atlas Pumping Service Inc.	Services - Grease & Scum	Grease and scum pumping; grit and screenings	1,964.88
37796	Boiler Dynamics	Services - Maintenance	Boiler	980.00
37797	Boot World, Inc.	Uniforms - Boots	Safety boots	385.94
37798	Brenntag Pacific, Inc.	Supplies - Chemicals	Sodium hydroxide	1,876.36
37799	Brewer Crane and Rigging	Equipment Rental/Lease	Crane rental for digester dome	5,178.80
37800	Complete Office	Supplies - Office	Office supplies	76.62
37801	CWEA Membership	Dues & Memberships	Laboratory analyst grade 1	89.00
37802	Denali Water Solutions LLC	Services - Biosolids Hauling	September	17,719.13
37803	DMV	Services - Other	Safety records - 09/01/19 - 09/30/19	1.00
37804	Dudek & Associates	Services - Professional	Preliminary treatment upgrades	364.70
37805	Encina Wastewater Authority	Service - EWA Support	Resource sharing - HR	738.73
37806	Evantec Scientific	Supplies - Lab	Laboratory supplies	526.90
37807	Forte of San Diego	Services - Janitorial	Strip and wax floors	1,625.00
37808	FRS Environmental	Services - Maintenance	Parts washer service - 09/16/19 - 12/08/19	249.05
37809	Fusco Engineering	Services - Professional	Record survey, hydromodification channel screening	8,485.50
37810	Grainger, Inc.	Repair Parts Expense	Air control valve	353.19
37811	Golden State Overnight	Postage/Shipping	Water samples	80.55
37812	Hach Company	Supplies - Lab	Laboratory supplies	586.19
37813	Hardy Diagnostics	Supplies - Lab	Laboratory supplies	302.54
37814	Hoch Consulting, APC	Services - Professional	Reporting and project monitoring plan	3,250.00
37815	McMaster-Carr Supply Co.	Repair Parts Expense	Tube fitting, v-belt, fittings, chain, screws, washers	1,824.41
37816	MetLife - Group Benefits	Dental/Vision	Dental - October	1,839.90
37817	Olivenhain Municipal Water District	Services - Professional	Woodward Currant LRP	2,893.03
37818	Olivenhain Municipal Water District	Services - Maintenance	Wiegand reservoir - 2nd qtr FY 2019/2020	3,026.66
37819	Pacific Green Landscape	Services - Landscape	October	2,625.00
37820	Procopio Cory Hargreaves	Services - Legal	General - September	2,660.00
37821	Robert Half Technology	Service - IT Support	Weeks ending - 10/11/19 and 10/18/19	3,600.00
37822	RSF Security Systems	Services - Alarm	Alarm installation; monitoring	457.70
37823	Rush Truck Center, San Diego	Capital Outlay	Peterbilt 2020	101,927.30
37824	Rusty Wallis, Inc.	Repair Parts Expense	Water softener, exchange tank, and salt bags	163.18
37825	Santa Fe Irrigation District	SFID Distribution Pipeline	Pipeline purchase payment - September	1,373.97
37826	Sulzer	Repair Parts Expense	Eurodrive	920.85
37827	Test America	Services - Laboratory	Testing water samples	3,454.00
37828	Thatcher Company of California	Supplies - Chemicals	Citric acid	2,039.92
37829	Trussell Technologies, Inc.	Services - Engineering	Ammonia analyzer testing; MF and RO training	10,272.00
37830	Unifirst Corporation	Services - Uniforms	Uniform service	397.21
37831	UPS	Postage/Shipping	Postage for parts	30.51
37832	USA Bluebook	Shop Tools and Equip.	Conductivity probe	506.94
37833	USP Technologies	Equipment Rental/Lease	Facility and maintenance service	800.00
37834	Valve Automation & Control	Repair Parts Expense	Terminal board, control board	1,635.49
37835	Vantagepoint Transfer Agents	EE Deduction Benefits	ICMA - 457	6,469.85
37836	Vantagepoint Transfer Agents	ICMA Retirement	ICMA - 401a	3,498.11
37837	Verizon Wireless	Utilities - Telephone	09/11/19 - 10/10/19	342.84
37838	Verizon Wireless	Utilities - Telephone	Cell phone service - 09/08/19 - 10/07/19	1,080.98
37839	Volt Management Corp	Services - Intern Program	Periods ended - 10/04/19 and 10/11/19	1,539.77
37840	WageWorks	Payroll Processing Fees	Admin and compliance fee - September	128.75
37841	Water Systems Consulting, Inc.	Services - Professional	Strategic communications	3,580.00
On-line 250	P.E.R.S.	Medical Insurance - PERS	Health - November	21,778.94
On-line 251	Public Employees- Retirement	Retirement Plan - PERS	Retirement - 10/05/19 - 10/18/19	14,068.85
On-line 252	ReadyRefresh	Supplies - Lab	Kitchen and lab supplies	329.85
On-line 253	Sun Life Financial	Life Insurance/Disability	Life and disability insurance - November	1,683.97
	San Elijo Payroll Account	Payroll	Payroll - 10/25/2019	79,322.01
	San Elijo Payroll Account	Payroll	Payroll - 11/08/2019	71,220.28
				<u><u>\$ 512,744.42</u></u>

SAN ELIJO JOINT POWERS AUTHORITY

PAYMENT OF WARRANTS SUMMARY

**For the Month of October 2019
As of November 7, 2019**

PAYMENT OF WARRANTS		\$ 512,744.42
Reference Number	20-11	

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



Paul F. Kinkel
Director of Finance & Administration

STATEMENT OF FUNDS AVAILABLE FOR PAYMENT OF WARRANTS
AND INVESTMENT INFORMATION
As of November 7, 2019

FUNDS ON DEPOSIT WITH	AMOUNT
LOCAL AGENCY INVESTMENT FUND	
<i>(OCTOBER 2019 YIELD 2.190%)</i>	
RESTRICTED SRF RESERVE	\$ 630,000.00
UNRESTRICTED DEPOSITS	\$ 9,324,946.67
CALIFORNIA BANK AND TRUST	
<i>(OCTOBER 2019 YIELD 0.01%)</i>	
REGULAR CHECKING	\$ 269,455.13
PAYROLL CHECKING	\$ 5,000.00
UNION BANK - TRUSTEE (BOND FUNDS)	
BLACKROCK	\$ 276,671.22
<i>(SEPTEMBER 2019 YIELD 1.99%)</i>	
LAIF	\$ 14,857,309.49
<i>(OCTOBER 2019 YIELD 2.190%)</i>	
PARS - TRUSTEE (POST-EMPLOYMENT BENEFITS TRUST)	\$ 51,234.74
<i>(Q1 2019 ANNUALIZED 7.99% NET OF FEES)</i>	
TOTAL RESOURCES	<u>\$ 25,414,617.25</u>

SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2019

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: SAN ELIJO WATER RECLAMATION FACILITY TREATED EFFLUENT FLOWS
– MONTHLY REPORT

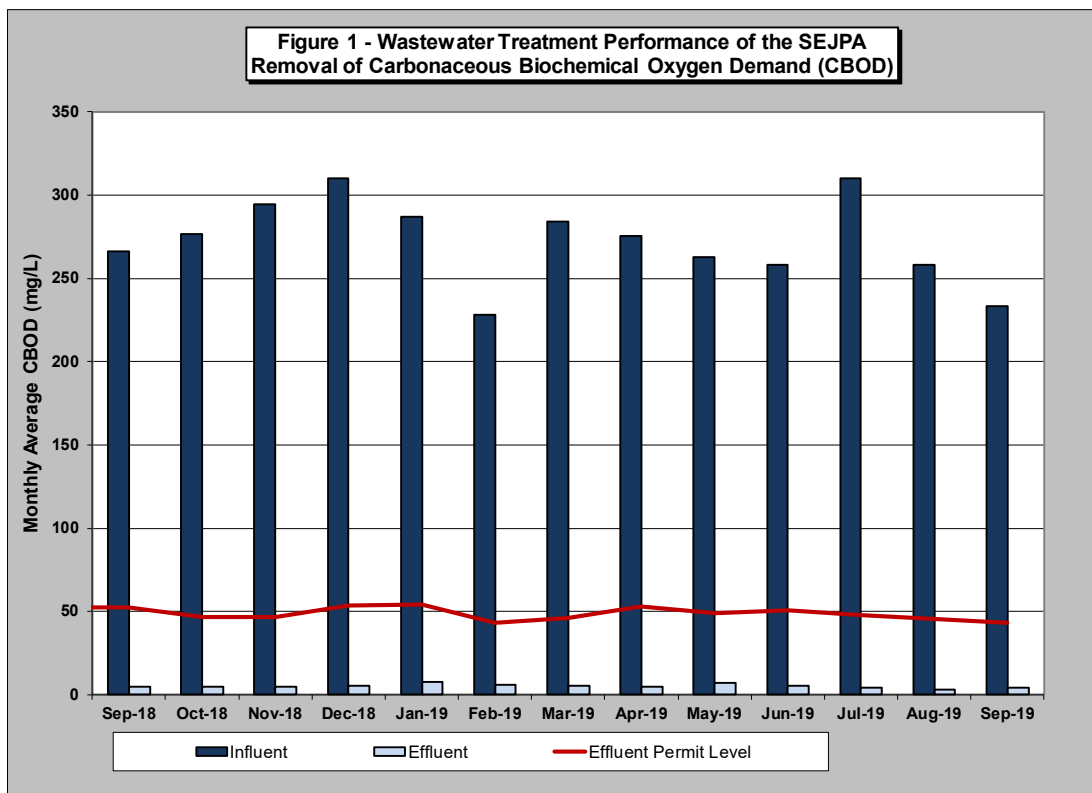
RECOMMENDATION

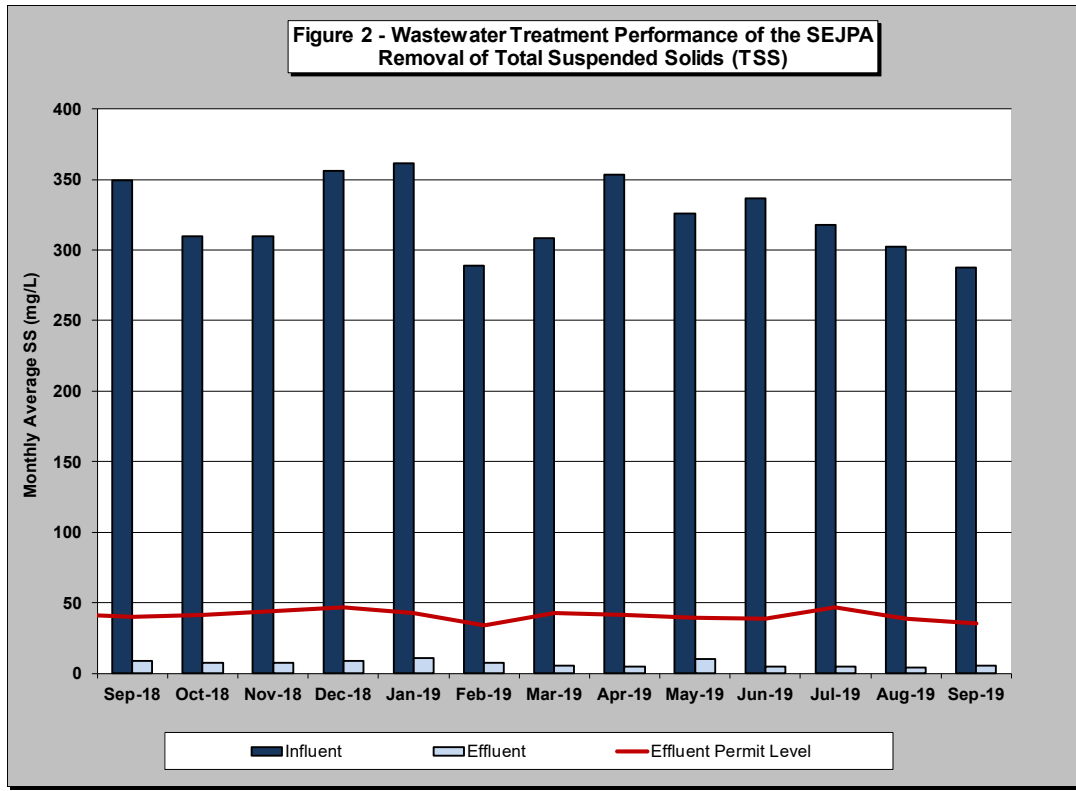
No action required. This memorandum is submitted for information only.

DISCUSSION

Monthly Treatment Plant Performance and Evaluation

Wastewater treatment for the San Elijo Joint Powers Authority (SEJPA) met all National Pollutant Discharge Elimination System (NPDES) ocean effluent limitation requirements for the month of September 2019. The primary indicators of treatment performance include the removal of Carbonaceous Biochemical Oxygen Demand (CBOD) and Total Suspended Solids (TSS). The SEJPA is required to remove a minimum of 85 percent of the CBOD and TSS from the wastewater. Treatment levels for both CBOD and TSS were 98.2 percent removal (as shown in Figure 1 and Figure 2).





Member Agency Flows

Presented below are the influent and effluent flows for the month of September. Average daily influent flows were recorded for each Member Agency. Total effluent flow was calculated for the San Elijo Water Reclamation Facility.

	September	
	<u>Influent (mgd)</u>	<u>Effluent (mgd)*</u>
Cardiff Sanitary Division	1.131	0.509
City of Solana Beach	0.918	0.413
Rancho Santa Fe SID	0.132	0.059
City of Del Mar	0.393	0.177
Total San Elijo WRF Flow	2.574	1.158

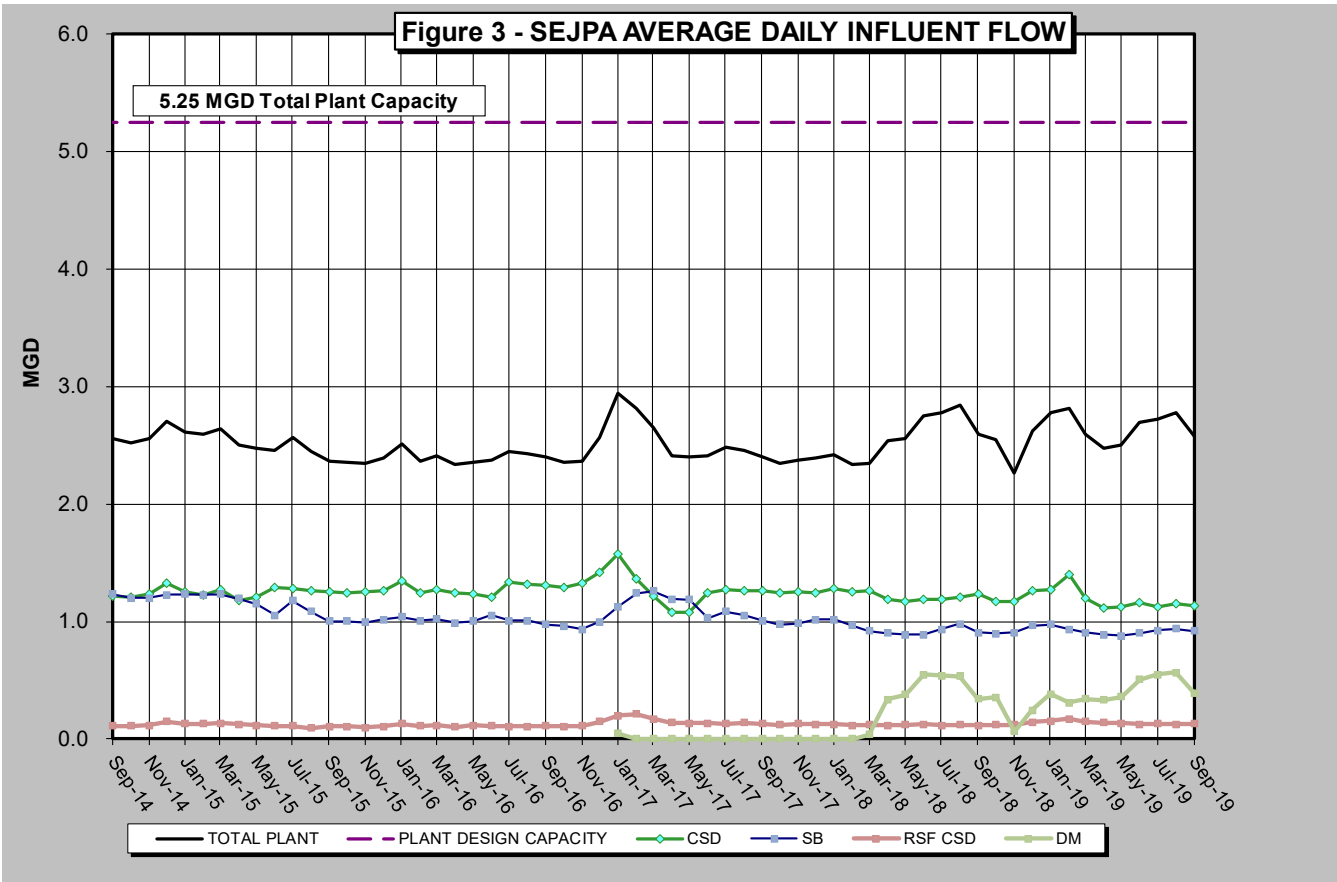
* Effluent is calculated by subtracting the recycled water production from the influent wastewater.

Table 1 (below) presents the historical average, maximum, and unit influent and effluent flow rates per month for each of the Member Agencies during the past 5 years. It also presents the number of connected Equivalent Dwelling Units (EDUs) for each of the Member Agencies during this same time period.

