

A Resolution of the Board of Supervisors for the County of Fresno Establishing a Policy for Cash-Flow Loans to County Service Areas and County Waterworks Districts to Facilitate Access to State and Federal Grants and Low-Interest Loans

WHEREAS, the County of Fresno (County) administers water and wastewater services and facilities in a variety of County Service Areas (CSAs) and County Waterworks Districts (WWDs);

WHEREAS, those water and wastewater facilities occasionally require capital improvements that applicable CSA and WWD revenues and reserves are not sufficient to pay for; and

WHEREAS, a variety of state and federal agencies, such as the State Water Resources Control Board, the California Department of Public Health, and the United States Department of Agriculture, provide grants and low-interest loans to finance capital improvements to water and wastewater facilities, for example through the Drinking Water State Revolving Fund (DWSRF), Clean Water State Revolving Fund (CWSRF), the Public Water System Drought Emergency Response (PWSDER) program, and the Emergency Community Water Assistance Grants (ECWAG) program; and

WHEREAS, the state and federal agencies that administer these programs only provide reimbursements in arrears for project expenses that are actually incurred; and

WHEREAS, the CSAs and WWDs that need and qualify for low-interest loans under the these programs ordinarily do not have revenues or reserves that are sufficient to advance project expenses before receiving reimbursement, which usually comes 90 to 120 days after the County submits claims for incurred expenditures; and

WHEREAS, the laws governing CSAs and WWDs prohibit the County from using County General Fund monies for CSA and WWD purposes, and require CSAs and WWDs to be financially self-supporting; and

WHEREAS, governmental accounting standards likewise require the County to establish and maintain internal controls over revenues, liabilities, and expenditures of CSAs and WWDs as separate, self-supporting accounting units; and

WHEREAS, the County Service Area Law, at Government Code section 25214.4, provides the terms on which the Board of Supervisors (Board) may loan available funds of the County to a CSA to pay for any lawful expenses of the CSA, which terms include: (1) that the loan shall be repaid within the same fiscal year in which the Board loaned the funds, at a rate of interest, if any, that the Board shall determine, provided that it does not exceed the rate that the County earns on its temporarily idle funds; and (2) that, notwithstanding those requirements, the Board may extend, by a four-fifths vote, the repayment of a loan for a period that does not exceed three years from the end of the fiscal year in which the loan was made; and

WHEREAS, the County Waterworks District Law, at Water Code sections 55503 through 55503.6, provides the terms on which the Board may loan available funds of the

County to a WWD, which terms include: (1) that the loan shall not exceed 85 percent of the WWD's anticipated revenue for the fiscal year in which the loan is made, or for the next ensuing fiscal year; (2) that the loan shall bear interest at the same rate that the County applies to funds of the WWD on deposit with the County; and (3) that the Board may specify the date and manner in which the loan will be repaid, but that repayment may not be deferred longer than 10 calendar years; and

WHEREAS, the Board wishes to facilitate the County's access to grants and low-interest loans under state and federal programs to provide for necessary capital improvements to the water and wastewater systems that the County administers in its CSAs and WWDs; and

WHEREAS, the Board wishes to comply with the provisions of the County Service Area Law and the County Waterworks District Law, as applicable, and with applicable governmental accounting standards; and

WHEREAS, the Board, for those reasons, wishes to establish a policy for the extension of short-term cash-flow loans from the County General Fund to CSA and WWD funds, so that those CSA and WWD funds are sufficient to advance costs for projects that are qualified for grants or low-interest loan financing through state and federal programs, when those costs are advanced with the reasonable expectation of reimbursement in arrears from the agency administering the financial assistance program;

NOW, THEREFORE, THE BOARD HEREBY RESOLVES, FINDS, AND ORDERS AS FOLLOWS:

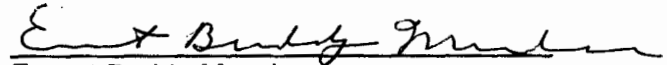
1. **Recitals.** All of the recitals above are true and correct.
2. **Establishment of Policy.** The Board hereby adopts the "County of Fresno Policy for Cash-Flow Loans to County Service Areas and County Waterworks Districts to Facilitate Access to State and Federal Grants and Low-Interest Loans" that is attached as Exhibit A to this resolution.
3. **Effective Date.** This resolution is effective immediately upon its adoption.

