

**AGENDA**  
**SAN ELIJO JOINT POWERS AUTHORITY**  
**MONDAY SEPTEMBER 12, 2011 AT 9:00 AM**  
**SAN ELIJO WATER RECLAMATION FACILITY – CONFERENCE ROOM**  
**2695 MANCHESTER AVENUE**  
**CARDIFF BY THE SEA, AND 559 UNION STREET**  
**ENCINITAS, CALIFORNIA**

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1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. ORAL COMMUNICATIONS (NON-ACTION ITEM)
5. PRESENTATION OF AWARDS  
None
6. \* **CONSENT CALENDAR**
7. \* APPROVAL OF MINUTES FOR THE JULY 11, 2011 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. BOND ISSUE REFUNDING

It is recommended that the Board of Directors:

1. Discuss and take action as appropriate.

Staff Reference: Director of Finance/Administration

13. PROPOSED FINANCING PLAN FOR THE ADVANCED WATER (DEMINERALIZATION) TREATMENT SYSTEM AT THE SAN ELIJO WATER RECLAMATION FACILITY

It is recommended that the Board of Directors:

1. Discuss and take action as appropriate.

Staff Reference: General Manager

14. GENERAL MANAGER'S REPORT

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

15. GENERAL COUNSEL'S REPORT

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

16. 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.

17. CLOSED SESSION

None

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".

18. ADJOURNMENT

The next regularly scheduled San Elijo Joint Powers Authority Board Meeting will be October 10, 2011 at 9:00 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](http://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: September 7, 2011



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

SAN ELIJO JOINT POWERS AUTHORITY  
MINUTES OF THE BOARD MEETING  
HELD ON JULY 11, 2011  
AT THE  
SAN ELIJO WATER RECLAMATION FACILITY

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Thomas M. Campbell, Chair

Teresa Barth, Vice Chair

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A Meeting of the Board of Directors of the San Elijo Joint Powers Authority (SEJPA) was held Monday, July 11, 2011, at 9:00 a.m., at the San Elijo Water Reclamation Facility at 2695 Manchester Avenue, Cardiff by the Sea, California.

1. CALL TO ORDER

Chair Campbell called the meeting to order at 9:00 a.m.

2. ROLL CALL

*Directors Present:*

Teresa Barth  
Thomas M. Campbell  
Maggie Houlihan  
Dave W. Roberts

*Others Present:*

General Manager  
Director of Finance/Administration  
Director of Operations  
Administrative Assistant  
Accounting Technician

Michael Thornton  
Greg Lewis  
Christopher Trees  
Monica Blake  
Carrie Cook

*SEJPA Counsel:*

Procopio, Cory, Hargreaves & Savitch

Aiko Osugi

City of Encinitas,

Director of Public Works

Larry Watt

City of Encinitas,

Public Works Management Analyst

Bill Wilson

City of Solana Beach,

City Manager

David Ott

City of Solana Beach,

Director of Engineering/Public Works

Mohammad "Mo" Sammak

Brandis Tallman, LLC

Richard Brandis  
Nicki Tallman

3. PLEDGE OF ALLEGIANCE

Chair Campbell led the Pledge of Allegiance.

4. ORAL COMMUNICATIONS

None

5. PRESENTATION OF AWARDS

None

6. CONSENT CALENDAR

Moved by Board Member Houlihan and seconded by Board Member Roberts to approve the Consent Calendar with unanimous vote of approval.

Consent Calendar:

Agenda Item No. 7	Approval of Minutes for the June 13, 2011 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

11. ITEMS REMOVED FROM CONSENT CALENDAR

None

12. UPDATE TO THE FINANCING AND CONSTRUCTION OF THE ADVANCED WATER (DEMINERALIZATION) TREATMENT SYSTEM AT THE SAN ELIJO WATER RECLAMATION FACILITY

General Manager Michael Thornton provided a detailed update on the financing and construction delivery method of the proposed Advanced Water Treatment Project. Based on current financial projections, it appears that the Recycled Water Program can sustain new capital debt as proposed. However, the General Manager noted that there is the potential for the program's cash flow to go negative during the three to four years after construction. The reason is that recycled water sales over the last two years have dipped and if this trend holds revenues could be below expenses in the near-term. Based on financial modeling, this short fall in revenues could be on the order of \$120,000. The General Manager stated that if this were to occur, the SEJPA would use unrestricted reserve funds to gap the difference. On the other hand, if water sales return to the level of 2009, before mandatory watering conservation, financial modeling indicates water sale revenues will be sufficient and cash flow would remain positive. The General Manager reviewed several financial graphs for the recycled water program that highlighted the historical financial performance of the program and projections of expected future performance.

Under the current planned financing structure for the project, recycled water reserves will fund \$2 million of the estimated \$4.7 million construction cost. The remaining \$2.7 million is planned to be funded through grant funds (approximately \$700,000) and a construction loan (approximately \$2 million). This proposed financing plan keeps approximately \$1.2 million in recycled water reserves to fund unforeseen events, revenue shortfalls, or emergency repair projects.

The General Manager stated there are both benefits and risks associated with constructing this project now. Benefits include a favorable market for construction, favorable interest rates for financing, the award of \$700,000 in grant funding, avoiding regulatory action against the program, and maintaining customer satisfaction with water quality. Factors that weigh against starting construction now include acquiring additional debt during a period of reduced water sales. The cost of this new debt payment has the real potential to cause revenues to fall short of expenditures in the near term, forcing the program to use some reserves to balance the program budget. This risk could be mitigated by waiting until the program built enough reserves to pay cash. However, delaying this project several years or more could increase risk and cost to the SEJPA due to the possibility of escalating construction and financing costs, regulatory action against the program, and the expiration of grant funding.

The General Manager reported that last month SEJPA staff was given direction to pursue negotiations with W.M. Lyles, LLC on a lease-purchase agreement for the construction and financing of the treatment project. The lease-purchase agreement would deliver the project in a manner similar to design-build. The negotiated construction cost would be reached through an open-book bid approach, which allows the SEJPA to review and agree on the cost of each element and category of the project, resulting in a final agreed project price, referred to as a guaranteed maximum price. Discussion with W.M. Lyles on the development of the guaranteed maximum price has proceeded well. However, the financier that W.M. Lyles had partnered with could not provide financing to the SEJPA under the existing conditions. As a result, the SEJPA has engaged Brandis Tallman, LLC, which had previously been identified as a preferred alternative to W.M. Lyles financing.

The General Manager introduced Richard Brandis, of Brandis Tallman, LLC, a municipal bond underwriting firm. Mr. Brandis stated that his firm could produce financing for this project. He stated that the Member Agency's sanitation district funds may need to be pledged as secondary revenue to secure the lowest possible interest rate. Mr. Brandis stated that he would work with SEJPA staff to develop a loan document to be returned to the SEJPA Board for consideration.

All Board Members thanked the General Manager and Mr. Brandis for the presentation. The Board Members agreed unanimously to allow Brandis Tallman, LLC to develop a loan proposal for this project, without the suggested resolution to initiate the underwriting.

Moved by Board Member Houlihan and seconded by Vice Chair Barth to:

1. Direct the General Manager to move forward with preparing a financing package to be presented to the Board of Directors at September 12, 2011 Board meeting.

Motion carried with unanimous vote of approval.

15. GENERAL MANAGER'S REPORT

General Manager Michael Thornton noted that the California Association of Sanitation Agencies (CASA) was holding their summer conference in San Diego. The conference brochure was distributed to the Board and the General Manager stated that if Board Members were interested in attending, to please contact him for arrangements.

The General Manager informed the Board of Directors that staff is evaluating the opportunity to refund the SEJPA's 2003 Wastewater Bond. The bond has approximately eight years of remaining debt and there is an opportunity to call the bond in early 2012. Based on current market conditions, the projected overall savings are approximately \$500,000. More information will be provided at the September Board meeting.

16. GENERAL COUNSEL'S REPORT

None

17. BOARD MEMBER COMMENTS

None

18. CLOSED SESSION

The Board of Directors went into closed session at 9:53 a.m. pursuant to Government Code Section 54957 with respect to Public Employee Performance Evaluation for the General Manager.

The Board of Directors came out of closed session at 9:58 a.m. with no reportable action.

19. ADJOURNMENT

The Board of Directors adjourned at 9:58 a.m. The next Board of Directors meeting will be held on September 12, 2011.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

PAYMENT OF WARRANTS  
11-09 and 12-09  
3-Sep-10

VENDOR	DESCRIPTION OF EXPENSE	AMOUNT
<b><u>11-09 Warrants</u></b>		
Abcana Industries	Hydrochloric acid - plant	\$326.74
AG Tech, LLC	Biosolids hauling - June	\$7,699.73
Arrowhead	Kitchen and lab supplies	\$211.09
AT&T	Phone service - 05/13/11 - 06/12/11	\$360.59
AT&T	Phone service - 06/13/11 - 07/12/11	\$365.01
AT&T - Eden Garden	Phone service - 05/20/11 - 06/19/11	\$72.99
AT&T - Eden Garden	Phone service - 06/20/11 - 07/19/11	\$68.37
Atlas Pumping Service	Grease and scum pumping - June	\$1,028.84
AKZO Nobel Paints, LLC	Paint - rust prevention - plant	\$345.74
Barracuda Networks, Inc.	Network - backup - plant	\$50.00
Blake, Monica	Expense report - mileage	\$81.46
Blake, Monica	Expense report - mileage, budget binding, and scale	\$122.26
Blue Skies Landscape	Landscape service - June	\$1,200.00
Bogies' Pump System	Parts to repair pump - San Elijo Hills P. S.	\$708.62
Brenntag Pacific, Inc.	Sodium Hydroxide - odor control - plant	\$1,633.20
County Burner Machinery	Inspect boilers - plant	\$260.50
California Water Technologies	Ferric chloride - plant	\$5,661.87
Coast Waste Management, Inc.	Roll-off rental, grit and screening storm drains	\$502.64
Complete Office	Office supplies - June	\$195.52
Corodata	Record storage - June	\$66.57
DMV	Employee's safety records	\$10.00
Del Mar Blue Print	Site plan maps - water reclamation	\$50.03
Detection Instruments Corp.	Long life odalog - plant	\$1,895.40
EDCO Waste & Recycling	Trash service - June	\$184.01
Emission Compliant Controls	Repair transfer switch - San Elijo Hills P. S.	\$375.00
Emission Compliant Controls	PM service on standby generators - Encinitas, Solana	\$2,875.00
Fleet Services	Fuel - June	\$1,467.49
Filter Belts	Lower belts - plant	\$920.67
Golden Bell Products	Lift station degreaser, golden bio blocks - Coast Blvd.	\$265.35
Golden State Overnight - GSO	Mailing monthly compliance reports	\$48.51
Grainger, Inc.	First aid supplies - plant	\$26.28
Grainger, Inc.	Lock joint and thread lock - plant	\$70.48
Grainger, Inc.	Shop, field, and safety supplies	\$980.77
Hach Company	Conductivity probe, sodium chloride, test strips-lab, wtr r.	\$535.59
Hydroscape Products, Inc.	Labels English/Spanish, pvc saw, tape - water rec.	\$190.73
Inter-Pacific, Inc.	Network camera - plant	\$1,299.56
Kennedy/Jenks Consultants	Deminalization project - final design - water rec.	\$9,532.15
Konica	Monthly copier maintenance	\$118.83
Lab Safety Supply, Inc.	Detergent alcojet, thermometer and utility carrier - lab	\$212.83
Larsen, Casey	Expense report-wireless router,cables-plant, San Elijo	\$182.06
Larsen, Casey	Telemetry equipment - San Elijo P.S.	\$763.50
Larsen, Casey	Add2net - network support	\$39.95
Lewis, Greg	Expense report - staff training	\$93.73
Lewis, Greg	Expense report - employee's training - CSRMA	\$1,154.07
McMaster-Carr Supply Co.	Plumbing supplies - water reclamation	\$78.78
MegaPath Inc.	T-1 service - May and July	\$639.12
MetLifeSBC	Dental insurance - June	\$1,146.18
Napa Auto Parts	Oil - plant	\$24.99
OMWD	Manchester - 05/09/11 - 06/08/11	\$32.34
OMWD	Manchester - 06/08/11 - 07/12/11	\$82.04
Olin Corp - Chlor Alkali	Sodium hypochlorite - bleach - water reclamation	\$3,286.14
One Source Distributors, Inc.	Electrical parts and Micrologix 1100 - San Elijo P.S.	\$1,416.32
Pall Advanced Separation Sys.	Deminalization equipment - water reclamation	\$30,000.00

