



BOARD OF DIRECTORS MEETING

Thursday, September 16, 2021

6:30 P.M.

DUE TO COVID-19, THIS MEETING WILL BE CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT. MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON.

The following members of the BAWSCA Board are listed to permit them to appear telephonically at the Board Meeting on September 16, 2021: George Barber, Jay Benton, Randy Breault, Tom Chambers, Drew Combs, Alison Cormack, Tom Hamilton, Karen Hardy, Sam Hindi, Steve Jordan, Gustav Larsson, Sam Liccardo, Antonio López, Juslyn Manalo, Lisa Matichak, Al Mendall, Chris Mickelsen, Carmen Montano, Ann O'Brien, Tom Piccolotti, Barbara Pierce, Dan Quigg, Lou Vella, John Weed, Sepi Wood, and Tom Zigterman.

Members of the public wanting to participate in the meeting may do so by:

Participating via Video Conference:

Click on the link to Join the meeting, <https://us02web.zoom.us/j/83332713239>

- Meeting ID: **833 3271 3239**
- Password: **320863**
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OR,

Participating via Telephone:

- **Dial (888) 788-0099** US Toll-free, and entering **Meeting ID 833 3271 3239** and **Password 320863** when prompted.
- To Mute or UnMute, Press *6.
- To Raise Hand, Press *9.
- The Presentation will be available prior to the meeting at www.bawasca.org.

All audio and video will be OFF upon entry. Remaining on mute will reduce background noise.

Videos of Non-Board meeting participants will be kept OFF at all times during the meeting. Audio for Non-Board meeting participants will be enabled during allocated public speaking times and will be disabled when public comment time has expired.

In the event of technical malfunction on Zoom, the meeting will be conducted via the Call-In #.

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BOARD OF DIRECTORS MEETING

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6:30 P.M.

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Larsson)	
2. Comments by the Chair	(Larsson)	
3. Board Policy Committee Report	(Zigterman)	Pg 7
4. Public Comments <i>Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Agency. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>	(Larsson)	
5. SFPUC Report	(Ritchie)	
6. Consent Calendar (<i>Attachments</i>)	(Larsson)	
A. Approve Minutes of the July 15, 2021 Meeting		Pg 19
B. Receive and File Pre-Audit Budget Status Report – As of 6/30/21		Pg 25
C. Receive and File Investment Report – As of 6/30/21		Pg 27
D. Receive and File Directors' Reimbursement Report – As of 6/30/21		Pg 29
E. Receive and File Bond Surcharge Collection, Account Balance and Payment Report for Fiscal Year Ending June 30, 2021		Pg 31
F. Establishing a Debt Management Policy		Pg 35
G. Authorization to Increase the Contract Amount with Maddaus Water Management and Extend the Completion Date for the 2021 Demand Study Update <i>The Committee voted to recommend approval of the proposed Board action for Items #6F and #6G.</i>		Pg 57
7. Action Calendar		
A. Authorization of BAWSCA's Issuance of Refunding Revenue Bonds in an Aggregate Principal Amount Not-To-Exceed \$180 Million, Including Authorizing the Forms of and Directing the Execution of the Related Documents (<i>Attachment</i>) <i>The Committee voted to recommend approval of the proposed Board action.</i>	(Tang)	Pg 73
8. Reports and Discussions		
A. Future Committee and Board Meeting Format After October 1, 2021	(Sandkulla)	

- 9. Closed Session #1** (Schutte)
- A. Conference with Legal Counsel – Existing Litigation pursuant to**
Paragraph (1) of subdivision (d) of Government Code Section 54956.9 Federal Energy Regulatory Commission Final License Application Proceedings for Don Pedro Hydroelectric Project, P-2299-082, and La Grange Hydroelectric Project, P-14581-002.
 - B. Conference with Legal Counsel – Existing Litigation pursuant to**
Paragraph (1) of subdivision (d) of Government Code Section 54956.9 State Water Board Cases (Sacramento County Superior Court Case No. 5013).
 - C. Conference with Legal Counsel – Anticipated Litigation**
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (1 potential case)
- 10. Report from Closed Session #1** (Schutte)
- 11. Reports** (Sandkulla)
- A. Water Supply Update
 - B. FERC/Bay Delta Plan Update
 - C. CEO/General Manager's Letter (*Attachment*) Pg 261
 - D. Board of Directors Policy Calendar (*Attachment*) Pg 263
 - E. Correspondence Packet ([Under Separate Cover](#))
- 12. Closed Session #2**
- A. Public Employee Performance Evaluation** (Larsson)
Title: CEO/General Manager
Closed Session Pursuant to Government Code Section 54957
(*Under Separate Cover*)
 - B. Conference with Labor Negotiator** (Larsson)
Agency designated representative: Gustav Larsson
Unrepresented Employee: CEO/General Manager
- 13. Report from Closed Session #2** (Larsson/Schutte)
- 14. Break for Conference with Labor Negotiator** (Larsson)
Agency designated representative: Gustav Larsson
Unrepresented Employee: CEO/General Manager
- 15. Reconvene Following Labor Negotiations** (Larsson)
- 16. Action Item Following Closed Session** (Larsson)
- A. Consider Compensation Adjustment for CEO/General Manager for FY 2021-22 (*Under Separate Cover*)
- 17. Directors' Discussion: Comments, Questions and Agenda Requests** (Larsson)
- 18. Date, Time and Location of Future Meetings** (Larsson) Pg 265
(See attached schedule of meetings)
- 19. Adjourn to next meeting scheduled for November 18, 2021 at 6:30pm** (Larsson)

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BAWSCA

Bay Area Water Supply & Conservation Agency

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MEMORANDUM

TO: BAWSCA Board Members

FROM: Nicole Sandkulla, Chief Executive Officer/General Manager

DATE: September 10, 2021

SUBJECT: Summary of Special Board Policy Committee meeting held September 7, 2021

1. **Call to Order:** Committee Chair, Tom Zigterman, called the meeting to order at 1:35 pm. A list of Committee members who were present (9), absent (1) and other attendees is attached.

The Committee took the following action and discussed the following topics:

2. **Comments by Committee Chair:** Committee Chair Zigterman welcomed and thanked members of the Committee for attending the Special meeting. He reviewed the general procedures for conducting the meeting virtually to ensure efficiency in completing the necessary business.

Chair Zigterman welcomed Director Hardy as a new member of the Committee. He noted the three actions requested of the Committee which will be done by roll call vote, and two informational reports for discussion by the Committee from the Board Chair and CEO/General Manager.

The Committee's consideration of the action items and reports continue to be critically important to the Agency's ability to ensure a reliable supply of high-quality water at a fair price.

3. **Public Comments:** Public comment on items not included on the agenda was made by Lilian Koenig.

4. **Special Report:** SFPUC Assistant General Manager for Water Enterprise, Steve Ritchie, provided a report on current water supply conditions and updates on the curtailment orders issued by the State Water Resources Control Board (State Water Board).

As of August 30th, Hetch Hetchy was at 74% capacity and total system storage was at 69% capacity; both below average at this time of the year. Mr. Ritchie noted that we are in a statewide drought with precipitation upcountry and in the Bay Area well below historical averages.

Total system deliveries have decreased in comparison to 2020, 2019 and the 5-year average, which demonstrates water customers' response to the call for water use reduction. In comparison to 2020 water use, the Regional Water System water use reduction for the period of July 1st to August 31st shows a combined 7.5% water use reduction by SF Retail Customers and

Wholesale Customers. This is half of the Governor's call for a 15% voluntary water use reduction against 2020 levels.

On June 15th the State Water Board issued notices of water unavailability to all post-1914 appropriative water right holders in the Delta watershed.

On July 23rd, the State Water Board released a draft emergency water right curtailment and associated water use reporting requirements for water diverters. The regulations include:

- Curtailment of all diversions such that full natural flow is uninterrupted. This means that agencies that received curtailment orders would not be able to divert any water.
- Initiation and suspension of any curtailments based on current information regarding a diverter's supplies and demands. The State intends to keep track of water activities in the state.
- The curtailment will be in place for up to one-year, but could be repealed if conditions improve.

Additionally, on July 23rd, the State Water Board issued notices of water unavailability applicable to the SFPUC for its points of diversion in the Tuolumne River watershed. On August 3rd, the State Water Board adopted the emergency regulations and on August 19th, the State Office of Administrative Law approved the regulations and filed them with the Secretary of State. On August 20th, San Francisco was issued curtailment orders applicable to seven points of diversions, including the Regional Water System's main reservoirs of Eleanor, Cherry, and Hetch Hetchy.

The SFPUC has been releasing water above full natural flow to meet instream flow requirements and provide for rafting obligations with the Stanislaus National Forest, while generating obligated hydropower. Water released above full natural flow has been credited to the Water Bank which is not affected under a curtailment order because the order does not affect previously stored water.

The SFPUC will offset Tuolumne curtailment requirements with releases of stored water from Cherry and Eleanor, while continuing to divert available water into Hetch Hetchy Reservoir.

The State Board's notices provide for the request for exceptions to curtailment for Non-Consumptive Uses, Human Health and Safety, and Alternative Water Sharing Agreements.

A brief report (e.g., certificate) indicating compliance with the curtailment order was due to the State Board by September 3rd. A form noticing that an exception request(s) would be made, or would be possible during the course of the coming fiscal year, are due to the State Board by September 10th. When and if an exception is formally requested, additional supporting data would be required. The SFPUC expects to make requests under specific categories for different situations including non-consumptive use on diversions for the Moccasin Fish Hatchery, and human health and safety for the Regional Water System customers that meet the use-per-day requirement.

SFPUC filed its Certificate of Compliance on September 2nd. Additionally, and through the San Joaquin Tributaries Authority, in which San Francisco is a member of, a lawsuit has been filed against the underlying regulations.

As required by the curtailment order, the SFPUC will begin filing monthly reports accounting for Tuolumne releases from Cherry and Eleanor Reservoirs and diversions to Hetch Hetchy Reservoir to demonstrate compliance. If dry conditions continue, SFPUC will take additional

actions regarding reductions in available water supply in January 2022, potentially including declaring a water supply emergency.

In response to questions from members of the Committee, Mr. Ritchie confirmed that the earliest SFPUC would declare a water supply emergency would likely be in January 2022. Such an action would be deemed appropriate by the SFPUC if dry conditions persist. Mr. Ritchie reiterated that in accordance with requirements of the curtailment order, the SFPUC must declare a state of emergency under the water code in order to request exemptions. Mr. Ritchie also indicated that coupled with the declaration of a water supply emergency, the SFPUC would put in place mandatory obligations, including mandatory rationing, for San Francisco and the wholesale customers, in keeping with the process detailed under the Water Supply Agreement. Additionally, the Governor could potentially issue another Executive Order for mandatory water use reductions throughout the state which could impact SFPUC actions.

Mr. Ritchie stated that for the wholesale customers' planning purposes for messaging to their water customers, a mandatory 10% - 20% water use reduction from 2020 levels could be expected if SFPUC declares an emergency drought situation later this year. SFPUC will closely monitor the situation to determine the best course of action.

Public comments were provided by Peter Drekeimer and Blair Beekman

5. Consent Calendar: Approval of Minutes from the June 9, 2021 meeting.

Public comments were made by Blair Beekman.

Director Cormack made a motion, seconded by Director Larsson, that the minutes of the June 9, 2021 Board Policy Committee meeting be approved.

The motion carried unanimously by roll call.

5. Action Calendar:

A. Establishing a Debt Management Policy: Christina Tang, BAWSCA Finance Manager, reported that as part of the efforts to refund its Bond Series 2013A, BAWSCA needs to establish a Debt Management Policy to comply with Government Code section 8855(i), which went into effect January 1, 2017. The draft policy was prepared by BAWSCA's municipal advisor, KNN Public Finance, in a conventional format to meet the following objectives:

- Guide and regulate BAWSCA's issuance of debt;
- Protect credit rating and minimize borrowing costs; and
- Incorporate best practices into debt administration.

The draft policy was previously presented to the Board and has been modified to reflect the comments received at the July Board meeting. A clean and redlined version were included as Attachments 1 and 2 of the staff report.

There were no questions or comments from members of the Committee.

Public comments were provided by Blaire Beekman.

Director Wood made a motion, seconded by Director Chambers, that the Committee recommend Board adoption of the proposed Debt Management Policy.

The motion carried unanimously by roll call vote.

- B. Authorization of BAWSCA's Issuance of Refunding Revenue Bonds in an Aggregate Principal Amount Not-To-Exceed \$180 Million, Including Authorizing the forms of and Directing the Execution of the Related Documents: Ms. Tang reported on BAWSCA's continuing efforts to refund BAWSCA's 2013A bonds. She introduced BAWSCA's financing team who were present to answer the Committee's questions: Dan Cox and David Brodsky from KNN Public Finance; Steven Spitz from Orrick; Chris Higgins from Goldman Sachs, BAWSCA's Senior Underwriter; and Allison Schutte, BAWSCA's legal counsel.

The team has prepared a bond resolution that requires Board consideration and approval to authorize the issuance of Refunding Revenue Bonds to refund the callable portion of BAWSCA's 2013A bonds.

The proposed Board action requires the expected Net Present Value (NPV) savings, after costs, to be at least \$20 M in order for staff to have the authorization to complete the refunding. Based on the minimum savings threshold, the average annual savings is approximately \$2M after bond settlement. The estimated costs of issuance is up to \$1.2M including both contingent and non-contingent costs. The proposed not-to-exceed principal amount of \$180M is set conservatively high enough to accommodate flexibility to pursue an advance refunding in a highly unlikely event that it becomes available and/or proves to be more economical.

The resolution also authorizes execution of financing documents that include:

1. Second Supplemental Revenue Bond Indenture
2. Contract of Purchase
3. Continuing Disclosure Certificate
4. Escrow Agreement
5. Preliminary Official Statement

A description of each document was included in the staff report along with a copy of each document as attachments.

Based on current market conditions, a tax-exempt forward delivery refunding continues to be determined as most economical. Key terms presented to the Board in July remain the same. The method of sale will be a negotiated sale with a final maturity date of October 1, 2034, the same maturity as the 2013A and 2013B bonds. The stabilization fund requirement remains at 50% of maximum annual debt service. This is determined as most cost effective by the team. Given the lower debt service, the stabilization fund requirement is estimated to be reduced by up to \$1.1 million. This reduction amount and a reasonable contribution from the current excess stabilization fund will be used to pay down the principal amount of the refunding bonds.

In response to Board feedback, BAWSCA evaluated the consideration of a "Green" Designation". Staff's analysis recommends execution for the refunding as a single series without a green designation. Green designation provides no assurance of financial benefits, and could add an additional non-contingent cost of \$20K-\$25K for the green verification process that BAWSCA would be required to engage in. There is minimal possibility to

warrant a green designation for all refunding bonds, and lastly, there could be a delay in the bond sale which would expose the refunding to additional market risks.

With the Committee's actions, the Board will be asked to authorize the issuance of the bonds and approve the bond documents at its September meeting. The credit rating process, bond pricing, and document closing will take place between September and November 2021, based on a tax-exempt forward refunding. The bond settlement is expected in January 2023.

Ms. Sandkulla expressed her confidence on the work Ms. Tang and the finance team has done, and looked forward to hearing the Committee's discussions.

Legal Counsel, Allison Schutte, supports the work as well.

In response to questions from members of the Committee, the finance team provided the following clarifications.

The adoption of the resolution authorizes BAWSCA to proceed with the issuance and completion of the refunding efforts given that all criteria within the resolution are met. BAWSCA will apply for the credit ratings in September and Goldman Sachs will price the bonds and market the bonds to investors. BAWSCA will report the pricing to the Board for its information, with no further Board actions needed.

Mr. Cox explained that while the bonds will technically be a public offering, forward delivery refunding are likely purchased by institutional investors because of the requirement from investors to enter into a contract with the underwriters. The agreement obligates the investors to deliver the funds at the time of settlement. The investors are reputable institutions with established relationships with Goldman Sachs. Based on the current market, there may be more orders than bonds which may allow leverage to further tighten pricing, but the end result would be an equal buy and sell.

Ms. Tang stated that based on a tax-exempt forward delivery refunding, Attachment 1 of the staff report includes an Estimated Principal of \$143M. The Not-To-Exceed amount of \$180M represent an alternative method should market conditions change and a taxable advance refunding becomes more economical for BAWSCA. Inclusion of this alternative method in the Resolution provides staff the flexibility to proceed with completion of the bond under these conditions without having to go back to the Board.

Mr. Spitz explained that the bonds are held in book entry forms so that the owner of the bonds will be the depository trust company (DTC). Individual bond holders will hold their bonds through DTC, and in accordance with DTC procedures, the bond trustee will wire transfer all payments to DTC.

Ms. Tang explained that ACWD, Cal Water, Hayward, Mountain View, Redwood City, and Sunnyvale represent the top seven water purchasers among the member agencies and were the agencies included in the official statement of the 2013 bond issuance. This will be maintained for the issuance of the refunding. The 7 agencies present BAWSCA's financial stability to make debt service payments. Mr. Cox added that for disclosure purposes, it is common practice to include the top users as opposed to including all 26 member agencies. More importantly, Mr. Spitz stated that it is important for investors to know who the principal surcharge payers are. These bonds are an obligation of BAWSCA payable from the

surcharges that are assessed against all of the purchasers of water. The bonds are not a debt obligation of any BAWSCA member agencies. The members' obligation is to pay the surcharges that are levied on the water purchase. The 7 top agencies purchase more water, and therefore will pay a larger amount of the surcharge, which investors want to know about.

Regarding the bond redemption, Mr. Spitz explained that if less than all of the bonds of a particular maturity are being redeemed, DTC will, in their proprietary random procedure, select the participants whose bonds are redeemed. Redemption of particular maturity of bonds will be selected at random by the issuer, but within a maturity.

The Chair and Vice Chair of the Board are in a position to sign in addition to the CEO/General Manager. Mr. Spitz explained that it is normal to authorize multiple officials to sign, which would be relevant only when the CEO/General Manager is unavailable at a critical moment, particularly at a time of urgency to execute bond documents promptly.

The Committee was appreciative of the work by the CEO/General Manager and the Finance Team. There were no further comments from members of the Committee. There were no public comments.

Director Jordan made a motion, seconded by Director Wood, that the Committee recommend Board approval of the following actions needed to continue proceeding with BAWSCA's potential bond refunding:

- 1. Adopt Resolution No. 2021-01 authorizing the issuance of the Refunding Revenue Bonds in an amount not to exceed \$180 million and authorizing the forms of the following financing documents provided as attachments to the staff report**
 - a. Second Supplemental Revenue Bond Indenture;**
 - b. Contract of Purchase;**
 - c. Continuing Disclosure Certificate;**
 - d. Escrow Agreement**
 - e. Preliminary Official Statement; and**
- 2. Authorize the CEO/General Manager to execute these financing documents, subject to the satisfaction of specified criteria**
 - a. NPV savings: not less than \$20 million**
 - b. Principal amount: not to exceed \$180 million**
 - c. Underwriter's discount: not to exceed 0.25% of the principal amount**

The motion passed by roll call vote. Eight (8) Committee members present voted yes. Director Hardy was unavailable.

- C. Authorization to Increase the Contract Amount with Maddaus Water Management and Extend the Completion Date for the 2021 Demand Study Update: Water Resources Manager, Tom Francis, provided a report on BAWSCA's progress on contract negotiations for the 2021 Demand Study Update which was approved by the Board in May as part of the FY 2021-22 work plan. Since the May Board approval, BAWSCA has been in discussions with Maddaus Water Management (MWM) on the project's scope, schedule and budget, to ensure that the

end product of the update meets BAWSCA's needs prior to finalizing the contract agreement. The discussions have resulted in modifications to the scope to include additional clarity on the sensitivity analysis, and re-formatting the updated water demand projections report as a stand-alone document versus a Technical Memorandum.

These changes result in an increase to the project's budget by an additional \$75K and an extension of the project's schedule by an additional 6-months. The adopted FY 2021-22 work plan and operating budget includes \$275K for completion in June of 2022. With the changes, the total cost will be \$350K with a completion date of December 2022.

Mr. Francis noted that billing rates for MWM have not changed. The costs and additional time are related to the additional work necessary to complete the study according to BAWSCA's goal of producing a defensible water demand estimate that will support regional water planning.

Mr. Francis noted that demand studies in general, as well as BAWSCA's 2020 demand study, have been subject to intense scrutiny by interest groups, particularly environmental organizations with the concern that demand projections are inflated. It has been claimed that demands should stay flat despite growing population because of conservation efforts in the region as well as throughout the State.

Mr. Francis explained that the addition of a sensitivity analysis will provide information to better understand how key factors may affect water demand projections. The sensitivity analysis will include the impacts of a range of population, employment, and climate scenarios to better quantify uncertainties in water demand. Results of the study will assist BAWSCA and member agencies in refining future efficiency programs and enhance future regional and agency water-use forecasting. Additionally, the stand-alone report can serve as a reference, particularly for the SFPUC and its work on an Alternative Water Supply Plan.

The additional costs relative to the list of additional efforts during each phase of the study were presented to the Committee. Mr. Francis reminded the Committee that the Balancing Account will be used to fund the effort. BAWSCA will work with its auditors to ensure appropriate procedures are followed given that this work will be carried out over two fiscal years.

In response to questions from members of the Committee, the following clarifications were provided.

Mr. Francis explained that the sensitivity analysis will be a modeling tool in which scenarios can be inputted to see how sensitive the output is. BAWSCA will include key drivers that impact demands, including population. The existing demand study is based primarily on population data from ABAG, and BAWSCA's goal is to develop other possible options for what level of population growth may take place in the future. This will similarly be done for employment and other factors that affect it, such as the impacts of COVID.

The result of the sensitivity analysis will include both a static report as well as data applicable to the DSS models that have been developed for each member agency that include population and employment.

BAWSCA's current population baseline is ABAG's 2040 data. The sensitivity analysis will use the member agencies' 2020 UWMP and will weigh if and how the use of ABAG's 2050 data would be appropriate or possible.

The analysis will also evaluate the impacts of COVID, the current drought conditions, and how long will it take for a drought rebound to occur. The sensitivity analysis is to develop additional future options to better understand its impacts to future demands.

Price elasticity will be considered in the study should it be determined as a significant factor in the BAWSCA region.

The Balancing Account currently has \$60M as of June 30, 2021.

The sensitivity analysis is supported by the member agency appointed Water Management Representatives, as well as by the SFPUC staff and Commission members.

There were no further comments from members of the Committee.

Public comments were provided by Peter Drekmeier and Blair Beekman.

Director Cormack made a motion, seconded by Director Pierce, that the Committee recommend the Board authorize:

- 1. A \$75k increase in the not to exceed budget amount, for a total not to exceed amount of \$350k, and a 6-month extension for completion on December 31, 2022, for BAWSCA's 2021 Demand Study Update; and**
- 2. Authorize a request for transfer of \$75k from the Balancing Account to BAWSCA in accordance with BAWSCA's Balancing Account Policy, Res. No. 2020-02.**

The motion passed by roll call vote. Eight (8) Committee members present voted yes. Director Hardy was unavailable.

7. Reports and Discussions:

- A. CEO/General Manager Evaluation Metrics for FY 2021-2022: Chair Larsson reported that the online execution of FY 2020-21 CEO/General Manager Performance Evaluation successfully generated a very good response from members of the Board. The feedback was positive. Chair Larsson welcomed additional comments to further improve the format moving forward.

The Board now have an opportunity to make changes to the evaluation metrics should it desire to do so, and to inform the CEO/General Manager what is expected of her in FY 2021-22.

The current objectives for the CEO/General Manager have been developed over a number of years and have gone through substantial refinements. But there is always room for improvement, and today's meeting as well as the September Board meeting will be the place to discuss that.

Director Wood was pleased with the online process. She recommended to continue providing the Board with full information of the CEO/General Manager's Employment Agreement.

Director Cormack noted that sometimes Board members may not have enough information to evaluate the CEO's performance for a particular objective. and that providing an evaluation option (or metric) indicating that should be considered.

There were no further comments or questions from members of the Committee.

Public comments were provided by Peter Drekmeier and Blair Beekman.

- B. BAWSCA Board and Committee Meeting Logistics Post October 1, 2021: Legal Counsel, Allison Schutte, reported on current legislative efforts to address the expiration of the modifications to the Brown Act teleconference requirements.

AB 361 is a bill that will effectively allow agencies to use the existing teleconference requirements with the following provisions:

- Whenever the state or counties have declared state of emergency
- State or local officials have recommended social distancing

The bill is currently in the Senate for adoption by September 10th. It would be effective as soon as the Governor signs it, but no later than October 11th, as long as it is not vetoed. All indications show strong support for the bill.

With the bill, the agency's legislative body must make findings that in-person attendance would "present imminent risks to the health and safety of attendees", and must renew this finding every 30-days as long as the state of emergency continues.

Ms. Schutte explained that once the initial finding is made, it is Legal Counsel's opinion that renewals can be approved through the Consent Calendar.

Director Cormack noted that it is difficult to make a finding that meeting in person would present an imminent risk to health and safety while kids are attending school and essential workers are coming to work in relatively close proximity everyday. She would need more information to make such a finding, given that she is aware of other scenarios being contemplated on; including a hybrid format that allows staff and elected officials to be present while requiring vaccination proofs from members of the public. She understands the complexity of the issue, and appreciates the legislative efforts being done.

Ms. Sandkulla reported that BAWSCA is engaged with agencies that has a similar Board size in investigating a hybrid format. There is currently no resolution due to the technological capabilities required to accommodate such a hybrid format. Additionally, BAWSCA does not own a space where Board meetings are held and spaces that BAWSCA rent are currently not open during the times the Board meetings. Staff will continue to investigate possibilities.

Directors Pierce, Mendall, Larsson and Wood expressed their support for making the necessary findings to continue meeting in a virtual format legally should current COVID conditions continue.

Public comments were provided by Blair Beekman.

8. CEO Reports:

- A. Water Supply Conditions and Drought Update: Ms. Sandkulla reported that as of June 30, 2021, total potable water use is 3.2% less than in June 2020 and 19% less than in June 2013. There is continued suppressed demand from the 2013 drought which supports the need for a sensitivity analysis to determine whether demand will bounce back. BAWSCA will continue to track the trends closely to support the member agencies with the current drought and the Governor's call for water use reductions.

BAWSCA continues its conservation efforts including online landscape education classes, discussions with San Mateo County and Valley Water on potential conservation partnerships, and BAWSCA's participation on San Mateo County's Office of Emergency Services' Drought Task force.

- B. SFPUC Alternative Water Supply Program: Ms. Sandkulla reported that the SFPUC will hold a workshop on its Alternative Water Supply (AWS) Program on September 17th from 2-5pm. It will be a virtual format and will be open to the public. BAWSCA will attend and may be asked to participate directly. Member agency staff and Board members are encouraged to attend. Meeting details will be provided to the Board and Water Management Representatives when available.

Ms. Sandkulla reported that the San Francisco's Citizen Advisory Committee, in which she serves on as the San Francisco Mayor's appointee to represent the Wholesale Customers, adopted a Resilient Water Supply Resolution" urging the SFPUC to include in its AWS program specific projects to meet the full amount of identified supply shortfall for the SF RWS, and to provide those plans with options, costs, and timelines to the public in a timely manner. A staff memo and copy of the resolution were included in the agenda packet.

There were no questions or comments from members of the Committee.

Public comments were provided by Goerge Barber and Blair Beekman.

Given the time duration of the meeting, the Committee voted to extend the meeting to 5pm ;

Director Mendall made a motion, seconded by Director Wood, to extend the meeting time to 5pm.

The motion passed by roll call vote. Seven (7) Committee members present voted yes. Director Hardy voted no. Director Pierce was unavailable.

9. Closed Session: The Committee adjourned to Closed Session at 4:08.

10. Reconvene to Open Session: The Committee reconvened from Closed Session at 4:13 pm. Ms. Schutte reported that no action was taken during Closed Session.

11. Comments by Committee Members:

Director Hardy expressed her support for BAWSCA's efforts in protecting the Bay Area water users, the environment, fish and wildlife that depend on the Tuolumne River..

Director Cormack noted her interest in the SFPUC's Climate Change Study, and requested a Study Session when the results are released.

Director Pierce appreciated the CAC's adoption of the Resolution regarding the SFPUC's AWS Program. She noted that BAWSCA's role is to ensure that San Francisco provides the water supply that it is responsible for, on behalf of the water customers in the region, but not at the expense of the environment.

12. **Adjournment:** The meeting was adjourned at 4:17 pm. The next meeting is October 13, 2021 with the location and format to be announced.

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

Agency	Director	Sept. 7, 2021	Aug. 11, 2021	Jun. 9, 2021	Apr. 14, 2021	Feb. 10, 2021	Dec. 9, 2020	Oct. 14, 2020	Aug. 12, 2020
Stanford	Zigterman, Tom	✓	Meeting Cancelled	✓	✓	✓	✓	✓	✓
Daly City	Manalo, Juslyn				✓	✓	n/a	n/a	n/a
Westborough	Chambers, Tom	✓		✓	✓	✓	✓	✓	✓
Palo Alto	Cormack, Alison	✓		✓	✓	✓		✓	✓
Purissima	Jordan, Steve	✓		✓	✓	✓	✓	✓	✓
Cal Water	Kuta, Rob	✓		✓	✓	✓	✓	✓	✓
Sunnyvale	Larsson, Gustav	✓		✓	✓	✓	✓	✓	✓
Hayward	Mendall, Al	✓		✓	✓	✓	✓	✓	✓
Redwood City	Pierce, Barbara	✓		✓	✓	✓	✓	✓	✓
Brisbane	Wood, Sepi	✓		✓	✓	✓	✓	✓	✓

✓: present

☎ : Teleconference

September 7, 2021 Special Meeting Attendance (Via Zoom in compliance with Gov. Order #29-20 due to COVID-19)

BAWSCA Staff:

Nicole Sandkulla	CEO/General Manager	Nathan Metcalf	Legal Counsel, Hanson Bridgett, LLP
Tom Francis	Water Resources Manager	Nicole Witt	Legal Counsel, Hanson Bridgett, LLP
Danielle McPherson	Sr. Water Resources Specialist	Bud Wendell	Strategic Communications
Negin Ashoori	Sr. Water Resources Engineer	Dan Cox	KNN, Public Finance
Kyle Ramey	Water Resources Specialist	David Brodsky	KNN, Public Finance
Christina Tang	Finance Manager	Steven Spitz	Orrick
Lourdes Enriquez	Assistant to the CEO/General Manager	Chris Higgins	Goldman Sachs
Allison Schutte	Legal Counsel, Hanson Bridgett, LLP		

Public Attendees:

Paul Sethy	ACWD	Alison Kastama	SFPUC
Leonard Ash	ACWD	Steve Ritchie	SFPUC
George Barber	Cal Water	Blair Beekman	Self
Cheryl Munoz	Hayward	Lilian Koenig	Self
Ed Cooney	Hillsborough	Kyle Vinson	Self
Lisa Bilir	Palo Alto	Peter Drekeimer	Tuolumne River Trust

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING****July 15, 2021 – 6:30 p.m.**

DUE TO COVID-19, THIS MEETING WAS CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT. MEMBERS OF THE BOARD, BAWSCA STAFF, AND OF THE PUBLIC COULD NOT ATTEND THIS MEETING IN PERSON.

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 6:33 pm following introductory instructions for conducting the meeting virtually through Zoom.

BAWSCA Chair, Gustav Larsson, called the meeting to order. Nicole Sandkulla called the roll. Nineteen (19) members of the Board were present at roll call. Four (4) members logged in after roll call. A list of Directors present (23), absent (3) is attached.

2. Comments by the Chair:

Chair Larsson emphasized BAWSCA's commitment to assisting the Governor in addressing the drought and in protecting the fish and environment in the Tuolumne River. They are two very serious issues that ensure the health, safety, and economic well-being of the BAWSCA member agencies' communities and constituents.

3. Board Policy Committee Report:

Committee Chair Zigterman reported the Committee's unanimous vote at its June 9th meeting to recommend Board approval of the actions needed to move forward with refunding BAWSCA's Revenue Bonds, and of the proposed modifications to the job description and top step salary for the Assistant to the CEO/General Manager position.

The BPC summary report included in the Board Agenda packet presents an accurate summary of the discussions the Committee had on the items.

4. Public Comments on Items Not on the Agenda:

There were no public comments.

5. SFPUC Report:

SFPUC Assistant General Manager Steve Ritchie reported on current water supply conditions, the Regional Water System's storage levels to date, and SFPUC's efforts to address the drought. At the request of the Board Chair, Mr. Ritchie reported that the SFPUC takes cybersecurity very seriously and it is a top priority for the SFPUC.

6. Consent Calendar:

Director Vella made a motion, seconded by Director Cormack, to approve the Minutes of the May 20, 2021 meeting; receive and file the Budget Status Report as of May 31, 2021; and approve the Proposed Modifications to the Job Description and Top Step Salary for the Position of Assistant to the CEO/General Manager.

Director Breault abstained from Consent Item A: Approval of the May 20, 2021 Meeting Minutes.

The motion carried by roll call vote.

7. Action Calendar:

- A. Potential Refunding of BAWSCA's Revenue Bond Series 2013A – Additional Actions Needed to Proceed.

Ms. Tang presented this item. Comments and questions were taken from members of the Board. Based on comment received, Action item #1 related to the Debt Management Policy, was referred back to Committee for further discussion.

There were no comments from members of the Public.

Director Jordan made a motion, seconded by Director Mendall, that the Board approve Action Items #2, #3, and #4:

- 2. Authorize the CEO/General Manager to appoint Goldman Sachs as BAWSCA's Managing Underwriter and JP Morgan as Co-Manager. The Board will approve a form of bond purchase contract when it approves all bond-related documents, tentatively contemplated to take place in September;**
- 3. Authorize the CEO/General Manager to negotiate and execute a contract between BAWSCA and Orrick, subject to legal counsel's final review, for a not-to-exceed amount of \$265,000 for a tax-exempt forward refunding or a not-to-exceed amount of \$295,000 based on tax-exempt forward plus an advance refunding to provide the contingent portion of the bond counsel services and disclosure counsel services; and**
- 4. Authorize the CEO/General Manager to negotiate and execute a contract between BAWSCA and KNN Public Finance, subject to legal counsel's final review, to provide the contingent portion of the municipal advisory services, for a not-to-exceed amount of \$115,000.**

The motion carried by roll call vote.

8. CEO Reports:

- A. FY 2017-18 Wholesale Revenue Requirement (WRR) Review – Results Update: BAWSCA's review resulted to a credit of \$2,323,997, including interest, to the Wholesale Customers.

BAWSCA is currently reviewing SFPUC's calculations of the FY 2018-19 WRR and will report back to the Board after BAWSCA's concerns are resolved.

- B. Water Supply Conditions: BAWSCA member agencies' potable water use as of April 2021 is above water use levels of 2019 and 2020, but is 10% below the pre-drought period of April 2013.

BAWSCA is providing comments on MTC/ABAG's Draft EIR for Plan Bay Area 2050 focusing on water supply impacts to the BAWSCA member agencies.

- C. FERC/Bay Delta Plan Update: BAWSCA and its member agencies continue to support the Bay Delta Plan objectives and are committed to working with other stakeholders to protect water quality in the Bay-Delta for humans, fish, and other wildlife.

Progress has slowed down on the voluntary agreement negotiations due to the State's increased focus on the developing drought situation. BAWSCA supports the Governor's Executive Order calling for voluntary water use reduction of 15%.

BAWSCA will continue to pursue having the State Board evaluate the Tuolumne River Voluntary Agreement (TRVA) as an alternative to the Bay-Delta Plan.

- D. CEO/General Manager Performance Evaluation Process

The CEO/General Manager Performance Evaluation for FY 2020-21 will be initiated in July with a web-based evaluation form that will be emailed to Board Members. The September Board meeting closed session will discuss the results of the evaluation as well as any changes to the evaluation for FY 2021-22.

9. Closed Session: The meeting adjourned to Closed Session at 8:10pm

10. Report After Closed Session: Closed Session ended at 8:22pm. Legal Counsel, Allison Schutte, convened Open Session and reported that no action was taken during Closed Session.

11. Directors' Discussion: Comments, Questions and Agenda Requests:

Director Wood asked what is anticipated for future meetings.

Director Larsson stated that the September meeting will be the last virtual meeting as the Governor's Executive Order on the Brown Act Requirements for Teleconferencing will expire September 30, 2021. The Board will be advised as information develops.

Director Montano thanked Nicole for attending the Milpitas Council Meeting in which the UWMP was presented.

Directors Montano and Weed noted considerations for a hybrid meeting format.

12. Date, Time and Location of Next Meeting: The next meeting is scheduled on September 16, 2021 at 6:30pm.

13. Adjournment: The meeting adjourned at 8:26pm.

Respectfully submitted,

Nicole M. Sandkulla
Chief Executive Officer/General Manager

NMS/le

Attachments: 1) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board of Directors Meeting Attendance Roster

Director	Agency	July 15, 2021	May 20, 2021	Mar. 18, 2021	Jan. 21, 2021	Nov. 19, 2020	Sept. 17, 2020
Benton, Jay	Hillsborough	✓	✓	✓	✓	✓	✓
Breault, Randy	Guadalupe	✓		✓		✓	✓
Chambers, Tom	Westborough	✓	✓	✓	✓	✓	✓
Cormack, Alison	Palo Alto	✓	✓	✓	✓	✓	✓
Hamilton, Tom	San Bruno	✓	✓	✓	vacant	✓*	
Hardy, Karen	Santa Clara		✓	✓	vacant	✓*	✓*
Hindi, Sam	Foster City	✓	✓	✓	✓		✓
Jordan, Steve	Purissima	✓	✓	✓	✓	✓	✓
Kuta, Rob	Cal Water	✓	✓	✓	✓	✓	✓
Larsson, Gustav	Sunnyvale	✓	✓	✓	✓	✓	✓
Liccardo, Sam	San Jose						
Lopez, Antonio	East Palo Alto		*	✓*	✓*	✓*	✓*
Manalo, Juslyn	Daly City	✓	✓	✓	✓	✓	✓
Matchak, Lisa	Mountain View	✓	✓	✓	✓	✓	✓
Mendall, Al	Hayward	✓	✓	✓	✓	✓	✓
Mickelsen, Chris	Coastside	✓	✓	✓	✓	✓	✓
Montano, Carmen	Milpitas	✓	✓	✓	✓	✓	
Mueller, Ray	Menlo Park	✓	✓	✓	✓		✓*
O'Brien, Ann	Burlingame	✓	✓	✓	✓*	✓*	✓*
Piccolotti, Tom	North Coast	✓					
Pierce, Barbara	Redwood City	✓	✓	✓	✓	✓	✓
Quigg, Dan	Millbrae	✓	✓	✓	✓	✓	✓
Vella, Lou	Mid-Peninsula	✓	✓	✓	✓	✓	✓
Weed, John	ACWD	✓	✓	✓	✓	✓	✓
Wood, Sepi	Brisbane	✓	✓	✓	✓	✓	✓
Zigterman, Tom	Stanford	✓	✓	✓	✓	✓	✓

✓ : Present

* : Predecessor

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Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
 San Mateo, California 94402
 (650) 349-3000 tel. (650) 349-8395 fax

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: September 3, 2021

SUBJECT: Pre-Audit Budget Status Report as of June 30, 2021

This memorandum shows fiscal year budget status for FY 2020-21. It includes major areas of spending, provides an assessment of the overall budget, and summarizes reserve fund balances. This report covers the budget and expenses for BAWSCA. The BAWSCA budget includes necessary resources for the RFA and BAWUA.

Operating Budget Summary:

For the twelve-month period ending June 30, 2021, total expenditures were \$3,849,622 or 88 percent of the total budget of \$4,360,179.

Table 1. Operating Budget Summary as of June 30, 2021

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	1,411,850	1,058,474	75%
Fair Pricing	339,500	354,993	105%
Administration	100,000	175,132	175%
Subtotal	1,851,350	1,588,599	86%
Administration and General			
Salary & Benefits	2,075,354	1,879,997	91%
Other Expenses			
BAWSCA	427,400	380,468	89%
BAWUA	1,050	0	0%
Subtotal	4,355,154	3,849,064	88%
Capital Expenses	3,000	0	0%
Budgeted Contingency	0	0	0%
Regional Financing Authority	2,025	558	28%
Grand Total	4,360,179	3,849,622	88%

At its May 2021 meeting, the Board authorized a transfer from the Balancing Account of \$197,000 to fund a portion of the second amendment to Hanson Bridgett's professional services contract. The Operating Budget in Table 1 reflects this transfer.

Overview:

Overall expenditures for FY 2020-21 tracked within budget.

Consultants

The \$77,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 98 percent expended. The Operating Budget allocation of \$185,000 for strategic counsel was 100 percent expended. The Operating Budget allocation of \$1,006,500 budget for legal counsel was 99 percent expended. The \$232,100 budget for water management and conservation-related activities was 51 percent expended.

Administration and Other Expenses

Budgets for salaries and other expenses were 91 and 89 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

- No use of CEO discretionary spending authority occurred during this period.

Use of Reserve and Reserve Fund Balance:

Unspent funds at the end of FY 2019-20 were \$435,266. In accordance with the adoption of the FY 2020-21 annual budget in May 2020, the Board approved transferring \$333,900 from the General Reserve to fund the FY 2020-21 budget. Both transfers were executed in November 2020. The BAWSCA General Reserve balance shown below reflects these transfers.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 05/31/21)	Account Balance (As of 06/31/21)
General Reserve	\$996,743	\$996,743



Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
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(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: August 31, 2021

SUBJECT: Investment Report – As of June 30, 2021

In February 2004, the Board originally adopted an investment policy consistent with the Government Code that requires a report on the Agency's investments be provided to the Board. This report presents fund management in compliance with the current investment policy. The Board most recently reviewed the investment policy at the November 19, 2020 board meeting. The Board approved modification to the Statement of Investment Policy by including U.S. Agency Securities as permitted investments for the bond proceeds with a sector allocation limit not to exceed 40% of total stabilization fund market value at the time of purchase.

Funds in excess of \$250,000 are deposited in the BAWSCA Local Agency Investment Fund (LAIF) account throughout the year to ensure compliance with BAWSCA's investment policy.

BAWSCA's prior and current period LAIF account balances are shown below:

<u>03/31/21</u>	<u>06/30/21</u>
\$2,536,812	\$2,539,584

Of the total in the BAWSCA LAIF account as of June 30, 2021, \$996,743 represents BAWSCA's General Reserve Fund, equivalent to approximately 23 percent of FY 2020-21 Operating Budget. The remaining amount consists of Subscription Conservation Program funds and unrestricted funds.

Recent historical quarterly interest rates for LAIF deposits are shown below:

<u>03/31/21</u>	<u>06/30/21</u>
.44%	.33%

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Bay Area Water Supply & Conservation Agency

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San Mateo, California 94402
(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: August 31, 2021

SUBJECT: Directors' Reimbursement Quarterly Report for the Period Ending June 30, 2021

In March 2006, the board adopted a directors' expense reimbursement policy consistent with the Government Code that requires a quarterly report on the Agency's reimbursement of directors' expenses. This report shall show the amount of expenses reimbursed to each director during the preceding three months.

There were no director expenses reimbursed for the quarter ending June 30, 2021.

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Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
 San Mateo, California 94402
 (650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Christina Tang, Finance Manager

DATE: September 3, 2021

**SUBJECT: Bond Surcharge Collection, Account Balance and Payment Report
 for Fiscal Year Ending June 30, 2021**

BAWSCA's Revenue Bond Series 2013A and Series 2013B (Taxable) were issued to prepay the remaining capital cost recovery payments that the BAWSCA agencies owed San Francisco as of June 30, 2013, when the payments were paid off. The bond transaction and the prepayment program were anticipated to generate approximately \$62.3 million in net present value savings over the term of the bonds, or about 17% of the \$356.1 million in principal prepaid from bond proceeds to San Francisco at the end of February 2013.

Bond Surcharge Collections

BAWSCA collects the bond surcharge from member agencies through the SFPUC as a separate item on SFPUC's monthly water bills to agencies. The bond surcharge payments are used to make debt service payments on BAWSCA's revenue bonds.

As of today, BAWSCA has received surcharge payments of \$24,685,116, which represent the total surcharge billed in FY 2020-21. Partial payments of surcharges billed for May 2021 and all payments of surcharges billed for June 2021 were remitted to Trustee after the fiscal year ended. Table 1 below presents a payment collection summary for FY 2020-21.

Table 1: Summary of Surcharges Remitted to Trustee for Fiscal Year Ending 6/30/2021

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2020	\$2,057,093	\$2,057,093	\$0
August 2020	\$2,057,093	\$2,057,093	\$0
September 2020	\$2,057,093	\$2,057,093	\$0
October 2020	\$2,057,093	\$2,057,093	\$0
November 2020	\$2,057,093	\$2,057,093	\$0
December 2020	\$2,057,093	\$2,057,093	\$0
January 2021	\$2,057,093	\$2,057,093	\$0
February 2021	\$2,057,093	\$2,057,093	\$0
March 2021	\$2,057,093	\$2,057,093	\$0
April 2021	\$2,057,093	\$2,057,093	\$0
May 2021	\$2,057,093	\$2,057,093	\$0
June 2021	\$2,057,093	\$2,057,093	\$0
Total	\$24,685,116	\$24,685,116	\$0

Bond Surcharge Account Balances

All surcharge payments are deposited with the Bank of New York, the Trustee, which manages BAWSCA's accounts and administers debt service payments. BAWSCA's account balances at the Trustee and the account activities in FY 2020-21 are shown in Table 2 below.

Table 2: Bank of New York Bond Trustee Account Activity for Fiscal Year Ending 6/30/2021

	30,258,664	Account Market Value as of 6/30/2020
<i>plus:</i>	24,598,839	<i>Surcharge collected in July 2020 through June 2021</i>
<i>plus:</i>	223,810	<i>Money Market Fund interest, Security coupons/accrued interest received</i>
<i>plus:</i>	427,646	<i>Change in market value of held and matured Treasury bonds</i>
<i>minus:</i>	24,448,914	<i>Debt service payment to bondholders</i>
<i>minus:</i>	3,683,822	<i>Principal for Treasury bonds purchased</i>
<i>minus:</i>	721	<i>Accrued interest for Treasury bonds purchased</i>
<i>plus:</i>	3,002,365	<i>Market value of purchased bonds</i>
<i>plus:</i>	<u>24,122</u>	<u><i>Reimbursement to BAWSCA for bond administration expenses</i></u>
	30,353,744	Account Market Value as of 6/30/2021

There are two ways interest is earned by BAWSCA on the collected surcharge payments and balances held in the stabilization funds. First, interest is automatically earned on the account balance in the Bank of New York Bond Trustee money market account. Second, BAWSCA has the ability to invest the collected surcharge payments by purchasing U.S. Treasury securities, possibly earning a higher rate of return than the money market account.

Based upon an evaluation of the available yields, it was determined that BAWSCA would realize a moderate earnings benefit by purchasing U.S. Treasury securities instead of staying invested in the money market account. Following further evaluation, BAWSCA determined that a strategy that involved both a rolling and a ladder security structure provided the Agency with the most appropriate balance of safety, liquidity, and yield. Consequently, this investment strategy was implemented in October 2015. With the Investment Advisor's assistance, BAWSCA re-evaluated the investment strategy in April 2018 and determined that a modest extension of portfolio maturity was appropriate to pursue higher yields while still satisfying the primary objectives of safety and liquidity. Following the April 2018 debt service payment, BAWSCA began the transition to a 0-5 year ladder portfolio strategy and recently completed the process with the trades executed in April 2021. In October 2020, BAWSCA reviewed the strategy again, in light of recent market developments and changes to interest rate policy made by the Federal Reserve. BAWSCA and its investment advisor believe that the current 0-5 year ladder portfolio strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income while protecting against the reinvestment rate risk associated with potential declines in short term interest rates and earnings.

As of June 30, 2021, the book yield and market yield on BAWSCA's revised portfolio strategy was 1.52% and 0.43% respectively, as compared to the yield of 0.01% for the money market fund.

All investment interest earnings are deposited directly in the Trustee account, and will be used to pay for future expenses and debt service of the bonds. Ultimately, all interest earnings are returned to the member agencies through annual savings and through distribution of the Stabilization Fund, including interest, once the bonds are fully paid.

Revenue Bond Series 2013A and Series 2013B Debt Service Payment Status

During FY 2020-21, BAWSCA made debt service payments twice, using the bond surcharges collected from the agencies, consistent with the initial bond structure. The first payment of \$18,811,887 was made on October 1, 2020. The second payment of \$5,637,028 was made on April 1, 2021. The next debt service payment of \$19,037,028 will be made on October 1, 2021. There are sufficient funds in the Trustee account to make the payment. Debt service payments are made on April 1st and October 1st of each year until 2034.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Establishing a Debt Management Policy**

Summary:

This action item was previously presented to the Board during its July 15, 2021 meeting. The Board has provided directions to the staff on a revised version of the draft Debt Management Policy.

BAWSCA currently does not have a Debt Management Policy. The purpose of this policy is to promote sound and uniform practices for issuing and managing bonds and other forms of indebtedness, to provide guidance to decision makers regarding the appropriate use of debt and other repayment obligations of BAWSCA, and to comply with Government Code section 8855(i), which became effective January 1, 2017.

The attached draft Policy has been prepared by BAWSCA's municipal advisor, and revised in response to the directions provided by the Board during its July 15, 2021 meeting.

Fiscal Impact:

This item has no impact on BAWSCA's annual operating budget.

Board Policy Committee Action:

The Committee voted unanimously to recommend approval of the proposed Board action.

Recommendation:

That the Board approve the proposed Debt Management Policy.

Discussion:

Government Code section 8855(i), which became effective January 1, 2017, requires any issuer of public debt to certify before any debt is issued, and as part of its report of proposed debt issuance submitted to the California Debt Investment Advisory Commission (CDIAC), that it has adopted a local debt policy concerning the use of debt proceeds and that the debt policy includes the following:

- The purpose for which the debt proceeds may be used;
- The types of debt that may be issued;
- The relationship of the debt to and integration with the issuer's capital improvement program or budget;
- Policy goals related to the issuer's planning goals and objectives; and
- Internal control procedures that the issuer has implemented to ensure that the proceeds of the debt issuance will be directed to the intended purposes.

To comply with this code section, BAWSCA's municipal advisor, KNN Public Finance, has prepared the attached draft Policy for consideration by the Board setting forth a policy with the following objectives:

- To help maintain the financial stability of BAWSCA by encouraging sound decision-making so that its long-term financing commitments are affordable and do not create undue risk or burden.
- To protect BAWSCA's credit rating and minimize BAWSCA's borrowing costs.
- To meet the requirements of state and federal law and regulation, including federal requirements regarding disclosure and administration of tax-exempt indebtedness.
- To incorporate best practices into BAWSCA's issuance and administration of its indebtedness.
- Ensure that BAWSCA's debt is consistent with BAWSCA's planning goals and objectives and capital improvement program or budget, as applicable.

The draft Policy reflects changes made in response to the directions provided by the Board during its July 15, 2021 meeting. Both a redlined (showing changes based on the Board comments) and a clean version of the draft Policy are provided as attachments.

Attachments:

1. Draft Debt Management Policy, showing revisions in redlined format
2. Draft Debt Management Policy, incorporating revision

ATTACHMENT 1



DEBT MANAGEMENT POLICY

[Date]

Redline Comparison to July 15, 2021 Version

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Bay Area Water Supply and Conservation Agency Debt Management Policy

I. Introduction

The purpose of the Bay Area Water Supply and Conservation Agency (“BAWSCA”) Debt Management Policy (the “Policy”) is to promote sound and uniform practices for issuing and managing bonds and other forms of indebtedness, to provide guidance to decision makers regarding the appropriate use of debt and other repayment obligations of BAWSCA and to comply with Government Code section 8855(i), which became effective January 1, 2017.

This code section, added by AB 1029, requires any issuer of public debt to provide the California Debt Investment Advisory Commission (CDIAC) with certain reports and information related to the issuance of public debt. Section 8855(i) requires issuers to certify before any debt is issued, and as part of its report of proposed debt issuance submitted to CDIAC, that it has adopted a local debt policy concerning the use of debt proceeds and that the debt policy includes the following:

- The purpose for which the debt proceeds may be used;
- The types of debt that may be issued;
- The relationship of the debt to and integration with the issuer’s capital improvement program or budget;
- Policy goals related to the issuer’s planning goals and objectives; and
- Internal control procedures that the issuer has implemented to ensure that the proceeds of the debt issuance will be directed to the intended purposes.

Given that BAWSCA’s traditional roles have not included responsibility for capital improvements, its use of debt has been minimal. To date, BAWSCA has incurred indebtedness only to finance the prepayment of the capital component of its Water Supply Agreement with San Francisco; that transaction was, in effect, a refunding. But as BAWSCA considers refunding those prior bonds, both State law and good public policy require that the agency adopt a policy to govern its upcoming and any future debt issues.

II. Policy Objectives

The Policy objectives are as follows:

- To help maintain the financial stability of BAWSCA by encouraging sound decision-making so that its long-term financing commitments are affordable and do not create undue risk or burden.
- To protect BAWSCA’s credit rating and minimize BAWSCA’s borrowing costs.

- To meet the requirements of state and federal law and regulation, including federal requirements regarding disclosure and administration of tax-exempt indebtedness.
- To incorporate best practices into BAWSCA's issuance and administration of its indebtedness.
- Ensure that BAWSCA's debt is consistent with BAWSCA's planning goals and objectives and capital improvement program or budget, as applicable.

III. Types of Debt

Given BAWSCA's focused purpose, it ~~will primarily~~ is likely to issue only debt that is secured by its revenues, in the form of revenue bonds or similar instruments such as revenue-secured certificates of participation. The indenture for such bonds sets forth the specific revenues that are pledged, the priority of that pledge relative to operations and other debt, imposes requirements on rate setting, and limits the conditions under which additional parity debt can be incurred. BAWSCA's authority to incur indebtedness is governed by its enabling legislation, Water Code Sections 81427 *et seq.*

IV. Debt Management Responsibility

The Chief Executive Officer/General Manager is appointed as the BAWSCA official responsible for the following:

- Debt issuance and management, recognizing that assigned staff may be charged with the day-to-day responsibilities.
- Formulating BAWSCA's debt management plans, seeking Board of Director approval to execute such plans, and ensuring the appropriate management of outstanding debt.
- Keeping the BAWSCA Board informed of the agency's debt-related activities through informational reports, briefings, or workshops. Forecasting debt service payments to ensure the revenues necessary to service the debt and to comply with BAWSCA's indentures or other financing agreements.

V. Uses and Limits on Indebtedness

Debt provides a tool for financing capital projects that are too large to accommodate as part of the annual budget, to share the cost of major improvements between current and future ratepayers and/or to accelerate the delivery of a project when compared to funding on a pay-as-you-go-basis. On the other hand, debt service represents a fixed cost that will compete with other

expenditures in BAWSCA's budget and cannot be deferred in any given year. In order to achieve the proper balance in its use of debt, BAWSCA will follow the following policies~~iesy~~ goals:

Except to alleviate cash-flow timing issues within a fiscal year, BAWSCA will not use debt to finance operating expenses. BAWSCA may consider use of debt in the event of an extraordinary expense, such as the financing of a major judgment. BAWSCA will consider the use of debt to prepay or otherwise finance obligations to the extent it can demonstrate that such financing is not designed to defer customary expenditures and lowers long-term costs for its members.

