

**AGENDA**  
**SANTA MARGARITA WATER DISTRICT**  
**WATER POLICY AND INNOVATION COMMITTEE MEETING**  
**April 13, 2016**

**CALL TO ORDER:** 8:00 a.m., Conference Room, District Office  
26111 Antonio Parkway, Rancho Santa Margarita, California

**COMMITTEE CHAIR:** Director Sandra F. Jacobs

**COMMITTEE MEMBER:** Director Charles T. Gibson

**1. PUBLIC FORUM**

*Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to three minutes, unless further time is granted by the Presiding Officer. Please submit the form to the Recording Secretary or Committee Chair prior to the beginning of the meeting.*

*Those wishing to address the Board of Directors on any item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary or Committee Chair before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.*

**2. ACTION ITEMS**

- 2.1 Establishment of Joint South County Agency Meeting Topics and Assignment of Draft Meeting Schedule .....**Page 3**

**Recommendation:** Approve the list of suggested topics. Direct the Director of External Affairs to contact other agencies to determine interest and tentative dates pending approval by the Board.

**3. DISCUSSION ITEMS**

- 3.1 San Juan Basin Project.
- 3.2 South County Regional Water and Santa Margarita Water District Position.

**4. INFORMATION ITEMS**

- 4.1 Status Update on Cellular Leasing Program .....**Page 5**

President, Charley Wilson  
Vice President, Charles T. Gibson  
Engineering and Operations Committee Chair, Justin McCusker  
Water Policy and Innovation Committee Chair, Sandra F. Jacobs  
Finance and Administration Committee Chair, Betty H. Olson  
General Manager, Daniel R. Ferons

- 4.2 Proposed Financing Agreement for Lake Mission Viejo Advanced Purified Water Project between City of Mission Viejo and Santa Margarita Water District.....**Page 11**

**ITEMS DISTRIBUTED TO THE BOARD LESS THAN 72 HOURS PRIOR TO MEETING**

Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection in the lobby of the District’s business office located at 26111 Antonio Parkway, Rancho Santa Margarita, California 92688, during regular business hours. When practical, these public records will also be made available on the District’s Internet Web Site, accessible at <http://www.smwd.com>.

*Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, as required by Section 202 of the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Kelly Radvansky Secretary, Board of Directors, at (949) 459-6642 at least 48 hours before the meeting if possible.*

# Santa Margarita Water District



## MEMORANDUM

**TO:** Water Policy and Innovation Committee      **DATE:** April 13, 2016  
**FROM:** Dan Ferons and Kelly Radvansky  
**SUBJECT:** Establishment of Joint South County Agency Meeting Topics and Draft Meeting Schedule

### SUMMARY

**Issue:** At the Board meeting on April 6, 2016, the Board approved scheduling joint meetings with other South County agencies to discuss various topics. The Board referred the issue to the Water Policy and Innovation Committee to establish topics and directed the Director of External Affairs to create a schedule to bring back to the full Board for approval.

**Recommendation:** Approve the list of suggested topics. Direct the Director of External Affairs to contact other agencies to determine interest and tentative dates pending approval by the Board.

**Fiscal Impact:** Staff time will be expended for scheduling and preparation of materials for the meetings; minor costs for meals and/or refreshments.

**Previous Related Action:** None

**Adherence to Policy/Strategic Planning:** The action is consistent with the “Board Operating Policy” which describes one of the Board’s functions as ensuring the effective implementation of their strategic visions and insight which is defined as “*acutely observing and deducing trends that make the District a stronger organization.*”

In addition the “Public Private Partnership” policy states that “*It is a policy of the District to operate as efficiently as possible and to consider all available models to provide services, procure facilities, and financing alternatives, while protecting the public’s investment.*” The meetings with other agencies can provide new models for achieving strategic goals.