PAYMENT OF WARRANTS  
11-09 and 12-09  
3-Sep-10

VENDOR	DESCRIPTION OF EXPENSE	AMOUNT
PERS - Retirement	Retirement premium - 06/30/11	\$14,015.42
Polydyne Inc.	Clarifloc @ C-378 - water reclamation	\$1,210.61
Polydyne Inc.	Clarifloc @ WE-007 - 4 totes - plant	\$10,505.25
Probuild	Repairs, shop and field supplies - May	\$685.69
Probuild	Repairs, shop and field supplies - June	\$508.42
Process Pump Sale's Inc.	Replacement motor for W.A.S. pump - plant	\$799.31
Procopio Cory Hargreaves	General - June - legal service	\$8,051.25
RTC	E.coli in water and streptococcus - lab	\$195.00
RTC	Minerals and residue - whole volume - lab	\$266.40
SCW Contracting Corp.	Recycled water bypass line - water reclamation	\$8,500.00
San Diego Gas and Electric	Gas and electric - 05/06 - 06/08	\$40,215.25
San Diego Gas and Electric	Gas and electric - 06/08 - 07/08	\$41,293.95
San Diego Gas and Electric	Gas and electric - 06/09 - 07/11 - Cardiff	\$1,440.43
San Diego Gas and Electric	Gas and electric - 06/09 - 07/11 - Valley	\$2,520.14
San Dieguito Water District	Manchester - 05/26/11 - 06/30/11	\$161.40
San Dieguito Water District	Manchester - 05/26/11 - 06/30/11	\$2,442.52
San Dieguito Water District	Manchester - 05/26/11 - 06/30/11	\$301.28
San Dieguito Water District	Manchester - 05/26/11 - 06/30/11	\$971.09
San Dieguito Water District	Manchester - 00/00/00 - 06/30/11	\$4,989.95
San Dieguito Water District	Manchester - 05/23/11 - 07/25/11	\$174.54
San Dieguito Water District	Manchester - 05/23/11 - 07/25/11	\$244.80
San Dieguito Water District	S. Coast Highway - 05/23/11 - 07/25/11	\$47.97
San Dieguito Water District	2710 Manchester - 05/23/11 - 07/25/11	\$238.48
San Dieguito Water District	Fiscal year 2010-11 recycled water reconciliation	\$23,515.81
Santa Fe Irrigation District	Valley - 05/31/11 - 06/30/11	\$86.81
Santa Fe Irrigation District	Highland Dr. - 04/19/11 - 06/16/11	\$162.70
Santa Fe Irrigation District	Seabright Ln - 05/03/11 - 07/05/11	\$91.38
Santa Fe Irrigation District	Lomas Santa Fe Dr - 05/17/11 - 07/20/11	\$1,911.37
Southern California Fleet	Replaced three belts on fan - vehicle maintenance	\$932.32
Southern California Fleet	Removed and re-core radiator - vehicle maintenance	\$3,120.63
Spraying System Co.	Eductors - plant	\$270.75
Sprint	Cellular phone service - May and June	\$669.90
Sprint	Cellular phone service - June and July	\$639.71
Terra Renewal, LLC	Biosolids hauling - April	\$1,056.58
Terra Renewal, LLC	Biosolids hauling - May	\$4,211.04
Terra Renewal, LLC	Biosolids hauling - June	\$4,148.22
Thatcher Company of CA	Aluminum sulfate - water reclamation	\$3,305.50
Trussell Technologies, Inc.	Operation plan - Agreement #10	\$2,134.00
Trussell Technologies, Inc.	Demineralization design support - Agreement #8	\$970.00
Trussell Technologies, Inc.	Demineralization design support - Agreement #8	\$1,164.00
Underground Service Alert	Dig alert - June	\$46.50
Unifirst Corporation	Uniform service - May	\$74.08
Unifirst Corporation	Uniform service - June	\$178.02
UPS	Mailing parts - plant	\$18.08
UPS	Mailing parts - water reclamation	\$14.31
USA Bluebook	Mini-size flow switch - plant	\$155.70
VWR International, Inc.	Test tube rack, vol flask, and buffer - lab	\$832.38
VWR International, Inc.	Ph/temp pen, cer hot/stir, and buffer - lab	\$946.35
VWR International, Inc.	Filter glass and clamp buret - lab	\$339.36
VWR International, Inc.	Pipet, ser I tip - lab	\$192.00
VWR International, Inc.	Pipet transfer cs - 12 100ml - lab	\$419.06
VWR International, Inc.	7x7 hotplate - lab	\$504.83
Vaughn's Industrial Repair	Rebuild #4 F.E.B. pump - plant	\$12,872.30
Wonderware West	SCADA improvements - outfall	\$3,243.73
<b>Total 11-09 Warrants</b>		<b>\$288,966.21</b>

PAYMENT OF WARRANTS  
11-09 and 12-09  
3-Sep-10

VENDOR	DESCRIPTION OF EXPENSE	AMOUNT
<b><u>12-09 Warrants</u></b>		
AG Tech, LLC	Biosolids hauling - July	\$7,778.35
AT&T	Alarm service - July	\$379.61
AT&T	Alarm service - August	\$379.61
AT&T	Phone service - July	\$371.99
AT&T - Eden Gardens	Phone service - July	\$73.04
AWWA	Membership - M. Henke	\$95.00
Ababa-Qa	Parts for digester - plant	\$24.79
Ababa-Qa	Parts for belt press - plant	\$31.79
Advanced Air & Vacuum	Repair faulty spring in inlet valve - water reclamation	\$121.83
Airgas	Welding supplies - plant	\$60.63
Alliant Insurance Services	Auto insurance - 07/01/11 - 07/01/12	\$1,557.01
Applied Industrial Tech.	Parts for belt press - plant	\$53.27
Aquatic Bioassay	Lab testing - lab	\$960.00
Ashbrook Simon-Hartley	Motor for belt press - plant	\$830.75
Arrowhead	Kitchen and lab supplies	\$253.75
Atlas Crane Service	Remove poles - plant	\$280.00
Atlas Pumping Service	Grease and scum pumping - July	\$832.32
Atlas Pumping Service	Grease and scum pumping - August	\$832.32
Atlas Pumping Service	Grit and screening - plant	\$742.35
Atlas Pumping Service	Grease and scum trailer to Arizona - plant	\$3,008.98
Automation Direct	AC drive and line reactor - water reclamation	\$890.00
Barracuda Networks, Inc.	Network back-up - July	\$50.00
Barracuda Networks, Inc.	Network back-up - August	\$50.00
Barrett Engineered Pumps	Discharge flange gasket - U.R.S.	\$153.01
Blake, Monica	Expense report - mileage	\$29.04
Brenntag Pacific, Inc.	Sodium Hydroxide - odor control - plant	\$1,572.03
Buckles, Marisa	Expense report - employee's appreciation luncheon	\$107.34
Buckles, Marisa	Expense report - mileage	\$20.62
CA-NV AWWA	Seminar - M. Piper	\$100.00
CA Sanitation Risk Mgmt. Auth.	Property insurance - 07/01/11 - 06/30/12	\$16,644.64
CA Sanitation Risk Mgmt. Auth.	Workers' compensation - 07/01/11 - 06/30/12	\$29,205.00
CWEA	Membership - S. Arredondo	\$132.00
CWEA	Membership - R. Chea	\$132.00
CWEA - TCP	Certificate renewal - T. Hutchinson	\$73.00
California Water Technologies	Ferric chloride - plant	\$5,783.97
Cardiff 101 Main Street	Exhibitor space - environmental awareness	\$200.00
Carlson & Beauloye Machine	Hard chrome and finish grind shaft sleeve - plant	\$575.00
City of Solana Beach	Fiscal year 2011-12 - lease payment	\$13,802.50
Coast Waste Management, Inc.	Roll-off rental - plant	\$115.00
Complete Office	Office supplies - July	\$96.19
Complete Office	Office supplies - August	\$452.86
Corodata	Record storage - July	\$68.79
Costco Membership	Membership renewal	\$100.00
County of San Diego - DEH	Permit - Olivenhain P.S.	\$460.00
County of San Diego - DEH	Permit - Cardiff P.S.	\$460.00
County of San Diego - DEH	Permit - Eden Gardens P.S.	\$306.00
County of San Diego - DEH	Permit - Solana Beach P.S.	\$306.00
County of San Diego - DEH	Permit - San Elijo Hills P.S.	\$306.00
County of San Diego - DEH	Permit - Moonlight P.S.	\$306.00
DMV	Safety records	\$1.00
Dickson	Calibrate and test 4 chart recorders - water rec.	\$653.00
EDCO	Trash service - July	\$187.77
Encinitas Ford	Vehicle maintenance	\$423.87
Endress & Hauser	Air flow meter - A-basin - plant	\$924.60
Evans Tire & Service Center	Brakes service - vehicle maintenance	\$602.06