The foregoing resolution was adopted by the Board of Supervisors of the County of Fresno on September 27, 2016, by the following vote:

AYES: Supervisors Borgeas, Mendes, Pacheco, Perea, Poochigian

NOES: None

ABSENT: None



Ernest Buddy Mendes
Chairman, Board of Supervisors

Attest:

Bernice E. Seidel
CLERK TO THE BOARD OF SUPERVISORS

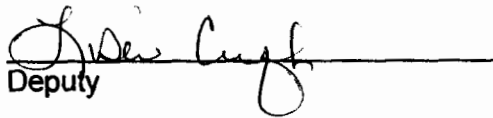

Deputy

Exhibit A

County of Fresno Policy for Cash-Flow Loans to County Service Areas and County Waterworks Districts to Facilitate Access to State and Federal Grants and Low-Interest Loans

Adopted September 27, 2016

- 1. Purpose.** The purpose of this policy is to facilitate the County's access to state and federal financial assistance programs to provide necessary capital improvements to County Service Area (CSA) and County Waterworks District (WWD) water and wastewater systems at low cost to property owners and residents.
- 2. Background.** The County operates water and wastewater systems in CSAs and WWDs. Those systems occasionally require new or improved capital facilities. Often, applicable CSA or WWD revenues and reserves are not sufficient to pay for those necessary facilities or improvements.

A variety of state and federal financial assistance programs provide grants or low-interest loans for new or improved capital facilities for water and wastewater systems. The administering agency for each of those programs only issues reimbursements in arrears for project expenses that have actually been paid. The County usually receives those reimbursements within 90 to 120 days after submitting claims for expenditures.

Because the CSAs and WWDs that need and qualify for financing under these assistance programs ordinarily do not have sufficient revenues or reserves to pay project expenditures before receiving reimbursement from the administering agency, the County needs a way to advance those costs from CSA and WWD funds.

The law requires CSAs and WWDs to be financially self-supporting, and generally prohibits the County from using County General Fund monies for CSA and WWD purposes without formalizing a loan according to certain limitations (described in section 3 below). In addition, governmental accounting standards require the County to establish and maintain internal controls over revenues, liabilities, and expenditures of CSAs and WWDs as separate, self-supporting accounting units. Any method of enabling CSAs and WWDs to advance project expenses by loaning money from the County General Fund must comply with all of those limitations. This policy is intended to provide such a method.

- 3. Authorities.** The County Service Area Law¹ provides the terms on which the Board of Supervisors (Board) may loan available funds of the County to a CSA to pay for any lawful expenses of the CSA. Those terms include: (1) that the loan shall be repaid within the same fiscal year in which the Board loaned the funds, at a rate of interest, if any, that the Board shall determine, provided that it does not exceed the rate that the County earns on its temporarily idle funds; and (2) that, notwithstanding those requirements, the Board may extend, by a four-fifths vote, the repayment of a loan for a period that does not exceed three years from the end of the fiscal year in

¹ Government Code, Title 3, Division 2, Part 2, Chapter 2.5 (beginning with § 25210).

which the loan was made.²

Similarly, the County Waterworks District Law³ provides the terms on which the Board may loan available funds of the County to a WWD. Those terms include: (1) that the loan shall not exceed 85 percent of the WWD's anticipated revenue for the fiscal year in which the loan is made, or for the next ensuing fiscal year; (2) that the loan shall bear interest at the same rate that the County applies to funds of the WWD on deposit with the County; and (3) that the Board may specify the date and manner in which the loan will be repaid, but that repayment may not be deferred longer than 10 calendar years.⁴