**DISCUSSION**

A tentative list of topics and agencies recommended for joint meetings are as follows:

<b>Agency</b>	<b>Topic</b>
<b>Moulton Niguel Water District</b>	1. San Juan Basin Project 2. Trampas Canyon Reservoir Project and Recycled Water expansion including 3A WRP upgrades
<b>Trabuco Canyon Water District</b>	1. Joint Expansion of Recycled Water 2. San Juan Basin Project
<b>El Toro Water District</b>	1. Participation in Trampas Canyon Reservoir 2. Recycled Water Planning
<b>Irvine Ranch Water District</b>	1. Baker Treatment Plant 2. Chiquita WRP 3. Los Alisos WWTP 4. Treatment Capacity
<b>South Coast Water District</b>	1. San Juan Basin Project 2. Doheny Desalination Project
<b>City of San Juan Capistrano</b>	1. San Juan Basin Project 2. Recycled Water 3. Exiting Water Utility
<b>City of San Clemente</b>	1. Wastewater Service 2. Recycled Water Intertie and Planning

# Santa Margarita Water District



## MEMORANDUM

**TO:** Water Policy and Innovation Committee

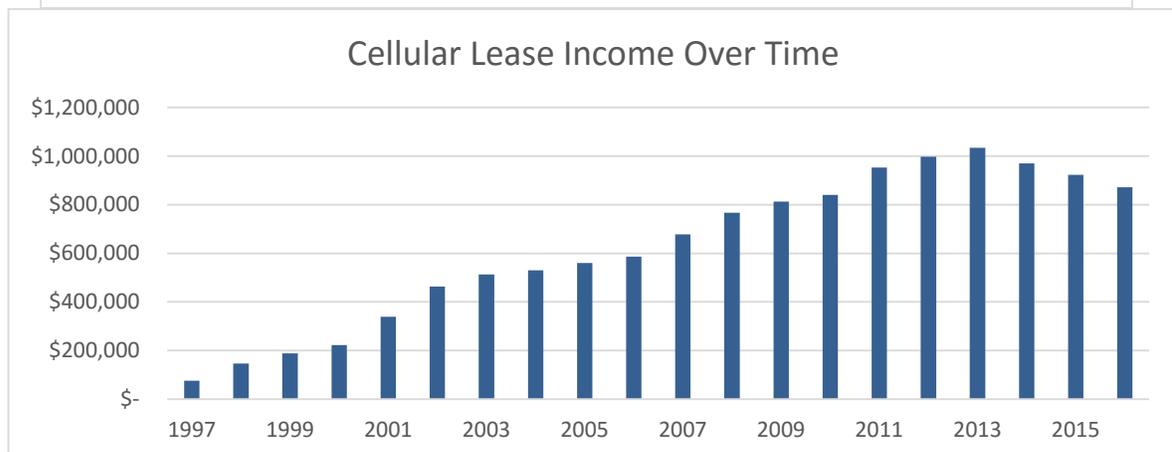
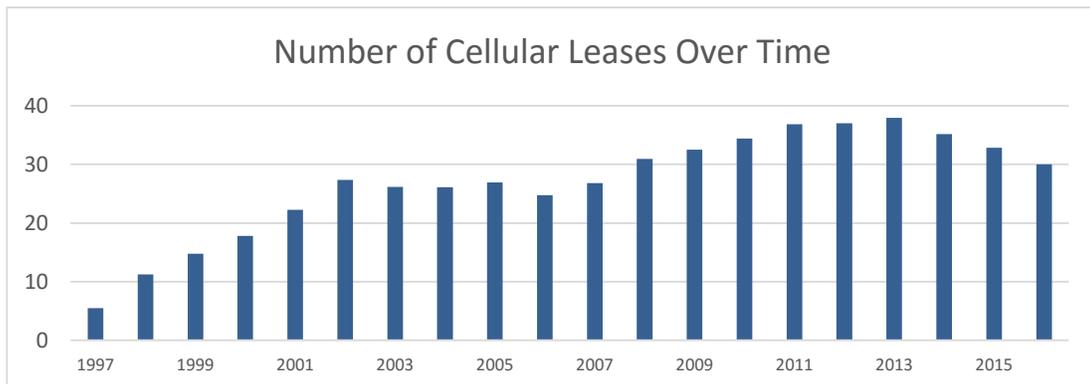
**DATE:** April 13, 2016

**FROM:** Daniel Peterson

**SUBJECT:** Status Update on Cellular Leasing Program

### **BACKGROUND**

The District has been leasing space on its facilities since the 1990s, in 2015 the Board requested an analysis to determine how to better manage the program after revenue from the lease program had been falling since 2014. It was determined that the reduction in lease income was the result of consolidation within the telecommunications industry between Nextel and Sprint. Sprint determined it did not need duplicative equipment and chose to not renew the Nextel leases within the district.