TABLE 1 - SAN ELJO WATER RECLAMATION FACILITY MONTHLY REPORT - FLOWS AND EDUS

MONTH	AVERAGE DAILY INFLUENT FLOW RATE (MGD)					AVERAGE DAILY EFFLUENT FLOW RATE (MGD)					CONNECTED EDUs					AVERAGE UNIT INFLUENT FLOW RATE (GAL/EDU/DAY)							
	CSD	RSF	CSD	SB	DM	TOTAL PLANT	CSD	RSF	CSD	SB	DM	TOTAL PLANT	CSD EDUS	RSF EDUS	CSD EDUS	SB EDUS	DM	TOTAL EDUS	CSD	RSF	SB	DM	TOTAL PLANT
Jun-14	1.341	0.126	1.188			2.655	0.207	0.020	0.183			0.410	8,333	498	7,728			16,559	161	253	154		160
Jul-14	1.271	0.130	1.307			2.708	0.232	0.024	0.239			0.495	8,338	499	7,728			16,565	152	261	169		163
Aug-14	1.228	0.130	1.298			2.656	0.227	0.024	0.239			0.490	8,345	500	7,728			16,573	147	260	168		160
Sep-14	1.215	0.113	1.232			2.560	0.211	0.019	0.214			0.444	8,351	500	7,728			16,579	145	226	159		154
Oct-14	1.204	0.114	1.198			2.516	0.394	0.038	0.392			0.824	8,353	500	7,728			16,581	144	228	155		152
Nov-14	1.237	0.118	1.198			2.553	0.667	0.063	0.646			1.376	8,354	502	7,728			16,584	148	235	155		154
Dec-14	1.323	0.147	1.229			2.699	1.163	0.129	1.081			2.373	8,355	502	7,728			16,585	158	293	159		163
Jan-15	1.253	0.130	1.232			2.615	0.984	0.102	0.967			2.053	8,359	503	7,977			16,838	150	259	154		155
Feb-15	1.229	0.132	1.228			2.589	0.757	0.081	0.757			1.595	8,361	504	7,977			16,841	147	262	154		154
Mar-15	1.269	0.135	1.231			2.635	0.583	0.062	0.566			1.211	8,365	504	7,977			16,846	152	268	154		156
Apr-15	1.183	0.124	1.196			2.503	0.350	0.036	0.354			0.740	8,366	504	7,977			16,847	141	246	150		149
May-15	1.209	0.117	1.149			2.475	0.545	0.053	0.518			1.116	8,367	505	7,977			16,848	144	232	144		147
Jun-15	1.287	0.113	1.052			2.452	0.362	0.032	0.296			0.690	8,369	506	7,977			16,852	154	224	132		146
Jul-15	1.282	0.110	1.176			2.568	0.392	0.034	0.359			0.785	8,370	510	8,003			16,883	153	216	147		152
Aug-15	1.264	0.095	1.087			2.446	0.315	0.023	0.271			0.609	8,371	510	8,003			16,884	151	186	136		145
Sep-15	1.256	0.105	1.001			2.362	0.457	0.038	0.364			0.859	8,372	511	8,003			16,885	150	206	125		140
Oct-15	1.243	0.106	1.002			2.351	0.681	0.058	0.549			1.288	8,373	511	8,003			16,886	148	208	125		139
Nov-15	1.250	0.100	0.994			2.344	0.792	0.063	0.630			1.485	8,376	511	8,003			16,889	149	196	124		139
Dec-15	1.266	0.107	1.016			2.389	0.971	0.082	0.780			1.833	8,377	511	8,003			16,891	151	210	127		141
Jan-16	1.342	0.131	1.037			2.510	1.189	0.116	0.918			2.223	8,380	511	8,003			16,894	160	257	130		149
Feb-16	1.245	0.112	1.008			2.365	0.780	0.070	0.631			1.481	8,383	512	8,003			16,897	149	219	126		140
Mar-16	1.267	0.116	1.023			2.406	0.763	0.070	0.616			1.449	8,388	512	8,003			16,903	151	227	128		142
Apr-16	1.240	0.102	0.990			2.332	0.675	0.055	0.539			1.269	8,389	512	8,003			16,904	148	199	124		138
May-16	1.238	0.117	1.002			2.357	0.505	0.048	0.409			0.962	8,389	512	8,003			16,904	148	229	125		139
Jun-16	1.205	0.111	1.055			2.371	0.362	0.033	0.317			0.712	8,390	514	8,003			16,907	144	216	132		140
Jul-16	1.336	0.105	1.008			2.449	0.586	0.046	0.442			1.074	8,392	514	8,020			16,926	159	204	126		145
Aug-16	1.317	0.107	1.007			2.431	0.647	0.053	0.495			1.195	8,393	516	8,020			16,929	157	207	126		144
Sep-16	1.311	0.110	0.975			2.396	0.601	0.050	0.447			1.098	8,394	516	8,020			16,930	156	213	122		142
Oct-16	1.289	0.108	0.962			2.359	0.521	0.043	0.389			0.953	8,397	517	8,020			16,933	154	209	120		139
Nov-16	1.323	0.113	0.932			2.368	0.730	0.062	0.514			1.306	8,403	517	8,020			16,940	157	219	116		140
Dec-16	1.419	0.150	0.998			2.567	1.179	0.125	0.829			2.133	8,406	549	8,020			16,975	169	273	124		151
Jan-17	1.572	0.197	1.125	0.047		2.941	1.489	0.186	1.066	0.045		2.786	8,409	549	8,020	1,716		18,694	187	359	140	142	157
Feb-17	1.361	0.211	1.240	0.000		2.812	1.236	0.192	1.126	0.000		2.554	8,409	549	8,020	1,716		18,694	162	384	155	0	166
Mar-17	1.215	0.170	1.261	0.000		2.646	0.856	0.120	0.889	0.000		1.865	8,413	550	8,020	1,716		18,698	144	309	157	0	156
Apr-17	1.077	0.139	1.190	0.000		2.406	0.841	0.108	0.929	0.000		1.878	8,414	551	8,020	1,716		18,700	128	252	148	0	142
May-17	1.082	0.136	1.184	0.000		2.402	0.842	0.106	0.922	0.000		1.870	8,416	551	8,049	1,716		18,732	129	247	147	0	141
Jun-17	1.241	0.134	1.032	0.000		2.407	0.980	0.106	0.815	0.000		1.901	8,420	551	8,049	1,716		18,737	147	243	128	0	141
Jul-17	1.267	0.130	1.083	0.000		2.480	0.802	0.082	0.685	0.000		1.569	8,421	551	8,061	1,716		18,749	150	236	134	0	146
Aug-17	1.262	0.139	1.051	0.000		2.452	0.852	0.094	0.709	0.000		1.655	8,423	553	8,061	1,716		18,753	150	251	130	0	144
Sep-17	1.264	0.130	1.006	0.000		2.400	0.866	0.089	0.689	0.000		1.644	8,427	555	8,061	1,716		18,759	150	234	125	0	141
Oct-17	1.242	0.123	0.977	0.000		2.342	0.543	0.053	0.427	0.000		1.023	8,431	555	8,061	1,716		18,763	147	222	121	0	137
Nov-17	1.257	0.131	0.983	0.000		2.371	0.661	0.069	0.517	0.000		1.247	8,431	554	8,061	1,716		18,762	149	237	122	0	139
Dec-17	1.248	0.125	1.014	0.000		2.387	0.693	0.070	0.563	0.000		1.326	8,431	554	8,061	1,716		18,762	148	226	126	0	140
Jan-18	1.276	0.125	1.015	0.000		2.416	0.886	0.087	0.705	0.000		1.678	8,435	555	8,061	1,716		18,767	151	225	126	0	142
Feb-18	1.249	0.118	0.968	0.000		2.335	0.601	0.056	0.466	0.000		1.123	8,441	555	8,061	1,716		18,773	148	213	120	0	137
Mar-18	1.265	0.122	0.922	0.039		2.348	0.857	0.083	0.625	0.026		1.591	8,451	555	8,061	1,716		18,782	150	220	114	149	125
Apr-18	1.184	0.115	0.901	0.337		2.537	0.627	0.061	0.477	0.179		1.344	8,451	559	8,061	1,716		18,786	140	206	112	129	135
May-18	1.173	0.119	0.890	0.376		2.558	0.566	0.057	0.430	0.182		1.235	8,461	562	8,061	1,716		18,799	139	212	110	144	136
Jun-18	1.188	0.124	0.888	0.549		2.749	0.557	0.058	0.417	0.258		1.290	8,466	562	8,061	1,716		18,804	140	221	110	210	146
Jul-18	1.193	0.118	0.933	0.537		2.781	0.619	0.061	0.484	0.278		1.442	8,478	562	8,083	2,611		19,733	141	210	115	206	141
Aug-18	1.210	0.119	0.980	0.534		2.843	0.686	0.067	0.555	0.303		1.611	8,481	563	8,083	2,611		19,737	143	212	121	205	144
Sep-18	1.230	0.117	0.905	0.341		2.593	0.677	0.064	0.498	0.188		1.427	8,481	563	8,083	2,611		19,737	145	208	112	131	131
Oct-18	1.172	0.121	0.897	0.354		2.544	0.529	0.054	0.405	0.160		1.148	8,481	564	8,083	2,611		19,738	138	215	111	136	129
Nov-18	1.173	0.121	0.906	0.064		2.264	0.495	0.051	0.383	0.027		0.956	8,488	565	8,083	2,611		19,746	138	214	112	136	129
Dec-18	1.264	0.144	0.967	0.244		2.619	1.017	0.116	0.778	0.196		2.107	8,491	566	8,083	2,611		19,751	149	255	120	136	138
Jan-19	1.269	0.153	0.975	0.384		2.781	1.221	0.147	0.938	0.369		2.675	8,491	566	8,083	2,611		19,751	149	271	121	147	141
Feb-19	1.400	0.173	0.935	0.309		2.817	1.256	0.156	0.839	0.277		2.528	8,492	566	8,083	2,611		19,752	165	306	116	137	145
Mar-19	1.200	0.149	0.908	0.340		2.597	0.956	0.119	0.724	0.271		2.070	8,493	568	8,083	2,611		19,755	141	263	112	132	132
Apr-19	1.119	0.138	0.887	0.334		2.478	0.330	0.040	0.262														

Figure 3 (below) presents the 5-year historical average daily flows per month for each Member Agency. This is to provide a historical overview of the average treated flow by each agency. Also shown in Figure 3 is the total wastewater treatment capacity of the plant, 5.25 mgd, of which each Member Agency has the right to 2.2 mgd, Rancho Santa Fe Community Service District leases 0.25 mgd, and the City of Del Mar leases 0.60 mgd.



City of Escondido Flows

The average and peak flow rate for the month of September 2019 from the City of Escondido's Hale Avenue Resource Recovery Facility, which discharges through the San Elijo Ocean Outfall, is reported below.

	Flow (mgd)
Escondido (Average flow rate)	7.74
Escondido (Peak flow rate)	18.9

Connected Equivalent Dwelling Units

The City of Solana Beach and the City of Del Mar updated the connected EDUs number that is reported to the SEJPA in September 2019. The City of Encinitas and Rancho Santa Fe CSD report their connected EDUs every month. The number of EDUs connected for each of the Member Agencies and lease agencies is as follows:

	Connected (EDU)
Cardiff Sanitary Division	8,507
Rancho Santa Fe SID	570
City of Solana Beach	7,768
San Diego (to Solana Beach)	337
City of Del Mar	2,612
Total EDUs to System	19,794

Respectfully submitted,



Michael T. Thornton, P.E.
General Manager

SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2019

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: SAN ELIJO WATER RECLAMATION PROGRAM – MONTHLY REPORT

RECOMMENDATION

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

DISCUSSION

Recycled Water Production

For the month of September 2019, recycled water demand was 191.02 acre-feet (AF), which was met using 191.02 AF of recycled water and 0.00 AF supplementation with potable water.

September demand was at budget expectations of 192 AF. The total water production for FY 2019-20 is slightly below budget (3.4%) for the first 3 months.

Figure 1 (attached) provides monthly demands for recycled water since deliveries began in September 2000. Figure 2 (attached) provides a graphical view of annual recycled water demand spanning the last 19 fiscal years. Figure 3 (attached) shows the monthly recycled water demand for each September since the program began. Figure 4 (attached) compares budget versus actual recycled water sales for FY 2019-20.