PAYMENT OF WARRANTS  
11-09 and 12-09  
3-Sep-10

VENDOR	DESCRIPTION OF EXPENSE	AMOUNT
Fleet Services	Fuel - July	\$946.29
GFOA	Membership - G. Lewis	\$160.00
Gierlich Mitchell, Inc.	Parts to repair digester #5s mixing sludge pump-plant	\$3,263.12
GobioSupplies	Kitchen supplies	\$168.12
Golden Bell Products	Lift station degreaser - Coast Blvd P. S.	\$193.95
Golden State Overnight - GSO	Mailing lab samples and compliance reports	\$84.70
Golden State Overnight - GSO	Mailing compliance reports and S.R.F. payment	\$48.00
Grainger, Inc.	First aid supplies	\$115.29
Harbor Freight Tools	12 volt lithium-ion drill - U.R.S.	\$37.70
Hardy Diagnostics	Azide dextrose broth, e.coli, and e.faecalis - lab	\$210.71
Horizon Health EAP	E.A.P. - July	\$351.12
Horizon Health EAP	E.A.P - August	\$351.12
Hydroscape Products, Inc.	Tube straw and stakes - plant	\$113.67
Hydroscape Products, Inc.	Hunter single station battery control - water rec.	\$253.84
Jani-King	Janitorial service - July	\$882.64
Jani-King	Janitorial service - August	\$882.64
Jani-King	Janitorial supplies	\$440.85
Jone Chemicals, Inc.	Sodium hypochlorite - bleach - water reclamation	\$2,674.48
Jone Chemicals, Inc.	Sodium hypochlorite - bleach - water reclamation	\$3,224.60
Kennedy/Jenks Consultants	Deminerlization project - final design - water rec.	\$14,112.98
Konica	Monthly copier maintenance	\$82.38
Leaf & Cole, LLP	Audit - progress billing	\$4,175.00
Leaf & Cole, LLP	Audit - progress billing	\$850.00
Lee's Lock and Safe	Repair lock on the kitchen door - plant	\$328.54
Lewis, Greg	Expense report - video card, supplies for appreciation	\$101.22
Lewis, Greg	Expense report - meeting	\$64.95
MBC Applied Environmental	Annual aerial surveys - report on region 9 kelp beds	\$5,518.00
Marine Taxonomic Services	Ocean offshore monitoring - July - outfall	\$740.00
Marine Taxonomic Services	Ocean offshore monitoring - August - outfall	\$740.00
Marvin J. Paull	Actuarial valuation of post-retirement medical benefits	\$4,250.00
MegaPath Inc.	T-1 service - August	\$278.13
MetLifeSBC	Dental insurance - July	\$1,618.70
MetLifeSBC	Dental insurance - August	\$1,618.70
MetLife - Group Benefits	Dental insurance - September	\$1,618.70
Midas Shop	Battery - vehicle maintenance	\$151.35
Mutual of Omaha	Life and disability insurance - July	\$1,648.89
Mutual of Omaha	Life and disability insurance - August	\$1,745.63
Napa Auto Parts	Filters for Wacker pump - plant	\$22.61
One Source Distributors, Inc.	Electrical parts - plant	\$660.29
PERS - Health	Health - July	\$16,741.04
PERS - Health	Health - August	\$19,233.92
PERS - Health	Health - September	\$17,980.76
PERS - Retirement	Retirement premium - 07/15/11	\$15,943.88
PERS - Retirement	Retirement premium - 07/29/11	\$16,078.41
PERS - Retirement	Retirement premium - 08/12/11	\$16,109.98
PERS - Retirement	Retirement premium - 08/26/11	\$16,041.95
RSF Security Systems	Security - 09.01.11 - 11.30.11	\$1,482.00
RSF Security Systems	On-site service call	\$73.00
Pacific Green Landscape	Landscape service - August	\$1,150.00
Piper, Michael	Expense report - Safety Committee luncheon	\$57.70
Postmaster	Stamps	\$360.80
Preferred Benefit Insurance	Vision insurance - July	\$274.54
Preferred Benefit Insurance	Vision insurance - August	\$274.54
Probuild	Repairs, shop and field supplies	\$310.68
Procopio, Cory, Hargreaves	Legal service - general - July	\$9,547.50
Radwell International, Inc.	Honeywell - control, display, and flame control - plant	\$748.33
Rohan & Sons, Inc.	Replace relay for the condenser - lab	\$382.75
Rohan & Sons, Inc.	Install a new air conditioning unit - plant	\$5,920.00
SCAP	Annual membership dues - plant	\$2,360.00

PAYMENT OF WARRANTS  
11-09 and 12-09  
3-Sep-10

VENDOR	DESCRIPTION OF EXPENSE	AMOUNT
SDIPMA	Membership dues - M. Buckles	\$65.00
SHRM	Membership dues - M. Buckles	\$180.00
SWRCB	State revolving fund loan	\$834,675.18
San Diego Crane and Hoist	Wire rope - plant	\$534.75
San Diego Gas & Electric	Gas and electric - 07/08/11 - 08/08/11	\$41,758.35
San Diego Gas & Electric	Cardiff - 07/11 - 08/09	\$1,315.04
San Diego Gas & Electric	Valley - 07/11 - 08/09	\$2,288.12
San Dieguito Water District	Manchester - 06/30/11 - 07/27/11	\$2,730.35
San Dieguito Water District	Manchester - 06/30/11 - 07/27/11	\$139.88
San Dieguito Water District	Manchester - 06/30/11 - 07/27/11	\$710.16
San Dieguito Water District	Manchester - 06/30/11 - 07/27/11	\$3,405.54
San Dieguito Water District	Manchester - 06/30/11 - 07/29/11	\$123.74
Santa Fe Irrigation District	Valley - 06/30/11 - 07/29/11	\$92.87
San Elijo Payroll Account	Payroll - 07/01/2011	\$77,117.48
San Elijo Payroll Account	Payroll - 07/15/2011	\$75,422.82
San Elijo Payroll Account	Payroll - 07/29/2011	\$73,901.80
San Elijo Payroll Account	Payroll - 08/12/2011	\$73,220.46
San Elijo Payroll Account	Payroll - 08/26/2011	\$72,620.62
Simplex Grinnell	Annual fire extinguishers service - plant and all P. S.	\$982.75
Simplex Grinnell	Fire extinguisher training - staff	\$400.00
Simplex Grinnell	Test and inspect sprinkles - lab and plant	\$306.00
SkillPath Seminar	Seminar -M.Dietrich,M.Henke,J.Hernandez,K.Regnier	\$626.00
Smart & Final	Staff appreciation	\$81.41
Terra Renewal, LLC	Biosolids hauling - July	\$5,131.77
Test America	Lab testing - July	\$1,328.25
UPS	Mailing - plant	\$27.36
USA - SA	Dig alert - July	\$66.00
USA Bluebook	Stenner #5 pump tube and head - plant	\$182.24
Unifirst Corporation	Uniform service - July	\$396.53
Unifirst Corporation	Uniform service - August	\$416.68
VWR International, Inc.	Tubes and inoculating loop 6in - lab	\$446.57
VWR International, Inc.	Bag whirl pack standup 4oz pk500 - lab	\$89.62
VWR International, Inc.	Marker flair u-fine - lab	\$32.86
VWR International, Inc.	Gloves, tubes, tubing pvc,filter glass - lab,plant,outfall	\$963.23
<b>Total 12-09 Warrants</b>		<u>\$1,561,536.80</u>
<b>Total 11-09 and 12-09 Warrants</b>		<u><u>\$1,850,503.01</u></u>

SAN ELIJO JOINT POWERS AUTHORITY  
PAYMENT OF WARRANTS SUMMARY

3-Sep-10

PAYMENT OF WARRANTS		\$1,850,503.01
Reference Number	11-09 and 12-09	

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.

  
\_\_\_\_\_  
Gregory Lewis  
Director of Finance/Administration  
Treasurer

STATEMENT OF FUNDS AVAILABLE FOR PAYMENT OF WARRANTS  
AND INVESTMENT INFORMATION  
AS OF

3-Sep-10

<u>FUNDS ON DEPOSIT WITH</u>	<u>AMOUNT</u>
<b>LOCAL AGENCY INVESTMENT FUND</b> <i>(JUNE 2010 YIELD 0.55%)</i>	
SELF INSURANCE RESERVE	\$ 300,000.00
RESTRICTED SRF RESERVE	\$ 630,000.00
UNRESTRICTED DEPOSITS	\$ 5,572,983.79
<b>CALIFORNIA BANK AND TRUST</b> <i>(JUNE 2010 YIELD 0.10%)</i>	
REGULAR CHECKING	\$ 13,157.85
PAYROLL CHECKING	\$ 5,000.00
<b>TOTAL RESOURCES</b>	<b>\$ 6,521,141.64</b>

\*

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

September 12, 2011

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 NPDES ocean effluent limitation requirements for the months of June and July 2011. 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 CBOD and TSS were 97.5 percent and 95.0 percent, respectively, for June and 97.7 percent and 95.8 percent, respectively, for July (as shown in Figure 1 and Figure 2).

