

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: December 13, 2022**

**Request to Approve a Supplemental Resolution to Final Bond Resolution
Authorizing the Issuance of Additional Taxable Water Furnishing Revenue Bonds
for New Money Purposes and Approving Forms of Updated Bond Documents**

Prepared by: Solomita Malko

Applicant:	Poseidon Resources (Channelside) LP and/or its affiliates
Project Location:	City of Carlsbad (San Diego County) and the Pond 15 Restoration Site within the San Diego Bay National Wildlife Refuge and the Otay River Floodplain Restoration Site
Total Final Resolution Amount Approved at June CPCFA Board Meeting:	\$722,965,000
New Money Amount Approved:	\$200,000,000
Refunding Amount Approved:	\$522,965,000
Amount Allocated to Project by CDLAC:	\$194,000,000
Taxable Amount Approval Requested:	Not to exceed \$50,000,000
Application No.:	884
Final Resolution No.:	Supplemental Resolution to Final Resolution No. 22-01-616
Prior Actions:	Original IR approved 2/16/2016; Amendment, Restatement and Extension to IR approved 12/19/2018; Amendment, Restatement and Extension to IR approved 12/17/2021; FR approved 6/21/2022

Summary: In order to navigate current market conditions, Poseidon Resources (Channelside) LP, a Delaware limited partnership (the “Borrower”) has determined it would be best to postpone the refunding of the Series 2012 Plant Bonds. However, the Borrower will proceed with the new money Series 2023 Plant Bonds and requests approval to add a taxable amount not to exceed \$50,000,000 in Water Furnishing Revenue Bonds. The taxable bond proceeds will be used to finance a portion of the costs of the 2023 Project.

The above-mentioned changes to the bond structure necessitate changes to the bond financing documents. Consequently, the Borrower requests approval of forms of the following financing documents (collectively, the “Bond Financing Documents”): 1)

Second Amendment and Supplement to Plant Loan Agreement, between the Authority and the Borrower; 2) First Supplemental Plant Indenture, between the Authority and U.S. Bank Trust Company, National Association, as successor trustee (the "Plant Trustee"), including, as exhibits the First Supplemental Plant Indenture, forms of the Third Amendment and Supplement to Plant Loan Agreement, the Second Supplemental Plant Indenture and the Second Amendment to Collateral Trust Agreement; 3) Updated Preliminary Limited Offering Memorandum (PLOM) and, in final form, the "Limited Offering Memorandum"; and 4) the Second Supplemental Pipeline Indenture, between the Authority and U.S. Bank Trust Company, National Association, as successor trustee, each as defined and further described herein.

Background: On June 21, 2022, the California Pollution Control Financing Authority (the "Authority") approved Final Resolution No. 22-01-616, authorizing the issuance of tax-exempt and/or taxable Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) in an aggregate principal amount not to exceed \$722,965,000 (the "Series 2023 Plant Bonds"). Of this amount, (i) \$522,965,000 was anticipated to be used to refinance the costs of the acquisition, construction and installation of the desalination plant, including by refunding in full the Authority's Water Furnishing Revenue Bonds, Series 2012 (Poseidon Resources (Channelside) LP Desalination Project) (the "Series 2012 Plant Bonds") (the "Refunding"), and (ii) \$200,000,000 was anticipated to be used to finance costs of the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping, certain wetlands and other facilities functionally related to the intake, outflow, production and treatment of water by the desalination plant (including, without limitation, reimbursing the Borrower, for costs incurred prior to the issuance of the Series 2023 Plant Bonds and funding one or more debt service reserve accounts, capitalized interest or working capital) (the "2023 Project").

Under the Final Resolution No. 22-01-616, the Authority also approved substantially final forms of, among other documents, an indenture relating to the Series 2023 Plant Bonds, a loan agreement relating to the Series 2023 Plant Bonds and a limited offering memorandum relating to the Series 2023 Plant Bonds in preliminary form (the "PLOM"). The Borrower anticipated updating the PLOM to account for, among other factors, the amount of exempt facility allocation available to the 2023 Project.

On July 20, 2022, the California Debt Limit Allocation Committee ("CDLAC") allocated \$194,000,000 of the 2022 State Ceiling on Qualified Private Activity Bonds for the 2023 Project.