Respectfully submitted,



Michael T. Thornton, P.E.
General Manager

Figure 1 - MONTHLY RECYCLED WATER DEMAND

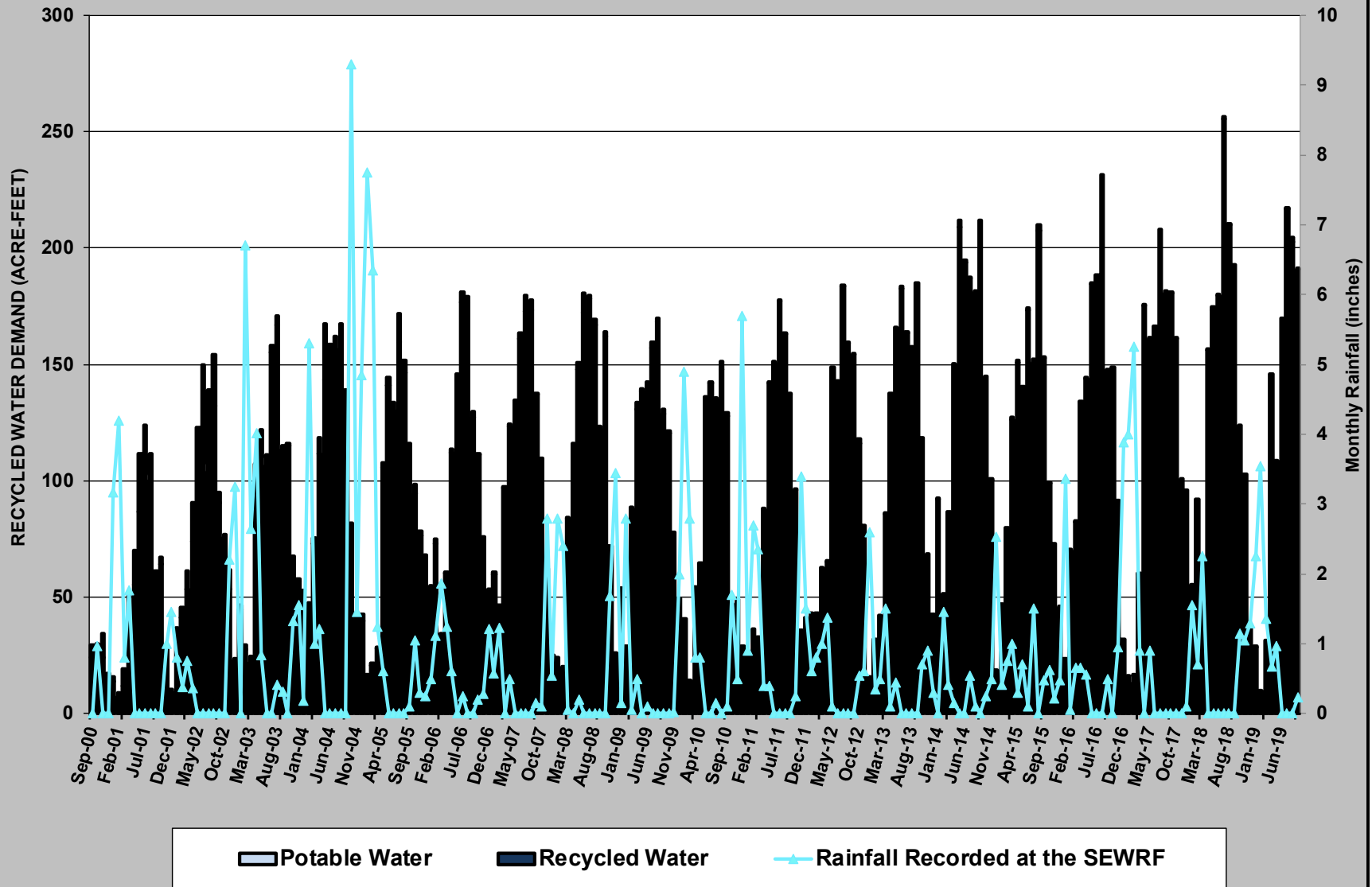


Figure 2 - RECYCLED WATER DEMAND by FISCAL YEAR

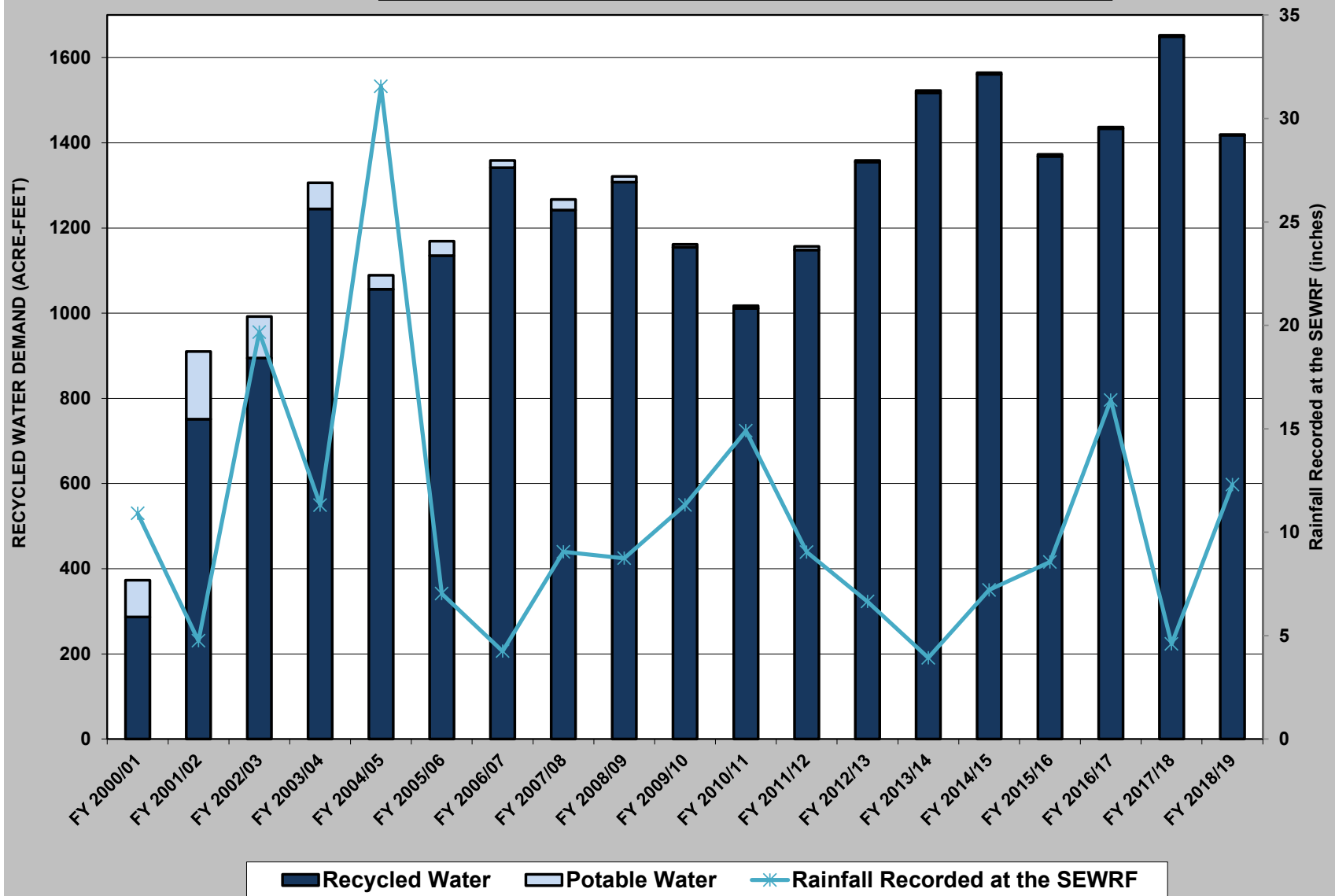


Figure 3 - SEPTEMBER RECYCLED WATER DEMAND

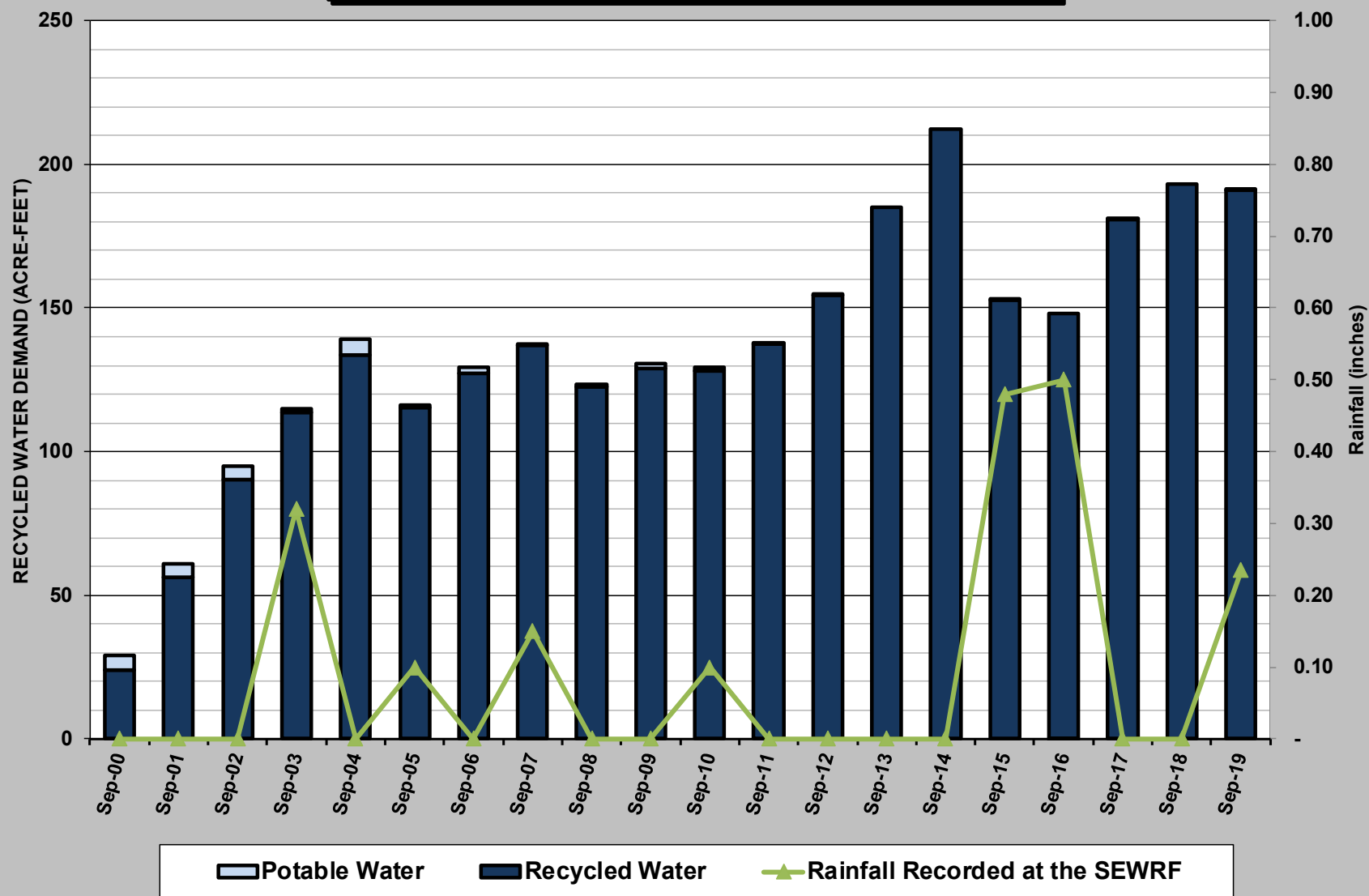
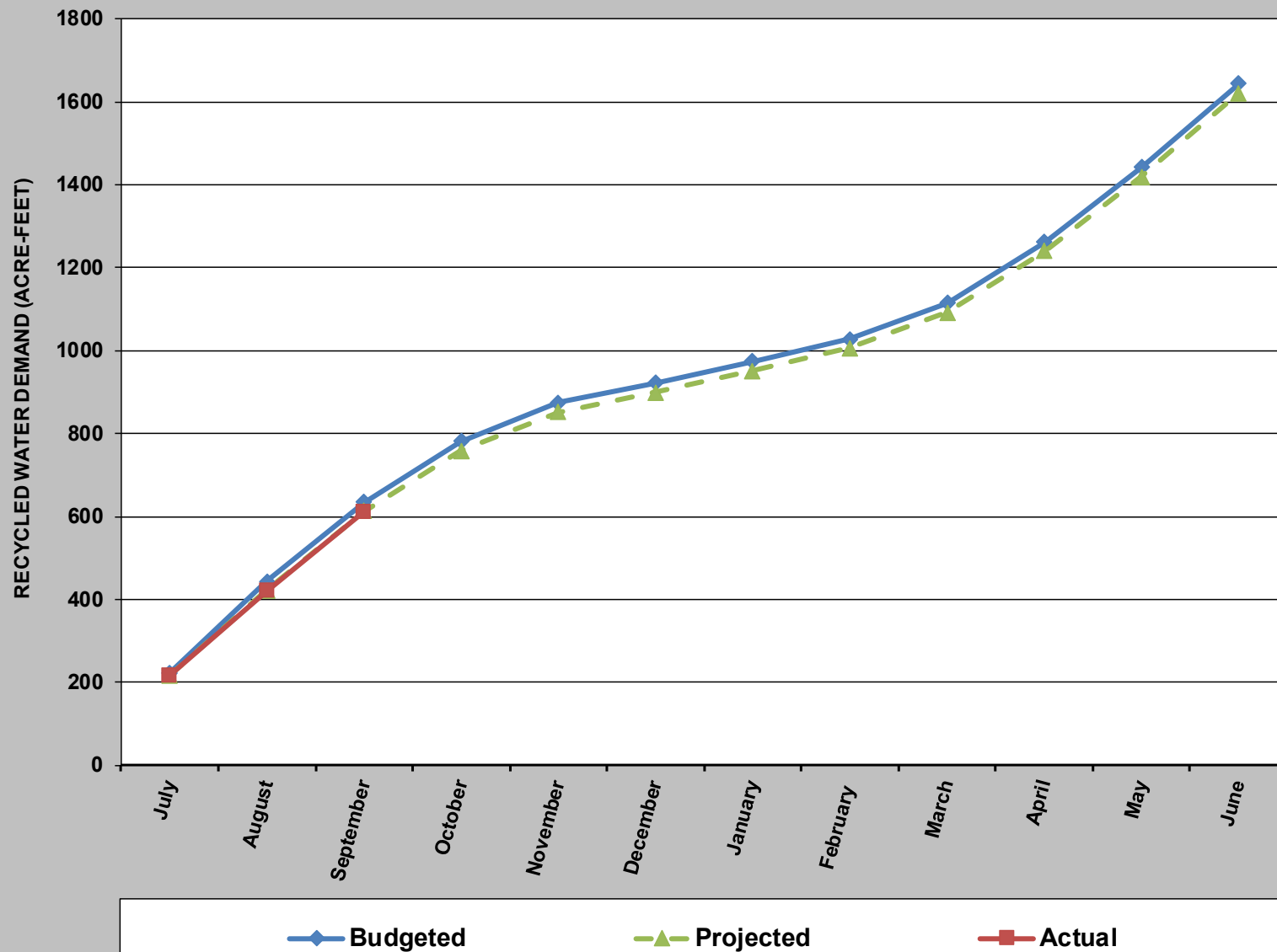


Figure 4 - RECYCLED WATER DEMAND BUDGET vs ACTUAL



SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2019

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: Director of Finance and Administration

SUBJECT: SAN ELIJO JOINT POWERS AUTHORITY PURCHASING POLICY REVISION

RECOMMENDATION

It is recommended that the Board of Directors:

1. Adopt Resolution No. 2020-01, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Purchasing Policies and Procedures for the San Elijo Joint Powers Authority; and
2. Discuss and take action as appropriate.

BACKGROUND

Purchasing policy and procedures are documents that communicate agency policies, and state how to manage and document purchasing for a government agency. In addition to these important functions, San Elijo Joint Powers Authority (SEJPA) utilizes the purchasing policy to communicate with the staff, the supplier and the SEJPA's Board of Directors. Furthermore, the policy helps to utilize rate payer funds to obtain the best value.

The purchasing policy also provides set standards related to procuring supplies and services. The policy includes the purpose, responsible officer, and requirements, including delegation of authority which provides a central location for important purchasing information.

DISCUSSION

SEJPA staff and legal counsel have reviewed and updated SEJPA's purchasing policy to confirm current government codes, as well as to provide recommendations for policy changes. The current purchasing policy was approved by the Board of Directors in June 2010. Recommendations are based on reviews of other government and the member agencies to obtain best value and efficiency for SEJPA. Recommendations include the following:

Purchase Amount	Purchasing Authority	Requirement
Up to \$5,000	Department Supervisor	Find lowest price/best value option
Up to \$10,000	Department Director	Three competitive bids or quotes
Up to \$35,000	General Manager	Three competitive bids or quotes
Greater than \$35,000	Board of Directors	Formal bid process

Staff also included provisions related to Public Work Contracts, and replaced the existing, "Alternative Procedure: Consolidated Purchase" with "Cooperative Purchasing" to include the practice of "Piggybacking", and the use of the Federal General Services Administrative (GSA) purchasing schedules. Other updates include exemptions to competitive quotation and bidding, prohibiting the use of, "Splitting" to avoid the Purchasing Policy, delegation to the General Manager for agreements and contracts to be done by consultants and contractors, and professional service contracts selection policy.

Working with SEJPA legal counsel, staff has prepared a revised purchasing policy, Resolution No. 2020-01 (Attachment), which includes the recommended changes. If the SEJPA Board of Directors approves Resolution 2020-01, then it will supersede the previous purchasing policy, Resolution No. 2010-08.

FINANCIAL IMPACT

There is no financial impact associated with establishing purchasing policies and procedures for San Elijo Joint Powers Authority.

It is, therefore, recommended that the Board of Directors:

1. Adopt Resolution No. 2020-01, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Purchasing Policies and Procedures for the San Elijo Joint Powers Authority; and
2. Discuss and take action as appropriate.

Respectfully submitted,



Paul Kinkel
Director of Finance and Administration

Attachment 1: Resolution No. 2020-01, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Purchasing Policies and Procedures for the San Elijo Joint Powers Authority

ATTACHMENT 1

RESOLUTION NO. 2020-01

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN ELIJO JOINT POWERS AUTHORITY
ESTABLISHING PURCHASING POLICIES AND PROCEDURES
FOR THE SAN ELIJO JOINT POWERS AUTHORITY**

WHEREAS, San Elijo Joint Powers Authority (SEJPA) is a joint powers authority organized and operating pursuant to Government Code Sections 6500 et seq. (SEJPA); and

WHEREAS, the Board of Directors of SEJPA recognizes that the ongoing operation of SEJPA requires the purchase of materials, supplies, services, equipment and inventory; and

WHEREAS, it is necessary to purchase these items on a regular basis to carry on the day-to-day operation of SEJPA as well as to supply and resupply inventory; and

WHEREAS, the Board of Directors of SEJPA desires to establish formal purchasing policies and procedures in conformity with current California law for implementation by SEJPA Staff; and

WHEREAS, pursuant to the Restatement of Agreement Between Cardiff Sanitation District and Solana Beach Establishing the San Elijo Joint Powers Authority creating SEJPA, dated June 25, 2008, the General Manager has the authority to make and enter in contracts for capital costs, costs for special services, equipment, materials, supplies, maintenance or repair that involves an expenditure by SEJPA of less than \$35,000, or any contract with any consultant (except for consultants to perform the duties of the auditor or treasurer) for services, the cost of which is included in the budget for the then fiscal year, and which involve an expenditure by SEJPA of less than \$35,000; and

WHEREAS, it is recognized that this Resolution supersedes all previous resolutions establishing purchasing policies and procedures for the San Elijo Joint Powers Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SAN ELIJO JOINT POWERS AUTHORITY AS FOLLOWS:

1. PURPOSE. This policy is intended to establish sufficient procedures for the purchase of supplies, equipment and services of the required quality at the lowest possible price.
2. PURCHASING OFFICER
 - 2.1 The General Manager is designated as the "Purchasing Officer".
 - 2.2 In addition to administering the other procedures contained herein, the Purchasing Officer:
 - (a) Shall keep informed of current developments in market conditions and new products and shall maintain a bidders list, vendors catalogue file, and records needed for the efficient purchase of supplies and equipment for the Purchasing Officer's department;
 - (b) Shall first consider sources of supplies and equipment located within SEJPA's service area.

- (c) May prescribe and maintain such forms and supplemental procedures as are reasonably necessary for the operation of SEJPA in accordance with this resolution; and
 - (d) Shall inspect supplies and equipment delivered to determine their conformance with the specifications and may require the vendor to reimburse SEJPA for the performance of chemical and physical tests on samples.
- 2.3 The General Manager may authorize, in writing, a designee to purchase specified supplies and equipment, independently from the Purchasing Officer. The authorized designee shall comply with the procedures of this resolution and shall make periodic reports to the General Manager on the status of the purchases. The General Manager shall ensure that each designee so authorized has filed a financial disclosure statement in accordance with this policy.

3. DETERMINATION OF REQUIREMENT AND SURPLUS

3.1 General.

- a) Each purchase shall follow the appropriate procedures identified for that type of purchase. Separate procedures have been established for the procurement of supplies, equipment, non-professional services, public works contracts, and professional services contracts.
- b) The Board reviews and approves an annual budget authorizing the purchase of materials, supplies, equipment and inventory; funding for capital items and projects; professional services and the general operation of SEJPA's recycled water, and wastewater.
- c) Sole-source procurement from a single vendor may be conducted if the purchase item is obtainable only from that vendor based on availability and compatibility criteria, or in emergency circumstances. Sole-source purchases shall be supported by written documentation (hard or electronic copy) approved and authorized by the General Manager or designee, forwarded and maintained in a project or accounts payable file. Final authorization of a sole-source purchase will be approved according to the purchasing procedures identified for each type of purchase.
- d) Any item exceeding \$35,000 which is not provided for in the annual budget or appropriated by the Board of Directors will require approval by the Board of Directors prior to purchase, except for items deemed to be of urgent necessity by the General Manager or designee. Items provided for in the annual budget shall be procured by the General Manager within the amount set in the budget.

- e) Any item required deemed to be urgently required by the General Manager or designee shall not exceed an aggregate of \$75,000 for urgent sewer maintenance or repair work or in the event of any emergency to keep SEJPA in operation or to restore SEJPA to operating condition. Urgent sewer maintenance or repair work is work that is required as a result of a physical condition which threatens public health or safety or the environment, and requires immediate remedial action to mitigate said threat. Following the exercise of this authority, the General Manager or designee shall report as required by Section 22050 of the Public Contract Code.

3.2 Supplies, Equipment, and Non-professional services

- a) Purchases up to \$5,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Supervisor with the option for a quote or competitive bid. Authorization for the purchase is by the Department Supervisor.
- b) Purchases up to \$10,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Director through the use of a competitive bid process when practical. Three bids or quotes shall be obtained based on appropriate procedures identified for that type of purchase. Authorization for the purchase is by the Department Director.
- c) Purchases up to \$35,000 for supplies, equipment, and non-professional services shall be made through the use of a competitive bid process at the discretion of the General Manager. Three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase. Authorization for the purchase is by the General Manager.
- d) Purchases over \$35,000 for supplies, equipment, and nonprofessional services will require a formal bid process, including, but not limited to, the preparation and circulation of a request for a proposal to qualified sources, as determined in the discretion of the General Manager or designee, to permit reasonable competition consistent with the nature and requirements of the proposed purchases. Authorization for purchase is by the Board of Directors.

3.3 Public Work Contracts

- a) Contractors for Public Work will be required to provide proof of insurance and other requirements according to applicable public contracting laws and regulations.
- b) Public Works Contracts for Work not exceeding \$35,000 shall be procured at the discretion of the General Manager. While not specifically required by this section, competitive quotations for public works are always encouraged and may be requested by the General Manager prior to approving the contract.

- c) Public Works Contracts for Work Exceeding \$35,000 not Done by Force Account. When work is not to be done by SEJPA itself by force account, and the amount involved is \$35,000 or more, and competitive bidding of the contract is required by law, any contract for such work shall be let to the lowest responsive and responsible bidder after publication of notice inviting sealed bids in a newspaper or periodical of general circulation to be designated by the General Manager for such time as shall be fixed by law. A canvas of all bids received shall be presented by the General Manager to the Board of Directors, together with a statement of the lowest responsive and responsible bid and the General Manager's recommendation on the bidder who should receive the award. Such recommendation shall be subject to approval by the Board of Directors prior to award of the contract on which bids were received. The Board of Directors may reject any and all bids, determine that a bid is non-responsive, determine that a bidder is not responsible, or take such further action.
 - d) Cooperative Purchasing. Intergovernmental purchasing is authorized under this policy. SEJPA may participate in, sponsor, conduct, or administer a cooperative procurement agreement with other public agencies for the procurement of any supplies or services to increase efficiency and/or reduce expenses. Cooperative purchasing may include, but is not limited to, the practice referred to as "piggybacking" as well as use of purchasing schedules established by other California government agencies or the Federal General Services Administration (GSA). All cooperative purchasing conducted under this policy shall be through contracts that were originally awarded through full and open competition.
- 3.4 Splitting. Dividing a purchase into two or more parts to avoid the requirements of the Purchasing Policy is prohibited.
- 3.5 Exceptions to Competitive Quotation and Bidding. The following purchases shall not be subject to the competitive quotation and bidding requirements contained in this section:
- a) Personal service contracts requiring a particular skill or ability.
 - b) Contracts for purchase of patented products.
 - c) Contracts for experimental or unique products.
 - d) The acquisition or disposition of real or personal property.
 - e) Where an emergency exists requiring completion of the work.
 - f) Contracts where competitive proposals or bids would be incongruous and would not result in any advantage to the SEJPA.
 - g) Insurance coverage proposals.
 - h) All professional service contracts.