4. Definitions. For purposes of this policy:

- a. "Administering agency" means the state or federal agency that administers an assistance program.
- b. "Applicable repayment period" means the period ending the earlier of 30 days after the last assistance program reimbursement for the project or:
 - i. For a qualified loan to the funds of a WWD, 10 calendar years from when the qualified loan is issued.
 - ii. For a qualified loan to the funds of a CSA that is approved by a three-fifths vote of the Board, the end of the fiscal year in which the qualified loan is issued.
 - iii. For a qualified loan to the funds of a CSA that is approved by a four-fifths vote of the Board, and the issuing resolution included a finding that project expenditures are likely to be incurred within 90 to 120 days before the end of a fiscal year so that assistance program reimbursements are not likely to be received until the next fiscal year, three years from the end of the fiscal year in which the qualified loan is issued.
- c. "Assistance program" means a grant or loan whose proceeds are distributed only in arrears upon proof of project expenditures and is administered by a state or federal agency. Examples of such programs include the Emergency Community Water Assistance Grants (ECWAG) program that is administered by the United States Department of Agriculture, the Public Water System Drought Emergency Response (PWSDER) program that is administered by the California Department of Public Health, and the Drinking Water State Revolving Fund (DWSRF) or the Clean Water State Revolving Fund (CWSRF) programs are that administered by the California State Water Resources Control Board.
- d. "Auditor" means the Fresno County Auditor-Controller/Treasurer-Tax Collector.

² Government Code, § 25214.4.

³ Water Code, Division 16 (beginning with § 55000).

⁴ Water Code, §§ 55503–55503.6.

- e. “CSA” means a Fresno County Service Area.
 - f. “Department” means the Fresno County Department of Public Works and Planning.
 - g. “District” means a CSA, a WWD, or both.
 - h. “Project” means a project that is qualified for financing under an assistance program.
 - i. “Project expenditure” means an actual expenditure that Department staff reasonably believe is a reimbursable project cost under an assistance program.
 - j. “Qualified loan” means a loan from the County General Fund to the funds of a district that is made based on the County’s expectation of reimbursements under an assistance program will be the only source of funds for principal repayment, and whose repayment term is not expected to exceed the applicable repayment period.
 - k. “WWD” means a Fresno County Waterworks District.
5. **Applicability.** This policy applies to qualified loans that are proposed to facilitate the County’s access to assistance programs for the cost of necessary capital improvements to water or wastewater systems in the CSAs and WWDs administered by the County. This policy does not apply to grants or loans from any other source, for any other purpose, or to any other recipient. The applicable repayment period provided in section 4.b.iii. of this policy does not apply to any loan from the County General Fund that is not a qualified loan under this policy.
6. **Eligibility.** A district is eligible to receive one qualified loan per project if all of the applicable requirements in this section are satisfied. Written approvals and concurrences of the Auditor as required by this section may be combined into one writing for each qualified loan per project.
- a. **General eligibility.** For each qualified loan, all of the following requirements must be satisfied:
 - i. The qualified loan is connected with a project under an identified assistance program.
 - ii. The County has entered into an agreement for the assistance program, which was considered by the Debt Advisory Committee, if the assistance program includes a loan, and approved by the Board of Supervisors.
 - iii. The Department has prepared, and the Auditor has reviewed and approved in writing, a cash flow analysis for the district through the last expected assistance program reimbursement for the project. The cash flow analysis must include all district revenues, all expected expenditures, all expected project expenditures for

all projects of the district, and all expected assistance program reimbursements for all projects of the district.

iv. Based on the cash flow analysis, the Department has determined, and the Auditor has reviewed and concurred in writing:

- a) the estimated total amount that the district will need to borrow in a qualified loan for the entire project, and the fiscal years in which disbursements of that qualified loan will be needed;
- b) that assistance program reimbursements will be sufficient to timely repay the qualified loan within the applicable repayment period; and
- c) whether the payment of interest on the qualified loan, as provided in section 10 of this policy, is likely to require any increases in the taxes, assessments, or fees levied in the district.

b. WWD eligibility. For each qualified loan to a WWD, the Department has determined, and the Auditor has reviewed and concurred in writing, that the amount of the qualified loan is no more than 85 percent of the total amount of the WWD's anticipated revenue for the fiscal year in which the loan will be made, or for the next ensuing fiscal year. For purposes of this section 6.b., "revenue" includes assistance program reimbursements.