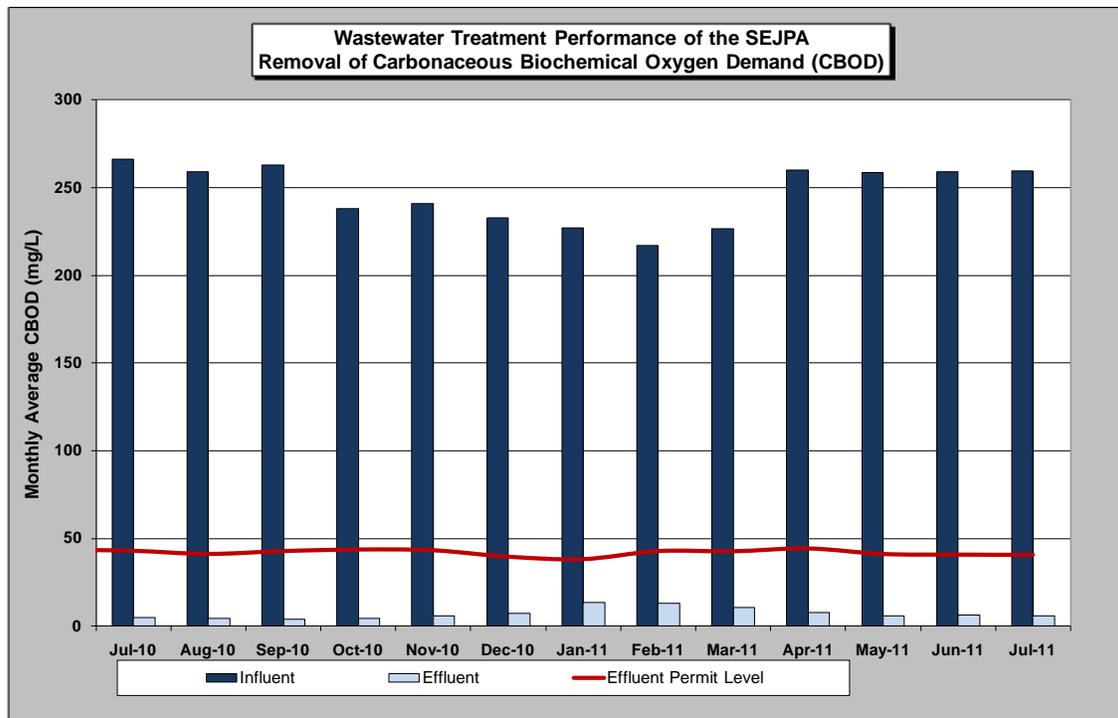


FIGURE 1

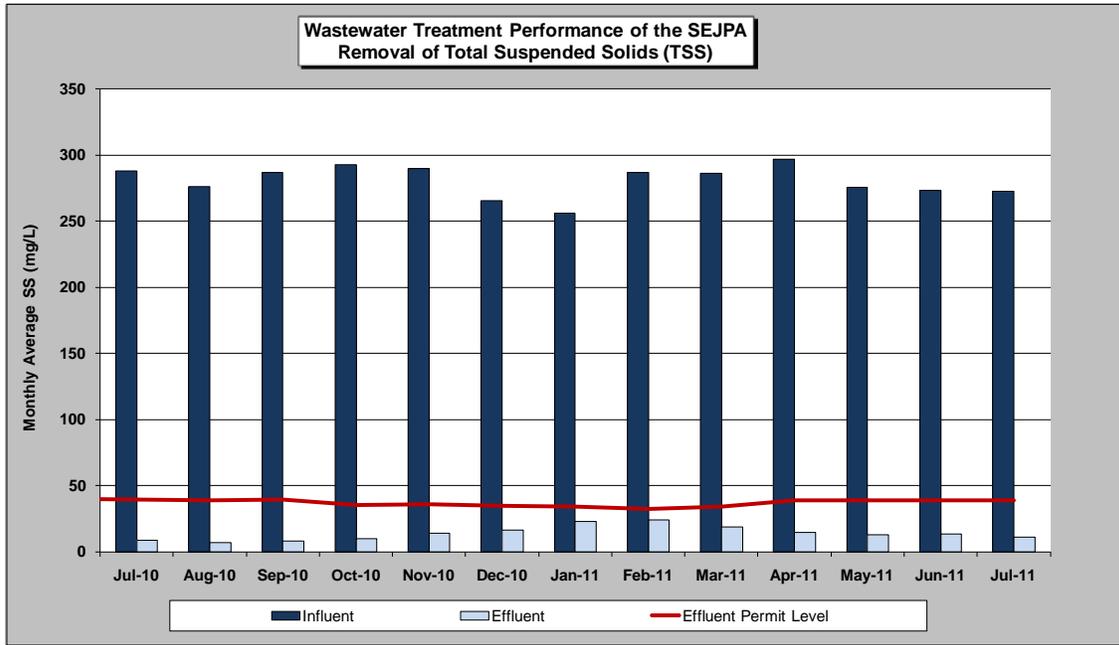


FIGURE 2

### Member Agency Flows

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

	June		July	
	<u>Influent (mgd)</u>	<u>Effluent (mgd)*</u>	<u>Influent (mgd)</u>	<u>Effluent (mgd)*</u>
Cardiff Sanitary Division	1.343	0.545	1.327	0.425
City of Solana Beach	1.390	0.564	1.320	0.470
Rancho Santa Fe SID	<u>0.156</u>	<u>0.063</u>	<u>0.162</u>	<u>0.050</u>
<b>Total San Elijo WRF Flow</b>	<b>2.889</b>	<b>1.172</b>	<b>2.809</b>	<b>0.945</b>

Notes: As of July 1995, Rancho Santa Fe Community Services District (CSD) combined SID #2 and SID #3 into one Sewer Improvement District (SID).

\* 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. It also presents the number of connected Equivalent Dwelling Units (EDUs) for each of the Member Agencies during this same time period.

Figure 3 (below) presents the 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. As shown in the figure, the average treated flow typically ranges between 2.9 and 3.1 million gallons per day (mgd). 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 2.5 mgd, and Rancho Santa Fe Community Service District has the right to 0.25 mgd.

**SAN ELIJO 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	TOTAL PLANT	CSD	RSF CSD	SB	TOTAL PLANT	CSD EDUS	RSF CSD EDUS	SB EDUS	TOTAL EDUS	CSD	RSF	SB	TOTAL PLANT
Jul-08	1.713	0.131	1.324	3.168	0.722	0.055	0.558	1.335	8,163	456	7,728	16,347	210	288	171	194
Aug-08	1.562	0.125	1.483	3.170	0.608	0.048	0.577	1.233	8,165	457	7,728	16,350	191	274	192	194
Sep-08	1.547	0.121	1.378	3.046	0.813	0.064	0.724	1.601	8,167	459	7,728	16,354	189	264	178	186
Oct-08	1.478	0.111	1.319	2.908	0.671	0.051	0.599	1.321	8,170	460	7,728	16,358	181	242	171	178
Nov-08	1.511	0.118	1.329	2.958	1.080	0.084	0.950	2.114	8,171	462	7,728	16,361	185	256	172	181
Dec-08	1.580	0.156	1.362	3.098	1.446	0.143	1.246	2.835	8,172	462	7,728	16,362	193	338	176	189
Jan-09	1.522	0.141	1.354	3.017	1.256	0.116	1.117	2.489	8,177	462	7,728	16,367	186	306	175	184
Feb-09	1.599	0.145	1.330	3.074	1.408	0.128	1.171	2.707	8,179	462	7,728	16,369	196	314	172	188
Mar-09	1.510	0.124	1.307	2.941	1.030	0.085	0.892	2.007	8,180	463	7,728	16,371	185	268	169	180
Apr-09	1.463	0.116	1.262	2.841	0.731	0.058	0.630	1.419	8,183	463	7,728	16,374	179	251	163	174
May-09	1.465	0.117	1.247	2.829	0.712	0.057	0.606	1.375	8,185	464	7,728	16,377	179	252	161	173
Jun-09	1.479	0.115	1.319	2.913	0.712	0.056	0.635	1.403	8,185	465	7,728	16,378	181	248	171	178
Jul-09	1.437	0.109	1.376	2.922	0.599	0.045	0.573	1.217	8,186	467	7,728	16,381	176	234	178	178
Aug-09	1.431	0.113	1.419	2.963	0.603	0.047	0.598	1.248	8,186	467	7,728	16,381	175	242	184	181
Sep-09	1.404	0.108	1.346	2.858	0.690	0.053	0.661	1.404	8,187	468	7,728	16,383	171	231	174	174
Oct-09	1.375	0.108	1.332	2.815	0.744	0.058	0.721	1.523	8,187	468	7,728	16,383	168	231	172	172
Nov-09	1.366	0.111	1.323	2.800	0.843	0.069	0.816	1.728	8,189	469	7,728	16,386	167	237	171	171
Dec-09	1.401	0.127	1.322	2.850	1.149	0.104	1.084	2.337	8,193	469	7,728	16,390	171	271	171	174
Jan-10	1.532	0.155	1.372	3.059	1.271	0.128	1.138	2.537	8,196	472	7,728	16,396	187	329	178	187
Feb-10	1.487	0.148	1.382	3.017	1.371	0.136	1.274	2.781	8,197	474	7,728	16,399	181	313	179	184
Mar-10	1.455	0.145	1.398	2.998	1.108	0.110	1.064	2.282	8,198	474	7,728	16,400	177	306	181	183
Apr-10	1.451	0.137	1.391	2.979	1.058	0.100	1.014	2.172	8,198	474	7,728	16,400	177	289	180	182
May-10	1.379	0.128	1.385	2.892	0.672	0.063	0.675	1.410	8,201	474	7,728	16,403	168	270	179	176
Jun-10	1.437	0.122	1.453	3.012	0.650	0.055	0.657	1.362	8,202	474	7,728	16,404	175	258	188	184
Jul-10	1.375	0.119	1.466	2.960	0.694	0.061	0.740	1.495	8,204	475	7,728	16,407	168	251	190	180
Aug-10	1.366	0.125	1.451	2.942	0.585	0.053	0.621	1.259	8,205	475	7,728	16,408	166	263	188	179
Sep-10	1.346	0.114	1.342	2.802	0.627	0.053	0.626	1.306	8,207	475	7,728	16,410	164	240	174	171
Oct-10	1.413	0.123	1.311	2.847	1.177	0.102	1.092	2.371	8,207	477	7,728	16,412	172	258	170	173
Nov-10	1.399	0.117	1.297	2.813	1.090	0.091	1.011	2.192	8,209	478	7,728	16,415	170	245	168	171
Dec-10	1.605	0.215	1.375	3.195	1.417	0.189	1.214	2.820	8,212	478	7,728	16,418	195	450	178	195
Jan-11	1.452	0.158	1.338	2.948	1.272	0.139	1.172	2.583	8,227	478	7,728	16,433	176	331	173	179
Feb-11	1.413	0.156	1.339	2.908	1.176	0.130	1.114	2.420	8,228	480	7,728	16,436	172	325	173	177
Mar-11	1.387	0.208	1.343	2.938	1.186	0.178	1.148	2.512	8,229	480	7,728	16,437	169	434	174	179
Apr-11	1.320	0.181	1.323	2.824	0.867	0.118	0.869	1.854	8,248	482	7,728	16,458	160	376	171	172
May-11	1.327	0.162	1.320	2.809	0.564	0.069	0.561	1.194	8,248	483	7,728	16,459	161	336	171	171
Jun-11	1.343	0.156	1.390	2.889	0.545	0.063	0.564	1.172	8,249	483	7,728	16,460	163	323	180	176
Jul-11	1.293	0.151	1.430	2.874	0.425	0.050	0.470	0.945	8,250	484	7,728	16,462	157	312	185	175

CSD: Cardiff Sanitary Division

RSF CSD: Ranch Santa Fe Community Service District

SB: Solana Beach

EDU: Equivalent Dwelling Unit

ASSUMPTIONS: SB average flow includes San Elijo Hills flow of 0.131 mgd

SB Connected EDUs includes 300 EDUs for the City of San Diego

**TABLE 1**

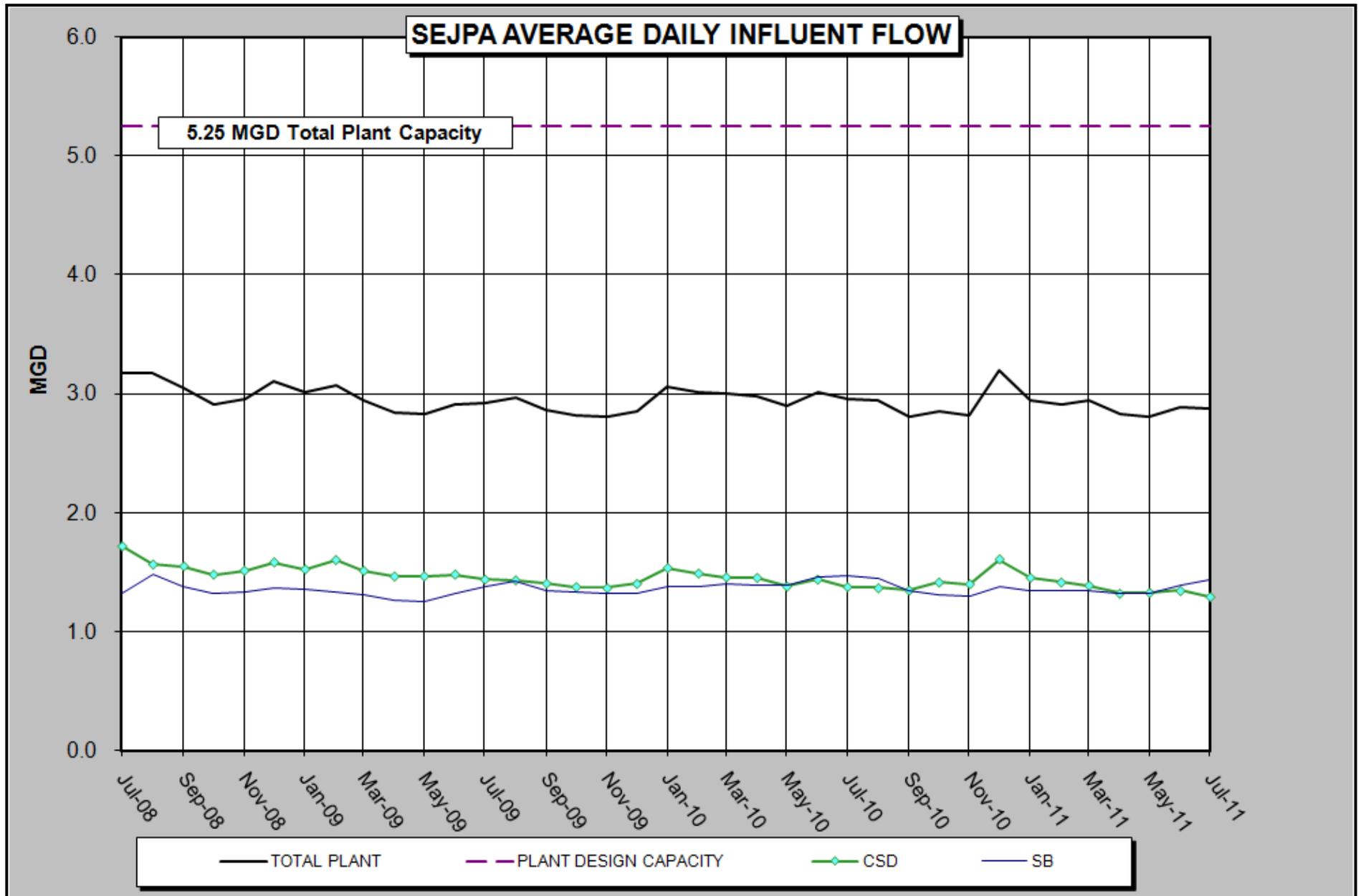


Figure 3

City of Escondido Flows

The average and peak flow rate from the City of Escondido's Hale Avenue Resource Recovery Facility, which discharges through the San Elijo Ocean Outfall, is reported below. The following average flow rate and peak flow rate is reported by the City of Escondido for the months of June and July.