- i) Any contract not required to be competitively bid under California law.

3.6 Purchasing Documentation.

- a) Each purchase shall be requested and executed using an appropriate form or documentation. Purchasing forms and documents, depending on type of purchase, shall be the purchase request, purchase order, bid package, and service contract. Forms or documents may be submitted in hard or electronic copy. All contracts and purchase orders (electronic or hard copy) must be approved and signed by authorized individuals.
- b) Approved purchase orders will be used for most purchases. Exceptions include items covered by other contracts, utilities and similar services recurring professional services, water purchases, postage, expense reimbursements, newspaper ads, subscriptions, petty cash items, and other items of similar nature.

3.7 Surplus Sales.

- a) Surplus items having a saleable value shall be accumulated by SEJPA personnel and may be sold at the discretion of the General Manager or his/her designee. Surplus items with an estimated value in excess of \$500 for a specific category shall be appropriately advertised and either auctioned or sold on a negotiated basis depending upon the circumstances. The General Manager or designee shall determine the method of sale and the objective shall always be to obtain the maximum benefit possible for SEJPA.
- b) All applicable laws governing sales of surplus SEJPA property shall be adhered to, including restrictions on SEJPA Board Directors, employees, and/or Directors or employees' relatives receiving such property.

3.8 Delegation to General Manager

- a) The General Manager or designee is authorized to negotiate for and enter into agreements for work to be done by consultants and contractors where the project has been previously approved by the Board of Directors and funds have been appropriated or budgeted. The General Manager or designee shall comply with bidding requirements as contained in this document.

3.9 Regulations Governing Change Orders for SEJPA Contracts for the Construction of Public Works

The General Manager shall have certain authority for the signing of change orders governing SEJPA contracts. This authority shall extend only to projects that have Board approved appropriations in sufficient amounts to cover the costs of the change order(s). Change orders shall be presented to the Board of Directors at the earliest opportunity for their information and/or approval.

- a) Change orders less than \$35,000 may be approved and signed at the discretion of the General Manager.
- b) Change orders totaling more than \$35,000 per contract shall be reviewed and approved by the Board of Directors

4.0 Professional Service Contracts Selection Policy

- a) For professional service contracts that are anticipated to be less than \$50,000, staff shall provide written or oral Requests for Proposals (RFPs) to at least two firms. A short form RFP is acceptable. No rating/interview panel is required.
- b) For professional service contracts that are anticipated to be between \$50,000 to \$200,000, staff shall solicit at least three written proposals from at least three prospective providers. The review and ranking of proposals shall be conducted by in-house review panel. Qualifications, demonstrated competence, and a fair and reasonable fee proposal should be determining factors in the selection of a professional consultant. Staff shall then negotiate the final fee based upon the agreed scope of work.
- c) For professional service contracts that are anticipated to exceed \$200,000, staff shall solicit at least three written proposals from at least three prospective providers. RFPs shall be used to solicit the written proposals and may include the requirement that a price proposal be in writing and be sealed, a general description of the scope of work, the approach for conducting work, project team qualifications and resumes, consultant's experience with similar work, RFP submission deadline, and the time and place for interviews of prospective consultants. The review and ranking of proposals shall be conducted by in-house review panel. Qualifications, demonstrated competence, and a fair and reasonable fee proposal should be determining factors in the selection of a professional consultant. Staff shall then negotiate the final fee based upon the agreed scope of work. Interviews may be conducted by the appropriate staff members.
- d) Where it is apparent that an RFP process would be incongruous and would not result in an advantage to SEJPA, an exception to the foregoing processes may be granted. Exceptions may include where the staff is looking for a particular skill or ability, or where a consultant is already providing current services for SEJPA and there would be economies and efficiencies of scale by continuing with the consultant. Emergencies are also exempted from the RFP process. Staff shall consult with the General Manager or designee prior to commencing the selection process in order to review if the exception to the standard procedures is warranted.

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Board of Directors of the San Elijo Joint Powers Authority held this _____ day of _____, 2019, by the following roll call vote:

AYES: Boardmembers:

NOES: Boardmembers:

ABSENT: Boardmembers:

ABSTAIN: Boardmembers:

David Zito, Chairperson
SEJPA Board of Directors

ATTEST:

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

RESOLUTION NO. ~~2010-08~~2020-01

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN ELIJO JOINT POWERS AUTHORITY
ESTABLISHING PURCHASING POLICIES AND PROCEDURES
FOR THE SAN ELIJO JOINT POWERS AUTHORITY

WHEREAS, ~~the Board of Directors of the~~ San Elijo Joint Powers Authority (SEJPA) is a joint powers authority organized and operating pursuant to Government Code Sections 6500 et seq. (SEJPA); and

WHEREAS, the Board of Directors of SEJPA recognizes that the ongoing operation of ~~the~~ SEJPA requires the purchase of materials, supplies, services, equipment and inventory; and

WHEREAS, it is necessary to purchase these items on a regular basis to carry on the day-to-day operation of ~~the~~ SEJPA as well as to supply and resupply inventory; and

WHEREAS, the Board of Directors of ~~the~~ SEJPA desires to establish formal purchasing policies and procedures in conformity with current California law for implementation by SEJPA Staff; and

WHEREAS, pursuant to the Restatement of Agreement Between Cardiff Sanitation District and Solana Beach Establishing the San Elijo Joint Powers Authority creating SEJPA, dated June 25, 2008, the General Manager has the authority to make and enter in contracts for capital costs, costs for special services, equipment, materials, supplies, maintenance or repair that involves an expenditure by SEJPA of less than \$35,000, or any contract with any consultant (except for consultants to perform the duties of the auditor or treasurer) for services, the cost of which is included in the budget for the then fiscal year, and which involve an expenditure by SEJPA of less than \$35,000; and

WHEREAS, it is recognized that this Resolution supersedes all previous resolutions establishing purchasing policies and procedures for the San Elijo Joint Powers Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF ~~THE~~ SAN ELIJO JOINT POWERS AUTHORITY AS FOLLOWS:

1. PURPOSE. -This policy is intended to establish sufficient procedures for the purchase of supplies ~~and~~ equipment and services of the required quality at the lowest possible price.

2. PURCHASING OFFICER

2.1 The General Manager is designated as the "Purchasing Officer".

2.2 In addition to administering the other procedures contained herein, the Purchasing Officer:

(a) ~~(a)~~ — Shall keep informed of current developments in market conditions and new products and shall maintain a bidders list, vendors catalogue file, and records needed for the efficient purchase of supplies and equipment for the Purchasing Officer's department;

(b) —

(b) Shall first consider sources of supplies and equipment located within ~~the~~ SEJPASEJPA's service area.

~~(c)~~

(c) May prescribe and maintain such forms and supplemental procedures as are reasonably necessary for the operation of ~~the~~ SEJPA in accordance with this resolution; and

(d)- Shall inspect supplies and equipment delivered to determine their conformance with the specifications, and may require the vendor to reimburse ~~the~~ SEJPA for the performance of chemical and physical tests on samples.

2.3 The General Manager may authorize, in writing, a designee to purchase specified supplies and equipment, independently from the Purchasing Officer. The authorized designee shall comply with the procedures of this resolution and shall make periodic reports to the General Manager on the status of the purchases. The General Manager shall ensure that each designee so authorized has filed a financial disclosure statement in accordance with this policy.

3. DETERMINATION OF REQUIREMENT AND SURPLUS

3.1 General.

a) Each purchase shall follow the appropriate procedures identified for that type of purchase. Separate procedures have been established for the procurement of supplies, equipment, non-professional services, public works contracts, and professional services contracts.

b) The ~~adopted~~Board reviews and approves an annual budget for the authorizing the purchase of materials, supplies, equipment and inventory; funding for capital items and projects; professional services and the general operation of SEJPA's recycled water, and wastewater.

c) Sole-source procurement from a single vendor may be conducted if the purchase item is obtainable only from that vendor based on availability and compatibility criteria, or in emergency circumstances. Sole-source purchases shall be supported by written documentation (hard or electronic copy) approved and authorized by the General Manager or designee, forwarded and maintained in a project or accounts payable file. Final authorization of a sole-source purchase will be approved according to the purchasing procedures identified for each type of purchase.

d) Any item exceeding \$35,000 which is not provided for in the annual budget or appropriated by the Board of Directors will require approval by the Board of Directors prior to purchase, except for items deemed to be of urgent necessity by the General Manager or designee. Items provided for in the annual budget shall be procured by the General Manager within the amount set in the budget.

- e) Any item required deemed to be urgently required by the General Manger or designee shall not exceed an aggregate of \$75,000 for urgent sewer maintenance or repair work or in the event of any emergency to keep SEJPA shall include the needs for supplies and equipment of the in operation or to restore SEJPA during the fiscal yearto operating condition. Urgent sewer maintenance or repair work is work that is required as a result of a physical condition which threatens public health or safety or the environment, and requires immediate remedial action to mitigate said threat. Following the exercise of this authority, the General Manager or designee shall report as required by Section 22050 of the Public Contract Code.

3.2 Supplies, Equipment, and Non-professional services

- a) Purchases up to \$5,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Supervisor with the option for a quote or competitive bid. Authorization for the purchase is by the Department Supervisor.
- b) Purchases up to \$10,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Director through the use of a competitive bid process when practical. Three bids or quotes shall be obtained based on appropriate procedures identified for that type of purchase. Authorization for the purchase is by the Department Director.
- c) Purchases up to \$35,000 for supplies, equipment, and non-professional services shall be made through the use of a competitive bid process at the discretion of the General Manager. Three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase. Authorization for the purchase is by the General Manager.
- d) Purchases over \$35,000 for supplies, equipment, and nonprofessional services will require a formal bid process, including, but not limited to, the preparation and circulation of a request for a proposal to qualified sources, as determined in the discretion of the General Manager or designee, to permit reasonable competition consistent with the nature and requirements of the proposed purchases. Authorization for purchase is by the Board of Directors.

3.3 Public Work Contracts

- a) Contractors for Public Work will be required to provide proof of insurance and other requirements according to applicable public contracting laws and regulations.
- b) Public Works Contracts for Work not exceeding \$35,000 shall be procured at the discretion of the General Manager. While not specifically required by this section, competitive quotations for public works are always encouraged and may be requested by the General Manager prior to approving the contract.

c) Public Works Contracts for Work Exceeding \$35,000 not Done by Force Account. When work is not to be done by SEJPA itself by force account, and the amount involved is \$35,000 or more, and competitive bidding of the contract is required by law, any contract for such work shall be let to the lowest responsive and responsible bidder after publication of notice inviting sealed bids in a newspaper or periodical of general circulation to be designated by the General Manager for such time as shall be fixed by law. A canvas of all bids received shall be presented by the General Manager to the Board of Directors, together with a statement of the lowest responsive and responsible bid and the General Manager's recommendation on the bidder who should receive the award. Such recommendation shall be subject to approval by the Board of Directors prior to award of the contract on which bids were received. The Board of Directors may reject any and all bids, determine that a bid is non-responsive, determine that a bidder is not responsible, or take such further action.

d) Cooperative Purchasing. Officer shall ensure that sufficient Intergovernmental purchasing is authorized under this policy. SEJPA may participate in, sponsor, conduct, or administer a cooperative procurement agreement with other public agencies for the procurement of any supplies or services to increase efficiency and/or reduce expenses. Cooperative purchasing may include, but is not limited to, the practice referred to as "piggybacking" as well as use of purchasing schedules established by other California government agencies or the Federal General Services Administration (GSA). All cooperative purchasing conducted under this policy shall be through contracts that were originally awarded through full and open competition.

3.4 Splitting. Dividing a purchase into two or more parts to avoid the requirements of the Purchasing Policy is prohibited.

3.5 Exceptions to Competitive Quotation and Bidding. The following purchases shall not be subject to the competitive quotation and bidding requirements contained in this section:

a) Personal service contracts requiring a particular skill or ability.

b) Contracts for purchase of patented products.

c) Contracts for experimental or unique products.

d) The acquisition or disposition of real or personal property.

e) Where an emergency exists requiring completion of the work.

f) Contracts where competitive proposals or bids would be incongruous and would not result in any advantage to the SEJPA.

g) Insurance coverage proposals.

h) All professional service contracts.

i) Any contract not required to be competitively bid under California law.

3.6 Purchasing Documentation.

a) Each purchase shall be requested and executed using an appropriate form or documentation is-. Purchasing forms and documents, depending on type of purchase, shall be the purchase request, purchase order, bid package, and service contract. Forms or documents may be submitted with the request for payment to demonstrate compliance with the procedures of this policy and to justify the acquisition and acceptance of the supplies or equipment in hard or electronic copy. All contracts and purchase orders (electronic or hard copy) must be approved and signed by authorized individuals.

~~3.3 The Purchasing Officer shall maintain written documentation showing the supplies and equipment on hand in the SEJPA that are no longer useful. The Purchasing Officer may exchange or trade in such supplies and equipment as part of a purchase. The General Manager may direct the disposal of surplus supplies and equipment.~~

~~4. PURCHASE ORDER: LESS THAN \$1,000. If the estimated value of the purchase of supplies or equipment is less than \$1,000, the Purchasing Officer may:~~

- ~~(a) Select a vendor, without bid;~~
- ~~(b) Issue a purchase order;~~
- ~~(c) Complete the purchase transaction.~~

~~5. PURCHASE ORDER: \$1,001 to \$35,000. If the estimated value of the purchase of supplies or equipment is \$1,001 or more, but less than \$35,000, the Purchasing Officer shall:~~

- ~~(a) Solicit bids by written and telephonic request to prospective vendors;~~
- ~~(b) Require telephonic bids to be documented in writing;~~
- ~~(c) Seek at least three bids;~~
- ~~(d) Select the vendor with the lowest bid price in conformity with the specifications;~~
- ~~(e) Issue a purchase order; and~~
- ~~(f) Complete the purchase transaction.~~

~~6. ISSUANCE OF PURCHASING ORDER. The Purchasing Officer may not issue a purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged.~~

~~7. CONTRACT: MORE THAN \$35,000. If the estimated value of the purchase of supplies or equipment is more than \$35,000, the following provisions shall be satisfied:~~

~~7.1 The Purchasing Officer shall:~~

- ~~(a) Publish a notice inviting bids at least ten days before the date of opening of the bids. The notice inviting bids shall be published two times, not less than five days apart.~~
- ~~(b) Mail the notice inviting bids to vendors whose names appear on the bidders list.~~

~~7.2 The Purchasing Officer shall include in the notice inviting bids:~~

- ~~(a) The requirement that the bid be in writing and that it be sealed.~~
- ~~(b) A general description of the supplies or equipment to be purchased.~~
- ~~(c) The location where bid blanks and specifications may be obtained.~~
- ~~(d) The time and place for opening bids.~~
- ~~(e) The security required, if any.~~

~~7.3 The Purchasing Officer may require a security deposit to be submitted as a condition for considering the bid. The amount of the security deposit shall be sufficient to reimburse the SEJPA for costs incurred if the bidder is successful but fails to execute the contract or fails to perform obligations under the contract. Bid security shall be returned to each unsuccessful bidder.~~

~~7.4 The Purchasing Officer or his representative shall open the bids in public and submit to the SEJPA a recommendation regarding the award of the contract.~~

~~7.5 The SEJPA may award the contract to the vendor submitting the lowest bid, in conformity with the specifications or may reject all bids presented.~~

~~7.6 If two or more bids received are of the same total amount, the SEJPA may direct the Purchasing Officer to further negotiate with the tie bidders. The SEJPA may award the contract to the lowest negotiated bid, made thereafter.~~

~~7.7 After the SEJPA awards the contract, the Purchasing Officer shall complete the purchase transaction; and~~

~~7.8 After completion of the transaction, the purchasing officer shall submit the invoice to the SEJPA for placement on the warrant list.~~

~~8. EXEMPTION FROM BIDDING. Where otherwise required by this policy, and where authorized by law and the SEJPA Agreement, bidding may be dispensed with, at the discretion of the General Manager when:~~

~~8.1 An emergency requires that an order be placed with the nearest available source of supply; for the purposes of this authorization, an emergency is a condition which threatens the public health or safety, and requires immediate remedial action in order to avoid the threat to the public health or safety. This authorization is limited to the aggregate expenditure of \$25,000, except as otherwise authorized by law; or~~

~~8.2 The supply or equipment can be obtained from only one vendor; or~~

~~8.3 — Sufficient, satisfactory bids are not received.~~

~~9. — ALTERNATIVE PROCEDURE: REQUEST FOR PROPOSALS~~

~~9.1 — As an alternative to the other provisions of this policy, the SEJPA may acquire supplies and equipment in accordance with the provisions of this section.~~

~~9.2 — The General Manager may utilize this section if the Manager determines that:~~

- ~~(a) — The SEJPA does not possess the expertise to determine its precise requirements; or~~
- ~~(b) — The SEJPA does not possess the expertise to determine the best way to meet its needs.~~

~~9.3 — If the General Manager has made the determination to utilize this section then:~~

- ~~(a) — At a minimum, the Request for Proposal (RFP) shall contain a description of what supplies and equipment the SEJPA is attempting to obtain; the deadline for submitting proposals; and a notice that each proposal will be judged on its merits and its ability to meet the needs of the SEJPA. The lowest monetary proposal will not necessarily be selected.~~
- ~~(b) — The RFP will be posted on the bulletin boards of the Cities of Encinitas and Solana Beach for a minimum of ten days before the deadline for submitting proposals.~~
- ~~(c) — The RFP will be sent to a minimum of three providers, if three are available.~~
- ~~(d) — Following the deadline, each proposal will be opened and evaluated in the following manner.~~
- ~~(e) — The selection of the best proposal will be based on a consideration of costs, demonstrated project quality, demonstrated ability to satisfy the needs of public agencies and private clients similar to the SEJPA, and the proposer's ability to meet the needs of the SEJPA. The proposal with the lowest monetary cost will not necessarily be selected.~~