In addition to the revenue reductions, larger issues were being caused by improper maintenance on these cellular facilities. Materials were become disconnected from the

tanks and causing a safety hazard to both employees and the District facilities. A moratorium on site modifications was issued until a formal policy laying out the construction, maintenance, and fiduciary responsibilities of the tenants was created.

The Board directed the District to maximize the value of the site lease program in order to provide an alternative revenue source to economically benefit the ratepayers while also protecting District facilities. The Engineering and Operations Committee provided oversight as telecommunications consultants assisted in the District preparing a site lease policy and procedures manual.

On November 20, 2015, the Board adopted Resolution No. 2015-11-02 approving the specific policies and procedures for cellular tenants utilizing District facilities. In order to assist the integration of these policies, a contract was awarded to a local telecommunications consulting firm, ATS Communications.

## **DISCUSSION**

In the first quarter of calendar 2016, the cellular lease program has brought in \$20,250 in application/assignment fees. Consultant expenses for supporting this program are \$12,715 while an estimated \$1,200 of District time has been dedicated to the program. The forecasted annual revenue of the current 30 cellular leases is approximately \$825,000/year.

Since the Board action in November 2015, the priority has been to clear the backlog of modification requests by the carriers at existing lease sites. At the time of this report, District has received and processed 9 applications: 1 new lease, 7 modifications of existing leases, and 1 reassignment of a lease.

### **New Lease**

Verizon is proposing the installation of an antenna array at the Foothill Reservoir utilizing a former Nextel lease area. Preliminary authorizations were awarded to the carrier while it seeks County approval for the project. Once approvals have been granted by outside agencies, negotiations for this site will be conducted. The anticipated revenues for this site will be \$30,000/year. Construction of this site is not anticipated until FY2017 due to the reservoir recoating tentatively scheduled for August 2016.

### **Modifications**

The District has seen a steady stream of modification applications come through. All of the applications are for the replacement of antennae with newer models and the installation of new radio equipment.

As part of the policies and procedures adopted by the Board, the additional equipment installed will be subject to an increase in the tenants monthly lease payment. Based off the price schedule listed in the policies and procedures, most of these modifications will result in an additional monthly lease payment of around \$200/month per lease. All amendments will be reviewed by legal and the Engineering and Operations Committee before being brought to the Board of Directors for approval.

As applications are received, the District and consultants are performing audits on both the lease area and the existing lease agreement(s). This is to ensure that the carrier has not installed any equipment that is not recognized in the leases as well as to ensure that the installation of equipment has not impacted the District facility in any way. While no major issues have surfaced, several minor issues have been identified. For example, as seen on the right, a conduit run at one of the District facilities has developed gaps which can allow water expansion that will damage the asphalt. The carriers have been informed that as a condition of its antenna modification, they are to re-caulk and slurry seal the pavement before it develops into a larger threat.



An important part of the modifications is that the District is mandating that all existing epoxy mounts on reservoirs must be removed and replaced with magnetic mounts. The District has found that the existing epoxy mounts not only accumulate rust, but they have been failing which puts our facilities at risk. In order for carriers to receive approval for their modifications, the District is requiring that the removal of epoxy mounts and the installation of magnetic mounts are included in their plans. The removal of the epoxy mounts and reconditioning of the tanks will be at the expense of the carrier. The magnetic mounts have less chance of a failure and reduce the amount of direct connection that the cellular equipment has with the District tanks.

One of the final new terms in the amendments is modifying the lease rate escalator from a variable CPI-based rate to a flat 3% rate. This will simplify the accounting of lease payments and allow for better revenue forecasting of the cellular leases.

