

**RESOLUTION NO. 2021-05**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SAN BENITO COUNTY WATER DISTRICT APPROVING THE FORM OF  
AND AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY  
OF A FINANCING AGREEMENT AND IRREVOCABLE PAYMENT  
INSTRUCTIONS PROVIDING FOR THE REFINANCING OF THE  
DISTRICT'S OUTSTANDING UNFUNDED ACCRUED LIABILITY TO  
THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND  
PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO**

**WHEREAS**, the District owns and operates facilities for the diversion, collection, storage, carriage and distribution of water within the service area of the District (interchangeably, the "Enterprise" or "Water Enterprise"); and

**WHEREAS**, the District is a member of the California Public Employees' Retirement System ("CalPERS"), an agent multiple employer public employees retirement program that acts as a common investment and administrative agent for participating entities within the State of California, and as such, the District is obligated by the Public Employees' Retirement Law, constituting Part 3 of Division 5 of Title 2 of the California Government Code (the "Retirement Law"), and the contract between the Board of Administration of CalPERS and the Board of Directors of the District (the "CalPERS Contract"), as amended, to make contributions to CalPERS to (a) fund pension benefits for its employees who are members of CalPERS, (b) amortize a portion of the unfunded accrued liability (the "UAL") with respect to such pension benefits, and (c) appropriate funds for the purposes of paying for the pension benefits and such UAL; and

**WHEREAS**, the District is legally obligated under the CalPERS Contract to pay any UAL, which is the amount by which CalPERS is short of the amount that will be necessary, without further payments from the District, to pay benefits already earned by current and former employees covered by CalPERS; and

**WHEREAS**, the total projected 6/30/2021 UAL balance for employees covered under the District's "classic" Miscellaneous Plan is \$2,980,006, which amount is scheduled to unevenly amortized over the next 25 years (the "Outstanding UAL Obligation"); and

**WHEREAS**, the Board of Directors (the "Board"), after due investigation and deliberation, has determined that it is in the public interests of the District at this time to undertake municipal bond financing in order to provide for the prepayment of the entire balance of the Outstanding UAL Obligation (the "Financing"); and

**WHEREAS**, for the purpose of providing for the Financing, the District proposes to enter into a Financing Agreement with Sterling National Bank (the "Bank"), dated as of April 1, 2021, by and between the Bank and the District (the "Financing Agreement"), pursuant to which the Bank agrees to purchase the District's Series 2021 Taxable Revenue Obligations in an amount not to exceed \$3,070,000, as evidenced by a Promissory Note, dated the date of closing (the "Note," and collectively with the Financing Agreement, the "2021 Obligations"); and

**WHEREAS**, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the “Refunding Bond Law”), to enter into financing agreement for the purpose of refinancing certain outstanding obligations of the District, including the Outstanding UAL Obligation; and

**WHEREAS**, in order to efficiently accomplish the Financing and issuance of 2021 Obligations, the District has heretofore appointed bond counsel, municipal advisor, and special financial consultant to provide the necessary professional services in connection therewith; and

**WHEREAS**, pursuant to the Financing Agreement, the District will make payments from the net revenues of its Water Enterprise operations, sufficient in amount to pay back the debt service on the 2021 Obligations, as more particularly set forth in the Financing Agreement; and

**WHEREAS**, it is now appropriate and necessary to prepay and call in for redemption the Outstanding UAL Obligation, in order to complete the Financing; and

**WHEREAS**, to properly transact the Financing, it is now appropriate and necessary for the District to approve the form of Irrevocable Payment Instructions (the “Payment Instructions”), dated as of April 1, 2021, pursuant to which the Bank will irrevocably wire transfer a designated portion of the 2021 Obligation Proceeds directly to CalPERS to prepay a definitive portion of the Outstanding UAL Obligation in accordance with the specific terms of the Payment Instructions; and

**WHEREAS**, the Board, with the aid of its staff, has reviewed the Financing Agreement and Payment Instructions, the forms of which is on file with the Secretary, and the Board wishes at this time to approve the foregoing documents (collectively, the “Financing Documents”) as being within the public interests of the District; and

**WHEREAS**, Section 5852.1 of the Government Code of the State of California (“Section 5852.1”) provides that the Board obtain from the Bank and disclose, in a meeting open to the public, prior to authorization of the 2021 Obligations, good faith estimates of: (a) the true interest cost of the 2021 Obligations, (b) the finance charge of the 2021 Obligations, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the 2021 Obligations received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the 2021 Obligations and (d) the sum total of all debt service payments on the 2021 Obligations calculated to the final maturity of the 2021 Obligations plus the fees and charges paid to third parties not paid with the proceeds of the 2021 Obligations; and

**WHEREAS**, in accordance with Section 5852.1, the Board has obtained such good faith estimates from the Bank, and such estimates are disclosed in Section 6 hereof; and

**WHEREAS**, the Board wishes at this time to authorize all actions and proceedings relating to the Financing and the execution and delivery of Financing Documents, as well as the prepayment of the Outstanding UAL Obligation; and

**WHEREAS**, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed

in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided.