Given changes in prevailing market conditions, the Borrower now wishes to complete the financing of the 2023 Project in advance of the Refunding of the Series 2012 Plant Bonds. In connection with the postponement of the Refunding of the Series 2012 Plant Bonds, (i) certain updates are required to the documents relating to the Series 2023 Plant Bonds, including among others, for the Authority to issue the Series 2023 Plant Bonds pursuant to the First Supplemental Plant Indenture (as defined herein) and to loan the proceeds thereof to the Borrower pursuant to the Second Amendment and

Supplement to Plant Loan Agreement (as defined herein), and (ii) the Third Amendment and Supplement to Plant Loan Agreement, the Second Supplemental Plant Indenture and the Second Amendment to Collateral Trust Agreement (each as defined herein) are expected to be entered into upon the defeasance in full of the Series 2012 Plant Bonds. In addition, the Borrower now requests the issuance of taxable Series 2023 Plant Bonds in an additional aggregate principal amount not to exceed \$50,000,000.

The final financing structure for the 2023 Project may include additional equity to be invested by the Borrower. Such additional equity, if contributed, may offset against the currently contemplated debt funding. To the extent that such additional equity is contributed, the ownership structure of the Borrower shown in the June 21, 2022, staff report, attached hereto as Exhibit A, may change. The Borrower will communicate any ownership structure changes to the Authority in writing.

The postponement of the Refunding and the issuance of the Series 2023 Plant Bonds to finance the 2023 Project also requires updates to certain definitions set forth in the indenture relating to the Authority's Water Furnishing Revenue Refunding Bonds, Series 2019 (San Diego County Water Authority Desalination Project Pipeline) (the "Series 2019 Pipeline Indenture").

Current Request. Due to project cost increases, the Borrower is requesting approval of an additional taxable amount not to exceed \$50,000,000 in Water Furnishing Revenue Bonds. The bond proceeds will be used to finance the costs of the 2023 Project.

In addition, the Borrower requests approval of forms of the following financing documents (collectively, the "Bond Financing Documents"):

1. an amendment and supplement to the loan agreement, dated December 24, 2012 (as previously amended, amended and restated, or supplemented), relating to the Series 2023 Plant Bonds (the "Second Amendment and Supplement to Plant Loan Agreement"), between the Authority and the Borrower;
2. a supplement to the indenture, dated December 24, 2012, relating to the Series 2023 Plant Bonds (the "First Supplemental Plant Indenture"), between the Authority and U.S. Bank Trust Company, National Association, as successor trustee (the "Plant Trustee"), including, as exhibits to such First Supplemental Plant Indenture, forms of the Third Amendment and Supplement to Plant Loan Agreement, the Second Supplemental Plant Indenture and the Second Amendment to Collateral Trust Agreement;
3. an updated PLOM relating to the Series 2023 Plant Bonds (the "Updated PLOM" and, in final form, the "Limited Offering Memorandum"); and
4. a supplement to the Series 2019 Pipeline Indenture (the "Second Supplemental Pipeline Indenture"), between the Authority and U.S. Bank Trust Company, National Association, as successor trustee.

The June 21, 2022, staff report, which includes details regarding the 2023 Project, is attached to this staff report as Exhibit A, and can also be found at the following link: <https://www.treasurer.ca.gov/cpcf/meeting/2022/20220621/staff/4a.pdf>

A form of the Updated PLOM, which will be used to market the sale of the Series 2023 Plant Bonds, can be found at the following link: [Click here](#)

The following table shows a breakdown of updated 2023 Project costs expected to be paid from tax-exempt and taxable bond proceeds:

2023 Project and Issuance Costs	To Be Paid from Tax-exempt Bond Proceeds	To Be Paid from Taxable Bond Proceeds
Site Preparation	\$25,145,293	\$4,056,843
Utilities Connection	\$76,260,563	\$12,303,579
Acquisition and Installation of New Equipment	\$27,641,580	\$4,459,584
Engineering/Architecture	\$12,956,266	\$2,090,313
Legal, Permits, etc.	\$9,795,595	\$1,580,383
Bond Issuance Expenses	\$3,880,000	\$1,057,007
Interest During Construction	\$6,749,255	\$1,088,898
Refinancing of Existing Loan	\$22,894,366	\$21,963,467
Reserve Account Funding	<u>\$8,677,082</u>	<u>\$1,399,926</u>
Total:	<u>\$194,000,000</u>	<u>\$50,000,000</u>