~~10. — ALTERNATIVE PROCEDURE: CONSOLIDATED PURCHASE~~

~~10.1 — As an alternative to the other provisions of this Resolution, the SEJPA may acquire supplies and equipment in accordance with the provisions of this policy.~~

~~10.2 — The General Manager may authorize the acquisition of supplies and equipment from or in cooperation with another governmental agency that is acquiring supplies or equipment in a process which is designed to acquire supplies or equipment which best serves the SEJPA's needs.~~

11. ~~ALTERNATIVE PROCEDURES: COMPLIANCE WITH STATE LAW~~

~~11.1 Notwithstanding the foregoing, the SEJPA may purchase supplies and equipment and enter into contracts as authorized by state law, including Public Contracts Code 20783, at a cost in excess of \$35,000 by complying with the competitive bidding requirements of State law.~~

~~11.2 Notwithstanding the foregoing, the SEJPA may purchase supplies and equipment and enter into contracts as authorized by State Law, including but not limited to Government Code Section 6588.~~

~~b) Approved purchase orders will be used for most purchases. Exceptions include items covered by other contracts, utilities and similar services recurring professional services, water purchases, postage, expense reimbursements, newspaper ads, subscriptions, petty cash items, and other items of similar nature.~~

3.7 Surplus Sales.

~~a) Surplus items having a saleable value shall be accumulated by SEJPA personnel and may be sold at the discretion of the General Manager or his/her designee. Surplus items with an estimated value in excess of \$500 for a specific category shall be appropriately advertised and either auctioned or sold on a negotiated basis depending upon the circumstances. The General Manager or designee shall determine the method of sale and the objective shall always be to obtain the maximum benefit possible for SEJPA.~~

~~b) All applicable laws governing sales of surplus SEJPA property shall be adhered to, including restrictions on SEJPA Board Directors, employees, and/or Directors or employees' relatives receiving such property.~~

3.8 Delegation to General Manager

~~a) The General Manager or designee is authorized to negotiate for and enter into agreements for work to be done by consultants and contractors where the project has been previously approved by the Board of Directors and funds have been appropriated or budgeted. The General Manager or designee shall comply with bidding requirements as contained in this document.~~

3.8 Regulations Governing Change Orders for SEJPA Contracts for the Construction of Public Works

~~The General Manager shall have certain authority for the signing of change orders governing SEJPA contracts. This authority shall extend only to projects that have Board approved appropriations in sufficient amounts to cover the costs of the change order(s). Change orders shall be presented to the Board of Directors at the earliest opportunity for their information and/or approval.~~

- a) Change orders less than \$35,000 may be approved and signed at the discretion of the General Manager.
- b) Change orders totaling more than \$35,000 per contract shall be reviewed and approved by the Board of Directors

3.9 Professional Service Contracts Selection Policy

- a) For professional service contracts that are anticipated to be less than \$50,000, staff shall provide written or oral Requests for Proposals (RFPs) to at least two firms. A short form RFP is acceptable. No rating/interview panel is required.
- b) For professional service contracts that are anticipated to be between \$50,000 to \$200,000, staff shall solicit at least three written proposals from at least three prospective providers. The review and ranking of proposals shall be conducted by in-house review panel. Qualifications, demonstrated competence, and a fair and reasonable fee proposal should be determining factors in the selection of a professional consultant. Staff shall then negotiate the final fee based upon the agreed scope of work.
- c) For professional service contracts that are anticipated to exceed \$200,000, staff shall solicit at least three written proposals from at least three prospective providers. RFPs shall be used to solicit the written proposals and may include the requirement that a price proposal be in writing and be sealed, a general description of the scope of work, the approach for conducting work, project team qualifications and resumes, consultant's experience with similar work, RFP submission deadline, and the time and place for interviews of prospective consultants. The review and ranking of proposals shall be conducted by in-house review panel. Qualifications, demonstrated competence, and a fair and reasonable fee proposal should be determining factors in the selection of a professional consultant. Staff shall then negotiate the final fee based upon the agreed scope of work. Interviews may be conducted by the appropriate staff members.
- d) Where it is apparent that an RFP process would be incongruous and would not result in an advantage to SEJPA, an exception to the foregoing processes may be granted. Exceptions may include where the staff is looking for a particular skill or ability, or where a consultant is already providing current services for SEJPA and there would be economies and efficiencies of scale by continuing with the consultant. Emergencies are also exempted from the RFP process. Staff shall consult with the General Manager or designee prior to commencing the selection process in order to review if the exception to the standard procedures is warranted.

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Board of Directors of the San Elijo Joint Powers Authority held this _____ day of _____, ~~2010~~2019, by the following roll call vote:

AYES: Boardmembers:

NOES: Boardmembers:

ABSENT: Boardmembers:

ABSTAIN: Boardmembers:

~~Maggie Houlihan~~David Zito, Chairperson
SEJPA Board of Directors

ATTEST:

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

SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2019

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: Director of Finance and Administration

SUBJECT: SAN ELIJO JOINT POWERS AUTHORITY CLAIMS POLICY REVISION

RECOMMENDATION

It is recommended that the Board of Directors:

1. Adopt Resolution No. 2020-02, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Claim Policies and Procedures for the San Elijo Joint Powers Authority; and
2. Discuss and take action as appropriate.

BACKGROUND

The San Elijo Joint Powers Authority (SEJPA) claims policy outlines the process for potential claimants to manage and document claims with the agency. The policy documents the legal relationship and rights and responsibilities between the claimant(s) and SEJPA, and provides set standards related to claims management. The policy includes the purpose, scope, procedures, claim form, and delegation of authority, and is the repository for claims-related information. Staff periodically reviews the procedures to ensure they are current and concise, and incorporates proposed revisions for Board consideration.

DISCUSSION

SEJPA staff and legal counsel recently reviewed and updated SEJPA's claims policy and procedures to confirm compliance with current government codes. Staff also reviewed member agency and other government policies to determine if any revisions were warranted to better process, investigate, and resolve claims against SEJPA.

Working with SEJPA legal counsel, staff has prepared a revised claims policy, Resolution No. 2020-02 (Attachment 1), which includes the recommended changes. If the SEJPA Board of Directors approves Resolution 2020-02, it will replace the previous claims policy outlined in Resolution No. 99-03.

This revision documents and formalizes how SEJPA currently manages claims with the assistance of California Sanitation Risk Management Authority (CSRMA) and its consultant Carl

Warren & Company. Carl Warren & Company is a third-party administrator that provides liability and property claims management, litigation management, and subrogation services on behalf of CSRMA.

FINANCIAL IMPACT

There is no financial impact associated with this report.

It is, therefore, recommended that the Board of Directors:

1. Adopt Resolution No. 2020-02, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Claim Policies and Procedures for the San Elijo Joint Powers Authority; and
2. Discuss and take action as appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Kinkel', is written over a horizontal line.

Paul Kinkel
Director of Finance and Administration

Attachment 1: Resolution No. 2020-02, Resolution of the Board of Directors of the San Elijo Joint Powers Authority Establishing Claim Policies and Procedures for the San Elijo Joint Powers Authority

ATTACHMENT 1

RESOLUTION NO. 2020-02

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN ELIJO JOINT POWERS AUTHORITY
ESTABLISHING CLAIM POLICIES AND PROCEDURES
FOR THE SAN ELIJO JOINT POWERS AUTHORITY**

WHEREAS, San Elijo Joint Powers Authority (SEJPA) is a joint powers authority organized and operating pursuant to Government Code Sections 6500 et seq. (SEJPA); and

WHEREAS, the Board of Directors of SEJPA recognizes that the ongoing operation of SEJPA may require the response and resolution of claims filed against SEJPA; and

WHEREAS, it is necessary to respond and resolve claims filed; and

WHEREAS, the Board of Directors of SEJPA desires to establish formal claims policies and procedures in conformity with current California law for implementation by SEJPA staff; and

WHEREAS, pursuant to the Restatement of Agreement Between Cardiff Sanitation District and Solana Beach Establishing the San Elijo Joint Powers Authority creating SEJPA, dated June 25, 2008, the General Manager has the authority to process, investigate, respond to and resolve claims filed against SEJPA, and to settle claims in the amounts not exceeding \$50,000 (or the maximum amount authorized pursuant to Government Code section 935.4), provided that the SEJPA Board may, by resolution, reduce the settlement authority of the General Manager; and

WHEREAS, it is recognized that this Resolution supersedes all previous resolutions establishing claims policies and procedures for the San Elijo Joint Powers Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SAN ELIJO JOINT POWERS AUTHORITY AS FOLLOWS:

1. PURPOSE OF POLICY.

The purpose of this policy is to provide procedures for the presentation and handling of claims against the San Elijo Joint Powers Authority ("SEJPA") and to delegate certain authority for handling claims to SEJPA's General Manager. This policy is intended to govern all claims against SEJPA and to require all claimants to follow the same procedures for all types of claims to the extent permitted by law before bringing a lawsuit. This policy shall supersede SEJPA's prior policies, regulations, or procedures governing claims brought against SEJPA.

2. SCOPE OF POLICY.

All claims against SEJPA, including claims for money and damages, and those claims excepted by Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the Government Code and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedures set forth herein, and which shall be deemed to include the provisions of the Government Claims Act (commencing with Section 900 of the Government Code), which are incorporated herein by reference. For all such claims, compliance with this policy is

mandatory before any lawsuit is filed.

3. CLAIM PROCEDURES

A. Claim Presentation Requirements

No suit for money or damages may be maintained against SEJPA on a cause of action for which a claim is required to be presented by this policy until a written claim therefor has been presented to SEJPA and has been acted upon, or has been deemed rejected, in conformity with this policy. Claims must be submitted to SEJPA's General Manager.

B. Timing of Claim and Statute of Limitations Period

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented not later than one year after the accrual. In the event that a claim or action brought against SEJPA is governed by a shorter statute of limitations period, the claim must comply with the shorter period.

C. Action on Claim

1. Except as otherwise provided or as mutually agreed upon between SEJPA and the claimant, SEJPA shall act on a claim within 45 days after the claim has been presented, or if amended, within 45 days after the amended claim is presented. If SEJPA fails or refuses to act within the time prescribed herein, the claim shall be deemed rejected on the last day of the period during which SEJPA was required to act on the claim.
2. In exchange for settlement of claim, SEJPA may require the claimant to execute a settlement and release agreement in a form acceptable to SEJPA.

4. CLAIM FORM

A. Form and Content of Claim

SEJPA shall provide a form that claimant may use. (See Attachment A.) If this form is not used, a claim must be signed by the claimant or his or her representative and must contain all of the following:

1. The name and post office address of the claimant.
2. The post office address to which the person presenting the claim desires notices to be sent.
3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
4. A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.
6. The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case (per Code of Civil Procedure Section 85 *et seq.*).

B. Insufficiency of Claim

Within 20 days after the claim is presented, SEJPA may return a claim that fails to substantially comply with the requirements of this policy. Such notice of insufficiency shall be in writing and state with particularity the defects or omissions therein. SEJPA may not take action on the claim for a period of 15 days after the written notice of insufficiency is given. A claim may be amended at any time before the expiration of the period designated in this policy or before final action thereon is taken, whichever is later, if the claim as amended relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

5. DELEGATION OF AUTHORITY

A. Authority to Act on Claims

SEJPA's Board of Directors delegates to the General Manager the authority to act on claims submitted under this policy to the extent permitted by law.

Accordingly, the General Manager shall examine and allow, compromise, settle, return, or reject claims required to be filed by this policy; provided that claims may be forwarded to the Board of Directors for action in the discretion of the General Manager. The General Manager has discretion to forward copies of the claim to SEJPA's legal counsel and/or other individuals, including SEJPA's insurance claims reporting agent as appropriate.

When appropriate and in the best interests of SEJPA, the General Manager has authority to allow, compromise, or settle a claim in an amount not to exceed \$50,000, which action shall have the same effect as an action by the Board of Directors. Claims greater than \$50,000 shall be submitted to the Board of Directors, which may allow, compromise or settle the claim as appropriate and in the best interests of SEJPA.

B. Policy Revisions

This policy will be maintained and revised by the executive management staff in consultation with SEJPA's legal counsel. Revisions will occur whenever applicable federal, state, or local regulations change or otherwise as the need arises.

Reviewed and approved by the SEJPA Board of Directors: Resolution 2020-02 on November 11, 2019

Attachment A

Claim Form

Claims should be presented by the claimant or by a person acting on his or her behalf using this form. Answer all questions. Omitting information could make your claim legally insufficient.

[OPTIONAL] Submit completed Claim Form to [Insert Name] at [Insert Contact Information].

1	Claimant name, address, mailing address if different, and phone number	
	Name:	
	Address(es):	
	Phone Number:	
2	List name, address and phone number of any witnesses	
	Name:	
	Address:	
	Phone Number:	
3	List the date, time, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted	
	Date: Time: Place:	
	Describe What Happened (give complete information):	
	Note: Attach any photographs you may have regarding this claim.	
4	Give a general description of the indebtedness, obligation, injury damage or loss incurred so far as it may be known at the time of presentation of claim	
5	Give the name or names of the public employee or employees causing the injury, damage, or loss, if known	
6	Amount of claim, including basis of computation	
	Exact Amount (if < \$10,000):	
	Est. Amount (if > \$10,000) or Indicate Whether Limited Civil Case (< \$25,000):	
Date:	Time:	Signature:

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Board of Directors of the San Elijo Joint Powers Authority held this 18th day of November, 2019, by the following roll call vote:

AYES: Boardmembers:

NOES: Boardmembers:

ABSENT: Boardmembers:

ABSTAIN: Boardmembers:

David Zito, Chairperson
SEJPA Board of Directors

ATTEST:

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

~~_____~~ **RESOLUTION NO. 99-032020-02**

A

RESOLUTION OF THE BOARD OF DIRECTORS

OF THE

SAN ELIJO JOINT POWERS AUTHORITY

ADOPTING THE CLAIMS HANDLING PROCEDURE

ESTABLISHING CLAIM POLICIES AND PROCEDURES
FOR THE SAN ELIJO JOINT POWERS AUTHORITY

WHEREAS, ~~the~~ San Elijo Joint Powers Authority (~~"JPA"~~)(SEJPA) is a ~~local public agency~~ subject joint powers authority organized and operating pursuant to the claims procedures of the California Tort Claims Act found at Government Code sections 900 through 997.6; Sections 6500 et seq. (SEJPA); and

WHEREAS, the ~~JPA~~ Board of Directors ~~desires to formally adopt a claims handling procedure for processing, investigating and resolving claims against the JPA in accordance with the California Tort Claims Act; and~~

~~WHEREAS, the claims handling procedure for the San Elijo Joint Powers Authority attached hereto as Exhibit "A" is in conformance with the California Tort Claims Act and allows for the processing, investigation of SEJPA recognizes that the ongoing operation of SEJPA may require the response and resolution of claims in a practical, timely, and cost effective manner filed against SEJPA; and~~

WHEREAS, it is necessary to respond and resolve claims filed; and

WHEREAS, the ~~claims handling procedure attached hereto as Exhibit "A" has been approved~~ Board of Directors of SEJPA desires to establish formal claims policies and procedures in conformity with current California law for implementation by SEJPA staff; and

WHEREAS, pursuant to the Restatement of Agreement Between Cardiff Sanitation District and Solana Beach Establishing the San Elijo JPA Joint Powers Authority creating SEJPA, dated June 25, 2008, the General Counsel and City of Encinitas Risk Management Department Manager has the authority to process, investigate, respond to and resolve claims filed against SEJPA, and to settle claims in the amounts not exceeding \$50,000 (or the maximum amount authorized pursuant to Government Code section 935.4), provided that the SEJPA Board may, by resolution, reduce the settlement authority of the General Manager; and

WHEREAS, ~~adoption of the attached~~ it is recognized that this Resolution supersedes all previous resolutions establishing claims handling procedure is in the best interests of the JPA policies and the public in general;

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

~~1. _____ The foregoing recitals are true and correct.~~

~~2. _____ The Board hereby adopts the claims handling procedure~~ procedures for the San Elijo Joint Powers Authority ~~attached hereto as Exhibit "A."~~

PASSED AND ADOPTED this _____ day of May, 1999, by the following vote:

AYES; NOES; ABSENT; ABSTAINED

CHAIR, SAN ELIJO JP~~ANOW, THEREFORE,~~ BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SAN ELIJO JOINT POWERS AUTHORITY AS FOLLOWS:

1. PURPOSE OF POLICY.

The purpose of this policy is to provide procedures for the presentation and handling of claims against the San Elijo Joint Powers Authority ("SEJPA") and to delegate certain authority for handling claims to SEJPA's General Manager. This policy is intended to govern all claims against SEJPA and to require all claimants to follow the same procedures for all types of claims to the extent permitted by law before bringing a lawsuit. This policy shall supersede SEJPA's prior policies, regulations, or procedures governing claims brought against SEJPA.

2. SCOPE OF POLICY.

All claims against SEJPA, including claims for money and damages, and those claims excepted by Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the Government Code and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedures set forth herein, and which shall be deemed to include the provisions of the Government Claims Act (commencing with Section 900 of the Government Code), which are incorporated herein by reference. For all such claims, compliance with this policy is mandatory before any lawsuit is filed.

3. CLAIM PROCEDURES

A. Claim Presentation Requirements

No suit for money or damages may be maintained against SEJPA on a cause of action for which a claim is required to be presented by this policy until a written claim therefor has been presented to SEJPA and has been acted upon, or has been deemed rejected, in conformity with this policy. Claims must be submitted to SEJPA's General Manager.

B. Timing of Claim and Statute of Limitations Period

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented not later than one year after the accrual. In the event that a claim or action brought against SEJPA is governed by a shorter statute of limitations period, the claim must comply with the shorter period.

C. Action on Claim

1. Except as otherwise provided or as mutually agreed upon between SEJPA and the claimant, SEJPA shall act on a claim within 45 days after the claim has been presented, or if amended, within 45 days after the amended claim is presented. If SEJPA fails or refuses to act within the time prescribed herein, the claim shall be deemed rejected on the last day of the period during which SEJPA was required to act on the claim.
2. In exchange for settlement of claim, SEJPA may require the claimant to execute a settlement and release agreement in a form acceptable to SEJPA.

4. CLAIM FORM

A. Form and Content of Claim

SEJPA shall provide a form that claimant may use. (See Attachment A.) If this form is not used, a claim must be signed by the claimant or his or her representative and must contain all of the following:

1. The name and post office address of the claimant.
2. The post office address to which the person presenting the claim desires notices to be sent.
3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
4. A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.
6. The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case (per Code of Civil Procedure Section 85 *et seq.*).