### Marketing Update

While the District has over 100 above ground structures that are potential lease sites, only 12 of them have cellular tenants (*see Figure 1*). Unless the structures meet the specific topographical and population density criteria of the carriers, they will not be potential sites for lease development. The District facilities that are in remote areas, such as some

of the District's reservoirs, are not feasible sites for cellular carriers due to their distance to populated areas. Other District facilities like many of the pump stations, pressure reduction stations, and treatment plants are not feasible sites since they are in low-lying areas.

Given the restrictions listed previously, the District is investigating the potential value of obtaining leasing rights for the facilities in the Ranch area as well as the Ladera Ranch and Covenant Hills areas (*see Figure 2*). As part of the deed rights of these locations, the usage of these parcels is restricted to water/sewer usage. Preliminary analysis shows some potential value at a limited amount of sites. Staff will be calculating the value of these rights and, if cost effective, negotiate with the Ranch for the release of this restriction.

As part of the contract with the District's cellular consultants, they market District facilities for lease with the cellular carriers. The consultant's relationships with both the carriers and their site acquisition specialists give the District a competitive edge in acquiring new leases. In order to maximize the District's exposure, a full list of facilities with their respective GPS coordinates is provided to carriers regularly.

#### Miscellaneous

A reservoir resurfacing project is anticipated to begin this summer with eight total tanks scheduled to be resurfaced. Three of those tanks currently have cellular equipment installed on them. The preliminary schedule has the tanks with cellular hardware set to be resurfaced in late summer. The District has already informed the carriers that these tanks will be taken out of service for a period of 5 weeks (or more) and they are required to completely remove their hardware from the tank.

Once the resurfacing vendor is selected and the schedule is finalized, the District will coordinate with the carriers and recoating vendor to provide a temporary solution for the cellular antennae. Once the recoating is completed, carriers will not be allowed to reinstall their equipment using epoxy mounts and will be required to utilize magnetic mounts when replacing the equipment. Aside from the mounting hardware change, any modifications that the tenants plan on making will be subject to application fees and review.