To the extent BAWSCA assumes responsibility for one or more capital improvements, debt financing will be considered for extraordinary capital expenditures. BAWSCA will evaluate the benefit and risks of each proposed issue of new debt on a case by case basis, considering such factors as BAWSCA's overall fiscal health, the potential impact of increased debt service on the overall cost to its member agencies. In general, debt may be considered to finance such projects if it meets one or more of the following minimum criteria:

- It meets BAWSCA's goal of distributing the payments for the asset over its useful life so that benefits more closely match costs for both current and future ratepayers.
- The need for the project is compelling in terms of on-going cost savings or the need for public safety or services, and the size of the project makes funding out of existing resources or near-term revenues impractical.
- The debt is used to refund existing obligations in a manner that lowers the cost to its members and their ratepayers.

VI. Method of Sale

Bonds and other municipal securities can be sold at a public offering (available to the general public through broker-dealers) through either a competitive or negotiated sale.

Under a competitive sale, the terms of the bonds are determined by BAWSCA, with the assistance of its Municipal Advisor and Bond Counsel, and the sale is awarded to the underwriter judged to have submitted the lowest true interest cost, which takes into account interest rates and any discounts or premiums, including the underwriters' spread (their compensation). Under a negotiated sale, BAWSCA selects its underwriter in advance, based on proposals received or by other means. BAWSCA, its bond counsel and Municipal Advisor work~~s~~ with the underwriter in structuring, marketing and finally offering an issue to investors. The best method of sale depends on the type of security, credit factors, and market conditions. Given BAWSCA's relatively unique organization structure and role in the delivery of water, as well as the relatively unique arrangements that would support any debt, in most cases BAWSCA's debt may be more effectively offered through a

negotiated sale, however the decision regarding method of sale shall be made on a case by case basis.

An alternative method of obtaining financing is through a private placement with a bank or other institution. BAWSCA will consider privately placing its debt for small and/or short-term borrowings or in instances where difficult credit or disclosure considerations or other special circumstances so warrant.

The method of sale shall be subject to approval by the Board.

VII. Financing Professionals

The Chief Executive Officer/General Manager will be responsible for recommending the various professionals required for a financing, based on prior experience, recommendations or a request for proposal process, as ~~he or she~~they deems appropriate.

A. Bond and Disclosure Counsel

Bond counsel prepares the various legal documents for a transaction and renders a variety of opinions, including an opinion regarding the tax-exemption of bonds. For all public sales of debt, BAWSCA will retain the services of disclosure counsel to prepare the official statement. The Chief Executive Officer/General Manager, in consultation with Legal Counsel, will determine whether to select a second law firm to provide the services of disclosure counselor or to assign such duties to bond counsel.

B. Municipal Advisor

A municipal financial advisor assists in evaluating financing options, structuring of its debt offerings, making recommendations as to the method of sale, conducting competitive bond sales, and assisting with bringing negotiated bond sales to market, including making recommendations to BAWSCA on proposed interest rates, prices and yields in light of market conditions and the characteristics of the bonds. BAWSCA will utilize a registered municipal advisor for its public debt offerings (i.e., bond sales).

C. Underwriter

If BAWSCA elects to sell its debt through a competitive sale, the underwriter will be selected based on the best bid. When BAWSCA issues its debt through a negotiated sale, it will select one or more underwriters. Unless there are special circumstances, the underwriter of a negotiated sale will be chosen through a request for proposals.

D. Trustee and Fiscal Agent

The trustee or fiscal agent is a division of a commercial bank that services bonds and other financial instruments. The Chief Executive Officer/General Manager shall have the discretion to select a commercial banking firm as trustee or fiscal

agent, either through a request for qualifications process or by relying on existing banking relationships if deemed to be advantageous.

VIII. Structuring Debt Financing

A. Term and Structure

Long-term debt financing of capital projects will be amortized over a period no longer than the useful life of the assets being financed, and in no event should exceed thirty years. Refunding of existing obligations will be amortized over a period no longer than the term of the existing obligation.

Debt service will generally be structured to be level over the length of the bonds. Alternate debt structures may be used to wrap new debt around existing debt to create overall level debt service or to achieve other financial planning goals appropriate to the specific project.

The dates for which debt service is scheduled (typically semi-annually) will take into account the cashflows of the revenues that will service such debt.

B. Debt Service Reserve Fund

To the extent required by the market and/or an existing indenture, BAWSCA may fund a debt service reserve fund or similar fund out of bond proceeds no greater than the amount allowed under federal tax law. BAWSCA may fund additional reserves out of its own funds as advantageous to the marketing of its bonds or to otherwise provide financial stability or is otherwise advantageous.

C. Disclosure

For all public sales of debt, BAWSCA will retain the services of disclosure counsel (who may also serve as bond counsel) to prepare the Official Statement to be used in connection with the offering and sale of debt. The Chief Executive Officer/General Manager, other appropriate staff, and appropriate member agencies will be asked to review this document to ensure that it is accurate and does not fail to include information that such staff and officials think might be material to an investor. BAWSCA will make every effort to ensure the fullest disclosure possible in BAWSCA's disclosure documents, including, as appropriate, seeking staff training in disclosure matters. A Preliminary Official Statement will be released to the market only after the completion of the "due diligence" meetings with appropriate staff and approval in form by the Board.

D. Credit Ratings

The Chief Executive Officer/General Manager, in consultation with the Municipal Advisor and other members of the financing team, will evaluate and make recommendations regarding the number of credit ratings to seek and the rating agency(ies) to use on any given bond issue. BAWSCA will work to maintain its current credit ratings and to increase ratings when the opportunity to do so exists.

The Chief Executive Officer/General Manager will periodically communicate with the agencies rating BAWSCA's debt so that they will remain well-informed.

E. Credit Enhancement

BAWSCA will consider the use of credit enhancements such as bond insurance on a case-by-case basis. The cost-benefit of insurance will be evaluated through the final maturity and through the first optional call date, recognizing that municipal bonds are commonly refunded prior to maturity. BAWSCA will consider the use of a surety policy in lieu of a cash funded reserve, but in doing so will consider estimated earnings on a cash funded reserve and the cost of replacing that surety at the time of a potential refunding, if applicable.

F. Derivatives

BAWSCA will not use interest rate swaps in connection with structuring its debt issues. BAWSCA may use derivative-like investment products to invest bond funds, but only upon staff's analysis of the investment as part of the staff report transmitting the financing and specific approval as part of the Board action.

IX. Refunding Bonds

In order to provide for the potential for refunding its bonds in the future, and absent compelling reasons to the contrary, BAWSCA generally will structure its bond issues with an optional call no longer than ten and one-half years from the date of issuance. Such compelling reasons to deviate from this policy would be a taxable bond issue, where the additional interest cost required for an optional call may outweigh the likely benefits or a bond issue that would mature only a few years after the optional call date, making a refunding impractical. When structuring its bond issues, BAWSCA will take into account the coupon structure of its debt (i.e., discount bonds or premium bonds that mature after the call date) and its impact on its option to execute a refunding.

BAWSCA will periodically review its outstanding debt portfolio to identify opportunities to achieve net economic benefits from refunding its bonds. Recognizing that BAWSCA's ability to refund its debt is limited because of the market practice of making most fixed-rate bond issues non-callable for their first eight to ten years, and the elimination of the ability to refund bonds with new tax-exempt bonds substantially before the call date (a tax-exempt "advance refunding," which was eliminated by the 2017 tax act), BAWSCA will seek to deploy its refunding options prudently. At a minimum, BAWSCA will seek to achieve net present value ("NPV") savings equal to at least five percent (5%) of the par amount of the bonds that are refunded. In many cases, a higher threshold may be warranted, reflecting an analysis of the potential additional value that may be obtained by deferring the refunding.

BAWSCA may also consider a refunding for a non-economic purpose, including the retirement of an indenture for more desirable covenants, a change in tax status, or to change the type of debt instrument.

X. Debt Administration

The Chief Executive Officer/General Manager and ~~their~~^{his or her} staff shall be responsible for ensuring that BAWSCA's debt is administered in accordance with its terms, federal and State law and regulations, and best industry practices.

A. Tax-Exemption

Tax-exempt bond issues are subject to various IRS rules and regulations regarding the use of bond proceeds. BAWSCA will make sure that the use of facilities financed with tax-exempt bonds are not used for ineligible private activities, and will consult with bond counsel whenever it identifies a change in use, enters into a long-term contract involving the project, or otherwise undertakes an action that could change the tax-exempt status of its bonds.

BAWSCA shall periodically review and will comply with the specific post-issuance compliance procedures identified in the tax documents for its tax-exempt financings. BAWSCA will retain an arbitrage rebate consultant to assist in calculating any earnings on bond proceeds in excess of the rate on its bonds, and to calculate whether arbitrage should be rebated to the Federal Government.

B. Continuing Disclosure

Under federal law, BAWSCA must commit to provide continuing disclosure to investors in any of its debt that is sold to underwriters to be offered to the public. All existing and future BAWSCA debt should be compliant with the requirements of the Continuing Disclosure Certificates executed at the time of issuance, including the annual filing with the Municipal Securities Rulemaking Board ("MSRB")'s Electronic Municipal Market Access ("EMMA") website of BAWSCA's Annual Financial Report and any other required reports; the filing of notices of the material events set out in the Continuing Disclosure Certificates; and the filing of any voluntary disclosures deemed material. All such filings will be made within the time requirements set forth in the Continuing Disclosure Certificates.

BAWSCA may retain a consultant to assist in preparing and filing required reports and notices.

C. Investment of Bond Proceeds

Investments of bond proceeds shall ~~generally~~ be consistent with BAWSCA's Investment Policy as modified from time to time, and with the requirements contained in the governing bond documents.

D. State Reporting Requirements

The Chief Executive Officer/General Manager will file any reports required by State law, including the Annual Debt Transparency Report to the California Debt and Investment Advisory Commission required of all debt issued after January 1, 2017, pursuant to Government Code section 8855(k).

XI. Relationship of Debt to Capital Improvement Program and Budget

BAWSCA is committed to long-term capital planning. BAWSCA may issue debt for the purposes stated in this Policy and to implement policy decisions incorporated in any capital improvement program to the extent BAWSCA pursues the direct funding and management of capital improvements. BAWSCA shall integrate its debt issuances with the goals of its capital improvement program by considering when projects are needed in furtherance of BAWSCA's public purposes in determining the timing of debt issuance.

BAWSCA shall seek to avoid the use of debt to fund recurring infrastructure and facilities improvements in circumstances when the sole purpose of such debt financing is to reduce short-term annual budgetary expenditures.

XII. Internal Control Procedures

The Chief Executive Officer/General Manager or designee will monitor the expenditure of bond proceeds to ensure they were used for the purpose and authority for which the bonds were issued, including, but not limited to the purposes set forth in the indenture or other financing agreement approved by the Board.

When reasonable, proceeds of debt will be held by a third-party trustee or fiscal agent and BAWSCA will submit written requisitions for such proceeds. BAWSCA will submit a requisition only after obtaining the signature of the Chief Executive Officer/General Manager. In those cases where the proceeds of debt are not to be held by a third-party trustee or fiscal agent, the Chief Executive Officer/General Manager shall be responsible for approving expenditures in the same manner as the approval for the expenditures of other revenues.

Nothing in this policy is intended to appropriate the Board's regular decision-making authority.

XIII. Conclusion

This Policy is intended to guide and regulate BAWSCA's issuance of debt. This Policy should be reviewed and updated periodically to reflect changes in the market, the identification of other best practices, and to incorporate BAWSCA's own experience or changing circumstances.

While adherence to this Policy is generally required, it is recognized that changes in the capital markets, BAWSCA's needs and other unforeseen circumstances may from time to time produce situations that are not covered by the Policy or will require modifications or exceptions to best achieve public policy goals. Any deviations from this Policy that is recommended by staff should be highlighted in the staff report transmitting the resolution for approval of the financing.

ATTACHMENT 2



DEBT MANAGEMENT POLICY

[Date]

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Bay Area Water Supply and Conservation Agency Debt Management Policy

I. Introduction

The purpose of the Bay Area Water Supply and Conservation Agency (“BAWSCA”) Debt Management Policy (the “Policy”) is to promote sound and uniform practices for issuing and managing bonds and other forms of indebtedness, to provide guidance to decision makers regarding the appropriate use of debt and other repayment obligations of BAWSCA and to comply with Government Code section 8855(i), which became effective January 1, 2017.

This code section, added by AB 1029, requires any issuer of public debt to provide the California Debt Investment Advisory Commission (CDIAC) with certain reports and information related to the issuance of public debt. Section 8855(i) requires issuers to certify before any debt is issued, and as part of its report of proposed debt issuance submitted to CDIAC, that it has adopted a local debt policy concerning the use of debt proceeds and that the debt policy includes the following:

- The purpose for which the debt proceeds may be used;
- The types of debt that may be issued;
- The relationship of the debt to and integration with the issuer’s capital improvement program or budget;
- Policy goals related to the issuer’s planning goals and objectives; and
- Internal control procedures that the issuer has implemented to ensure that the proceeds of the debt issuance will be directed to the intended purposes.

Given that BAWSCA’s traditional roles have not included responsibility for capital improvements, its use of debt has been minimal. To date, BAWSCA has incurred indebtedness only to finance the prepayment of the capital component of its Water Supply Agreement with San Francisco; that transaction was, in effect, a refunding. But as BAWSCA considers refunding those prior bonds, both State law and good public policy require that the agency adopt a policy to govern upcoming and any future debt issues.

II. Policy Objectives

The Policy objectives are as follows:

- To help maintain the financial stability of BAWSCA by encouraging sound decision-making so that its long-term financing commitments are affordable and do not create undue risk or burden.
- To protect BAWSCA’s credit rating and minimize BAWSCA’s borrowing costs.

- To meet the requirements of state and federal law and regulation, including federal requirements regarding disclosure and administration of tax-exempt indebtedness.
- To incorporate best practices into BAWSCA's issuance and administration of its indebtedness.
- Ensure that BAWSCA's debt is consistent with BAWSCA's planning goals and objectives and capital improvement program or budget, as applicable.

III. Types of Debt

Given BAWSCA's focused purpose, it will primarily issue only debt that is secured by its revenues, in the form of revenue bonds or similar instruments such as revenue-secured certificates of participation. The indenture for such bonds sets forth the specific revenues that are pledged, the priority of that pledge relative to operations and other debt, imposes requirements on rate setting, and limits the conditions under which additional parity debt can be incurred. BAWSCA's authority to incur indebtedness is governed by its enabling legislation, Water Code Sections 81427 *et seq.*

IV. Debt Management Responsibility

The Chief Executive Officer/General Manager is appointed as the BAWSCA official responsible for the following:

- Debt issuance and management, recognizing that assigned staff may be charged with the day-to-day responsibilities.
- Formulating BAWSCA's debt management plans, seeking Board of Director approval to execute such plans, and ensuring the appropriate management of outstanding debt.
- Keeping the BAWSCA Board informed of the agency's debt-related activities through informational reports, briefings, or workshops. Forecasting debt service payments to ensure the revenues necessary to service the debt and to comply with BAWSCA's indentures or other financing agreements.

V. Uses and Limits on Indebtedness

Debt provides a tool for financing capital projects that are too large to accommodate as part of the annual budget, to share the cost of major improvements between current and future ratepayers and/or to accelerate the delivery of a project when compared to funding on a pay-as-you-go-basis. On the other hand, debt service represents a fixed cost that will compete with other

expenditures in BAWSCA's budget and cannot be deferred in any given year. In order to achieve the proper balance in its use of debt, BAWSCA will follow the following policies:

Except to alleviate cash-flow timing issues within a fiscal year, BAWSCA will not use debt to finance operating expenses. BAWSCA may consider use of debt in the event of an extraordinary expense, such as the financing of a major judgment. BAWSCA will consider the use of debt to prepay or otherwise finance obligations to the extent it can demonstrate that such financing is not designed to defer customary expenditures and lowers long-term costs for its members.

To the extent BAWSCA assumes responsibility for one or more capital improvements, debt financing will be considered for extraordinary capital expenditures. BAWSCA will evaluate the benefit and risks of each proposed issue of new debt on a case by case basis, considering such factors as BAWSCA's overall fiscal health, the potential impact of increased debt service on the overall cost to its member agencies. In general, debt may be considered to finance such projects if it meets one or more of the following minimum criteria:

- It meets BAWSCA's goal of distributing the payments for the asset over its useful life so that benefits more closely match costs for both current and future ratepayers.
- The need for the project is compelling in terms of on-going cost savings or the need for public safety or services, and the size of the project makes funding out of existing resources or near-term revenues impractical.
- The debt is used to refund existing obligations in a manner that lowers the cost to its members and their ratepayers.

VI. Method of Sale

Bonds and other municipal securities can be sold at a public offering (available to the general public through broker-dealers) through either a competitive or negotiated sale.

Under a competitive sale, the terms of the bonds are determined by BAWSCA, with the assistance of its Municipal Advisor and Bond Counsel, and the sale is awarded to the underwriter judged to have submitted the lowest true interest cost, which takes into account interest rates and any discounts or premiums, including the underwriters' spread (their compensation). Under a negotiated sale, BAWSCA selects its underwriter in advance, based on proposals received or by other means. BAWSCA, its bond counsel and Municipal Advisor work with the underwriter in structuring, marketing and finally offering an issue to investors. The best method of sale depends on the type of security, credit factors, and market conditions. Given BAWSCA's relatively unique organization structure and role in the delivery of water, as well as the relatively unique arrangements that would support any debt, in most cases BAWSCA's debt may be more effectively offered through a

negotiated sale, however the decision regarding method of sale shall be made on a case by case basis.

An alternative method of obtaining financing is through a private placement with a bank or other institution. BAWSCA will consider privately placing its debt for small and/or short-term borrowings or in instances where difficult credit or disclosure considerations or other special circumstances so warrant.

The method of sale shall be subject to approval by the Board.

VII. Financing Professionals

The Chief Executive Officer/General Manager will be responsible for recommending the various professionals required for a financing, based on prior experience, recommendations or a request for proposal process, as they deem appropriate.

A. Bond and Disclosure Counsel

Bond counsel prepares the various legal documents for a transaction and renders a variety of opinions, including an opinion regarding the tax-exemption of bonds. For all public sales of debt, BAWSCA will retain the services of disclosure counsel to prepare the official statement. The Chief Executive Officer/General Manager, in consultation with Legal Counsel, will determine whether to select a second law firm to provide the services of disclosure counselor or to assign such duties to bond counsel.

B. Municipal Advisor

A municipal financial advisor assists in evaluating financing options, structuring of its debt offerings, making recommendations as to the method of sale, conducting competitive bond sales, and assisting with bringing negotiated bond sales to market, including making recommendations to BAWSCA on proposed interest rates, prices and yields in light of market conditions and the characteristics of the bonds. BAWSCA will utilize a registered municipal advisor for its public debt offerings (i.e., bond sales).

C. Underwriter

If BAWSCA elects to sell its debt through a competitive sale, the underwriter will be selected based on the best bid. When BAWSCA issues its debt through a negotiated sale, it will select one or more underwriters. Unless there are special circumstances, the underwriter of a negotiated sale will be chosen through a request for proposals.

D. Trustee and Fiscal Agent

The trustee or fiscal agent is a division of a commercial bank that services bonds and other financial instruments. The Chief Executive Officer/General Manager shall have the discretion to select a commercial banking firm as trustee or fiscal

agent, either through a request for qualifications process or by relying on existing banking relationships if deemed to be advantageous.

VIII. Structuring Debt Financing

A. Term and Structure

Long-term debt financing of capital projects will be amortized over a period no longer than the useful life of the assets being financed, and in no event should exceed thirty years. Refunding of existing obligations will be amortized over a period no longer than the term of the existing obligation.

Debt service will generally be structured to be level over the length of the bonds. Alternate debt structures may be used to wrap new debt around existing debt to create overall level debt service or to achieve other financial planning goals appropriate to the specific project.

The dates for which debt service is scheduled (typically semi-annually) will take into account the cashflows of the revenues that will service such debt.

B. Debt Service Reserve Fund

To the extent required by the market and/or an existing indenture, BAWSCA may fund a debt service reserve fund or similar fund out of bond proceeds no greater than the amount allowed under federal tax law. BAWSCA may fund additional reserves out of its own funds as advantageous to the marketing of its bonds or to otherwise provide financial stability or is otherwise advantageous.

C. Disclosure

For all public sales of debt, BAWSCA will retain the services of disclosure counsel (who may also serve as bond counsel) to prepare the Official Statement to be used in connection with the offering and sale of debt. The Chief Executive Officer/General Manager, other appropriate staff, and appropriate member agencies will be asked to review this document to ensure that it is accurate and does not fail to include information that such staff and officials think might be material to an investor. BAWSCA will make every effort to ensure the fullest disclosure possible in BAWSCA's disclosure documents, including, as appropriate, seeking staff training in disclosure matters. A Preliminary Official Statement will be released to the market only after the completion of the "due diligence" meetings with appropriate staff and approval in form by the Board.

D. Credit Ratings

The Chief Executive Officer/General Manager, in consultation with the Municipal Advisor and other members of the financing team, will evaluate and make recommendations regarding the number of credit ratings to seek and the rating agency(ies) to use on any given bond issue. BAWSCA will work to maintain its current credit ratings and to increase ratings when the opportunity to do so exists.

The Chief Executive Officer/General Manager will periodically communicate with the agencies rating BAWSCA's debt so that they will remain well-informed.

E. Credit Enhancement

BAWSCA will consider the use of credit enhancements such as bond insurance on a case-by-case basis. The cost-benefit of insurance will be evaluated through the final maturity and through the first optional call date, recognizing that municipal bonds are commonly refunded prior to maturity. BAWSCA will consider the use of a surety policy in lieu of a cash funded reserve, but in doing so will consider estimated earnings on a cash funded reserve and the cost of replacing that surety at the time of a potential refunding, if applicable.

F. Derivatives

BAWSCA will not use interest rate swaps in connection with structuring its debt issues. BAWSCA may use derivative-like investment products to invest bond funds, but only upon staff's analysis of the investment as part of the staff report transmitting the financing and specific approval as part of the Board action.

IX. Refunding Bonds

In order to provide for the potential for refunding its bonds in the future, and absent compelling reasons to the contrary, BAWSCA generally will structure its bond issues with an optional call no longer than ten and one-half years from the date of issuance. Such compelling reasons to deviate from this policy would be a taxable bond issue, where the additional interest cost required for an optional call may outweigh the likely benefits or a bond issue that would mature only a few years after the optional call date, making a refunding impractical. When structuring its bond issues, BAWSCA will take into account the coupon structure of its debt (i.e., discount bonds or premium bonds that mature after the call date) and its impact on its option to execute a refunding.

BAWSCA will periodically review its outstanding debt portfolio to identify opportunities to achieve net economic benefits from refunding its bonds. Recognizing that BAWSCA's ability to refund its debt is limited because of the market practice of making most fixed-rate bond issues non-callable for their first eight to ten years, and the elimination of the ability to refund bonds with new tax-exempt bonds substantially before the call date (a tax-exempt "advance refunding," which was eliminated by the 2017 tax act), BAWSCA will seek to deploy its refunding options prudently. At a minimum, BAWSCA will seek to achieve net present value ("NPV") savings equal to at least five percent (5%) of the par amount of the bonds that are refunded. In many cases, a higher threshold may be warranted, reflecting an analysis of the potential additional value that may be obtained by deferring the refunding.

BAWSCA may also consider a refunding for a non-economic purpose, including the retirement of an indenture for more desirable covenants, a change in tax status, or to change the type of debt instrument.

X. Debt Administration

The Chief Executive Officer/General Manager and their staff shall be responsible for ensuring that BAWSCA's debt is administered in accordance with its terms, federal and State law and regulations, and best industry practices.

A. Tax-Exemption

Tax-exempt bond issues are subject to various IRS rules and regulations regarding the use of bond proceeds. BAWSCA will make sure that the use of facilities financed with tax-exempt bonds are not used for ineligible private activities, and will consult with bond counsel whenever it identifies a change in use, enters into a long-term contract involving the project, or otherwise undertakes an action that could change the tax-exempt status of its bonds.

BAWSCA shall periodically review and will comply with the specific post-issuance compliance procedures identified in the tax documents for its tax-exempt financings. BAWSCA will retain an arbitrage rebate consultant to assist in calculating any earnings on bond proceeds in excess of the rate on its bonds, and to calculate whether arbitrage should be rebated to the Federal Government.

B. Continuing Disclosure

Under federal law, BAWSCA must commit to provide continuing disclosure to investors in any of its debt that is sold to underwriters to be offered to the public. All existing and future BAWSCA debt should be compliant with the requirements of the Continuing Disclosure Certificates executed at the time of issuance, including the annual filing with the Municipal Securities Rulemaking Board ("MSRB")'s Electronic Municipal Market Access ("EMMA") website of BAWSCA's Annual Financial Report and any other required reports; the filing of notices of the material events set out in the Continuing Disclosure Certificates; and the filing of any voluntary disclosures deemed material. All such filings will be made within the time requirements set forth in the Continuing Disclosure Certificates.

BAWSCA may retain a consultant to assist in preparing and filing required reports and notices.

C. Investment of Bond Proceeds

Investments of bond proceeds shall be consistent with BAWSCA's Investment Policy as modified from time to time, and with the requirements contained in the governing bond documents.

D. State Reporting Requirements

The Chief Executive Officer/General Manager will file any reports required by State law, including the Annual Debt Transparency Report to the California Debt and Investment Advisory Commission required of all debt issued after January 1, 2017, pursuant to Government Code section 8855(k).

XI. Relationship of Debt to Capital Improvement Program and Budget

BAWSCA is committed to long-term capital planning. BAWSCA may issue debt for the purposes stated in this Policy and to implement policy decisions incorporated in any capital improvement program to the extent BAWSCA pursues the direct funding and management of capital improvements. BAWSCA shall integrate its debt issuances with the goals of its capital improvement program by considering when projects are needed in furtherance of BAWSCA's public purposes in determining the timing of debt issuance.

BAWSCA shall seek to avoid the use of debt to fund recurring infrastructure and facilities improvements in circumstances when the sole purpose of such debt financing is to reduce short-term annual budgetary expenditures.

XII. Internal Control Procedures

The Chief Executive Officer/General Manager or designee will monitor the expenditure of bond proceeds to ensure they were used for the purpose and authority for which the bonds were issued, including, but not limited to the purposes set forth in the indenture or other financing agreement approved by the Board.

When reasonable, proceeds of debt will be held by a third-party trustee or fiscal agent and BAWSCA will submit written requisitions for such proceeds. BAWSCA will submit a requisition only after obtaining the signature of the Chief Executive Officer/General Manager. In those cases where the proceeds of debt are not to be held by a third-party trustee or fiscal agent, the Chief Executive Officer/General Manager shall be responsible for approving expenditures in the same manner as the approval for the expenditures of other revenues.

Nothing in this policy is intended to appropriate the Board's regular decision-making authority.

XIII. Conclusion

This Policy is intended to guide and regulate BAWSCA's issuance of debt. This Policy should be reviewed and updated periodically to reflect changes in the market, the identification of other best practices, and to incorporate BAWSCA's own experience or changing circumstances.

While adherence to this Policy is generally required, it is recognized that changes in the capital markets, BAWSCA's needs and other unforeseen circumstances may from time to time produce situations that are not covered by the Policy or will require modifications or exceptions to best achieve public policy goals. Any deviations from this Policy that is recommended by staff should be highlighted in the staff report transmitting the resolution for approval of the financing.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Authorization to Increase the Contract Amount with Maddaus Water Management and Extend the Completion Date for 2021 Demand Study Update**

Summary:

On May 20, 2021, the Board approved the negotiation and execution of a contract with Maddaus Water Management (MWM) to complete the 2021 Demand Study Update with a not-to-exceed amount of \$275,000 and a scheduled completion date of June 30, 2022.

That original not-to-exceed budget was based on preliminary conversations with MWM. Subsequent detailed scope development, led by BAWSCA's staff, identified additional effort related to Tasks 3 and 4 of the scope of work to ensure the resulting work product would meet the expectations of the Board and BAWSCA's overall need for this work. This increased scope also requires an extension of the schedule for completion.

This item requests a \$75k increase in the not-to-exceed budget amount, for a total not-to-exceed amount of \$350k, and 6-month extension for completion to December 31, 2022.

Fiscal Impact:

The adopted FY 2021-22 budget for FY 2021-22 included \$275k for the 2021 Demand Study Update. The approved funding source for this project was a transfer from the Water Supply Agreement Balancing Account. It is recommended that the proposed \$75k budget increase also be funded by the Balancing Account. The discussion below presents the necessary findings as required by the Board's policy on use of the Balancing Account.

Board Policy Committee Action:

The Committee voted to recommend approval of the proposed Board action.

Recommendation:

That the Board Policy Committee recommend the Board authorize:

- 1. A \$75k increase in the not-to-exceed budget amount, for a total not-to-exceed amount of \$350k, and a 6-month extension for completion on December 31, 2022, for BAWSCA's 2021 Demand Study Update; and**
- 2. Authorize a request for transfer of \$75k from the Balancing Account to BAWSCA in accordance with BAWSCA's Balancing Account Policy, Res. No. 2020-02.**

Discussion:

The adopted FY 2021-22 work plan and budget included completion of the 2021 Demand Study Update. On May 20, 2021, the Board authorized the CEO/General Manager to negotiate and execute a contract with MWM to complete this work by June 30, 2021, with a not-to-exceed budget of \$275k.

Since the May 20, 2021 Board action, BAWSCA has been in the negotiations with MWM resulting in refinements to the proposed scope that provide additional clarity on a specific task,

the sensitivity analysis, that is a key element of 2021 Demand Study Update. In addition to the additional work on the sensitivity analysis, BAWSCA desires that all the results of this update be presented in a stand-alone updated water demand projections report, rather than just a technical memorandum to the previous report.

These scope changes are a result of further detailed conversations with the technical team and others, including the feedback CEO Sandkulla received leading up to and during the preparation of her presentation on BAWSCA's water demand projections efforts to the San Francisco Public Utilities Commission (SFPUC) as part of its July 16, 2021 Workshop. Stakeholder organizations that were present at that workshop expressed significant interest and support for a sensitivity analysis approach as being contemplated by BAWSCA for the update. Given that interest, BAWSCA recognized the elevated interest in this specific task and reviewed and modified the scope of work to ensure that it would meet BAWSCA's needs. In addition, the necessity for a stand-alone document is related to the anticipated need for the SFPUC to rely on and reference these results for its alternative water supply planning effort.

The revised scope of work has both a cost and schedule impact. As shown in Table 1, the updated total not-to-exceed cost for the project is \$350k, or \$75k more than the currently approved budget. Of the total project costs, \$275,000 will be expended in FY 2021-22 with the remaining \$75,000 expended in FY 2022-23. The updated schedule requires an additional 6 months, for a new completion date of December 31, 2022.

**Table 1
Demand Study Update Cost Estimate**

Fiscal Year	Description	Cost
2021-22	Data Collection and Phase 4 Kickoff Meeting	\$47,084
	Water Demand Review	\$114,572
	Sensitivity Analysis	\$88,596
	Project Management	\$24,748
Subtotal		\$275,000
2022-23	Preparation of Sensitivity Analysis TM	\$23,804
	Workshop on Sensitivity Analysis Results	\$9,436
	Draft and Final Report Preparation	\$35,616
	Project Management	\$6,144
Subtotal		\$75,000
TOTAL		\$350,000

Scope of Work and Billing Rates:

An updated draft scope of work has been provided by MWM. The updated scope of work is shown in Exhibit A along with a cost estimate that aligns with that provided in Table 1 above. Note that the billing rates as proposed by MWM have not changed as compared with the prior draft scope. Rather, project costs have increased as a result of additional work required in Tasks 3 and work associated with the preparation of a Final Report, as detailed in Task 4.

Findings Related to the Use of the Balancing Account:

Pursuant to Section 6.05.B.1 of the WSA, if the Balancing Account maintains a positive balance for three successive years and represents 10 percent or more of the Wholesale Revenue Requirement for the most recent fiscal year, the Board may direct the SFPUC to apply the positive balance to "water conservation or water supply projects administered by or through BAWSCA," among other uses. As of June 30, 2021 there was \$60,951,398 in the Balancing Account.

The adopted FY 2021-22 funding plan included the use of the Balancing Account to fund two work plan items: the 2020 Demand Study Refresh and Update, and the Scoping for an Update to BAWSCA's 2009 Strategy. In both cases, these projects support both BAWSCA's water supply development and conservation efforts, and are therefore eligible for funding via the Balancing Account.

This recommended action proposes a \$75k increase in the not-to-exceed budget amount for the 2021 Demand Study Update to be funded by the Balancing Account.

In accordance with Resolution No. 2020-02, before appropriating funds from the Balancing Account, the Board must make written findings that reasonably demonstrate that applying all or a portion of the positive balance to the selected purpose(s) is in the best interests of the Wholesale Customers and the ultimate water customers.

Per the Balancing Account Policy, the findings must address the following:

- a) Projected annual Wholesale Rates for the next five fiscal years;
- b) Wholesale Revenue Coverage Reserve;
- c) Existing unpaid asset balance(s) under Section 5.03 of the WSA;
- d) Funding requirements and sources for water conservation or water supply projects administered by the Agency and an analysis comparing the use of the Balancing Account funds compared to implementing a Water Management Charge per WSA Section 3.06.A; and
- e) Any other factor(s) the Board of Directors determines compels application of all or part of the positive balance to a purpose specified in 6.05.B.2.a of the WSA.

An evaluation of the proposed use of the Balancing Account funds results in the following findings:

- The proposed appropriation of \$75,000 will not have a discernible impact on the wholesale rates in the next five years (a) or the need for funds for a Wholesale Revenue Coverage Reserve (b).
- Finding (c) is now moot as all asset balances have been paid.
- A Water Management Charge is not a preferred method of raising funds at this time given the size of the positive balance in the Balancing Account and the budget needs (d).
- At this time, there is no other competing interest that requires the Balancing Account to be reserved in its entirety rather than as a funding source for these specific budget items (e).

Background:

As shared with the Board during the consideration of BAWSCA's FY 2021-22 work plan and, in particular, in discussions regarding the need for an update to the 2020 Demand Study, there are several efforts underway, both at the State level and by BAWSCA member agencies, that impact

the projections prepared. Member agencies have just completed their 2020 Urban Water Management Plans (UWMPs) in which updated water demands, population projections, and conservation efforts have been detailed. The State of California will be proposing new water efficiency targets that are predicted to impact member agencies' conservation strategies. Those targets are due to be released in draft form in Fall 2021. Matters outside member agency control, such as the long-term impacts of COVID-19 related changes on water use, are worthy of consideration in demand estimates. A sensitivity analysis would allow those impacts to be better understood. Finally, the SFPUC is due to release its climate change study results in the coming months, and the results of that study could influence water demand. A sensitivity analysis can factor in any impacts of climate change on water demand.

Given the above-detailed impacts on demand, an update and refresh of the 2020 Demand Study is warranted. The 2021 Demand Study Update will be extensive, as estimating what the impacts are to each member agency will take significant study and require agency-specific feedback and involvement, including an update of all 28 water demand models developed for use by member agencies as part of this work effort.

BAWSCA's 2020 Demand Study, as well as demand studies prepared by the SFPUC and other water agencies in the State of California, have been subject to intense scrutiny by interest groups, particularly environmental organizations.

EXHIBIT A
TO THE CONSULTING SERVICES AGREEMENT
Between the Bay Area Water Supply and Conservation Agency
and Maddaus Water Management, Inc.

DRAFT

2021 Demand Study Update- Updated Scope of Work and Cost Proposal

Phase 4 of BAWSCA's Making Water Conservation a Way of Life Strategic Plan

OVERVIEW

In June 2020, BAWSCA completed a Regional Water Demand and Conservation Projections Study (2020 Demand Study) as Phase 3 of its Making Conservation a Way of Life Strategic Plan. In the final months of the Phase 3 effort, the COVID-19 global pandemic began and has changed patterns in water use throughout the region due to public health requirements that shut down or slowed some parts of the economy, changed how businesses operate, affected population, and shifted some water suppliers' demands between non-residential and residential deliveries.

These changes have the potential to impact both near-term and long-term population and employment projections as well as water use across many sectors. Additionally, new information became available during (or shortly following) BAWSCA's preparation of the 2020 Demand Study including:

- Results from participating agencies' 2020 Urban Water Management Plans (UWMP)
- Assigned Regional Housing Needs Allocations (RHNA) housing projections
- Details related to the water use objective for the State's water-use efficiency regulations ("Conservation as a California Way of Life")
- SFPUC's Climate Change Study

BAWSCA is now updating the 2020 Demand Study as Phase 4 of BAWSCA's Making Water Conservation a Way of Life Strategic Plan, to incorporate new information and sensitivity analyses to assess how a range of influences, such as various scenarios for population and employment projections, could impact future demand. The work required under Phase 4 is detailed in this scope of work.

TASKS

The work effort proposed will be conducted in a task-wise fashion.

TASK 1 –Phase 4 Kickoff and Data Collection

For Task 1, MWM will hold a kickoff meeting with BAWSCA and conduct data collection with the assistance of BAWSCA staff, as further described in the following subtasks.

Task 1.1 – Kickoff Meeting and Timeline

Key members of the MWM project team will hold one virtual meeting with BAWSCA staff to initiate the project. MWM will lead the kickoff meeting. The goals of the meeting are to:

- Confirm the project goals, schedule, and tasks as needed
- Confirm task specific budget allotments
- Review data needs for the study
- Review expectations for each task
- Identify communication protocols for the project for both BAWSCA staff and BAWSCA agencies (including review of project management software and use of Google Sheets)

Task 1.2 – Create Data Collection Workbook

The MWM project team will create a data request template as Excel workbooks customized for each BAWSCA member agency. BAWSCA staff will use the template to collect data from the member agencies related to:

- (a) Monthly water production, consumption data by customer category, and rebate participation for 2019 and 2020. The workbooks will include each member agency's data collected through 2018 for the 2020 Demand Study.
- (b) Annual population and employment projections through 2045, if available, or through 2040.
- (c) Any questions or data the MWM project team needs answered to complete the technical assessment described below in Tasks 2 and 3.

Task 1.3 – Review Data Collected from BAWSCA Member Agencies

The MWM project team and BAWSCA staff will work together on this task.

- BAWSCA staff will review the collection of data workbooks from the BAWSCA member agencies with MWM and transfer data collected from member agency representatives.
- The MWM project team will review the completed data collection workbooks. MWM project team will provide any clarifying questions to BAWSCA staff.
- BAWSCA staff will conduct follow-up discussions with the individual BAWSCA member agencies to address questions, if needed.
- For agencies that updated their DSS Models in the process of preparing 2020 UWMPs, BAWSCA staff will obtain their updated DSS Models.

Task 1 Deliverables

The deliverables for this task will be:

- Electronic project timeline detailing key milestones and review deadlines (with BAWSCA staff's concurrence) provided in either Monday.com project management software or Google Sheets (all tasks to be completed by September 30, 2022)
- Finalized task budgets
- Meeting notes summarizing the discussion during the kickoff meeting
- Summary of the data collected from each BAWSCA agency

TASK 2 – Water Demand Update

For Task 2, The MWM project team will utilize data that was collected in Task 1 and incorporate the information into the individual BAWSCA member agency DSS Models.

Key questions which will be answered under Task 2 include:

1. How much have the BAWSCA agency data patterns changed since the June 2020 report?
2. How have actual and projected population and employment within each BAWSCA agency changed since the June 2020 report?
3. How will RHNA's additional housing projections fit into the existing service area?
4. Have the water use trends changed in 2020? What are some high-level observations of the possible reasons for these changes?
5. Are there any other changes needed to update/refine the DSS Model assumptions?

Task 2.1 – Update Agency DSS Models with Water Billing Data

The MWM project team will review 2019, 2020, and available 2021 water billing data by customer class submitted by BAWSCA member agencies and compare it to previous data from 1995-2018 to provide insight into the current water use changes that can reasonably be attributed to the COVID-19 remote work mandates and associated temporary business closures. The project team will analyze water demand data pre- and post-COVID-19 to identify usage differences and to define a range of potential future long-lasting impacts. Under this subtask, the MWM project team will incorporate information collected from Task 1.2 from the data collection workbooks and, specifically for this task, add the monthly water data from 2019, 2020 and available 2021 data into the existing individual DSS Models created for the BAWSCA member agencies as part of the 2020 Demand Study. The updated monthly water data will additionally be used to understand the impact of recent drought experience (reductions and rebound) and its short-term and long-lasting influences.

Early indications show that COVID-19 has shifted patterns of water use in residential and CII sectors. This can potentially be due to changes in indoor vs. outdoor water use, especially within vacancies in CII customer accounts. To better understand these changes, water data from different sectors will be compared to prior years. The team will analyze the impact of COVID-19 on the use of indoor water in comparison to outdoor water use, on a BAWSCA service area level. The indoor and outdoor water use is already an output of the DSS Models making this subtask simpler to perform than had it not been incorporated.

Task 2.2 – Update Agency DSS Models with Adopted 2020 UWMP Data

The MWM project team will prepare simple Excel summary tables to compare population and employment projections from the 2020 Demand Study with the 2020 UWMPs produced by BAWSCA member agencies. As part of that comparison, MWM will update DSS Models and summarize the explanations provided by BAWSCA agencies in their data collection workbooks as to why changes have occurred between the results of the 2020 Demand Study and the 2020 UWMPs.

Task 2.3 – Water Use Efficiency Objectives Calculator

With the adoption of recent state water conservation legislation, SB 606 and AB 1668, there have been many developing changes in how California moves towards “making water conservation a

California way of life.” Two components of the legislation are the Urban Water Use Efficiency Standards and Water Use Objectives, which relate to efficient indoor and outdoor residential water use, CII outdoor water use, and estimated water loss. The objectives are to be released in late 2021 or early 2022. The resulting legislation will have impacts on water providers over the coming years, requiring compliance with indoor, outdoor, and CII water use targets, water loss standards, and preparation for long-term water shortages.

MWM will update the DSS Models to include an additional MS Excel spreadsheet providing BAWSCA regional and agency level DRAFT water use objective values, given insights are available to infer from the current state process (however the final state parameters are still pending). MWM has provided an example of a simple 1-page calculation spreadsheet for BAWSCA staff to review. The goal is to help the agencies develop an approximate water use objective. This spreadsheet will require some input from the agencies, to be facilitated by BAWSCA staff, including their irrigated area measurements provided by the state and water loss parameters.

Task 2.4 – Update AWWA Water Loss Data

The MWM project team will incorporate any new information from the 2018, 2019 and 2020 water year AWWA Water Loss Workbooks into the individual agency DSS Models.

Task 2.5 – Demand Roll-Up by Customer Class

BAWSCA member agencies use unique customer categories for their billing systems, reflected in each agency’s customized DSS Model. The MWM project team will group demand projections into seven general categories: (1) single-family residential, (2) multi-family residential, (3) commercial, (4) industrial, (5) government/institutional/other, (6) dedicated irrigation, and (7) non-revenue water. The MWM project team will update an existing Excel file developed by BAWSCA staff to identify gaps, incorrect categorization assumptions, and issues with demand projection formulas.

Task 2.6 – Update BAWSCA Agency Water Supply by Source Projections

BAWSCA staff may use the existing BAWSCA Excel spreadsheet from 2020 with projected use of water supplies to meet future demand to update the water use by source projections.

Task 2.7 Prepare a Data Collection and Demand Update Technical Memorandum (TM1)

From the results of the above work efforts, the MWM project team will prepare one draft Technical Memorandum (TM1) that will include tables and/or graphical representations of the specific data collected in Tasks 1 and 2. TM1 will serve as a stand-alone document detailing the adjustments made to the water demand estimates in the 2020 Demand Study. The MWM project team will prepare a single Data Summary TM1 which will include the demand update for each of the 27 agency models in table format as well as aggregate data for BAWSCA.

Task 2.8 Prepare a Demand by Customer Class Technical Memorandum (TM2)

MWM will produce TM2 that will include tables summarizing the breakdown by agency that BAWSCA can use for its Annual Survey and to share with the SFPUC for use in an update of their Water Supply and Demand Yield Worksheet and/or use for other purposes.

Task 2.9 BAWSCA Agency Workshop #1 – Presentation of Updated Demands

In this task, the MWM project team will hold a workshop with member agency representatives to review the demand analysis updates and results as reported in TM1.

The MWM project team will coordinate with BAWSCA staff ahead of the workshop on planned agenda and presentation content.

Task 2 Deliverables

1. One electronic version of Technical Memorandum 1 (TM1). TM1 will not be finalized. All requested edits for TM3 will be addressed in the Draft Report.
2. One electronic version of Technical Memorandum 2 (TM2). TM2 will not be finalized. All requested edits for TM3 will be addressed in the Draft Report.
3. BAWSCA Agency Workshop #1 – Demand Projection Results (TM1 & TM2)

TASK 3 – Sensitivity Analysis

The MWM project team will conduct sensitivity analyses to understand the effects of key factors on water demand projections. Information from this analysis will benefit BAWSCA agencies through refinement of future efficiency programs and enhancement of future regional and agency water use forecasting. This sensitivity analysis will determine the impacts of a range of population, employment, and climate scenarios to better quantify uncertainty in water demand. Further, it can serve as a reference when and if changes take place, such as slower population growth, to identify if the sensitivity analysis accurately predicted its impact on water demand.

Task 3.1 – Stakeholder Engagement

The MWM project team will conduct up to two meetings (in-person meetings, if conditions and budget allow; otherwise, virtual meetings) with outside stakeholders identified by BAWSCA to solicit input on the project. The goal of the stakeholder engagement is to understand the perspectives on assumptions regarding future growth and development patterns as they pertain to water demand. The MWM project team understands that BAWSCA seeks to engage outside stakeholders, such as non-governmental organizations, businesses, and others, to focus on the variables impacting water future demand, including for 2021/2022. It is anticipated that the first stakeholder engagement meeting will present the project's approach and seek stakeholder input on the variables impacting future water demand which would be inputted into the sensitivity analysis. A second meeting with stakeholders is expected to be used to present the preliminary results of the sensitivity analysis. At that time, feedback will be received from the stakeholders and some adjustment to the sensitivity approach may be warranted.

BAWSCA staff will coordinate meeting announcements, agendas, and meeting summaries as needed. The team will also track and summarize discussion items to solicit feedback from the stakeholder group, as well as address stakeholder input and comments.

Task 3.2 – Develop Appropriate Water Demand Factors

Numerous variables may influence future water demand, including effects of population, employment, and climate change. The MWM project team will gather information from the stakeholder meeting to develop appropriate water use factors. Other demand factor variables that have previously not been included, were found not to be statistically significant, or data was not available in the BAWSCA specific regression equations will be reviewed in discussions between

BAWSCA and MWM. The key factors will be used in the sensitivity analysis to understand their impact on water demand.

Task 3.3 – Consider the Impact of Drought Rebound and Conservation Sensitivity

The time it takes for drought rebound to occur, coupled with the extent of the rebound, can have major implications on the ensuing water demand predictions. Given that calendar years 2020 and 2021 could be reasonably assumed to be drought years, consideration will be given as to how to approach this topic. Similarly, one could argue that the BAWSCA service area is still in the midst of a rebound from the 2014-2017 drought and entering another drought in 2021. Following a review of this topic, it is predicted that MWM will develop a minimum of two to three rebound options for use in the sensitivity analysis. During this task, a sensitivity analysis will be reviewed at a monthly or annual production level for the possibility of increased or decreased water conservation savings.

Task 3.4 – Review Employment Projection Scenarios

The 2020 Demand Study was initiated in January 2019 and completed in June 2020. Given the project timeline, recent changes to water consumption patterns, population, employment, and vacancies due to the COVID-19 pandemic were not incorporated into the analysis or demand projections. To monitor the effects of COVID-19 response impacts on employment, the MWM project team will review employment data to understand whether employment and water production changes in 2020 were associated with COVID impacted demand. The MWM project team will then estimate water demand in up to three employment growth scenarios.

Task 3.5 – Review Climate Change Scenarios

Using the updated DSS Models, MWM will forecast water demands and conservation savings estimates under a range of future hydrologic scenarios that may result from climate changes occurring within the planning horizon. Specifically, MWM will develop annual demand projections for select climate scenarios to facilitate the understanding of demand patterns and the prospect that the inclusion of various long-term water conservation programs can have on mitigating the predicted impacts of climate change.

Based on the review of and results provided by the SFPUC's Climate Change Study, if available, the MWM project team will incorporate predictive data to conduct definitive analysis of how climate projections would impact water use. Any additional data from current region-specific studies and reports will also be analyzed if available at the time of the work. Analysis of projected climate trends for temperature and precipitation will use site-specific, downscaled climate modeling.

The 2020 Phase 3 climate change analysis used temperature as the key variable for the analysis of climate change impacts. While BAWSCA and MWM have been made aware that the SFPUC is nearing completion of its climate change work, it remains uncertain as to whether the report will provide a comprehensive assessment of the potential effects of climate change including future forecasts temperature values for the Bay Area.

If there are not specific temperature details provided in the report, the MWM project will then discuss with BAWSCA the use of the RCP 8.5 scenario from the California's Fourth Climate Change Assessment San Francisco Bay Area Summary Report. The International Panel on Climate Change (IPCC) develops several future climate change scenarios referred to as Representative Concentration Pathways (RCP). RCP 4.5 represents a mitigation scenario where global CO2 emissions peak by the year 2040. RCP 8.5 represents the business-as-usual scenario

where CO2 emissions continue to rise throughout the 21st century. Various temperature values would be used to model the impacts of climate change.

The MWM project team can also examine suitability of using climate change data available through DWR's SGMA portal, another alternative for quantifying the impact of climate change. .

Task 3.6 – Review Population Growth Scenarios

To monitor the effects of COVID-19 response actions on population, the MWM project team will review population data to see if population and water production changes in 2020 and 2021 were associated with COVID impacted demand. MWM will then estimate water demand in up to three population growth scenarios.

Task 3.7 – Impact Roll-up / Resulting Water Demand Projections

Through the completion of Subtasks 3.1-3.6, the MWM project team will then develop an envelope of scenarios which include population, employment, climate scenarios, and other potential variables gathered by the Stakeholder meetings. The analysis, which employs the use of probability distribution curves, will define each variable based on information documented in these previous tasks. The results will include identification of the “most likely” baseline forecast, as well as high and low bounds of the forecast range. The sensitivity of the forecasts to each variable will also be determined. Graphical representation of this range will be produced. This work essentially “rolls-up” the results of the sensitivity analyses conducted.

The results generated will therefore be illustrative of a range of overlapping and/or parallel future outcomes, such as changes to demand due to various levels of climate change, population increases, and employment changes. Doing so will likely create a range of possibilities, and it may also show that a particular key input is a more significant driver compared to other inputs.

Task 3.8 - Technical Memorandum 3 – Sensitivity Analysis Results

Based on the results of this task, the project team will prepare a Demand Forecast Technical Memorandum (TM3) to summarize demand projection results and highlight the value of the updated study.

The MWM project team will develop TM3 incorporating the results of the work performed, including a range of demand forecasts for the Subtasks in Task 3 and a description of the sensitivity of each variable in impacting water demand. The Memorandum will be a stand-alone document with graphs, tables, and figures to better understand future water demand under various scenarios of climate, population, employment, and other appropriate water use factors.

The MWM project team will work with BAWSCA staff on developing a written description and narrative for the scenarios. This description will help to communicate a clear story about what was assumed and why each scenario was selected. The scenario narratives will include milestones and markers to monitor and track which among the proposed alternative scenarios is most likely to emerge as the future unfolds.

Task 3.9 - BAWSCA Workshop #2 Presentation of Sensitivity Analysis Results

In this task, the MWM project team will hold a workshop with member agency representatives to review the demand analysis sensitivity results as reported in TM3. MWM project team will conduct

Workshop #2 with BAWSCA and all member agencies where participants will provide agency feedback on the development of the sensitivity analysis and review deliverables.

The MWM project team will coordinate with BAWSCA staff ahead of the workshop on planned agenda and presentation content.

Task 3 Deliverables

The deliverables for Task 3 will be as follows:

- BAWSCA-hosted Workshop #2 to present sensitivity analysis results (TM3) to the individual BAWSCA agencies.
- Meeting materials, attendance list, and summary notes associated with each stakeholder meeting.
- Stakeholder Workshops (NGOs) - Conduct two stakeholder meetings / workshops
- One electronic version of Technical Memorandum 3 (TM3).

TASK 4 – Final Report and Model Documentation

MWM will develop a 2022 Final Water Demand and Conservation Report, incorporating the information developed for each TM (TM1 through TM3) and the results of the work performed up through and including Task 3. For budgeting and schedule purposes, two draft documents will be prepared and one set of consolidated BAWSCA provided comments received for each draft will be incorporated. There will be one draft for BAWSCA review and a second draft for BAWSCA member agency review. BAWSCA will provide clear direction to MWM based on a compiled set of comments from all member agencies to finalize the Final Report, which will be provided for a BAWSCA Board presentation.

For documentation of the technical analysis performed, MWM will provide a suite of videos that enables BAWSCA staff and its member agencies to update the demand forecasting model in the future. The use of topic-based videos arranged in a modular format have been found to offer effective instructional capability greater than a printed user guide. Written information will be provided on data sources and assumptions used in developing the model. It is anticipated the data sources and assumptions used in developing the model will be included in the Technical Memorandums.

Task 4 Deliverables

The deliverables for this task are as follows:

- Two Draft Reports and one Final Report in electronic MS Word format up to 75 pages in length.
- DSS Model Training Videos

TASK 5: Project Management

To keep the project on schedule and budget, MWM will provide BAWSCA with monthly status and budget updates by task. The information will be shared via phone or email in combination with updated budget and schedule status. If there are any budget or schedule concerns, MWM will raise the issue to BAWSCA as soon as possible. MWM will meet and discuss with BAWSCA staff the options to adjust the project schedule, scope, roles, or budget to arrive at an agreeable solution for both parties.

Task 5 Deliverables

- Monthly invoices detailing updates on budget and schedule at the task level.

TASK 6: Individual Agency Support

During the development of the demand and conservation savings projections, agencies may desire additional support from MWM beyond what BAWSCA has included in this scope. To facilitate this possibility, MWM will provide an hourly billing rate for technical or other support for any member agency as needed. If an agency makes a request to BAWSCA for additional support from MWM and agrees to reimburse BAWSCA for time spent, then MWM will work with the agency directly to provide the additional support. BAWSCA may elect to have this work performed under an existing, separate, subscription program that exists between MWM and BAWSCA that enables member agencies to directly work with MWM on such activities.

Cost Proposal

MWM proposes to conduct this work on an hourly basis not-to-exceed \$350,000. The project will be done as efficiently as possible and may be done for less than the total stated budget. All Tasks and Subtasks will be completed by September 30, 2022. As noted previously, if budgetary limits become evident or BAWSCA directs MWM to wait for improved datasets, MWM will meet with BAWSCA to discuss alternative approaches, schedule, or funding options to allow Tasks 1-4 to be completed. MWM will be conducting the work as directed by BAWSCA staff and as agreed to at the start of the Task 1 work effort regarding the level of effort preferred for each item. The proposed task specific budget will be finalized and agreed to at the start of the Task 1 work effort and may only be modified with agreement by both parties and at BAWSCA staff written direction.