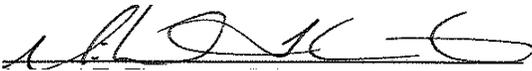
	<b>June (mgd)</b>	<b>July (mgd)</b>
Escondido (Average flow rate)	9.8	9.7
Escondido (Peak flow rate)	18.6	18.5

Connected Equivalent Dwelling Units

The number of EDUs connected for each of the Member Agencies for the months of June and July is as follows:

	<b>June (EDU)</b>	<b>July (EDU)</b>
Cardiff Sanitary Division	8,249	8,250
Rancho Santa Fe SID	483	484
City of Solana Beach	7,428	7,428
San Diego (to Solana Beach)	300	300
<b>Total EDUs to System</b>	<b>16,460</b>	<b>16,462</b>

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

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AGENDA ITEM NO. 10

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

September 12, 2011

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

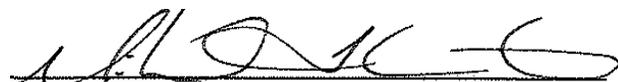
*Recycled Water Production*

For the month of June 2011, recycled water demand was 151.29 acre-feet (AF), which was met using 150.63 AF of recycled water and 0.66 AF of supplementation with potable water. This equates to a blend mix for June of 99.6 percent recycled water and 0.4 percent potable water supplementation.

For the month of July 2011, recycled water demand was 177.41 acre-feet (AF), which was met using 177.07 AF of recycled water and 0.34 AF of supplementation with potable water. This equates to a blend mix for July of 99.8 percent recycled water and 0.2 percent potable water supplementation.

Figure 1 (attached) provides monthly supply demands for recycled water over the last five years. Figure 2 (attached) provides a graphical view of annual recycled water demand spanning the last eleven fiscal years. Recycled water demand can fluctuate from year to year, which is typically a function of weather. For example, Fiscal Year 2003-04, an unusually dry year, resulted in increased recycled water demand; and Fiscal Year 2004-05, an unusually wet year, resulted in lower recycled water demand.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

# MONTHLY RECYCLED WATER DEMAND

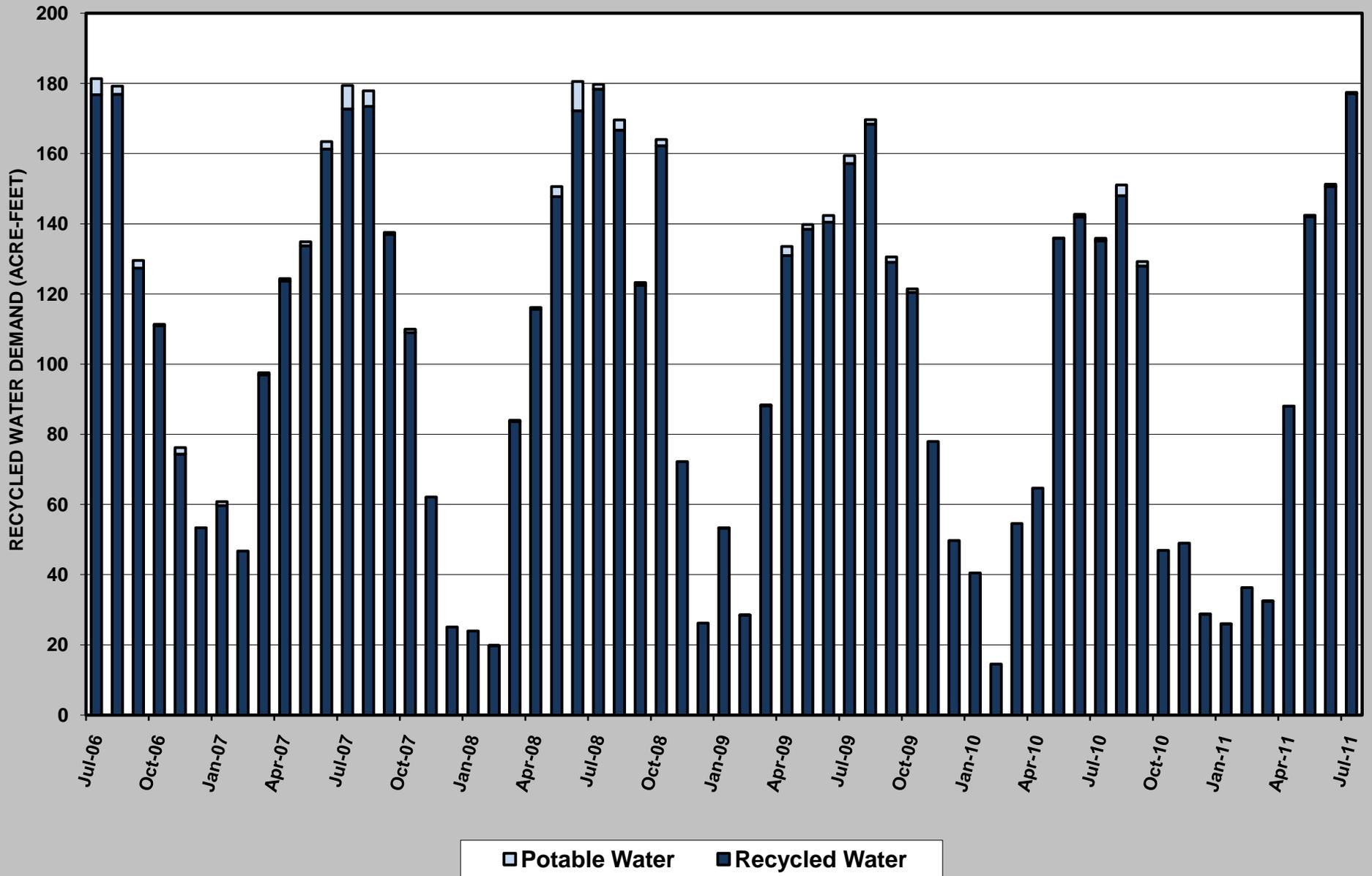


Figure 1

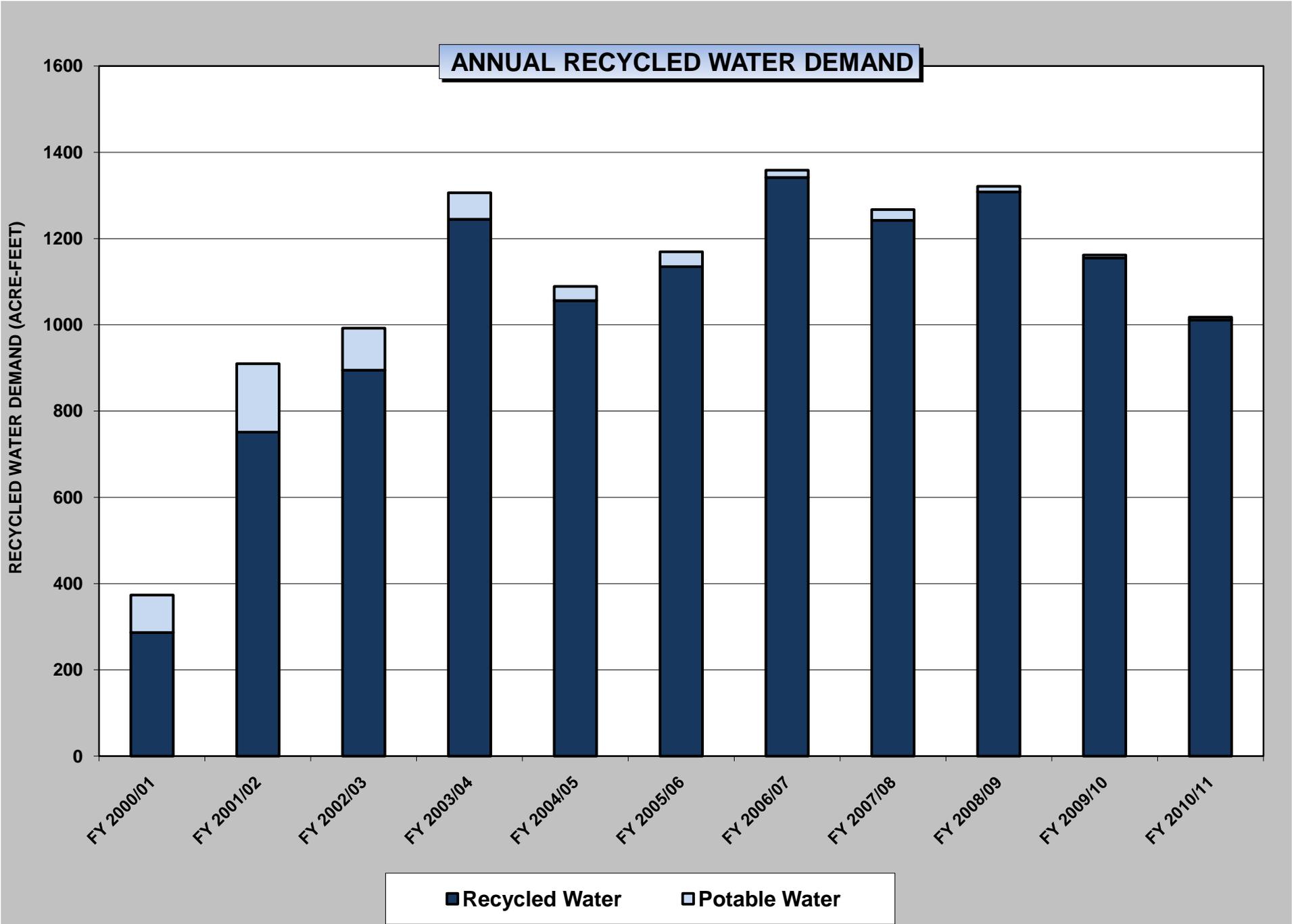


Figure 2

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

September 12, 2011

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: Director of Finance/Administration

SUBJECT: BOND ISSUE REFUNDING

RECOMMENDATION

It is recommended that the Board of Directors:

1. Discuss and take other actions as appropriate.

BACKGROUND

In the late 1980's, the Member Agencies and the SEJPA funded the upgrade and expansion of the wastewater facilities at the then San Elijo Water Pollution Control Facility. The project was funded by the issuance of \$24.5 million in revenue bonds. In 1993, and again in 2003, the original bonds were refunded by the SEJPA for the purpose of reducing future payment costs by obtaining lower interest rates. At this time, the existing bonds have approximately 8 years remaining at an average annual interest rate of 4.875 percent.