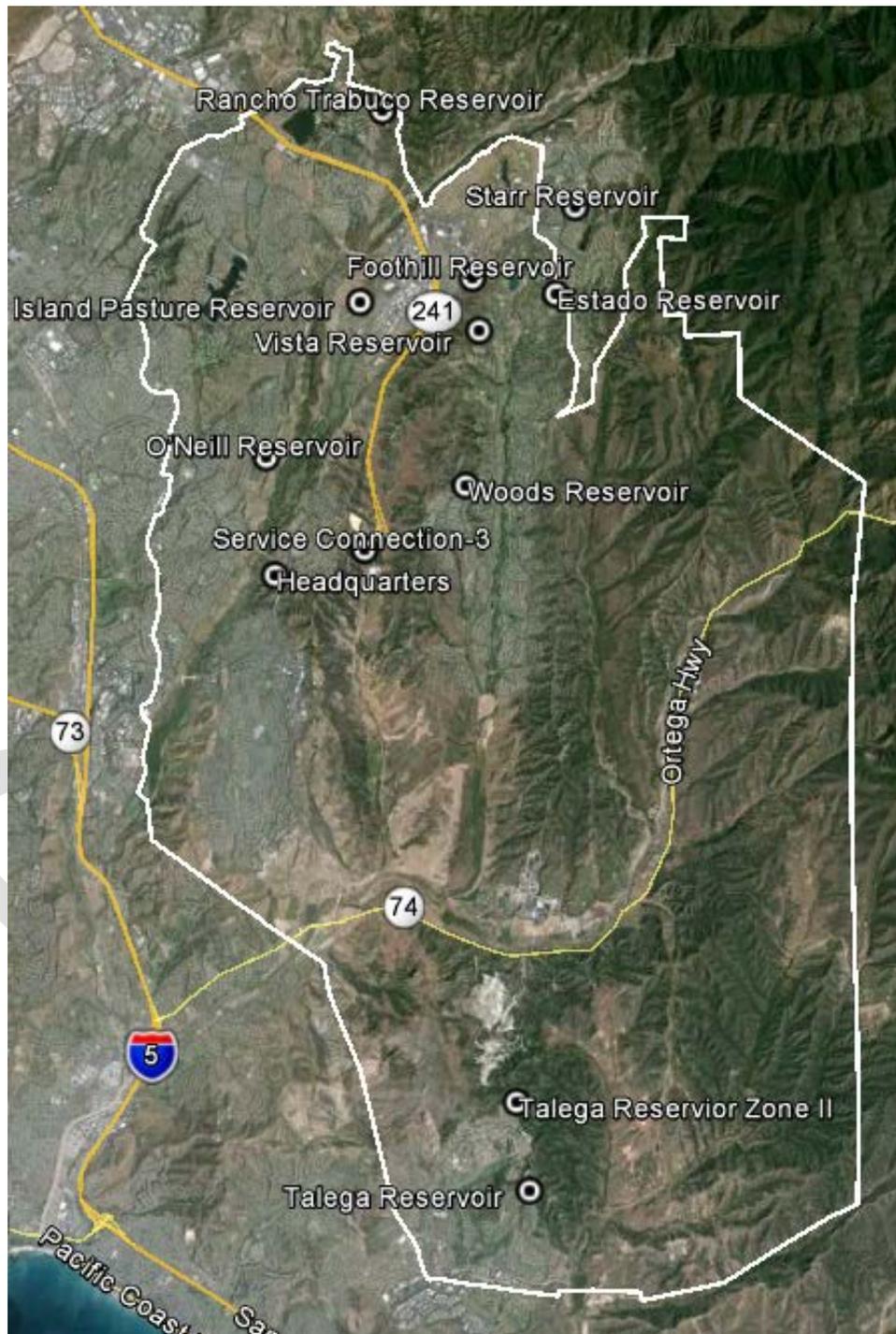


Figure 1: Current location of District cellular leases



Figure 2: Locations of District facilities within Ranch area.

**WATER TREATMENT FACILITY FUNDING  
AND RECYCLED WATER PURCHASE AGREEMENT**

This Advanced Purified Water Treatment Facility Funding and Recycled Water Purchase Agreement (“Agreement”) is made and entered into as of April \_\_, 2016, by and between the Santa Margarita Water District, a California water district (“SMWD”) and the City of Mission Viejo, a municipal corporation (“City”), each of which is sometimes individually referred to herein as a “party” and collectively as the “parties”.

**RECITALS**

- A. SMWD currently produces recycled water that is treated to standards for irrigation and other non-potable uses in accordance with Title 22 of the California Code of Regulations (“Title 22”) at its water reclamation facilities (“Recycled Water”);
- B. SMWD currently delivers potable water to Lake Mission Viejo Association (“LMVA”) for the purpose of maintaining water elevation levels at the 124-acre lake that is owned and operated by LMVA within the City of Mission Viejo (“Lake”).
- C. SMWD desires to finance, build, own and operate an advanced purified water treatment facility (“APWTF”) that will allow it to further polish Recycled Water to meet enhanced water quality standards for the Lake and other potential uses and thereby maximize its supply of potable water for domestic use.
- D. The City desires to enhance its water supply options with recycled water and the City is willing to provide grants and loans to SMWD to assist with the financing of the APWTF in exchange for a commitment by SMWD to provide Recycled Water to the City at a long term discounted rate. Further, and of equal importance, the City seeks to accomplish the following public purposes via this Agreement, to the extent lawful and feasible: provide opportunities for the City to implement its revised Investment Policy, enhance and demonstrate local agency to agency cooperation; enhance drought emergency response actions; preserve and enhance prominent community features and landmarks, preserve local property values and advance the goals and objectives of the City's General Plan and all included Elements thereof.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and conditions contained herein, the parties agree as follows:

**AGREEMENT**

Section 1. Incorporation of Recitals

1.1 The foregoing Recitals, and each of them, are hereby incorporated into this Agreement as though set forth in full.

Section 2. Recycled Water Service

2.1 Delivery Commitment. SMWD agrees to deliver and sell and City may purchase at a rate per Section 2.3 up to the first three hundred (300) acre feet of Recycled Water each water year (“Delivery Volume”) that the City request for the term of this Agreement commencing on [\_\_\_\_\_] (“Commencement Date”). For the purposes of this Agreement, each water year will commence on July 1. If the Commencement Date or the termination or expiration of this Agreement occurs during a water year, then the Delivery Volume for the first year will be pro-rated in accordance with the number of days remaining in the water year.