B. Insufficiency of Claim

Within 20 days after the claim is presented, SEJPA may return a claim that fails to substantially comply with the requirements of this policy. Such notice of insufficiency shall be in writing and state with particularity the defects or omissions therein. SEJPA may not take action on the claim for a period of 15 days after the written notice of insufficiency is given. A claim may be amended at any time before the expiration of the period designated in this policy or before final action thereon is taken, whichever is later, if the claim as amended relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

5. DELEGATION OF AUTHORITY

A. Authority to Act on Claims

SEJPA's Board of Directors delegates to the General Manager the authority to act on claims submitted under this policy to the extent permitted by law.

Accordingly, the General Manager shall examine and allow, compromise, settle, return, or reject claims required to be filed by this policy; provided that claims may be forwarded to the Board of Directors for action in the discretion of the General Manager. The General Manager has discretion to forward copies of the claim to SEJPA's legal counsel and/or other individuals, including SEJPA's insurance claims reporting agent as appropriate.

When appropriate and in the best interests of SEJPA, the General Manager has authority to allow, compromise, or settle a claim in an amount not to exceed \$50,000, which action shall have the same effect as an action by the Board of Directors. Claims greater than \$50,000 shall be submitted to the Board of Directors, which may allow, compromise or settle the claim as appropriate and in the best interests of SEJPA.

B. Policy Revisions

This policy will be maintained and revised by the executive management staff in consultation with SEJPA's legal counsel. Revisions will occur whenever applicable federal, state, or local regulations change or otherwise as the need arises.

Reviewed and approved by the SEJPA Board of Directors: Resolution 2020-02 on November 11, 2019

Attachment A

Claim Form

Claims should be presented by the claimant or by a person acting on his or her behalf using this form. Answer all questions. Omitting information could make your claim legally insufficient. **[OPTIONAL]** Submit completed Claim Form to **[Insert Name]** at **[Insert Contact Information]**.

<u>1</u>	<u>Claimant name, address, mailing address if different, and phone number</u>
	<u>Name:</u>
	<u>Address(es):</u>
	<u>Phone Number:</u>
<u>2</u>	<u>List name, address and phone number of any witnesses</u>
	<u>Name:</u>
	<u>Address:</u>
	<u>Phone Number:</u>
<u>3</u>	<u>List the date, time, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted</u>
	<u>Date:</u> <u>Time:</u> <u>Place:</u>
	<u>Describe What Happened (give complete information):</u>
	<u>Note: Attach any photographs you may have regarding this claim.</u>
<u>4</u>	<u>Give a general description of the indebtedness, obligation, injury damage or loss incurred so far as it may be known at the time of presentation of claim</u>
<u>5</u>	<u>Give the name or names of the public employee or employees causing the injury, damage, or loss, if known</u>
<u>6</u>	<u>Amount of claim, including basis of computation</u>
	<u>Exact Amount (if < \$10,000):</u>
	<u>Est. Amount (if > \$10,000) or Indicate Whether Limited Civil Case (< \$25,000):</u>
<u>Date:</u>	<u>Time:</u> <u>Signature:</u>

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Board of Directors of the San Elijo Joint Powers Authority held this 18th day of November, 2019, by the following roll call vote:

AYES: Boardmembers:

NOES: Boardmembers:

ABSENT: Boardmembers:

ABSTAIN: Boardmembers:

David Zito, Chairperson
SEJPA Board of Directors

ATTEST:

~~MANAGER, SAN ELIJO JOINT POWERS
AUTHORITY~~

EXHIBIT A – RESOLUTION 99-03

CLAIMS HANDLING PROCEDURE FOR THE SAN ELIJO JOINT POWERS AUTHORITY

I. BACKGROUND

Michael T. Thornton, P.E.

1. Secretary of the Board

~~The following identifies the San Elijo Joint Powers Authority's ("JPA") procedures for processing, investigating and resolving public liability claims filed against the JPA. These procedures have been formally adopted by the JPA Board of Directors by RESOLUTION NO.99-03.~~

II. CLAIMS PROCEDURE

A. Responsibilities

~~1. Any claim and/or demand for damages, relief, or compensation from the JPA for injury or damage to person or property received by any JPA employee or department shall be date stamped and immediately forwarded to the JPA Administrative Services Coordinator (hereinafter "ASC") or any person designated by the JPA Manager as responsible for claims processing in accordance with the procedures established herein.~~

~~2. The ASC is responsible for ensuring that any and all claims received by the JPA are processed in accordance with this procedure in order to protect the interests of the JPA and the public in general.~~

B. JPA Procedure

~~3. Upon receipt of a claim, the ASC shall date stamp the documents making up the claim to include the envelope and assign a claim number to the claim.~~

~~4. The ASC shall be responsible for keeping a master file on any and all claims, and retain copies of any and all documents relating to such claims in said master file.~~

~~5. Pursuant to the requirements of the JPA's liability insurance policy with the San Diego Pooled Insurance Program Authority (hereinafter "SANDPIPA"), all claims received by the San Elijo JPA shall be investigated and managed by the City of Encinitas. Therefore, the City of Encinitas shall act as the lead agency in the administration and management of all claims filed against the San Elijo Joint Powers Authority in accordance with the City of Encinitas's claims processing procedures and in coordination with the JPA.~~

~~6. Upon receipt of a claim, the ASC shall forward the original claim to the Risk Manager at the City of Encinitas or any other person designated by the City Manager as responsible for processing claims at the City of Encinitas. At the same time, the ASC shall notify the JPA's General Counsel of the claim and provide General Counsel's office with a copy of the claim.~~

~~7. The City of Encinitas's Risk Manager will review the sufficiency of the claim in order to determine whether it contains the necessary information as required by the California Government Code, Tort Claims Act, and to determine whether the claim was filed within the legally required time limit.~~

~~8. In the event a "Late Claim" or "Application for Leave to File a Late Claim" is presented to or filed with the San Elijo JPA, said late claim and/or application shall be processed by the ASC in the same manner as a claim herein. Once said Late Claim and/or Application is received by the City of Encinitas Risk Manager, the Risk Manager shall determine the timeliness of said claim and any and all appropriate responses thereto.~~

~~9. Once the Risk Manager has analyzed the claim to determine its timeliness and sufficiency, said claim shall be investigated by the City of Encinitas's Risk Management Department and/or its agent in accordance with the City's established claim procedures. Any investigating agent and/or legal counsel appointed by Risk Management for investigation and/or defense of a claim shall be first approved by the JPA General Manager.~~

~~10. The ASC shall confer and coordinate with the City of Encinitas's Risk Manager to assure that timely notice of a claim is provided to SANDPIPA as required under the JPA's liability insurance policy with SANDPIPA.~~

~~11. The ASC and any and all employees of the JPA shall be responsible for providing information and assistance regarding any claim as required by the Risk Manager of the City of Encinitas and/or any agent of the City of Encinitas conducting an investigation and/or defense of a claim.~~

~~12. The Risk Manager for the City of Encinitas, after review and investigation of a claim shall present an assessment and recommendation to the San Elijo JPA regarding the claim. Any and all assessments and/or recommendations received by the ASC shall be immediately forwarded to the General Manager of the JPA.~~

~~13. The JPA Board has granted the JPA Manager the authority to settle claims for \$3,000 or less without Board approval by Resolution No. 9902. To the extent the City of Encinitas's assessment and recommendation to the JPA involves settlement of a claim under \$3,000, the General Manager may act to approve settlement of the claim in accordance with said Resolution.~~

~~14. The JPA Board must approve settlements over \$3,000. If the City of Encinitas's assessment and/or recommendation recommends a settlement over \$3,000, a confidential memorandum shall be sent by the City of Encinitas Risk Management and/or JPA Manager recommending that a closed session be held with the JPA Board for the purposes of reviewing the claim and any pending litigation. The report shall contain all necessary information regarding the claim as well as the amount of the recommended settlement.~~

~~15. Any and all claims which involve liability and/or settlement above the JPA's self insured retention amount shall be processed with SANDPIPA through the City of Encinitas's Risk Management Department for the purpose of ensuring that the JPA is provided with all of the benefits and rights to which it is entitled under its liability policy.~~

~~16. In the event a claim and/or lawsuit is approved for settlement by either the JPA Board or General Manager as provided above, the ASC shall coordinate with the Risk Manager to obtain from the claimant or plaintiff a Full Release and Settlement of all Claims and Dismissal~~

~~of any pending lawsuit at the time payment in settlement is made to claimant or plaintiff. ASC shall coordinate with the Risk Manager to draft a closing memo to the file and to provide written notification of said final settlement to the JPA General Manager and JPA General Counsel.~~

~~17. The ASC shall keep and maintain at the JPA administrative offices a written file on any claim for two (2) years from the date the claim was settled. Thereafter, the file shall be retained by the Risk Manager on microfilm and/or computer disk at the City of Encinitas's administrative offices.~~

SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2019

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: CONTRACT FOR PROCUREMENT TO REMOVE AND REPLACE DIGESTER
GAS BOILER NO. 1

RECOMMENDATION

It is recommended that the Board of Directors:

1. Authorize the General Manager to enter into an agreement with California Boiler for the procurement and installation of a digester gas boiler for a lump sum contract of \$192,946; and
2. Discuss and take action as appropriate.

BACKGROUND

The San Elijo Joint Powers Authority (SEJPA) owns and operates the San Elijo Water Campus which includes 5.25 million gallons per day (mgd) wastewater treatment and 3.02 mgd water recycling facility. As part of the wastewater treatment process, solid material is separated from the water using a series of tanks and pumps. The removed solids are treated in accordance with 40 CFR Part 503 (Standards for the Use or Disposal of Sewage Sludge). The process typically produces approximately 300 wet tons of Class B biosolids per month, which are transported to Arizona for land application.

The original solids treatment process consisting of two anaerobic digesters was constructed in 1965. In 1992, when the treatment plant was expanded to include secondary treatment, two additional digesters were constructed, and dissolved air floatation (DAF) tanks and belt filter presses were added for solids thickening. The solids processing equipment includes the DAF, belt filter presses, transfer pumps, sludge mixing equipment, heat exchangers, boilers, conveyor, and transfer hopper. The 2015 Facility Plan recommended replacing and/or upgrading this equipment as it is nearing the end of its projected useful life.

The anaerobic treatment process requires the digested sludge to remain above 95 degrees Fahrenheit (F) to be effective and to comply with 40 CFR Part 503. The SEJPA treatment process

utilizes methane gas that is a bi-product of the anaerobic digestion process as fuel for the boilers that provide heat to maintain the required sludge temperature. The digester gas is extremely corrosive and causes deterioration in the boiler chamber during the combustion process. One of the two boilers installed in 1997 has reached the end of useful service life and requires replacement.

DISCUSSION

On October 14, 2019, the project was advertised for public bidding on Planet Bids (web-based procurement system that specializes in government procurement and public works contract bidding). Staff conducted a mandatory job walk on October 24, 2019 to review the project requirements and constraints with interested contractors. Bids were accepted electronically on Planet Bids until 11:00 am on November 7, 2019. Four bids were received with the lowest bid of \$192,946; the average and highest bids were \$270,260 and \$315,654 respectively. The bid results are shown in the Table 1 below:



Table 1: Bid Results for Boiler No. 1 Replacement

Vendor	Price
California Boiler	\$192,946
Public Works Contractor, Inc.	\$284,905
Jackson & Blanc	\$287,534
HPS Mechanical, Inc.	\$315,654

California Boiler's bid was reviewed by staff and determined that the bid meets all of the submittal requirements, and that it was the lowest, responsive, and responsible bid. California Boiler has over 30 years of experience within the industry and their references indicate quality work. SEJPA has previous work experience with California Boiler for boiler maintenance, which was positive.

FISCAL IMPACT

The recommended construction contract to remove and replace Boiler No. 1 is \$192,946. The overall recommended construction budget for this project is \$241,831; which includes \$7,700 for Engineering during construction, \$19,300 for Construction Management and Inspection, and

\$21,985 for contingency.

Budget - Construction Phase	
Construction	\$192,946
CM & Engineering (14%)	27,000
SUBTOTAL	219,946
Contingency (10%)	21,995
PROJECT TOTAL:	\$241,941

The FY 2019-20 Budget includes funding for the proposed project in the Capital Program, Phase 3 – Solids Treatment Improvements.

It is therefore recommended that the Board of Directors:

1. Authorize the General Manager to enter into an agreement with California Boiler for the procurement and installation of a digester gas boiler for a lump sum contract of \$192,946; and
2. Discuss and take action as appropriate.

Respectfully submitted,



Michael T. Thornton, P.E.
General Manager

Attachment 1: Agreement between San Elijo Joint Powers Authority and California Boiler for the removal and replacement of Boiler No. 1

ATTACHMENT 1

AGREEMENT

BOILER No. 1 REPLACEMENT SERVICES Specification Number SE 2020 BRS

THIS AGREEMENT ("Agreement") is made and entered into on this _____ day of November, 2019, by and between San Elijo Joint Powers Authority, a joint powers authority organized and operating pursuant to Government Code Sections 6500 et seq., hereinafter referred to as "AUTHORITY" or the "SEJPA," and California Boiler, Inc., a California corporation, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, on October 12, 2019, AUTHORITY invited bids for the provision of BOILER No. 1 REPLACEMENT Services per Specifications No. SE 2020 BRS .

WHEREAS, pursuant to said invitation, CONTRACTOR submitted a bid which was accepted by AUTHORITY for said services.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. TERM. Unless earlier terminated in accordance with Section 10, the term of this Agreement shall be from the date this Agreement is made and entered, as first written above, until June 30, 2020.
 - 1.1 Time for Completion. CONTRACTOR will perform the services comprising the Work within 180 calendar days of issuance of the Notice to Proceed.
 - 1.2 Liquidated Damages. AUTHORITY and CONTRACTOR recognize that time is of the essence in this Agreement and that AUTHORITY will suffer financial loss if the Work is not completed within the times specified in Paragraph 1.1 above. They also recognize the delays, expense and difficulties involved in proving in a legal action or arbitration proceeding the actual loss suffered by AUTHORITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, AUTHORITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay AUTHORITY One Thousand Dollars (\$1,000.00) for each day that expires after the time specified in Paragraph 1.1 for Completion of the Work until the Work is fully complete and AUTHORITY issues a notice of Final Completion.
2. INCORPORATION BY REFERENCE. The Public Notice Inviting Bids, the Information for Bidders, the Special Bid Terms and Conditions, Bid Submission Form(s) and their accompanying documents, the Bid Specifications, and the Payment and Performance Bonds (collectively, the "Contract Documents"), are hereby incorporated in and made a part of this Agreement. In the event of any inconsistencies or conflicts in the Contract Documents, the order of precedence from highest to lowest shall be: Any amendments to this Agreement, this Agreement, the Bid Specifications, the Information for Bidders, the Special Bid Terms and Conditions, the Notice Inviting Bids, the Payment and Performance Bonds, and the Bid Submission Form(s).

3. AUTHORITY'S OBLIGATIONS. For furnishing labor, materials, services and/or equipment as specified in the Agreement, AUTHORITY will pay and CONTRACTOR shall receive compensation for BOILER No. 1 REPLACEMENT services per the attached bid submission. The total lump sum amount shall be \$192,946. This total contract price shall be used for the purposes of the Faithful Performance and Payment Bonds executed in connection with this Agreement.

Payments to the CONTRACTOR shall be made within forty-five (45) days after completion of the services for the month in question and AUTHORITY's receipt of an original invoice from the CONTRACTOR referencing the AUTHORITY's Purchase Order Number and acceptance of the materials, supplies, equipment, or services (Net 45). CONTRACTOR shall invoice no more frequently than monthly for services or supplies provided. Neither AUTHORITY'S acceptance of, nor payment for any of the services, shall be construed to operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement. AUTHORITY may withhold or reduce payments otherwise due CONTRACTOR as reasonably necessary to remedy deficiencies in the Work or damages caused by CONTRACTOR, or to protect AUTHORITY against claims or liabilities arising from the operations of CONTRACTOR or its subcontractors under this Agreement. Pursuant to section 10262 of the California Public Contract Code and section 7108.5 of the California Business and Professions Code, CONTRACTOR shall pay its subcontractors and suppliers within seven (7) days of receipt of payment from AUTHORITY.

Notwithstanding the above, AUTHORITY will retain a portion of the amount otherwise due CONTRACTOR. The amount retained by AUTHORITY will be as follows:

- AUTHORITY shall retain five percent (5%) of such estimated value of the Work as part security for the fulfillment of the Agreement by CONTRACTOR.
- Said amount shall be withheld until final completion and acceptance of the Work, consistent with Public Contract Code 9203 and the terms of this Agreement.

Final payment will only be released upon authorization from the Board of Directors of the AUTHORITY. Final payment of undisputed contract amounts is contingent upon CONTRACTOR furnishing the AUTHORITY with a release of all claims against AUTHORITY arising by virtue of the Agreement. CONTRACTOR shall deliver to AUTHORITY written waivers from its subcontractors and suppliers on the forms required pursuant to Civil Code Sections 8136 (conditional) and 8138 (unconditional). In the event that the governing board of AUTHORITY takes final acceptance without obtaining the waivers from CONTRACTOR, CONTRACTOR is not released from its obligation to provide such waivers to AUTHORITY.

4. CONTRACTOR'S OBLIGATIONS. For and in consideration of the payments and agreements hereinbefore mentioned to be made and performed by AUTHORITY, CONTRACTOR agrees with AUTHORITY to furnish the Work and to do everything required by this Agreement and the Specifications. Without limiting the generality of the foregoing, CONTRACTOR warrants on behalf of itself and all subcontractors engaged for the performance of this Agreement that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder. In performing Work under this Agreement, CONTRACTOR agrees to comply with all laws, rules and

regulations and ordinances, whether federal, state or local, and any and all AUTHORITY policies, procedures, departmental rules or other directives applicable to the Work. Any changes to AUTHORITY'S policies and procedures that relate to CONTRACTOR will be provided to CONTRACTOR in writing. CONTRACTOR agrees to review such policies, procedures, rules and directives and shall be deemed to have knowledge of them. CONTRACTOR shall ensure that any report generated under this Agreement complies with California Government Code section 7550.