7. Issuance. Each qualified loan that is issued under this policy must be established by a separate Board resolution that includes eligibility findings, disbursement requirements, and repayment terms, all of which must comply with this policy.

8. Disbursement. Each qualified loan that is issued under this policy may be disbursed as provided in this section.

- a. The Board resolution establishing each qualified loan must provide either that the loan will be disbursed in a single lump sum, or that it will be disbursed as needed to pay project expenditures as they arise.
- b. If the Board resolution provides for a single lump sum disbursement, the resolution shall require the Department's business office to maintain supporting documentation for each project expenditure, including a statement that the Department reasonably believes the expenditure is a reimbursable project cost.
- c. If the Board resolution provides for disbursements as needed to pay project expenditures as they arise, the resolution shall require the Department to submit written claims to the Auditor with supporting documentation, including a statement that the Department reasonably believes the expenditure is a reimbursable project cost, for each disbursement.

9. Amendment. If the Department determines that project expenditures during the applicable repayment period are likely to exceed the amount of the qualified loan,

the Department may amend the documentation prepared under section 6 of this policy and seek an amended qualified loan amount. Any amendment must be established by a Board resolution that complies with section 7 of this policy.

10. Repayment. Each qualified loan that is issued under this policy shall have repayment requirements that comply with this section.

a. General repayment requirements. For each qualified loan, the following repayment requirements shall apply:

- i. The Auditor shall inform the Department of the rate of return on the County's Treasury Pool promptly after it is determined quarterly.
- ii. The Department shall ensure that payments are submitted to the Auditor promptly after assistance program reimbursements are received, to minimize the interest payable by the district.
- iii. Before submitting each payment, the Department shall obtain from the Auditor a written confirmation of the payment amount with interest.
- iv. Immediately upon full repayment of each qualified loan, the Auditor shall provide to the Department written confirmation of full repayment.

b. CSA repayment requirements. For each qualified loan to a CSA, the following repayment requirements shall also apply:

- i. The qualified loan shall be repaid within the applicable repayment period, at a rate of interest, if any, that the Board determines, provided that it does not exceed the cumulative rate of return on the County's Treasury Pool, which is determined quarterly.
- ii. If the qualified loan was approved by a three-fifths vote of the Board and assistance program reimbursements are not sufficient to satisfy the requirement in section 8.b.i., above, the Department shall return to the Board as early as practicable to explain why, and the Board may, by resolution approved by a four-fifths vote and including the finding required in section 4.b.iii. of this policy, extend the applicable repayment period as provided in section 4.b.iii. of this policy.

c. WWD repayment requirements. For each qualified loan to a WWD, the following repayment requirement shall also apply: The qualified loan shall be repaid within the applicable repayment period with interest at a rate that is equal to the cumulative rate of return on the County's Treasury Pool, which is determined quarterly.

11. Reporting. When the Department presents the district budgets to the Board each fiscal year, usually in July, the Department's report to the Board shall include a section with the following information:

- a. A statement of the amount of each qualified loan that was issued in the preceding fiscal year (or in the current fiscal year, if the district budgets are presented to the Board in June), identified by district, and the total amount of all such qualified loans;
- b. A statement of the amount of principal paid on each qualified loan in the preceding fiscal year, identified by district, and the total amount of all such repayments;
- c. A statement of the amount of interest paid on each qualified loan in the preceding fiscal year, identified by district, and the total amount of all such interest payments;
- d. A statement of the amount of principal and interest remaining unpaid on each qualified loan that was issued in the preceding fiscal year, identified by district, and the total amount of all such amounts remaining unpaid;
- e. A brief description of the status of each project for which a qualified loan was outstanding in the preceding fiscal year; and
- f. A statement of whether any reimbursement claims for any assistance program were disallowed during the preceding fiscal year and a brief explanation why.

12. Amendment. This policy may only be amended or repealed by ordinance or resolution of the Board.