Cost Estimate

Task	Description	Total Budget
1	Data Collection and Phase 4 Kickoff Meeting	\$47,084
2	Water Demand Review	\$114,572
3	Sensitivity Analysis	\$121,836
4	Final Report	\$35,616
5	Project Management	\$30,792
	Total	\$350,000

MWM Project Team Qualifications and Hourly Rates

Person	Position	Service/Discipline	Education/ Degree	Hourly Rate
Michelle Maddaus	Project Manager, Senior Engineer	Water Resource Planning and Management	M.B.A., B.S. Engineering	\$268
Lisa Maddaus	Senior Engineer	Water Resource Planning and Management	M.S. Engineering	\$273
Christopher Matyas	Software Engineer	Software for Water Efficiency	B.S. Engineering	\$268
Tess Kretschmann	Staff Engineer	Water Resource Planning and Management	B.S. Engineering	\$184
Nicki Powell	Water Resources Analyst / DSS Modeler	Water Resource Planning and Management	B.S. Environmental Studies	\$115
Hannah Braun	Water Resources Analyst/DSS Modeler	Water Resource Planning and Management	B.A. Environmental Studies	\$105

Person	Position	Service/Discipline	Education/ Degree	Hourly Rate
Andrea Pacheco	Technical Editor	Technical Documentation Editing and Formatting	B.A. English	\$131
Anil Bamezai	Technical Analysis	Econometric Modeling	Ph.D. Statistics	\$200
Jessica Fritsche	Technical Analysis	Econometric Modeling	M.S. Geography/ Environmental Resource Management	\$194
Jenny Gain	Stakeholder Liaison	Stakeholder Liaison	M.S. Environmental Engineering	\$278

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Authorization of BAWSCA's Issuance of Refunding Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$180 Million, Including Authorizing the Forms of and Directing the Execution of the Related Documents**

Summary:

Staff proposes the issuance of Refunding Revenue Bonds to refund the callable portion of BAWSCA's Revenue Bond Series 2013A. The objective of the refunding is to generate debt service savings and save the water customers money.

The proposed Board action requires the expected net present value (NPV) savings to be at least \$20 million in order for staff to have the authorization to complete the refunding. A preliminary timeline assuming a tax-exempt forward delivery refunding is included at the end of this report.

To continue proceeding with the refunding, the financing team (Goldman Sachs and JP Morgan, and staff from KNN, Orrick, Hanson Bridgett and BAWSCA) has drafted the forms of the necessary financing documents that require Board consideration and approval in September in order to proceed with the sale of the refunding bonds.

Fiscal Impact:

There is no financial impact on BAWSCA's FY 2021-22 Operating Budget from the recommended action. The costs of issuance for the refunding are expected to be no more than \$1.2 million, including both contingent and non-contingent costs and consistent with the initial estimate. The estimated cost of issuance includes the compensation to the underwriters and the fees charged by the bond counsel and municipal advisor for their contingent portion of services associated with the bond refunding.

Board Policy Committee Action:

The Committee voted to recommend approval of the proposed Board action.

Recommendation:

That the Board approve the following actions needed to continue proceeding with BAWSCA's potential bond refunding:

- 1. Adopt Resolution No. 2021-01 authorizing the issuance of the Refunding Revenue Bonds in an amount not to exceed \$180 million and authorizing the forms of the following financing documents provided as attachments to this staff report:**
 - a. Second Supplemental Revenue Bond Indenture;**
 - b. Contract of Purchase;**
 - c. Continuing Disclosure Certificate;**
 - d. Escrow Agreement**
 - e. Preliminary Official Statement; and**

- 2. Authorize the CEO/General Manager to execute these financing documents in substantially the form approved, subject to the satisfaction of specified criteria:**
 - a. NPV savings of not less than \$20 million over the term of the bonds;**
 - b. Principal amount of refunding bonds does not exceed \$180 million; and**
 - c. Underwriter's discount does not exceed 0.25% of the principal amount.**

Background of the 2013 Bonds

The agency's Revenue Bond Series 2013A and Series 2013B (Taxable) were issued to prepay the then remaining capital cost recovery payments that the BAWSCA member agencies owed San Francisco per Water Supply Agreement (WSA) Section 5.03. The 2013 Bonds were issued in a par amount of \$335.8 million at an all-in true interest rate of 3.14%, which takes into account the interest rates on the bonds, the upfront premium paid by investors, and the underwriting and issuance costs. The principal amount of bonds sold included an amount to fund a required Stabilization Fund equal to 50% of the maximum annual aggregate debt service on the bonds.

When BAWSCA issued the 2013 bonds, based on the recommendations from the financial advisor and the underwriter, the agency structured the Series 2013B taxable bonds as effectively non-callable in order to achieve lower interest rates and ultimately greater savings to the member agencies at the time. Therefore, the proposed refunding is only for the callable portion of Series 2013A tax-exempt bonds in the principal amount of \$163.8 million that can be redeemed starting on April 1, 2023, the first optional call date. The callable 2013A bonds have an average weighted interest rate of approximately 4.75%.

The 2013 bonds are secured by a surcharge levied by BAWSCA on the member agencies. Under the 2013 bond indenture, BAWSCA is required to levy the surcharge in an amount equal to one-times (1X) annual debt service. This requirement is known as a rate covenant. Other than the surcharges collected and the Stabilization Fund, BAWSCA is not obligated to use any of its other funds to pay debt service. The Stabilization Fund serves as a source of liquidity to cover debt service in the event of significant delays in the collection of the surcharges and was necessary for the ratings and the marketing of the bonds at the levels achieved at the time.

The surcharges are collected by SFPUC on behalf of BAWSCA pursuant to a Prepayment and Collection Agreement entered into between the parties at the time of issuance of the 2013 bonds. The SFPUC's role as collection agent is an additional important factor in the rating and marketing of the bonds.

Discussion:

Proposed Refunding and Alternatives Considered

Under current law, tax-exempt refunding bonds may not be issued until within 90 days of the date that the existing bonds are called, which is referred to as a current refunding, however, bonds can be issued prior to 90 days before the call (referred to as an advance refunding) if the refunding bonds are issued on a taxable basis.

BAWSCA and its municipal advisor previously evaluated alternatives for refunding the 2013A bonds, including: 1) waiting until late 2022 or early 2023 to sell and issue tax-exempt current refunding bonds on a regular delivery basis, whereby the bonds are delivered no more than about 4 weeks after the pricing and sale of the bonds; 2) issuing taxable advance refunding bonds in 2021; and 3) issuing the refunding bonds on a tax-

exempt forward delivery basis, whereby the bonds are priced and sold in early 2022 with the issuance and delivery of the bonds taking place in early 2023, which allows for the bonds to be issued on a tax-exempt basis. With a forward delivery refunding, the interest rates, bond prices and savings are locked in at the time of the bond sale, however, the savings do not occur until after the refunding bonds are issued. In the initial analysis, a 12-month forward delivery was assumed, whereby the refunding bonds would be priced and sold in January 2022 and delivered in January 2023.

Based on market conditions at the time, a forward refunding was estimated to result in greater savings than a taxable advance refunding and, while waiting until late 2022 or early 2023 for a tax-exempt regular delivery refunding could potentially result in greater savings than a forward, depending on market conditions, the forward delivery locks in the savings much sooner, thereby eliminating the risk of a major erosion of savings in the event of a significant adverse market change between the time a pricing a forward refunding can be priced relative to a regular delivery tax-exempt refunding.

BAWSCA and its municipal advisor preliminarily recommended a tax-exempt forward delivery, including further looking into the feasibility of pricing forward delivery bonds in late 2021 rather than early 2022. The plan also included monitoring the status of pending legislation in Congress which, if passed and signed into law, would reauthorize tax-exempt advance refundings. If tax-exempt advance refundings are reauthorized before the currently planned tax-exempt forward bonds are priced, only about 60% of the 2013A Bonds could be advance refunded on a tax-exempt basis. As a result, a portion of the 2013A bonds likely cannot be advance refunded even if the legislation passes and is signed into law.

In previous actions, the Board approved KNN Public Finance, LLC as municipal advisor and Orrick as bond and disclosure counsel for the refunding. The fee structure for both firms have portions that are non-contingent and contingent upon the issuance of the bonds. BAWSCA also undertook a request for proposal (RFP) for underwriters. As part of that process, additional alternatives for the refunding were evaluated such as tender and /or exchanges. With feedback obtained through the RFP process, it was also concluded that a forward delivery of longer than 12 months would likely be feasible based on market conditions at the time. The underwriters selected were Goldman Sachs and JP Morgan, the appointment of whom were previously approved by the Board.

Under market conditions at the time of this report, the recommendation continues to be a tax-exempt forward delivery refunding to be priced in Fall 2021 following Board approval, obtaining the credit ratings and the distribution of the preliminary Official Statement for review by potential investors. Reauthorization of tax-exempt advance refundings is possible at some point but unlikely within the next few months. As a result, to the extent market conditions remain reasonably favorable, the finance team does not recommend holding up the refunding in hopes of the possibility of issuing tax-exempt advance refunding bonds for a portion of the refunding. Though unlikely, if circumstances change to the point where tax-exempt advance refundings become re-authorized or a taxable advance refunding becomes more economical than a forward delivery prior to executing the refunding, the Board authorization, including the satisfaction of specific criteria to be met prior to proceeding with a refunding, provides sufficient flexibility for BAWSCA staff and the finance team to pursue the most economical alternative.

Key Terms and Method of Sale of the Refunding Bonds

The final maturity of the refunding bonds will be October 1, 2034, the same final maturity as the 2013A and 2013B bonds. Since the 2013B bonds will remain outstanding, the refunding bonds will be issued as additional bonds under the 2013 indenture, meaning that the same requirements and obligations of BAWSCA for the 2013 bonds will also apply to the refunding bonds, including the covenant to levy the surcharge in an amount at least equal to annual debt service (and expenses) and the requirement to maintain a Stabilization Fund at least equal to 50% of maximum annual aggregate debt service. Please note that the existing Stabilization Fund requirement is determined by the financing team as the most cost effective and efficient approach to issue the refunding bonds.

Because the Stabilization Fund requirement is formulaic, the dollar requirement will be lower due to lower refunding debt service. It is estimated that the Stabilization Fund requirement will be reduced by up to \$1.1 million from the current requirement of \$12.337 million. The reduction in the Stabilization Fund will be used to pay down the principal amount of the refunding bonds and the amount will be reflected in the final sizing.

The recommended method of sale for the refunding bonds is a negotiated sale. A competitive sale is not a practical alternative for a forward delivery because a forward delivery requires the underwriters to undertake significant pre-sale efforts with potential investors to enter into contracts for the delayed delivery of the bonds. In a competitive sale, the underwriter is selected immediately after submission of bids for the rates and prices of the bonds. Without knowing whether it will purchase the bonds until after it commits to rates and prices, this important pre-sale activity cannot take place and, as a result, BAWSCA's advisors believe that a competitive sale for a forward delivery would be unlikely to attract any bidders. Furthermore, there are a few elements of BAWSCA's financing are not common in utility financings. The ability of the underwriter to undertake pre-sale marketing with prospective investors can help the marketing and pricing of the bonds.

It is contemplated that SFPUC will continue to be the collection agent for the bonds. At the time of this report, BAWSCA and SFPUC were in discussions about potential amendments to the Prepayment and Collection Agreement. Due to restrictions in the Indenture, any changes in the actions performed by the SFPUC will not have a material adverse effect on bondholder security.

The refunding will not result in a change to the methodology for levying and allocating the surcharges.

An optional call feature, if any, will be evaluated at the time of pricing. With a standard 10-year call, given the small amount of refunding bonds that will mature after such a call date and short remaining term at that point, a future refunding would be highly unlikely, however, an optional call feature would potentially allow for prepayment of the refunding bonds a few months early using available monies in the Stabilization Fund.

It is currently contemplated that the bonds will not be sold with municipal bond insurance, however, the resolution authorizes the purchase of bond insurance, in the unlikely event that it is economical to do so.

Evaluation of a "Green" Designation

"Green Bond" is a term used to denote a specific type of bond issue, the proceeds of which are intended to be used on projects that reduce greenhouse gases, otherwise mitigate climate change or provide other environmental benefits. The purpose of the designation is

to provide opportunities for investors who wish to focus on these types of social goals. Such investors reportedly represent a growing slice of the market.

While a green bond designation may attract additional investor interest to a bond issue, it generally does not result in measurably lower interest costs, though there have been a couple of cases where of small amount of savings for part of a bond issue could be identified. If only part of a bond issue qualifies for a green designation, then the green and non-green portions must be issued as separate series of bonds.

In order to analyze whether these refunding bonds could even qualify for green designation, BAWSCA must trace how the proceeds of the 2013A bonds were used by SFPUC on its capital projects. From conversations with the SFPUC, all of the 2013 bond proceeds (besides reserves and costs of issuance) were used by the SFPUC either to prepay outstanding bonds or finance new projects. Therefore, determining whether those expenditures would have qualified for a green designation requires tracking those expenditures. The SFPUC has issued its own green bonds for financing WSIP expenditures, and have had the WSIP program programmatically certified as green. Unfortunately, less than a quarter of the 2013A proceeds were spent on WSIP projects.

For the BAWSCA refunding bonds to merit a green designation, further analysis would be required of those prior expenditures. At this time, we do not have an estimate of how long that would likely take. BAWSCA is scheduled to talk with the outside professionals who verified the SFPUC's prior green bond program and who BAWSCA would need to engage with to verify the BAWSCA bonds should BAWSCA decide to pursue a green designation.

The green verification process would be an additional non-contingent cost of \$20,000 - \$25,000. The verification process would also require significant additional engagement and input from SFPUC staff as to the nature of the improvements funded from the prepayment. While the work required for green verification would certainly delay the bond issue, we currently cannot estimate how much time would be required or assess the likelihood that the expenditures would meet the green bond standards.

BAWSCA's underwriters have recommended that in order to get the best execution for the refunding, BAWSCA should issue the bonds as a single series, either green or non-green. This single series recommendation is particularly clear given that the bonds will be sold on a forward-delivery basis, which operates somewhat differently than the normal bond market. Accordingly, after a full investigation, if only a portion of the expenditures qualify as green, BAWSCA's advisors recommend that the most favorable execution of the refunding would be as a single series without a green designation.

As a result of this recent assessment, BAWSCA staff and its municipal advisor recommend discontinuing the effort to pursue a green designation and proceed to sell the bonds without such designation. This recommendation is made based on the following findings associated with a continued effort to pursue a green designation:

1. There is no assurance of financial benefits associated with green designation;
2. There is an additional non-contingent cost of \$20,000 - \$25,000 for an outside contractor for the green verification process;
3. The green verification process will likely indicate that there are no sufficient qualifying expenditures to warrant a green designation for all of the refunding bonds;

4. A need to engage the SFPUC and an outside contractor on a green verification process for projects not previously verified would make the timeframe for completion of the refunding bond sale less predictable; and
5. A delay in the refunding bond sale that would expose BAWSCA's refunding to additional market risk, which in turn could adversely impact the savings if bond market conditions deteriorate during the time period that the sale is delayed.

Minimum and Estimated Savings

The expected net present value savings, after costs, are over \$20 million. The proposed Board action requires the NPV savings be at least \$20 million in order for staff to have the authorization to complete the refunding. Based on the minimum savings threshold, the average annual savings is estimated to be approximately \$2 million.

Principal Amount of Refunding Bonds

The proposed authorization includes a not-to-exceed principal amount for the refunding bonds. The principal amount of the refunding bonds and other available sources must be sufficient to fund: (i) the principal amount of the bonds being refunded, (ii) interest due after bond delivery through the call date, (iii) the new Stabilization Fund requirement, and (iv) the underwriting and issuance costs. Other available sources may include: (i) purchase price premium, if any, (ii) available amounts in the Stabilization Fund, (iii) interest on the refunding escrow, if any, and (iv) budgeted funds for non-contingent costs.

To keep the refunding alternatives open until pricing, the not-to-exceed principal amount is set conservatively high, which would be high enough to accommodate an advance refunding, whereby the escrow would fund all the interest payments on the refunded bonds from closing through the call date (i.e., 1 ½ years after the closing). The not-to-exceed amount also does not require premium as part of the purchase price which provides flexibility to pursue a taxable refunding, in the unlikely event that a taxable advance becomes the more economical alternative.

Exhibit A shows a comparison of the expected approximate refunding bond size and a bond size assuming a taxable advance refunding. The not-to-exceed amount indicated below is rounded up from the taxable advance amount shown in Exhibit A.

Proposed Actions by the Board:

To continue proceeding with the refunding, there is a single resolution that requires Board consideration and approval in September. Staff recommends that the Board adopt Resolution No.2021-01, which authorizes the issuance of the refunding bonds subject to meeting certain parameters and authorizes staff to finalize and execute the required documents as further described below:

1. The resolution authorizes the issuance of the Refunding Revenue Bonds in a principal amount not to exceed \$180 million, provided that the net present value savings are at least \$20 million. The plan is to issue all the refunding bonds in a single series, though the resolution authorizes multiple series in the event that it is beneficial to do so. Exhibit A contains good faith estimates relating the refunding bonds. These are estimates provided to comply with State law, assuming market conditions at the time they were prepared and are subject to change.

This resolution also authorizes the forms of the financing documents that need the Board approval, including the Second Supplemental Revenue Bond Indenture, the

Contract of Purchase, the Continuing Disclosure Certificate, an Escrow Agreement, and the Preliminary Official Statement. The draft forms of the five documents are attached to this staff report. These documents were prepared by BAWSCA's bond and disclosure counsel, Orrick, except for the Contract of Purchase, which was prepared by the counsel to the underwriters. All financing documents reflect comments made by BAWSCA's legal counsel and the rest of the Financing Team. Each of these financing documents is described briefly below.

- Second Supplemental Revenue Bond Indenture: Sets forth the specific terms of the refunding bonds issued under the Revenue Bond Indenture, which was approved in connection with the 2013 refunding.
- Continuing Disclosure Certificate: Sets forth procedures for post-issuance disclosure as required by securities laws.
- Contract of Purchase: Provides for the sale of the bonds to the underwriters and includes the conditions for closing and settlement of the bonds.
- Escrow Agreement: Sets forth the provisions related to the escrow fund into which most of the refunding bond proceeds will be deposited and invested until the redemption date of the refunded bonds.
- Preliminary Official Statement: Disclosure document used to market the bonds in compliance with securities law.

Staff is further authorized to deliver all documents and instruments, including any amendments to the Prepayment and Collection Agreement, necessary to carry out the transaction.

2. Authorize the CEO/General Manager to execute these financing documents at the appropriate time conditioned upon satisfaction of specified criteria. The resolution also authorizes execution by the Chair and the Vice-Chair of the board or by a designee of such officers in order to account for possible unavailability. The sale of bonds is tentatively scheduled to occur Fall 2021, subject to market conditions and conditioned upon satisfaction of specified criteria.

By authorizing the execution of these financing documents, the Board would be authorizing the sale of bonds. The action to be brought before the Board in September will include specified criteria that must be met for this authorization to be effective.

These criteria include the following:

- a. NPV savings of not less than \$20 million over the term of the bonds. NPV savings take into account the underwriting and issuance costs of the refunding;
- b. The principal amount of refunding bonds does not exceed \$180 million; and
- c. The underwriter's discount does not exceed 0.25% of the principal amount.

Preliminary Timeline*:

A preliminary timeline assuming a tax-exempt forward delivery refunding is shown below.

Recommendation of Board authorization to issue bonds and approval of bond documents	September Special BPC Meeting
Board authorization to issue bonds and approval of bond documents	September Board Meeting
Credit Rating Process	September
Bond pricing/sale (tentative)	Oct. 2021
Bond document closing	Oct. - Nov. 2021
Bond settlement	Jan. 2023

*Based on a tax-exempt forward delivery refunding and subject to market conditions and other factors.

Attachments:

1. Exhibit A: Sources and Uses of Funds
2. Bond Resolution No. 2021-01
3. Draft Second Supplemental Revenue Bond Indenture
4. Draft Continuing Disclosure Certificate
5. Draft Contract of Purchase
6. Draft Escrow Agreement
7. Draft Preliminary Official Statement

EXHIBIT A

**BAWSCA 2013A REFUNDING ESTIMATED AND
NOT-TO-EXCEED REFUNDING BOND PRINCIPAL
(SOURCES AND USES OF FUNDS)**

	Estimated Principal (1)	Not-to-Exceed Principal (2)
Sources		
Principal Amount of Refunding Bonds	\$143,420,000	\$176,000,000
Premium (3)	<u>23,994,652</u>	<u>-</u>
Gross Refunding Proceeds	\$167,414,652	\$176,000,000
BAWSCA Funds for Non-Contingent Costs	300,000	300,000
Existing Stabilization Fund Requirement (13AB)	<u>12,337,535</u>	<u>12,337,535</u>
<i>Total Sources</i>	\$180,052,186	\$188,637,535
Uses		
13A Principal Refunded	\$163,790,000	\$163,790,000
13A Interest through 4/1/23 Call Date (4)	3,940,500	11,821,500
Less: Interest on Refunding Escrow (5)	<u>-</u>	<u>(96,159)</u>
Subtotal: Deposit to Refunding Escrow	\$167,730,500	\$175,515,341
New Stabilization Fund Requirement (6)	11,226,543	11,922,193
Costs of Issuance and Underwriter Discount	<u>1,095,144</u>	<u>1,200,000</u>
<i>Total Uses</i>	\$180,052,186	\$188,637,535

(1) Estimated principal assumes a tax-exempt forward delivery with the refunding bonds delivered in January 2023.

(2) Not-to-exceed principal accommodates an advance refunding in the event that option becomes available and/or more advantageous. For the not-to-exceed principal amount a taxable refunding closing in late 2021 is assumed. Not-to-exceed principal is rounded up to \$180 million.

(3) Premium is paid by investors when the interest rate is higher than the yield. Actual premium, if any, depends on the actual pricing of the bonds. Taxable bonds are typically priced at par, therefore there is no premium assumed in deriving the not-to-exceed principal.

(4) Represents the interest due on the 13A bonds on 4/1/23 in the estimated column and interest due on the 13A bonds from 4/1/22 through 4/1/23 in the not-to-exceed column.

(5) Assumed interest for bond sizing purposes on the refunding escrow.

(6) 50% of the maximum aggregate annual debt service of 13B and the refunding bonds.

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RESOLUTION NO. 2021-01

RESOLUTION OF THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$180 MILLION AGGREGATE PRINCIPAL AMOUNT OF BAY AREA WATER SUPPLY AND CONSERVATION AGENCY REFUNDING REVENUE BONDS (CAPITAL COST RECOVERY PREPAYMENT PROGRAM), AUTHORIZING THE FORMS OF AND DIRECTING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL REVENUE BOND INDENTURE, A CONTRACT OF PURCHASE, A CONTINUING DISCLOSURE CERTIFICATE; AN ESCROW AGREEMENT AND RELATED FINANCING DOCUMENTS; APPROVING THE FORM AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City and County of San Francisco (“San Francisco”) and the wholesale water customers of San Francisco in Alameda County, San Mateo County and Santa Clara County (“Wholesale Customers”) entered into a Water Supply Agreement, dated July 2009 (“Original WSA”), providing for the sale of water by San Francisco to the Wholesale Customers; and

WHEREAS, pursuant to the terms of the Original WSA, the cost of water paid by the Wholesale Customers included a component designed to provide San Francisco capital cost recovery for existing regional assets (“Capital Cost Recovery Payments”); and

WHEREAS, the Original WSA provided that the Wholesale Customers, acting through the Bay Area Water Supply and Conservation Agency (“Agency”), may prepay the remaining principal balance of the Capital Cost Recovery Payments, in whole or in part; and

WHEREAS, the Wholesale Customers prepaid through the Agency (the “Prepayment”) the Capital Cost Recovery Payments to be made by Wholesale Customers; and

WHEREAS, the Original WSA has been amended and restated by an Amended and Restated Water Supply Agreement, dated November 2018; and

WHEREAS, to finance the Prepayment, the Agency issued its revenue bonds designated “Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013A” (“Series 2013A Bonds”), and “Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013B (Taxable)”;

WHEREAS, the Agency has determined to refund a portion of the outstanding Series 2013A Bonds through the issuance and sale of “Bay Area Water Supply and Conservation

Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program)” in one or more series (collectively, the “Bonds”), with such further designation as may be determined appropriate to further identify such bonds; and

WHEREAS, there has been presented to this Board forms of the follow documents:

1. Second Supplemental Revenue Bond Indenture (the “Second Supplemental Indenture”);
2. Continuing Disclosure Certificate;
3. Contract of Purchase;
4. Escrow Agreement; and
5. Preliminary Official Statement;

WHEREAS, California Government Code Section 5852.1 requires that this Board obtain from an underwriter, financial advisor or private lender and disclose, prior to authorization of the issuance of bonds with a term of greater than 13 months, good faith estimates of the following information in a meeting open to the public: (a) the true interest cost of the bonds, (b) the sum of all fees and charges paid to third parties with respect to the bonds, (c) the amount of proceeds of the bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the bonds, and (d) the sum total of all debt service payments on the bonds calculated to the final maturity of the bonds plus the fees and charges paid to third parties not paid with the proceeds of the bonds; and

WHEREAS, in compliance with Government Code Section 5852.1, this Board has obtained from KNN Public Finance, LLC, the Agency’s municipal advisor, the required good faith estimates, and such estimates are disclosed and set forth on Exhibit A attached hereto.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY DOES FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and the Agency hereby so finds and determines.

Section 2. The issuance and sale of the Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program) in an aggregate principal amount not to exceed \$180 million, with a final maturity date not later than October 1, 2034 and resulting in net present value savings from the refunding (as calculated by the Agency’s municipal advisor) at not less than \$20 million, is hereby authorized and approved. Any one of the Chief Executive Officer/General Manager of the Agency, the Chair of the Board or the Vice Chair of the Board or such officer’s designee (each, an “Authorized Officer”), are hereby authorized to determine whether the Bonds shall be issued in one or in more than one

series and, with respect to each series, whether such Bonds shall be issued as tax-exempt bonds or as federally taxable bonds, whether such Bonds shall be sold on a current delivery or a forward delivery basis, and whether all or portion of such Bonds shall be designated “green bonds”, such determination to be based on which alternative is in the best interest of the Agency or the Wholesale Customers and to be conclusively evidenced by the execution and delivery of the Contract of Purchase, and to authorize such designation in the names of Bonds as shall reflect such determination. The number of series of Bonds, the designation of the Bonds, the allocation of principal among series of the Bonds and the terms thereof shall be determined by the Authorized Officer (as defined below) executing and delivering the Contract of Purchase.

Section 3. The form of Second Supplemental Indenture presented to this Board is hereby approved. Any one of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Second Supplemental Indenture in substantially said form, with such changes therein as such other officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The form of Continuing Disclosure Certificate presented to this Board is hereby approved. Any one of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Continuing Disclosure Certificate in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The form of Contract of Purchase presented to this Board is hereby approved. Any one of the Authorized Officers is hereby authorized, for and in the name and on behalf of the Agency, to execute and deliver a Contract of Purchase in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, the underwriters' discount may not exceed 0.25% of the aggregate principal amount of the Bonds.

Section 6. The form of Escrow Agreement presented to this Board is hereby approved. Any one of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Escrow Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. The Bonds shall be executed by the manual or facsimile signature of any one of the Authorized Officers in the form set forth and otherwise in accordance with the Indenture.

Section 8. The form of Preliminary Official Statement presented to this Board is hereby approved and any one of the Authorized Officers is hereby authorized to make such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery of a “deemed final” certificate. Such officer is hereby authorized and directed to cause to be supplied to prospective purchasers of the Bonds copies of a preliminary official statement in such form. Any one of the Authorized Officers is further authorized and directed to execute a certificate confirming that the Preliminary Official Statement has been “deemed final” by the Agency for purposes of Securities and Exchange

Commission Rule 15c2-12. Any one of the Authorized Officers is further authorized and directed to execute and deliver a final Official Statement in substantially said form with such additions, corrections and revisions as may be determined to be necessary or desirable by such officer and a revised Official Statement reflecting updated and revised information as shall be required by the Contract of Purchase.

Section 9. The Authorized Officers are each hereby authorized, upon a determination by such officer that the procurement of such policy is in the best interest of the Agency, to procure and maintain a policy of municipal bond insurance for the benefit of the registered owners of one or more maturities of the Bonds, in such form or forms and on such terms and conditions as such officer shall require or approve, such approval to be conclusively evidenced by the execution and delivery of a commitment letter for and on behalf of the Agency to the issuer of such policy.

Section 10. The particular Series 2013A Bonds to be refunded shall be as determined to be in the best interest of the Agency by the Authorized Officer executing and delivering the Contract of Purchase, such determination to be conclusively evidenced by the execution and delivery of the Contract of Purchase.

Section 11. Each one of the Authorized Officers is hereby authorized to execute and deliver any and all documents and instruments, including any amendments to the Prepayment and Collection Agreement, dated as of January 1, 2013, between the Agency and San Francisco, as such Authorized Officer shall deem necessary or advisable, and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

Section 12. The Secretary shall certify to the adoption of this Resolution, which shall be in full force and effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 16th day of September, 2021.

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

EXHIBIT A

GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the Bonds in compliance with Section 5852.1 of the California Government Code. Such good faith estimates have been provided to the Board of Directors of the Bay Area Water Supply and Conservation Agency by KNN Public Finance, LLC, as municipal advisor (the “Municipal Advisor”).

Principal Amount. The Municipal Advisor has informed the Agency that, based on the Agency’s financing plan and current market conditions, their good faith estimate of the aggregate principal amount of the Bonds to be sold is \$143.42 million (the “Estimated Principal Amount”).

True Interest Cost of the Bonds. The Municipal Advisor has informed the Agency that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is 1.92%.

Finance Charge of the Bonds. The Municipal Advisor has informed the Agency that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is \$1.1 million.

Amount of Proceeds to be Received. The Municipal Advisor has informed the Agency that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the amount of proceeds expected to be received by the Agency for sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$166.3 million.

Total Payment Amount. The Municipal Advisor has informed the Agency that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the total payment amount, which means the sum total of all payments the Agency will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$187.6 million.

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the

actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the Agency's financing plan, or a combination of such factors. The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the Agency based on the need for funds to pay the principal and interest due on the bonds being refunded, available funds on hand and other factors, such as the interest rates on and reoffering prices for the refunding bonds. The actual interest rates on and reoffering prices for the Bonds will depend on market conditions at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the Agency.

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OHS DRAFT
8/31/2021

SECOND SUPPLEMENTAL
REVENUE BOND INDENTURE

by and between the

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

Dated as of October 1, 2021

(Supplemental to the Revenue
Bond Indenture dated as of January 1, 2013)

Providing for the issuance of:

\$ _____
Bay Area Water Supply and Conservation
Agency Refunding Revenue Bonds (Capital
Cost Recovery Prepayment Program),
Series 2023A

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THE 2023A BONDS

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SECOND SUPPLEMENTAL WATER REVENUE BOND INDENTURE
(SUPPLEMENTAL TO THE REVENUE BOND INDENTURE
DATED AS OF JANUARY 1, 2013) AUTHORIZING THE ISSUANCE OF
\$_____ AGGREGATE PRINCIPAL AMOUNT OF
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY REFUNDING REVENUE
BONDS (CAPITAL COST RECOVERY PREPAYMENT PROGRAM), SERIES 2023A

This SECOND SUPPLEMENTAL REVENUE BOND INDENTURE, dated as of October 1, 2021 (the “Second Supplement”), by and between BAY AREA WATER SUPPLY AND CONSERVATION AGENCY (the “Agency”), a public agency duly formed and existing under the laws of the State of California, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as trustee (the “Trustee”),

W I T N E S S E T H :

WHEREAS, the Agency and the Trustee have entered into a Revenue Bond Indenture, dated as of January 1, 2013 (the “Indenture”), providing for the issuance of revenue bonds thereunder (the “Bonds”); and

WHEREAS, the Indenture provides that the Agency may issue Bonds from time to time as authorized by a supplemental indenture; and

WHEREAS, this Second Supplement is supplemental to the Indenture; and

WHEREAS, the Agency has determined that it is desirable and necessary and in the best interest of the Agency that the Agency enter into this Second Supplement in order to establish and declare, in conjunction with the Indenture, the terms and conditions upon which Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Series 2023A Bonds”), shall be issued and secured and to secure the payment of the principal thereof and premium (if any) and interest thereon; and

WHEREAS, the Agency has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and the entering into of this Second Supplement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Second Supplement;

NOW, THEREFORE, the parties hereto agree, as follows:

ARTICLE XIII

THE 2023A BONDS

SECTION 13.01. Definitions. The terms defined in this Section shall, for all purposes of this Second Supplement and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Terms defined in the Indenture not otherwise defined herein shall have the meanings specified therein.

Contract of Purchase

“Contract of Purchase” means that certain Forward Delivery Purchase Contract, executed and entered into as of _____, 2021, by and between the Agency and Goldman Sachs & Co. LLC, as representative for itself and on behalf of J.P. Morgan Securities, LLC, as underwriters.

Escrow Agent

“Escrow Agent” means The Bank of New York Mellon Trust Company, N.A., acting in as capacity as Trustee and as escrow agent under and pursuant to the Escrow Agreement, and its successors and assigns as provided in the Escrow Agreement.

Escrow Agreement

“Escrow Agreement” means that certain Escrow Agreement, executed and entered into as of October 1, 2021, by and between the Agency and the Escrow Agent, providing for the refunding of the Refunded Bonds.

Refunded Bonds

“Refunded Bonds” means the Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013A, maturing on October 1, 20[23] through October 1, 20[34], inclusive.

Representative

“Representative” means Goldman Sachs & Co. LLC.

Second Supplement

“Second Supplement” means this Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021, between the Agency and the Trustee.

Series 2023A Bonds

“Series 2023A Bonds” means the Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A, as described in Section 13.02(A) hereof.

Series 2023A Costs of Issuance Fund

“Series 2023A Costs of Issuance Fund” means the fund by that name established pursuant to Section 13.11 hereof.

Series 2023A Refunding Fund

“Series 2023A Refunding Fund” means the fund by that name established pursuant to Section 13.12 hereof.

Settlement Date

“Settlement Date” means _____, 2023.

SECTION 13.02. Authorization; Terms of the Series 2023A Bonds.

(A) A Series of Bonds to be issued under the Indenture is hereby created. Such Series shall be known as the “Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A” (the “Series 2023A Bonds”). The Series 2023A Bonds shall be issued in the aggregate principal amount of \$_____, in accordance with the Act and this Indenture for the purposes of (i) refunding the Refunded Bonds and (ii) paying Costs of Issuance in connection with the issuance and delivery of the Series 2023A Bonds.

The Series 2023A Bonds shall be issued and delivered to the Representative upon payment of the purchase price thereof in accordance with the Contract of Purchase on the Settlement Date; provided that, prior to the delivery of the Series 2023A Bonds, the Representative shall have delivered to the Agency a certificate of the Representative acknowledging that the conditions to settlement set forth in Section 6 of the Contract of Purchase have been satisfied to the satisfaction of the underwriters of the Series 2023A Bonds or waived by the underwriters of the Series 2023A Bonds.

(B) The Series 2023A Bonds shall be issued in fully registered form and shall be initially registered in the name of “Cede & Co.”, as nominee of The Depository Trust Company. The Series 2023A Bonds shall be evidenced by one Series 2023A Bond maturing on each of the maturity dates as set forth in subsection 13.02(C) in a denomination corresponding to the total principal amount of the Series 2023A Bonds of such maturity. Each Series 2023A Bond may be assigned by the Agency a distinctive number or letter and number, and a record of the same shall be maintained by the Trustee. Registered ownership of the Series 2023A Bonds, or any portion thereof, may not thereafter be transferred except as set forth in Section 13.13.

(C) The Series 2023A Bonds shall be dated the date of delivery, shall be issued in denominations of \$5,000 or any integral multiple thereof, and shall bear interest from the date thereof at the following rates per annum and shall mature on the following dates in the following amounts:

Series 2023A Bonds

Date	Principal	Interest
------	-----------	----------

<u>(October 1)</u>	<u>Amount</u>	<u>Rate</u>
--------------------	---------------	-------------

The Series 2023A Bonds maturing on October 1, ____ through October 1 ____, inclusive, are hereby designed Serial Bonds.

Interest on the Series 2023A Bonds shall be payable commencing on April 1, 2023 and semiannually thereafter on April 1 and October 1 of each year in lawful money of the United States of America by check mailed by first-class mail on each interest payment date to the Owner thereof as of the close of business on the fifteenth (15th) day of the calendar month immediately preceding such interest payment date; provided, that upon the written request of an Owner of one million dollars (\$1,000,000) or more in aggregate principal amount of Series 2023A Bonds received by the Trustee prior to the applicable record date (which such request shall remain in effect until rescinded in writing by such Owner), interest shall be paid by wire transfer in immediately available funds. Interest on the Series 2023A Bonds shall be computed on the basis of a 360-day year of twelve 30-day months. The principal of and premium, if any, on the Series 2023A Bonds are payable when due upon presentation thereof at the Corporate Trust Office of the Trustee, in lawful money of the United States of America.

So long as the Series 2023A Bonds are maintained in book-entry form, payments of principal, premium, if any, and interest shall be made by the Trustee to the Securities Depository by wire transfer.

The Trustee shall provide to Bondholders (to the extent provided to it by or on behalf of the Agency) CUSIP number identification, with appropriate dollar amounts for each CUSIP number, on all redemption payments and interest payments, whether by check or by wire transfer.

SECTION 13.03. Redemption of Series 2023A Bonds.

(A) Optional Redemption — Series 2023A Bonds. The Series 2023A Bonds maturing on or after October 1, ____ are subject to redemption prior to the stated maturity thereof at the option of the Agency at any time and from time to time on or after ____ 1, ____, in whole or in part (if in part, the maturities or portions thereof to be redeemed to be selected by the Agency in its sole discretion), in each case at a redemption price equal to the principal amount of such Series 2023A Bonds or portions thereof to be redeemed plus accrued interest to the date of redemption.

(B) Upon the optional redemption of Series 2023A Bonds in part, the Agency shall specify the maturities of the Series 2023A Bonds to be redeemed.

SECTION 13.04. Selection of Series 2023A Bonds for Redemption.

(A) Whenever provision is made in this Second Supplement for the redemption of less than all of the Series 2023A Bonds of any maturity (and interest rate), the Trustee shall select the Series 2023A Bonds to be redeemed, from all Series 2023A Bonds of the respective maturity (and interest rate) not previously called for redemption, in authorized denominations, by lot, in any manner which the Trustee in its sole discretion shall deem appropriate. The Trustee shall promptly notify the Agency in writing of the Series 2023A Bonds so selected for redemption.

SECTION 13.05. Notice of Redemption of Series 2023A Bonds. The Agency shall notify the Trustee at least forty-five (45) days (or such lesser number of days as the Trustee shall approve) prior to the redemption date for Series 2023A Bonds pursuant to Section 13.03(A). Notice of redemption of any Series 2023A Bonds shall be mailed by the Trustee, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the respective Owners of any Series 2023A Bonds designated for redemption at their addresses appearing on the bond registration books of the Trustee by first-class mail. Notice of redemption shall be given in the form and in accordance with the terms of the Indenture.

SECTION 13.06. Partial Redemption of Series 2023A Bonds. Upon surrender of any Series 2023A Bond redeemed in part only, the Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Agency, a new Series 2023A Bond of authorized denominations, and of the same subseries, maturity and interest rate, equal in aggregate principal amount to the unredeemed portion of the Series 2023A Bond surrendered.

SECTION 13.07. Effect of Redemption of Series 2023A Bonds. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the redemption date on, the Series 2023A Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Series 2023A Bonds (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice, together with interest accrued thereon to the date fixed for redemption, interest on the Series 2023A Bonds so called for redemption shall cease to accrue, said Series 2023A Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Series 2023A

Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest.

All Series 2023A Bonds redeemed pursuant to the provisions of this Article shall be cancelled upon surrender thereof and destroyed.

SECTION 13.08. Form of Series 2023A Bonds. The Series 2023A Bonds and the certificate of authentication and registration to be executed thereon shall be in substantially the form set forth as Exhibit A hereto. The Series 2023A Bond designation letters and numbers, maturity dates, principal amounts, and interest rates and yields to maturity shall be inserted therein in conformity with Section 13.02.

SECTION 13.09. Issuance of Series 2023A Bonds. At any time after the execution and delivery of this Second Supplement, the Agency may execute and the Trustee shall authenticate and deliver the Series 2023A Bonds in the aggregate principal amount of \$_____ upon the Order of the Agency.

SECTION 13.10. Application of Proceeds of Series 2023A Bonds.

(A) The proceeds of the sale of the Series 2023A Bonds in the amount of \$_____ (computed as \$_____ aggregate principal amount of the Series 2023A Bonds, less \$_____ underwriter's discount, plus \$_____ original issue premium) shall be received by the Trustee on behalf of the Agency on the Settlement Date and held in trust and set aside as follows:

(i) The Trustee shall deposit in the Series 2023A Costs of Issuance Fund \$_____, to be applied in accordance with Section 13.11 hereof; and

(ii) The Trustee shall deposit in the Series 2023A Refunding Fund \$_____, to be applied in accordance with Section 13.12 hereof.

Trustee may create additional accounts and subaccounts in any of the funds created under this Indenture as the Trustee may deem appropriate for the purpose of fulfilling its obligations hereunder.

(B) [Reserved].

(C) Upon the issuance of the 2023A Bonds on the Settlement Date, the Trustee shall transfer from the Stabilization Fund to the Series 2023A Refunding Fund \$_____, to be applied in accordance with Section 13.12.

SECTION 13.11. Establishment and Application of Series 2023A Costs of Issuance Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Series 2023A Costs of Issuance Fund," which fund is hereby created and which fund the Trustee hereby agrees to maintain until June 1, 2023. The Trustee shall deposit to the Series 2023A Costs of Issuance Fund the amount specified in Section 12.10 hereof. All money in the Series 2023A Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay or reimburse the Agency for costs of issuance of the Series 2023A Bonds upon receipt of

Requisitions of the Agency filed with the Trustee, each of which shall be sequentially numbered and shall state the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On June 1, 2023 or upon the earlier Request of the Agency, any remaining balance in the Series 2023A Costs of Issuance Fund shall be transferred to the Revenue Fund.

SECTION 13.12. Establishment and Application of Series 2023A Refunding Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Series 2023A Refunding Fund,” which fund is hereby created and which fund the Trustee hereby agrees to maintain. The Trustee shall deposit to the Series 2023A Refunding Fund the amounts specified in Section 13.10 hereof, and the Trustee is hereby irrevocably instructed to hold such funds solely for the payment of the Refunded Bonds. On the Settlement Date, the Trustee shall transfer all amounts in the Series 2023A Refunding Fund to the Escrow Agent for application as provided in the Escrow Agreement (and the Trustee shall thereupon close the Series 2023A Refunding Fund). Following payment in full of the Refunded Bonds, any amounts transferred by the Escrow Agent to the Trustee in accordance with the Escrow Agreement shall be deposited in the Revenue Fund.

SECTION 13.13. Use of Depository. Notwithstanding any provision of the Indenture or this Second Supplement to the contrary:

(A) The Series 2023A Bonds shall be issued in fully registered form, in authorized denominations and shall be initially registered in the name of “Cede & Co.”, as nominee of The Depository Trust Company (the “Securities Depository”), and shall be evidenced by one Series 2023A Bond maturing on each of the maturity dates as set forth in subsection 13.02(C) in a denomination corresponding to the total principal amount of the Series 2023A Bonds of such maturity. Each Series 2023A Bond shall be assigned by the Agency a distinctive number or letter or letter and number, and a record of the same shall be maintained by the Trustee.

Registered ownership of the Series 2023A Bonds, or any portions thereof, may not thereafter be transferred except:

(i) To any successor of The Depository Trust Company or its nominee, or to any substitute depository designated pursuant to clause (ii) of this subsection (A) (a “Substitute Depository”); provided that any successor of The Depository Trust Company or Substitute Depository shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any Substitute Depository not objected to by the Trustee, upon (1) the resignation of The Depository Trust Company or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the Agency that The Depository Trust Company or its successor (or any Substitute Depository or its successor) is no longer able to carry out its functions as depository; provided that any such Substitute Depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of The Depository Trust Company or its successor (or Substitute Depository or its successor) from its functions as depository; provided that no Substitute Depository which is not objected to by the Trustee can be obtained, or (2) a determination by the Agency that it is in the best interests of the Agency to remove The Depository Trust Company or its successor (or any Substitute Depository or its successor) from its function as depository.

(B) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection 13.13(A), upon receipt of all Outstanding Series 2023A Bonds by the Trustee, together with a Certificate of the Agency to the Trustee, a single new Series 2023A Bond for each maturity shall be executed and delivered, registered in the name of such successor or such Substitute Depository, or their nominees, as the case may be, all as specified in such Certificate of the Agency. In the case of any transfer pursuant to clause (iii) of subsection 13.13(A) hereof, upon receipt of all Outstanding Series 2023A Bonds by the Trustee together with a Certificate of the Agency to the Trustee, new Series 2023A Bonds shall be executed and delivered in such denominations and registered in the names of such persons as are requested in such a Certificate of the Agency, subject to the limitations of Section 13.02 hereof; provided the Trustee shall not be required to deliver such new Series 2023A Bonds within a period less than 60 days from the date of receipt of such a Certificate of the Agency. Prior to any transfer of the Series 2023A Bonds outside the book-entry system (including, but not limited to, the initial transfer outside the book-entry system) the transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045, as amended. The Trustee shall conclusively rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

(C) In the case of partial redemption, cancellation or an advance refunding of any Series 2023A Bonds evidencing all or a portion of the principal maturing in a particular year, The Depository Trust Company shall make an appropriate notation on the Series 2023A Bonds indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee.

(D) The Agency and the Trustee shall be entitled to treat the person in whose name any Series 2023A Bond is registered as the Owner thereof for all purposes of the Indenture and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the Agency; and the Agency and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying, or otherwise dealing with any beneficial owners of the Series 2023A Bonds. Neither the Agency nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or Substitute Depository or its successor), except to the Owner of any Series 2023A Bond.

(E) So long as all Outstanding Series 2023A Bonds are registered in the name of "Cede & Co." or its registered assign, the Agency and the Trustee shall cooperate with "Cede & Co.," as sole registered Owner, and its registered assigns in effecting payment of the principal of and redemption premium, if any, and interest on the Series 2023A Bonds by arranging for

payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

SECTION 13.14. Terms of Series 2023A Bonds Subject to the Indenture. Except as in this Second Supplement expressly provided, every term and condition contained in the Indenture shall apply to the Second Supplement and to the Series 2023A Bonds with the same force and effect as if the same were herein set forth at length, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to the Second Supplement.

The Second Supplement and all the terms and provisions herein contained shall form part of the Indenture as fully and with the same effect as if all such terms and provisions had been set forth in the Indenture. The Indenture is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof, as supplemented and amended hereby, subject to the next sentence.

SECTION 13.15. Effective Date of Second Supplement. The Second Supplement shall take effect upon its execution and delivery.

SECTION 13.16. Execution in Counterparts. The Second Supplement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

SECTION 13.17. Tax Covenants

(A) The Agency hereby covenants that, notwithstanding any other provisions of this Indenture, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest on the Series 2023A Bonds under Section 103 of the Code. The Agency shall not, directly or indirectly, use or permit the use of proceeds of the Series 2023A Bonds or any of the property financed or refinanced with proceeds of the Series 2023A Bonds, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest on the Series 2023A Bonds.

(B) The Agency shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Series 2023A Bonds to be “private activity bonds” within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Series 2023A Bonds or any of the property financed or refinanced with proceeds of the Series 2023A Bonds, or any portion thereof, or any other funds of the Agency, that would cause the Series 2023A Bonds to be “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Bonds are Outstanding, the Agency, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder, to the extent such requirements are, at the time, applicable and in effect. The Agency shall establish reasonable procedures necessary to ensure continued compliance with

Section 141 of the Code and the continued qualification of the Series 2023A Bonds as “governmental bonds.”

(C) The Agency shall not, directly or indirectly, use or permit the use of any proceeds of any Series 2023A Bonds, or of any property financed or refinanced thereby, or take or omit to take any action, that would cause the Series 2023A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(D) The Agency shall not make any use of the proceeds of the Series 2023A Bonds, or take or omit to take any other action, that would cause the Series 2023A Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

In furtherance of the foregoing tax covenants, the Agency covenants that it will comply with the provisions of each Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Series 2023A Bonds. The incorporation by reference herein of the Tax Certificates notwithstanding, the consent to or approval by the Trustee of any amendment to a Tax Certificate shall not be required, the Trustee shall not be deemed to have notice of any provisions contained in the Tax Certificates and the Trustee shall have no duties with respect thereto other than to comply with written instructions given to the Trustee by the Agency pursuant thereto.

SECTION 13.18. Amendment to Section 1.02 of the Indenture. In accordance with Section 9.01(B) of the Indenture, the definition of “Corporate Trust Office” in the Indenture is hereby deleted and replaced in its entirety as follows:

““Corporate Trust Office” or “corporate trust office” means the corporate trust office of the Trustee at 50 Fremont Street, Suite 3900, San Francisco, California 94105, except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted, or such other or additional offices as may be designated by the Trustee.”

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IN WITNESS WHEREOF, the parties hereto have executed the Second Supplement by their officers thereunto duly authorized as of the day and year first written above.

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By: _____
Chief Executive Officer and General Manager

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Trustee

By: _____
Authorized Officer

EXHIBIT A

(FORM OF SERIES 2023A BOND)

THIS BOND MAY NOT BE TRANSFERRED EXCEPT
TO ANY SUCCESSOR TO THE DEPOSITORY TRUST
COMPANY OR ITS NOMINEE OR TO A SUBSTITUTE
DEPOSITORY (AS DEFINED IN THE INDENTURE)

No. ____

\$ _____

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
REFUNDING REVENUE BONDS (CAPITAL COST RECOVERY
PREPAYMENT PROGRAM),
SERIES 2023A

<u>Maturity Date</u>	<u>Interest Rate Per Annum</u>	<u>Dated Date</u>	<u>CUSIP</u>
		_____, 2023	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, a public agency duly organized and existing under the laws of the State of California (the "Agency"), for value received, hereby promises to pay (but only out of the Revenues and other funds hereinafter referred to) to the registered owner named above or registered assigns, on the maturity date specified above (subject to any right of prior redemption or payment as provided in the hereinafter mentioned Indenture), the principal sum specified above together with interest thereon from the dated date specified above until the principal hereof shall have been paid, at the interest rate per annum specified above, payable on April 1, 2023, and semiannually thereafter on April 1 and October 1 in each year. Interest hereon is payable in lawful money of the United States of America by (except as otherwise provided in the hereinafter mentioned Indenture) check mailed by first-class mail on each interest payment date to the registered owner as of the close of business on the 15th day of the calendar month immediately preceding such interest payment date. The principal hereof and premium, if any, hereon are payable when due upon presentation hereof at the Corporate Trust Office (as defined in the Indenture) of The Bank of

New York Mellon Trust Company, N.A., as trustee (together with any successor as trustee under said Indenture, the “Trustee”), in lawful money of the United States of America.

This bond is one of a duly authorized issue of Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Program) (the “Bonds”) of the series and designation indicated on the face hereof. Said authorized issue of Bonds is not limited in aggregate principal amount, except as otherwise provided in said Indenture, and consists or may consist of one or more series of varying denominations, dates, maturities, interest rates and other provisions, as in said Indenture provided, all issued and to be issued pursuant to the provisions of the Bay Area Water Supply and Conservation Agency Act (Division 31 of the Water Code of the State of California) and a Revenue Bond Indenture, dated as of January 1, 2013, by and between the Agency and the Trustee, providing for the issuance of the Bonds, and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the “Second Supplement”), by and between the Agency and the Trustee, authorizing the issuance of a series of bonds (the “Series 2023A Bonds”) of which this Bond is one (said indenture as amended and supplemented, including as supplemented by the Second Supplement collectively, the “Indenture”). Reference is hereby made to the Indenture for a description of the terms under which the Bonds are issued and to be issued, the provisions with regard to the nature and extent of the Revenues (as that term is defined in the Indenture), and the rights of the registered owners of the Bonds; and all the terms of the Indenture are hereby incorporated herein and constitute a contract between the Agency and the registered owner from time to time of this Bond, and to all the provisions thereof the registered owner of this Bond, by its acceptance hereof, consents and agrees. Additional Bonds may be issued, and indebtedness may be incurred, on a parity with the Bonds of this authorized issue, but only subject to the conditions and limitations contained in the Indenture.

The Series 2023A Bonds and any Bonds hereafter issued by the Agency are payable from, and are secured by a pledge of and lien on, Revenues and all amounts held by the Trustee under the Indenture (except for amounts held in the Rebate Fund), subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions provided in the Indenture.

The Bonds are special, limited obligations of the Agency. The Bonds shall not be deemed to constitute a debt or liability of the Agency, the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory provision, or a pledge of the faith and credit of the Agency, the State of California or of any political subdivision thereof, but shall be payable, except to the extent of certain amounts held under the Indenture pledged therefor, solely from Revenues. Neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the City, the State of California or any political subdivision thereof to levy or to pledge any form of taxation whatsoever therefor or to make any appropriation for their payment. The Agency has no taxing power.

The Series 2023A Bonds are subject to redemption prior to maturity on the terms and conditions set forth in the Indenture.

This Bond is transferable or exchangeable for other authorized denominations by the registered owner hereof, in person or by its duly authorized attorney, at the Corporate Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer or exchange a new fully registered Bond or Bonds, of authorized denomination or denominations, of the same series, tenor, maturity and interest rate for the same aggregate principal amount will be issued to the registered owner in exchange herefor.

The Agency, the Trustee and any paying agent may deem and treat the registered owner hereof as the absolute owner hereof for all purposes, and the Agency, the Trustee and any paying agent shall not be affected by any notice to the contrary.

The rights and obligations of the Agency and of the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent, and upon the terms provided in the Indenture, which provide, in certain circumstances, for modifications and amendments without the consent of or notice to the registered owners of the Bonds.

It is hereby certified and recited that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this Bond, and in the issuing of this Bond, do exist, have happened and have been performed in due time, form and manner, as required by the laws of the State of California, and that this Bond, together with all other indebtedness of the Agency pertaining to the Revenues, is within every debt and other limit prescribed by the laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture or otherwise.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the BAY AREA WATER SUPPLY AND CONSERVATION AGENCY has caused this Bond to be executed in its name and on its behalf by the Chief Executive Officer and General Manager of the Agency.

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By: _____
Chief Executive Officer and General Manager

[FORM OF CERTIFICATE OF AUTHENTICATION
AND REGISTRATION]

This is one of the Bonds described in the within mentioned Indenture and registered on the date set forth below.