5. CONTRACTOR DECLARATIONS

The CONTRACTOR declares the Work will be conducted pursuant to the following additional requirements of the State of California:

5.1 Prevailing Wage Scale: Reference is hereby made to, and CONTRACTOR agrees to fully comply with, the rate of prevailing wage scale established by the State of California Director of Industrial Relations, a copy of which is available for inspection in the AUTHORITY's office, the provisions of which are hereby specified as the rate of prevailing wage to be paid workers on this Work, and the provisions of Article 2, Chapter 1, Part 7, Division 2 (commencing with Section 1770) of the Labor Code shall be fully applicable to the Work. As applicable to the Work and pursuant to Sections 1770 et seq. of the Labor Code, CONTRACTOR and any of CONTRACTOR's subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations.

5.1.1 The CONTRACTOR shall be subject to the penalties set forth in Section 1775 of the Labor Code for any violation of prevailing wage requirements.

5.2 Hours of Labor: Eight-hour labor constitutes a legal day's work. The CONTRACTOR shall forfeit, as penalty to the AUTHORITY, twenty-five dollars (\$25.00) for each worker employed in the execution of the Agreement by him or by any subcontractor, for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except as permitted by the provisions of Article 3, Chapter 1, Part 7, Division 2 (commencing with Section 1810) of the Labor Code of the State of California.

5.3 Apprentices: The CONTRACTOR has the responsibility to comply with the provisions of Section 1777.5 of the Labor Code for all apprenticeable occupations, including but not limited to, employment requirements, training requirements and payment of the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Prior to commencing Work on the Project, the CONTRACTOR shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the Work, and shall also submit a copy of such information to the AUTHORITY. Within sixty (60) days after concluding the Work, the CONTRACTOR and each subcontractor shall submit to the AUTHORITY, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed. Pursuant to Section 1777.5, subdivision (e), this information shall be public. Penalties for violations of Section 1777.5 are set forth in Section 1777.7 of the Labor Code. Information relative to number of apprentices, identifications, wages, hours of employment and standards of working conditions shall be obtained from the Director of the Department of Industrial Relations, who is the Administrative Officer of the California Apprenticeship Council.

5.4 Prohibited Employment Discrimination: Attention is directed to Section 1735 of the California Labor Code, which reads as follows:

A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government code. Every Contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

5.5 Workers' Compensation Insurance: In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, the CONTRACTOR is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Workers' Compensation Insurance. The undersigned CONTRACTOR certifies it is aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation claims or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the Work in this Contract.

5.6 Security for Compensation: The CONTRACTOR further agrees to secure the payment of compensation to his employees in accordance with the provisions of Section 3700 of the California Labor Code.

5.7 Warranty: Neither final payment nor any provision in the Contract Documents shall relieve CONTRACTOR of responsibility for faulty materials or workmanship incorporated in the Project. CONTRACTOR warrants that all work under this Agreement will be free of faulty materials or workmanship and hereby agrees, within ten (10) working days upon receiving notification from SEJPA, to remedy, repair or replace, without cost to SEJPA, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Work and ending one (1) year after the termination or expiration of this Agreement. The foregoing warranty of CONTRACTOR also applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by CONTRACTOR and/or any party retained by, through or under CONTRACTOR in connection with the Work, but the foregoing warranty of CONTRACTOR does not guarantee against damage to the Work sustained by use, wear, intentional acts, accidents, or lack of normal maintenance or as a result of changes or additions to the Work made or done by parties not directly responsible to CONTRACTOR, except where such changes or additions to the Work are made in accordance with CONTRACTOR's directions. No guarantee furnished by a party other than CONTRACTOR with respect to equipment manufactured or supplied by such party shall relieve CONTRACTOR from the foregoing warranty obligation of CONTRACTOR. The warranty period set forth herein above shall not apply to latent defects appearing in the Work, and with respect to such defects, the applicable statute of limitations shall apply. CONTRACTOR agrees to provide SEJPA with all equipment and materials warranties provided by manufacturers to SEJPA but has no obligation to assist in processing such warranty claims after said one (1) year warranty period.

5.8 CONTRACTOR'S License: The CONTRACTOR agrees to abide by all applicable licensing laws and regulations in the performance of any work under this Agreement. The CONTRACTOR declares that it possesses a valid California CONTRACTOR's License of the required **Class A General Engineering Contractor or Class C-4 Boiler, Hot Water**

Heating and Steam Fitting Contractor at the time of signing this Agreement, and shall maintain such license during the term of this Agreement. The CONTRACTOR shall affirm its license number, classification and expiration date as stated on its Bid by signing this Agreement. The following statement is included in accordance with Section 7030 of the California Business and Professions Code:

“Contractors are required by law to be licensed and regulated by the Contractors State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors’ State License Board, P.O. Box 26000, Sacramento, California 95826.”

5.9 Payroll Records: The CONTRACTOR shall, and shall require each subcontractor to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid by each journeyman, apprentice, worker, other employee employed by him or her in connection with the Work. Each payroll record shall contain or be verified by a written declaration that is made under penalty of perjury, stating both the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any Work performed by his or her employees on the Project. The payroll records shall be certified, available for inspection, and electronic copies thereof furnished directly to the Labor Commissioner (A) at least monthly or more frequently, or (B) in a format prescribed by the Labor Commissioner, as prescribed in Section 1776 of the Labor Code. The CONTRACTOR shall inform the SEJPA of the location of the records, including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address. Penalties for noncompliance include those provided at subdivision (h) of Section 1776 of the Labor Code.

5.10 Public Works Contractor Registration Program: CONTRACTOR must be, and must require its subcontractors to be, registered with the Department of Industrial Relations (DIR) prior to execution of this Agreement. All contractors and subcontractors who bid or work on, and/or who are awarded a public works project must register with and pay an annual fee to the DIR. No contractor or subcontractors may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the DIR pursuant to Labor Code Section 1725.5. This project is subject to compliance monitoring and enforcement by the DIR. CONTRACTOR shall not perform any work under this Agreement with a subcontractor who is ineligible to perform work on a public works project pursuant to California Labor Code Sections 1777.1 or 1777.7.

5.11 Compliance with Laws/Rules. In performing the services specified in this Agreement, CONTRACTOR agrees to comply with all laws, rules, regulations and ordinances, whether federal, state or local, and any and all of AUTHORITY’s policies, procedures, departmental rules and other directives applicable to the services to be performed and provided by AUTHORITY to CONTRACTOR, including, but not limited to, AUTHORITY’s Safety Policies and Procedures. CONTRACTOR will post, and/or will

require its subcontractors to post, all job site notices prescribed by law or regulation. CONTRACTOR will perform all services under this Agreement in good faith and in the best interests of SEJPA.

CONTRACTOR represents, warrants and covenants to AUTHORITY that (a) the Contract Price includes funds sufficient to allow CONTRACTOR to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided under this Agreement, (b) CONTRACTOR will fully comply with all such laws and regulations, and (c) CONTRACTOR shall defend, indemnify and hold AUTHORITY harmless from and against any claims arising out of CONTRACTOR's failure to fully perform and honor its obligations under this Section 5.11. In submitting bid, signing the Agreement, performing the Work, and requesting and receiving payment, CONTRACTOR certifies it has not and will not submit false claims, pursuant to Government Code Section 12650 et seq.

6. HOLD HARMLESS AND INDEMNIFICATION. To the fullest extent permitted by law, CONTRACTOR agrees to defend, indemnify, and hold harmless AUTHORITY, its member agencies (to include the City of Encinitas and the City of Solana Beach), and each of their respective directors, officials, officers, employees, representatives, and agents (collectively, "Indemnified Parties"), from and against all claims, lawsuits, liabilities or damages, including attorney's fees and costs, of whatsoever nature arising out of or in connection with, or relating in any manner to any act or omission of CONTRACTOR, its agents, employees, and subcontractors of any tier and employees thereof in connection with the performance or non-performance of this Agreement. The CONTRACTOR shall thoroughly investigate any and all claims and indemnify the Indemnified Parties and do whatever is necessary to protect the Indemnified Parties as to any such claims lawsuits, liabilities, expenses, or damages. Nothing in this Agreement shall impose on CONTRACTOR, or relieve SEJPA from, liability to the extent of the active negligence, sole negligence or willful misconduct of AUTHORITY. AUTHORITY shall timely notify CONTRACTOR of the receipt of any third-party claim relating to the Agreement.
7. INSURANCE. During the course of the Agreement, CONTRACTOR shall pay for and maintain, in full force and effect, all insurance required by any governmental agency having jurisdiction to require particular insurance of CONTRACTOR in connection with or related to the Work covered hereby. CONTRACTOR SHALL FURTHER TAKE OUT AND SHALL FURNISH SATISFACTORY PROOF BY CERTIFICATE OR OTHERWISE AS MAY BE REQUIRED, THAT IT HAS TAKEN OUT COMPREHENSIVE GENERAL LIABILITY INSURANCE AND AUTO LIABILITY WITH AUTHORITY, ITS MEMBER AGENCIES (TO INCLUDE THE CITY OF ENCINITAS AND THE CITY OF SOLANA BEACH), AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS ("INSURED PARTIES") NAMED HEREIN AS ADDITIONAL INSUREDS, AS WELL AS ALL OTHER COVERAGE REQUIRED BY THIS AGREEMENT. Insurance carrier(s) shall be satisfactory to AUTHORITY, and insurance shall be purchased from insurance companies with a current A.M. Best rating of no less than A:VII, unless otherwise agreed in writing by AUTHORITY. Insurance shall be in such form approved by AUTHORITY so as to protect all Insured Parties against loss from liability assumed by contract or imposed by law from damages on account of bodily injury, including death resulting therefrom, suffered or alleged to have been suffered by any person or persons, other than employees, resulting directly or indirectly from the negligent performance or execution of this Agreement by CONTRACTOR or any subcontract with CONTRACTOR thereunder, and also to protect all Insured Parties against loss from liability imposed by law for damage to any property,

caused directly or indirectly by the negligent performance or execution of the Agreement by CONTRACTOR; which insurance shall also cover accidents arising out of the use and operation of owned, non-owned and hired automobiles, trucks, and/or other mobile equipment. Automobile liability shall be at least as broad as form number CA 0001, covering code 1 (any auto), covering bodily injury and property damage, with a combined single limit of no less than \$1,000,000 per claim for bodily injury and property damage. General liability shall be at least as broad as occurrence form CG 0001, covering bodily injury, personal injury and property damage. The amounts of coverage of said insurance shall not be less than the following:

Public Liability	\$1,000,000 single limit/\$3,000,000 aggregate
Property Damage	\$1,000,000 single limit/\$3,000,000 aggregate

CONTRACTOR shall further maintain adequate Worker's Compensation Insurance, including occupational disease provisions, under the laws of the State of California and employer's general liability insurance for the benefit of its employees with a combined single limit of no less than \$1,000,000 per claim for bodily injury or disease, and shall require similar insurance to be provided by its subcontractors. A certificate shall be furnished to AUTHORITY showing compliance with above.

CONTRACTOR hereby agrees to waive rights of subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of AUTHORITY for all work performed by CONTRACTOR, its employees, agents and subcontractors.

Each insurance policy shall provide that coverage shall not be canceled, except with notice to AUTHORITY.

All insurance policies shall be on an occurrence basis and cover the period of performance under this Agreement.

The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties.

CONTRACTOR'S insurance shall be primary insurance as respects the Insured Parties, and each of them. Any insurance, self-insurance or other coverage maintained by Insured Parties shall be excess of the CONTRACTOR'S insurance and not contribute to it.

Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Insured Parties.

CONTRACTOR'S insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of insurer's liability.

All insurance policies shall specifically cover any contractual liability incurred pursuant to this Agreement.

Any deductibles or self-insured retention limits must be disclosed to AUTHORITY prior to execution of this Agreement. At the option of AUTHORITY, either: the insurer shall reduce

or eliminate such deductibles as respects the Insured Parties; or CONTRACTOR shall provide a financial guarantee satisfactory to AUTHORITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

CONTRACTOR shall furnish to AUTHORITY certificates of insurance prior to the commencement of Work under this Agreement, and as may be periodically requested by AUTHORITY. CONTRACTOR shall include all endorsements necessary to comply with this Agreement, including additional insured endorsements, signed by the insurer's representative. Such evidence shall include confirmation that coverage includes or has been modified to include all provisions required by this Agreement. CONTRACTOR shall, upon request of AUTHORITY at any time, deliver to AUTHORITY complete, certified copies of the policies of insurance, including endorsements, and receipts for payment or premiums thereon, required by this Agreement. Failure to obtain the required documents prior to the Work beginning shall not waive CONTRACTOR'S obligation to provide them.

If any of the required coverages expire during the term of this Agreement, CONTRACTOR shall deliver the renewal certificate(s) including the general liability and auto liability additional insured endorsements to AUTHORITY at least ten (10) days prior to the expiration date.

In the event that CONTRACTOR employs subcontractors to perform any portion of the services to be performed pursuant to this Agreement, it shall be CONTRACTOR'S responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified in this Agreement.

8. AMENDMENTS. Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the General Manager of the AUTHORITY.
9. EXTRA WORK. The Contract Price is intended by the parties to be inclusive of all cost and expense to CONTRACTOR to provide, among other things, the labor, materials and equipment to maintain the irrigation system at the Project site, including any necessary repairs or replacements. Nevertheless, to the extent that the Contract Documents (including the Specifications) indicate that an item of work is considered to be "Extra Work," or if the parties mutually agree that an item of work is not included in the scope of the Contract Documents, then CONTRACTOR shall promptly submit a written request for an "Extra Work Authorization" ("EWA") and shall include within that EWA CONTRACTOR's proposed cost to perform the Extra Work, supported by such documentation as AUTHORITY may reasonably request. If AUTHORITY approves the EWA it will sign and return it to CONTRACTOR to authorize the performance of the Extra Work. If the parties are unable to reach agreement on the EWA, then AUTHORITY may direct CONTRACTOR to perform the Extra Work on a time and materials basis, in which event CONTRACTOR shall submit daily time and material reports to AUTHORITY for verification. In no event shall CONTRACTOR be entitled to receive compensation for the performance of any Extra Work for which it has not received written authorization from AUTHORITY to perform.
10. TERMINATION.
 - 10.1 If, during the term of this Agreement, AUTHORITY determines that CONTRACTOR is not faithfully abiding by any term or condition contained herein,

AUTHORITY may notify CONTRACTOR in writing of such defect or failure to perform; which notice must give CONTRACTOR five (5) working days thereafter in which to perform said work or cure the deficiency. If CONTRACTOR has not performed the work or cured the deficiency within five (5) days specified in the notice, such shall constitute a breach of this Agreement and AUTHORITY may, at its election, perform the Work and/or remedy the defect and charge the expense to Contractor, or terminate this Agreement immediately by written notice to CONTRACTOR to said effect. Such termination shall terminate CONTRACTOR's right to proceed with the Work hereunder, but shall not terminate CONTRACTOR'S ongoing obligations, including without limitation its indemnification, hold harmless and defense obligations. In the event of such termination, CONTRACTOR shall be entitled to receive payment based on the Contract Price for the services performed up through the day it received AUTHORITY's Notice of Termination, minus any offset from such payment representing AUTHORITY's damages or reasonably likely damages from such breach. AUTHORITY reserves the right to delay any such payment, to allow for a full and complete accounting of costs. In no event, however, shall CONTRACTOR be entitled to receive payment in excess of the compensation quoted in its bid.

10.2 AUTHORITY may terminate this Agreement, in whole or in part, for AUTHORITY's convenience and without cause upon providing thirty (30) days' written notice to CONTRACTOR. Upon its receipt of such notice CONTRACTOR shall perform no additional Work and shall place no additional subcontracts or purchase orders except as otherwise directed by AUTHORITY in writing. Upon such termination CONTRACTOR shall be entitled to receive payment as provided in Section 10.1, but shall not be entitled to receive any profit, overhead or other markup on Work not performed.

11. STATUS OF CONTRACTOR. CONTRACTOR and its employee(s) are engaged in an independent contractor relationship with AUTHORITY in performing all work, duties and obligations hereunder. AUTHORITY shall not exercise any control or direction over the methods by which CONTRACTOR shall perform its Work and functions. AUTHORITY'S sole interest and responsibility is to ensure that the services covered by this Agreement are performed and rendered in a competent, satisfactory and legal manner. CONTRACTOR represents that its employee(s) have the qualifications and skills necessary to perform the Work and services under this Agreement in a competent, professional manner, without the advice or direction of AUTHORITY. CONTRACTOR will supply all tools, materials and equipment required to perform the Work and services under this Agreement. The parties agree that no work, act, commission or omission of CONTRACTOR or its employee(s) pursuant to this Agreement shall be construed to make CONTRACTOR and its employee(s) the agent, employee or servant of AUTHORITY. CONTRACTOR and its employee(s) are not entitled to receive from AUTHORITY vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits or any other employee benefit of any kind. CONTRACTOR shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance and for otherwise complying with all other employment law requirements with respect to CONTRACTOR or its employee(s). To the maximum extent allowable by law, CONTRACTOR agrees to indemnify, defend and hold AUTHORITY harmless from any and all liability, damages or losses (including attorney's fees, costs, penalties and fines) AUTHORITY suffers as a result of (a) CONTRACTOR'S failure to meet its employer obligations, or (b) a third party's designation of CONTRACTOR or its employee as an employee of AUTHORITY, regardless of any actual or alleged negligence by AUTHORITY.

12. ASSIGNMENT. Neither this Agreement nor any duties or obligations under this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of AUTHORITY. AUTHORITY has entered into this Agreement in order to receive the professional services of CONTRACTOR. The provisions of this Agreement shall apply to any subcontractor of CONTRACTOR. AUTHORITY shall have the right to approve any subcontractor agreements, in addition to the written consent required by this section. Effective immediately upon the tender of final payment to CONTRACTOR, CONTRACTOR assigns to AUTHORITY all rights, title and interest in and to all causes of action CONTRACTOR may have under the Clayton Act (15 U.S.C. section 15) or under the Cartwright Act (California Business and Professions Code section 16700, et seq.) arising from purchases of goods, services, or materials pursuant to this Agreement.
13. PROPRIETARY RIGHTS. Any written, printed, graphic, or electronically or magnetically recorded information furnished by AUTHORITY for CONTRACTOR'S use are the sole property of AUTHORITY. CONTRACTOR and its employee(s) will keep any information identified by AUTHORITY as confidential in the strictest confidence, and will not disclose it by any means to any person except with AUTHORITY approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to CONTRACTOR'S employees, agents, and subcontractors. On termination of this Agreement, CONTRACTOR will promptly return any confidential information in its possession to AUTHORITY.
14. PARTIAL INVALIDITY. If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.
15. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same Agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.
16. PROVISIONS REQUIRED BY LAW. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the request of either party, the Agreement shall forthwith be physically amended to make such insertion.
17. GOVERNING LAW. This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom, or rule of law requiring construction against the draftsman.
18. SUBSTITUTION OF SECURITIES FOR AMOUNTS WITHHELD
 - 18.1 Pursuant to Section 22300 of the California Public Contract Code, CONTRACTOR may substitute securities for any money withheld by AUTHORITY to ensure performance of the Agreement. At the request and expense of CONTRACTOR,

securities equivalent to the amount withheld shall be deposited with AUTHORITY or with a State or Federally chartered bank as the escrow agent, who shall release such securities to CONTRACTOR following the expiration of thirty-five (35) days from the date of filing of a Notice of Completion of the Work by CONTRACTOR, to the extent such securities have not previously been utilized by AUTHORITY for purposes as provided hereinafter or are not then subject to withholding by AUTHORITY to satisfy stop notices, claims, and costs associated therewith.