Due to recent moves in the public bond market, staff is confident that significant cost savings can be obtained through the refunding of these bonds.

DISCUSSION

Volatility in the investment markets has appeared to draw investors to the relative safety of the public bond market. This increase in appetite for public bonds coupled with a slight reduction in bond releases has forced down the interest rates on this type of investment. The 2003 bonds are callable in March 2012, which allows the SEJPA to issue refunding bonds anytime after December 2011. At the request of the SEJPA, Brandis Tallman, LLC (Brandis) has prepared an analysis presenting the financial benefits of refunding the 2003 issue at this time (Attachment).

The analysis estimates gross savings of \$196,000 annually, or approximately \$91,000 annually to the Cardiff Sanitation Division and \$105,000 to the Solana Beach Sanitation Division based on their share of the original bond issue. The refunding represents a net present value savings of \$1.2 million or about 11 percent of refunded par value. Furthermore, staff recommends pursuing the new issuance as an insured public offering, which would raise the rating from AA to

AA+ (due to the insurance). The bond insurance provides a double benefit; first it improves the bond rating which improves the interest rate. Second, and more significantly, it eliminates the requirement for a reserve fund. This would decrease the term of the bonds by one year. The estimated interest rate of the public issue would range from 0.45 to 2.25 percent with the weighted average of approximately 1.76 percent.

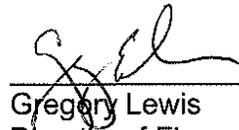
A private placement scenario was also evaluated; however it does not produce the same savings as the public issue. The interest rates of the public issue is substantially lower than the private placement, which more than compensates for the higher upfront costs associated with the public issue.

Naturally, bond interest rates will fluctuate and actual rates and savings may be different when offered to the public in January 2012. However, even given small market fluctuations, significant saving should be realized. Given the information presented, it appears that refunding the 2003 bonds through a public issue offering should be considered at this time.

It is, therefore recommended the Board of Directors:

1. Discuss and take other actions as appropriate.

Respectfully submitted,



---

Gregory Lewis  
Director of Finance/Administration

Attachment: Private Placement vs. Public Offering Cost Analysis

**SAN ELIJO JOINT POWERS AUTHORITY, CALIFORNIA**  
**Refunding Revenue Bonds, Series 2012 (2003 Refunding Revenue Bonds)**  
**Summary as of 8/30/11 Estimated Closing Date Jan. 12, 2012**  
**Preliminary, Subject to Change with Market Conditions**

	<u>Private Placement</u>	<u>Insured Public Offering</u>
<b>REFUNDING BONDS</b>		
Cost of Defeasance @ 3/1/2012	11,736,400	11,736,400
Cost of Issuance and Underwriter's Discount (1)	55,000	260,200
Reserve Fund	N/A	Surety
Existing Reserve Fund	1,598,300	1,598,300
3/1/2012 Debt Service Due	1,323,300	1,323,300
Par Amount	8,869,800	9,075,000
Arbitrage Yield	3.10%	1.76%
All-In True Interest Cost	3.26%	2.28%
Final Maturity of Refunding (shortened by 1 year)	3/1/2019	3/1/2019
<b>AVERAGE FISCAL YEAR DEBT SERVICE (2)</b>		
2012/13 thru 2018/19 - Refunding	1,434,857	1,381,333
2012/13 thru 2018/19 - Existing	1,578,034	1,578,034
Annual Trustee Fee Savings	1,500	0
2012/13 thru 2018/19 - Savings	144,676	196,700
<b>TOTAL DEBT SERVICE (2)</b>		
Refunding	10,044,002	9,669,334
Existing	11,014,076	11,014,076
Trustee Fee Savings	12,750	0
Savings	982,824	1,344,742
Net Present Value Savings	869,684	1,255,659
Net Present Value Savings %	7.66%	11.05%

(1) Including bond counsel, disclosure counsel, rating, printing, trustee, underwriter's discount and bond insurance premium, as applicable.

(2) Includes a credit for interest earnings on the reserve fund each year and the reserve fund corpus in the final year of 2019/2020.

SAN ELIJO JOINT POWERS AUTHORITY  
MEMORANDUM

September 12, 2011

TO: Board of Directors  
San Elijo Joint Powers Authority

FROM: General Manager

SUBJECT: PROPOSED FINANCING PLAN FOR THE ADVANCED WATER  
(DEMINERALIZATION) TREATMENT SYSTEM AT THE SAN ELIJO WATER  
RECLAMATION FACILITY

RECOMMENDATION

It is recommended that the Board of Directors:

1. Discuss and take action as appropriate.

PROJECT BACKGROUND

The San Elijo Joint Powers Authority (SEJPA) is pursuing advanced water treatment improvements at the San Elijo Water Reclamation Facility. This project will allow the agency to maximize its recycling efforts and to improve water quality. The treatment process includes 1.0 Million Gallons per Day (MGD) of microfiltration treatment, followed by 0.5 MGD of reverse osmosis treatment capacity. This process will remove Total Dissolved Solids (TDS), bacteria, viruses, and other impurities, making the recycled water safer and more reliable.

The SEJPA's recycled water program currently meets all Federal, State, and local water quality requirements except for TDS. TDS is a measurement of salts and dissolved minerals such as calcium, sodium, potassium, and chloride. The TDS level in the recycled water does not pose a health risk; however, elevated TDS levels can have an accumulative negative effect on plant material. Accordingly, the SEJPA has TDS limits within its operating permits and in the water sales contracts with the local water districts. The intent of the project is to improve water quality to maintain permit compliance, adhere to wholesale contractual obligations, and increase the overall capacity to serve additional customers.

In 2009, the SEJPA began the design and permitting of the new treatment facilities. Concurrently, the SEJPA pursued grant funding and third-party construction financing. Presently, the project is ready to move to the construction phase. The SEJPA was successful in securing approximately \$700,000 in grant funding and in qualifying for a \$2 million construction loan. At the July 2011 SEJPA Board meeting, the General Manager was directed to prepare a financing package to be presented to the Board of Directors at the September 12, 2011 Board meeting. This staff report provides information on the proposed project financing.

## PROPOSED PROJECT FINANCING PLAN

The project has a current estimated construction cost of \$4.7 million. Under the proposed financing plan, the \$4.7 million is to be funded as follows:

- \$2.0 million from the Recycled Water Program reserves
- \$0.7 million from Proposition 84 grant
- \$2.0 million from a private placement loan

The use of \$2.0 million from the Recycled Water reserves will draw the reserve down to approximately \$1.2 million. The reserve has two components, restricted and unrestricted funds. Of the \$1.2 million, \$630,000 will be restricted for repairs and replacement needs and \$650,000 will be non-restricted funds. This will provide the SEJPA with some funding for unforeseen events. If revenues for the program drop below expenditures, the unrestricted funds would be utilized to cover revenue shortfalls.

The SEJPA has been awarded approximately \$700,000 from the San Diego Integrated Regional Water Management (IRWM), Proposition 84, grant funding. This award is part of a larger regional grant proposal through a partnership of the SEJPA, Olivenhain Municipal Water District, and the San Elijo Lagoon Conservancy. The grant is a reimbursement-type grant. As such, the SEJPA must first expend funds on project costs, then submit reimbursement requests to the grant administrator.

The final element of the project financing plan is a third-party construction loan placed by Brandis Tallman, LLC. The SEJPA has qualified for a private placement loan of \$2.0 million. The loan terms include a payment period of 20 years at an interest rate of approximately 4.4%. The exact interest rate for the loan is based on market conditions at the time of the rate lock. The rate lock period for the loan is 60 days. If the SEJPA is interested in executing the loan agreement in November, then the earliest rate lock date for the loan is mid-September. The annual loan payment will be approximately \$153,000, assuming \$2 million loan, 20 year period, and 4.4% fixed rate.

## ANTICIPATED PROJECT SCHEDULE

If the proposed financing plan is approved by the SEJPA Board of Directors, the project documents could be ready for execution at the November 2011 Board meeting. It is expected that the project documents will include the loan agreement, construction agreements, and equipment lease-purchase agreement. The project has an estimated construction schedule of one year followed by a system start up period of one month. It is expected that the new treatment system could be in operation early 2013.

It is therefore recommended that the Board of Directors:

1. Discuss and take action as appropriate.

Respectfully submitted,



Michael T. Thornton, P.E.  
General Manager

Attachment: Proposed Loan Agreement

## LOAN AGREEMENT

THIS LOAN AGREEMENT, (this "Loan Agreement"), dated for convenience as of September 1, 2011, is by and between Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California (the "Corporation"), and the San Elijo Joint Powers Authority, a joint powers authority duly organized and existing under the Constitution and laws of the State of California (the "Authority");

### WITNESSETH:

WHEREAS, the Authority presently owns and operates certain facilities and property for the supply of reclaimed water to public agencies within the service area of the Authority (the "Enterprise"), and, the Authority wishes at this time to finance its share of the costs of constructing certain improvements to the water reclamation facilities of the Enterprise (the "Project"); and

WHEREAS, the Authority intends to proceed with the Project by (i) leasing the site of the Project to Lyles Construction Group ("Lyles") pursuant to the Membrane Filtration Project Site Lease dated as of \_\_\_\_ between Authority and Lyles, (ii) subleasing the site of the Project from Lyles pursuant to the Membrane Filtration Project Sublease Agreement dated as of \_\_\_\_ between Authority and Lyles; (iii) entering into a Membrane Filtration Project Construction Services Agreement dated as of \_\_\_\_ between Authority and Lyles; and (iv) acquiring certain equipment and related services through an Equipment Lease/Purchase Agreement dated as of \_\_\_\_ between Pall Corporation and Authority, its rights and obligations under which Authority shall assign to Lyles as part of the foregoing Construction Services Agreement between Lyles and Authority (all four of the foregoing agreements are collectively referred to as the "Lease Purchase Agreements"); and

WHEREAS, the Corporation has agreed to lend the Authority an amount which the Authority has determined will be sufficient to pay such costs of the Project, pursuant hereto;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

**SECTION 1.1. Definitions.** All capitalized terms used in this Section 1.1 shall for all purposes of this Loan Agreement have the meanings herein specified or as hereinafter defined.

"Assignee" means (a) initially, City National Bank, as assignee of certain rights of the Corporation hereunder, and (b) any other entity to whom the rights of the Corporation shall be assigned hereunder.

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

"Available Wastewater System Revenues" means the revenues of the Authority's wastewater system available after payment of all prior obligations of the wastewater enterprise including but not limited to any obligations under (i) the Second Amended and Restated Loan Agreement dated as of April 1, 2003 by and among the City of Solana Beach, Union Bank, N.A., as trustee, and the Authority; and (ii) the Second Amended and Restated Loan Agreement dated as of April 1, 2003 by and among the City of Encinitas, as successor to the Cardiff Sanitation District, Union Bank of California, N.A., as trustee, and the Authority.

"Corporation" means Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California. Whenever in this Loan Agreement any reference is made to the Corporation and such reference concerns rights which the Corporation has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

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

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

"Federal Securities" means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

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

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

"Loan" means the loan made by the Corporation to the Authority pursuant to Section 3.1.

"Loan Agreement" means this Loan Agreement, dated as of September 1, 2011, between the Corporation and the Authority.

"Loan Repayment Date" means \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing \_\_\_\_\_ and continuing to and including the date on which the Loan Repayments have been paid in full.

"Loan Repayments" means all payments required to be paid by the Authority on any date pursuant to Section 3.4, including any prepayment thereof pursuant to Section 6.2 or 6.3.