***Note:** The Project costs reported in the Borrower’s application and shown here in the Authority’s staff’s report are estimated costs. At the Series 2023 Plant Bonds closing date (the “Closing Date”), the estimated Project costs will be finalized and stated in the Tax Certificate and will comply with all requirements applicable to the use of tax-exempt bond proceeds, including the IRS 2% limitation on costs of issuance, and the expectation is that any amount shown above that is in excess of such limitation would be allocated to one or more of the other cost categories. Variations from the costs shown in the application and in this report may occur prior to the Closing Date due to the increased costs of certain components of the 2023 Project from original estimates, and other reasons. In addition, those costs may vary after the Closing Date also due to, among others, increased costs of certain components of the 2023 Project, as well as design and equipment modifications during construction due to future changes in statutes and regulations. However, the Borrower confirmed, through the submission of a signed application, and will confirm through covenants and representations in the Bond Financing Documents and the Tax Certificate, that the portion of the 2023 Project financed with tax-exempt bond proceeds will qualify for tax-exempt financing, they will be used to complete the 2023 Project as described, and the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.*

Tax-exempt and Taxable Issuance Administrative Fees. Based on CPCFA’s administrative fees, the total administrative fee for this transaction, as currently structured, is estimated at \$488,000. The Borrower has paid an application fee of \$5,000 that will be deducted from the estimated administrative fee resulting in an estimated \$483,000 balance due at closing. The total administrative fee may change

based on the total amount of tax-exempt and taxable bonds issued and will be determined after pricing.

Small Business Assistance Fund (SBAF). The SBAF, established in Section 8041 of Division 11 of Title 4 of the California Code Regulations, is funded by fees collected from large-business borrowers with more than 500 employees to help offset the costs of issuance for small businesses that participate in the Authority’s bond program. The SBAF assistance is available on a sliding scale to small-business borrowers, defined in Section 8020(l) of Division 11 of Title 4 of the California Code of Regulations as those who employ less than 500 employees. Transactions with a par amount above \$13,750,000 do not qualify for SBAF assistance.

The Borrower is a large-business borrower and will contribute up to \$1,430,400 to the SBAF at Closing.

Financing Details. The Borrower anticipates the issuance of negotiated, tax-exempt and taxable Series 2023 Plant Bonds placed with the Initial Purchasers. The Initial Purchasers expect to offer and resell the Series 2023 Plant Bonds to Qualified Institutional Buyers (“QIBs”) as defined in and in conformance with Rule 144A of the Securities Act of 1933 (the “Securities Act”), in denominations of \$250,000 and multiples of \$5,000 in excess thereof and with additional restrictions on transfers to QIBs pursuant to Rule 144A of the Securities Act. The Closing Date is anticipated to be in February 2023.

Financing Team.

Initial Purchasers:

Morgan Stanley & Co. LLC; BofA Securities, Inc.; RBC Capital Markets, LLC; and J.P. Morgan Securities LLC

Bond Counsel: Orrick, Herrington & Sutcliffe LLP

Issuer’s Counsel: Office of the Attorney General

Plant Trustee: U.S. Bank Trust Company, National Association

Staff Recommendation. Staff recommends the approval of the supplemental resolution to the Final Resolution No. 22-01-616 for Poseidon Resources (Channelside) LP and/or its affiliates.

Note: Any information related to the Borrower, including any data or analysis related to the Borrower’s financial condition or ability to repay the financing, described in this staff report was prepared solely for members of the CPCFA Board and to satisfy certain provisions of Health and Safety Code section 44500 et seq. Investors should not rely on information in this staff report and prospective investors must read the entire PLOM and Limited Offering Memorandum to obtain information essential to the making of an informed investment decision with respect to the Series 2023 Plant Bonds.