2.2 Point of Delivery. The point of delivery of the Delivery Volume to the City will be through any of the City’s existing recycled water service connections.

2.3 Recycled Water Rate. The City will pay for Recycled Water on a per acre foot basis at a rate that is equal to SMWD’s retail recycled water rate in effect at the time of delivery minus a discount of Ninety-Three Dollars (\$93.00). These funds will be reimbursed back to the City on a quarterly basis beginning October 1, 2016.

2.4 Water Quality and Usage Restrictions. All Recycled Water delivered by SMWD will meet or exceed the quality requirements established from time to time by the State of California for Title 22 water at the point of delivery. City shall have no obligation to purchase or take delivery of Recycled Water which fails to meet such quality standards. Following the point of delivery, the City is responsible for any change in the quality of the Recycled Water. There will be no restrictions on the reuse of Recycled Water by the City, provided, however, that the City will be solely responsible for determining if any particular use of Recycled Water is in compliance with applicable federal, state or local laws, rules and regulations.

2.5 Curtailment. The Delivery Volume will be subject to reduction or curtailment on a pro-rata basis with other SMWD customers who have contractual volume commitments in the event of a declaration of any water shortage or drought that contains mandatory reductions which apply to Recycled Water use, provided, however, that such reduction or curtailments will first be applied to customers that do not have contractual volume commitments. SMWD further reserves the right to reduce deliveries of Recycled Water in the event that wastewater inflows are insufficient to generate Recycled Water in quantities sufficient to meet all of SMWD’s contractual volume commitments.

2.6 SMWD Rules and Regulations. The delivery of Recycled Water will further be subject to the rules and regulations of SMWD with respect to the delivery of Recycled Water to its customers, as the same may be amended from time to time.

2.7 Billing. SMWD shall invoice City for Recycled Water that is delivered to City in accordance with SMWD’s standard billing practices.

Section 3. Funding for the APWTF.

3.1 Grant Funding. The City agrees to provide SMWD with a grant for the design and construction of the APWTF in an amount equal to One Million Dollars (\$1,000,000.00) (“Grant”). The Grant will be payable to the City in two installments. The first installment of

\$500,000 will be made within thirty (30) days of the execution of this Agreement and the second installment of the balance of the Grant will be made concurrent with the funding of the Loan. Provided that the construction of the APWTF is completed in accordance with the terms of this Agreement, the Grant will not be subject to repayment. If the construction of the APWTF is not completed in accordance with the terms of this Agreement, then SMWD will reimburse the City for any amount of the Grant which has been disbursed to SMWD within thirty (30) days of the termination of this Agreement by the City.

3.2 Loan Funding. The City agrees to loan SMWD the sum of Three Million Dollars (\$3,000,000.00) for the design and construction of the APWTF (“Loan”). The Loan will be disbursed in a single advance upon the award of a construction contract with a contractor selected by SMWD pursuant to SMWD’s procurement process.

3.3 Interest Rate. Interest will accrue on the principal amount of the Loan at a fixed rate of Two and One Half Percent (2.50%) during the term of the Loan] Interest will commence accruing thirty (30) days after the Loan is funded.

3.4 Loan Repayment. The term of the Loan will be twenty (20) years and the maturity date of the Loan will be the twentieth anniversary of the Loan funding date. The Loan principal will be divided into Eighty (80) quarterly payments of Forty Eight Thousand One Hundred Ten Dollars (\$48,110). Each such payment will be made along with the accrued interest on the principal balance on the loan in the previous quarter. The first payment of principal and interest will be due and payable to the City on October 1, 2016. The entire outstanding balance of principal and interest will be due and payable on the maturity date. Payments that are not made within thirty (30) days of the due date will be subject to a late payment fee equal to Three Percent (3%) of the overdue payment amount. SMWD reserves the right to prepay the balance of the loan at any time by making a payment equal to the remaining principal balance and the interest that has accrued since the previous payment.