Dated:

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Trustee

By: _____
Authorized Officer

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the Bay Area Water Supply and Conservation Agency (the “Agency”) pursuant to a Revenue Bond Indenture, dated as of January 1, 2013, between the Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021, between the Agency and the Trustee (collectively, the “Indenture”), providing the issuance of Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Bonds”). The Agency covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Agency for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Agency pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Beneficial Owner” shall mean any person which: (a) has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) including, but not limited to, the power to vote or consent with respect to any Bonds or to dispose of ownership of any Bonds; or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Dissemination Agent” shall mean the Agency, acting in its capacity as Dissemination Agent under this Disclosure Certificate, or any successor Dissemination Agent designated in writing by the Agency and which has filed with the Agency a written acceptance of such designation.

“Financial Obligation” means, for purposes of the Listed Events set out in Section 5(a)(10) and Section (5)(b)(8), a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “Financial Obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Holder” shall mean either the registered owners of the Bonds, or, if the Bonds are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in such depository system.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB currently located at <http://emma.msrb.org>.

“Participating Underwriter” shall mean any of the original underwriters or purchasers of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“Surcharges” shall have the meaning ascribed thereto in the Indenture.

SECTION 3. Provision of Annual Reports.

(a) The Agency shall, or shall cause the Dissemination Agent to, not later than 270 days after the end of the Agency’s fiscal year (which is June 30), commencing with the report for the 2020-21 Fiscal Year, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. If the Dissemination Agent is not the Agency, the Agency shall provide the Annual Report to the Dissemination Agent not later than 15 days prior to said date. The Annual Report must be submitted in electronic format and accompanied by such identifying information as is prescribed by the MSRB, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; *provided*, that if the audited financial statements of the Agency are not available by the date required above for the filing of the Annual Report, the Agency shall submit unaudited financial statements and submit the audited financial statements as soon as they are available. If the Agency’s Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the Agency is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Agency shall send a notice to the MSRB in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall (if the Dissemination Agent is other than the Agency), file a report with the Agency certifying the date that the Annual Report was provided to the MSRB pursuant to this Disclosure Certificate.

SECTION 4. Content of Annual Reports. The Agency’s Annual Report shall contain or incorporate by reference the following information, as required by the Rule:

- (a) the audited general purpose financial statements of the Agency prepared in accordance with generally accepted accounting principles applicable to governmental entities;
- (b) the total amount of Surcharges received by the Agency in the prior fiscal year;
- (c) identification of any Surcharges paid more than 90 days in arrears during the prior fiscal year of which the Agency has actual knowledge;
- (d) an update of the information contained in the following tables:
 - i. TABLE 1 – HISTORICAL PERCENTAGE INCREASES (DECREASES) IN WHOLESALE WATER RATES through the end of the prior fiscal year;
 - ii. TABLE 3 – WHOLESALE CUSTOMER WATER DEMAND BY SECTOR for the prior fiscal year or the last fiscal year for which information is available on the date of filing the Annual Report;
 - iii. TABLE 6 – HISTORIC WHOLESALE WATER SALES for the prior fiscal year;
 - iv. TABLE 8 – PERCENTAGE OF WATER PURCHASED FROM THE REGIONAL WATER SYSTEM BY WHOLESALE CUSTOMERS for the prior fiscal year or the last fiscal year for which information is available on the date of filing the Annual Report; and
 - v. TABLE 9 – WATER DELIVERIES TO WHOLESALE CUSTOMERS BY SOURCE for the prior fiscal year or the last fiscal year for which information is available on the date of filing the Annual Report.

Any or all of the items listed above may be set forth in a document or set of documents, or may be included by specific reference to other documents, including official statements of debt issues of the Agency or related public entities, which are available to the public on the MSRB website. If the document included by reference is a final official statement, it must be available from the MSRB. The Agency shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) The Agency shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

- 1. Principal and interest payment delinquencies;

2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of Holders, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Agency;
13. The consummation of a merger, consolidation, or acquisition involving the Agency or the sale of all or substantially all of the assets of the Agency, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the Agency, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Agency, any of which affect Holders; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(b) Whenever the Agency obtains knowledge of the occurrence of a Listed Event, and, if the Listed Event is described in subsections (a)(2), (a)(6) (other than an adverse tax opinion, the issuance by the IRS of a proposed or final determination of taxability, or a Notice of Proposed Issue (IRS Form 5701-TEB)), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13) or (a)(14) above, the Agency determines that knowledge of the occurrence of that Listed Event would be material under applicable federal securities law, the Agency shall, or shall cause the Dissemination Agent (if not the Agency) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Agency in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Agency, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of said party.

(d) [Reserved].

(e) The Agency intends to comply with the Listed Events described in Section 5(a)(15) and Section 5(a)(16), and the definition of “Financial Obligation” in Section 2, with reference to the Rule, any other applicable federal securities laws and the guidance provided by the S.E.C. in Release No. 34-83885 dated August 20, 2018 (the “2018 Release”), and any further amendments or written guidance provided by the S.E.C. or its staff with respect to the amendments to the Rule effected by the 2018 Release.

(f) Upon receipt of notice from California Water Service Company (the “Company”) that the California Water Service Group has filed its annual report on Form 10-K with the SEC, or upon receipt of notice from the Company that California Water Service Group no longer files annual reports on Form 10-K containing financial information for the Company and receipt from the Company of financial information in the form required for subsidiary issuers under Rule 3-10(c)(4)(ii) of Regulation S-X, the Agency shall give, or cause to be given, in a timely manner, notice of the availability of such filing on Form 10-K from the SEC or notice containing the financial information provided to the Agency by the Company, as applicable.

SECTION 6. Termination of Reporting Obligation. The Agency's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Agency shall give notice of such termination in the same manner as for a Listed Event under Section 5(e).

SECTION 7. Dissemination Agent. The Agency may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Agency may amend or waive this Disclosure Certificate or any provision of this Disclosure Certificate, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 3(b), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the owners of a majority in aggregate principal amount the Bonds or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Agency shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Agency. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements: (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5; and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Agency from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or

including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Agency shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Agency to comply with any provision of this Disclosure Certificate, any Participating Underwriter, Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Agency to comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the Agency to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Agency, the Dissemination Agent, the Participating Underwriters and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: _____, 2021.

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By _____
Chief Executive Officer and General Manager

CONTINUING DISCLOSURE CERTIFICATE EXHIBIT A

**FORM OF NOTICE TO THE
MUNICIPAL SECURITIES RULEMAKING BOARD
OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: BAY AREA WATER SUPPLY AND CONSERVATION
AGENCY

Name of Issue: BAY AREA WATER SUPPLY AND CONSERVATION
AGENCY REVENUE BONDS (CAPITAL COST RECOVERY
PREPAYMENT PROGRAM), SERIES 2023A

Date of Issuance: _____, 2023

NOTICE IS HEREBY GIVEN that the Agency has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Certificate of the Bay Area Water Supply and Conservation Agency, dated the Date of Issuance. The Agency anticipates that the Annual Report will be filed by _____.

Dated: _____

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By: [to be signed only if filed]
Title _____

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*Stradling Yocca Carlson & Rauth
Draft of 8/31/21*

\$ _____
**Bay Area Water Supply and Conservation
 Agency Refunding Revenue Bonds (Capital
 Cost Recovery Prepayment Program),
 Series 2023A**

**FORWARD DELIVERY
 PURCHASE CONTRACT**

September __, 2021

Bay Area Water Supply and Conservation Agency
 155 Bovet Road, Suite 650
 San Mateo, California 94402

Ladies and Gentlemen:

The undersigned, Goldman Sachs & Co. LLC, as representative (the “Representative”), on behalf of itself and J.P. Morgan Securities LLC, as underwriters (the “Underwriters”), hereby offers to enter into this Forward Delivery Purchase Contract (the “Purchase Contract”) with you, the Bay Area Water Supply and Conservation Agency (the “Agency”), which, upon the Agency’s acceptance of this offer, will be in full force and effect in accordance with its terms and shall be binding upon the Agency and the Underwriters. This offer is made subject to acceptance by the Agency prior to 11:59 p.m., California time, on the date hereof. If this offer is not so accepted, this offer will be subject to withdrawal by the Underwriters upon notice delivered to the Agency at any time prior to acceptance by the Agency. The Representative has been duly authorized to execute this Purchase Contract and to take any action hereunder by and on behalf of the Underwriters.

The Agency acknowledges and agrees that: (i) none of the Underwriters, individually or collectively, is acting as a municipal advisor within the meaning of Section 15B of the Securities Exchange Act, as amended, (ii) the primary role of the Underwriters, as underwriters, is to purchase securities, for resale to investors, in an arm’s length commercial transaction between the Agency and the Underwriters and the Underwriters have financial and other interests that differ from those of the Agency; (iii) each of the Underwriters is and has been acting solely as a principal and not as the agent or a fiduciary of the Agency and has not assumed any advisory or fiduciary responsibility to the Agency with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether any such Underwriter (or any affiliate of an Underwriter) has provided other services or is currently providing other services to the Agency on other matters); (iv) the only obligations the Underwriters have to the Agency with respect to the transaction contemplated hereby expressly are set forth in this Purchase Contract; and (v) the Agency has consulted with its own legal, accounting, tax, financial and other advisors to the extent it deemed appropriate in connection with the purchase, sale and offering of \$_____ aggregate principal amount of Bay Area Water Supply

and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), 2023 Series A (the “2023 Bonds”).

As used in this Purchase Contract, the following terms shall have the indicated meanings:

“Closing Date” shall mean the date specified in Section 1(e) below upon which various certificates, opinions and documents required by Section 5(e) hereof are to be delivered.

“Settlement Date” shall mean the date specified in Section 1(f) below upon which, subject to the terms and conditions hereof, the Underwriters pay for and the Agency delivers the 2023 Bonds and the other certificates, opinions and documents required by Section 6(c) hereof.

All capitalized terms used herein not otherwise defined herein shall have the respective meanings ascribed thereto in the Official Statement (as hereinafter defined).

1. Purchase, Sale and Delivery of the 2023 Bonds.

(a) Subject to the terms and conditions and in reliance upon the representations and agreements set forth herein, the Underwriters, jointly and severally, hereby agree to purchase and the Agency hereby agrees to sell and deliver to the Underwriters all (but not less than all) of the 2023 Bonds in the aggregate principal amount of \$_____.

(b) The 2023 Bonds shall be issued pursuant to a Revenue Bond Indenture, dated as of January 1, 2013 (as previously amended and supplemented, the “Original Indenture”), by and between the Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (including any successor thereto pursuant to the terms of the Indenture, the “Trustee”), and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the “Second Supplement”), by and between the Agency and the Trustee (said indenture as amended and supplemented, including as supplemented by the Second Supplement collectively, the “Indenture”).

The 2023 Bonds shall be dated the Settlement Date. The 2023 Bonds shall mature in the amounts and on the dates, will accrue interest at the rates, and will be subject to redemption prior to maturity, all as set forth in Schedule I hereto and have such other terms and conditions as described in the Official Statement. The 2023 Bonds shall be substantially in the form described in the Indenture and shall be issued and secured under the provisions of the Indenture. The 2023 Bonds will constitute special, limited obligations of the Agency payable solely from Revenues (as such term is defined in the Indenture) and certain amounts held under the Indenture.

The 2023 Bonds are being issued to (i) refund all of the Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Program), Series 2013A (the “Refunded 2013 Bonds”) outstanding as of the Settlement Date and (ii) pay costs of issuance incurred in connection with the issuance of the 2023 Bonds. A portion of the proceeds of the 2023 Bonds, together with certain other available funds, will be deposited into an escrow fund (the “Escrow Fund”) established pursuant to an escrow agreement between The Bank of New York Mellon Trust Company, N.A., as Trustee and as escrow agent (the “Escrow Agent”), and the Agency, dated as of October 1, 2021 (the “Escrow Agreement”). Amounts on deposit in the Escrow Fund will be held as cash or will be invested in non-callable direct obligations of the United States of America to provide for the payment or redemption of the Refunded 2013 Bonds on April 1, 2023.

The Agency will undertake, pursuant to a Continuing Disclosure Certificate of the Agency relating to the 2023 Bonds (the “Continuing Disclosure Certificate”), to provide certain annual financial information and operating data and to provide notices of the occurrence of certain specified events. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement and Updated Official Statement (as defined herein).

(c) The aggregate purchase price for the 2023 Bonds shall be \$_____ (consisting of the \$_____ aggregate principal amount of the 2023 Bonds plus \$_____ original issue premium and less \$_____ of Underwriters’ discount). Payment and delivery of the 2023 Bonds shall occur at the Settlement (defined below).

(d) At [8:00] A.M., California time, on October __, 2021, or at such other time or on such other date as mutually agreed upon by the Agency and the Representative (the “Closing Date”), the Agency will, subject to the terms and conditions hereof, cause to be delivered to the Underwriters at the offices of Orrick, Herrington & Sutcliffe LLP, San Francisco, California (“Bond Counsel”), or at such other place as shall have been mutually agreed upon by the Agency and the Representative, the documents described in Section 5(e) hereof (such delivery being referred to herein as the “Closing”).

(e) If the Closing is completed in accordance with the provisions of this Purchase Contract, then, subject to the terms and conditions hereof, at [8:00] A.M., California time, on January __, 2023, or at such other time or on such other date as the Agency and the Representative mutually agree upon (the “Settlement Date”), the Agency will cause to be delivered to the Underwriters, the 2023 Bonds (delivered by Fast Automated Securities Transfer (FAST) through the book-entry system of The Depository Trust Company (“DTC”)), duly executed, and at the offices of Bond Counsel, or at such other place as shall have been mutually agreed upon by the Agency and the Representative, the other documents mentioned herein. The Underwriters will, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the 2023 Bonds as set forth in paragraph (c) of this Section 1 in immediately available funds (such delivery and payment being herein referred to as the “Settlement”) to the order of the Trustee.

2. Use and Preparation of Official Statement; Updated Official Statement.

(a) The Agency hereby ratifies, confirms and approves of the use and distribution by the Underwriters prior to the date hereof of an official statement (including all appendices thereto) in preliminary form, dated September __, 2021 relating to the 2023 Bonds (and which preliminary official statement, together with any amendments or supplements thereto prior to the date hereof as have been approved by the Agency and the Representative, is referred to herein as the “Preliminary Official Statement”). The Agency hereby represents that the Preliminary Official Statement as previously furnished to the Underwriters was “deemed final” by the Agency as of its date for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (“Rule 15c2-12”), except for information permitted to be omitted therefrom by Rule 15c2-12. The Agency hereby acknowledges that the Preliminary Official Statement has been made available to investors in electronic form.

(b) The Agency hereby agrees to deliver or cause to be delivered to the Underwriters, within seven (7) business days of the date hereof and at least in sufficient time to accompany any confirmations that request payment from any customer, copies of the final official statement, dated the date hereof in the form approved by the Agency and the Representative on the date hereof (which, together with any amendments or supplements to such official statement subsequent to the date hereof as have been approved by the Agency and the Representative, is referred to herein as the “Official Statement”), in

sufficient quantity and in such format to enable the Underwriters to comply with Section (b)(4) of Rule 15c2-12 and the applicable rules of the Municipal Securities Rulemaking Board (“MSRB”). The Agency hereby approves of the distribution and use by the Underwriters of the Official Statement in connection with the offer and sale of the 2023 Bonds. The Representative hereby agrees to deliver a copy of the Official Statement to the MSRB through the Electronic Municipal Market Access (EMMA) website of the MSRB and to take any and all other actions necessary to comply with applicable Securities and Exchange Commission rules and MSRB rules governing the offering, sale and delivery of the 2023 Bonds to ultimate purchasers. The Agency hereby acknowledges that the Official Statement may be made available to investors in electronic form.

(c) The Agency hereby agrees to deliver or cause to be delivered to the Underwriters, not more than twenty-five (25) and not less than five (5) days prior to the Settlement Date, copies of an update to the Official Statement, in the form of the Official Statement (including the appendices thereto and any amendments or supplements as have been approved by the Agency and the Underwriters, the “Updated Official Statement”), in such quantity as the Underwriters shall reasonably request. The Agency hereby approves of the distribution and use by the Underwriters of the Updated Official Statement in connection with the offer and sale of the 2023 Bonds. The Representative hereby agrees to deliver a copy of the Updated Official Statement to the MSRB through the Electronic Municipal Market Access (EMMA) website of the MSRB. The Agency hereby acknowledges that the Updated Official Statement may be made available to investors in electronic form.

3. Establishment of Issue Price.

(a) The Underwriters agree to make a bona fide public offering of the 2023 Bonds at the initial offering prices (or yields) set forth in the Official Statement. Subsequent to the initial public offering, at such time as any price restrictions described in this Section 3 shall have been lifted by the Underwriters and subject to the other provisions of this Section 3, the Underwriters reserve the right to change the offering prices (or yields) as they deem necessary in connection with the marketing of the 2023 Bonds.

(b) The Representative, on behalf of the Underwriters, agrees to assist the Agency in establishing the issue price of the 2023 Bonds and shall execute and deliver to the Agency at Closing an “issue price” or similar certificate, substantially in the form attached hereto as Exhibit A, together with the supporting pricing wires or equivalent communications, with such modifications as may be deemed appropriate or necessary, in the reasonable judgment of the Representative, the Agency and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the 2023 Bonds; provided that if an Underwriter other than the Representative is allocated unsold maturities of the 2023 Bonds that are subject hold-the-offering price rule (as defined below), such Underwriter shall execute Attachment A to Exhibit A.

(c) Except for the maturities otherwise identified as set forth in Schedule 1 to Exhibit A attached hereto, the Agency will treat the first price at which 10% of each maturity of the 2023 Bonds (the “10% Test”), identified under the column “10% Test Used” in Schedule 1 to Exhibit A attached hereto, is sold to the public as the issue price of that maturity. For purposes of this Section 3, if 2023 Bonds mature on the same date but have different interest rates, each separate CUSIP number within that maturity will be treated as a separate maturity of the 2023 Bonds.

(d) The Representative confirms that the Underwriters have offered each maturity of the 2023 Bonds to the public on or before the date of this Purchase Contract at the respective offering price or

prices (the “initial offering price”), or at the corresponding respective yield or yields, set forth in Schedule 1 to Exhibit A attached hereto, except as otherwise set forth therein. Schedule 1 to Exhibit A also sets forth, identified under the column “Hold-the-Offering Price Rule Used,” as of the date of this Purchase Contract, the maturities, if any, of the 2023 Bonds for which the 10% Test has not been satisfied and for which the Agency and the Representative, on behalf of the Underwriters, agree that the restrictions set forth in the next sentence shall apply, which will allow the Agency to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity of the 2023 Bonds, the Underwriters will neither offer nor sell unsold 2023 Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the Underwriters have sold at least 10% of that maturity of the 2023 Bonds to the public at a price that is no higher than the initial offering price to the public.

The Representative will advise the Agency promptly after the close of the fifth (5th) business day after the sale date whether the Underwriters have sold 10% of that maturity of the 2023 Bonds to the public at a price that is no higher than the initial offering price to the public.

(e) The Representative confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the Representative is a party) relating to the initial sale of the 2023 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group and each broker-dealer that is a party to such third-party distribution agreement, as applicable, (A)(1) to report the prices at which it sells to the public the unsold 2023 Bonds of each maturity allocated to it, until either all 2023 Bonds of that maturity allocated to it have been sold or it is notified by the Representative that the 10% Test has been satisfied as to the 2023 Bonds of that maturity and (2) to comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative and as set forth in the related pricing wires, (B) to promptly notify the Representative of any sales of 2023 Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the 2023 Bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the Underwriter, dealer or broker-dealer, the Representative shall assume that each such order submitted by the Underwriter, dealer or broker-dealer is a sale to the public.

(ii) any agreement among underwriters or selling group agreement relating to the initial sale of the 2023 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the 2023 Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold 2023 Bonds of each maturity allocated to it, until either all 2023 Bonds of that maturity allocated to it have been sold or it is notified by the Representative or such Underwriter or dealer that the 10% Test has been satisfied as to the 2023 Bonds of that maturity and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative or the Underwriter or the dealer and as set forth in the related pricing wires.

The Agency acknowledges that, in making the representations set forth in this Section 3, the Representative will rely on (i) the agreement of each Underwriter to comply with the requirements for establishing the issue price of the 2023 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the 2023 Bonds, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the 2023 Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with requirements for establishing the issue price of the 2023 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the 2023 Bonds, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the 2023 Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing the issue price of the 2023 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in the third-party distribution agreement and the related pricing wires. [The Agency further acknowledges that each Underwriter shall be solely liable for its failure to comply with its agreement to comply with the requirements for establishing the issue price of the 2023 Bonds, including, but not limited to, its agreement to comply with its agreement regarding the hold-the-offering-price rule, if applicable to the 2023 Bonds, and that no Underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement.]

(f) The Underwriters acknowledge that sales of any 2023 Bonds to any person that is a related party to an underwriter participating in the initial sale of the 2023 Bonds to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this Section 3. Further, for purposes of this Section 3:

- (i) “public” means any person other than an underwriter or a related party to an underwriter,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Agency (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the 2023 Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the 2023 Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the 2023 Bonds to the public),
- (iii) a purchaser of any of the 2023 Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (iv) “sale date” means the date of execution of this Purchase Contract by all parties.

4. Representations and Agreements of the Agency. The Agency hereby represents and agrees with the Underwriters that, as of the date hereof and as of the Closing Date and the Settlement Date (except for representations expressly stated to have been made as of a certain date which shall be deemed made as of such date):

(a) The Agency is, and will be on the Closing Date and the Settlement Date a public agency formed and existing pursuant to the Bay Area Water Supply and Conservation Agency Act, Division 31 of the Water Code of the State of California (the “Act”), and has all necessary power and authority to enter into the Second Supplement, the Continuing Disclosure Certificate, the Escrow Agreement and this Purchase Contract and perform its duties under the Indenture, the Continuing Disclosure Certificate, the Escrow Agreement, the Prepayment and Collection Agreement, dated as of January 1, 2013 (the “Prepayment and Collection Agreement”), by and between the Agency and the City and County of San Francisco (“San Francisco”) and this Purchase Contract (collectively, the “Agency Documents”), including, but not limited to the imposition of the Surcharge, and, when executed and delivered by the respective parties thereto, the Agency Documents will constitute legal, valid and binding obligations of the Agency enforceable in accordance with their respective terms;

(b) The execution and delivery of the Agency Documents and compliance with the provisions on the Agency’s part contained herein and therein, and execution and delivery of the Official Statement and the Updated Official Statement, will not conflict with, or constitute a breach of, or default under, the Agency’s duties under said documents or any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, to which the Agency is subject or by which it is bound, which conflict, breach or default could have a material adverse effect upon the Agency’s ability to perform its obligations under the Agency Documents, including its obligation to impose the Surcharge and to pay debt service on the 2023 Bonds, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Agency under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided in the Indenture;

(c) By official action of the Agency prior to or concurrently with the acceptance hereof, the Agency has duly approved the distribution of the Preliminary Official Statement and the distribution of the Official Statement and has duly authorized and approved the execution and delivery of, and the performance by the Agency of the obligations on its part contained in the Agency Documents and the consummation by it of all other transactions contemplated by the Official Statement and this Purchase Contract.

(d) Except as may be required under Blue Sky or other securities laws of any state, there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory authority having jurisdiction over the Agency required for the execution and delivery of the Agency Documents, the issuance of the 2023 Bonds, the imposition of the Surcharge or the consummation by the Agency of the other transactions contemplated by the Agency Documents and the Official Statement;

(e) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or threatened against the Agency affecting the existence of the Agency or challenging the title of any director of the Agency or the Chair of the Board of Directors of the Agency to their respective offices, or seeking to prohibit, restrain or enjoin the issuance of the 2023 Bonds or the imposition of the Surcharge or in any way contesting or

affecting the validity or enforceability of the Agency Documents or the 2023 Bonds or in any way contesting the powers of the Agency or its authority to enter into or perform its obligations under any of the foregoing, or contesting in any way the completeness, accuracy or fairness of the Preliminary Official Statement as of its date or Official Statement as of its date, or any amendment or supplement thereto as of the date thereof, or in which a final adverse decision could materially adversely affect the operations or financial condition of the Agency or the ability of the Agency to perform its obligations under the Agency Documents;

(f) The Agency is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Agency is a party or is otherwise subject, which breach or default could have a material adverse effect upon the Agency's ability to perform its obligations under the Agency Documents, including its obligation to pay debt service on the 2023 Bonds, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument, and which default could have a material adverse effect upon the Agency's ability to perform its obligations under the Agency Documents;

(g) The information contained in the Preliminary Official Statement as of its date and as of the date of hereof was and is true and correct in all material respects and such information did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that no representation is made as to: (i) the information in the Preliminary Official Statement relating to The Depository Trust Company or its book-entry only system; (ii) information under the caption "UNDERWRITING;" (iii) information in APPENDIX A — "SELECTED INFORMATION ON CERTAIN MEMBERS;" (collectively, the "Excluded Information"); and (iv) the information permitted to be omitted therefrom in accordance with Rule 15c2 12 or marked as preliminary or subject to change;

(h) The Agency will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request in order: (1) to qualify the 2023 Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriters may designate; and (2) to determine the eligibility of the 2023 Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the 2023 Bonds; provided, however, that the Agency will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction;

(i) As of the date thereof and as of the Closing Date, the Official Statement as to which no representation is made) did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, that no representation is made as to the Excluded Information;

(j) If between the date of the Official Statement and the date that is 25 days after the Closing Date, an event occurs, of which the Agency has knowledge, which might or would cause the information contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made

therein, in the light of the circumstances under which they were made, not misleading, the Agency will notify the Representative, and, if in the opinion of the Representative, such event requires the preparation and publication of a supplement or amendment to the Official Statement, as applicable, the Agency will forthwith prepare and furnish to the Underwriters (at the expense of the Agency) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance reasonably satisfactory to the Representative) which will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading as of the date of such amendment or supplement. For the purposes of this subsection, between the date hereof and date that is 25 days after the Closing Date, the Agency will furnish such information with respect to itself as the Underwriters may from time to time reasonably request;

(k) As of its date and at all times subsequent thereto to and including the date that is 25 days following the End of the Underwriting Period (as such term is hereinafter defined) for the 2023 Bonds, the Updated Official Statement will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, that no representation is made as to the Excluded Information;

(l) If between the date of the Updated Official Statement and the date that is 25 days following the End of the Underwriting Period for the 2023 Bonds, an event occurs, of which the Agency has knowledge, which might or would cause the information contained in the Updated Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the Agency will notify the Representative, and, if in the opinion of the Agency will notify the Representative, and if in the opinion of the Representative, such event requires the preparation and publication of a supplement or amendment to the Updated Official Statement, as applicable, the Agency will forthwith prepare and furnish to the Underwriters (at the expense of the Agency) a reasonable number of copies of an amendment of or supplement to the Updated Official Statement (in form and substance reasonably satisfactory to the Representative) which will amend or supplement the Updated Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading as of the date of such amendment or supplement. For the purposes of this subsection, between the date hereof and date that is 25 days following the End of the Underwriting Period for the 2023 Bonds, the Agency will furnish such information with respect to itself as the Underwriters may from time to time reasonably request;

(m) If the information contained in the Updated Official Statement, as applicable, is amended or supplemented pursuant to paragraph (l) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including the date that is 25 days following the End of the Underwriting Period for the 2023 Bonds, the Updated Official Statement (excluding therefrom the Excluded Information as to which no representation is made) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, that no representation is made as to the Excluded Information;

(n) After the Closing, the Agency will not participate in the issuance of any amendment of or supplement to the Official Statement or the Updated Official Statement, as applicable, to which, after being furnished with a copy, the Representative shall reasonably object in writing;

(o) As used herein and for the purposes of the foregoing, the term “End of the Underwriting Period” for the 2023 Bonds shall mean the later of such time as (i) the Agency delivers the 2023 Bonds to the Underwriters or (ii) the Underwriters do not retain an unsold balance of the 2023 Bonds for sale to the public. Unless the Representative gives notice in writing to the Agency to the contrary on or prior to the Settlement Date, the End of the Underwriting Period shall be deemed to be the Settlement Date.

(p) Between the date of this Purchase Contract and the Closing Date, except as disclosed in the Preliminary Official Statement and in the Official Statement the Agency will not, without first delivering written notice to the Underwriters, offer or issue any bonds, notes or other obligations for borrowed money, or incur any material liabilities direct or contingent, other than in the ordinary course of its business;

(q) The Agency has the legal authority to apply, and will apply or cause to be applied, the proceeds of the sale of the 2023 Bonds as provided in the Indenture and generally as described in the Official Statement and the Updated Official Statement under the caption “PLAN OF REFUNDING” and will not take or omit to take any action which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the 2023 Bonds;

(r) Except as disclosed in the Official Statement, as of the date hereof, or the Updated Official Statement, as of its date, the Agency has not failed to comply in any material respect during the past five years with any previous continuing disclosure undertaking entered into by the Agency under Rule 15c2-12; and

(s) Any certificate signed by any authorized official of the Agency and delivered to the Underwriters in connection with the issuance, sale and delivery of the 2023 Bonds, shall be deemed a representation by the Agency to the Underwriters as to the statements made therein.

5. Closing Conditions of the Underwriters. The Underwriters have entered into this Purchase Contract in reliance upon the representations of the Agency contained herein and the representations of the Agency to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Agency of its obligations to be performed hereunder on and as of the date hereof and the Closing Date, and the Underwriters’ obligations under this Purchase Contract are and shall also be subject to the following additional conditions:

(a) The Underwriters shall receive, within seven (7) business days of the date hereof, copies of the Official Statement (including all information previously permitted to have been omitted by Rule 15c2-12 and any amendments or supplements as have been approved by the Representative), in such reasonable quantity as the Underwriters shall have requested;

(b) On the Closing Date: (1) the Original Indenture, the Continuing Disclosure Certificate, the Purchase Contract and Prepayment and Collection Agreement shall be in full force and effect as valid and binding agreements between or among the various parties thereto and the Continuing Disclosure Certificate and the Official Statement shall have been duly authorized, executed and delivered by the respective parties thereto, in substantially the forms heretofore submitted to the Representative, and

shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Representative, and there shall be in full force and effect such resolutions as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby; and (2) the representations and warranties of the Agency contained herein shall be true, correct and complete in all material respects on the date hereof and on the Closing Date, as if made on the Closing Date;

(c) The Underwriters shall have the right to cancel their obligation hereunder to purchase the 2023 Bonds (and such cancellation shall not constitute a default hereunder by the Underwriters) between the date hereof and the Closing Date if, in the reasonable judgement of the Underwriters, any of the following shall occur (evidenced by a written notice of the Representative to the Agency terminating this Purchase Contract and the obligation of the Underwriters to accept delivery of and make any payment for the 2023 Bonds):

(1) an amendment to the Constitution of the United States or the State of California shall have been passed or legislation shall have been introduced in or enacted by the Congress of the United States or the California legislature or legislation pending in the Congress of the United States or the California legislature shall have been amended or legislation shall have been recommended to the Congress of the United States or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, or legislation shall have been favorably reported for passage to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or a decision shall have been rendered by a court of the United States or of the State of California or the Tax Court of the United States, or any ruling or regulation (final, temporary or proposed) or official statement shall have been made by the Treasury Department of the United States, the Internal Revenue Service or other federal or State of California authority, with respect to federal or State of California taxation upon revenues or other income of the general character to be derived by the Agency or upon interest received on obligations of the general character of the 2023 Bonds that, in the reasonable judgment of the Underwriters, would have the purpose or effect, directly or indirectly, of affecting the tax status of the Agency, its property or income, its securities (including the 2023 Bonds) or the interest thereon, or which materially adversely affects the market price or marketability of the 2023 Bonds or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields) of the 2023 Bonds;

(2) legislation enacted, introduced in the Congress or recommended for passage by the President of the United States, or a decision rendered by a court established under Article III of the Constitution of the United States, or an order, ruling, regulation (final, temporary or proposed) or official statement issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter shall have been made or issued to the effect that obligations of the general character of the 2023 Bonds, or the 2023 Bonds, are not exempt from registration under the Securities Act of 1933, as amended, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended;

(3) the declaration of war or any outbreak of or material escalation of hostilities or acts of terrorism involving the United States or the occurrence of any other national or international emergency or calamity, crisis or event relating to the effective operation of the government of, or the financial community in, the United States which materially adversely affects the market price or marketability of the 2023 Bonds or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields) of the 2023 Bonds;

- (4) the declaration of a general banking moratorium by federal, New York or California authorities, or the general suspension of trading on any national securities exchange or a material disruption in commercial banking or securities settlement or clearance services shall have occurred which materially adversely affects the market price or marketability of the 2023 Bonds or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields) of the 2023 Bonds;
- (5) the imposition by the New York Stock Exchange or other national securities exchange, or any governmental authority, of any material restrictions not now in force with respect to the 2023 Bonds or obligations of the general character of the 2023 Bonds or securities generally, or the material increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of, the Underwriters which materially adversely affects the market price or marketability of the 2023 Bonds or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields) of the 2023 Bonds;
- (6) an order, decree or injunction of any court of competent jurisdiction, or order, ruling, regulation or official statement by the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the 2023 Bonds, or the issuance, offering or sale of the 2023 Bonds, including any or all underlying obligations, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect;
- (7) any withdrawal for credit-related reasons or downgrading or published negative credit watch or similar published information from a rating agency that as of the date of this Purchase Contract has published a rating on any of the Agency's debt obligations, which action reflects an adverse change or possible change in the ratings accorded any such obligations of the Agency (including any rating on the 2023 Bonds);
- (8) an adverse event has occurred affecting the financial condition or operation of the Agency or the operation of the Regional Water System (as defined in the Official Statement) which, in the reasonable opinion of the Representative, requires or has required a supplement or amendment to the Official Statement and the Agency does not agree to amend the Official Statement as provided herein; or
- (9) the commencement of any action, suit or proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, is pending or, to the best knowledge of the Agency after due investigation, threatened: (i) in any way questioning the corporate existence of the Agency or the titles of the officers of the Agency to their respective offices; (ii) affecting, contesting or seeking to prohibit, restrain or enjoin the authentication or delivery of any of the 2023 Bonds, or in any way contesting or affecting the validity of the 2023 Bonds, the Agency Documents, or the consummation of the transactions contemplated thereby or contesting the powers of the Agency to enter into the Agency Documents or to impose the Surcharge; (iii) which, except as described in the Official Statement, may result in any material adverse change to the financial condition of the Agency or to its ability to pay debt service on the 2023 Bonds when due; or (iv) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the

circumstances under which they were made, not misleading, which, in the reasonable judgment of the Representative, materially adversely affects the market price of the 2023 Bonds; or

(10) any event occurring, or information becoming known which makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and, in either such event, (a) the Agency refuses to permit the Official Statement to be supplemented to supply such statement or information or (b) the effect of the Official Statement as so supplemented is, in the reasonable judgment of the Underwriters, to materially adversely affect the market price or marketability of the 2023 Bonds or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields) of the 2023 Bonds.

(d) At or prior to the Closing Date, the Underwriters shall have received the following documents, in each case satisfactory in form and substance to the Representative:

(1) A copy of the resolution adopted by the Agency and certified by the Agency Secretary authorizing or ratifying the execution and delivery of the Second Supplement, the Escrow Agreement and this Purchase Contract and the approval of the Official Statement (the “Agency Authorizing Resolution”);

(2) Certified copies of the Original Indenture and the Prepayment and Collection Agreement;

(3) The Official Statement and each supplement or amendment, if any, thereto, approved by the Representative, and executed on behalf of the Agency;

(4) The Purchase Contract and the Continuing Disclosure Certificate, duly executed and delivered by the parties thereto;

(5) Copies of the Second Supplement and Escrow Agreement, duly executed and in the form to be delivered by the parties thereto at Settlement;

(6) A letter from Bond Counsel, dated the Closing Date and addressed to the Underwriters, to the effect that it is not aware of any reason that will prevent it from delivering on the Settlement Date an approving opinion in the form attached to [the Preliminary Official Statement and] the Official Statement as Appendix C thereto, and a reliance letter thereon to the Underwriters and the Trustee;

(7) The supplemental opinion of Bond Counsel, dated the Closing Date and addressed to the Underwriters in substantially the form attached hereto as Exhibit B;

(8) The letter of Orrick, Herrington & Sutcliffe LLP, Disclosure Counsel to the Agency, dated the Closing Date and addressed to the Underwriters, in substantially the form attached hereto as Exhibit C;

(9) The opinion of Hanson Bridgett LLP, San Francisco, California, counsel for the Agency, dated the Closing Date and addressed to the Underwriters and the Trustee, in substantially the form attached hereto as Exhibit D;

(10) An opinion of counsel to the Trustee and the Escrow Agent, dated the Closing Date and addressed to the Agency and the Underwriters, to the effect that (i) the Trustee is a national banking

association duly organized and validly existing under the laws of the jurisdiction of its organization and in its capacity as the Trustee has the corporate power to execute and deliver the Indenture and the Escrow Agreement, and to perform its obligations under the Indenture and the Escrow Agreement; (ii) the execution and delivery by the Trustee of the Indenture and the Escrow Agreement, and the performance of its respective obligations under the Indenture and the Escrow Agreement, have been and are as of the Closing Date duly authorized by all necessary corporate action; and (iii) no approval, authorization or other action by, or filing with, any governmental body or regulatory authority (which has not been obtained) is required in connection with the due execution, delivery and performance by the Trustee of the Indenture and the Escrow Agreement;

(11) [An opinion of counsel to San Francisco dated the Closing Date and addressed to the Agency and the Representative, in form and substance satisfactory to Bond Counsel, the Representative and counsel to the Underwriters, to the effect that:

(i) the Prepayment and Collection Agreement constitutes the legal, valid and binding obligation of San Francisco enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' remedies generally or the application of equitable principles when equitable remedies are sought, or except as rights of indemnity may be limited by principles of public policy;

(ii) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or, to the best of such counsel's knowledge, threatened against San Francisco seeking to prohibit, restrain or enjoin the collection of the Surcharge or in any way contesting or affecting the validity or enforceability of the Prepayment and Collection Agreement; and

(iii) Surcharges collected by San Francisco pursuant to the Prepayment and Collection Agreement do not constitute "Revenues" (as such term is defined in the as such term defined in the Amended and Restated Indenture, dated as of August 1, 2002 (as subsequently amended or supplemented, the "SFPUC Indenture"), by and between the Public Utilities Commission of the City and County of San Francisco and U.S. Bank, N.A.).]

(12) An opinion of counsel to California Water Service Company, dated the Closing Date, addressed to the Agency and the Representative in form and substance acceptable to Bond Counsel, the Representative and Counsel to the Underwriters;

(13) The opinion, of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, dated the Closing Date and addressed to the Underwriters, to the effect that (i) assuming no change in applicable law from the law in effect on the Closing Date, the 2023 Bonds, if issued, would not be subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture are exempt from qualification under the Trust Indenture Act of 1939, as amended; (ii) assuming the due authorization, execution and delivery of the Continuing Disclosure Certificate by the Agency and the enforceability thereof, the Underwriters may reasonably conclude that the continuing disclosure undertaking by the Agency therein satisfies the requirements contained in paragraph (b)(5) of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended; and (iii) on the basis of the information made available to such firm in the course of acting as counsel to the Underwriters (but without having undertaken to determine or verify independently, or assuming any responsibility for, the accuracy, completeness or fairness of any of the statements contained in the Preliminary Official Statement or the Official Statement), no facts have come to the attention of the

personnel in such firm directly involved in rendering legal advice and assistance to the Underwriters in connection with the preparation of the Preliminary Official Statement and the Official Statement that cause them to believe that (a) the Preliminary Official Statement as of its date or as of the date of this Purchase Contract (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; statements relating to DTC, Cede & Co. and the operation of the book-entry system; statements relating to the treatment of the 2023 Bonds or the interest, discount or premium, if any, thereon or therefrom for tax purposes under the law of any jurisdiction; and the statements contained in the Preliminary Official Statement under the captions "TAX MATTERS," and in Appendices B through E to the Preliminary Official Statement; as to all of which they express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, except for such information as is permitted to be excluded from the Preliminary Official Statement pursuant to Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, including but not limited to information as to pricing, yields, interest rates, maturities, amortization, redemption provisions, ratings, debt service requirements, underwriters' discount and CUSIP numbers or (b) the Official Statement as of its date or as of the Closing Date (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; statements relating to DTC, Cede & Co. and the operation of the book-entry system; statements relating to the treatment of the 2023 Bonds or the interest, discount or premium, if any, thereon or therefrom for tax purposes under the law of any jurisdiction; and the statements contained in the Official Statement under the captions "TAX MATTERS," and in Appendices B through E to the Official Statement; as to all of which they express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(14) A certificate or certificates, dated the Closing Date, signed by a duly authorized official of the Agency, in form and substance satisfactory to the Representative, to the effect that the representations of the Agency contained in this Purchase Contract are true and correct on and as of the Closing Date with the same effect as if made on the Closing Date;

(15) [A certificate dated the Closing Date and signed by a duly authorized officer of San Francisco in form and substance satisfactory to Bond Counsel, the Representative and Underwriters' Counsel substantially to the effect that:

(i) the Prepayment and Collection Agreement constitutes the legal, valid and binding obligation of San Francisco enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' remedies generally or the application of equitable principles when equitable remedies are sought;

(ii) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or, to the best of such counsel's knowledge, threatened against San Francisco seeking to prohibit, restrain or enjoin the collection of the Surcharge or in any way contesting or affecting the validity or enforceability of the Prepayment and Collection Agreement; and

(iii) Surcharges collected by San Francisco pursuant to the Prepayment and Collection Agreement do not constitute “Revenues” (as such term defined in the SFPUC Indenture);]

(16) A certified copy of the general resolution of the Trustee authorizing the execution and delivery by the Trustee of the Indenture, and the Escrow Agreement, together with a certificate to the effect that (i) the Trustee is a national banking association organized existing under the laws of the United States; and (ii) the Trustee has full corporate trust powers and authority to serve as Trustee under the Indenture and the Escrow Agreement;

(17) a certificate from each of the Alameda County Water District, California Water Service Company, City of Hayward, City of Mountain View, City of Palo Alto, City of Redwood City and the City of Sunnyvale, in form and substance satisfactory to the Underwriters;

(18) letters indicating the 2023 Bonds have been rated at least “___” by S&P Global Ratings and “___” by Moody’s Investors Service; and such ratings are in full force and effect as of the Closing Date;

(19) a Rule 15c2-12 certificate of the Agency, in form and substance satisfactory to the Representative;

(20) A verification report prepared by ____, as verification agent, and dated the Closing Date, in connection with the Refunded 2013 Bonds;

(21) [A letter from Bond Counsel, dated the Closing Date and addressed to the Underwriters and the Trustee, to the effect that it is not aware of any reason that will prevent it from delivering on the Settlement Date an opinion to the effect that the Refunded 2013 Bonds have been deemed to have been paid and are no longer outstanding pursuant to the terms of the governing documents pursuant to which the Refunded 2013 Bonds were issued;]

(22) Tax certificates of the Agency and SFPUC satisfactory in form and substance to Bond Counsel, the Representative and counsel to the Underwriters, unless Bond Counsel determines to require such a Tax Certificate only at Settlement;

(23) A copy of the Blue Sky Memorandum with respect to the 2023 Bonds, if any, prepared by Underwriters’ Counsel; and

(24) Such additional legal opinions, certificates, proceedings, instruments, insurance policies or evidences thereof and other documents as the Underwriters, Underwriters’ Counsel or Bond Counsel may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the representations of the Agency herein and of the statements and information contained in the Official Statement, and the due performance or satisfaction by the Agency at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by the Agency in connection with the transactions contemplated hereby and by the Agency Authorizing Resolution, the Agency Documents and the Official Statement.

If the Agency shall be unable to satisfy the conditions to the Underwriters’ obligations contained in this Purchase Contract or if the Underwriters’ obligations shall be terminated for any reason permitted herein on or before the Closing Date, all obligations of the Underwriters hereunder

may be terminated by the Representative at, or at any time prior to, the Closing Date by written notice to the Agency and neither the Underwriters nor the Agency shall have any further liability or obligations hereunder, except that the respective obligations of the Agency and the Underwriters set forth in Section 8 hereof shall continue in full force and effect.

6. Settlement Conditions. The Underwriters' obligations under this Purchase Contract to purchase, to accept delivery of and to pay for the 2023 Bonds at the Settlement shall be conditioned upon (i) the performance by the Agency of its obligations to be performed hereunder at and prior to the Settlement Date, including, without limitation, the Closing having been completed, and the performance by the Agency of its obligations to be performed under such other documents and instruments to be delivered at or prior to the Settlement, (ii) the 2023 Bonds being issued and secured under and pursuant to the Indenture; (iii) the 2023 Bonds being as described in, and having the terms and conditions set forth in, the Indenture, the Official Statement and the Updated Official Statement; and (iv) the accuracy in all material respects of the statements of the officers and other officials of the Agency made in any certificate or other document furnished pursuant to the provisions hereof. The Underwriters' obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) The representations and warranties of the Agency contained herein shall be true and correct in all material respects on the Settlement Date, as if made on the Settlement Date (except for representations expressly stated to have been made as of a certain date which shall be deemed made as of such date);

(b) At the time of the Settlement, the Agency Documents and the Agency Authorizing Resolution shall be in full force and effect and shall not have been amended, modified, rescinded or supplemented; and the Second Supplement, the Escrow Agreement and the Updated Official Statement shall have been duly authorized, executed and delivered by the Agency substantially in the form submitted to the Representative (with only such changes as shall have been agreed to in writing by the Representative);

(c) At or prior to the Settlement Date, the Underwriters shall have received the following documents, in each case satisfactory in form and substance to the Representative:

(1) The Second Supplement and the Escrow Agreement, duly executed and delivered by the parties thereto;

(2) The Updated Official Statement and each supplement or amendment, if any, thereto, approved by the Representative, and executed on behalf of the Agency;

(3) The approving opinion of Bond Counsel, dated the Settlement Date and addressed to the Agency, in substantially the form attached to the Official Statement as Appendix C thereto;

(4) The supplemental opinion of Bond Counsel, dated the Settlement Date and addressed to the Underwriters in substantially the form attached hereto as Exhibit B;

(5) The letter of Orrick, Herrington & Sutcliffe LLP, Disclosure Counsel to the Agency, dated the Settlement Date and addressed to the Underwriters, in substantially the form attached hereto as Exhibit C;

(6) The opinion of Hanson Bridgett LLP, San Francisco, California, counsel for the Agency, dated the Settlement Date and addressed to the Underwriters and the Trustee, in substantially the form attached hereto as Exhibit D;

(7) [An opinion of counsel to San Francisco dated the Settlement Date and addressed to the Agency and the Representative, in form and substance satisfactory to Bond Counsel, the Representative and counsel to the Underwriters, to the effect that:

(i) the Prepayment and Collection Agreement constitutes the legal, valid and binding obligation of San Francisco enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' remedies generally or the application of equitable principles when equitable remedies are sought, or except as rights of indemnity may be limited by principles of public policy;

(ii) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or, to the best of such counsel's knowledge, threatened against San Francisco seeking to prohibit, restrain or enjoin the collection of the Surcharge or in any way contesting or affecting the validity or enforceability of the Prepayment and Collection Agreement; and

(iii) Surcharges collected by San Francisco pursuant to the Prepayment and Collection Agreement do not constitute "Revenues" (as such term is defined in the as such term defined in the SFPUC Indenture).]

(8) an opinion of counsel to California Water Service Company, dated the Settlement Date, addressed to the Agency and the Representative in form and substance acceptable to Bond Counsel, the Representative and Counsel to the Underwriters;

(9) An opinion of counsel to the Trustee and the Escrow Agent, dated the Settlement Date and addressed to the Agency and the Underwriters, to the effect that (i) the Trustee is a national banking association duly organized and validly existing under the laws of the jurisdiction of its organization and in its capacity as the Trustee has the corporate power to execute and deliver the Second Supplement and the Escrow Agreement and any other documentation relating to the Indenture and the Escrow Agreement, and to perform its obligations under the Indenture and the Escrow Agreement; (ii) the execution and delivery by the Trustee of the Indenture and the Escrow Agreement, and the performance of its respective obligations under the the Indenture and the Escrow Agreement, have been and are as of the date hereof duly authorized by all necessary corporate action; (iii) no approval, authorization or other action by, or filing with, any governmental body or regulatory authority (which has not been obtained) is required in connection with the due execution, delivery and performance by the Trustee of the Indenture and the Escrow Agreement; (iv) the Indenture and the Escrow Agreement have been duly executed and delivered by the Trustee and constitute the valid and legally binding obligation of the Trustee, enforceable against it in accordance with their terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought as a proceeding in equity or at law); and (v) the Trustee has duly authenticated the 2023 Bonds on the Settlement Date;

(10) The opinion, of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, dated the Settlement Date and addressed to the Underwriters, to the effect that (i) the 2023

Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; (ii) assuming the due authorization, execution and delivery of the Continuing Disclosure Certificate by the Agency and the enforceability thereof, the Underwriters may reasonably conclude that the continuing disclosure undertaking by the Agency therein satisfies the requirements contained in paragraph (b)(5) of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended; and (iii) on the basis of the information made available to such firm in the course of acting as counsel to the Underwriters (but without having undertaken to determine or verify independently, or assuming any responsibility for, the accuracy, completeness or fairness of any of the statements contained in the Updated Official Statement), no facts have come to the attention of the personnel in such firm directly involved in rendering legal advice and assistance to the Underwriters in connection with the preparation of the Updated Official Statement that cause them to believe that the Updated Official Statement as of its date or as of the Settlement Date (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; statements relating to DTC, Cede & Co. and the operation of the book-entry system; statements relating to the treatment of the 2023 Bonds or the interest, discount or premium, if any, thereon or therefrom for tax purposes under the law of any jurisdiction; and the statements contained in the Official Statement under the captions "TAX MATTERS," and in Appendices B through E to the Updated Official Statement; as to all of which they express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(11) A certificate or certificates, dated the Settlement Date, signed by a duly authorized official of the Agency, in form and substance satisfactory to the Representative, to the effect (i) that the representations of the Agency contained in this Purchase Contract are true and correct on and as of the Settlement Date with the same effect as if made on the Settlement Date (except that the references to the Official Statement in the representations made in Section 4(e) shall be deemed made with respect to the Updated Official Statement and that representations expressly stated to have been made as of a certain date shall be deemed made as of such date); and (ii) the Agency Authorizing Resolution, the Indenture, the Escrow Agreement and the Continuing Disclosure Certificate are in full force and effect in the form delivered at the Closing Date and shall not have been amended, modified, rescinded or supplemented;

(12) [A certificate dated the Settlement Date and signed by a duly authorized officer of San Francisco in form and substance satisfactory to Bond Counsel, the Representative and Underwriters' Counsel substantially to the effect that:

(i) the Prepayment and Collection Agreement constitutes the legal, valid and binding obligation of San Francisco enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' remedies generally or the application of equitable principles when equitable remedies are sought;

(ii) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or, to the best of such counsel's knowledge, threatened against San Francisco seeking to prohibit, restrain or enjoin the collection of the Surcharge or in any way contesting or affecting the validity or enforceability of the Prepayment and Collection Agreement; and

(iii) Surcharges collected by San Francisco pursuant to the Prepayment and Collection Agreement do not constitute “Revenues” (as such term defined in the SFPUC Indenture);]

(13) a certificate from each of the Alameda County Water District, California Water Service Company, City of Hayward, City of Mountain View, City of Palo Alto, City of Redwood City and the City of Sunnyvale, in form and substance satisfactory to the Underwriters;

(14) A certified copy of the general resolution of the Trustee and Escrow Agent authorizing the execution and delivery by the Trustee of the Indenture and the Escrow Agreement, together with a certificate to the effect that (i) the Trustee is a national banking association organized existing under the laws of the United States; (ii) the Trustee has full corporate trust powers and authority to serve as Trustee under the Indenture and the Escrow Agreement; and (iii) the Indenture and the Escrow Agreement have been duly and validly executed and delivered by the Trustee, and assuming due and valid authorization of the other parties thereto, the Indenture and the Escrow Agreement constitute legally valid and binding obligations of the Trustee;

(15) A certified copy of the resolution of the Agency approving and authorizing the execution and delivery and distribution of the Updated Official Statement;

(16) Evidence of ratings from S&P Global Ratings and Moody’s Investors Service having been assigned to the 2023 Bonds;

(17) [a supplement to the verification report delivered on the Closing Date, prepared by _____, as verification agent, and dated the Settlement Date, in connection with the Refunded 2013 Bonds;]

(18) [A defeasance opinion of Bond Counsel, dated the Settlement Date and addressed to the Underwriters, to the effect that the Refunded 2013 Bonds have been deemed to have been paid and are no longer outstanding pursuant to the terms of the governing documents pursuant to which the Refunded 2013 Bonds were issued;]

(19) Tax Certificates of the Agency and San Francisco (or supplements to such tax certificates, as applicable) with respect to the 2023 Bonds in form satisfactory to Bond Counsel, and a completed Form 8038-G of the Internal Revenue Service for the 2023 Bonds, executed by the Agency; and

(20) Such additional legal opinions, certificates, proceedings, instruments, insurance policies or evidences thereof and other documents as the Underwriters, Underwriters’ Counsel or Bond Counsel may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Settlement Date, of the representations of the Agency herein and of the statements and information contained in the Updated Official Statement (except in each case for representations expressly stated to have been made as of a specific date which shall be deemed made as of such date), and the due performance or satisfaction by the Agency at or prior to the Settlement of all agreements then to be performed and all conditions then to be satisfied by the Agency in connection with the transactions contemplated hereby and by the Agency Authorizing Resolution, the Agency Documents and the Updated Official Statement.

7. Termination Rights of the Underwriters Following Closing and Prior to Settlement. At any time after the Closing Date and prior to the Settlement, the Representative may terminate this

Purchase Contract without liability therefor by notification to the Agency if at any time on or after Closing and on or prior to Settlement:

- (a) a Change of Law (as defined below) shall have occurred;
- (b) any legislation, regulation, ruling, order, release, court decision or judgment or action by the U.S. Department of the Treasury, the Internal Revenue Service, or any agency of the State is either enacted, issued, effective, or adopted, that would have the purpose or effect of imposing federal income taxation upon revenues or other income of the general character to be derived by the Agency or by any similar body or upon interest received on the 2023 Bonds, or obligations of the general character of the 2023 Bonds, or causing interest on the 2023 Bonds, or obligations of the general character of the 2023 Bonds, to be includable in gross income for purposes of federal and State income taxation;
- (c) the Official Statement, as of the Closing Date, or the Updated Official Statement, as of its date and as of the Settlement Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;
- (d) legislation shall be enacted, or a decision by a court of the United States shall be rendered, or any action shall be taken by, or on behalf of, the Securities Exchange Commission which has the effect of requiring the 2023 Bonds to be registered under the Securities Act of 1933, as amended, or requires the qualification of the Indenture under the Trust Indenture Act of 1939, as amended, or an event shall occur which would cause the sale of the 2023 Bonds to be in violation of any provision of the federal or State of California securities laws;
- (e) a general banking moratorium has been declared by federal, New York or California authorities and it is in effect as of the Settlement Date, or material disruption in commercial banking or securities settlement or clearances services shall have occurred and is continuing on the Settlement Date;
- (f) an event of default, technical or otherwise, has occurred and is continuing on the Settlement Date under the Indenture or under any document authorizing obligations of the Agency payable on a parity with the 2023 Bonds; or
- (g) as of the Settlement Date, either Moody's or S&P no longer maintains a rating on the 2023 Bonds.