18.2 Alternatively, CONTRACTOR may request and AUTHORITY shall make payment of retentions earned directly to the escrow agent at the expense of CONTRACTOR. At the expense of CONTRACTOR, CONTRACTOR may direct the investment of the payments into securities and CONTRACTOR shall receive the interest earned on the investments upon the same terms provided for in Section 22300 of the Public Contract Code for securities deposited by Contractor. Upon satisfactory completion of the Agreement, CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by the escrow agency from AUTHORITY, pursuant to the terms of Section 22300 of the Public Contract Code.

18.3 If CONTRACTOR elects to receive interest on moneys withheld in retention by AUTHORITY, he or she shall, at the request of any subcontractor, make that option available to the subcontractor regarding any moneys withheld in retention by CONTRACTOR from the subcontractor. If CONTRACTOR elects to receive interest on any moneys withheld in retention by AUTHORITY, then the subcontractor shall receive the identical rate of interest received by CONTRACTOR on any retention moneys withheld from the subcontractor by CONTRACTOR, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If CONTRACTOR elects to substitute securities in lieu of retention, then, by mutual consent of CONTRACTOR and subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by CONTRACTOR.

- This subdivision shall apply only to those subcontractors performing more than five (5) percent of CONTRACTOR's total Bid.
- No CONTRACTOR shall require any subcontractor to waive any provision of this subdivision 18.3.

18.4 The request for substitution of securities to be deposited with AUTHORITY, or with a State or Federally chartered bank as escrow agent, shall be submitted on the escrow form contained and with procedures as set forth in Section 22300, which form when executed by CONTRACTOR and AUTHORITY shall constitute a Supplemental Agreement forming a part of the contract documents. AUTHORITY shall have thirty (30) days from receipt of any such written request, properly completed and signed by CONTRACTOR and, if applicable, accompanied by an escrow agreement in a form acceptable to AUTHORITY, to approve said request and effect the substitution. AUTHORITY will not unreasonably withhold approval of said request. AUTHORITY will determine the value of any security so deposited. Such supplemental agreement and any escrow agreement shall provide for the release of the securities to Contractor as set forth herein and shall also set forth the manner in which AUTHORITY may convert the securities or portions thereof to cash and apply the proceeds to the accomplishment of any purposes for which moneys may be withheld and utilized as described in the contract Documents,

including but not limited to the completion of the work, correction of defective work, and the answering of any stop notice, claims, and costs associated therewith.

19. CLAIMS. Notwithstanding any other law, including Public Contract Code sections 10240 and 20104, the parties to this Agreement are subject to the provisions of Section 9204 of the Public Contract Code, which requires compliance with the procedures set forth in this section to resolve any claim by CONTRACTOR arising under the Contract.

19.1 For purposes of this section only:

“Claim” means a separate demand by CONTRACTOR sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by the AUTHORITY under the AGREEMENT.

(B) Payment by AUTHORITY of money or damages arising from work done by, or on behalf of, the CONTRACTOR pursuant to the Agreement and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the AUTHORITY.

“Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the CONTRACTOR or is a lower tier subcontractor.

19.2 Upon receipt of a Claim pursuant to this section, the AUTHORITY shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, AUTHORITY and CONTRACTOR may, by mutual agreement, extend the time period provided in this subdivision.

19.3 CONTRACTOR shall furnish reasonable documentation to support the Claim.

19.4 If AUTHORITY needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the Claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, AUTHORITY shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

19.5 Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after AUTHORITY issues its written statement. If AUTHORITY fails to issue a written statement, paragraph (J) shall apply.

19.6 If the claimant disputes AUTHORITY's written response, or if AUTHORITY fails to respond to a Claim issued pursuant to this section within the time prescribed, the

claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, AUTHORITY shall schedule a meet and confer conference within 30 days for settlement of the dispute.

19.7 Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, AUTHORITY shall provide the claimant a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after AUTHORITY issues its written statement. Any disputed portion of the Claim, as identified by the CONTRACTOR in writing, shall be submitted to nonbinding mediation, with the AUTHORITY and the claimant sharing the associated costs equally. AUTHORITY and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this section.

19.8 For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

19.9 Unless otherwise agreed to by AUTHORITY and the CONTRACTOR in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

19.10. Failure by AUTHORITY to respond to a Claim from CONTRACTOR within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of AUTHORITY's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the claimant.

19.11 Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

19.12 If a subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against AUTHORITY because privity of contract does not exist, CONTRACTOR may present to AUTHORITY a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that CONTRACTOR present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the Claim be presented to AUTHORITY shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, CONTRACTOR shall notify the subcontractor in writing as to whether

CONTRACTOR presented the Claim to the AUTHORITY and, if CONTRACTOR did not present the Claim, provide the subcontractor with a statement of the reasons for not having done so

20. JURISDICTION, FORUM AND VENUE. The proper jurisdiction, forum and venue for any claims, causes of action or other proceedings concerning this Agreement shall be in the state and federal courts located in the State of California, County of San Diego. AUTHORITY and CONTRACTOR agree not to bring any action or proceeding arising out of or relating to this Agreement in any other jurisdiction, forum or venue. AUTHORITY and CONTRACTOR hereby submit to personal jurisdiction in the State of California for the enforcement of this Agreement and hereby waive any and all personal rights under the law of any state to object to jurisdiction within the State of California for the purposes of any legal action or proceeding to enforce this Agreement, whether on grounds of inconvenient forum or otherwise.
21. COMPLETE AGREEMENT. This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding upon the parties hereto.
22. AUDIT. AUTHORITY shall have the option of inspecting and/or auditing all records and other written materials used by CONTRACTOR in preparing its statements to AUTHORITY as a condition precedent to any payment to CONTRACTOR. This Agreement is subject to examination and audit of the State Auditor, at the request of AUTHORITY or as part of any audit of AUTHORITY, for a period of three (3) years after final payment under the Agreement. CONTRACTOR shall cooperate with AUTHORITY, including any authorized representatives of AUTHORITY, regarding any such audit at no charge to AUTHORITY.
23. NOTICE. All written notices to the parties hereto shall be sent by United States mail, postage prepaid by registered or certified mail addressed as follows:

AUTHORITY

General Manager
San Elijo Joint Powers Authority
2695 Manchester Avenue
Cardiff, CA 92007

CONTRACTOR

California Boiler, Inc.
1835A S. Centre City Parkway, #517
Escondido, CA 92025

Notices shall be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first.

24. PROTECTION OF EXISTING FACILITIES AND NON-INTERFERENCE WITH PLANT OPERATIONS. CONTRACTOR shall perform its duties in such a way that there will be no damage done to existing facilities and all facilities shall be left in the condition they were in prior to the beginning of the contract. CONTRACTOR will also perform all work in such a way that there is no interference with plant operations.

25. AUTHORITY TO EXECUTE AGREEMENT. AUTHORITY and CONTRACTOR do covenant that the individual executing this Agreement on their behalf is a person duly authorized and empowered to execute this Agreement for such party.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

SAN ELIJO JOINT POWERS AUTHORITY

Michael T. Thornton, P.E.
General Manager

CALIFORNIA BOILER, INC.

By: _____ (Signature)

Name: _____ (Print)

Title: _____

Contractor's License and Expiration Date

This form is required.

FAITHFUL PERFORMANCE BOND

BOILER No. 1 REPLACEMENT SERVICES
Specification Number SE 2020 BRS

KNOW ALL MEN BY THESE PRESENTS, THAT, WHEREAS, the San Elijo Joint Powers Authority, a political subdivision of the State of California (the "SEJPA") has, on _____, 20____, awarded to _____ (the "Principal"), a contract for the furnishing all labor, materials, equipment and services for BOILER No. 1 REPLACEMENT services for the San Elijo Water Reclamation Facility, as specified in the Contract Documents, and all miscellaneous work as specified and directed for in the Bid Submission Form for BOILER No. 1 REPLACEMENT Services - Specification Number SE 2020 BRS (the "Contract").

WHEREAS, the Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract:

NOW, THEREFORE, WE, the Principal, and _____, as Surety, are held and firmly bound unto the SEJPA, its successors and assigns for the penal sum of One Hundred Percent of the Contract Price, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreements in the Contract and any alterations made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and hold harmless the SEJPA, its officers, employees and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue and Principal and Surety, in the event suit is brought on this bond, will pay to the SEJPA such reasonable attorneys' fees and costs as shall be fixed by the court.

As a condition precedent to the satisfactory completion of the Contract, the above obligation in the said amount shall remain in effect for a period of one (1) year after the completion and acceptance by the SEJPA of the work undertaken pursuant to the Contract, during which time if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns shall fail to make full, complete, and satisfactory repair and replacements or totally protect the SEJPA from loss of damage made evident during said period of one year from the date of acceptance of the work, and resulting from or caused by defective materials and/or faulty workmanship in the prosecution of the work done, the above obligation in the said amount shall remain in full force and effect. However, notwithstanding anything in this paragraph to the contrary, the obligation of the Surety hereunder shall continue in effect so long as any obligation of the Principal remains.

And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations under this

bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, specifications thereto, or to the Work. The Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

As a part of the obligation secured hereby and in addition to the amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees and court costs, incurred by the SEJPA in successfully enforcing any and all obligations, hereunder all to be taxed as costs and included in any judgment rendered.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their seals this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly executed by its undersigned representative, pursuant to authority of its governing body.

Principal

(Seal) _____
Signature for Principal Title

Surety

(Seal) _____
Signature for Surety Title

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF [COUNTY])

On _____, before me, [Notary Name] , Notary Public, personally appeared [Name of person] , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

This form is required.

PAYMENT BOND

BOILER No. 1 REPLACEMENT SERVICES
Specification Number SE 2020 BRS

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the San Elijo Joint Powers Authority, a political subdivision of the State of California (hereinafter designated as SEJPA) on _____ 20____
awarded to _____
(hereinafter designated as the PRINCIPAL) a contract for the work described as follows: _____

WHEREAS, said Principal is required by Section 9550 of the California Civil Code to furnish a bond in connection with said contract;

NOW THEREFORE, We, the Principal and _____

as Surety, are held and firmly bound unto the SEJPA in the penal sum of _____
_____ Dollars (\$_____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if said principal, hers/his/its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 9554 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor, the surety or sureties will pay for the same in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

This Bond shall inure to the benefit of any of the persons named in Section 9554 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefor, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting

to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that his bond be construed most strongly against the surety and in favor of all persons for whose benefit such bond is given, by reason of any breach of contract between the SEJPA and Principal or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9554 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned. The Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

This bond shall remain in full force and effect for one year after the date of final payment under the Contract, unless otherwise provided by law.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20_____

(Seal)	<div data-bbox="623 827 737 861">Principal</div> <div data-bbox="623 928 909 961">Signature for Principal</div> <div data-bbox="1247 928 1305 957">Title</div>
	<div data-bbox="623 1062 711 1096">Surety</div> <div data-bbox="623 1163 883 1197">Signature for Surety</div> <div data-bbox="1247 1163 1305 1192">Title</div>

In the event the successful Bidder enters into a contract with the SEJPA and chooses to make security deposits in lieu of retentions, this form shall be mandatory and non-negotiable.

**ESCROW AGREEMENT SECURITY DEPOSIT IN LIEU OF RETENTION FORM
WITHHELD CONTRACT FUNDS
PUBLIC CONTRACT CODE SECTION 22300**

This Escrow Agreement is made and entered into by and between the San Elijo Joint Powers Authority whose address is _____

_____ hereinafter called
"SEJPA," and _____ whose address is _____

_____ hereinafter called "CONTRACTOR" and _____ whose
address is _____

_____ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, SEJPA, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by the SEJPA pursuant to the Agreement entered into between the SEJPA and Contractor for BOILER No. 1 REPLACEMENT services in the amount of _____ dated _____ (hereinafter referred to as the "Agreement"). Alternatively, on written request of Contractor, the SEJPA shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the SEJPA within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between SEJPA and Contractor. Securities shall be held in the name of _____, and shall designate Contractor as the beneficial owner.

(2) SEJPA shall make progress payments to Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Agreement provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When SEJPA makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of Contractor until the time that the escrow created under this contract is terminated. Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when SEJPA pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of SEJPA. These expenses and payment terms shall be determined by SEJPA, Contractor, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the SEJPA.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the SEJPA to the Escrow Agent that the SEJPA consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) SEJPA shall have a right to draw upon the securities in the event of default by Contractor. Upon seven days' written notice to the Escrow Agent from the SEJPA of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the SEJPA.

(8) Upon receipt of written notification from SEJPA certifying that the Contract is final and complete, and that Contractor has complied with all requirements and procedures applicable to the Agreement, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the SEJPA and Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the SEJPA and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the SEJPA and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of SEJPA:

Title

Name

Signature

Address

On behalf of Contractor:

Title

Name

Signature

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

At the time the Escrow Account is opened, SEJPA and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

On behalf of CONTRACTOR:

Title

Name

Signature

Address

On behalf of San Elijo Joint Powers Authority:

Title

Name

Signature

SAN ELIJO JOINT POWERS AUTHORITY
MEMORANDUM

November 18, 2016

TO: Board of Directors
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: PROPOSED SOLAR PHOTOVOLTAIC SYSTEM LOCATED AT THE SAN
ELIJO WATER CAMPUS

RECOMMENDATION

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

BACKGROUND

The responsible use of natural resources is integral to the mission and vision of the San Elijo Joint Powers Authority (SEJPA). The San Elijo Water Campus uses a substantial quantity of electricity (3,300 megawatt-hours annually) to treat wastewater, produce and distribute recycled water, and for other onsite operational needs.

Looking forward, it is reasonable to forecast that energy cost and consumption for the SEJPA will trend higher. Influencing factors for this may include regulatory requirements for new treatment standards, increased demand for recycled water, and the pursuit of water purification treatment and distribution, as well as projected energy rate increases by the utility provider, San Diego Gas and Electric (SDG&E).

In an effort to stabilize future energy costs and to increase the use of renewable energy, staff is seeking to develop a solar photovoltaic (PV) project at the facility. The proposed conceptual design would produce approximately 400 – 600 kilowatts (kW) of solar power, which equates to approximately 20% to 25% of the average daily demand of the Campus. The SEJPA purchases power from SDG&E at multiple pricing rates based on usage type, and the system is designed to replace the highest cost energy first. In addition, the PV project is designed to be large enough to attract third-party construction and financing through a Power Purchase Agreement, adding the financial benefit of tax credits that further lowers the project cost.

According to the National Renewable Energy Laboratory, Power Purchase Agreements (PPA's) are a financing mechanism that state and local government entities can use to acquire clean, renewable energy. The PPA financing model is a "third-party" ownership model, which requires a separate, taxable entity ("system owner") to procure, install, and operate the solar PV system on

a consumer's premises (i.e., the government agency). The government agency enters into a long-term contract (typically referred to as the PPA) to purchase 100% of the electricity generated by the system from the system owner. The system owner is often a third-party investor ("tax investor") who provides investment capital to the project in return for tax benefits. PPA financing benefits include:

1. No/low up-front cost
2. Ability for the tax-exempt entity to benefit from federal tax incentives through lower rates
3. A predictable cost of electricity during the PPA term
4. Simplified design and permitting process
5. No operating and maintenance responsibilities

Government Code Section 4217.10 et seq. provides authority to public agencies to select and contract with qualified energy services companies, to develop and construct energy efficiency, conservation, and alternative energy projects under a single contract. Contracts may be awarded on the basis of the experience of the Contractor, the type of technology employed by the Contractor, the cost to the local agency, and any other relevant considerations, provided that the project delivers net cost savings to the public agency. This legislation was created to remove economic barriers to the adoption of energy conservation measures and alternative energy projects by public agencies.

DISCUSSION

To select the preferred firm to develop and finance the PV project, staff implemented a competitive selection process that considered the following factors:

- System design and flexibility
- Financing and procurement options
- Ability to meet SEJPA engineering, materials, and site requirements
- Quality and relevance of past work
- Local presence, coastal installation history, and references

Staff hosted site walks, conducted team interviews, responded to information requests, and gathered proposals from interested firms. After consideration of qualifications and project approach, staff began negotiations with IGS Solar as the preferred firm to finance and construct the PV project utilizing a Power Purchase Agreement.

Developing the project in accordance with Government Code Section 4217.10 et seq., requires the following steps:

1. SEJPA to provide a 2-week public notice in advance of a regularly scheduled meeting to inform the public that the Board is considering a Power Purchase Agreement
2. The Board of Directors to make a "best interests" and "cost benefit finding" documented in a Resolution of the Board
3. Board approval to execute the Power Purchase Agreement and Site Lease Agreement and proceed with the project, assuming final design and contract terms are acceptable

During the next phase of procurement, staff expects IGS Solar to submit a Final Proposal to develop, construct, operate, and maintain the solar PV system. The expected duration for the negotiation of final contract details is roughly 60 to 90 days. Staff executed a non-binding agreement, or Letter of Intent, to indicate the SEJPA's interest and commitment to the project and provide a short period of exclusive negotiation rights to IGS Solar. The terms and conditions of the IGS Power Purchase and Site Lease agreements are currently under legal review.

Staff has requested that IGS Solar prepare multiple PPA financing options for SEJPA's consideration. Also, staff requested the option for an early buyout of the system, which may further increase the financial benefits and can be implemented at SEJPA's discretion.

FINANCIAL IMPACT

Informational item only. No financial impact at this time. The intent of the solar project is to develop renewable energy that will provide long term financial benefits to SEJPA.

RECOMMENDATION

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

Respectfully submitted,

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

Michael T. Thornton, P.E.
General Manager