3.5 Eligible Uses of Funds. All funding provided by the City in the form of the Grant and the Loan shall be used solely for the purpose of financing the cost of the design, permitting, construction and commissioning of the APWTF and all related facilities or improvements, including the cost of labor, materials, contractors, permits and approvals, and a reasonable allocation of SMWD staff time for the APWTF project.

3.6 Project Covenants. In consideration of the financing being provided by City in the form of the Grant and the Loan, SMWD agrees to comply with the following conditions and covenants in connection with the design, construction and operation of the APWTF:

3.1.1 The APWTF will be built substantially in accordance with the preliminary design report and specifications that are attached to this Agreement as Exhibit “A” and the project cost and funding sources that are detailed on the attached Exhibit “B”. SMWD will be responsible for all funding required for the APWTF that is in excess of the financing being provided by the City.

3.2.1 SMWD will build the APWTF at its Finisterra Pump Station Site. SMWD represents and warrants to City that it owns said site free and clear of any liens and

encumbrances other than rights of way and/or easements for utility purposes or such other non-monetary encumbrances that do not impair the use of the site for its intended purpose;

3.3.1 Prior to Loan funding, SMWD will have entered into a Recycled Water Service Agreement with LMVA to provide advanced purified water from the APWTF to LMVA for lake fill and other recycled water purposes;

3.4.1 SMWD will be responsible for obtaining all permits and approvals necessary for the construction and operation of the APWTF, including without limitation, any encroachment permits required for any work in City streets or rights of way.

3.5.1 SMWD will construct and operate the APWTF in accordance with all applicable federal, state and local laws, rules and regulations. SMWD, its contractors and consultants will further comply with all prevailing wage requirements and related laws and regulations which are applicable to the construction of the APWTF.

3.6.1 As long as any portion of the Loan remains outstanding, SMWD will indemnify, hold harmless and defend the City against any claims, liability or damage arising in connection with the design, construction and operation of the APWTF.

3.7 Event of Default. SMWD will be in default in its obligations in connection with the Loan if (a) any Loan payment is not made within thirty (30) days of written notice from the City that the payment is past due; or (b) SMWD fails to complete construction of the APWTF in accordance with the terms of this Agreement. Upon the occurrence of an event of default, the City will have the remedies set forth in Section 5.3 of this Agreement.

#### Section 4. Dispute Resolution

4.1 In the event of any dispute between SMWD and City regarding the performance of this Agreement or any term of this Agreement, the parties shall first attempt to resolve such dispute in good faith in consultations between the City Manager of the City and the General Manager of SMWD. The request for consultation will provide a description of the dispute in reasonable detail and the position of the party requesting consultation. If the City Manager and General Manager are unable to resolve the dispute within thirty (30) days of the request for consultation, then either party will have the right to pursue its remedies at law or equity.

#### Section 5. Term, Termination, and Remedies

5.1 Term. The term of this Agreement with respect to the sale of Recycled Water shall be for twenty (20) years, commencing on the Commencement Date. The term of this Agreement with respect to the funding of the Loan shall be a period of twenty (20) years commencing with the first Loan payment on October 1, 2016.

5.2 Termination by SMWD. SMWD shall have the right to terminate this Agreement upon thirty (30) days written notice to City if LMVA fails to execute a Recycled Water Services Agreement with SMWD or a necessary permit or regulatory and environmental approval for the construction and operation of the APWTF is denied, provided, however, that such denial is not the result of SMWD's failure to diligently pursue such permit or approval. In the event of any

such termination, SMWD will reimburse the City for the first installment of the Grant within the notice period.