"Change of Law" shall mean (i) any change in or addition to applicable federal or State law, whether statutory or as interpreted by the courts or by federal or State agencies, including any changes in or new rules, regulations or other pronouncements or interpretations by federal or State agencies, (ii) any legislation enacted by the Congress of the United States (if such enacted legislation has an effective date that is on or before the Settlement Date), (iii) any law, rule or regulation enacted by any governmental body, department or agency (if such enacted law, rule or regulation has an effective date that is on or before the Settlement Date) or (iv) any judgment, ruling or order issued by any court or administrative body, which in any case would, (A) as to the Underwriters, prohibit the Underwriters from completing the underwriting of the 2023 Bonds or selling the 2023 Bonds or beneficial ownership interests therein to the public or, (B) as to the Agency, would make the completion of the issuance, sale or delivery of the 2023 Bonds illegal.

If the Agency shall be unable to satisfy the conditions to the Underwriters' obligations contained in this Purchase Contract or if the Underwriters' obligations shall be terminated for any reason permitted herein on or before the Settlement, all obligations of the Underwriters hereunder may be terminated by the Representative at, or at any time prior to, the Settlement Date by written notice to the Agency and neither the Underwriters nor the Agency shall have any further liability or obligations hereunder, except that the respective obligations of the Agency and the Underwriters set forth in Section 8 hereof shall continue in full force and effect.

8. Expenses.

(a) The Underwriters shall be under no obligation to pay, and the Agency shall pay, any expenses incident to the performance of the Agency's obligations hereunder including, but not limited to: (i) the cost of preparation, printing and distribution of the Indenture, the Continuing Disclosure Certificate, the Preliminary Official Statement, the Official Statement, the Updated Official Statement and any supplements or amendments thereto, including a reasonable number of certified or conformed copies thereof; (ii) the cost of preparation and printing of the 2023 Bonds; (iii) the fees and disbursements of Bond Counsel; (iv) the fees and disbursements of KNN Public Finance, LLC for their services as municipal advisor to the Agency; (v) the fees and disbursements of the Trustee and its counsel; (vi) the fees and disbursements of any other engineers, accountants and other experts, consultants or advisors retained by the Agency; (vii) fees for bond ratings (which include fees of rating agencies and travel expenses of the Agency); and (viii) all expenses incurred by the Agency's employees which are directly related to the offering of the 2023 Bonds, including, but not limited to, meals, transportation and lodging of those employees. To the extent that the Underwriters, in order to facilitate the transactions hereunder, have advanced funds to pay any expenses of the Agency incidental to this Purchase Contract and the transactions hereunder (including, but not limited to, transportation, lodging, meals and other ancillary costs of Agency representatives associated with the financing), the Agency shall reimburse the Underwriters for such advances as part of the expense component of the Underwriters' compensation hereunder.

(b) The Agency shall reimburse the Underwriters from the expense component of the Underwriters' discount and the Underwriters shall make payment for: (i) the cost of preparation and printing or other reproduction of this Purchase Contract and the Blue Sky Memorandum; (ii) the fees and disbursements of Underwriters' Counsel; (iii) all advertising expenses and blue sky filing fees and all other expenses incurred by the Underwriters in connection with the public offering and distribution of the 2023 Bonds; (iv) the fees payable to DTC, the California Debt and Investment Advisory Commission and the MSRB (if any) in connection with the 2023 Bonds; (v) the fees associated with obtaining CUSIP numbers for the 2023 Bonds; and (vi) all other out-of-pocket expenses incurred by the Underwriters in connection with the 2023 Bonds and the public offering thereof.

9. Notices. Any notice or other communication to be given (i) to the Agency under this Purchase Contract may be given by delivering the same in writing to the Agency: Bay Area Water Supply and Conservation Agency, 155 Bovet Road, Suite 650, San Mateo, California 94402, Attention: Chief Executive Officer and General Manager, and (ii) to the Underwriters under this Purchase Contract may be given by delivering the same in writing to the Representative: Goldman Sachs & Co. LLC, 555 California Street, San Francisco, California 94104, Attention: Christopher Higgins.

10. Survival of Representations. The Agency's representations contained in this Purchase Contract or made in any certificate delivered hereunder shall remain operative and in full force and

effect, regardless of: (i) any investigations or statements made by or on behalf of the Underwriters; and (ii) delivery of and payment for the 2023 Bonds pursuant to this Purchase Contract.

11. Effectiveness and Counterpart Signatures. This Purchase Contract shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by duly authorized officers of the Agency and shall be valid and enforceable as of the time of such acceptance and approval. This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

12. Parties in Interest. This Purchase Contract is made solely for the benefit of the Agency and the Underwriters (including the successors or assigns of the Underwriters) and no other person shall acquire or have any right hereunder or by virtue hereof.

13. Headings. The headings of the sections of this Purchase Contract are inserted for convenience only and shall not be deemed to be a part hereof.

14. Governing Law. This Purchase Contract shall be construed in accordance with the laws of the State of California.

[Remainder of page intentionally left blank.]

15. Entire Agreement. This Purchase Contract when accepted by the Agency in writing as heretofore specified shall constitute the entire agreement between the Agency and the Underwriters.

Very truly yours,

GOLDMAN SACHS & CO. LLC
J.P. MORGAN SECURITIES LLC

By: Goldman Sachs & Co. LLC,
as Representative of the Underwriters

By: _____
Authorized Officer

Accepted and Agreed to:

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

By: _____
Title: CEO/General Manager

SCHEDULE I

MATURITY SCHEDULE AND REDEMPTION PROVISIONS

2023 Bonds MATURITY SCHEDULE

\$_____ 2023 Bonds

<u>Maturity Date (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>	<u>10% Test Used</u>	<u>Hold-the- Offering Price Rule Used</u>
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C Priced to par call on October __, 20__.
T Term Bonds.

2023 Bonds REDEMPTION PROVISIONS

Optional Redemption —2023 Bonds. The 2023 Bonds maturing on or after October 1, _____ are subject to redemption prior to the stated maturity thereof at the option of the Agency at any time and from time to time on or after _____ 1, _____, in whole or in part (if in part, the maturities or portions thereof to be redeemed to be selected by the Agency in its sole discretion), in each case at a redemption price equal to the principal amount of such 2023 Bonds or portions thereof to be redeemed plus accrued interest to the date of redemption. Upon the optional redemption of the 2023 Bonds in part, the Agency shall specify the maturities of the 2023 Bonds to be redeemed. With respect to a

partial optional redemption of 2023 Term Bonds, the sinking account payments to be modified shall be specified by the Agency.

EXHIBIT A

[FORM OF ISSUE PRICE CERTIFICATE]

\$ _____
**Bay Area Water Supply and Conservation
Agency Refunding Revenue Bonds (Capital
Cost Recovery Prepayment Program),
Series 2023A**

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of Goldman Sachs & Co. LLC, as representative (the “Representative”) of itself and J.P. Morgan Securities LLC (together, the “Underwriting Group”), hereby certifies on its own behalf and on behalf of the other members of the Underwriting Group, on the basis of representations and warranties set forth in the agreement among underwriters, as set forth below with respect to the sale and issuance of the \$_____ Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Bonds”) of the Bay Area Water Supply and Conservation Agency (the “Issuer”).

1. ***Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule 1 hereto.

2. ***Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) The Underwriting Group offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule 1 hereto (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule 2.

(b) As set forth in the Forward Delivery Purchase Contract dated ____, 2021, between Goldman Sachs and the Issuer, the members of the Underwriting Group have agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, they would neither offer nor sell any of the unsold Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, the Representative has not offered or sold any unsold Bonds of any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.]

3. ***Defined Terms.***

(a) *General Rule Maturities* means those Maturities of the Bonds listed in Schedule 1 hereto as the “General Rule Maturities.”

(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule 1 hereto as the “Hold-the-Offering-Price Maturities.”

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which Goldman Sachs sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) *Maturity* means Bonds with the same credit and payment terms. 2023 Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(e) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriters or a related party to an Underwriters. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(f) a purchaser of any of the Bonds is a *Related Party* to an Underwriter if the Underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is September 24, 2019.

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriters to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only, and as it relates to the actions of the other Underwriters, such representations are made to the best of the Representative’s knowledge based on the Representative’s records. Nothing in this certificate represents the Representative’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect

to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice it may give to the Issuer from time to time relating to the Bonds.

IN WITNESS WHEREOF, the undersigned has executed this certificate on this ____ day of ____, 20__.

GOLDMAN SACHS & CO. LLC,
as Representative of the Underwriting Group

By:_____

Name:_____

SCHEDULE 1 TO EXHIBIT A
SALE PRICES OF THE GENERAL RULE MATURITIES AND
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES

<u>Maturity Date (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>	<u>10% Test Used</u>	<u>Hold-the- Offering Price Rule Used</u>
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C Priced to par call on October 1, 20__.

T Term Bonds.

**SCHEDULE 2 TO EXHIBIT A
PRICING WIRE OR EQUIVALENT COMMUNICATION**

(To be Attached)

ATTACHMENT A

\$ _____
**Bay Area Water Supply and Conservation
Agency Refunding Revenue Bonds (Capital
Cost Recovery Prepayment Program),
Series 2023A**

The undersigned, on behalf of J.P. Morgan Securities LLC (the “Participant”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned bonds (the “Bonds”).

On the date hereof, Goldman Sachs & Co. LLC (the “Representative”) has executed the Issue Price Certificate of the Representative (the “Certificate of the Representative”) to which this Attachment A is attached. Capitalized terms used herein without definition shall have the meanings set forth in the Certificate of the Representative.

As set forth in the Forward Delivery Purchase Contract, the members of the Underwriting Group have agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, they would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, and subject to the provisions of Section 3 of the Forward Delivery Purchase Contract, the Participant has not has offered or sold any Maturity of the Hold-the-Offering-Price Maturities allotted to it at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Representative’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and Agreement dated [Closing Date], 2021 (the “*Tax Agreement*”) and with respect to compliance with the federal income tax rules affecting the Bonds, and by Orrick, Herrington & Sutcliffe LLP, bond counsel, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038, and other federal income tax advice it may give to the Issuer and the Corporation from time to time relating to the Bonds. The representations set forth herein are not necessarily based on personal knowledge and, in certain cases, the undersigned is relying on representations made by the other members of the Underwriting Group.

J.P. MORGAN SECURITIES LLC

Attachment A to Exhibit A

By: _____
Name: _____

Dated: _____, 2021

EXHIBIT B

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

[Closing Date/Settlement Date]

Goldman Sachs & Co. LLC, as Representative
555 California Street, 45th Floor
San Francisco, California 94104

*Re: \$_____ Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds
(Capital Cost Recovery Prepayment Program), Series 2023A*

Ladies and Gentlemen:

We have acted as Bond Counsel to the Bay Area Water Supply and Conservation Agency (the “Agency”) in connection with the [proposed] issuance and sale of \$_____ Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Bonds”). All capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the Revenue Bond Indenture, dated as of January 1, 2013, by and between the Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the “Second Supplement”), by and between the Agency and the Trustee (said indenture as amended and supplemented, including as supplemented by the Second Supplement collectively, the “Indenture”). [The Bonds have been authenticated by the Trustee pursuant to the terms of the Indenture.]¹

[On the date hereof, we delivered to the Agency an opinion relating to, among other things, the validity of the Bonds and Indenture. You are authorized to rely upon said opinion as if addressed to you.]¹

Based upon the foregoing and our review of such other information, documents and matters of law as we considered necessary and in reliance on the foregoing, as appropriate, we are of the opinion that:

(i) The Forward Delivery Purchase Contract, dated ____, 2021, by and among the Agency and Goldman Sachs & Co. LLC, as representative (the “Representative”) of the underwriters set forth therein (the “Underwriters”), has been duly authorized, executed and delivered by the Agency and, assuming due authorization, execution and delivery by the Representative on behalf of the Underwriters, is a valid and binding agreement of the Agency enforceable in accordance with its terms;

(ii) The 2023 Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended; and

¹ May be excluded from opinion delivered on the Closing Date.

(iv) The statements contained in the [Official Statement][Updated Official Statement]² under the captions “THE SERIES 2023 BONDS,” “SECURITY AND SOURCES OF PAYMENT,” “IMPOSITION AND COLLECTION OF SURCHARGES,” “TAX MATTERS,” and in APPENDIX B — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” and APPENDIX C — “PROPOSED FORM OF OPINION OF BOND COUNSEL,” excluding any material that may be treated as included under such captions by cross-reference, insofar as such statements summarize certain provisions of the Indenture, the Bonds, the Prepayment and Collection Agreement and Bond Counsel’s final legal opinion concerning certain federal tax matters relating to the Bonds, are accurate in all material respects as of the date of the [Official Statement] [Updated Official Statement] and as of the date of hereof.

The opinions expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. This letter is limited to matters governed by the laws of the State of California and federal securities laws, and we assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction. We call attention to the fact that the rights and obligations of the Agency under the Purchase Contract, the Indenture and the Bonds are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors’ rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

This letter is being furnished to you solely for your benefit in connection with your purchase of the Bonds and is not to be used, circulated, quoted or otherwise referred to for any other purpose without our prior written consent. No attorney-client relationship has existed or exists between our firm and you in connection with the Bonds or by virtue of this letter and we are not assuming any professional responsibility to any other person whomsoever.

Respectfully submitted,

² To refer to Official Statement in opinion at Closing Date and Updated Official Statement in opinion at Settlement Date.

EXHIBIT C

FORM OF LETTER OF DISCLOSURE COUNSEL

[Closing Date/Settlement Date]

Goldman Sachs & Co. LLC,
as representative of certain underwriters
555 California Street, 45th Floor
San Francisco, California 94104

*Re: \$_____ Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds
(Capital Cost Recovery Prepayment Program), Series 2023A*

[TO BE UPDATED]

Ladies and Gentlemen:

We have acted as disclosure counsel for Bay Area Water Supply and Conservation Agency (the “Agency”) in connection with the issuance of the above-referenced bonds (the “Bonds”). The Bonds are being purchased by you (the “Representative”), as representative of the underwriters (the “Underwriters”) of the Bonds. All capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in [the Preliminary Official Statement and]¹ the [Official Statement]² referenced below.

In rendering the advice contained herein, we have examined originals or copies certified or otherwise identified to our satisfaction of: (i) the [Preliminary Official Statement dated ____, 2021 (the “Preliminary Official Statement”) [provided however, that in the event that the Preliminary Official Statement is supplemented prior to the date of the Official Statement or is supplemented as part of the Official Statement as described under the caption “INTRODUCTION-Changes Since The Date of The Preliminary Official Statement” contained in the Official Statement (collectively, the “Supplements”), all references to the Preliminary Official Statement shall be deemed to include such Supplements,] and]¹ [Official Statement, dated [____, 2021] (the “Official Statement”)]² relating to the Bonds; (ii) the minutes of the meetings of the Board of Directors of the Authority held during the period beginning on January 1, 20__ and ending on ____, 20__; and (iii) the letters, certificates, and opinions delivered to you in connection with the sale of the Bonds. We have not reviewed, and we do not assume any responsibility for any electronic version of the [Official Statement]² and for all purposes of this letter, we have assumed that any electronic version of the [Official Statement]² conforms in all respects to the printed version of the [Official Statement]².

The conclusions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such conclusions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform you or any other person, whether any such actions are taken or omitted or whether such events do occur or any other matters come to our attention after the

¹ Opinion delivered on the Settlement Date may delete references to Preliminary Official Statement throughout.

² For opinion delivered on the Settlement Date, references to Official Statement will be to Updated Official Statement.

date hereof. We have assumed, but not independently verified, that the signatures on all documents, letters, opinions and certificates which we have examined are genuine, that all documents submitted to us are authentic and were duly and properly executed by the parties thereto and that all representations made in the documents that we have reviewed are true and accurate. We have assumed, without independent verification, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in any opinions referenced in the [Preliminary Official Statement and the] Official Statement.

By delivering this letter, we are not expressing any opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in any document referenced in the [Preliminary Official Statement or the] Official Statement, nor are we expressing any opinion with respect to the state or quality of title to or interest in any assets described in or as subject to the lien of the Indenture or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on any assets thereunder. Our services as disclosure counsel to the Agency did not involve the rendering of financial or other non-legal advice to you, the Agency or any other party to the transaction.

Although we have not undertaken to determine independently or verify and are not passing upon and do not assume responsibility for, the accuracy, completeness or fairness of the statements contained in the [Preliminary Official Statement or the] Official Statement, and are therefore unable to make any representation to you in that regard, we have participated in conferences prior to the date of the Official Statement with representatives of the Agency, including the Agency's general counsel and the Agency's municipal advisor KNN Public Finance, LLC, representatives of the Representative and the Underwriters, including Underwriters' Counsel, Stradling, Yocca, Carlson & Rauth, a Professional Corporation, and others, during which conferences the contents of the [Preliminary Official Statement and the] Official Statement and related matters were discussed. Based upon the information made available to us in the course of our participation in such conferences as disclosure counsel to the Agency, our review of the documents referred to above, our reliance on the oral and written statements of the representatives of the Agency and others, the documents, certificates, instructions and records and the opinions of counsel described above and our understanding of applicable law, and subject to the limitations on our role as disclosure counsel to the Agency, we advise you as a matter of fact but not opinion that no information has come to the attention of the attorneys in our firm performing services for the Agency as disclosure counsel on this matter which caused us to believe that the [Preliminary Official Statement, as of its date and as of the ____, 2021, and the] Official Statement as of its date contained, or as of the date hereof contains, any untrue statement of a material fact, or as of its date omitted, or as of the date hereof omits, to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect (except that we express no view with respect to: (i) the expressions of opinion, the assumptions, the projections, estimates and forecasts, the charts, the financial statements or other financial, numerical, economic, demographic or statistical data, or assessed valuations contained in the [Preliminary Official Statement or the] Official Statement; (ii) any CUSIP numbers or information relating thereto; (iii) any information with respect to The Depository Trust Company and its book-entry system; (iv) any information contained in the appendices to the [Preliminary Official Statement or the] Official Statement other than Appendix A; (v) any information incorporated by reference into the [Preliminary Official Statement or the] Official Statement; (vi) the Agency's compliance with its obligations to provide notice of the events described in part (b)(5)(i)(C) of Rule 15c2-12 promulgated under the Securities Act of 1934, as amended ("Rule 15c2-12"), or to

file annual reports described in part (b)(5)(i)(A) of Rule 15c2-12, review of which matters we understand has been undertaken by the Representative; (vii) any information with respect to the underwriter or underwriting matters with respect to the Bonds, including but not limited to information under the caption "UNDERWRITING"; and (viii) any information with respect to the ratings on the Bonds and the rating agencies referenced therein, including but not limited to information under the caption "RATINGS"). Finally, we advise you that, other than reviewing the various certificates and opinions referenced above, we have not taken any steps since the date of the Official Statement to verify the accuracy of the statements contained in the [Preliminary Official Statement or the] Official Statement as of the date hereof. No responsibility is undertaken or opinion rendered with respect to any other disclosure document, materials or activity, or as to any information from another document or source referred to by, or incorporated by reference in, the [Preliminary Official Statement or the] Official Statement.

By acceptance of this letter you recognize and acknowledge that: (i) the negative assurance above is not an opinion and is based on certain limited activities performed by specific attorneys in our firm in our role as disclosure counsel to the Agency; (ii) the scope of the activities performed by such attorneys in our role as disclosure counsel to the Agency and for purposes of delivering such negative assurances were inherently limited and do not purport to encompass all activities necessary for compliance by you or others in accordance with applicable state and federal securities laws; and (iii) the activities performed by such attorneys in our role as disclosure counsel to the Agency rely in part by representations, warranties, certifications and opinions of other parties to the transaction, including representations, warranties and certifications made by the Agency.

This letter is being furnished to you solely for your benefit in connection with your purchase of the Bonds and is not to be used, circulated, quoted or otherwise referred to for any other purpose without our prior written consent. No attorney-client relationship has existed or exists between our firm and you in connection with the issuance of the Bonds or by virtue of this letter. We note you were represented by separate counsel retained by you in connection with the transaction described in the [Preliminary Official Statement and the] Official Statement. This letter is limited to matters governed by the laws of the State of California and federal securities laws, and we assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction.

Our engagement as disclosure counsel to the Agency with respect to this transaction terminates as of the date hereof, and we have not undertaken any duty, and expressly disclaim any responsibility, to advise you as to events occurring after the date hereof with respect to the Bonds or other matters discussed in the [Preliminary Official Statement or the] Official Statement. This letter is not intended to, and may not, be relied upon by owners of the Bonds, the owners of any beneficial ownership interest in the Bonds or by any other party to whom it is not addressed.

Respectfully submitted,

EXHIBIT D

FORM OF OPINION OF AGENCY COUNSEL

[Closing Date/Settlement Date]

Goldman Sachs & Co. LLC
San Francisco, California

J.P. Morgan Securities LLC
San Francisco, California

The Bank of New York Mellon
Trust Company, N.A., as Trustee
San Francisco, California

Ladies and Gentlemen:

We have acted as general counsel to the Bay Area Water Supply and Conservation Agency (the “Agency”), a public agency formed and existing pursuant to the Bay Area Water Supply and Conservation Agency Act, Division 31 of the Water Code of the State of California (the “Act”). This opinion is rendered in connection with the issuance of \$_____ Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Bonds”).

In rendering this opinion, we have examined the following documents: (i) [Revenue Bond Indenture, dated as of January 1, 2013, by and between the Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the “Second Supplement”), by and between the Agency and the Trustee (said indenture as amended and supplemented, including as supplemented by the Second Supplement collectively, the “Indenture”); (ii)]¹ the Forward Delivery Purchase Contract dated ____, 2021 (the “Purchase Contract”) and entered into by the Agency and Goldman Sachs & Co. LLC, as Representative of the Underwriters; (iii) the Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”) delivered by the Agency; (iv) the Escrow Agreement, dated as of October 1, 2021 (the “Escrow Agreement”), by and between the Agency and The Bank of New York Mellon Trust Company, N.A., (v) the Prepayment and Collection Agreement, dated as of January 1, 2013 (the “Prepayment and Collection Agreement”), by and between the Agency and the City and County of San Francisco (“San Francisco”), and (vi) the [Preliminary Official Statement dated ____, 2021 (the “Preliminary Official Statement”) and the]⁵ Official Statement dated ____, 2021 [_____, 2023] (the “Official Statement”)⁶, relating to the Bonds. In addition, we have examined such other documents and instruments, including certificates of public officials, and have made such investigations of law and of fact as we have deemed necessary or appropriate for the purpose of rendering the opinions set forth herein.

⁵ Opinion delivered on the Settlement Date may delete references to Preliminary Official Statement throughout.

⁶ For opinion delivered on the Settlement Date, references to Official Statement will be to Updated Official Statement.

Based on the foregoing, we are of the opinion that:

(1) the Agency is a public agency formed and existing pursuant to the Act and has all necessary power and authority to enter into and perform its duties under the Indenture, the Continuing Disclosure Certificate, the Escrow Agreement, the Purchase Contract and Prepayment and Collection Agreement (collectively, "Agency Documents"), and the Agency Documents have been duly authorized, executed and delivered, and constitute the legal, valid and binding obligations of the Agency enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' remedies generally or the application of equitable principles when equitable remedies are sought.

(2) the Agency's execution and delivery of the Agency Documents and performance by the Agency of its obligations contained therein, and the Agency's execution and delivery of the Official Statement, will not and do not conflict with, or constitute a breach of or default under, the Agency's duties under the Agency Documents, or to our current actual knowledge, any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, to which the Agency is subject or by which it is bound, which conflict, breach or default could have a material adverse effect upon the Agency's ability to perform its obligations under the Agency Documents, including its obligation to impose the Surcharge, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Agency under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Indenture.

(3) by official action of the Agency prior to the date hereof, the Agency has duly approved the distribution of the Preliminary Official Statement and the distribution of the Official Statement and has duly authorized and approved the execution and delivery of, and the performance by the Agency of its obligations contained in, the Agency Documents and the consummation by it of all other transactions on its part contemplated by the Purchase Contract.

(4) to our current actual knowledge after reasonable inquiry, except as may be required under Blue Sky or other securities laws of any state, as to which no opinion need be expressed, there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory authority having jurisdiction over the Agency required for the execution and delivery of the Agency Documents, the imposition of the Surcharge or the issuance of the Bonds or the consummation by the Agency of the other transactions contemplated by the Purchase Contract.

(5) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or governmental agency, public board or body pending or for which service of process has been effected on the Agency or, to our current actual knowledge, threatened against the Agency affecting the existence of the Agency or challenging the title of any director of the Agency or the Chair of the Board of Directors of the Agency to their respective offices, or seeking to prohibit, restrain or enjoin the issuance of the Bonds, or the imposition of the Surcharge or in any way contesting or affecting the validity or enforceability of the Agency Documents or the Bonds or in any way contesting the powers of the Agency or its authority to enter into or perform its obligations under any of the foregoing, or contesting in any way the completeness, accuracy or fairness of the Official Statement, or in which a final adverse decision could materially adversely affect the operations or financial condition of the Agency or the ability of the Agency to perform its obligations under the Agency Documents.

(6) to our current actual knowledge, the Agency is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Agency is a party or is otherwise subject, which breach or default could have a material adverse effect upon the Agency's ability to perform its obligations under the Agency Documents, including its obligation to impose the Surcharge, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument, and which default or event of default could have a material adverse effect upon the Agency's ability to perform its obligations under the Agency Documents.

(7) The statements contained in the Preliminary Official Statement and in the Official Statement under the caption "WATER SUPPLY AGREEMENT" inasmuch as such statements summarize certain provisions of the Water Supply Agreement are accurate in all material respects

As a matter of fact and not opinion, based upon examinations which they have made and meetings and telephone conferences with representatives of the Agency, Bond Counsel, Disclosure Counsel and the Agency's financial advisor, the Underwriters and others, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Preliminary Official Statement or the Official Statement, nothing has come to the attention of the attorneys in such firm rendering legal services in connection with such representation which caused them to believe that information under the captions "BAY AREA WATER SUPPLY AND CONSERVATION AGENCY" and "LITIGATION" in the Preliminary Official Statement as of the date of the Purchase Contract or information under the captions "BAY AREA WATER SUPPLY AND CONSERVATION AGENCY" and "LITIGATION" in the Official Statement as of the Closing Date (other than financial, numerical, or statistical data, and financial statements therein and incorporated therein by reference, as to which no opinion need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

We express no opinion as to the legality or validity of refunding the Refunded 2013 Bonds (as such terms are defined in the [Preliminary Official Statement and the] Official Statement) with the 2023 Bonds and we are relying upon the opinion of Orrick, Herrington & Sutcliffe LLP, that such a refunding is legal and valid in this instance.

This letter is furnished by us as general counsel to the Agency. No attorney-client relationship has existed or exists between our firm and yourselves in connection with the 2023 Bonds or by virtue of this letter. This letter is delivered to you as Underwriters of the 2023 Bonds and is solely for your benefit as such Underwriters and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person.

Respectfully submitted,

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OHS DRAFT
8/31/2021

ESCROW AGREEMENT

by and between the

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee and Escrow Agent

Executed and entered into as of October 1, 2021

Relating to

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
REVENUE BONDS (CAPITAL COST RECOVERY PREPAYMENT PROGRAM),
SERIES 2013A

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ESCROW AGREEMENT

This ESCROW AGREEMENT (the “Escrow Agreement”), executed and entered into as of October 1, 2021, by and between the BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, a public agency formed and existing under the laws of the State of California (the “Agency”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America and being qualified to accept and administer the trust hereby created (the “Trustee” and the “Escrow Agent”);

WITNESSETH:

WHEREAS, the Agency has heretofore issued \$241,745,000 principal amount of Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013A (the “2013A Bonds”), under and pursuant to a Revenue Bond Indenture (the “Master Indenture”) and a First Supplemental Revenue Bond Indenture, each dated as of January 1, 2013 (collectively, the “2013A Indenture”), by and between the Agency and the Trustee; and

WHEREAS, 2013A Bonds remain outstanding in the aggregate principal amount of \$[173,825,000]; and

WHEREAS, the Agency has determined to defease and redeem \$[163,790,000] aggregate principal amount of the 2013A Bonds due on the dates and in the aggregate principal amounts set forth in Exhibit A attached herein (collectively, the “Refunded Bonds”); and

WHEREAS, the Agency has duly issued, sold and delivered \$_____ principal amount of Bay Area Water Supply and Conservation Agency Refunding Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “2023 Bonds”), under and pursuant to the Master Indenture and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021, by and between the Agency and the Trustee, for the purpose, among other things, of providing funds for defeasance and redemption by the Agency of the Refunded Bonds; and

WHEREAS, the provisions of the 2013A Indenture are incorporated herein by reference as if set forth herein in full;

NOW, THEREFORE, the Agency and the Escrow Agent hereby agree as follows:

Section 1. Election to Redeem. The Agency hereby elects to redeem the Refunded Bonds on April 1, 2023.

Section 2. Establishment and Maintenance of Escrow Fund. The Escrow Agent agrees to establish and maintain the Escrow Fund (the “Escrow Fund”) until the Refunded Bonds have been paid as provided herein, and to hold the Escrow Securities (as defined herein), if any, and the money (whether constituting the initial deposit in the Escrow Fund or constituting receipts on the Escrow Securities, if any) in the Escrow Fund at all times as a separate trust account wholly segregated from all other securities, investments or money held by it. All

securities and money in the Escrow Fund are hereby irrevocably pledged to secure the payment of the Refunded Bonds as provided herein; provided, that any money held in the Escrow Fund that is not used for the payment of the Refunded Bonds shall be repaid to the Agency free from the trust created by this Escrow Agreement.

Simultaneously with the delivery of the 2023 Bonds, the Escrow Agent shall (i) accept a transfer from the Trustee in the amount of \$_____ representing proceeds of the 2023 Bonds, and deposit such amount in the Escrow Fund, (ii) accept a transfer from the Trustee in the amount of \$_____ representing a transfer from the Stabilization Fund established under the Mater Indenture, and (iii) accept a deposit from the Agency in the amount of \$_____, and (iv) deposit such amounts in the Escrow Fund. The sum of \$_____ will be sufficient to redeem the Refunded Bonds on April 1, 2023.

Section 3. Investment of Money in the Escrow Fund. The Escrow Agent shall invest any moneys deposited or transferred to the Escrow Fund in accordance with Section 2 hereof in the securities (if any) to be set forth in Schedule I hereto (the “Escrow Securities”) and to deposit such Escrow Securities, if any, in the Escrow Fund. The Agency agrees to deliver to the Escrow Agent not later than two business days preceding the day the 2023 Bonds are delivered a completed Schedule I that sets forth such Escrow Securities, if any. The Escrow Agent shall not be liable or responsible for any loss resulting from any investment made pursuant to this section and in full compliance with the provisions hereof. All other amounts in the Escrow Fund, or if no Escrow Securities are set forth in the completed Schedule I delivered pursuant hereto, all amounts, not so invested shall be held as cash.

The Agency acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Agency the right to receive brokerage confirmations of security transactions as they occur, the Agency specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Agent will furnish the Agency periodic cash transaction statements which include detail for all investment transactions made by the Escrow Agent hereunder.

Section 4. Substitution of Securities in the Escrow Fund. Upon written request of the Agency, and after receiving from the Agency an unqualified opinion of a nationally recognized bond counsel that such substitution will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the 2013A Bonds, or the 2023 Bonds, and after receiving from the Agency a written report of a nationally recognized firm of independent certified public accountants to the effect that the substitute securities will mature in such principal amounts and earn interest in such amounts and at such times so that sufficient money (without reinvestment) will be available to provide for the payment of the interest on all outstanding Refunded Bonds as such interest becomes due and payable and redemption of the Refunded Bonds on April 1, 2023 pursuant to Section 5, the Escrow Agent shall sell, redeem or otherwise dispose of any securities in the Escrow Fund if, but only if, there are substituted therefor, from the proceeds of such securities, other noncallable direct obligations of the United States of America. Investments in money market funds and unit investment trusts are prohibited. Any excess proceeds of the sale, redemption or other disposition of such securities in the Escrow Fund (derived in connection with a substitution as provided in this Section) shall be remitted to the Agency free from the trust created by the Escrow Agreement. The Escrow Agent shall not be

liable or responsible for any loss resulting from any investment made pursuant to this section and in full compliance with the provisions hereof.

Section 5. Payment from the Escrow Fund. The Escrow Agent is hereby irrevocably instructed to, and the Escrow Agent hereby agrees to, collect and deposit in the Escrow Fund the interest on and principal of all Escrow Securities, if any, held in the Escrow Fund promptly as such interest and principal become due, and to use such interest and principal, together with any other money and the interest and principal of any other securities deposited in the Escrow Fund, to provide for the payment of the interest on all outstanding Refunded Bonds as such interest becomes due and payable and redemption of the Refunded Bonds on April 1, 2023 as set forth in Schedule II attached hereto.

Section 6. Notice of Redemption and Defeasance of Refunded Bonds. The Trustee is hereby irrevocably instructed to give notice of defeasance of the Refunded Bonds in substantially the form set forth hereto as Exhibit B to the Owners of the Refunded Bonds in accordance with Section 10.04 of the 2013A Indenture and to give notice of redemption to the Owners of the Refunded Bonds in accordance with Section 12.05 of the 2013A Indenture of the optional redemption of the Refunded Bonds in accordance with Section 12.03(A) of the 2013A Indenture.

Section 7. Compensation and Indemnification of the Escrow Agent.

(a) The Agency shall pay the Escrow Agent an annual fee for its services hereunder and shall reimburse the Escrow Agent for its out-of-pocket expenses (including but not limited to the fees and expenses, if any, of its counsel or accountants) incurred by the Escrow Agent in connection with these services, all as more particularly agreed upon by the Agency and the Escrow Agent; provided, that these fees and expenses shall in no event be deducted from the Escrow Fund. Under no circumstances shall the Escrow Agent assert a lien on the Escrow Fund for any of its fees or expenses.

(b) The Agency agrees to indemnify the Escrow Agent, its agents and its officers or employees for, and hold the Escrow Agent, its agents and its officers or employees harmless from, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable fees and disbursements of counsel or accountants for the Escrow Agent) which may be imposed on, incurred by, or asserted against the Escrow Agent or such other party at any time by reason of its performance of Escrow Agent's services, in any transaction arising out of the Escrow Agreement or any of the transactions contemplated herein, unless due to the negligence or willful misconduct of the particular indemnified party.

(c) The obligations of the Agency hereunder to the Escrow Agent shall survive the termination or discharge of this Escrow Agreement or the resignation of the Escrow Agent.

Section 8. Functions of the Escrow Agent.

(a) The Escrow Agent is entering into this Escrow Agreement in its capacity as Trustee under the 2013A Indenture. Moneys held by the Escrow Agent hereunder are to be held and applied for the payment of Refunded Bonds in accordance with the 2013A Indenture.

(b) The Escrow Agent undertakes to perform only such duties as are expressly and specifically set forth in the Escrow Agreement and no implied duties or obligations shall be read into the Escrow Agreement against the Escrow Agent.

(c) The Escrow Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, and shall be protected and indemnified as stated in the Escrow Agreement, in acting, or refraining from acting, upon any written notice, instruction, request, certificate, document, report or opinion furnished to the Escrow Agent and reasonably believed by the Escrow Agent to have been signed or presented by the proper party, and it need not investigate any fact or matter stated in such notice, instruction, request, certificate, document, report or opinion.

(d) The Escrow Agent shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special, indirect or consequential damages, even if parties know of the possibility of such damages. The Escrow Agent shall have no duty or responsibility under the Escrow Agreement in the case of any default in the performance of covenants or agreements contained in the 2013A Indenture or in the case of the receipt of any written demand with respect to such default. The Escrow Agent is not required to resolve conflicting demands to money or property in its possession under the Escrow Agreement.

(e) The Escrow Agent may consult with counsel of its own choice (which may be counsel to the Agency) and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action in accordance with such opinion of counsel.

(f) The Escrow Agent shall not be responsible for any of the recitals or representations contained herein or in the 2013A Indenture.

(g) The Escrow Agent may become the owner of, or acquire any interest in, any of the Refunded Bonds with the same rights that it would have if it were not the Escrow Agent, and may engage or be interested in any financial or other transaction with the Agency.

(h) The Escrow Agent shall not be liable for the accuracy of the calculations as to the sufficiency of the Escrow Securities, if any, and moneys to make the payments of principal and interest on the Refunded Bonds in accordance with Section 4.

(i) The Escrow Agent shall not be liable for any action or omission of the Agency under the Escrow Agreement or the 2013A Indenture.

(j) Whenever in the administration of the trust of the Escrow Agreement the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to

taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Agent, be deemed to be conclusively proved and established by a Certificate of the Agency (as defined in the 2013A Indenture), and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Agent, be full warrant to the Escrow Agent for any action taken or suffered by it under the provisions of the Escrow Agreement upon the faith thereof.

(k) The Escrow Agent may be removed or may resign concurrently with the removal or resignation of the Escrow Agent as Trustee pursuant to Section 8.01 of the 2013A Indenture. Upon the removal or resignation of the Escrow Agent, the Agency shall appoint a successor Escrow Agent concurrently with its appointment of a successor Trustee under the 2013A Indenture.

(l) The Escrow Agent will provide the Agency with monthly statements of the account maintained hereunder.

Section 9. Merger or Consolidation. Any company into which the Escrow Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under Section 8.01 of the 2013A Indenture, shall be the successor to such Escrow Agent, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 10. Amendment. This Escrow Agreement may not be revoked or amended by the parties hereto unless there shall first have been filed with the Agency and the Escrow Agent (i) a written opinion of nationally recognized bond counsel stating that such amendment will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Refunded Bonds or interest on the 2023 Bonds, and (ii) unless such amendment is not materially adverse to the interests of the registered owners of the Refunded Bonds, the written consent of all the registered owners of the Refunded Bonds then outstanding.

Section 11. Notices. All notices and communications hereunder shall be in writing and shall be deemed to be duly given if received or sent by first class mail, as follows:

If to the Agency:

Bay Area Water Supply and Conservation Agency
155 Bovet Road, Suite 650
San Mateo, CA 94402
Attention: Chief Executive Officer and General Manager

If to the Escrow Agent:

The Bank of New York Mellon Trust Company, N.A.
100 Pine Street, Suite 3100
San Francisco, CA 94111

Section 12. Severability. If any section, paragraph, sentence, clause or provision of the Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, sentence, clause or provision shall not affect any of the remaining provisions of the Escrow Agreement.

Section 13. Governing Law. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 14. Execution. The Escrow Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same agreement.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Agency and the Trustee and Escrow Agent have caused this Escrow Agreement to be executed each on its behalf as of the day and year first above written.

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By: _____
Chief Executive Officer and
General Manager

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as Trustee and Escrow Agent

By: _____
Authorized Officer

EXHIBIT A

REFUNDED BONDS

Bay Area Water Supply and Conservation Agency
Revenue Bonds (Capital Cost Recovery Prepayment Program),
Series 2013A

Maturity Date (October 1)	Principal Amount	Interest Rate
2023	\$10,510,000	5.000%
2024	2,550,000	3.000
2024	8,485,000	5.000
2025	11,535,000	5.000
2026	12,110,000	5.000
2027	12,715,000	5.000
2028	13,355,000	5.000
2029	14,020,000	5.000
2030	14,720,000	5.000
2033	10,000,000	3.125
2034	7,000,000	4.000
2034	<u>46,790,000</u>	5.000

EXHIBIT B

FORM OF NOTICE OF DEFEASANCE

Bay Area Water Supply and Conservation Agency
Revenue Bonds (Capital Cost Recovery Prepayment Program),
Series 2013A

Maturity Date (October 1)	Principal Amount	Interest Rate	CUSIP* Number (Base: 072031)
2023	\$10,510,000	5.000%	BB2
2024	2,550,000	3.000	BC0
2024	8,485,000	5.000	BM8
2025	11,535,000	5.000	BD8
2026	12,110,000	5.000	BE6
2027	12,715,000	5.000	BF3
2028	13,355,000	5.000	BG1
2029	14,020,000	5.000	BH9
2030	14,720,000	5.000	BJ5
2033	10,000,000	3.125	BK2
2034	7,000,000	4.000	BL0
2034	<u>46,790,000</u>	5.000	BP1

NOTICE IS HEREBY GIVEN to the owners of the above-referenced bonds (the “Refunded Bonds”) that the Bay Area Water Supply and Conservation Agency (the “Agency”) has, on _____, 2023, irrevocably set aside in an escrow fund (the “Escrow Fund”) created and held by The Bank of New York Mellon Trust Company, N.A., as escrow agent (the “Escrow Agent”) pursuant to the Escrow Agreement, dated as of October 1, 2021 (the “Escrow Agreement”), between the Agency and the Escrow Agent, and as trustee (the “Trustee”) pursuant to the Revenue Bond Indenture and the First Supplemental Revenue Bond Indenture, each dated as of January 1, 2013, between the Agency and the Trustee, [Federal Securities (as defined in the Indenture), the principal of and interest on which when due will provide moneys which, together with the other moneys deposited in the Escrow Fund,] [moneys, which] *[to be confirmed]* will be sufficient to pay on April 1, 2023 (the “Redemption Date”), the redemption price equal to 100% of the principal amount of the Refunded Bonds, and the interest due on such Refunded Bonds on the Redemption Date. The moneys so deposited in the Escrow Fund are irrevocably pledged to the payment of principal of and interest on the Refunded Bonds, and such Refunded Bonds are deemed to have been paid in accordance with Article X of the Indenture.

Dated: _____, 2023

* CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein are provided by CUSIP Global Services, managed on behalf of the American Bankers Association by S&P Global Market Intelligence. CUSIP numbers have been assigned by an independent company not affiliated with the Agency and are included solely for the convenience of the holders of the Refunded Bonds. Neither the Agency nor the Escrow Agent is responsible for the selection or use of these CUSIP numbers and no representation is made as to their correctness on the Refunded Bonds or as indicated above.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as Escrow Agent and Trustee

SCHEDULE I

Escrow Securities

*[Per Section 3, completed Schedule I to be provided at least
two business days prior to delivery of 2023 Bonds]*

SCHEDULE II

Debt Service of Refunded Bonds

<u>Date</u>	<u>Interest</u>	<u>Principal Redeemed</u>	<u>Total</u>
April 1, 2023			

OHS DRAFT 8/31/21

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2021**NEW ISSUE - BOOK-ENTRY ONLY****RATINGS:** Moody's: "____"

S&P: "____"

See "RATINGS" herein.

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Agency, based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Series 2023A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. In the further opinion of Bond Counsel, interest on the Series 2023A Bonds is not a specific preference item for purposes of the federal alternative minimum taxes. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Series 2023A Bonds. See "TAX MATTERS" herein. Delivery of the Series 2023A Bonds and delivery of Bond Counsel's opinion with respect to the Series 2023A Bonds are subject to the satisfaction of certain terms and conditions provided in the Bond Purchase Contract as described under the heading "FORWARD DELIVERY OF THE SERIES 2023A BONDS."

\$ _____ *

**Bay Area Water Supply and Conservation Agency
Refunding Revenue Bonds
(Capital Cost Recovery Prepayment Program), Series 2023A**

Dated: Date of Delivery**Due: October 1, as shown on inside cover page**

The Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the "Series 2023A Bonds"), will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository of the Series 2023A Bonds. Individual purchases of Series 2023A Bonds will be made in book-entry form only, in denominations of \$5,000 or any integral multiple thereof. Purchasers of Series 2023A Bonds will not receive certificates representing their interest in the Series 2023A Bonds purchased but will receive a credit balance in the records of DTC. Principal and interest are payable directly to DTC by The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The Series 2023A Bonds will be issued pursuant to a Revenue Bond Indenture, dated as of January 1, 2013, by and between the Bay Area Water Supply and Conservation Agency (the "Agency") and the Trustee, and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the "Second Supplement"), by and between the Agency and the Trustee (said indenture as amended and supplemented, including as supplemented by the Second Supplement collectively, the "Indenture").

Principal is payable on the dates set forth on the inside cover page. Interest on the Series 2023A Bonds is payable semiannually on each April 1 and October 1, commencing April 1, 2023. Upon receipt of payments of principal and interest, DTC is obligated in turn to remit such principal and interest to the DTC Participants (as defined herein) for subsequent disbursement to purchasers of the Series 2023A Bonds, as described herein. As used herein, the term "Bonds" means the Bay Area Water Supply and Conservation Agency Revenue Bonds authorized by, and at any time Outstanding pursuant to, the Indenture.

The Series 2023A Bonds are subject to optional redemption prior to maturity. See "THE SERIES 2023A BONDS-Redemption" herein.

The Series 2023A Bonds are being issued to (i) refund a portion of the Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013A and (ii) pay costs of issuance incurred in connection with the issuance of the Series 2023A Bonds. The Series 2023A Bonds will be secured by a pledge of and payable from surcharges imposed by the Agency and collected by the Public Utilities Commission of the City and County of San Francisco on water sold to certain retail water service providers in Alameda County, Santa Clara County and San Mateo County (the "Members") and interest and investment earnings on amounts held by the Trustee under the Indenture ("Revenues").

The Bonds are special, limited obligations of the Agency. The Bonds shall not be deemed to constitute a debt or liability of the Agency, the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory provision, or a pledge of the faith and credit of the Agency, the State of California or of any political subdivision thereof, but shall be payable, except to the extent of certain amounts held under the Indenture pledged therefor, solely from Revenues. Neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation or to make any appropriation for their payment. The Agency has no taxing power.

This cover page contains information for quick reference only. It is not a summary of this issue. Potential purchasers must read the entire Official Statement to obtain information essential to making an informed investment decision.

*The Series 2023A Bonds are offered when, as, and if delivered to and received by the Underwriters, subject to the approval of legality by Orrick, Herrington & Sutcliffe LLP, Bond Counsel. Certain legal matters will be passed upon for the Agency by Hanson Bridgett LLP and for the Underwriters by Stradling, Yocca, Carlson & Rauth, a Professional Corporation. The Series 2023A Bonds are expected to be available for delivery through the facilities of The Depository Trust Company on or about ____, 2023. See “**FORWARD DELIVERY OF THE SERIES 2023A BONDS**” for a discussion regarding the delayed delivery of the Series 2023A Bonds, certain conditions to the obligations of the Underwriters to purchase the Series 2023A Bonds and certain risks to purchasers of the Series 2023A Bonds resulting from the delayed delivery thereof.*

Goldman Sachs & Co. LLC

J.P. Morgan

Dated: ____, 2021

* Preliminary, subject to change

MATURITY SCHEDULE*

\$_____

**Bay Area Water Supply and Conservation Agency
Refunding Revenue Bonds
(Capital Cost Recovery Prepayment Program), Series 2023A**

Maturity Date (October 1)	Principal Amount	Interest Rate	Yield	CUSIP No.† (Base: 072031)
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* Preliminary, subject to change.

† Copyright 2021, American Bankers Association. CUSIP data provided herein by Standard and Poor's, CUSIP Global Services, managed for the American Bankers Association by Standard & Poor's Financial Services LLC. This data is not intended to create or maintain a database of CUSIP descriptions or numbers and is not intended to create and does not serve in any way as a substitute for the CUSIP Service. CUSIP numbers are provided only for the convenience of the reader. Neither the Water Authority nor the Underwriters take any responsibility for the accuracy of such CUSIP numbers.

SAN FRANCISCO REGIONAL WATER SYSTEM

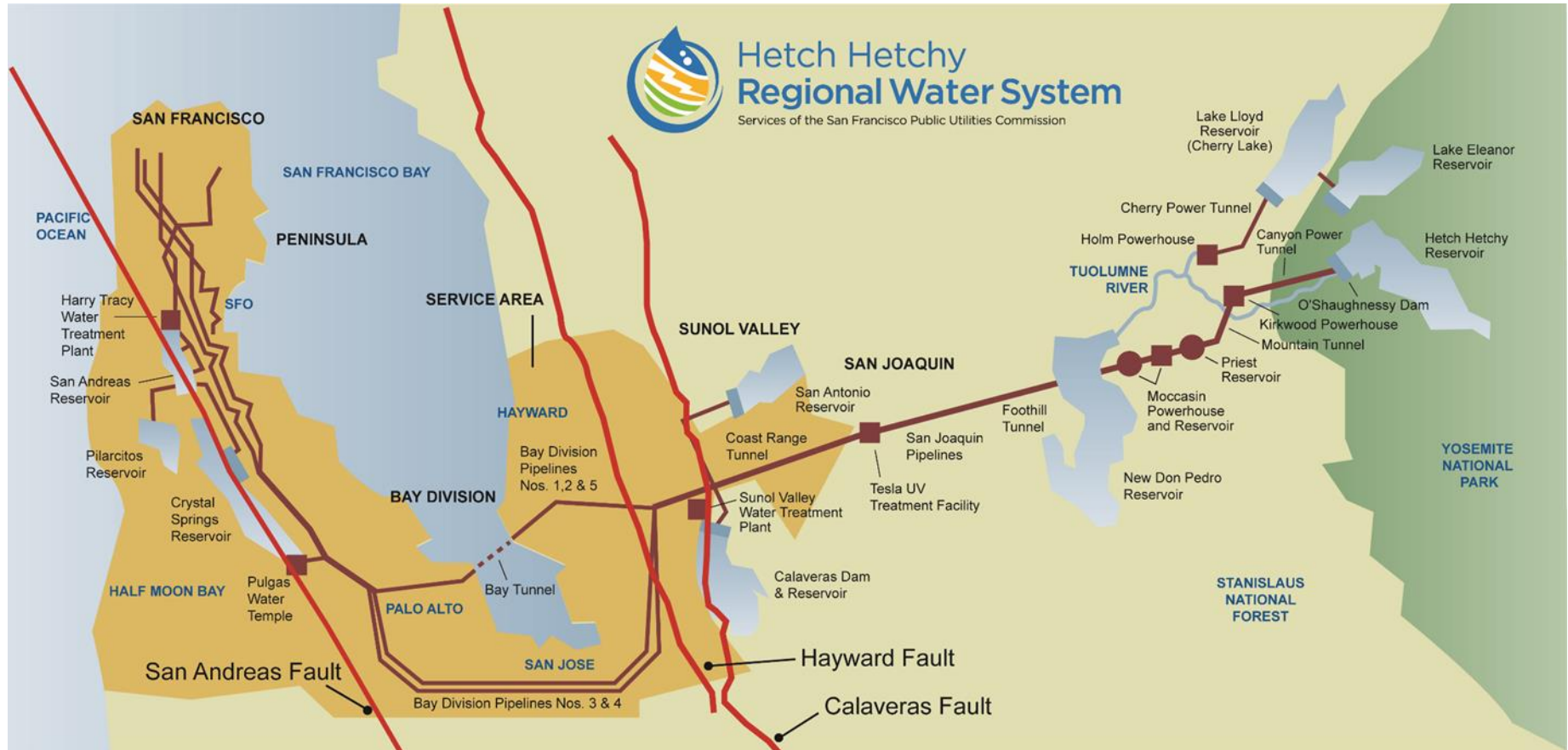


Figure 1-1 (Not to Scale) – The above map depicts the San Francisco Regional Water System.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY MEMBERS

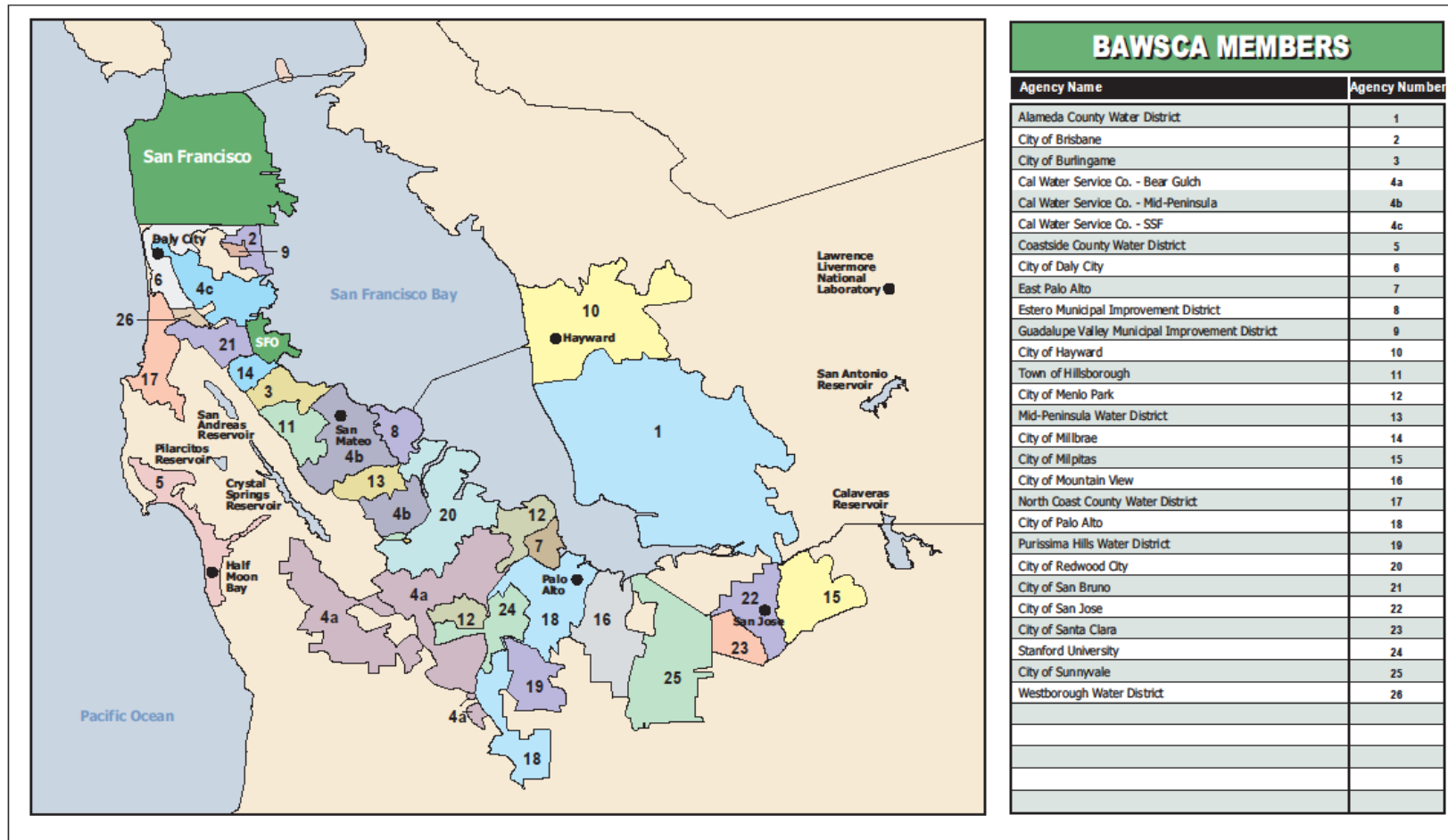


Figure 1-2 (Not to Scale) – The above map depicts the Members of the Agency.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS

Chair

GUSTAV LARSSON
City of Sunnyvale

Vice-Chair

THOMAS CHAMBERS
Westborough Water District

JOHN WEED
Alameda County Water District

SEPI WOOD
City of Brisbane

ANN O'BRIEN
City of Burlingame

GEORGE BARBER
California Water Service Company

CHRIS MICKELSEN
Coastside County Water District

JUSLYN MANALO
City of Daly City

ANTONIO LOPEZ
City of East Palo Alto

SAM HINDI
Estero Municipal Improvement District

RANDY BREAUULT
Guadalupe Valley Municipal Improvement District

AL MENDALL
City of Hayward

JESS "JAY" BENTON
Town of Hillsborough

DREW COMBS
City of Menlo Park

LOUIS VELLA
Mid-Peninsula Water District

DAN QUIGG
City of Millbrae

CARMEN MONTANO
City of Milpitas

LISA MATICHAK
City of Mountain View

TOM PICCOLOTTI
North Coast County Water District

ALISON CORMACK
City of Palo Alto

STEVE JORDAN
Purissima Hills Water District

BARBARA PIERCE
City of Redwood City

TOM HAMILTON
City of San Bruno

SAM LICCARDO
City of San Jose

KAREN HARDY
City of Santa Clara

TOM ZIGTERMAN
Stanford University

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

STAFF

Chief Executive Officer and General Manager
NICOLE M. SANDKULLA

Finance Manager
CHRISTINA TANG

Water Resources Manager
TOM FRANCIS

Senior Water Resources Specialist
DANIELLE McPHERSON

Water Resources Specialist
KYLE RAMSEY

Water Resources Engineer
NEGIN ASHOORI

SPECIAL SERVICES

Agency Counsel
HANSON BRIDGETT LLP
San Francisco, California

Municipal Advisor
KNN PUBLIC FINANCE, LLC
Berkeley, California

Bond Counsel and Disclosure Counsel
ORRICK, HERRINGTON & SUTCLIFFE LLP
San Francisco, California

Trustee and Escrow Agent
THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.
San Francisco, California

Verification Agent
[VERIFICATION AGENT]
[CITY, STATE]

No dealer, broker, salesperson or other person has been authorized by the Agency or the Underwriters to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Series 2023A Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale. This Official Statement is not to be construed as a contract with the purchasers of the Series 2023A Bonds. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of facts.