"Maintenance and Operation Costs" means the reasonable and necessary costs and expenses paid by the Authority for maintaining and operating the Enterprise, including but not limited to the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Enterprise in good repair and working order, and including but not limited to administrative costs of the Authority attributable to the Enterprise and the financing thereof, but in all cases excluding depreciation, replacement and

obsolescence charges or reserves therefor and excluding amortization of intangibles or other bookkeeping entries of a similar nature.

"Maximum Annual Debt Service" means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year during the Term of this Loan Agreement by totaling the aggregate amount of (i) the Loan Repayments coming due in such Fiscal Year, and (ii) the principal and interest coming due and payable in such Fiscal Year on any Parity Obligations, including the principal amount coming due and payable by operation of mandatory sinking fund redemption. There shall be excluded from such calculation any principal of and interest on the Loan Repayments and any Parity Obligations which have been defeased or discharged, or for the payment of which a security deposit has been posted. With respect to any Parity Obligations which then bear interest at a variable rate, such interest shall be calculated at an assumed rate equal to the average rate of interest per annum for each of the 5 previous whole calendar years as shown by the J. J. Kenny Index (or at any time in the event and to the extent such index is not maintained for all or any portion of such period, any similar index of variable rate interest for tax-exempt obligations as may be selected by the Authority in its sole discretion).

"Net Revenues" means, for any period, an amount equal to all of the Gross Revenues received during such period, minus the amount required to pay all Maintenance and Operation Costs of the Enterprise becoming payable during such period.

"Parity Obligations" means the State Revolving Fund Loan Program Contract between the State Water Resources Control Board and the Authority (Contract No. 7-815-550-0, Loan No. C-06-4155-110) dated as of March 6, 1998 ("SRF Loan") and any bonds, notes or other obligations of the Authority payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Loan Repayments.

"Project" means all of the facilities and improvements to be acquired, constructed and installed pursuant to a Site Lease between the Authority and Lyles Construction Group and paid from the proceeds of the Loan and constituting part of the Enterprise. Such facilities and improvements are originally described in Exhibit B attached hereto and by this reference incorporated herein, subject to the right of the Authority in its sole discretion to amend such description from time to time.

"Project Fund" means the fund established for the acquisition of the Project, as such fund is described in Section 3.2.

"Revenue Fund" means the fund heretofore established and held by the Authority for the receipt and deposit of Gross Revenues.

"Tax Code" means the Internal Revenue Code of 1986. Any reference herein to a provision of the Tax Code shall include all applicable temporary and permanent regulations promulgated under the Tax Code.

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

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

Exhibit A: The schedule of Loan Repayments to be paid by the Authority hereunder, showing the date and amount of each such Loan Repayment.

Exhibit B: The original description of the Project.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**SECTION 2.1. Representations, Covenants and Warranties of the Authority.** The Authority represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The Authority is a joint powers authority duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The laws of the State of California authorize the Authority to enter into this Loan Agreement and to enter into the transactions contemplated hereby and thereby, and to carry out its obligations under this Loan Agreement and the Board of Directors of the Authority has duly authorized the execution and delivery of this Loan Agreement.

(c) No Violations. Neither the execution and delivery of this Loan Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the Authority, other than as set forth herein.

**SECTION 2.2. Representations, Covenants and Warranties of the Corporation.** The Corporation represents, covenants and warrants to the Authority as follows:

(a) Due Organization and Existence. The Corporation is a corporation duly organized and existing under the laws of the State of California.

(b) Authorization. The laws of the State of California authorize the Corporation to enter into this Loan Agreement and to enter into the transactions contemplated hereby and thereby, and to carry out its obligations under this Loan Agreement and the Board of Directors of the Corporation has duly authorized the execution and delivery of this Loan Agreement.

(c) No Violations. Neither the execution and delivery of this Loan Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation.

(d) No Assignments. Except as provided herein, the Corporation will not assign this Loan Agreement, its right to receive Loan Repayments from the Authority, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2.

### ARTICLE III

#### TERMS OF LOAN

**SECTION 3.1. Obligation to Make Loan; Amount of Loan.** The Corporation hereby agrees to lend to the Authority, and the Authority hereby agrees to borrow from the Corporation, the amount of \$\_\_\_\_\_ under the terms and provisions set forth in this Loan Agreement. The Loan shall be to finance the acquisition, construction and installation of the Project.

**SECTION 3.2. Acquisition and Construction of the Project; Deposit of Moneys.** On the Closing Date the Corporation shall deposit the sum of \$\_\_\_\_\_ to the Project Fund established by the Authority, which the Authority shall expend for the purpose of

financing the acquisition, construction and installation of the Project including, without limitation, the payment of amounts owing pursuant to the Lease Purchase Agreements. The Authority shall invest proceeds in the Project Fund in investments authorized by California law and the Authority's investment policy. Any unexpended proceeds in the Project Fund upon the completion of the Project shall be applied by the Authority towards the payment of Installment Payments.

The Corporation hereby appoints the Authority as its agent to carry out all phases of the acquisition, construction and installation of the Project and the Authority hereby accepts such appointment. Authority shall enter into contracts and provide for, as agent for Corporation, the complete construction, acquisition and installation of the Project. Authority hereby agrees that it will cause the construction, acquisition and installation of the Project to be diligently performed. It is hereby expressly understood and agreed that Corporation shall be under no liability of any kind or character whatsoever for the payment of any cost of the Project and that all such costs and expenses shall be paid by Authority, regardless of whether the funds deposited with Authority are sufficient to cover all such costs and expenses.

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

**SECTION 3.4. Loan Repayments.**

(a) Obligation to Pay. The Authority hereby agrees to repay the Loan in the aggregate principal amount of \$\_\_\_\_\_ together with interest (calculated at the rate of \_\_\_\_% on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Loan Repayments in the respective amounts and on the respective Loan Repayment Dates specified in Exhibit A.

As a result of the assignment by the Corporation to the Assignee of the right of the Corporation to receive the Loan Repayments, the Authority shall pay all Loan Repayments when due directly to the Assignee.

(b) Effect of Prepayment. In the event that the Authority prepays the Loan Repayments in full pursuant to Article VI, the Authority's obligations under this Loan Agreement shall thereupon cease and terminate, including but not limited to the Authority's obligation to pay Loan Repayments under this Section 3.4; subject however, to the provisions of Section 6.1 in the case of prepayment by application of a security deposit. In the event that the Authority

prepays the Loan in part but not in whole pursuant to Section 6.3, the principal components of the remaining Loan Repayments shall be reduced on a pro rata basis so as to produce equal Loan Repayments over the remaining Term of this Loan Agreement.

(c) Rate on Overdue Payments. In the event the Authority should fail to make any of the payments required in this Section 3.4, the payment in default shall continue as an obligation of the Authority until the amount in default shall have been fully paid, and the Authority agrees to pay the same with interest thereon, to the extent permitted by law, from the date of default to the date of payment at the rate of eight percent (8%) per annum.

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

(a) Special Obligation. The Authority's obligation to pay the Loan Repayments is a special obligation of the Authority limited solely to the Net Revenues and all amounts on deposit in the Revenue Fund. Under no circumstances is the Authority required to advance moneys derived from any source of income other than the Net Revenues and Available Wastewater System Revenues for the payment of the Loan Repayments, and no other funds or property of the Authority are liable for the payment of the Loan Repayments. Notwithstanding the foregoing provisions of this Section, however, nothing herein prohibits the Authority voluntarily from making any payment hereunder from any source of available funds of the Authority. The general funds of the members of the Authority are not pledged towards the payment of the Loan Repayment.

(b) Obligations Absolute. Subject to the restrictions in Section 3.5(a), the obligations of the Authority to pay the Loan Repayments from the Net Revenues and to perform and observe the other agreements contained herein are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the Authority or the Corporation of any obligation to the Authority or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the Authority by the Corporation. Until such time as all of the Loan Repayments have been fully paid or prepaid, the Authority:

(i) will not suspend or discontinue payment of any Loan Repayments,

(ii) will perform and observe all other agreements contained in this Loan Agreement, and

(iii) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Corporation to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

(c) Protection of Rights. If the Corporation fails to perform any such agreements on its part, the Authority may institute such action against the Corporation as the Authority deems necessary to compel performance so long as such action does not abrogate the obligations of the Authority contained in the preceding subsection (b). The Authority may, however, at the Authority's own cost and expense and in the Authority's own name or in the name of the Corporation prosecute or defend any action or proceeding or take any other action involving third persons which the Authority deems reasonably necessary in order to secure or protect the Authority's rights hereunder, and in such event the Corporation will cooperate fully with the Authority and take such action necessary to effect the substitution of the Authority for the Corporation in such action or proceeding if the Authority shall so request.

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

(a) Pledge. All of the Net Revenues and all amounts on deposit in the Revenue Fund are hereby irrevocably pledged to the punctual payment of the Loan Repayments and any Parity Obligations. The Net Revenues and amounts on deposit in the Revenue Fund may not be used for any other purpose so long as any of the Loan Repayments and any Parity Obligations remain unpaid; except that out of the Net Revenues and such other amounts there may be apportioned such sums, for such purposes, as are expressly permitted by this Section 3.6. Such pledge constitutes a first and exclusive lien on the Net Revenues and such other moneys for the payment of the Loan Repayments and any Parity Obligations in accordance with the terms hereof and the terms of the instruments authorizing the issuance of any Parity Obligations.

(b) Deposit of Gross Revenues; Transfers to Make Loan Repayments. The Authority has heretofore established the Revenue Fund, which the Authority agrees to continue to hold and maintain for the

purposes and uses set forth herein. The Authority shall deposit all Gross Revenues in the Revenue Fund promptly upon the receipt thereof.

All Net Revenues will be held by the Authority in the Revenue Fund in trust for the benefit of the Corporation and for the benefit of the owners of any Parity Obligations. The Authority shall withdraw from such fund or funds and transfer to the Corporation an amount of Net Revenues equal to the aggregate amount of the Loan Repayment when and as the same becomes due and payable. In addition, the Authority shall withdraw from such fund or funds such amounts of Net Revenues at such times as required to pay the principal of and interest on any Parity Obligations and otherwise comply with the provisions of the instruments authorizing the issuance of any Parity Obligations.

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

**SECTION 3.7. Backup Pledge of Available Wastewater System Revenues.** If the Authority is unable to make any Loan Repayment in full when due on any Loan Repayment Date, the Authority shall apply Available Wastewater System Revenues to make up such insufficiency. The Authority hereby pledges such revenues to the payment of the Loan Repayments when due, to the extent the Net Revenues of the Enterprise are insufficient, subject to and subordinate to all outstanding bonds, notes and other obligations of the Authority which are secured by a pledge of and lien on the revenues of the Authority derived from its wastewater system.

#### ARTICLE IV

#### COVENANTS OF THE AUTHORITY

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

(a) the use, maintenance, condition or management of, or from any work or thing done on or about the Enterprise by the Authority,

(b) any breach or default on the part of the Authority in the performance of any of its obligations under this Loan Agreement,

(c) any intentional misconduct or gross negligence of the Authority or of any of its agents, contractors, servants, employees or licensees with respect to the Enterprise, and

(d) any intentional misconduct or negligence of any lessee of the Authority with respect to the Enterprise.