5.3 Termination for Breach.

5.3.1 Recycled Water Service. In the event of a material breach of any material term or provision of Section 2 of this Agreement by either party, and such breach is not cured within ninety (90) days after service of written notice of such breach upon the breaching party, then the non-breaching party shall have the right and option to terminate this Agreement with respect to the obligations of the parties to purchase and sell Recycled Water, provided, however, that should the breaching party, prior to the expiration of the ninety (90) day cure period, diligently commences to cure such breach, but is unable to do so within the ninety (90) day period, then such period shall be extended for an additional ninety (90) day period.

5.3.2 Repayment of Loan. Upon the occurrence of an event of default pursuant to Section 3.7, the City will have the right to terminate this Agreement and accelerate repayment of the Loan and the entire outstanding balance of principal and interest shall be immediately due and payable to the City.

5.4 Remedies. In the event of a breach of any term or provision of this Agreement by either party, both parties shall have all rights and remedies granted by California law including the express right to seek temporary, preliminary, and permanent injunctions; to recover damages; or to seek specific performance of all or any of the terms of this Agreement. Nothing contained in this Agreement shall be construed as limiting any of the rights and remedies of either party upon any breach of a term or provision of this Agreement.

Section 6. Effectiveness of Agreement

6.1 This Agreement shall become effective upon execution and approval by the governing body of each party.

Section 7. Miscellaneous

7.1 Amendments. This Agreement may be modified or amended by the parties pursuant to a written modification or amendment executed by both parties. Verbal modifications or amendments to this Agreement shall be of no effect.

7.2 Entire Agreement. This Agreement, including attachments and/or exhibits, contains all of the agreements of the parties with respect to the subject matter hereof, and all prior negotiations and agreements are merged into and superseded by this Agreement.

7.3 Notice. Any and all communications and/or notices in connection with this Agreement shall be either hand-delivered or sent via commercial overnight courier to the following addresses:

To: SMWD

To: City

Santa Margarita Water District  
Attn: General Manager  
26111 Antonio Parkway  
Rancho Santa Margarita, CA 92688

City of Mission Viejo  
Attn: City Manager  
200 Civic Center  
Mission Viejo, CA 92691

The parties may change the foregoing addresses by providing written notice in compliance with this paragraph.

7.4 No Waiver. No failure of either SMWD or City to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term of this Agreement shall continue in full force and effect to any existing or subsequent breach.

7.5 Assignment. Neither party shall assign its obligations under this Agreement without the other party's prior written approval. Any assignment in violation of this paragraph shall be void and of no force or effect.

7.6 Inurement. This Agreement and all rights and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

7.7 Governing Law and Venue. This Agreement is entered into and shall be construed and interpreted as a contract in accordance with the laws of the State of California. Venue for actions arising out of the Agreement shall be in the County of Orange, California. The prevailing party in any legal action between the parties arising from or relating to this Agreement shall be entitled to recover its reasonable attorney's fees, in addition to any other award made in any such action.

7.8 Force Majeure. If the performance of any act required of SMWD is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, that party shall be excused from performing that act for the period of time equal to the period of time of the prevention or delay.

7.9 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original, as though all parties had executed the same page.

7.10 Survival. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal, to the extent practicable or provided by law.

7.11 The parties are not, collectively or individually, providing, accepting or relying on any information by or from any party as to any tax opinion or conclusion regarding taxable liabilities or obligations arising from the participation in this Agreement. Despite anything to the contrary in this Agreement, each party will bear, without indemnity or contribution from the other, any tax liability deemed, at any time, to arise from participation in this Agreement, whether, county state or federal based. Each party has had the opportunity to review this Agreement with their independent tax advisor and is acting solely on their own individual behalf without reliance upon the other party.

*Signature Page Follows*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF MISSION VIEJO  
a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form:  
  
\_\_\_\_\_

SANTA MARGARITA WATER DISTRICT  
a California water district

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form:  
  
\_\_\_\_\_  
Best Best & Krieger LLP

EXHIBIT "A"

APWTF DESIGN SPECIFICATIONS

EXHIBIT "B"

PROJECTED PROJECT COSTS AND FUNDING SOURCES