The information set forth herein has been furnished by the Agency and from other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness, and is not to be construed as a representation by the Underwriters. The information and expression of opinion herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Agency or any other parties described herein since the date hereof.

The Underwriters have provided the following sentence for inclusion in this Official Statement: the Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibility to investors under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

CERTAIN STATEMENTS CONTAINED IN THIS OFFICIAL STATEMENT REFLECT NOT HISTORICAL FACTS BUT FORECASTS AND "FORWARD-LOOKING STATEMENTS." ALL FORWARD-LOOKING STATEMENTS ARE PREDICTIONS AND ARE SUBJECT TO KNOWN AND UNKNOWN RISKS AND UNCERTAINTIES. NO ASSURANCE CAN BE GIVEN THAT THE FUTURE RESULTS DISCUSSED HEREIN WILL BE ACHIEVED, AND ACTUAL RESULTS MAY DIFFER MATERIALLY FROM THE FORECASTS DESCRIBED HEREIN. IN THIS RESPECT, THE WORDS "ESTIMATE", "PROJECT", "PARTICIPATE", "EXPECT", "INTEND", "BELIEVE" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. ALL PROJECTIONS, FORECASTS, ASSUMPTIONS, EXPRESSIONS OF OPINIONS, ESTIMATES AND OTHER FORWARD-LOOKING STATEMENTS ARE EXPRESSLY QUALIFIED IN THEIR ENTIRETY BY THE CAUTIONARY STATEMENTS SET FORTH IN THIS OFFICIAL STATEMENT. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVES KNOWN AND UNKNOWN RISKS, UNCERTAINTIES, AND OTHER FACTORS THAT MAY CAUSE THE ACTUAL RESULTS, PERFORMANCE, OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE, OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. NO UPDATES OR REVISIONS TO THESE FORWARD-LOOKING STATEMENTS ARE EXPECTED TO BE ISSUED IF OR WHEN THE EXPECTATIONS, EVENTS, CONDITIONS, OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED CHANGE. GIVEN THEIR UNCERTAINTY, INVESTORS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON SUCH STATEMENTS.

The issuance and sale of the Series 2023A Bonds have not been registered under the Securities Act of 1933 or the Securities Exchange Act of 1934, both as amended, in reliance upon exemptions provided thereunder by Sections 3(a)2 and 3(a)12, respectively, for the issuance and sale of municipal securities. This Official Statement does not constitute an offer to sell or a solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such offer or solicitation.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2023A BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITERS MAY OFFER AND SELL THE SERIES 2023A BONDS TO CERTAIN DEALERS AND DEALER BANKS AND BANKS ACTING AS AGENT AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE INSIDE COVER PAGE HEREOF AND SAID PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITERS.

The Agency maintains a website at <http://www.bawasca.org>. However, the information presented at such website is not part of this Official Statement, is not incorporated by reference herein, and should not be relied upon in making an investment decision with respect to the Series 2023A Bonds.

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OFFICIAL STATEMENT

\$ _____ *

**Bay Area Water Supply and Conservation Agency
Refunding Revenue Bonds
(Capital Cost Recovery Prepayment Program), Series 2023A**

INTRODUCTION

The purpose of this Official Statement is to provide certain information concerning the issuance, sale and delivery by the Bay Area Water Supply and Conservation Agency (the “Agency”), a public agency formed and existing under the Bay Area Water Supply and Conservation Agency Act, Division 31 (commencing with Section 81300) of the Water Code of the State of California (the “Act”), of its Bay Area Water Supply and Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2023A (the “Series 2023A Bonds”), in the aggregate principal amount of \$ _____.* Capitalized terms used, but not otherwise defined herein, shall have the meanings assigned thereto as set forth in “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Definitions.”

In accordance with the Act, twenty-four public entities in Alameda County, Santa Clara County and San Mateo County, the California Water Service Company (a private water company) and Stanford University (a private nonprofit institution), all retail water service providers, are members of the Agency (the “Members”). All of the Members have been, for many years, wholesale purchasers of water delivered by the Public Utilities Commission of the City and County of San Francisco (the “SFPUC”), a department of the City and County of San Francisco (“San Francisco” or the “City”), through the facilities of the San Francisco Regional Water System (the “Regional Water System”). The Members and San Francisco entered into a Water Supply Agreement dated July 2009 (as amended and restated by that certain Amended and Restated Water Supply Agreement, dated November 2018, the “Water Supply Agreement”), and respective individual water sales contracts replacing the existing contracts between San Francisco and the Members and providing for the sale and delivery of water by San Francisco to the Members through the Regional Water System. Pursuant to the Water Supply Agreement, the Members are required to make payments to San Francisco for water delivered.

The Water Supply Agreement also obligated the Members collectively to make annual payments to San Francisco through 2034 to provide capital cost recovery for certain assets of the Regional Water System for which San Francisco had not recovered fully its capital costs at the time of the execution and delivery of the Water Supply Agreement (the “Capital Cost Recovery Payments”). In accordance with the Water Supply Agreement, the Members, acting through the Agency, prepaid in full all remaining Capital Cost Recovery Payments on February 27, 2013 (the “Prepayment”). To finance the Prepayment, the Agency issued its Bay Area Water Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013A (the

* Preliminary, subject to change.

“Series 2013A Bonds”), in the aggregate principal amount of \$241,475,000, and its Bay Area Water Conservation Agency Revenue Bonds (Capital Cost Recovery Prepayment Program), Series 2013B (Taxable), in the aggregate principal amount of \$94,305,000 (the “Series 2013B Bonds” and, collectively with Series 2013A Bonds, the “Series 2013 Bonds”). As of October 2, 2021, the Series 2013A Bonds are outstanding in the aggregate principal amount of \$173,825,000 and the Series 2013B Bonds are outstanding in the aggregate principal amount of \$60,460,000.

The Series 2023A Bonds will be issued pursuant to a Revenue Bond Indenture, dated as of January 1, 2013, (the “Revenue Bond Indenture”), by and between the Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), and a Second Supplemental Revenue Bond Indenture, dated as of October 1, 2021 (the “Second Supplement”), by and between the Agency and the Trustee (said indenture as amended and supplemented, including as supplemented by the Second Supplement, collectively, the “Indenture”). The Series 2023A Bonds, the Series 2013 Bonds and any additional bonds issued under the Indenture (collectively the “Bonds”) are special limited obligations of the Agency payable from surcharges imposed on the Members and interest on or other income from the investment of amounts held in funds and accounts held by the Trustee under the Indenture (other than the Rebate Fund) (collectively, the “Revenues”) and other funds held by the Trustee under the Indenture (except the Rebate Fund) as described herein. See “SECURITY AND SOURCES OF PAYMENT – Pledge of Revenues.”

The Series 2023A Bonds are being issued for the purpose of (i) refunding all of the Series 2013A Bonds maturing October 1, 2023 through October 1, 2034, inclusive (the “Refunded Bonds”), and (ii) paying costs of issuance in connection with the issuance and delivery of the Series 2023A Bonds.

Pursuant to the Act, the Agency is authorized to impose rates, fees and charges in amounts necessary to pay debt service on bonds, such as the Series 2023A Bonds, issued to finance a prepayment of Capital Cost Recovery Payments and to satisfy other obligations of the Agency related thereto. To provide for payment of the Series 2023A Bonds, the Agency will impose surcharges on water sold to the Members (“Surcharges”). The Agency covenants in the Indenture to impose fixed Surcharges for each year in an amount determined by the Agency to be reasonable and prudent for the maintenance of rate stability and projected to produce Revenues which, together with certain other funds, will be sufficient to pay debt service on the Bonds, to pay Trustee fees and other expenses thereunder and to result in the amount on deposit in the Stabilization Fund at the end of such Bond Year being equal to the Stabilization Requirement. See “SECURITY AND SOURCES OF PAYMENT—Rate Covenant.” The Agency will, each year, calculate the Surcharges to be imposed on the Members in the next Fiscal Year to yield an aggregate amount projected to satisfy the requirements of the Indenture. Each Member will be charged a fixed amount based upon such Member’s share of water delivered by the SFPUC in the Fiscal Year prior to the one in which such charge is calculated. Each Member’s payment obligation is expected to be adjusted in subsequent Fiscal Years to reflect such Member’s actual share of water deliveries in the current Fiscal Year. Surcharges will be billed and collected for the Agency by the SFPUC together with amounts billed by the SFPUC for water deliveries under the Water Supply Agreement pursuant to a Prepayment and Collection Agreement (the

“Prepayment and Collection Agreement”), dated as of January 1, 2013, by and between the Agency and San Francisco. See “IMPOSITION AND COLLECTION OF SURCHARGES.”

The Members’ payment obligations with respect to the Bonds are limited to the payment of Surcharges. The Bonds do not constitute a debt obligation of any Members.

Brief descriptions of the Series 2023A Bonds, the security and sources of payment for the Bonds, the Members, the imposition and collection of surcharges, the Agency and the Regional Water System are provided herein. Such descriptions do not purport to be comprehensive or definitive. Definitions of certain capitalized terms used herein may be found in “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Definitions.” All references made to various documents herein are qualified in their entirety by reference to the forms thereof, all of which are available for inspection at the office of the Agency.

FORWARD DELIVERY OF THE SERIES 2023A BONDS

Forward Delivery

The Agency expects to deliver the Series 2023A Bonds, in book-entry form, to The Depository Trust Company, New York, New York (“DTC”), on or about January [4], 2023 (the date of delivery of the Bonds and payment therefor, the “Settlement Date” and such delivery and payment, the “Settlement”), pursuant to a forward delivery bond purchase contract (the “Bond Purchase Contract”) between the Agency and Goldman Sachs & Co. LLC (the “Representative”), acting on behalf of itself and J.P. Morgan Securities, LLC. The underwriters are referred to herein, collectively, as the “Underwriters”. The delayed delivery of the Series 2023A Bonds, which will occur not more than 90 days prior to the redemption of the Refunded Bonds, is necessary to comply with certain federal income tax requirements for the refunding of the Refunded Bonds. The Underwriters have agreed, subject to the satisfaction of certain terms and conditions of the Bond Purchase Contract, to purchase the Series 2023A Bonds for delivery by the Agency on the Settlement Date. The delivery of the Series 2023A Bonds is also subject to the satisfaction of certain conditions, as described in the following subsection.

Certain Terms Concerning Forward Delivery

Under the Bond Purchase Contract, the Underwriters have the right to terminate their obligation to purchase the Series 2023A Bonds by written notification of the Representative to the Agency if, at any time after the Closing (as defined in the Bond Purchase Contract), which is expected to occur on _____, 202_, and prior to the Settlement, any of the following occurs and, in the reasonable judgment of the Representative after consultation with the Agency, would have the effect of materially adversely affecting, directly or indirectly, the market price of the Series 2023A Bonds or the ability of the Underwriters to enforce contracts for the sale of the Series 2023A Bonds at the contemplated offering price(s):

- (1) there shall have been (i) any change in or addition to applicable federal or state law, whether statutory or as interpreted by the courts or by federal or state agencies, including any changes in or new rules, regulations or other pronouncements or interpretations by federal or state agencies; (ii) any legislation enacted by the Congress of the United States (if such enacted legislation has an effective date which is on or before

the Settlement Date), (iii) any law, rule or regulation enacted by any governmental body, department or agency (if such enacted law, rule or regulation has an effective date which is on or before the Settlement Date) or (iv) any judgment, ruling or order issued by any court or administrative body, which in any such case would, (A) as to the Underwriters, prohibit the Underwriters from completing the underwriting of the Series 2023A Bonds or selling the Series 2023A Bonds or beneficial ownership interests therein to the public, or (B) as to the Agency, make the completion of the issuance, sale or delivery of the Series 2023A Bonds illegal;

(2) as a result of any legislation, regulation, ruling, order, release, court decision or judgment or action by the U.S. Department of the Treasury, the Internal Revenue Service, or any agency of the State of California (the “State”) either enacted, issued, effective, or adopted, Bond Counsel cannot issue an opinion on the Settlement Date to the effect that (a) the interest on the Series 2023A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code (or comparable provisions of any successor federal tax laws), and (b) the interest on the Series 2023A Bonds is exempt from State personal income taxes;

(3) legislation shall be enacted, or a decision by a court of the United States shall be rendered, or any action shall be taken by, or on behalf of, the Securities Exchange Commission which has the effect of requiring the Series 2023A Bonds to be registered under the Securities Act of 1933, as amended, or requires the qualification of the Indenture under the Trust Indenture Act of 1939, as amended;

(4) the Official Statement, including any supplement prepared in accordance with the Bond Purchase Contract, as of the date of Closing contained, or the Updated Official Statement (as defined below), including any supplement prepared in accordance with the Bond Purchase Contract, as of the Settlement Date contains, an untrue statement of material fact, or the Official Statement, including any supplement prepared in accordance with the Bond Purchase Contract, as of the date of Closing omitted, or the Updated Official Statement, including any supplement prepared in accordance with the Bond Purchase Contract, as of the Settlement Date omits, to state a material fact necessary in order to make the statements and information contained therein, in the light of the circumstances under which they were made, not misleading in any material respect;

(5) a general banking moratorium shall have been declared by federal, New York or State authorities having jurisdiction and shall remain in force as of the Settlement Date, or material disruption in commercial banking or securities settlement or clearances services shall have occurred and is continuing on the Settlement Date;

(6) an event of default shall have occurred and be continuing as of the Settlement Date under the Indenture; and

(7) as of the Settlement Date, any of Moody’s Investors Service (“Moody’s”) or S&P no longer maintains a rating on the Series 2023A Bonds.

The Underwriters have advised the Agency that the Series 2023A Bonds will be initially sold by the Underwriters only to investors who execute the Delayed Delivery Contract in substantially the form of Appendix F attached hereto. The Delayed Delivery Contract restricts the ability of purchasers of the Series 2023A Bonds to transfer their interests in the Series 2023A Bonds prior to the Settlement Date and no representation is made that any such transfer will be permitted. The proposed form of Delayed Delivery Contract is attached as Appendix F at the request of and for the convenience of the Underwriters. **The Agency will not be a party to the Delayed Delivery Contracts and is in no way responsible for the performance thereof or for any representations or warranties contained therein. The rights and obligations under the Bond Purchase Contract are not conditioned or dependent upon the performance of any purchasers of its obligations under a Delayed Delivery Contract.**

Certain Considerations

Issuance and delivery of the Series 2023A Bonds will be dependent upon: (i) the receipt by the Agency on the Settlement Date of the opinion of Bond Counsel dated the Settlement Date and in the form set forth in Appendix C hereto, (ii) certain other documents required by the Bond Purchase Contract, and (iii) payment of the purchase price by the Underwriters in accordance with the Bond Purchase Contract.

Bond Counsel could be prevented from rendering its opinion on the Settlement Date with respect to the Series 2023A Bonds as a result of (i) changes or proposed changes, prior to the Settlement Date, in federal or State laws, court decisions, regulations or proposed regulations, or rulings of administrative agencies or (ii) the failure of the Agency to provide closing documents, satisfactory to Bond Counsel, of the type customarily required in connection with the issuance of tax exempt Series 2023A Bonds, such as certificates to the effect that the proceedings of the Agency with respect to the issuance of the Series 2023A Bonds have not been amended or repealed, in a manner detrimental to holders of the Series 2023A Bonds.

During the period of time between the Closing and the Settlement (the “Delayed Delivery Period”), certain information contained in this Official Statement together with any supplement hereto delivered prior to the Closing, may change in a material respect. The Agency has agreed with the Underwriters to prepare one update to this Official Statement (the “Updated Official Statement”) by a date not more than 14 days nor less than 5 days prior to the Settlement Date, dated the date of its electronic distribution to the Underwriters. Prior to such distribution of the Updated Official Statement to the Underwriters, the Agency and the Underwriters have not agreed to, are not obligated to, and do not intend to, update the information contained in this Official Statement during the Delayed Delivery Period.

Rating Risk. No assurance can be given that, at the Settlement Date of the Series 2023A Bonds, the ratings described under “RATINGS” below will continue to be in effect or will be unchanged. The Underwriters may not terminate their obligation to purchase the Series 2023A Bonds due to a change in ratings during the Delayed Delivery Period unless as of the Settlement Date any of Moody’s or S&P no longer maintains a rating on the Series 2023A Bonds. No assurances can be given that the ratings assigned to the Series 2023A Bonds at Closing will be in effect or the same on the Settlement Date. See “RATINGS” herein.

Secondary Market Risk. The Underwriters are not obligated to make a secondary market in the Series 2023A Bonds and no assurance can be given that a secondary market will exist for the Series 2023A Bonds, including during the Delayed Delivery Period. Prospective purchasers of the Series 2023A Bonds should assume that there will be no secondary market during the Delayed Delivery Period.

Market Value Risk. The market value of the Series 2023A Bonds may materially change during the Delayed Delivery Period as a result of various possible factors including, without limitation, general market conditions, the ratings on the Series 2023A Bonds, the financial condition and business operations of the State, and federal and state income tax and other laws. Thus, the market value of the Series 2023A Bonds on the Settlement Date could be greater or less, and materially so, than the offering prices of the Series 2023A Bonds set forth in this Official Statement.

Federal Tax Proposals. A condition to the issuance of the Series 2023A Bonds on the Settlement Date is the delivery of an opinion of Bond Counsel substantially in the form set forth in Appendix C hereto. It is possible that legislation could be introduced (or that legislation previously introduced could be amended) that, if adopted, would reform the system of federal taxation. Such legislation could (a) eliminate the federal tax exemption granted to interest payable on “state or local Series 2023A Bonds,” such as the Series 2023A Bonds (See “—Forward Delivery” above), or (b) diminish, but not eliminate, the value of the federal tax exemption granted interest on such Series 2023A Bonds under the current system of federal income taxation. Notwithstanding that the enactment of legislation which could diminish, but not eliminate, the value of the federal tax exemption for interest payable on “state or local Series 2023A Bonds,” the State might be able to satisfy the requirements for the delivery of the Series 2023A Bonds. In such event, the purchasers would be required to accept delivery of the Series 2023A Bonds. Prospective purchasers are encouraged to consult their tax advisors regarding the likelihood that such bills would be introduced or amended or enacted and the consequences of such enactment to the purchasers.

Continuation of Obligation to Purchase. Pursuant to the Delayed Delivery Contract, the initial purchasers acknowledge and agree that they will remain obligated to purchase the Series 2023A Bonds, even if they decide to sell the Series 2023A Bonds following the Closing, unless such initial purchaser sells the Series 2023A Bonds to another institution with the prior written consent of Goldman Sachs & Co. LLC and such institution provides a written acknowledgement of confirmation of the purchase order and executes a delayed delivery contract in the same respective form as that executed by the initial purchaser.

PLAN OF REFUNDING

Pursuant to an escrow agreement between The Bank of New York Mellon Trust Company, N.A., as Trustee and as escrow agent (the “Escrow Agent”), and the Agency, dated as of October 1, 2021 (the “Escrow Agreement”), a portion of the proceeds of the 2023A Bonds, when issued, together with the amounts transferred from the Stabilization Fund and other available monies, will be deposited into an escrow fund (the “Escrow Fund”) and will be held as cash or will be invested in non-callable direct obligations of the United States of America. The amounts deposited into the Escrow Fund will be sufficient to provide for the redemption on April

1, 2023 (the “Redemption Date”) (at a redemption price equal to 100% of the principal amount thereof) of the 2013A Bonds with maturity dates and in the amounts set forth below (the “Refunded Bonds”), and to pay interest on the Refunded Bonds to such Redemption Date. See “VERIFICATION OF MATHEMATICAL ACCURACY.” Upon such deposit, the Refunded Bonds will no longer be outstanding under the Indenture.

REFUNDED BONDS

Maturity (October 1)	Principal Amount Being Refunded*	Interest Rate	CUSIP (Base: 072031) [†]
2023	\$10,510,000	5.00%	BB2
2024	2,550,000	3.00	BC0
2024	8,485,000	5.00	BM8
2025	11,535,000	5.00	BD8
2026	12,110,000	5.00	BE6
2027	12,715,000	5.00	BF3
2028	13,355,000	5.00	BG1
2029	14,020,000	5.00	BH9
2030	14,720,000	5.00	BJ5
2033	10,000,000	3.125	BK2
2034	7,000,000	4.00	BL0
2034	<u>46,790,000</u>	5.00	BP1
	\$163,790,000		

* Preliminary, subject to change.

† Copyright 2021, American Bankers Association. CUSIP® is a registered trademark of the American Bankers Association. CUSIP data in this Official Statement is provided by CUSIP Global Services (CGS), operated on behalf of the American Bankers Association by S&P Global Market Intelligence. This information is not intended to create a database and does not serve in any way as a substitute for the CGS database.

THE SERIES 2023A BONDS

General Provisions

The Series 2023A Bonds will be dated as of their date of delivery, will bear interest from such date at the rates per annum set forth on the inside cover page hereof, payable semiannually on each April 1 and October 1, commencing April 1, 2023, and will mature on October 1, in each of the designated years in the principal amounts set forth on the inside cover page hereof. Interest on the Series 2023A Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of and premium, if any, on the Series 2023A Bonds are payable when due upon presentation thereof at the Corporate Trust Office of the Trustee, in lawful money of the United States of America.

Book-Entry System

The Series 2023A Bonds, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York

(“DTC,” together with any successor securities depository, the “Securities Depository”). DTC will act as Securities Depository for the Series 2023A Bonds so purchased. Individual purchases will be made in book-entry-only form. Purchasers will not receive a certificate representing their beneficial ownership interest in Series 2023A Bonds. So long as the Series 2023A Bonds are maintained in book-entry form, payments of principal, premium, if any, and interest shall be made by the Trustee to Cede & Co., as nominee for DTC. DTC is obligated, in turn, to remit such amounts to the DTC Participants for subsequent disbursement to the Beneficial Owners. See “APPENDIX E – SECURITIES DEPOSITORY AND THE BOOK-ENTRY SYSTEM.” So long as Cede & Co. is the registered owner of the Series 2023A Bonds, as nominee of DTC, references herein to the Bondholders, holders or registered owners shall mean Cede & Co. as aforesaid, and shall not mean the “Beneficial Owners” of the Series 2023A Bonds. In this Official Statement, the term “Beneficial Owner” shall mean the person for whom a Participant (as defined herein) acquires an interest in the Series 2023A Bonds. See “APPENDIX E – SECURITIES DEPOSITORY AND THE BOOK-ENTRY SYSTEM.”

Redemption

Optional Redemption of Series 2023A Bonds. The Series 2023A Bonds maturing on or after October 1, ____ are subject to redemption prior to the stated maturity thereof at the option of the Agency at any time and from time to time on or after _____ 1, ____, in whole or in part (if in part, the maturities or portions thereof to be redeemed to be selected by the Agency in its sole discretion), in each case at a redemption price equal to the principal amount of such Series 2023A Bonds or portions thereof to be redeemed plus accrued interest to the date of redemption. Upon the optional redemption of the Series 2023A Bonds in part, the Agency shall specify the maturities of the Series 2023A Bonds to be redeemed.

Selection of Series 2023A Bonds for Redemption. Whenever provision is made for the redemption of less than all of the Series 2023A Bonds of any maturity (and interest rate), the Trustee shall select the Series 2023A Bonds to be redeemed, from all Series 2023A Bonds of the respective maturity (and interest rate) not previously called for redemption, in authorized denominations, by lot in any manner which the Trustee in its sole discretion shall deem appropriate. The Trustee shall promptly notify the Agency in writing of the Series 2023A Bonds so selected for redemption.

Notice of Redemption of Series 2023A Bonds. So long as DTC is acting as securities depository for the Series 2023A Bonds, notice of redemption, containing the information required by the Indenture, will be mailed by first class mail, postage prepaid, by the Trustee to DTC (not to the Beneficial Owners of any Series 2023A Bonds designated for redemption) not less than thirty (30) nor more than sixty (60) days prior to the redemption date. With respect to any notice of optional redemption of Bonds, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of and premium, if any, and interest on such Bonds and that if such moneys shall not have been so received said notice shall be of no force and effect and the Trustee shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Neither the failure to receive any notice nor any defect therein shall affect the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Agency, for and on behalf of the Agency.

Partial Redemption of Series 2023A Bonds. Upon surrender of any Series 2023A Bond redeemed in part only, the Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Agency, a new Series 2023A Bond of authorized denominations, and of the same Series, maturity and interest rate, equal in aggregate principal amount to the unredeemed portion of the Series 2023A Bond surrendered.

Effect of Redemption of Series 2023A Bonds. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the redemption date on, the Series 2023A Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Series 2023A Bonds (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice, together with interest accrued thereon to the date fixed for redemption, interest on the Series 2023A Bonds so called for redemption shall cease to accrue, said Series 2023A Bonds (or portions thereof) shall cease to be entitled to any benefit or security under the Indenture, and the Owners of said Series 2023A Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest.

Defeasance

The obligations of the Agency and the pledge, lien, covenants and agreements of the Agency made or provided for in the Indenture will be fully discharged and satisfied as to any Series 2023A Bonds and such Bond shall no longer be deemed to be outstanding thereunder if certain conditions set forth in the Indenture are satisfied. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Defeasance.”

DEBT SERVICE SCHEDULE

The following table sets forth the debt service requirements for the Bonds:

Year Ending October 1	Series 2013B Bonds	Series 2023A Bonds		Total
		Principal	Interest	
2023	\$6,283,552			
2024	6,283,067			
2025	6,282,643			
2026	6,282,023			
2027	6,286,826			
2028	6,283,046			
2029	6,284,498			
2030	6,284,391			
2031	6,286,496			
2032	6,285,413			
2033	6,285,942			
2034	8,922,685			
Total*	\$78,050,582	\$	\$	\$

* Totals may not add due to rounding.

ESTIMATED SOURCES AND USES OF PROCEEDS

	Series 2023A Bonds
<hr/>	
SOURCES	
Par Amount of Series 2023A Bonds	\$
Original Issue Premium	
Transfer from Stabilization Fund	
Agency Deposit	
Total Sources	<hr/> \$
USES	
Deposit to Redemption Fund	\$
Costs of Issuance ⁽¹⁾	
Total Uses	<hr/> \$

⁽¹⁾ Includes legal and financing costs, underwriters' discount, fees of rating agencies, verification agent fees, and initial fees of the Trustee.

SECURITY AND SOURCES OF PAYMENT

Pledge of Revenues

Under the Indenture, all Revenues are pledged to secure the payment of the principal of and redemption premium, if any, and interest on the Bonds in accordance with their terms, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein. Under the Indenture, there are also pledged to secure the payment of the principal of and redemption premium, if any, and interest on the Bonds in accordance with their terms all amounts (including proceeds of the Bonds) held by the Trustee hereunder (except for amounts held in the Rebate Fund), subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein. Said pledge shall also secure all other payment obligations of the Agency arising under this Indenture. Said pledge shall constitute a first lien on the Revenues and amounts in such funds and shall be valid and binding from and after delivery by the Trustee of the Bonds, without any physical delivery thereof or further act.

"Revenues", as defined in the Indenture, generally means all Surcharges collected by (or by the SFPUC on behalf of) the Agency and all interest or other income from the investment of amounts held in any funds or account held by the Trustee under the Indenture (other than the Rebate Fund).

Special Limited Obligation

The Bonds are special, limited obligations of the Agency. The Bonds shall not be deemed to constitute a debt or liability of the Agency, the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory provision, or a pledge of the faith and credit of the Agency, the State of California or of any political subdivision thereof, but shall be payable, except to the extent of certain amounts held under the Indenture and pledged therefor, solely from Revenues. Neither the faith and credit nor the taxing power of

the State of California or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation or to make any appropriation for their payment. The Agency has no taxing power.

Notwithstanding anything in the Indenture or the Bonds, the Agency is not required to advance any moneys derived from any source other than the Revenues and other assets pledged under the Indenture for the payment of the principal or Redemption Price of or interest on the Bonds or for any other purpose of the Indenture. The Members' payment obligations with respect to the Bonds are limited to the payment of Surcharges. The Bonds do not constitute a debt obligation of any Members.

Allocation of Revenues

The Agency shall deposit (or shall cause SFPUC to deposit) with the Trustee for deposit in the Revenue Fund, on or before the fifteenth day of the month following the month in which such Surcharges are received, all Surcharges received by or on behalf of the Agency. On or before the twentieth day of each month, the Trustee shall withdraw from the Revenue Fund for deposit in the following funds and accounts in the following order of priority the following amounts, the requirements with respect to each such fund or account to be satisfied prior to the making of a deposit to any subsequent fund or account:

(1) Interest Fund. The Trustee shall first set aside in the Interest Fund the amount necessary to increase the amount on deposit in the Interest Fund to an amount equal to the full amount of interest to be paid on the Bonds in such Bond Year (less amounts, if any, previously paid).

(2) Principal Fund; Sinking Accounts. The Trustee shall second set aside in the Principal Fund the amount necessary to increase the amount on deposit in the Principal Fund to an amount equal to (a) the principal becoming due and payable on the Outstanding Serial Bonds in such Bond Year (less amounts, if any, previously paid) plus (b) the mandatory sinking fund payments to be paid into the respective Sinking Accounts for the Term Bonds in such Bond Year (less amounts, if any, previously paid). All of the aforesaid mandatory sinking fund payments shall be made without priority of any payment into any one such Sinking Account over any other such payment.

(3) Trustee Fees and Expenses. The Trustee shall third pay fees and expenses of the Trustee then due and payable.

(4) Stabilization Fund. The Trustee shall fourth set aside in the Stabilization Fund any amount necessary to increase the amount on deposit in the Stabilization Fund to the Stabilization Requirement.

If, on any date, the full amount required to be deposited in the Interest Fund and the Principal Fund for the then-current Bond Year have been made, all Trustee expenses for the then-current Bond Year have been paid or provided for and the amount on deposit in the Stabilization Fund is equal to the Stabilization Requirement, the Trustee shall, upon receipt of a

Request of the Agency, transfer any amount remaining on deposit in the Revenue Fund on such date specified in such Request of the Agency as directed by the Agency free and clear of the lien of the Indenture.

Stabilization Fund

The Stabilization Fund is established under the Indenture and, upon issuance of the Series 2023A Bonds, an amount equal to the Stabilization Requirement will be a deposit in the Stabilization Fund.

Amounts in the Stabilization Fund shall be used and withdrawn by the Trustee solely for the purpose of making up any deficiency in the Interest Fund or the Principal Fund (together with any other funds available) for the payment or redemption of all Outstanding Bonds. The Trustee shall calculate the Stabilization Requirement as of April 1 and October 1 of each year and as of any other date requested by the Agency. Upon request of the Agency, the Trustee shall transfer amounts on deposit in the Stabilization Fund in excess of the Stabilization Requirement to the Revenue Fund.

“Stabilization Requirement”, as defined in the Indenture, means an amount equal to 50% of the Maximum Annual Debt Service.

“Maximum Annual Debt Service”, as defined in the Indenture, means, as of the date of any calculation, the maximum aggregate amount of the principal of interest with respect to the Bonds coming due and payable for the current or any future Bond Year during the term of this Indenture.

Rate Covenant

The Agency covenants in the Indenture that it shall impose fixed Surcharges for each Bond Year in an amount determined by the Agency to be reasonable and prudent for the maintenance of rate stability and projected to produce Revenues which, together with amounts on deposit in the Revenue Fund at the start of such Bond Year, will be sufficient to pay the Debt Service coming due and payable during such Bond Year, trustee fees and other expenses under the Indenture and to result in the amount on deposit in the Stabilization Fund at the end of such Bond Year being equal to the Stabilization Requirement.

Investment of Funds

All moneys in any of the funds and accounts held by the Trustee and established pursuant to this Indenture shall be invested, as directed by the Agency, solely in Permitted Investments. All Permitted Investments shall, as directed by the Agency in writing, be acquired subject to the limitations as to maturities hereinafter in this Section set forth and such additional limitations or requirements consistent with the foregoing as may be established by Request of the Agency. The Trustee may conclusively rely upon any investment direction from the Agency as a certification to the Trustee that such investment constitutes a Permitted Investment. If and to the extent the Trustee does not receive investment instructions from the Agency with respect to the moneys in the funds and accounts held by the Trustee pursuant to this Indenture, such moneys shall be invested in Permitted Investments of the type described in paragraph (d) of the definition thereof.

See “APPENDIX B—SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Definitions.”

Refunding Bonds

The Agency may, by Supplemental Indenture, establish one or more Series of Bonds payable from Revenues and secured by the pledge made under the Indenture equally and ratably with Bonds previously issued for the purpose of refunding all or a portion of any Outstanding Bonds, but only, with respect to each such Series of Bonds, provided:

- (a) no Event of Default shall have occurred and then be continuing, unless all Outstanding Bonds shall be paid or defeased pursuant to the terms of the Indenture upon issuance of such Series of Bonds;
- (b) the aggregate principal amount of Bonds issued under the Indenture shall not exceed any limitation imposed by law or otherwise;
- (c) upon the issuance of such Bonds, the amount on deposit in the Stabilization Fund will be equal to the Stabilization Requirement;
- (d) Principal on such Bonds shall be paid on October 1; and
- (e) Interest on such Bonds shall be paid on April 1 and October 1.

The Indenture does not limit the Agency’s ability to issue bonds or incur other obligations payable from charges or revenues that do not constitute Surcharges or Revenues.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

Organization, Purposes and Powers

The Agency is an independent special district established by the separate, but parallel, actions of 26 local government agencies in the San Francisco Bay Area, as authorized by AB 2058, enacted by the State Legislature in 2002. The Agency was created in accordance with the Act on May 27, 2003 to represent the interests of its Members, which, following the acquisition by the California Water Service Company (a private water company) of the water system and assets of Los Trancos County Water District in 2005 and of the Skyline County Water District in 2009, comprise 16 cities, 8 water districts, Stanford University (a private nonprofit institution) and the California Water Service Company, all located in Alameda, Santa Clara and San Mateo counties. See “—Members.” Members purchase water on a wholesale basis from the Regional Water System. The Agency has the authority to coordinate water conservation, supply and recycling activities for its Members, acquire water and make it available to other local public agencies on a wholesale basis, finance projects, including the financing and refinancing of improvements to the Regional Water System, and build facilities jointly with other local public agencies or on its own to carry out the Agency’s purposes.

Members

Collectively, the Members provide retail water service to approximately 1.8 million people in their respective service areas. As of June 30, 2020, 18 of the 26 Members rely on the SFPUC for over 90% of their water supply.

The following is a list of the Members:

Municipalities	Water Purveying Districts	Private Entities
City of Brisbane	Alameda County Water District	California Water Service Company
City of Burlingame	Coastside County Water District	Stanford University
City of Daly City	Estero Municipal Improvement District	
City of East Palo Alto	Guadalupe Valley Municipal Improvement District	
City of Hayward	Mid-Peninsula Water District	
City of Menlo Park	North Coast County Water District	
City of Millbrae	Purissima Hills Water District	
City of Milpitas	Westborough Water District	
City of Mountain View		
City of Palo Alto		
City of Redwood City		
City of San Bruno		
City of San Jose		
City of Santa Clara		
City of Sunnyvale		
Town of Hillsborough		

Board of Directors

The Agency is governed by a 26-member Board of Directors (the “Board”) that includes an appointee from each Member. Generally, each director has one vote and the affirmative vote of a majority of all directors present and voting is necessary and sufficient to carry any motion, resolution or ordinance. Prior to the close of voting, however, any director can call for a weighted vote. When weighted voting is in effect, carrying a motion, resolution or ordinance requires the affirmative vote of directors representing both (1) a majority of the members of the board present and voting, and (2) a majority of the number of votes, with each vote weighted based upon water deliveries in the 2000-01 Fiscal Year.

The Board also has one standing committee, the Board Policy Committee, which was formed to advise the Board and the Chief Executive Officer and General Manager of the Agency on matters of policy.

Members of the Agency each appoint a director to serve on the Board, which director may be, but is not required to be, a member of the governing body of such Member. The Act directs the Board of Supervisors of San Mateo County to appoint an officer or employee of California Water Service Company to serve as a member of the Board and further directs the Board of Supervisors of Santa Clara County to appoint an officer or employee of Stanford University to serve as a member of the Board. Directors serve four year terms and may be reappointed an unlimited number of times. The Board elects a Chair of the Board and a Vice-Chair of the Board at its first meeting in each January. Gustav Larsson of the City of Sunnyvale

was elected Chair of the Board and Thomas Chambers of the Westborough Water District was elected Vice-Chair of the Board at a meeting of the Board held on January 21, 2021.

Management

Management of the Agency is led by the Chief Executive Officer and General Manager. The Chief Executive Officer and General Manager serves at the pleasure of the Board of Directors. Brief biographies of the Chief Executive Officer and General Manager and principal members of the senior management of the Agency are set forth below.

Nicole M. Sandkulla has been the Chief Executive Officer and General Manager of the Agency since 2013. From 2010 to 2012, Ms. Sandkulla was Water Resources Planning Manager of the Agency, and from 1999 to 2010, Ms. Sandkulla was Senior Water Resources Engineer for the Agency and, prior to the establishment of the Agency, the Bay Area Water Users Association (“BAWUA”). Before joining BAWUA, Ms. Sandkulla was employed by the East Bay Municipal Utility District for over nine years as a Water Resources Engineer. She received a Bachelor of Science degree in Civil Engineering from Cal Poly, San Luis Obispo and is a registered Civil Engineer in the State of California.

Christina Tang has been the Finance Manager of the Agency since 2017. Ms. Tang joined the Agency in April 2012 as the Senior Administrative Analyst of the Agency. She has seventeen years of experience in financial operations with City and County governments and special district governmental entities, including four years as a Senior Budget Analyst with the San Mateo County Transit District. Ms. Tang received her Master of Science degree in Finance from University of Houston, her Master of Public Administration from University of Illinois at Springfield, and her Bachelor of Science in Finance from Nanjing University. She is a Certified Public Finance Officer with the Government Financial Officers Association (GFOA).

Thomas (Tom) Francis has been the Water Resources Manager of the Agency since 2016. Prior to working for BAWSCA, he worked as a Senior Engineer for East Bay Municipal Utility District from 2003 to 2016. Earlier in his career, Mr. Francis worked for Ducks Unlimited, Inc. as their lead regional engineer on wetland enhancement and waterfowl habitat creation projects. He also worked as a consultant for Golder Associates, Inc., tasked primarily with the development of dam and spillway designs. Mr. Francis has a Bachelor of Science in Civil Engineering from South Dakota State University, a Master of Science in Civil Engineering from Purdue University, and a Master of Business Administration from Emory University and is a registered Civil Engineer in the State of California.

Danielle McPherson has been the Senior Water Resources Specialist for the Agency since 2020. Previously, she was the Water Resources Specialist at WaterNow Alliance, a California based nonprofit, where she worked directly with public utilities throughout the United States to develop sustainable water management programs. Ms. McPherson has a Bachelor of Arts in English Literature from Denison University and a Master of Science in Environmental Management with a focus in Water Resource Management from University of San Francisco.

Negin Ashoori has been the Water Resources Engineer for the Agency since 2019. Previously, she served as a Fulbright Scholar in Lille, France working on smart city systems and

was a postdoctoral researcher at Stanford University where she worked on various water management projects. Ms. Ashoori has a Doctor of Philosophy in Civil & Environmental Engineering from Carnegie Mellon University, a Master of Science in Civil & Environmental Engineering from Tufts University, and a Bachelor of Science in Biological Sciences and Bachelor of Arts in Environmental Studies from the University of California, Santa Barbara.

Kyle Ramey has been the Water Resources Specialist for the Agency since 2020. Prior to joining the Agency, he worked at California Water Service as a Conservation Coordinator for the northern districts in California. In 2015, Mr. Ramey also served in the AmeriCorps program, Civic Spark, a one-year commitment to the governor's environmental initiative to build capacity of local governments in order to address climate change in California. Mr. Ramey graduated with a Bachelor of Arts in Environmental Studies from San Francisco State University.

Budget

The operating budget of the Agency is primarily funded through assessments imposed on each of its Members based on a formula specified in the Act. Assessment rates are reviewed and established annually during preparation of the coming year's operating budget. Preparation of the annual operating budget starts by establishing a work plan that specifies results to be achieved during the next fiscal year, the estimated workload and associated costs. Following its adoption by the Board, which has historically occurred in May, the Agency's operating budget takes effect on July 1 of each year. Budgeted expenditures in the Agency's operating budget for Fiscal Year 2021-22 are approximately \$4.8 million.

Agency revenues generally exceed expenditures in any given year. Based on the Agency's General Reserve Policy, revenues received by the Agency during a fiscal year that are not expended or obligated by June 30 of such year are transferred to the Agency's General Reserve. The General Reserve Policy establishes guidelines for the maximum reserve balance, which is thirty five percent (35%) of the current budget year's operating budget. The purpose of the General Reserve is to enable the Agency to apply resources to unforeseen needs without imposing special assessments on Members in the middle of the Fiscal Year.

The Series 2023A Bonds are not payable from or secured by the assessments imposed on members for purposes of its operating budget or the Agency's General Reserve. The Series 2023A Bonds are payable from and secured by Surcharges and certain other moneys held under the Indenture and pledged therefor, as described herein. See "SECURITY AND SOURCES OF PAYMENT."

Employee Relations; Pension Benefits

As of June 30, 2021, the Agency has nine full time equivalent employees.

CalPERS Defined Benefit Pension Plan. The Agency contributes to the California Public Employees Retirement System ("CalPERS"), an agent multiple-employer public employee defined benefit pension plan. CalPERS provides retirement, disability benefits, and death benefits to plan members and beneficiaries. The Agency's contributions to CalPERS for fiscal years ended June 30, 2020 and June 30, 2021 were \$124,599 and \$147,199, respectively. For the fiscal year ended June 30, 2020, the Agency's annual contribution rates were 11.767

percent under Tier 1 and 7.528 percent under the California Public Employee's Pension Reform Act of 2013 ("PEPRA") of salaries and wages. For the fiscal year ended June 30, 2021, the Agency's annual contribution rates were 12.531 percent under Tier 1 and 8.239 percent under PEPRA of salaries and wages. For the fiscal year ending June 30, 2022, the contribution rates are 12.380 percent under Tier 1 and 8.090 percent under PEPRA of salaries and wages. Agency employees pay the entire seven percent of the employee required contribution.

Other Post-Employment Benefits. The Agency provides health benefits to employees who retire directly from the Agency at age 55 with five years of service. The Agency pays CalPERS health coverage premiums of eligible retirees, up to the Agency's monthly contribution cap. The Agency's contribution for retirees shall be increased annually by 10 percent of the monthly contribution for employees, until such as the contributions are equal. CalPERS health is the only health benefit provided by the Agency to retirees. Retirees are not eligible for dental or vision plan, nor are they eligible for the employee assistance program.

For the fiscal years ended June 30, 2020 and June 30, 2021, the Agency contributed \$109,679 and \$107,384 in a combination of current premiums and deposits in the CalPERS' California Employers' Retiree Benefit Trust program, respectively.

IMPOSITION AND COLLECTION OF SURCHARGES

Imposition of Surcharges by the Agency

Pursuant to the Act, the Agency is authorized to impose on its Members (and, as applicable, any entity subsequently serving a Member's service area) rates, fees and charges in amounts necessary to pay debt service on bonds, such as the Series 2023A Bonds, issued to finance or refinance a prepayment of Capital Cost Recovery Payments and to satisfy other obligations of the Agency related thereto. To provide for payment of the Bonds, including the Series 2023A Bonds, the Agency will impose surcharges based on the amount of water sold by the SFPUC to Members ("Surcharges"). The Agency covenants in the Indenture to impose fixed Surcharges for each Fiscal Year in an amount determined by the Agency to be reasonable and prudent for the maintenance of rate stability and projected to produce Revenues which, together with certain other funds, will be sufficient to pay debt service on the Bonds during such Fiscal Year and certain other amounts. See "SECURITY AND SOURCES OF PAYMENT—Rate Covenant." Pursuant to the Prepayment and Collection Agreement, Surcharges will be billed and collected for the Agency by the SFPUC together with amounts billed by the SFPUC for water deliveries under the Water Supply Agreement. See "—Collection of Surcharges." Each governmental agency Member has represented to the Agency that such Surcharges will constitute an operation and maintenance expense of the Member, payable from the revenues of the Member's water enterprise prior to the payment of obligations payable from the net revenues of the Member's water enterprise, as applicable.

The Agency in each Fiscal Year imposes fixed Surcharges on Members in an aggregate amount projected to satisfy the requirements of the Indenture, including any payments of principal of, premium if any, and interest on the Bonds and to deposit funds, as necessary, in the Stabilization Fund in order to satisfy the Agency's obligation to meet the Stabilization

Requirement. See “SECURITY AND SOURCES OF PAYMENT—Rate Covenant,” “—Stabilization Fund.” The Agency calculates such Surcharges and notifies the SFPUC of the amount of such Surcharges 45 days prior to the beginning of the Fiscal Year for which such Surcharges are to be effective. The fixed Surcharge imposed by the Agency on each individual Member will be based on such Member’s share of the aggregate amount of water delivered to Members during the Fiscal Year prior to the one in which the Agency performs such calculations. In order to determine the amount of the Surcharge to impose on each Member, the Agency multiplies (x) a Member’s share of the aggregate water deliveries to Members in such prior Fiscal Year, expressed as a percentage, by (y) the aggregate Surcharge to be imposed on all Members in the next Fiscal Year pursuant to the requirements of the Indenture and the Rate Covenant. The Agency makes, in subsequent Fiscal Years, adjustments to each Member’s Surcharge payment obligations to reflect the difference between (p) the water delivery share percentage used to calculate the Surcharge imposed on such Member in a given Fiscal Year, and (q) the Member’s actual share water deliveries in such Fiscal Year. The amount of Surcharge payable by a particular Member and by all Members collectively in a particular Fiscal Year is independent of the amount of water deliveries to such Member or to all Members in such Fiscal Year.

The Agency may also adjust Surcharges imposed on Members at any time by notifying the SFPUC no less than 45 days in advance, including in the event of a payment default or delay by one or more Members. Should a payment default or delay occur or be anticipated to occur with respect to one or more Members, the Agency has the authority to increase Surcharges on the remaining Members to generate Revenues sufficient to comply with the Agency’s obligations under the Indenture, including the Rate Covenant, until such time as the payment default or delay is resolved.

Collection of Surcharges

Pursuant to the Act and the Prepayment and Collection Agreement, the SFPUC will collect Surcharges imposed on Members by the Agency. The Prepayment and Collection Agreement requires the SFPUC to include Surcharges on the first wholesale water bill delivered each month to Members pursuant to the Water Supply Agreement and to collect such Surcharges in the same manner as the SFPUC collects charges for water under the Water Supply Agreement and the Member’s individual water sales contracts. The Prepayment and Collection Agreement obligates the SFPUC to remit proceeds of all Surcharge payments it has collected in each calendar month, including any investment earnings thereon, to the Trustee by no later than the fifteenth day of the following calendar month for deposit in the Revenue Fund.

In the event a Member makes a partial payment of an amount billed by the SFPUC on any single bill for delivery of water that includes a Surcharge, the Prepayment and Collection Agreement permits the SFPUC to apply the proceeds of such partial payment first to amounts due to the SFPUC pursuant to the Water Supply Agreement and second to pay the applicable Surcharge; *provided that*, if a Member makes a partial payment of amounts due with respect to a bill that includes a Surcharge and specifies that such payment is being reduced because the Member contests the validity, accuracy or any other aspect of a charge billed by San Francisco excepting the Surcharge (including, but not limited to, charges relating to interim supply limitations, environmental enhancement or drought, in lieu water charges and meter reading

disputes), the proceeds of the Member's partial payment will be applied toward the remainder of the amounts billed, including the Surcharge, as if such contested amounts had not been billed and none of the proceeds of the partial payment will be applied to, or reserved to pay, such contested amounts.

The SFPUC is required to promptly notify the Agency of any delinquencies in the payment of Surcharge amounts owed by Participating Members. The Agency has primary responsibility under the Prepayment and Collection Agreement to enforce payment of Surcharges billed to Participating Members by the SFPUC; however, if requested by the Agency, the SFPUC will pursue available remedies for any non-payment or partial payment of such amounts, in the same manner that the SFPUC enforces payment of other charges for water sales and pursues remedies for non-payment or partial payment thereof. No provision of the Prepayment and Collection Agreement will require the SFPUC to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties in the Prepayment and Collection Agreement or to incur legal or other collection costs without reasonable assurance that the Agency will reimburse it. The Agency has covenanted in the Indenture to enforce the terms of the Prepayment and Collection Agreement, including the SFPUC's obligations to bill, collect and remit proceeds of the Surcharges as described in the Prepayment and Collection Agreement. See "APPENDIX B—SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Covenants—San Francisco Agreement." In the event, however, that any Member fails to pay, or makes only a partial payment of, any Surcharge when due and owing, the remedies available to the Agency against such Member may be limited to a suit for payment of such Surcharge. See "RISK FACTORS—Payment Delays and Defaults; Bankruptcy or Financial Failure of a Member," and "—Limitations on Remedies."

The Agency may also levy additional rates, fees and charges on Members pursuant to the Act for purposes authorized therein, which rates, fees and charges may in the future be collected by the SFPUC on behalf of the Agency.

Levy and Collections History. There have been no material non-payments or delays in payment by any Members of the Surcharges or amounts due to the SFPUC under the Water Supply Agreement.

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
SURCHARGE LEVY HISTORY
FISCAL YEARS 2013-14 THROUGH 2016-17**

Fiscal Year:	2013-14		2014-15		2015-16		2016-17	
	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.
California Water Service Co.	\$5,618	22.8%	\$5,504	22.3%	\$5,516	22.3%	\$5,696	23.1%
Hayward Municipal Water	2,659	10.8	2,581	10.5	2,343	9.5	2,660	10.8
City of Palo Alto	1,943	7.9	1,889	7.7	1,787	7.2	1,801	7.3
City of Sunnyvale	1,540	6.2	1,590	6.4	1,278	5.2	1,413	5.7
City of Redwood City	1,544	6.3	1,552	6.3	1,467	5.9	1,536	6.2
Alameda County Water District	1,381	5.6	1,512	6.1	2,563	10.4	1,558	6.3
City of Mountain View	1,493	6.0	1,516	6.1	1,484	6.0	1,419	5.7
City of Milpitas	1,058	4.3	1,072	4.3	1,134	4.6	947	3.8
Estero MID	693	2.8	676	2.7	648	2.6	859	3.5
City of San Jose	747	3.0	751	3.0	783	3.2	979	4.0
All Other Members	<u>6,000</u>	<u>24.3</u>	<u>6,028</u>	<u>24.4</u>	<u>5,680</u>	<u>23.0</u>	<u>5,816</u>	<u>23.6</u>
Total	\$24,675	100%	\$24,673	100%	\$24,684	100%	\$24,685	100%

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
SURCHARGE LEVY HISTORY
FISCAL YEARS 2017-18 THROUGH 2021-22**

Fiscal Year:	2017-18		2018-19		2019-20		2020-21		2021-22	
	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.	Surcharge (000's)	Pct.
California Water Service Co.	\$4,851	19.7%	\$4,778	19.4%	\$5,336	21.6%	\$5,195	21.0%	\$5,573	22.6%
Hayward Municipal Water	2,944	11.9	2,879	11.7	2,851	11.5	2,773	11.2	2,522	10.2
City of Palo Alto	1,782	7.2	1,992	8.1	1,990	8.1	1,806	7.3	1,737	7.0
City of Sunnyvale	2,066	8.4	1,971	8.0	1,884	7.6	1,730	7.0	1,714	6.9
City of Redwood City	1,667	6.8	1,752	7.1	1,639	6.6	1,546	6.3	1,658	6.7
Alameda County Water District	690	2.8	1,126	4.6	1,710	6.9	1,701	6.9	1,381	5.6
City of Mountain View	1,503	6.1	1,487	6.0	1,392	5.6	1,398	5.7	1,395	5.7
City of Milpitas	907	3.7	1,058	4.3	996	4.0	994	4.0	1,266	5.1
Estero MID	929	3.8	869	3.5	821	3.3	774	3.1	810	3.3
City of San Jose	1,047	4.2	902	3.7	819	3.3	820	3.3	720	2.9
All Other Members	<u>6,300</u>	<u>25.5</u>	<u>5,874</u>	<u>23.8</u>	<u>5,261</u>	<u>21.3</u>	<u>5,949</u>	<u>24.1</u>	<u>5,916</u>	<u>24.0</u>
Total	\$24,687	100%	\$24,686	100%	\$24,698	100%	\$24,685	100%	\$24,693	100%

Note: In most years, 100% of the levy for the fiscal year was collected and remitted to the Trustee by mid-August following the end of the fiscal year. Through Fiscal Year 2019-20, the mid-August collection/remittance rates ranged from 99.7% to 100%, excluding investment earnings and prior and subsequent year surcharges.

WATER SUPPLY AGREEMENT

In 2009, San Francisco and the Wholesale Customers entered into the Water Supply Agreement, with an effective date of July 1, 2009. The Water Supply Agreement has a 25-year term (with provisions for two conditional five-year extensions). The Water Supply Agreement replaces the Settlement Agreement and Master Water Sale Contract entered into in 1984 to settle litigation over certain rate-setting practices. In 2018, the original water supply agreement was amended and restated by an Amended and Restated Water Supply Agreement, dated November 2018. Such amendment and restatement did not impact the original term of the Water Supply Agreement.