**SUPPLEMENTAL RESOLUTION TO FINAL BOND RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO THE FINANCING AND REFINANCING OF
WATER FURNISHING FACILITIES AND EQUIPMENT FOR
POSEIDON RESOURCES (CHANNELSIDE) LP AND/OR ITS AFFILIATES**

December 13, 2022

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) heretofore approved a final resolution on June 21, 2022 (the “June 2022 Final Resolution”), authorizing the issuance from time to time of the revenue bonds (referred to in this Resolution as the “Series 2023 Plant Bonds”) in an aggregate principal amount not to exceed \$722,965,000, the proceeds of which were to be used to make a loan to Poseidon Resources (Channelside) LP, a Delaware limited partnership (the “Borrower”), to (i) refinance the costs of the acquisition, construction and installation of certain water furnishing facilities, located in San Diego County (the “Plant”), including the redemption and defeasance in full (the “Refunding”) of the Authority’s Water Furnishing Revenue Bonds, Series 2012 (Poseidon Resources (Channelside) LP Desalination Project) (AMT) (the “Series 2012 Plant Bonds” and, together with the Series 2023 Plant Bonds, the “Plant Bonds”), (ii) finance the costs of the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping, certain wetlands, and other facilities functionally related to the intake, outflow, production and treatment of water by the Plant (the “2023 Project”) and (iii) pay a portion of the costs of issuance of the Series 2023 Plant Bonds; and

WHEREAS, the Series 2012 Plant Bonds were issued pursuant to that certain Trust Indenture, dated December 24, 2012 (the “Series 2012 Plant Indenture”), by and between the Authority and U.S. Bank Trust Company, National Association, as successor trustee (the “Plant Trustee”); and

WHEREAS, the proceeds of the Series 2012 Plant Bonds were loaned to the Borrower pursuant to that certain Plant Loan Agreement, dated December 24, 2012 (as previously amended, amended and restated, or supplemented from time to time, including as amended and supplemented by that certain Omnibus Refunding Amendment Agreement, dated as of February 1, 2019, and by that certain First Supplement to Plant Loan Agreement, dated as of December 2, 2021, the “Series 2012 Plant Loan Agreement”), between the Authority and the Borrower; and

WHEREAS, the Borrower secured its obligations under the Series 2012 Plant Loan Agreement pursuant to that certain Collateral Trust Agreement, dated December 24, 2012 (as previously amended, amended and restated, or supplemented from time to time, including as amended by that certain Collateral Documents Master Refunding Amendment, dated as of February 1, 2019, and that certain First Amendment to Collateral Trust Agreement, dated as of December 2, 2021, the “Collateral Trust Agreement”), among the Borrower, the Plant Trustee and U.S. Bank Trust Company,

National Association, as successor collateral agent (the “Collateral Agent”), and others;
and

WHEREAS, the Authority heretofore approved an indenture relating to the Series 2023 Plant Bonds, a loan agreement relating to the Series 2023 Plant Bonds, and a limited offering memorandum relating to the Series 2023 Plant Bonds in preliminary form (the “Preliminary Limited Offering Memorandum”), in substantially the forms on file with the Authority at its meeting on June 21, 2022; and

WHEREAS, the Borrower previously communicated to the Authority that it anticipated updating the Preliminary Limited Offering Memorandum to account for, among other factors, the amount of exempt facility allocation available to the 2023 Project, and returning to the Authority for approval of such updated Preliminary Limited Offering Memorandum at a meeting of the Authority no later than December 13, 2022; and

WHEREAS, pursuant to that certain Trust Indenture, dated as of February 1, 2019 (as previously amended, amended and restated, or supplemented, including as supplemented by that certain First Supplemental Indenture, dated as of December 2, 2021, the “Series 2019 Pipeline Indenture”), by and between the Authority and U.S. Bank Trust Company, National Association, as successor trustee (the “Pipeline Trustee”), the Authority has previously issued its Water Furnishing Revenue Refunding Bonds, Series 2019 (San Diego County Water Authority Desalination Project Pipeline) (the “Series 2019 Pipeline Bonds”), in the aggregate principal amount of \$183,155,000, to refinance the costs of developing, designing, engineering, acquiring and constructing water furnishing facilities for the distribution of clean water in San Diego County, including an approximately 10-mile pipeline that connects the Plant (as defined in the June 2022 Final Resolution) to the San Diego County Water Authority’s water distribution system; and