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

**SECTION 4.2. Sale or Eminent Domain of Enterprise.** Except as provided herein, the Authority covenants that the Enterprise will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the Authority to pay the Loan Repayments or the principal of or interest on any Parity Obligations, or would materially adversely affect its ability to comply with the terms of this Loan Agreement or the instruments authorizing the issuance of any Parity Obligations. The Authority has determined that the Lease Purchase Agreements shall not materially affect its ability to perform its obligations under this Loan Agreement. The Corporation acknowledges and consents to the Lease Purchase Agreements for the purpose of financing and acquiring the Project. The Authority shall not enter into any agreement which impairs the operation of the Enterprise or any part of it necessary to secure adequate Net Revenues to pay the Loan Repayments or any Parity Obligations, or which otherwise would impair the rights of the Corporation with respect to the Net Revenues. If any substantial part of the Enterprise is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay or redeem the Loan and any Parity Obligations, on a pro rata basis, in the manner provided herein and in the instruments authorizing such Parity Obligations.

Any amounts received as awards as a result of the taking of all or any part of the Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the Authority, shall either (a) be used for the acquisition or construction of improvements and extension or replacement facilities of the Enterprise, or (b) be applied to prepay or redeem the Loan and any Parity Obligations, on a pro rata basis, in

the manner provided herein and in the instruments authorizing such Parity Obligations.

**SECTION 4.3. Insurance.** The Authority shall at all times maintain with responsible insurers all such insurance on the Enterprise as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Enterprise. If any useful part of the Enterprise is damaged or destroyed, such part shall be restored to usable condition. All amounts collected from insurance against accident to or destruction of any portion of the Enterprise shall be used to repair or rebuild such damaged or destroyed portion of the Enterprise or if determined not to repair or rebuild such portion and in any event to the extent not so applied, must either (a) be used for the acquisition or construction or improvements and extensions or replacement facilities or (b) be applied on a pro rata basis to prepay or redeem the Loan and the Prior Parity Obligations in the manner provided in this Loan Agreement and in the instruments authorizing such Parity Obligations. The Authority shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the Authority, the Corporation and the Assignee. Any insurance required to be maintained hereunder may be maintained under and in accordance with a joint exercise of powers agreement, or may be maintained by the Authority in the form of self-insurance or in the form of participation by the Authority in a program of pooled insurance.

**SECTION 4.4. Records and Accounts.** The Authority shall keep proper books of records and accounts of the Enterprise, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection of the Corporation.

The Authority shall cause the books and accounts of the Enterprise to be audited annually by an independent certified public accountant or firm of certified public accountants, not more than two hundred seventy (270) days after the close of each Fiscal Year, and shall furnish a copy of such report to the Corporation or the Assignee. The audit of the accounts of the Enterprise may be included as part of a general Authority-wide audit.

The Authority shall cause to be published annually, not more than two hundred seventy (270) days after the close of each Fiscal Year, a summary statement showing the amount of Gross Revenues and the disbursements from Gross Revenues and from other funds of the Authority in reasonable detail. The Authority shall furnish a copy of

the statement, upon reasonable written request, to the Corporation and the Assignee.

**SECTION 4.5. Rates and Charges.** The Authority shall use its best efforts to fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which (together with existing unencumbered cash and cash-equivalent balances which are lawfully available to the Authority for payment of any of the following amounts during such Fiscal Year) are at least sufficient, after making allowances for contingencies and error in the estimates, to pay the following amounts in the following order:

(i) All Maintenance and Operation Costs estimated by the Authority to become due and payable with respect to such Fiscal Year;

(ii) The Loan Repayments and all principal of and interest and premium (if any) on any Parity Obligations as they become due and payable with respect to such Fiscal Year, without preference or priority;

(iii) All payments coming due and payable with respect to such Fiscal Year and required for compliance with this Loan Agreement and the instruments authorizing any Parity Obligations; and

(iv) All payments required to meet any other obligations of the Authority which are charges, liens, encumbrances upon or payable from the Gross Revenues with respect to such Fiscal Year.

**SECTION 4.6. No Priority for Additional Obligations.** The Authority may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the Net Revenues over the Loan Repayments.

**SECTION 4.7. Issuance of Parity Obligations.** Except for obligations incurred to prepay or post a security deposit for the Loan in whole, the Authority may not issue or incur any Parity Obligations unless:

(a) The Authority is not then in default under the terms of this Loan Agreement.

(b) The Net Revenues (excluding connection charges), calculated in accordance with sound accounting principles, as shown by the books of the Authority for the latest Fiscal Year or as shown by the books of the Authority for any more recent 12 month period selected by the Authority, in either case verified by a certificate or opinion of an independent certified public accountant (which may be, but not need

be, the outside firm providing auditing services) employed by the Authority at least equal 115% of the amount of Maximum Annual Debt Service; *provided, however,* that this subsection (b) does not apply to any issue of Parity Obligations the net proceeds of which are applied to refund the Loan or any Parity Obligations in whole or in part, so long as (i) the final maturity of such Parity Obligations does not exceed the final maturity of the obligations being refunded, and (ii) the aggregate amount of debt service on such Parity Obligations in each Fiscal Year does not exceed the amount of debt service which would otherwise come due and payable in such Fiscal Year on the obligations being refunded.

(c) Notwithstanding the above, the Authority may incur debt payable from Net Revenues (i) to cause a defeasance of this Loan Agreement under Section 6.1 or (ii) which is payable on a basis which is junior to the payment of the Loan Repayments.

**SECTION 4.8. Assignment by the Corporation.** The Corporation's rights under this Loan Agreement, including the right to receive and enforce payment of the Loan Repayments to be made by the Authority under this Loan Agreement, have been assigned to the Assignee pursuant to an Assignment of Loan Agreement. Whenever in this Loan Agreement any reference is made to the Corporation and such reference concerns rights which the Corporation has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

The Corporation or the Assignee has the right to make additional assignments of its rights and obligations under this Loan Agreement, but the Authority shall not be required to pay more than a single payee, regardless of the number of Assignees, and no such assignment will be effective as against the Authority unless and until the Corporation or the Assignee files with the Authority written notice thereof. The Authority shall pay all Loan Repayments hereunder under the written direction of the Corporation or the Assignee named in the most recent assignment or notice of assignment filed with the Authority. During the Term of this Loan Agreement, the Authority shall keep a complete and accurate record of all such notices of assignment.

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

**SECTION 4.10. Amendment of this Loan Agreement.** This Loan Agreement may be amended by the Authority and the Corporation, but

only with the prior written consent of the Assignee (which consent may not be unreasonably withheld).

**SECTION 4.11. Tax Covenants.**

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

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

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

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

(e) Small Issuer Exemption from Bank Nondeductibility Restriction. The Authority hereby designates this Loan Agreement for purposes of paragraph (3) of Section 265(b) of the Tax Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Tax Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including this Loan Agreement, has been or will be issued by the Authority, including all subordinate entities of the Authority, during the calendar year 2011.

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

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

For purposes of this subsection (g), the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 5.1. Events of Default Defined.** The following shall be Events of Default under this Loan Agreement.

(a) Failure by the Authority to pay the Corporation any Loan Repayment or to pay other amounts required to be paid hereunder within fifteen (15) days of the time specified herein, and such failure is not cured within ten (10) days after written notice thereof by the Corporation.

(b) Failure by the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder other than as referred to in the preceding clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Authority by the Corporation *provided, however*, if in the reasonable opinion of the Authority the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Corporation shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Authority within such thirty (30) day period and diligently pursued until the default is corrected.

(c) The filing by the Authority of a voluntary petition in bankruptcy, or failure by the Authority promptly to lift any execution, garnishment or attachment, or adjudication of the Authority as a bankrupt, or assignment by the Authority for the benefit of creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Authority in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(d) An event of default as defined under any contracts or agreements relating to any Parity Obligations.

**SECTION 5.2. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Corporation shall have the rights, at its option and without any further demand or notice to:

(a) declare all principal components of the unpaid Loan Repayments, together with accrued interest thereon at the rate of interest per annum represented by the Loan from the immediately preceding Loan Payment Date on which payment was made, to be immediately due and payable, whereupon the same shall immediately become due and payable; and,

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

The provisions of the preceding clause (a) are subject to the condition that if, at any time after the principal components of the unpaid Loan Repayments shall have been so declared due and payable pursuant to the preceding clause (a), and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority shall deposit with the Corporation a sum

sufficient to pay all principal components of the Loan Repayments coming due prior to such declaration and all matured interest components (if any) of the Loan Repayments, with interest on such overdue principal and interest components calculated at the rate set forth in Section 3.4(c) and the reasonable expenses of the Corporation (including any reasonable fees and expenses of its attorneys), and any and all other defaults known to the Corporation (other than in the payment of the principal and interest components of the Loan Repayments due and payable solely by reason of such declaration) shall have been made good, then, and in every such case, the Corporation may, by written notice to the Authority rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

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

**SECTION 5.4. Agreement to Pay Attorneys' Fees and Expenses.** In the event either party of this Loan Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys (including in-house counsel) or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including the allocable cost of in-house counsel) and such other expenses so incurred by the nondefaulting party.

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

**SECTION 5.6. Assignee to Exercise Rights.** Such rights and remedies as are given to the Corporation under this Article V have

been assigned by the Corporation to the Assignee and shall be exercised solely by the Assignee.

## ARTICLE VI

### PREPAYMENT OF LOAN

**SECTION 6.1. Security Deposit.** Notwithstanding any other provision of this Loan Agreement, the Authority may on any date secure the payment of Loan Repayments, in whole, by irrevocably depositing with a fiduciary an amount of cash which, together with other available amounts, is either (a) sufficient to pay all such Loan Repayments, including the principal and interest components thereof, when due pursuant to Section 3.4(a), or (b) invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Loan Repayments when due pursuant to Section 3.4(a) or when due on any optional prepayment date pursuant to Section 6.2, as the Authority shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section for the payment of all remaining Loan Repayments, all obligations of the Authority under this Loan Agreement, and the pledge of Net Revenues and all other security provided by this Loan Agreement for said obligations, shall cease and terminate, excepting only the obligation of the Authority to make, or cause to be made, all of Loan Repayments from such security deposit. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of such Loan Repayments in accordance with the provisions of this Loan Agreement.

**SECTION 6.2. Optional Prepayment.** The Authority shall have the option to prepay the unpaid principal balance of the Loan in whole, on any Loan Repayment Date, commencing on the tenth anniversary of the Closing Date, by paying the Loan Repayment required to be paid on such date plus a prepayment price equal to the principal amount of the Loan Repayments to be prepaid, together with a one half of one percent (.50%) prepayment premium thereon. There shall be no prepayment premium commencing on the twelfth anniversary of the Closing Date. The Authority shall give the Corporation written notice of its intention to exercise its option not less than thirty (30) days in advance of the date of exercise.

**SECTION 6.3. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.** The Authority shall prepay the unpaid principal balance of the Loan in whole on any date or in part, on any Loan Repayment Date, from and to the extent the Authority determines to apply any Net Proceeds of insurance award or condemnation award



**SECTION 7.4. Net-net-net Contract.** This Loan Agreement shall be deemed and construed to be a "net-net-net" contract, and the Authority hereby agrees that the Loan Repayments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

**SECTION 7.5. Further Assurances and Corrective Instruments.** The Corporation and the Authority agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

**SECTION 7.6. Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7.7. Applicable Law.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

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

SAN ELIJO JOINT POWERS AUTHORITY

By \_\_\_\_\_  
Chairperson

MUNICIPAL FINANCE CORPORATION

By \_\_\_\_\_  
President