Water Supply

The Water Supply Agreement reconfirms the “Supply Assurance,” San Francisco’s perpetual commitment to deliver 184 million gallons per day (“mgd”) (measured on an annual average basis), to the Wholesale Customers, collectively, other than San Jose and Santa Clara (the “Supply Assurance”). The Cities of San Jose and Santa Clara are served wholesale water on an interruptible basis and such sales are not deemed to be within the Supply Assurance. The Agreement formally reconfirms the allocation of the collective Supply Assurance among the Wholesale Customers as individual supply guarantees within the 184 mgd. The quantified individual supply guarantees remain subject to pro rata reduction if and when collective use exceeds 184 mgd, in order to preserve the City of Hayward’s claimed entitlement under its previously negotiated 1962 contract with San Francisco that did not limit its water use. The Water Supply Agreement also preserves the other Wholesale Customers reservations of their right to challenge such a reduction. The Water Supply Agreement also allows the Wholesale Customers who have an individual supply guarantee to permanently transfer portions of their individual supply guarantees among themselves.

The Water Supply Agreement also acknowledges San Francisco's unilateral decision to impose an interim supply limitation which limits the amount of water delivered to the retail customers of the SFPUC (the "Retail Customers") and Wholesale Customers from the San Francisco watersheds to 265 mgd (the "Interim Supply Limitation"). Under the Interim Supply Limitation, San Francisco allocated its Retail Customers 81 mgd and allocated the Wholesale Customers 184 mgd. As part of the implementation of the Interim Supply Limitation, the SFPUC allocated the 184 mgd among the Wholesale Customers, including San Jose and Santa Clara, in 2010. Under the Interim Supply Limitation, while the Cities of San Jose and Santa Clara continue to have a temporary, interruptible status, the SFPUC agrees to supply up to a combined annual average of nine mgd to the two cities, collectively, through 2028. The nine mgd allocated to San Jose and Santa Clara is not a part of the Supply Assurance, but is included within the wholesale portion of the Interim Supply Limitation of 184 mgd. If Wholesale Customers' use is projected to exceed 184 mgd before June 30, 2028, the allocation to San Jose and Santa Clara may be reduced or terminated upon 10 years' notice and following a CEQA process.

Water Charges

The Water Supply Agreement provides for the separation of asset and expense categories among wholesale only, retail only and regional uses for shared water and power facilities. Annual operations and maintenance expenses are recovered on the basis of proportionate annual use of the Regional Water System in most cases. Hetch Hetchy power costs and revenues are also separated—the Wholesale Customers do not pay for power-related costs, and do not share in power revenues. The Water Supply Agreement also addresses coordination of wholesale rates with the annual SFPUC budget process, annual compliance audits, resolution of rate disputes via binding arbitration, and annual true up of costs using a balancing account.

The annual amount due from all Wholesale Customers (the "Wholesale Revenue Requirement") is determined by applying the Agreement's detailed cost allocation rules to the costs actually incurred, based on proportionate actual water usage by San Francisco retail and Wholesale Customers during the year. Under the Water Supply Agreement, the cost of service for Wholesale Customer resale is calculated on the same "cash basis" as retail rates. Using the cash basis, the cost of service for Wholesale Customers will include a pro-rata share of operation and maintenance expense.

Finally, the Water Supply Agreement contains a rate device known as the balancing account, which provides for the annual reconciliation of amounts due from the Wholesale Customers and the amount actually charged Wholesale Customers in a given year. Any difference between the revenues received and the actual earned revenues associated with the allocated cost of wholesale service is placed in the balancing account, will earn interest, and can be taken into account in setting rates for future years. For example, "positive" balances (those in favor of the Wholesale Customers) will in general be held as a rate stabilization account; and "negative" balances (those in favor of SFPUC) may be repaid over three years. Interest is earned by or charged to the balancing account based on the rate earned in San Francisco's pooled investment program.

Under the Water Supply Agreement capital costs are recovered as follows:

- The costs of existing assets placed in service prior to June 30, 2009 were to be repaid through Capital Cost Recovery Payments based on audited actual costs in monthly installments by Wholesale Customers at an annual interest rate of 5.13% over a 25-year period, in lieu of depreciation and a weighted return on these assets. All such obligations were prepaid through the Prepayment.

- For the portion of capital projects costs that were appropriated but not expended as of June 30, 2009, a 10-year repayment schedule including 4.00% interest has been calculated, based on audited actual costs. All such obligations were prepaid through a balancing account transfer under the Water Supply Agreement.

- The costs of new regional assets are to be paid for using the cash method. Annual wholesale rates are set to recover the Wholesale Customers' share of regional asset costs from current revenues for cash-funded assets. Wholesale contributions for debt-financed assets include appropriate contributions towards debt service and coverage based on the Wholesale Customers' proportionate annual use of the Regional Water System.

- The operating costs and plant investment for Hetch Hetchy Water and Power are allocated in a similar manner. Costs are first classified as power-specific, water-specific and joint (45% of which are reallocated to water). The water related costs are then allocated between Retail Customers and Wholesale Customers based on their pro-rata share of water delivered.

Under the Water Supply Agreement, adjustments to the Wholesale Customers' rate schedule, other than emergency rate adjustments and drought pricing, discussed below, are coordinated with the budget development process. If the SFPUC desires to increase Wholesale Customer rates, it is required to provide certain yearly budget and other financial information to the Wholesale Customers prior to adoption of any such rate increases. Failure to do so will not prohibit the SFPUC from adoption of such rates, but, in the event of such failure, the Wholesale Customers may either invoke arbitration, or seek injunctive relief to compel the SFPUC to remedy the failure as soon as reasonably practical.

The SFPUC may increase the water rates applicable to the Wholesale Customers without compliance with the above described procedures in the event a non-drought event such as earthquake, other catastrophic event, failure of the Regional Water System infrastructure or other emergency which requires an increase in rates. Rates may be increased on an emergency basis to cover operating expenses and capital costs. Any such emergency rate increase must be accompanied by a rate increase for Retail Customers of an equal percentage.

Drought pricing for Wholesale Customers, if required, could also be changed under similar terms and conditions set forth for emergency rate increases. Any drought-related pricing or surcharge adopted by the Commission would also remain in effect only until the next budget coordinated rate-setting cycle.

The following table lists wholesale water rate adjustments since Fiscal Year 1991-92 for the Wholesale Customers.

TABLE 1
HISTORICAL PERCENTAGE INCREASES (DECREASES)
IN WHOLESALE WATER RATES

Date	Rate (/ccf)	Change in Wholesale Rates from Prior Year⁽¹⁾
July 2021	\$4.10	0.0%
July 2020	4.10	0.0
July 2019	4.10	0.0
July 2018	4.10	0.0
July 2017	4.10	0.0
July 2016	4.10	9.3
July 2015	3.75	28.0
July 2014	2.93	19.6
July 2013	2.45	(16.4)
July 2012	2.93	11.4
July 2011	2.63	38.4
July 2010	1.90	15.2
July 2009	1.65	15.4
July 2008	1.43	10.0
July 2007	1.30	6.6
July 2006	1.22	19.6
July 2005	1.02	(9.7) ⁽²⁾
July 2004	1.13	2.7
July 2003	1.10	25.0
July 2002	0.88	0.0
July 2001	0.88	2.3
July 2000	0.86	4.9
July 1999	0.82	36.7
July 1998	0.60	(13.0)
July 1997	0.69	0.0
July 1996	0.69	0.0
July 1995	0.69	0.0
July 1994	0.69	19.0
July 1993	0.58	(33.3)
July 1992	0.87	19.2
July 1991	0.73	40.4

⁽¹⁾ Wholesale rates are set prospectively based on an estimate of the Wholesale Revenue Requirement. As such, rates may increase or decrease significantly from year to year.

⁽²⁾ Adjustment effective April 1, 2005.

Source: Bay Area Water Supply and Conservation Agency

Finally, the SFPUC has established an “Environmental Enhancement Surcharge” to enforce the Interim Supply Limitation. The Environmental Enhancement Surcharge would apply

to purchases over 81 mgd (by Retail Customers) or over the individual limitations assigned to each of the Wholesale Customers, only if total combined retail and wholesale water deliveries from the Regional Water System watersheds exceed 265 mgd. No Environmental Enhancement Surcharges have been imposed and it appears unlikely that any such surcharges will be imposed in the future.

The Water Supply Agreement continues the practice of binding arbitration for rate related disputes. Further, the Water Supply Agreement reserves to the Wholesale Customers the ability to contest the Interim Supply Limitation and the imposition of the Environmental Enhancement Surcharge.

Individual Water Supply Contracts. While the Water Supply Agreement establishes the rate-setting mechanism and the overall supply assurance level for Wholesale Customers, each Wholesale Customer has an individual water supply contract with San Francisco that defines the terms and conditions (including, among others, the point of delivery and service area) by which water is supplied to each such Wholesale Customer. In addition, four dual source agencies, the cities of Milpitas, Mountain View and Sunnyvale, and the Alameda County Water District, must meet minimum “take or pay” commitments under the Water Supply Agreement and these requirements are memorialized in their Individual Water Supply Contracts.

THE SAN FRANCISCO REGIONAL WATER SYSTEM

[To include June 30, 2021 numbers when available. SFPUC to review.]

Water sold by the SFPUC is delivered through the Regional Water System. The Regional Water System is a complex system which supplies water from two primary sources: (i) the Tuolumne River through the Hetch Hetchy Reservoir, and (ii) local runoff into Bay Area reservoirs in the Alameda and Peninsula watersheds. Water originating in the Hetch Hetchy watershed represents the majority of the water supply available to the SFPUC. On average, the Hetch Hetchy Reservoir provides approximately 85% of the water delivered and runoff into Bay Area reservoirs provides approximately 15% of the water delivered through the Regional Water System. Water production is dependent on precipitation and the ability of the SFPUC to regulate watershed runoff.

The Regional Water System consists of over 389 miles of pipeline, over 74.5 miles of tunnels, 11 reservoirs, five pump stations, and three water treatment plants located outside San Francisco. Water collected in the Hetch Hetchy Reservoir is delivered by gravity to Bay Area reservoirs and users. The remaining water supply is drawn from local surface waters in the Alameda and Peninsula watersheds. The Regional Water System does not include local water distribution facilities, including those in San Francisco.

The Regional Water System was constructed and is owned by San Francisco and is operated by the SFPUC. The Regional Water System delivers approximately 65% of its water to Wholesale Customers in Alameda County, Santa Clara County and San Mateo County. All of the Wholesale Customers, with the exception of the Cordilleras Mutual Water Association which consists of approximately 17 customers, are Members. The Wholesale Customers pay for the Regional Water System in proportion to their purchases of water.

San Francisco Public Utilities Commission

The SFPUC, a department of San Francisco, is responsible for the maintenance, operation, and development of three utility enterprises: the Water Enterprise, the Wastewater Enterprise, and the Power Enterprise (of which Hetch Hetchy Water and Power is a component).

The Water Enterprise provides drinking water to Retail Customers in San Francisco, to certain Retail Customers outside San Francisco and to the Wholesale Customers. The Water Enterprise operates the Regional Water System including the Hetch Hetchy Reservoir and two other Sierra reservoirs, the hydropower facilities, the Bay Area reservoirs, and regional water treatment facilities. The Water Enterprise also maintains and operates the retail water distribution system inside San Francisco, which is not part of the Regional Water System. The Wastewater Enterprise provides wastewater and stormwater collection, treatment and disposal services for San Francisco. The Power Enterprise schedules hydroelectric power generation and delivery, solar and other power for municipal and public infrastructure, services and facilities. The SFPUC's enterprises are operated and managed as separate financial entities with separate enterprise funds.

Wholesale Service Area

The Regional Water System provides water service to 26 Wholesale Customers and the City and County of San Francisco. The Wholesale Customers are located within the County of Alameda, the County of Santa Clara, and the County of San Mateo. As of June 30, 2020, the Wholesale Customers provided water services to a population of approximately 1.85 million people (the "Wholesale Service Area").

The land area and population of the portions of those three counties served as Wholesale Customers is summarized below.

TABLE 2
WHOLESALE CUSTOMER POPULATIONS AND SERVICE AREA BY COUNTY
(AS OF JUNE 30, 2020)

County	Service Area (sq. mi.)		Population	
	Member Service Area	% of County Total	Member Population	% of County Total
San Mateo	185	41%	750,989	98%
Santa Clara	117	9%	584,615	30%
Alameda	166	22%	517,323	31%
Total:	468	18%	1,852,927	42%

Source: Bay Area Water Supply and Conservation Agency Fiscal Year 2019-20 Annual Survey Data

Alameda County, Santa Clara County and San Mateo County have diversified economies and median household incomes higher than State and national averages. Water demand by sector is summarized in the following table for the areas served by the Wholesale Customers:

TABLE 3
WHOLESALE CUSTOMER WATER DEMAND BY SECTOR
(AS OF JUNE 30, 2020)

Sector	Acre-Feet	% of Total⁽¹⁾
Residential	130,465	57.2%
Commercial/Industrial	47,308	20.8%
Government/Other	10,000	4.4%
Dedicated Irrigation	24,723	10.8%
Non-Revenue Water	15,479	6.8%
Total:	227,975	100.0%

Source: Bay Area Water Supply and Conservation Agency Fiscal Year 2019-20 Annual Survey Data

⁽¹⁾ Total may not add due to rounding.

Water Supply

As early as the 1880s, San Francisco began looking to the Sierra Nevada Mountains and the Tuolumne River in what is now Yosemite National Park as a possible source of abundant, clean water for San Francisco and the Bay Area. Hetch Hetchy Valley, which is located on the Tuolumne River in Yosemite National Park, was first recommended as a reservoir site at the turn of the 20th Century in a U.S. Geological Survey Study.

Following the 1906 earthquake, San Francisco began to develop a preliminary design for the Hetch Hetchy System. It also entered into negotiations with the Modesto Irrigation District and the Turlock Irrigation District (the “Districts”), to protect the Districts’ existing water rights and to provide them a share of the hydroelectric power to be produced by Hetch Hetchy facilities, at cost-based rates.

The federal Raker Act, enacted on December 19, 1913, and planned to benefit the greater San Francisco Bay Area population, grants rights-of-way and public land use on U.S. government property in the Sierra Nevada Mountains to construct, operate and maintain reservoirs, dams, conduits and other structures necessary or incidental to developing and using water and power. It also imposes restrictions on San Francisco’s use of the Hetch Hetchy Reservoir, including (among others) the requirement that San Francisco recognize the prior rights of the Districts to receive water, up to specified amounts of natural daily flow, for direct use and storage. After twenty years of construction of dams and aqueducts, water from the Hetch Hetchy System was first delivered to San Francisco Bay Area in 1934. San Francisco

diverts water under appropriative rights acquired pursuant to State water law, which permit the appropriation of a volume of water in excess of 400 mgd from the Tuolumne River and its tributaries. San Francisco's water rights are "pre-1914" rights, originating from over 40 separate notices of appropriation recorded between 1901 and 1911. These water rights are junior to those held by MID and TID for direct diversion, but senior to MID and TID's water rights for hydropower generation and storage at the New Don Pedro Reservoir.

The amount of water available to the Wholesale Customers is constrained by hydrology, physical facilities, and the institutional parameters that allocate the water supply of the Tuolumne River. While in most years adequate water supply is available to meet demands, the SFPUC is, due to these constraints, very dependent on reservoir storage to firm up its water supplies. More importantly, reservoir storage provides the Regional Water System with year-to-year water supply carry-over capability. During dry years, the SFPUC has a very small to zero share of Tuolumne River runoff available and the local Bay Area watersheds produce very little water. Reservoir storage is critical during drought cycles since it enables the SFPUC to carry-over water supply from wet years to dry years.

Water Facilities

The Regional Water System is geographically delineated between the Hetch Hetchy System and the Bay Area water system facilities, the latter of which is sometimes described as having two constitutive parts: the "Alameda System" and the "Peninsula System."

Hetch Hetchy System. In the Hetch Hetchy System, water is diverted from Hetch Hetchy Reservoir into a series of tunnels and aqueducts from the Sierra Nevada to the San Joaquin Pipelines that cross the San Joaquin Valley to the Coast Range Tunnel (collectively, the "Hetch Hetchy System") which connects to the Alameda System at the Alameda East Portal. The Tesla Treatment Facility disinfects Hetch Hetchy water.

The Alameda System. The "Alameda System" includes two reservoirs, San Antonio Reservoir and Calaveras Reservoir, which collect water from the upper Alameda and San Antonio Creek watersheds in Alameda County plus conveyance facilities connecting the Hetch Hetchy System and Alameda water sources to the Peninsula System. These conveyance facilities include pipelines known as the Alameda Siphons that connect the Coast Range Tunnel to Irvington Tunnels 1 and 2.

Irvington Tunnels 1 and 2 supply the five Bay Division Pipelines that cross the South Bay Area to the Peninsula System. Bay Division Pipelines 1, 2 and 5 connect with the recently completed Bay Tunnel on opposite sides of the San Francisco Bay near the Dumbarton Bridge. Bay Division Pipelines 3 and 4 traverse the southerly edge of the Bay delivering water to SFPUC customers along the way. All five pipelines reconnect near the inlet to the Pulgas Tunnel on the Peninsula.

The Sunol Valley Water Treatment Plant filters and disinfects water supplied from San Antonio and Calaveras Reservoirs.

A turnout from the South Bay Aqueduct of the California State Water Project can supply limited supplemental water to San Antonio Reservoir. However, the SFPUC currently possesses no entitlements to water from the State Water Project.

Interties have been constructed between the Regional Water System and two other Bay Area treated water delivery systems. A pipeline and pumping station in and through the City of Hayward connects the Regional Water System with the East Bay Municipal Utility District's treated water system. In Milpitas, a pipeline and pumping station connect the Regional Water system with the Santa Clara Valley Water District's treated water system.

Peninsula System. The "Peninsula System" includes conveyance facilities connecting the Bay Division Pipelines to the San Francisco's in-city distribution system and to other SFPUC customers on the Peninsula. Two reservoirs, Crystal Springs and San Andreas, collect runoff from the San Mateo Creek watershed and store water from the Regional Water System. Water from Pilarcitos Reservoir, on Pilarcitos Creek, serves one of the Wholesale Customers, the Coastside County Water District (which includes the City of Half Moon Bay), directly and can also deliver water to Crystal Springs and San Andreas Reservoirs. Water delivered from the Bay Division Pipelines in excess of Peninsula System and San Francisco's retail water demands is stored in Crystal Springs and San Andreas Reservoirs. The Harry Tracy Water Treatment Plant filters and disinfects water supplied from Crystal Springs and San Andreas Reservoirs before it is delivered to Peninsula customers and the San Francisco's in-city distribution system. The "Peninsula System" includes conveyance facilities connecting the Bay Division Pipelines to San Francisco's in-city distribution system and to Peninsula customers.

The facilities making up the Regional Water System, which consists of the Hetch Hetchy System, the Alameda System, and the Peninsula System described above, are summarized below.

TABLE 4
SUMMARY OF REGIONAL SYSTEM FACILITIES

Pipelines	389 miles
Tunnels	74.5 miles
Pump Stations	5
Reservoirs	11
Treatment Plants	3

Source: SFPUC, Water Enterprise

Water Treatment

Hetch Hetchy System Water Treatment. The Hetch Hetchy Reservoir is the largest unfiltered water supply on the West Coast and one of only a few large unfiltered municipal water supplies in the nation. The water originates from spring snowmelt flowing down the Tuolumne River to the Hetch Hetchy Reservoir, where it is stored. This pristine water source meets or exceeds all federal and State criteria for watershed protection. Based on the SFPUC's disinfection treatment practice, extensive water quality monitoring, and high-operational standards, the U.S. Environmental Protection Agency and the State Department of Health Services have determined that the Hetch Hetchy water source meets federal and State drinking water quality requirements without filtration, and thus the SFPUC is not required to filter water from the Hetch Hetchy Reservoir.

The SFPUC's Tesla Treatment Facility enhances high water quality through ultraviolet ("UV") treatment, and is a key component of the SFPUC's Water System Improvement Program (the "WSIP"). See "THE SAN FRANCISCO REGIONAL WATER SYSTEM—Water System Improvement Program." The facility uses UV light to disinfect Hetch Hetchy water to meet new federal requirements to control the waterborne parasite *Cryptosporidium*, and is among the largest drinking-water UV disinfection facilities in North America.

Local Water Treatment. All water derived from sources other than the Hetch Hetchy Reservoir is currently treated at one of two treatment plants: the Sunol Valley Water Treatment Plant or the Harry Tracy Water Treatment Plant. The Sunol Valley Water Treatment Plant in Alameda County has both a peak capacity and sustainable capacity of 160 mgd. Should the Bay Area be cut off from Hetch Hetchy supplies because of an emergency, the treatment plant must sustainably treat 160 million gallons of water a day to meet minimum customer demands. The Harry Tracy Water Treatment Plant in San Mateo County primarily treats water from the Peninsula System reservoirs and has a peak capacity of 180 mgd and a sustainable capacity of 140 mgd.

Major upgrades to the Sunol Valley Water Treatment Plant were completed in 2013 and to the Harry Tracy Water Treatment Plant in 2015. See "THE SAN FRANCISCO REGIONAL WATER SYSTEM—Water System Improvement Program."

Water Storage

Up-Country Storage. The majority of the water delivered by the SFPUC is supplied by runoff from the upper Tuolumne River watershed on the western slope of the central Sierra Nevada. Three major reservoirs collect runoff: Hetch Hetchy Reservoir, Lake Lloyd, and Lake Eleanor.

Water stored in the Hetch Hetchy Reservoir is also used for hydroelectric generation and released downstream to satisfy instream flow requirements. Normally only Hetch Hetchy Reservoir supplies water exported to the Bay Area for municipal and industrial uses. Releases from Lake Eleanor and Lake Lloyd are used to satisfy instream flow requirements, satisfy Raker Act entitlements to downstream irrigation districts, and produce hydroelectric power. A water bank account is maintained for the benefit of San Francisco in New Don Pedro Reservoir, which

is located on the Tuolumne River downstream of the Hetch Hetchy System and owned by the Districts. Release of water stored in this account allows San Francisco to meet its Raker Act water obligations to the Districts and divert water supply from Hetch Hetchy Reservoir to the Bay Area.

Local Storage. In the Alameda Creek watershed (Alameda County), the SFPUC operates the Calaveras Reservoir and San Antonio Reservoir. On the San Francisco Peninsula, the SFPUC utilizes Upper and Lower Crystal Springs Reservoirs, San Andreas Reservoir and Pilarcitos Reservoirs located in San Mateo County to capture local watershed runoff. In addition to using these facilities to capture runoff, San Andreas, San Antonio, and Upper and Lower Crystal Springs reservoirs also provide storage for Hetch Hetchy System diversions, and, along with Calaveras, serve as an emergency water supply in the event of an interruption to Hetch Hetchy System deliveries.

Overall, as of July 1, 2021, storage in up-country reservoirs is slightly below normal levels. Local storage in Calaveras Reservoir is below normal because it was rebuilt as part of WSIP, and the reservoir pool was lowered to accommodate such rebuild. While construction was completed in 2019, due to drought conditions it has only been partially refilled. Other local reservoirs have seen less local runoff during the drought, but are not necessarily lower than normal because they also are used to store upcountry water.

TABLE 5
REGIONAL WATER SYSTEM STORAGE CAPACITY
(AS OF JULY 1, 2021)

Reservoir	Maximum Storage Capacity (Acre-feet)
Up-Country⁽¹⁾	
Hetch Hetchy	360,360
Lake Lloyd ⁽²⁾	273,300
Lake Eleanor	27,100
Water Bank	570,000
Subtotal Tuolumne	1,230,760
Local Bay Area	
Calaveras (Alameda) ⁽³⁾	96,800
San Antonio (Alameda)	50,500
Crystal Springs (Peninsula) ⁽⁴⁾	69,300
San Andreas (Peninsula)	19,000
Pilarcitos (Peninsula)	3,100
Subtotal Local	238,700
Total Regional Water System⁽⁵⁾	1,469,460

- (1) Three additional regulating reservoirs are also part of the Regional Water System: Early Intake, Priest, and Moccasin Reservoirs.
- (2) Storage capacity shown includes flashboards, which are boards or structures of boards extending above a dam to increase its capacity.
- (3) Calaveras Reservoir was constructed with a storage capacity of 96,800 acre-feet. Since December 2001, in response to safety concerns about the seismic stability of the dam and a directive from the DSOD (defined below), the SFPUC held the maximum water level at approximately 37,800 acre-feet (roughly 40% of its maximum capacity). The construction of a new replacement dam downstream was completed in 2019 to restore the dam's full storage capacity and the dam was continuing to be filled over the 2019-20 winter season.
- (4) Crystal Springs Reservoir has a maximum storage capacity of 22.6 below-grade (at 291.8 feet). Based on permit conditions, the reservoir is currently operated at 287.8 feet (4 feet below capacity).
- (5) This includes 63,700 acre-feet in dead storage (i.e., the volume in a reservoir below the lowest controllable level). In addition, the SFPUC may draw against a credit of up to 570,000 acre-feet in storage in a water bank account in Don Pedro Reservoir, for total storage for planning purposes of 1,469,460 acre-feet.

Source: SFPUC, Water Enterprise

Dam Supervision. Twenty-two dams operated by the SFPUC are presently under the jurisdiction of the California Department of Water Resources' Division of Safety of Dams ("DSOD"). The SFPUC's Calaveras Dam is currently operating under DSOD imposed restrictions associated with its refilling.

Seismic Hazards

The facilities of the Regional Water System are located in seismically active regions of the State. During the past 150 years, the San Francisco Bay Area has experienced several major and numerous minor earthquakes. The largest was the 1906 San Francisco earthquake along the San Andreas Fault with an estimated magnitude of 8.2 on the Richter scale. Another was the 1868 Hayward earthquake along the Hayward Fault. The most recent significant earthquake was the October 1989 Loma Prieta earthquake on the San Andreas Fault, which had a magnitude of 7.1 on the Richter scale and an epicenter near Santa Cruz, approximately 55 miles south of San Francisco. Additionally, on August 24, 2014, an earthquake occurred in Napa, which had an epicenter located approximately 3.7 miles northwest of American Canyon near the West Napa Fault, and registered 6.0 on the Richter scale. According to United States Geological Survey findings, a significant earthquake along these or other faults is probable prior to the final maturity date of the Series 2023A Bonds.

Water Supply Reliability and Drought Planning

The Regional Water System's reliability is expressed in terms of its ability to deliver water during extended, multi-year droughts. Reliability is defined by the amount and frequency of water delivery reductions required to balance customer demands with available supplies in droughts. The total amount of water the SFPUC has available to deliver to its Wholesale Customers during a defined period of time is dependent on several factors, which include the amount of water that is available to SFPUC from natural runoff, the amount of water in reservoir storage, and the amount of water that must be released from the SFPUC's system for commitments to purposes other than customer deliveries (such as releases below Hetch Hetchy reservoir to meet Raker Act and fishery purposes).

The SFPUC operates the Regional Water System under a "Water First" policy to optimize the reliability and quality of its water deliveries for drinking water purposes. To ensure water supply, Hetch Hetchy System reservoirs remain high through the early winter, until sufficient snowmelt runoff is forecasted at 90% certainty to fill all Hetch Hetchy System reservoirs. When the forecasted snowmelt is certain to be in excess of the fill volume, the reservoirs may be drawn down through power operations to increase revenue without risking water supply. Similarly, the Regional Water System's Bay Area reservoirs are operated to conserve watershed runoff. As such, reservoirs are drawn down early in the winter period to capture storms and reduce the potential for spilling water out of the reservoirs. In the spring, Hetch Hetchy water (snowmelt) is often transferred to three of the Bay Area reservoirs that are capable of receiving the water.

At current delivery levels and reservoir capacities, the Regional Water System can be expected to experience up to a 25% shortage from 15% to 20% of the time. These estimates come from computer analyses that model the performance of the Regional Water System over multiple-year drought sequences.

During a drought, the Wholesale Customers would experience a reduction in the amount of water received from the Regional Water System. For declared water shortage emergencies, the allocation of available water supplies is specified in the Water Shortage Allocation Plan

(“WSAP”), an exhibit to the Water Supply Agreement between San Francisco and the Wholesale Customers. The WSAP provides specific allocations of available water between the Retail Customers and the Wholesale Customers, collectively, for different levels of system-wide shortages. A separate agreement among the Wholesale Customers specifies how their aggregate share of water would be allocated to each agency.

The WSAP applies to system-wide water shortages of up to 20%. For system-wide shortages in excess of 20%, the WSAP provides that if agreement cannot be reached as to how water should be allocated between San Francisco’s retail and wholesale customers, the SFPUC may allocate water at its discretion, subject to legal challenge by Wholesale Customers. The WSAP also includes provisions for drought surcharges in the event that an agency uses water from the Regional Water System in excess of its drought allocation. The WSAP allows customers to “bank” drought allocations and to transfer such allocations to other Wholesale Customers.

System delivery capability is defined as the water delivery the Regional Water System is able to sustain over historical hydrologic conditions including multiple-year drought sequences. Under existing SFPUC operations policies and procedures, the SFPUC has a system delivery capability of 258 mgd. That is, the Regional Water System is capable of sustaining a 258 mgd annual average delivery over a hydrologic period equivalent to that experienced from 1921 to 2002 with shortages due to drought. After completion of the WSIP and development of dry-year supplies, the system delivery capability is anticipated to increase to 262 mgd. During non-drought years, the Regional Water System is capable of sustainably delivering 265 mgd.

2021 Drought Conditions. On May 10, 2021, the Governor of the State of California (the “Governor”) issued a Drought Proclamation (the “Drought Proclamation”) that covered 41 counties in the State under a targeted State of Emergency due to drought. The Drought Proclamation included Alameda County and hence two of the Agency’s 26 members.

On July 8, 2021, the Governor expanded the Drought Proclamation to include San Mateo County, Santa Clara County, and seven additional counties, and called on all Californians to voluntarily reduce their water use by 15 percent. There are now a total of 50 counties under a targeted State of Emergency due to drought, including the entirety of the Agency’s service area. As the State enters its second dry year and conditions within the state shift, more counties may be added to the proclamation.

In support of the Drought Proclamation, the Agency, the Members, and the SFPUC, are asking all customers for a voluntary 15 percent water use reduction. Water customers are asked to use water wisely and to remain vigilant, especially during the coming months of hot weather when water use is normally at its peak. The efficient management of outdoor water use is a particularly effective means to conserve water.

The Agency and the Members have reached out to residents and businesses encouraging them to reduce water use during the summer, including by routinely cutting irrigation time and reducing frequency of irrigation days, fixing leaks, and addressing irrigation problems like overspray. The SFPUC has similarly encouraged San Francisco residents to do the same.

The Agency and the Members offer a wide range of programs, rebates, and water conservation tips to help water customers reduce outdoor and indoor water use including turf replacement incentives, water efficient landscaping classes, and low-flow fixture replacement rebates. The SFPUC has similar programs and incentives for its retail customers.

The Regional Water System storage, while below normal, is well above the severe shortages present across much of the State. Total system storage conditions as of July 19, 2021 are at 72.0% of maximum storage. Under normal conditions for this date, total system storage would be at 90.7% of maximum storage.

If the drought continues into Fiscal Year 2021-22, it is likely that more stringent calls for reduction in water use will be required, such as mandatory rationing requirements. Those calls may be made by the SFPUC. Further, the Governor may have the ability to call for mandatory rationing statewide or region-specific.

The Members each have water shortage contingency plans (each, a “Water Shortage Contingency Plan”) in place to address water supply shortages. These Water Shortage Contingency Plans include drought stages, such that as drought and associated supply conditions worsen, additional actions may be called for in order to maintain an adequate supply to meet customer health and safety needs. Currently, those agencies that have issued drought declarations have enacted the lower levels defined in their Water Shortage Contingency Plans; those levels include provisions to prevent the wasteful use of water. Greater levels, which could be called for in the coming year(s) include provisions to limit or prevent outdoor watering as well as other mandatory water use restrictions. The SFPUC also has a Water Shortage Contingency Plan with similar levels of actions as based on water supply conditions.

The Water Supply Agreement details the steps that SFPUC will take in the event of water supply shortages. The Water Supply Agreement notes that “San Francisco will use its best efforts to identify potential sources of dry year water supplies and establish the contractual and other means to access and deliver those supplies in sufficient quantity to meet a goal of not more than 20 percent system-wide shortage in any year of the design drought.” A number of the Members have access to local storage, such as groundwater, and recycled water projects that are used to supplement supplies from the Regional Water System, and those supplies become increasingly important during times when more severe shortfalls take place.

The SFPUC’s current retail water rates have a provision for a “drought surcharge” which automatically increases adopted rates in the event of a declared water shortage. The drought surcharge is calculated so that, accounting for the expected reduction in retail water usage, total revenues are equal to what they would have been without the reduction. The drought surcharge protects the SFPUC’s financial stability during water shortages, and provides retail customers an incentive to meet conservation targets.

For Wholesale Customers, the rate-setting process is governed by the terms of the Water Supply Agreement, which provides that, in the event of a water shortage emergency, the SFPUC may adjust wholesale rates in an expedited way concurrently with the imposition of drought surcharges on retail customers. Beyond drought rate setting and emergency rate setting, rates are set annually in coordination with the SFPUC annual budget process and are based on the

forecasted wholesale share of regional water system expenditures and total purchases. If Wholesale Customer usage is expected to decrease – either voluntarily, or due to shortages – this would be incorporated into the wholesale rate forecast, and rates may increase. Therefore, the Wholesale Revenue Requirement, which allocates costs actually incurred for the Regional Water System based on proportionate actual water usage by San Francisco retail and Wholesale Customers, insulates the SFPUC financially from a reduction in wholesale revenue due to the impacts of a drought. While the current drought situation is manageable, if the drought extends beyond next year into the coming fiscal years, both the Regional Water System and the State as a whole will face significant water supply challenges. The SFPUC and the Agency are committed to addressing future drought reliability concerns through the identification and development of alternative water supply projects. Those projects are in the planning or early implementation stage. Note, however, that most would not be in place within the next five years.

Wholesale Water Deliveries

The following table shows recent water sales by volume to the top ten Wholesale Customers by volume purchased in Fiscal Years 2017 through 2021.

TABLE 6
HISTORIC WHOLESALE WATER SALES
FISCAL YEARS ENDED JUNE 30
(IN MGD)

	2017	2018	2019	2020	2021
Wholesale Customers					
California Water Service Company	24.2	27.5	26.3	28.9	29.5
Hayward Municipal Water	12.8	14.6	14.0	14.2	14.5
City of Palo Alto	9.0	10.0	9.4	9.7	9.8
City of Sunnyvale	8.1	9.5	8.8	9.4	9.7
City of Redwood City	7.7	8.4	8.1	8.7	8.5
Alameda County Water District	6.2	7.9	7.7	7.7	9.5
City of Mountain View	6.9	7.5	7.3	7.6	7.9
City of Milpitas	4.8	5.2	5.1	6.0	5.4
Estero Municipal Improvement District	3.8	4.2	4.0	4.3	4.3
City of San Jose	4.1	4.5	4.3	4.2	4.2
All Other Wholesale Customers	27.5	29.7	30.0	30.9	31.4
Wholesale Water Sales[†]	115.2	129.0	125.0	131.8	134.6

[†] Totals may not add due to independent rounding.

Source: Bay Area Water Supply and Conservation Agency

Future Water Demand and Supply

As part of the development of its Regional Water Demand and Conservation Projections Project, the Agency has updated demand projections for each of the Wholesale Customers, which the Agency included in its “Regional Water Demand and Conservation Projections Project Final Report” released June 26, 2020.

The total projected water demands of the Wholesale Customers are shown in Table 7.

TABLE 7
PROJECTED WHOLESALE CUSTOMER WATER DEMAND AND SUPPLIES
(MGD)⁽¹⁾

Source	2025	2030	2035	2040	2045
Regional Water System ⁽²⁾	147	148	153	157	164
Other Supplies ⁽³⁾	78	82	88	92	103
Total Wholesale Customer Demand ⁽⁴⁾	225	231	240	250	266

(1) Totals may not add due to rounding.

(2) Assumes continued delivery of supply from the Regional Water System to the City of San Jose and the City of Santa Clara beyond 2028.

(3) Estimated as the difference between the Total Wholesale Customer Demand and the Wholesale Customer Purchases from the Regional Water System.

(4) Totals may not add due to rounding.

Note: Amounts set forth in the table are projections. Actual results may differ materially from these projections. See the discussion related to “Forward-Looking Statements” above.

Source: Bay Area Water Supply and Conservation Agency Regional Water Demand and Conservation Projections Project Final Report, June 26, 2020.

In Fiscal Year 2019-20, Wholesale Customers collectively received approximately 68% of their water supply from the Regional Water System, with 18 of the 26 Members deriving over 90% of their water from the Regional Water System as of March 1, 2021. Future projections indicate that between 2025 and 2045 this figure will be in the range of 61% to 65% for all Members. For the year 2045, water demands of the Wholesale Customers (regardless of water source) are projected to increase to approximately 258.3 mgd.

Water System Improvement Program

The Water System Improvement Program (“WSIP”) is an approximately \$4.8 billion dollar, multi-year capital improvement program undertaken by the SFPUC to upgrade the Regional Water System and San Francisco’s in-city water distribution system to meet water quality requirements, improve seismic and delivery reliability, and meet water supply goals. Of this amount, approximately \$3.8 billion is currently allocated to projects relating to the Regional Water System and the remaining amount is allocated to projects relating to in-city and other retail water deliveries.

The WSIP presently includes a total of 87 projects, which vary in size from a few million dollars to over \$823 million. WSIP is divided into two sub-programs – Local and Regional.

The Regional Program includes 52 projects that benefit both Retail Customers and Wholesale Customers, and include a wide variety of improvements such as upgrades to and the addition of new treatment, transmission (pipelines, tunnels, pump stations), and storage (dams and reservoirs) facilities spread over seven counties. The Wholesale Customers pay a proportionate share of the costs of these projects pursuant to the terms of the Water Supply Agreement.

As of November 7, 2012, the approved WSIP budget was \$4.788 billion, of which \$4.596 billion had been expended or encumbered. The adopted WSIP completion date is May 2023.

Wholesale Customer Alternative and Supplemental Sources of Water Supply

Water supply from the Regional Water System is the primary source of supply for most Members. On average, Members rely on the Regional Water System for approximately two-thirds of their total aggregate water supply. In addition to aggressive water conservation, Members use local groundwater, local surface water, imported water from State and federal water systems, and recycled water to supplement their water purchases from the Regional Water System in order to meet their water needs. In Fiscal Year 2019-20, eighteen agencies relied on the Regional Water System to meet over 90% of their customers' water demands.

TABLE 8
PERCENTAGE OF WATER PURCHASED FROM THE REGIONAL WATER SYSTEM
BY WHOLESALE CUSTOMERS IN FISCAL YEAR ENDED JUNE 30, 2020

	Population	SFPUC ⁽¹⁾	Water Purchased (mgd)	
			Total	% SFPUC ⁽¹⁾
California Water Service Company	260,938	30.4	30.4	100%
City of Hayward	160,500	13.9	13.9	100%
City of Palo Alto	67,082	9.8	10.5	93%
City of Redwood City	90,518	8.8	9.5	92%
City of Mountain View	79,772	7.7	9.2	83%
City of Sunnyvale	156,503	9.3	17.9	52%
Alameda County Water District	356,823	7.9	38.7	20%
City of Milpitas	77,961	5.9	9.4	63%
Estero Municipal Improvement District	37,687	4.3	4.3	100%
San Jose Municipal Water System	35,468	4.3	5.1	83%
City of Burlingame	31,109	3.5	3.6	97%
North Coast County Water District	38,546	2.4	2.4	98%
City of Menlo Park	18,224	3.0	3.0	100%
Town of Hillsborough	10,869	2.6	2.6	100%
City of Daly City	106,638	6.1	6.4	95%
Mid-Peninsula Water District	26,924	2.7	2.7	100%
City of Millbrae	22,832	1.9	1.9	99%
City of Santa Clara	129,604	3.3	19.7	17%
Stanford University	32,075	1.4	2.5	57%
City of East Palo Alto	26,181	1.6	1.6	100%
Purissima Hills Water District	6,150	1.8	1.8	100%
Coastside County Water District	18,738	1.0	1.8	56%
City of San Bruno	44,409	2.8	3.1	90%
Westborough County Water District	12,703	0.8	0.8	100%
Brisbane Water District / Guadalupe Valley Municipal Improvement District ⁽²⁾	4,657	0.6	0.6	100%
Total All Agencies	1,852,911	137.7	203.5	67%

⁽¹⁾ Purchases from the Regional Water System. Percentages do not reflect rounding.

⁽²⁾ Brisbane Water District and Guadalupe Valley Municipal Improvement District are two separate agencies, although their data are presented as a combined figure in BAWSCA's Annual Survey.

Source: Bay Area Water Supply and Conservation Agency Fiscal Year 2019-20 Annual Survey Data.

Over the previous four fiscal years, the total purchases from SFPUC as a percent of the total water purchased ranged from approximately 64% to 67%.

Four Members have access to significant alternative water supplies from State or federal water projects: the Cities of Milpitas, Mountain View, and Sunnyvale, and Alameda County Water District. Each of these Members is subject to a minimum purchase requirement under the Water Supply Agreement, specifying minimum quantities of water that must be purchased from the Regional Water System on an average annual basis, whether or not water is delivered.

Opportunities for Members to develop significant alternatives to purchasing water from the SFPUC with delivery through the Regional Water System are currently limited. The SFPUC and its predecessor agency, the Spring Valley Water Company, developed the majority of local surface water supplies in San Mateo and Alameda Counties. Groundwater resources in San Mateo and Southern Alameda County are relatively scarce and largely already developed. Groundwater supplies in Santa Clara County have also been previously developed, and the Santa Clara Valley Water District replenishes groundwater in much of Santa Clara County, monitors its use and imposes a tax on its pumping.

The table below summarizes the sources of supply for Wholesale Customers collectively during fiscal year 2019-20.

TABLE 9
WATER DELIVERIES TO WHOLESALE CUSTOMERS BY SOURCE

Source	Acre-Feet	Percent of Total
San Francisco PUC ⁽¹⁾	154,196	67.6%
Other Sources (Includes State/Federal)	39,544	17.3
Groundwater	19,016	8.3
Surface Water	6,206	2.7
Recycled Water	9,013	4.0
Total	227,975	

⁽¹⁾ Purchases from the Regional Water System. Includes supplemental deliveries.

Source: Bay Area Water Supply and Conservation Agency Fiscal Year 2019-20 Annual Survey Data.

Increasing effort has gone in to developing supplies to supplement water provided by the Regional Water System for both dry years and normal years. Members have become concerned about how they will meet future increases in water supply needs for their customers given the SFPUC's unilateral decision in October 2008 to establish a 184 mgd limitation on Members' aggregate purchases from the Regional Water System through at least 2018. When the Water Supply Agreement was amended and restated in 2018, the 184 mgd limitation remained unchanged. As a result of the SFPUC's decisions, the Agency initiated its Long-Term Reliable Water Supply Strategy in September 2009. The purpose of the Strategy is to quantify the water supply needs of Members through 2035, quantify the supplemental water supply needed in

addition to currently available sources, identify the water supply management projects that could be developed to meet those needs, and prepare an implementation plan for bringing those supplies on line. The Phase II Report on the Long-Term Reliable Water Supply Strategy, completed in 2015, updated water supply and demand projections and further development of agency identified projects, such as rainwater harvesting, stormwater capture, graywater reuse, regional groundwater and desalination projects, and evaluated water transfers. In 2020, the Agency completed the Regional Water Demand and Conservation Savings Projections Project, which updated water supply needs through 2045.

Regulatory Matters

Rate-setting by Members that are governmental agencies is subject to the limitations of Articles XIIC and XIID of the State Constitution and rate-setting by the California Water Service Company is regulated by the California Public Utilities Commission (the “CPUC”). See “ADDITIONAL INFORMATION CONCERNING MEMBERS—State Law Limitations.”

Public water supply systems in the State are primarily regulated by the State Water Resources Control Board Division of Drinking Water (“SWRCB DDW”), formerly the California Department of Public Health (“CDPH”) Drinking Water Division, and, in some limited instances, by the United States Environmental Protection Agency, and California Regional Water Quality Control Boards.

Drinking water delivered to the customers must comply with statutory and regulatory water quality standards designed to protect public health and safety and in accordance with a water system permit issued by the SWRCB DDW. The SWRCB DDW reissued a drinking water supply permit in 2004 prescribing conditions and requirements for the SFPUC to operate the Regional Water System. This permit is expected to be updated around 2025 to reflect new facilities and operations. The Water Supply Agreement commits San Francisco to deliver treated water meeting primary maximum contaminant levels and treatment technique standards.

The SWRCB DDW also issues permits for each Wholesale Customer water distribution system under its jurisdiction. These permits cite the Regional Water System as an approved source of drinking water.

Bay-Delta Water Quality Standards. Hetch Hetchy Reservoir, located on the main branch of the Tuolumne River, is an upstream tributary to the San Joaquin River and the San Francisco Bay/Sacramento San Joaquin Delta Estuary (the “Bay Delta”). In 1995, the SWRCB, which oversees the allocation of water for consumptive and environmental needs, adopted a Water Quality Control Plan (the “1995 WQCP”) for the Bay Delta pursuant to State and federal obligations to protect water quality in the Bay Delta ecosystem. The 1995 WQCP called for certain flow objectives on the San Joaquin River where it enters the Delta and certain Delta outflows. In 2006, the SWRCB amended the 1995 WQCP (the “2006 WQCP”) and identified San Joaquin River flows as an issue of emerging concern because various fish species in the Delta and San Joaquin River basin had not shown significant signs of recovery under the 1995 WQCP.

In February 2009, the SWRCB noticed its intent to update water quality objectives of the 2006 WQCP and the program of implementation, which had the potential to result in impacts to water rights and the issuance of water quality regulations consistent with the program of implementation. Following a several years-long process, on December 12, 2018, by Resolution No. 2018-0059, the SWRCB adopted the “Phase 1” Amendment to the WQCP (“Plan Amendment”) and the accompanying final Substitute Environmental Document. The adopted Plan Amendment was developed with the stated goal of increasing salmonid populations in three San Joaquin River tributaries (the Stanislaus, Merced, and Tuolumne Rivers) and the Bay-Delta. The Plan Amendment requires the release of 40% of the “unimpaired flow” on the three tributaries from February through June in every water year type, whether wet, normal, dry, or critically dry. If the Plan Amendment were to be implemented, it would result in significant water supply shortages for the Regional Water System during single dry and multiple dry years. The Agency is unable to predict whether and in what form the Plan Amendment will be implemented.

FERC Proceeding to Increase Flows in the Lower Tuolumne River. The Federal Energy Regulatory Commission (“FERC”) licenses the Don Pedro Project, which is owned and operated by the Districts. In July 1996, FERC approved a settlement agreement regarding the Lower Tuolumne River that required increased flows to protect fisheries and riparian resources. The increased flows are provided by the Districts, who hold the FERC license for the Don Pedro Project.

Pursuant to a then-existing agreement between San Francisco and the Districts, San Francisco might have been liable to provide a portion of those increased flows. Instead, San Francisco and the Districts entered into a new agreement whereby the Districts provide all flows ordered by FERC to implement the 1996 settlement agreement until FERC issues a new license, in exchange for which San Francisco pays to the Districts on a monthly basis an amount aggregating to \$3.5 million per year, subject to an escalation clause applied to keep pace with inflation. Any time after sixty payments, all of which have been made, San Francisco may withdraw from the agreement with the Districts upon one year’s notice.

The Districts submitted an Amended Final License Application for the New Don Pedro Project on October 11, 2017. The Districts are also working through a licensing proceeding for the La Grange Diversion Dam, which is located on the Tuolumne River, two miles downstream of the New Don Pedro Project. The Districts also submitted their Final License Application for La Grange on October 11, 2017. License conditions, such as release requirements, could change in a new license. Changed release requirements could affect the availability and reliability of Tuolumne River water to the Regional Water System. The Agency is participating in these proceedings on behalf of its member agencies to protect the reliability of their primary water supply.

Dam Licensing and Safety Issues. The DSOD supervises the safety of non-federal dams and reservoirs, routinely inspects operating dams to assure that they are adequately maintained and conducts investigations of selected dams, directing the owners to additional investigations and detailed safety evaluations when necessary. The DSOD also reviews plans and specifications for the construction of new dams or for the enlargement, alteration, repair or removal of existing dams, under applications, and must grant written approval before the owner can proceed with construction. The Regional Water System has eighteen dams under the jurisdiction of the DSOD, and the Calaveras Dam is currently the subject of orders by the DSOD due to seismic stability concerns.

Proposals to Restore Hetch Hetchy Valley

Some environmental organizations advocate for the removal of the Hetch Hetchy Reservoir and the restoration of Hetch Hetchy Valley. For example, an initiative ordinance entitled the “Water Sustainability and Environmental Restoration Planning Act of 2012” qualified for the November 2012 San Francisco ballot with support from an organization called “Restore Hetch Hetchy” and would have required San Francisco to identify alternative sources of water and, subject to certain additional conditions, end its use of the Hetch Hetchy Reservoir. This initiative was rejected by voters.

There have been previous studies that examined prior proposals to remove the Hetch Hetchy Reservoir. For example, the California Department of Water Resources and the California Department of Parks and Recreation issued a comprehensive report and concluded that it does appear technically feasible to restore Hetch Hetchy Valley, but expressed caution about the financial feasibility. The study estimated that the total cost for such a project would range from nearly \$3 billion to \$10 billion.

COVID-19 Pandemic

[To be updated following review by BAWSCA]

General

On February 11, 2020, the World Health Organization announced the official name for the outbreak of a new disease, COVID-19, caused by a strain of novel coronavirus, an upper respiratory tract illness which has since spread across the globe. The spread of COVID-19 is having significant adverse health and financial impacts throughout the world, including the City. The World Health Organization has declared the COVID-19 outbreak a pandemic, and states of emergency have been declared by the President of the United States, the Governor of the State and the Mayor of the City.

The COVID-19 pandemic and governmental response materially altered the behavior of people, disrupted business activity and resulted in a significant contraction of the national, state and local economies. Employment data released since the imposition of the restrictions have shown a dramatic increase in unemployment rates. In addition, stock markets in the United States and globally experienced sharp declines in market value following the onset of the outbreak that were attributed to COVID-19 concerns and, although rebounds in the markets have since

occurred, increased volatility in the financial markets continues. It is widely expected that global, national and local economies will continue to be negatively affected by the COVID-19 pandemic, at least for some period of time. On June 9, 2020, the National Bureau of Economic Research determined that the United States had entered into a recession during the prior months.

State

On March 19, 2020, the Governor and the California Department of Public Health released a similar health order (the “State Health Order”) requiring all individuals living in the State to stay home or at their place of residence except as needed to maintain continuity of operations of certain federal critical infrastructure sectors. The State Health Order, most recently updated on July 13, 2020, is currently in effect until further notice. On August 28, 2020, the Governor announced a new, four-tiered color-coded statewide system called “Blueprint for a Safer Economy.” As of August 28, 2020, San Francisco was classified red (“substantial”), the second most restrictive tier.

BAWSCA

In response to the State Health Order, Agency staff shifted to remote work. There was no material impact to the Agency’s operations or Surcharge collections.

SFPUC

Operations

The COVID-19 pandemic and the City Health Order significantly impacted the SFPUC’s enterprises, including its Water Enterprise. The SFPUC’s Water Enterprise constitutes “essential infrastructure” exempted from the City Health Order, and is a federally designated “critical infrastructure sector” exempted from the State Health Order, as needed to maintain continuity of operations. The SFPUC’s ability to deliver water, power, and sewer services to its customers during the City Health Order period has not been impaired. The SFPUC continues to monitor the COVID-19 pandemic impacts on its operations and financial performance.

Retail and Wholesale Demand

The COVID-19 pandemic and the City Health Order have impacted retail and wholesale demand for Fiscal Year 2019-20. For the period of April 2020 through June 2020, compared to what the SFPUC had projected at the beginning of the Fiscal Year, retail sales were down 8%, and wholesale sales were down 2%. Although some of this variability may be attributable to seasonal weather-related changes in demand, a sharp observed drop in commercial demand and a more modest increase in residential demand reflects the impacts of COVID-19 and the differential impacts of the City Health Order on commercial activity. The SFPUC is projecting that the impact of the pandemic on sales volumes will continue over the next four years, with Fiscal Year 2020-21 representing a low point as the City Health Order to shelter in place continues and many commercial businesses remain closed. The proposed budget for Fiscal Year 2020-21 assumes retail water volumes will drop by approximately 4% compared to the prior year, while wholesale volumes decrease approximately 2.3%. Sales volumes are subsequently

projected to steadily increase, recovering to 98% of the pre-COVID-19 levels by Fiscal Year 2023-24.

Financial Impact on Members

The Agency expects the economic impacts to the larger service area to affect Members' direct retail and commercial customers, who may face financial challenges in paying utility bills. While this is the case, there have been no noticeable impacts to the on-time payment of Surcharges.

Other

The extent of the fiscal impacts of the pandemic will depend on, among other things, (i) the duration of the health orders and the extent of the disruption to or decline in the local and global economies and financial markets; (ii) the ramifications of future actions that may be taken or required by governmental authorities to contain and respond to the pandemic; and (iii) the severity of the economic recession and the speed of the economic recovery. No assurances can be given that the health orders will not adversely affect the collection of Surcharges.

ADDITIONAL INFORMATION CONCERNING MEMBERS

[Numbers need to be updated]

Additional Information Concerning Selected Governmental Agency Members

For additional information about the Alameda County Water District, the City of Hayward, the City of Mountain View, the City of Palo Alto, the City of Redwood City and the City of Sunnyvale, Members which have collectively paid on average approximately 44% of the surcharges since inception, see “APPENDIX A – SELECTED INFORMATION ON CERTAIN MEMBERS.”

California Water Service Company and California Water Service Group

California Water Service Company is an investor-owned public utility supplying water service to approximately 492,600 connections. Its 25 separate districts serve over 63 communities from Chico in the north to the Palos Verdes Peninsula in Southern California. With the exception of two of its districts that are municipal water systems falling outside of the CPUC’s jurisdiction, water rates and operations for California Water Service Company’s districts located in the State, including each of the districts that obtain water from the Regional Water System, are regulated by the CPUC. See “APPENDIX A – SELECTED INFORMATION ON CERTAIN MEMBERS—Information Concerning California Water Service Company.”

California Water Service Company is a wholly owned subsidiary of California Water Service Group, which also provides water service, including through its subsidiaries, to communities in Washington, New Mexico and Hawaii. California Water Service Company represented approximately 94% of California Water Service Group’s operating revenue for the year ended December 31, 2020. See “APPENDIX A – SELECTED INFORMATION ON CERTAIN MEMBERS—Information Concerning California Water Service Company.”

State Law Limitations

This section describes certain constitutional or statutory provisions that may limit the ability of local governments, including BAWSCA or its Member, to levy and collect fees, charges, taxes or assessments.