WHEREAS, the California Debt Limit Allocation Committee (“CDLAC”) has allocated \$194,000,000 of the 2022 State Ceiling on Qualified Private Activity Bonds to the Authority for the 2023 Project (the “Allocation”) pursuant to its resolution adopted on July 20, 2022 (the “CDLAC Resolution”); and

WHEREAS, in addition to the Authority’s existing authorization of Series 2023 Plant Bonds in an aggregate principal amount not to exceed \$722,956,000, the Borrower has requested the Authority to issue its revenue bonds from time to time, bearing interest at a taxable rate, in an additional aggregate principal amount not to exceed \$50,000,000 to further assist in the financing of the 2023 Project; and

WHEREAS, given changes in prevailing market conditions, the Borrower now desires to complete the financing of the 2023 Project in advance of the Refunding of the Series 2012 Plant Bonds; and

WHEREAS, in connection with the postponement of the Refunding of the Series 2012 Plant Bonds, certain updates are required to the documents relating to the Series

2023 Plant Bonds, including, among others, for the Authority to issue the Series 2023 Plant Bonds pursuant to that certain First Supplemental Plant Indenture (as hereinafter defined) and to loan the proceeds thereof to the Borrower pursuant to that certain Second Amendment and Supplement to Plant Loan Agreement (as hereinafter defined); and

WHEREAS, the Borrower has requested that, upon the defeasance in full of the Series 2012 Plant Bonds, the Plant Loan Agreement (as hereinafter defined) be amended by a Third Amendment and Supplement to Plant Loan Agreement (the “Third Amendment and Supplement to Plant Loan Agreement”), the Plant Indenture (as hereinafter defined) be amended by a Second Supplemental Plant Indenture (the “Second Supplemental Plant Indenture”), and the Collateral Trust Agreement be amended by a Second Amendment to the Collateral Trust Agreement (the “Second Amendment to Collateral Trust Agreement”), all in substantially the forms attached to the First Supplemental Plant Indenture; and

WHEREAS, the San Diego County Water Authority, the San Diego County Water Authority Financing Agency and the Borrower desire to supplement certain definitions in the Series 2019 Pipeline Indenture in connection with the issuance of the Series 2023 Plant Bonds; and

WHEREAS, the Borrower has updated the Preliminary Limited Offering Memorandum to account for, among other factors, the amount of the Allocation from CDLAC; and

WHEREAS, the Borrower has caused forms of the Updated Bond Financing Documents (as hereinafter defined) to be prepared and placed on file with the Authority prior to this meeting; and

WHEREAS, the Borrower has caused the Collateral Trust Agreement and any amendments thereto to be placed on file with the Authority prior to this meeting; and

WHEREAS, supplemental approval of the terms of the Series 2023 Plant Bonds and the Updated Bond Financing Documents relating to such Series 2023 Plant Bonds is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Authority hereby ratifies and confirms its prior authorization to issue Series 2023 Plant Bonds in an aggregate principal amount not to exceed \$722,965,000. As previously authorized, the Series 2023 Plant Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, bearing interest at a tax exempt or taxable rate in accordance with the Plant Indenture, including the First Supplemental Plant Indenture and any additional supplement to the Plant Indenture, as finally executed. In addition, the Authority hereby authorizes the issuance of Series 2023 Plant Bonds in an additional aggregate principal amount not to

exceed \$50,000,000, at one time, or from time to time, in one or more series separately or differently identified, bearing interest at a taxable rate in accordance with the Plant Indenture, including the First Supplemental Plant Indenture and any additional supplement to the Plant Indenture, as finally executed. The proceeds of the Series 2023 Plant Bonds shall from time to time be used to make a loan or loans to the Borrower to (i) refinance the costs of the acquisition, construction and installation of the Plant, including the redemption and defeasance in full of the Series 2012 Plant Bonds, (ii) finance the costs of the 2023 Project (including, without limitation, reimbursing the Borrower for costs incurred for the 2023 Project prior to the issuance of the Series 2023 Plant Bonds and funding one or more debt service reserve accounts, capitalized interest or working capital), and (iii) pay a portion of the costs of issuance of the Series 2023 Plant Bonds.