**NOW, THEREFORE BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT THAT:**

**Section 1. Recitals and Findings.** The Board hereby specifically finds and declares that each of the statements, findings and determinations of the District set forth in the recitals set forth above are true and correct and that the Financing will result in public benefits to the District and its ratepayers.

**Section 2. Authorizing the Issuance of 2021 Obligations.** The Board hereby authorizes the issuance of the 2021 Obligations pursuant to the Financing Agreement and the Refunding Bond Law.

**Section 3. Authorized Representatives.** The President, Vice President, District Manager, Assistant District Manager, Secretary and any other person authorized by the General Manger to act on behalf of the District shall each be an “Authorized Representative” of the District for the purposes of structuring and providing for the execution and delivery of the 2021 Obligations, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the District, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the execution and delivery of the 2021 Obligations, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the Board has intended with the adoption of this Resolution.

**Section 4. Approval of Financing Agreement and Promissory Note.** The Board hereby authorizes and approves the execution and delivery of the Financing Agreement as well as the Promissory Note referenced in the Financing Agreement (the “Promissory Note”). The Board approves the Financing Agreement and Promissory Note in substantially the form on file with the Secretary, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the District to, the final form of the Financing Agreement and Promissory Note for and in the name and on behalf of the District, and the execution thereof shall be conclusive evidence of the Board’s approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Financing Agreement and Promissory Note.

**Section 5. Approval of Payment Instructions.** The Board hereby authorizes and approves the execution and delivery of the Payment Instructions. The Board approves the Payment Instructions in substantially the form on file with the Secretary, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the District to, the final form of the Payment Instructions for and in the name and on behalf of the District, and the execution thereof shall be conclusive evidence of the Board’s approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Payment Instructions.

**Section 6. Good Faith Estimates.** Set forth below are good faith estimates, as required under Section 5852.1 of the California Government Code (the “Code”) for the 2021 Obligations. The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by this resolution.

(a) The true interest cost of the 2021 Obligations is estimated at 2.92%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.

(b) The finance charge of the 2021 Obligations, including all fees and charges paid to third parties, is estimated at \$69,994.00.

(c) Proceeds of the 2021 Obligations received by the District of \$3,060,000.00 (estimated) less the finance charge set forth in (b) above, is equal to \$2,980,006.00.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$3,730,372.98.

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

**Section 7. Full Compliance.** The Board hereby finds and determines that it has taken all of the foregoing actions, and made all of the foregoing findings, in full compliance with the law, and that all prior proceedings taken with respect to the Financing and issuance of 2021 Obligations were duly considered, and are hereby considered valid and in conformity with the requirements of law.

**Section 8. Taxable Bond Act.** The Board hereby determines that interest payable pursuant to the Financing Agreement will be subject to federal income taxation, and that the provisions of Section 5900 et seq. of the California Government Code (the “Taxable Bond Act”) apply to the 2021 Obligations. The District may take any action and exercise any power permitted to be taken by it under the Taxable Bond Act in connection with the execution and delivery of the 2021 Obligations.

**Section 9. Confirmation and Direction to Proceed with the Financing.** All actions heretofore taken by the officers and agents of the District with respect to the Financing are hereby approved, confirmed and ratified. The Authorized Representatives and all other officers of the District are each authorized and directed in the name and on behalf of the District to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents which they or any of them might deem necessary or appropriate in order to consummate any of the actions and transactions contemplated by this Resolution and the Financing Documents. Whenever any officer of the District is authorized to execute or countersign any document or take any action contemplated by this Resolution and the Financing Documents, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

**Section 10. Effective Date.** This Resolution shall take effect from and after the date of its passage and adoption.

**PASSED AND ADOPTED** by the Board of Directors of the San Benito County Water District at a special meeting thereof on the 14th day of April 2021, by the following vote:

**AYES:** Williams, Flores, Shelton & Tobias

**NOES:** None

**ABSENT:** Tonascia

**ABSTAIN:** None

/s/Doug Williams  
Doug Williams  
President

ATTEST:

/s/Sara Singleton  
Sara Singleton  
Assistant Manager/Board Secretary