Article XIII A of the Constitution. An initiative measure approved by the California voters on June 6, 1978 (Proposition 13), added Article XIII A to the California Constitution. Section 1(a) of Article XIII A limits the maximum ad valorem taxes on real property to one percent of the “full cash value” of the property, subject to certain exceptions, including ad valorem taxes to pay debt service indebtedness approved by voters prior to July 1, 1978. “Full cash value” is defined as the valuation of real property as shown on the 1975-76 tax roll, and thereafter the appraised value of property when purchased, newly constructed or a change in ownership has occurred. The value base of the property may also be increased to reflect the inflation rate, but not to exceed 2 percent per year.

On June 3, 1986, the California voters approved an amendment to Section 1(b) of Article XIII A permitting *ad valorem* taxes or special assessments in excess of the one percent limit in Section 1(a) to pay the interest and redemption charges on any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978 by two-thirds of the votes cast by the voters voting on the proposition.

Article XIII C and Article XIII D of the Constitution. A substantial portion of the revenues of the Members is derived from the collection of charges for water service. The Members' ability to collect such charges, and to levy such taxes or assessments, may be limited by the Right to Vote on Taxes Act ("Proposition 218"), an initiative amendment to the State Constitution approved by the California voters in November 1996.

Proposition 218 added Articles XIII C and XIII D to the State Constitution, creating additional requirements for the imposition by most local governments of "general taxes," "special taxes," "assessments," "fees," and "charges." Proposition 218 became effective, pursuant to its terms, as of November 6, 1996, although compliance with some of its provisions was deferred until July 1, 1997, and certain of its provisions purport to apply to any tax imposed for general governmental purposes (i.e., "general taxes") imposed, extended or increased on or after January 1, 1995 and prior to November 6, 1996. Article XIII D imposes substantive and procedural requirements on the imposition, extension or increase of any "fee" or "charge" subject to its provisions. A "fee" or "charge" subject to Article XIII D includes any levy, other than an *ad valorem* tax, special tax or assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership. Article XIII D prohibits, among other things, the imposition of any proposed fee or charge, and, possibly, the increase of any existing fee or charge, in the event written protests against the proposed fee or charge are presented at a required public hearing on the fee or charge by a majority of owners of the parcels upon which the fee or charge is to be imposed. Except for fees and charges for water, sewer and refuse collection services, the approval of a majority of the property owners subject to the fee or charge, or at the option of the agency, by a two-thirds vote of the electorate residing in the affected area, is required within 45 days following the public hearing on any such proposed new or increased fee or charge. The California Supreme Court decisions in *Richmond v. Shasta Community Services District*, 32 Cal. 4th 409 (2004) ("*Richmond*"), and *Bighorn-Desert View Water Agency v. Verjil* (published July 24, 2006) ("*Bighorn*") have clarified some of the uncertainty surrounding the applicability of Section 6 of Article XIII D to service fees and charges. In *Richmond*, the Shasta Community Services District charged a water connection fee, which included a capacity charge for capital improvements to the water system and a fire suppression charge. The Court held that both the capacity charge and the fire suppression charge were not subject to Article XIII D because a water connection fee is not a property-related fee or charge because it results from the property owner's voluntary decision to apply for the connection. In both *Richmond* and *Bighorn*, however, the Court stated that a fee for ongoing water service through an existing connection is imposed "as an incident of property ownership" within the meaning of Article XIII D, rejecting, in *Bighorn*, the water agency's argument that consumption-based water charges are not imposed "as an incident of property ownership" but as a result of the voluntary decisions of customers as to how much water to use.

Article XIII D also provides that "standby charges" are considered "assessments" and must follow the procedures required for "assessments" under Article XIII D and imposes several

procedural requirements for the imposition of any assessment, which may include (1) various notice requirements, including the requirement to mail a ballot to owners of the affected property; (2) the substitution of a property owner ballot procedure for the traditional written protest procedure, and providing that “majority protest” exists when ballots (weighted according to proportional financial obligation) submitted in opposition exceed ballots in favor of the assessments; and (3) the requirement that the levying entity “separate the general benefits from the special benefits conferred on a parcel” of land. Article XIID also precludes standby charges for services that are not immediately available to the parcel being charged.

Article XIID provides that all existing, new or increased assessments are to comply with its provisions beginning July 1, 1997. Existing assessments imposed on or before November 5, 1996, and “imposed exclusively to finance the capital costs or maintenance and operations expenses for [among other things] water” are exempted from some of the provisions of Article XIID applicable to assessments.

Article XIIC extends the people’s initiative power to reduce or repeal existing local taxes, assessments, fees and charges. This extension of the initiative power is not limited by the terms of Article XIIC to fees, taxes, assessment fees and charges imposed after November 6, 1996 and absent other authority could result in retroactive reduction in any existing taxes, assessments, fees or charges. In Bighorn, the Court concluded that under Article XIIC local voters by initiative may reduce a public agency’s water rates and delivery charges. The Court noted, however, that it was not holding that the authorized initiative power is free of all limitations, stating that it was not determining whether the electorate’s initiative power is subject to the public agency’s statutory obligation to set water service charges at a level that will “pay the operating expenses of the agency, ... provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due.”

The Agency does not believe that imposition of Surcharges is subject to the requirements of Articles XIIC and XIID. However, no assurance may be given that Articles XIIC and XIID will not have a material adverse impact on Members’ ability to generate revenues to pay Surcharges.

Proposition 26. Proposition 26, a State ballot initiative aimed at restricting regulatory fees and charges, was approved by the California voters on November 2, 2010 (“Proposition 26”). Proposition 26 broadens the definition of “tax” in Article XIIC of the State Constitution to include levies, charges and exactions imposed by local governments, except for certain enumerated exceptions. Proposition 26 expressly excludes from its scope “a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the governmental entity of providing the service or product to the payor” and “assessments and property related fees imposed in accordance with the provisions of Article XIID.” The California Supreme Court has held that a fee for ongoing water service through an existing connection is imposed “as an incident of property ownership” within the meaning of Article XIID. See “– Article XIIC and Article XIID of the Constitution.”

Proposition 26 applies to charges imposed by local governments after the date of its approval, and if such charges are determined to be a “tax” under Proposition 26, they are subject to approval by two-thirds of the voters. The Agency does not believe its Surcharges[, or charges imposed by Members for water deliveries and services reflecting the reasonable costs of providing the same,] are taxes under Proposition 26. The Agency is, however, unable to predict how Proposition 26 will in the future be interpreted by the courts to apply to the provision of wholesale and retail water services by local governments, and no assurance may be given that Articles XIIC and XIID will not have a material adverse impact on Members’ ability to generate revenues to pay Surcharges.

Other Initiative Measures. Under the State Constitution, the voters of the State have the ability to initiate legislation and require a public vote on legislation passed by the State Legislature through the powers of initiative and referendum, respectively. Articles XIII A, XIIC and XIID and Proposition 26 were adopted, and in some cases amended, pursuant to the State’s constitutional initiative process. From time to time other initiative measures could be adopted by California voters, placing additional limitations on the ability of the Members to generate revenues. The Agency is unable to predict whether any such initiatives might be submitted to or approved by the voters, the nature of such initiatives, or their potential impact on the Agency, the Members, or the Regional Water System.

Member Official Statements and Continuing Disclosure Filings

Various Members periodically file official statements and disclosure reports with the Municipal Securities Rulemaking Board (the “MSRB”) in connection with their publicly offered debt. Such official statements and disclosure reports are available from the MSRB but are not incorporated by reference herein and neither the Agency nor the Underwriters assume any responsibility for the completeness or accuracy thereof. The Members are not obligated for the payment of principal of or interest on the Series 2023A Bonds and have not provided and will not provide any certifications regarding this Official Statement, nor have the Members made any undertaking for the benefit of the owners and beneficial owners of the Series 2023A Bonds to file any information with the MSRB.

California Water Service Group is subject to the information requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and is required to make certain periodic filings with the Securities and Exchange Commission (the “SEC”), including pursuant to Sections 13 or 15(d) of the Exchange Act. See “CONTINUING DISCLOSURE.”

RISK FACTORS

The following section describes certain special considerations and risk factors affecting the risk of nonpayment or the security for the Series 2023A Bonds. The following discussion is not meant to be an exhaustive or definitive description of the risks associated with a purchase of any Series 2023A Bond and does not necessarily reflect the relative importance of the various risks. Potential investors are advised to consider the following special factors regarding the Series 2023A Bonds, together with all other information in this Official Statement in order to make an informed investment decision with respect to the Series 2023A Bonds. There can be no assurance that other risk factors are not or will not become material in the future.

Bonds are Limited Obligations

The Bonds are special, limited obligations of the Agency. The Bonds shall not be deemed to constitute a debt or liability of the Agency, the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory provision, or a pledge of the faith and credit of the State of California or of any political subdivision thereof, but shall be payable, except to the extent of certain amounts held under the Indenture pledged therefor, solely from Revenues. Neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation whatsoever therefor or to make any appropriation for their payment. The Agency has no taxing power. The Members' payment obligations relating to the Series 2023A Bonds are limited to the payment of Surcharges. The Series 2023A Bonds do not constitute a debt obligation of any Members.

Seismic and other Risks Related to Regional Water System Facilities and Operations

The operation of the Regional Water System, and the physical condition of its facilities, are subject to a number of risks that could adversely affect the reliability of the water supply or interrupt the ability of the SFPUC to deliver water in anticipated volumes.

Seismic and Other Casualty Risks. The Regional Water System is located in a seismically active region of the State and its aqueducts and pipelines cross three major known active fault zones (the San Andreas Fault, the Hayward fault and the Calaveras Fault). Earthquakes and other natural disasters, including without limitation wildfires, flooding and landslides, or man-made disasters, including without limitation natural gas pipeline failures or explosions, could interrupt operation of the Regional Water System.

The Agency and the SFPUC have, since 1995, actively pursued a program to manage this risk by rehabilitating portions of the Regional Water System and improving its ability to deliver water after a major earthquake or other disaster. See "THE SAN FRANCISCO REGIONAL WATER SYSTEM – Seismic Hazards" and "—Water System Improvement Program."

Drought. The State is located in a semi-arid region and is subject to periodic drought. An extended drought could adversely affect the ability of the SFPUC to deliver water sufficient to satisfy all of the demands of its customers, including the Members. The SFPUC has adopted a drought planning sequence and associated operating procedures respecting the delivery of water during a drought. The SFPUC is authorized under the WSA to adopt drought surcharges if needed. See "THE SAN FRANCISCO REGIONAL WATER SYSTEM – Water Supply Reliability and Drought Planning."

Safety and Security. The occurrence of military conflicts and terrorist activities could adversely impact the operations of the Regional Water System or the finances of the Agency, the Members or the SFPUC.

Proposals to Restore Hetch Hetchy Valley

Various environmental advocates have from time to time proposed the dismantling of Hetch Hetchy Dam with the aim of draining Hetch Hetchy reservoir and restoring the river valley. Any such proposals, if implemented, could impose substantial additional operating and capital expenses on the Regional Water System. See “THE SAN FRANCISCO REGIONAL WATER SYSTEM – Proposals to Restore Hetch Hetchy Valley.”

Economic, Political, Social and Environmental Conditions

Prospective investors are encouraged to evaluate current and prospective economic, political, social, and environmental conditions as part of an informed investment decision. Changes in economic political, social, or environmental conditions on a local, state, federal, and/or international level may adversely affect investment risk generally. Such conditional changes may include (but are not limited to) fluctuations in business production, consumer prices, or financial markets, unemployment rates, technological advancements, shortages or surpluses in natural resources or energy supplies, changes in law, social unrest, fluctuations in the crime rate, political conflict, acts of war or terrorism, environmental damage, and natural disasters.

Variations in Water Sales/Purchases

Water sales to Members may vary substantially from year to year depending upon, among other things, the availability of water as a result of climatic conditions (such as drought) and legal constraints, retail user demand, the operation of the Regional Water System and the availability to and use by Members of other sources of water supply. See “THE SAN FRANCISCO REGIONAL WATER SYSTEM – Water Supply Reliability and Drought Planning.” A decrease in aggregate water sales to Members generally would increase the amount payable by Members for a particular volume of water purchased. Such increase may or may not adversely impact a Member’s financial condition.

Although the Agency expects to impose a fixed Surcharge for each Member for each Fiscal Year, an individual Member’s shares of total purchased water will vary over time, resulting in variations from Fiscal Year to Fiscal Year in the relative Surcharge obligations of Members. See “IMPOSITION AND COLLECTION OF SURCHARGES – Collection of Surcharges.”

Cybersecurity

BAWSCA Measures. The Agency recognizes the importance of Cybersecurity and utilizes many different products and services to protect its network from threats. The Agency does not collect personally identifiable information from water customers or member agencies. The Agency does not operate or maintain any water infrastructure services.

SFPUC Measures. The SFPUC relies on a large and complex technology environment to conduct its operations. Although the SFPUC maintains its own business and control networks that are separate from the City’s network, the SFPUC faces similar cybersecurity threats as the City, including hacking, viruses, malware and other attacks on its computing and other digital

networks and systems. To mitigate the risk of and damage from cybersecurity incidences or cyberattacks, the SFPUC abides by the City's City-wide Cyber Security Policy and also maintains its own cybersecurity program (the "SFPUC Cybersecurity Program"). The SFPUC Cybersecurity Program is based on National Institute of Standards and Technology cybersecurity guidance and employs industry standard Center for Internet Security critical security controls. In addition, control networks for the Water Enterprise and the Wastewater Enterprise adhere to the American Water Works Association Cyber Security guidance and the control networks for the Power Enterprise adhere to the North American Electric Reliability Corporation critical infrastructure protection controls. The SFPUC Cybersecurity Program includes state of the art information security systems and 14 cybersecurity policies. The information security systems are continuously tested with internal vulnerability assessments that include daily updates on malware threats. The SFPUC's cybersecurity policies are prescriptive for hardening servers, network devices and databases, and for addressing system administrator controls, mobile device management, incident response, security patching, antivirus, email, passwords, remote access, secure asset disposal, end user controls, and timely removal of access to systems and facilities for staff that leave employment at the SFPUC. The SFPUC Cybersecurity Program is periodically reviewed for effectiveness by independent consultants, most recently in July 2019. In addition, pursuant to the SFPUC's policies, the City Services Auditor, independent cybersecurity auditors and the Department of Homeland Security perform extensive penetration and vulnerability testing on the SFPUC's business and control networks every other year.

The SFPUC has also appointed a Chief Information Security Officer (the "CISO"). In addition to working with the City's Chief Information Security Officer on cybersecurity policy development and solution sharing, the CISO is responsible for annual updates to the SFPUC's policies, is charged with identifying and monitoring threats which are typically addressed by the SFPUC's information technology services team, educating staff concerning vulnerabilities and constantly improving the SFPUC Cybersecurity Program.

While the SFPUC Cybersecurity Program is periodically reviewed, no assurances can be given by the SFPUC that such measures will ensure against other cybersecurity threats and attacks. Cybersecurity breaches could damage the SFPUC's information security systems and cause material disruption to the SFPUC's operations and the provision of SFPUC services. Pursuant to the Prepayment and Collection Agreement, the SFPUC acts as collection agent for the Agency with respect to Surcharges billed pursuant to the Water Supply Agreement. Any material disruption to the SFPUC's operations caused by cybersecurity threats or cybersecurity breaches could result in a delay in collection and transfer of Surcharges.

Pandemics; COVID-19 Pandemic

A pandemic, epidemic or outbreak of an infectious disease can have significant adverse health and financial impacts on global and local economies. For example, the COVID-19 pandemic has significantly impacted the economies within the Wholesale Service Area. See "THE SAN FRANCISCO REGIONAL WATER SYSTEM – COVID-19 Pandemic."

Climate Change

[This is probably more than strictly needed from a disclosure standpoint although if there are other reasons it is okay.]

Impact on the San Francisco Bay Area. Numerous scientific studies on global climate change show that, among other effects on the global ecosystem, sea levels will rise, extreme temperatures, and extreme weather events will become more frequent as a result of increasing global temperatures attributable to atmospheric pollution.

The Fourth National Climate Assessment, published by the U.S. Global Change Research Program in November 2018 (“NCA4”), finds that more frequent and intense extreme weather and climate-related events, as well as changes in average climate conditions, are expected to continue to damage infrastructure, ecosystems and social systems over the next 25 to 100 years. NCA4 states that rising temperatures, sea level rise, and changes in extreme events are expected to increasingly disrupt and damage critical infrastructure and property and regional economies and industries that depend on natural resources and favorable climate conditions. Disruptions could include more frequent and longer-lasting power outages, fuel shortages and service disruptions. NCA4 states that the continued increase in the frequency and extent of high-tide flooding due to sea level rise threatens coastal public infrastructure. NCA4 also states that expected increases in the severity and frequency of heavy precipitation events will affect inland infrastructure, including access to roads, the viability of bridges and the safety of pipelines.

Sea levels will continue to rise in the future due to the increasing temperature of the oceans causing thermal expansion and growing ocean volume from glaciers and ice caps melting into the ocean. Between 1854 and 2016, sea level rose about nine inches according to the tidal gauge at Fort Point, a location underneath the Golden Gate Bridge. Weather and tidal patterns, including 100-year or more storms and king tides, may exacerbate the effects of climate related sea level rise. Coastal areas like the San Francisco Bay Area are at risk of substantial flood damage over time, affecting private development and public infrastructure, including roads, utilities, emergency services, schools, and parks. As a result, the cities in the San Francisco Bay Area could lose considerable tax revenues and many residents, businesses, and governmental operations along the waterfront could be displaced, and the such cities could be required to mitigate these effects at a potentially material cost.

In April 2017, the Working Group of the California Ocean Protection Council Science Advisory Team (in collaboration with several state agencies, including the California Natural Resource Agency, the Governor’s Office of Planning and Research, and the California Energy Commission) published a report, that was formally adopted in March 2018, entitled “Rising Seas in California: An Update on Sea Level Rise Science” (the “Sea Level Rise Report”) to provide a new synthesis of the state of science regarding sea level rise. The Sea Level Rise Report provides the basis for State guidance to state and local agencies for incorporating sea level rise into design, planning, permitting, construction, investment and other decisions. Among many findings, the Sea Level Rise Report indicates that the effects of sea level rise are already being felt in coastal California with more extensive coastal flooding during storms, exacerbated tidal flooding, and increased coastal erosion. In addition, the report notes that the rate of ice sheet loss

from Greenland and Antarctic ice sheets, while highly uncertain as to timing, could pose a particular risk of sea level rise for the California coastline.

Portions of the San Francisco Bay Area are built on fill that was placed over saturated silty clay known as “Bay Mud.” This Bay Mud is soft and compressible, and the consolidation of the Bay Mud under the weight of the existing fill is ongoing. A report issued in March 2018 by researchers at UC Berkeley and the University of Arizona suggests that flooding risk from climate change could be exacerbated in the San Francisco Bay Area due to the sinking or settling of the ground surface, known as subsidence. The risk of subsidence may be more significant for areas built on fill.

Impact on the Agency. The Agency and its Members, as well as the SFPUC, are working to better understand the impact that climate change may have on water supply reliability. In addition, as part of planning efforts, the Agency and its Members, as well as the SFPUC, factor climate change into studies to evaluate future water demand and to develop future water supply projects that can adapt to possible changes to the climate. Both the SFPUC and the majority of the Members are required by the State to prepare Urban Water Management Plans (“UWMPs”) every five years. The most recent UWMP update, which called for UWMPs to be completed by June 2021, required that climate change considerations be incorporated into the respective UWMPs.

The Agency’s Efforts to Incorporate Climate Change into Water Demand Forecasting

The Public Policy Institute of California has predicted that five climate pressures will impact the future of the State’s water management: (i) warming temperatures, (ii) shrinking snowpack, (iii) shorter and more intense wet seasons, (iv) more variable precipitation, and (v) rising seas. As of 2021, some of these pressures are already apparent. The climate impact on water supply is predicted to significantly exceed the impact on water demand.

Precipitation in the San Francisco Bay Area is predicted to continue to have high variability year to year, leading to very wet and very dry years. The largest winter storms in the San Francisco Bay Area will likely become more powerful and potentially more damaging. Due to a predicted increase in temperature in the future, it is assumed that the State and the San Francisco Bay Area will experience longer and deeper droughts, which could impact the water supply.

The International Panel on Climate Change (the “IPCC”) develops several future climate change scenarios referred to as Representative Concentration Pathways (“RCP”). RCP 4.5 represents a mitigation scenario where global CO2 emissions peak by the year 2040. RCP 8.5 represents the business-as-usual scenario where CO2 emissions continue to rise throughout the 21st century. The IPCC’s scenarios show the spatial changes in annual mean of maximum daily temperatures across nine Bay Area counties under RCP 4.5 and RCP 8.5.

According to California’s Fourth Climate Change Assessment San Francisco Bay Area Summary Report, the San Francisco Bay Area’s historical temperature increased 1.7 degrees Fahrenheit from 1950 to 2005. It is predicted that annual mean maximum temperatures will increase by 1 to 2 degrees Fahrenheit in the early 21st century from the years 2006 to 2039, then

will increase by an additional 3.3 degrees Fahrenheit in the mid-21st century from 2040 to 2069. This increment for the mid-21st century rises to 4.4 degrees Fahrenheit if the Bay Area remains under the high emissions scenario of “business-as-usual.”

In order to evaluate the impact of climate change on future water demand, the Agency incorporated climate change into its Regional Water Demands and Conservation Projections report completed in June of 2020 (the “2020 Demand Study”). In the 2020 Demand Study, the above-referenced IPCC report temperature change was broken over two time periods (early-21st century and mid-21st century). For the 2020 Demand Study, the time period of focus was 2019-2045. Therefore, it was necessary to combine the two time periods to obtain an overall temperature change for the length of the 2020 Demand Study (which covered through 2045). The impact of increasing temperature on water demand thus played a role in determining the need for water that must be met. Water supply projects as developed by the SFPUC and by individual member agencies, as well as additional water conservation programs, may be put in place to mitigate the impacts of climate change.

Members’ Efforts Regarding Climate Change

The majority of the Members were required to prepare UWMPs by June 2021. Many of those UWMPs refer to the 2020 Demand Study as a reference for how climate change is predicted to impact water demand. For those agencies who are reliant on the Regional Water System for all or a majority of their water supply, they reference the work of the SFPUC as to how climate change could impact the reliability of the Regional Water System supplies and further the work that the SFPUC is doing to better understand and mitigate that impact. For those agencies that have other significant sources of water supply, their UWMPs discuss the threat that climate change could have on those supplies and provide a discussion of what those respective agencies are doing to better understand and mitigate those impacts. Mitigation measures include increased water conservation to lower demand as well as project improvements or augmentations aimed at improving water supply reliability.

Projections of the effects of global climate change on the Agency are complex and depend on many factors that are outside the Agency’s control. The various scientific studies that forecast climate change and its adverse effects, including sea level rise and flooding risk, are based on assumptions contained in such studies, but actual events may vary materially. Also, the scientific understanding of climate change and its effects continues to evolve. Accordingly, the Agency is unable to forecast when sea level rise or other adverse effects of climate change (e.g., the occurrence and frequency of 100-year storm events and king tides) will occur. In particular, the Agency cannot predict the timing or precise magnitude of adverse economic effects, including, without limitation, material adverse effects on the business operations or financial condition of the Agency and the local economy during the term of the Series 2023A Bonds. While the effects of climate change may be mitigated by the Agency’s past and future investment in adaptation strategies, the Agency can give no assurance about the net effects of those strategies and whether the Agency will be required to take additional adaptive mitigation measures. If necessary, such additional measures could require significant capital resources.

Impact on Regional Water System. Climate change and its impact on California’s water resources has become significantly better understood during the past decade. There is evidence

that increasing concentrations of greenhouse gases have caused and will continue to cause a rise in temperatures around the world, which will result in a wide range of changes in climate patterns. Moreover, there is evidence that a warming trend occurred during the latter part of the 20th century and will likely continue through the 21st century. These changes will have a direct effect on water resources in the State, and numerous studies on climate and water in the State have been conducted to determine the potential impacts. Planning for climate change is a challenge for water managers, in large part because the anticipated future impacts may vary greatly over a range of predicted scenarios. However, the generalized impacts include:

- Reductions in the average annual snowpack due to a rise in the snow line, a shallower snowpack in the low- and medium-elevation zones, and a shift in snowmelt runoff timing;
- Changes in the timing, intensity and variability of precipitation, and an increased amount of precipitation falling as rain instead of snow;
- Long-term changes in watershed vegetation and increased incidence of wildfires that could affect water quality and quantity;
- Sea level rise and an increase in the potential for saltwater intrusion in the Delta and Coastal aquifers;
- Increased water temperatures with accompanying potential adverse effects on some fisheries and water quality;
- Increases in evaporation and transpiration (irrigation need); and
- Changes in urban and agricultural water demand.

However, other than the general trends listed above, there is no clear scientific consensus on exactly how climate change will quantitatively affect SFPUC or State or local water supplies.

The SFPUC conducted a hydrologic modeling study to determine streamflow sensitivities to possible increases in temperature and changes in precipitation due to climate change in the Tuolumne watershed. For the hydrologic study, the likelihood of any particular climate future was not assessed, and the report did not seek to comprehensively frame all the changes climate scientists expect from global warming. The goal of that study was simply to assess the sensitivity of reservoir inflows to a range of changes in two climate variables, temperature and precipitation. For that reason, a physically-based conceptual hydrology simulation model was calibrated against past conditions and used to assess potential changes in the timing and volume of runoff that may occur for increase in temperature of up to 9.7 degrees Fahrenheit and change in precipitation ranging between -15% and +6% as compared to existing conditions. A review of the literature and consultation with climate science experts allowed selection of climate scenarios that encompassed a range of temperature and precipitation changes that may be experienced through 2100 so that potential changes in watershed runoff could be simulated and analyzed. With differing increases in temperature alone, the median annual runoff at Hetch Hetchy would decrease by 0.7% to 2.1% from present-day conditions with increases between about +1 and +3

degrees Fahrenheit and decrease by 2.6% to 10.2% from present-day with larger increases between about +3.5 and +9.7 degrees Fahrenheit. Adding differing decreases in precipitation on top of temperature increases, the median annual runoff at Hetch Hetchy would decrease by 7.6% to 8.6% from present-day conditions with 5% decrease in precipitation and by 24.7% to 29.4% from present-day conditions with 15% decrease in precipitation. Low runoff years are critical to evaluate water supply reliability. Climate change effects are exacerbated in low runoff years and aforementioned decreases in runoff will be larger in dry years by a factor between 1.5 and 3. The preliminary water supply analysis shows that the Regional Water System would be vulnerable to temperature increases above 6.3 degrees Fahrenheit without change in precipitation and for temperature increases above 3 degrees Fahrenheit when combined with decreases in precipitation greater than 5%.

SFPUC hydrologists are involved in ongoing monitoring and research regarding climate change trends and will continue to monitor the changes and predictions, particularly as these changes relate to water system operations and management of the Water Enterprise. The Water Enterprise is currently working on a long-term vulnerability assessment with researchers at University of Massachusetts, the National Center for Atmospheric Research, and Deltares, a research institute in Delft, Netherlands. There are many uncertain factors such as climate change, changing regulations, water quality, growth and economic cycles that may create vulnerabilities for the Regional Water System's ability to meet levels of service. The uncertainties associated with the degree to which these factors will occur and how much risk they present to the water system is difficult to predict, but nonetheless they need to be considered in SFPUC planning. To address this planning challenge, the project will use a vulnerability-based planning approach to explore a range of future conditions to identify vulnerabilities, assess the risks associated with these vulnerabilities and develop an adaptation plan that is flexible and robust to a wide range of future outcomes. This plan will guide water supply decisions to reduce the risk of particular vulnerabilities of the Regional Water System over the next 50 years or longer. The project will aim to address (i) the conditions under which the Regional Water System will no longer be able to meet water supply performance criteria, (ii) whether climate change is the most important driver of vulnerability for the Regional Water System, and (iii) the SFPUC's ability to manage vulnerabilities.

Regarding sea level rise, the City has developed policies for considering the potential impact of sea level rise on City assets, "Guidance for Incorporating Sea Level Rise into Capital Planning" that requires all assets in the City's Ten-Year Capital Plan be evaluated for inundation under a variety of sea level rise scenarios plus a 1% storm. The City, through its Sea Level Rise Action Plan, is currently evaluating the best approaches for protecting public and private assets, along with all other public and private assets potentially subject to inundation caused by sea level rise and large storms.

The SFPUC is a founding member of the Water Utility Climate Alliance (the "WUCA"), a group of 12 large water utilities delivering drinking water to over 50 million people in the United States that is focused on collaboratively advancing water utility climate change adaptation. WUCA meets monthly by phone, maintains active projects and committees exploring adaptation best practices on a variety of subjects and features active participation of SFPUC staff.

Currently, the SFPUC is conducting a comprehensive assessment of the potential effects of climate change on water supply using a wide range of plausible increases in temperature and changes in precipitation to address the wide uncertainty in climate projections over the planning horizon 2020 to 2070. There are many uncertain factors including climate change, changing regulations, water quality, growth and economic cycles that may create vulnerabilities for the Regional Water System's ability to meet levels of service. The uncertainties associated with the degree to which these factors will occur and how much risk they present to the water system is difficult to predict, but nonetheless they need to be, and will be, considered in SFPUC planning. To address this planning challenge, the project uses a vulnerability-based planning approach to explore a range future conditions to identify vulnerabilities, assess the risks associated with these vulnerabilities, and develop an adaptation plan that is flexible and robust to a wide range of future outcomes. The SFPUC has indicated that the study is near final and will be released in the fall of 2021.

Payment Delays and Defaults; Bankruptcy or Financial Failure of a Member

The financial failure or bankruptcy of a Member could adversely affect the ability of such Member to honor its obligation to pay Surcharges.

The Agency is not aware of the existing or impending financial failure or bankruptcy of any Member, but there can be no assurance that a financial failure or bankruptcy of a Member will not occur. If a Member were to become bankrupt, the Agency may be unable to collect Surcharges from such Member or may experience delay in collecting such Surcharges.

If the collection of Surcharge payments from a Member were to be delayed or such amounts were to remain uncollected in any Fiscal Year, payment of debt service on the Bonds may depend on the sufficiency of amounts in the Stabilization Fund until such payments can be collected or until Surcharges addressing such default can be collected from other Members. See “—Limitations on Remedies” and “IMPOSITION AND COLLECTION OF SURCHARGES—Imposition of Surcharges by the Agency.”

Initiative, Referendum and Future Legislation

Under the State Constitution, the voters of the State have the ability to initiate legislation and require a public vote on legislation passed by the State Legislature through the powers of initiative and referendum, respectively. The voters of various Members have similar powers. The Agency is unable to predict whether any such initiatives might be submitted to or approved by the voters, the nature of such initiatives or their potential impact on the Agency, the Members, the SFPUC, the Regional Water System or the Series 2023A Bonds. See “THE SAN FRANCISCO REGIONAL WATER SYSTEM—Proposals to Restore Hetch Hetchy Valley.”

Limitations on Remedies

The enforceability of the rights and remedies of the owners of the Series 2023A Bonds and the Trustee, and the obligations incurred by the Agency, may be subject to the following: the limitations on legal remedies against public agencies in the State; the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; principles of

equity which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the U.S. Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the Series 2023A Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitations or modification of their rights.

In addition to the limitations on remedies contained in the Indenture, the rights and obligations under the Series 2023A Bonds and the Indenture may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State. The opinion to be delivered by Orrick, Herrington & Sutcliffe LLP, Bond Counsel, concurrently with the issuance of the Series 2023A Bonds, that the Indenture has been duly authorized, executed and delivered by the Agency and constitute valid and legally binding agreements of the Agency, and that the Series 2023A Bonds are entitled to the benefits of the Indenture, will be subject to such limitations and the various other legal opinions to be delivered concurrently with the delivery of the Series 2023A Bonds will be similarly qualified. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix C hereto. In the event the Agency fails to comply with its covenants under the Indenture or to pay principal of and interest on the Series 2023A Bonds, there can be no assurance that available remedies will be adequate to fully protect the interests of the owners of the Series 2023A Bonds. It is unclear what remedies, beyond a suit for non-collection, would be available to the Agency in the event of a payment default or delay by a Member.

Failure to Maintain Credit Ratings

Certain rating agencies have assigned ratings to the Series 2023A Bonds. The ratings issued reflect only the views of such rating agencies. Any explanation of the significance of these ratings should be obtained from the respective rating agencies. The Agency undertakes no responsibility to maintain its current credit ratings on the Series 2023A Bonds or to oppose any such downward revision, suspension or withdrawal. See “RATINGS” herein. There is no assurance that current ratings of the Series 2023A Bonds will continue for any given period or that such ratings will not be revised downward or withdrawn entirely by the rating agencies if, in the respective judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings could be expected to have an adverse effect on the market price or the marketing of the Series 2023A Bonds. Maintenance of a rating on the Series 2023A Bonds is a condition to the Settlement as set forth in the Bond Purchase Contract. See “FORWARD DELIVERY OF THE SERIES 2023A BONDS—Certain Considerations—*Rating Risk*.”

Loss of Tax Exemption/Risk of Tax Audit of Municipal Issuers

As discussed under “TAX MATTERS,” interest on the Series 2023A Bonds could fail to be excluded from the gross income of the owners thereof for purposes of federal income taxation retroactive to the date of the issuance of the Series 2023A Bonds as a result of future acts or omissions of the Agency or the SFPUC in violation of its covenants to comply with requirements of the Internal Revenue Code of 1986, as amended. Should such an event of taxability occur, the Series 2023A Bonds are not subject to special redemption or any increase in interest rate and will remain outstanding until maturity or until redeemed under one of the redemption provisions contained in the Indenture.

The Internal Revenue Service has initiated an expanded program for the auditing of tax-exempt securities issues, including both random and target audits. It is possible that the Series 2023A Bonds will be selected for audit by the Internal Revenue Service. It is also possible that the market value of the Series 2023A Bonds might be affected as a result of such an audit of the Series 2023A Bonds (or by an audit of similar securities).

Change in Tax Law

As discussed under “TAX MATTERS,” current and future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Series 2023A Bonds to be subject, directly or indirectly, in whole or in part, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest.

Secondary Market

There can be no guarantee that there will be a secondary market for the Series 2023A Bonds or, if a secondary market exists, that the Series 2023A Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then prevailing circumstances. Such prices could be substantially different from the original purchase price.

Other Risks

The discussion in this section, “RISK FACTORS,” is not meant to be a comprehensive or definitive list of the risks associated with an investment in the Series 2023A Bonds. There may be other risks inherent in ownership of the 2023A Bonds in addition to those described in this section. Investors are advised to read the entire Official Statement in order to obtain information necessary to make an investment in the Series 2023A Bonds.

LITIGATION

There agency is not aware of any action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or threatened against the Agency affecting the existence of the Agency or the titles of its officers to their respective offices or seeking to restrain or to enjoin the sale or delivery of the Series 2023A Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Series 2023A Bonds, the Indenture or any action of the Agency contemplated by any of said documents, or in any way contesting the completeness or accuracy of this Official Statement or any amendment or supplement thereto, or contesting the powers of the Agency with respect to the Series 2023A Bonds or any action of the Agency contemplated by any of said documents, nor to the knowledge of the Agency is there any basis therefor.

TAX MATTERS

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Agency (“Bond Counsel”), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2023A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”) and is exempt from State of California personal income taxes. Bond Counsel is of the further opinion that interest on the Series 2023A Bonds is not a specific preference item for purposes of the federal alternative minimum tax. A complete copy of the proposed form of opinion of Bond Counsel is set forth in APPENDIX C hereto.

To the extent the issue price of any maturity of the Series 2023A Bonds is less than the amount to be paid at maturity of such Series 2023A Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Series 2023A Bonds), the difference constitutes “original issue discount,” the accrual of which, to the extent properly allocable to

each Beneficial Owner thereof, is treated as interest on the Series 2023A Bonds which is excluded from gross income for federal income tax purposes and exempt from State of California personal income taxes. For this purpose, the issue price of a particular maturity of the Series 2023A Bonds is the first price at which a substantial amount of such maturity of the Series 2023A Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Series 2023A Bonds accrues daily over the term to maturity of such Series 2023A Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Series 2023A Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Series 2023A Bonds. Beneficial Owners of the Series 2023A Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Series 2023A Bonds with original issue discount, including the treatment of Beneficial Owners who do not purchase such Series 2023A Bonds in the original offering to the public at the first price at which a substantial amount of such Series 2023A Bonds is sold to the public.

Series 2023A Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) (“Premium Bonds”) will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax exempt interest received, and a beneficial owner’s basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such beneficial owner. Beneficial owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Series 2023A Bonds. The Agency and the SFPUC have made certain representations and covenanted to comply with certain restrictions, conditions and requirements designed to ensure that interest on the Series 2023A Bonds will not become includable in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Series 2023A Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Series 2023A Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring), or any other matters coming to Bond Counsel’s attention after the date of issuance of the Series 2023A Bonds may adversely affect the value of, or the tax status of interest on, the Series 2023A Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

Although Bond Counsel is of the opinion that interest on the Series 2023A Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of amounts treated as interest on, the Series 2023A Bonds may otherwise affect a beneficial

owner's federal, state or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the beneficial owner or the beneficial owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Current and future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Series 2023A Bonds to be subject, directly or indirectly, in whole or in part, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals or clarification of the Code or court decisions may also affect, perhaps significantly, the market price for, or marketability of, the Series 2023A Bonds. Prospective purchasers of the Series 2023A Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel is expected to express no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Series 2023A Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Department or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Department has covenanted, however, to comply with the requirements of the Code.

Unless separately engaged, Bond Counsel is not obligated to defend the Agency or the beneficial owners regarding the tax-exempt status of the Series 2023A Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Agency and their appointed counsel, including the beneficial owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Agency legitimately disagrees may not be practicable. Any action of the IRS, including but not limited to selection of the Series 2023A Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Series 2023A Bonds, and may cause the Agency or the beneficial owners to incur significant expense.

APPROVAL OF LEGAL PROCEEDINGS

The validity of the Series 2023A Bonds and certain other legal matters are subject to the approving opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Agency. A complete copy of the proposed form of Bond Counsel opinion is contained in Appendix C hereto. Bond Counsel undertakes no responsibility for the accuracy, completeness or fairness of this Official Statement. Orrick, Herrington & Sutcliffe LLP, as Disclosure Counsel, will provide certain other legal services for the Agency. Certain legal matters will be passed upon for the Agency by Hanson Bridgett LLP and for the underwriters by Stradling, Yocca, Carlson & Rauth, a Professional Corporation.

RATINGS

Moody's Investors Service, Inc. ("Moody's"), and Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business ("Standard & Poor's"), have assigned ratings of "____" and "____", respectively, to the Series 2023A Bonds. Such ratings are based in part upon information provided by the Agency. Each rating reflects only the views of the applicable rating agency, and an explanation of the significance of such rating may be obtained only from such rating agency. Such ratings are not a recommendation to buy, sell or hold the Series 2023A Bonds. There can be no assurance that either such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely if, in the judgment of the applicable rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating may have an adverse effect on the marketability or market price of the Series 2023A Bonds. The Agency undertakes no responsibility to maintain its current credit ratings on the Bonds or to oppose any downward revision, suspension or withdrawal.

UNDERWRITING

Goldman Sachs & Co. LLC and J.P. Morgan Securities, LLC, as underwriters (the "Underwriters"), have agreed, subject to certain conditions, to purchase the Series 2023A Bonds at a purchase price of \$____ (equal to the original principal amount thereof, plus a [net] original issue premium of \$____, less an underwriters' discount of \$____). The initial public offering prices stated on the inside cover page of this Official Statement may be changed from time to time by the Underwriters. The Underwriters may offer and sell the Series 2023A Bonds to certain dealers (including dealers depositing Series 2023A Bonds into investment trusts), dealer banks, banks acting as agent and others at prices lower than said public offering prices.

The following [____] paragraphs have been provided by the Underwriters for inclusion in this Official Statement and the Agency does not assume any responsibility for the accuracy or completeness of such statements or information.

[Placeholder for any J.P. Morgan distribution agreement disclosure]

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the Underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to the Agency and to persons and entities with relationships with the Agency, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the Agency (directly, as collateral securing other obligations or otherwise)

and/or persons and entities with relationships with the Agency. The Underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

VERIFICATION OF MATHEMATICAL ACCURACY

Upon the Closing of the Series 2023A Bonds, [VERIFICATION AGENT] (the “Verification Agent”) will verify that the proceeds of the Series 2023A Bonds to be transferred to the Escrow Agent for deposit into the Escrow Fund will be sufficient to pay the principal of and interest on the Refunded Bonds when due, to and including the Redemption Date. In the event that such proceeds are invested in Defeasance Obligations (as defined in the Indenture), the Verification Agent will verify the arithmetical accuracy of certain computations relating to the: (i) sufficiency of the forecasted receipts of principal and interest on the Defeasance Obligations and cash held in the Escrow Fund; (ii) the scheduled payments of principal and interest with respect to the Refunded Bonds on and prior to the Redemption Date; and (iii) yields on the Defeasance Obligations deposited pursuant to the Escrow Agreement. Such verifications will be based solely upon information and assumptions supplied to the Verification Agent by the Underwriters or KNN Public Finance, LLC. The Verification Agent has not made a study or evaluation of the information and assumptions on which such computations are based and, accordingly, has not expressed an opinion on the data used, the reasonableness of the assumptions or the achievability of the forecasted outcome.

CONTINUING DISCLOSURE

The Agency has covenanted for the benefit of the Owners of the Series 2023A Bonds to provide certain financial information and operating data relating to the Agency not later than 270 days after the end of the Agency’s Fiscal Year (which currently ends on June 30), commencing with the report for Fiscal Year [2020-2021][2021-2022] (the “Annual Report”) and to provide notices of the occurrence of certain enumerated events, in some cases if material. The Annual Report will be filed by the Agency with the MSRB through EMMA.

The specific nature of the information to be contained in the Annual Report or the notices of material events is summarized in “Appendix D—FORM OF CONTINUING DISCLOSURE CERTIFICATE”. These covenants have been made in order to assist the Underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

California Water Service Group is subject to the information requirements of the Exchange Act, and is required to make certain periodic filings with the SEC, including pursuant to Sections 13 or 15(d) of the Exchange Act. California Water Service Company has covenanted to notify the Agency promptly: (i) upon the annual filing with the SEC by the California Water Service Group of its annual report on Form 10-K, and (ii) upon the occurrence of certain events, if any, relating to mergers, sales of assets (other than in the ordinary course of business) or bankruptcy. In the event that California Water Service Group’s 10-K filings no longer contain operating and financial information concerning California Water Service Company of the type found in its 10-K for the year ended December 31, 2020, California Water Service Company has

covenanted to continue to make available to the Agency similar financial information and the Agency has covenanted to file such information with the MSRB through EMMA. See “ADDITIONAL INFORMATION CONCERNING MEMBERS—California Water Service Company and California Water Service Group” and “—Member Official Statements and Continuing Disclosure Filings.” The Agency has covenanted to file with the MSRB through EMMA notices relating to the availability of California Water Service Group’s Form 10-K or the occurrence of other events upon receipt of notice of the same from California Water Service Company. See “APPENDIX D – FORM OF CONTINUING DISCLOSURE CERTIFICATE.”

MUNICIPAL ADVISOR

KNN Public Finance, LLC, has served as municipal advisor to the Agency in connection with the issuance of the Series 2023A Bonds.

MISCELLANEOUS

So far as any statements made in this Official Statement involve matters of opinion, assumptions, projections, anticipated events or estimates, whether or not expressly stated, they are set forth as such and not as representations of fact, and actual results may differ substantially from those set forth herein. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the owners of the Series 2023A Bonds.

The summaries of certain provisions of the Series 2023A Bonds, statutes and other documents or agreements referred to in this Official Statement do not purport to be complete, and reference is made to each of them for a complete statement of their provisions. Copies are available for review by making requests to the Agency.

The Appendices are an integral part of this Official Statement and must be read together with all other parts of this Official Statement.

The execution and delivery of this Official Statement have been duly authorized by the Agency.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

By: _____
Chief Executive Officer and General Manager

APPENDIX A
SELECTED INFORMATION ON CERTAIN MEMBERS

ALAMEDA COUNTY WATER DISTRICT..... A-I

CALIFORNIA WATER SERVICE COMPANYA-II

CITY OF HAYWARD A-III

CITY OF MOUNTAIN VIEW A-IV

CITY OF PALO ALTO A-V

CITY OF REDWOOD CITY A-VI

CITY OF SUNNYVALE.....A-VII

APPENDIX B
SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

APPENDIX C
PROPOSED FORM OF OPINION OF BOND COUNSEL

As a condition to the delivery of the Series 2023A Bonds, Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Agency, is expected to render its final approving opinion with respect to the Series 2023A Bonds in substantially the following form:

APPENDIX D
FORM OF CONTINUING DISCLOSURE CERTIFICATE

APPENDIX E

SECURITIES DEPOSITORY AND BOOK-ENTRY SYSTEM

The information in this APPENDIX has been provided by DTC for use in securities offering documents, and the Agency takes no responsibility for the accuracy or completeness thereof. The Agency cannot and does not give any assurances that DTC, DTC Participants (defined below) or Indirect Participants (defined below) will distribute to the beneficial owners either (a) payments of interest, principal or premium, if any, with respect to the Bonds or (b) certificates representing ownership interest in or other confirmation of ownership interest in the Bonds, or that they will so do on a timely basis or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Official Statement. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

As used in this Appendix, “Securities” means the Series 2023A Bonds, “Issuer” means the Agency, and “Agent” means the Trustee.

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such

as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. The information contained on this Internet site is not incorporated herein by reference.

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

APPENDIX F
FORM OF DELAYED DELIVERY CONTRACT

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BAWSCA

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
San Mateo, California 94402
(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: September 10, 2021
SUBJECT: Chief Executive Officer/General Manager's Letter

SFPUC Alternative Water Supply Plan Workshop – September 17, 2021

The SFPUC has scheduled a Commission workshop on its Alternative Water Supply Program (AWS Program) on September 17, 2021 from 2-5 PM. At this time, BAWSCA has yet to be briefed by the SFPUC regarding the planned workshop agenda. BAWSCA is aware, however, that the workshop is designed to provide details of the current projects in the AWS Program and present details regarding the anticipated project evaluation process. Implementation of new projects is vital to fill the gap in needed water supply.

BAWSCA will attend the workshop. BAWSCA encourages the Board and member agency Water Management Representatives (WMRs) to also attend the workshop. BAWSCA will send an agenda and link via email to the Board and WMRs when it is available to facilitate meeting attendance.

SFPUC Comparison of 1976-1977 Population and Demand to 2020-21 - Update:

At the July 15, 2021 Board meeting, the SFPUC presented a slide that documented precipitation that occurred during the 1976-77 drought as compared with the precipitation that has occurred during this most current drought (2020-21). The Board requested that the SFPUC provide, as a follow-up, data that showed population and total demand for the entire Regional Water System in 1976-77 compared to today.

BAWSCA is working with the SFPUC to collect and present this data. BAWSCA has collected data for the BAWSCA service area. The SFPUC is still working on collecting the remaining necessary data. BAWSCA has followed up with the SFPUC on this request and will provide the results to the Board as soon as it is available.

Wholesale Revenue Requirement Review for FY 2018-19 – Status Update:

The SFPUC has addressed all of BAWSCA's questions concerning the calculation of the annual Wholesale Revenue Requirement (WRR) for FY 2018-19. The parties are working towards having a settlement agreement before the deadline of October 12, 2021.

Wholesale Revenue Requirement Reviews for FY 2019-20 – Status Update:

On August 25, 2021, BAWSCA received the compliance auditor's report on the SFPUC's calculation of the annual WRR and changes in the Balancing Account for FY 2019-20. Pursuant to Section 7.06 of the 2009 Water Supply Agreement (WSA), BAWSCA will conduct a WRR review and expects to complete its review by October 24, 2021.

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Board of Directors

Policy Calendar Through May 2022

Meeting Date	Purpose	Issue or Topic
Nov 2021	D&A D&A R&D R&D	Annual Review and Consideration of BAWSCA's Statement of Investment Policy Consideration of Action to Extend Current Tier 2 Drought Plan Update on Long-Term Reliable Water Supply Strategy Implementation BAWSCA Internship Program Update
January 2022	R&A R&A R&D R&D R&D	Mid-Year 2021-22 Work Plan, Budget and General Reserve Review Review of Agency Personnel Handbook BAWSCA's and SFPUC's OPEB-CERBT Funded Update Update on BAWSCA's CalPers Pension Funded Status Review of Water Supply Forecast
March 2022	R&A R&D R&D	Consideration of Proposed Bond Surcharges for FY 2022-23 Presentation of Preliminary FY 2022-23 Work Plan and Budget Review of Water Supply Forecast
May 2022	R&A R&D	Consideration of Proposed FY 2022-23 Work Plan and Budget Review of Water Supply Forecast

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**Bay Area Water Supply and Conservation Agency
and Regional Financing Authority**

Meeting Schedule through June 2022

DUE TO COVID-19, MEETINGS WILL BE CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT. MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON.

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 6:30 – 8:45 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – September 16, 2021	Zoom Meeting
Thursday – November 18, 2021	Oak Room, San Mateo Main Library
Thursday – January 20, 2022	Oak Room, San Mateo Main Library
Thursday – March 17, 2022	Oak Room, San Mateo Main Library
Thursday – May 19, 2022	Oak Room, San Mateo Main Library

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 20, 2022	Oak Room, San Mateo Main Library

Schedule for BAWSCA Board Policy Committee Meetings (Meetings held from 1:30-4:00 p.m.)	
<u>Date</u>	<u>Location</u>
Wednesday – October 13, 2021	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – December 8, 2021	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – February 9, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, April 13, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, June 8, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.

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**OPEN SESSION MATERIALS
SEPTEMBER 16, 2021 BAWSCA AGENDA ITEM 16**

**CONSIDER COMPENSATION ADJUSTMENT FOR
CEO/GENERAL MANAGER
FY 2021-22**

FOR ADDRESSEE ONLY

**PLEASE DO NOT SHARE OR DISCUSS
CONTENTS WITH NON-ADDRESSEES**

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Consider Compensation Adjustment for CEO/General Manager for FY 2021-2022**

Summary:

The Board of Directors (Board) of the Bay Area Water Supply and Conservation Agency (BAWSCA) evaluated the CEO/General Manager's performance during FY 2020-21 and found Ms. Sandkulla had an outstanding year. The Chair recommends the Board approve a 5% salary increase.

Fiscal Impact:

The CEO/General Manager's current salary is \$283,500. The 5% adjustment in salary would be \$14,175. This adjustment would bring the total compensation for fiscal year 2021-2022 to \$297,675. Funds are available for the compensation adjustment without an increase to the total operating budget.

Recommendation:

That the Board approve the contract amendment to the CEO/General Manager's Employment Agreement.

Background:

The Board considers compensation for the CEO/General Manager at the time of her yearly evaluation. The Chair proposes the below changes to the CEO/General Manager's Employment Agreement.

The CEO/General Manager's Employment Agreement (signed in 2013) provides that she may be awarded a salary increase, merit pay (bonus), or both. Section 3.A of the Employment Agreement states that salary adjustments may be considered annually.

In recognition of Ms. Sandkulla's outstanding executive leadership through the demonstration of her ability to manage known, anticipated, and unanticipated events this year and through her hiring, and utilization of, a highly competent and professional staff, the BAWSCA Board of Directors desires to modify the CEO/General Manager's Employment Agreement to provide a 5% increase to Ms. Sandkulla's base salary so that her new annual base salary is \$297,675.

Attachment:

1. Amendment to CEO/General Manager's Employment Agreement

EIGHTH AMENDMENT TO EMPLOYMENT AGREEMENT

THIS EIGHT AMENDMENT TO EMPLOYMENT AGREEMENT is made as of September 16, 2021, by and between the BAY AREA WATER SUPPLY & CONSERVATION AGENCY ("Agency") and NICOLE SANDKULLA ("Ms. Sandkulla").

WHEREAS, the Agency and Ms. Sandkulla entered into an Employment Agreement ("Agreement") as of July 19, 2013, and Ms. Sandkulla began serving as CEO and General Manager beginning on September 30, 2013;

WHEREAS, Section 3.A. of the Employment Agreement provides that the Board of Directors will review the performance of the CEO and General Manager on an annual basis and authorizes the Board of Directors, in its sole discretion, to approve contract adjustments, including increases in Ms. Sandkulla's salary;

WHEREAS, in recognition of Ms. Sandkulla's outstanding performance during her second through seventh years, the Board of Directors of the Agency previously amended the Employment Agreement seven times as follows:

1. On September 19, 2014 ("First Amendment"), to provide a 3.00% increase to Ms. Sandkulla's base salary and a one-time \$10,000 merit bonus;
2. On September 17, 2015 ("Second Amendment"), to provide a 3.00% increase to Ms. Sandkulla's base salary and a one-time \$10,000 merit bonus;
3. On September 15, 2016 ("Third Amendment"), to provide a 3.00% increase to Ms. Sandkulla's base salary and a one-time \$10,000 merit bonus;
4. On September 21, 2017 ("Fourth Amendment"), to provide a 3.00% increase to Ms. Sandkulla's base salary and a one-time \$15,000 merit bonus;
5. On September 20, 2018 ("Fifth Amendment"), to provide a 5% increase to Ms. Sandkulla's base salary; and
6. On November 21, 2019 ("Sixth Amendment"), to provide a 21% increase to Ms. Sandkulla's base salary; and
7. On September 17, 2020 ("Seventh Amendment"), to provide a 5% increase to Ms. Sandkulla's base salary.

WHEREAS, the Board of Directors evaluated the performance of the CEO and General Manager in 2020-21 and found that Ms. Sandkulla continues to exhibit superior performance in meeting BAWSCA's goal of "a reliable supply of high-quality water at a fair price"; and

WHEREAS, in recognition of Ms. Sandkulla's sustained excellent performance and her continuing to deliver extraordinary results in all areas of her work, according to the Board's own review process, the Board of Directors of the Agency now desires to modify the Employment Agreement to provide a 5% increase to Ms. Sandkulla's base salary pursuant to Section 3.A. of the Agreement effective on her anniversary date of September 30, 2021; and

WHEREAS, the Agency and Ms. Sandkulla wish to memorialize these actions.

ATTACHMENT 1

NOW, THEREFORE, the parties agree as follows:

1. Compensation. Section 3.A. of the Agreement, is amended by deleting and replacing the first sentence of that section in its entirety as follows:

A. Salary and Evaluation. Agency agrees to pay Ms. Sandkulla an annual base salary of Two Hundred Ninety-Seven Thousand, Six Hundred Seventy-Five Dollars (\$297,675), payable in installments at the same time and in the same manner as other management employees of the Agency are paid, effective as of September 30, 2021, for the faithful and diligent performance of the duties and obligations of the CEO and General Manager.

2. Except as expressly modified by the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eight Amendments, all terms and conditions of the Employment Agreement remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Seventh Amendment to Employment Agreement as of the day and year first above written.

BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY

By: _____
NICOLE SANDKULLA
CEO and General Manager

By: _____
GUSTAV LARSSON
President, Board of Directors

Approved as to form:

By: _____
ALLISON C. SCHUTTE
Legal Counsel