Section 2. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Series 2023 Plant Bonds, at one time, or from time to time, in one or more series separately or differently identified, on or before May 15, 2023, by negotiated sale, at such price, at such interest rate or rates and, subject to Section 1 of this Resolution, in such mode (taxable or tax-exempt) as the Treasurer may determine, such determination to be as set forth in one or more bond purchase agreements approved by the June 2022 Final Resolution (referred to in this Resolution as the “Series 2023 Plant Bond Purchase Agreements”), as applicable and finally executed, and further subject to any terms and conditions relating to the Allocation pursuant to the CDLAC Resolution.

Section 3. The following documents (collectively, the “Updated Bond Financing Documents”):

1. an amendment and supplement to the Series 2012 Plant Loan Agreement relating to the Series 2023 Plant Bonds (the “Second Amendment and Supplement to Plant Loan Agreement” and, together with the Series 2012 Plant Loan Agreement, the “Plant Loan Agreement”), between the Authority and the Borrower;
2. a supplement to the Series 2012 Plant Indenture relating to the Series 2023 Plant Bonds (the “First Supplemental Plant Indenture” and, together with the Series 2012 Plant Indenture, the “Plant Indenture”), between the Authority and the Plant Trustee, including, as exhibits to the First Supplemental Plant Indenture, forms of the Third Amendment and Supplement to Plant Loan Agreement, the Second Supplemental Plant Indenture and the Second Amendment to Collateral Trust Agreement;
3. an updated Preliminary Limited Offering Memorandum relating to the Series 2023 Plant Bonds (the “Updated Preliminary Limited Offering Memorandum” and, in final form, the “Limited Offering Memorandum”); and
4. a supplement to the Series 2019 Pipeline Indenture (the “Second Supplemental Pipeline Indenture”), between the Authority and the Pipeline Trustee;

are hereby approved in substantially the forms on file with the Authority prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect changes required by the project participants, rating agencies or potential investors) in substantial conformance with the Term Sheet set forth in the June 2022 Final Resolution, as amended pursuant to Sections 8 and 9 hereof, as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the Second Amendment and Supplement to Plant Loan Agreement, the First Supplemental Plant Indenture and the Second Supplemental Pipeline Indenture, and by delivery thereof in the case of the Updated Preliminary Limited Offering Memorandum and the Limited Offering Memorandum.

Section 4. The Authority understands and agrees that upon the defeasance in full of the Series 2012 Plant Bonds, the Plant Loan Agreement will be amended by the Third Amendment and Supplement to Plant Loan Agreement, the Plant Indenture will be amended by the Second Supplemental Plant Indenture, and the Collateral Trust Agreement will be amended by the Second Amendment to Collateral Trust Agreement, pursuant to the terms of the Plant Loan Agreement, the Plant Indenture, and the Collateral Trust Agreement, as applicable.

Section 5. The Underwriters and/or the Initial Purchasers (each as defined in the June 2022 Final Resolution) are hereby authorized to distribute the Updated Preliminary Limited Offering Memorandum to persons who may be interested in the purchase of the Series 2023 Plant Bonds, in each case subject to the limitations provided in the Series 2023 Plant Bond Purchase Agreements. The Underwriters and/or the Initial Purchasers are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the Series 2023 Plant Bonds pursuant to one or more Series 2023 Plant Bond Purchase Agreements, as applicable and finally executed.

Section 6. References to the “Series 2022 Plant Loan Agreement” in Sections 7, 12, 15 and 16 of the June 2022 Final Resolution shall be revised to the “Second Amendment and Supplement to Plant Loan Agreement”.

Section 7. References to the “Series 2022 Plant Indenture” in Sections 2, 8, 10, 12 and 16 of the June 2022 Final Resolution shall be revised to the “First Supplemental Plant Indenture”.

Section 8. References to the “U.S. Bank, National Association” in the June 2022 Final Resolution shall be revised to “U.S. Bank Trust Company, National Association”.

Section 9. The reference to “Maximum Amount of Issue of Series 2022 Plant Bonds” set forth in the Term Sheet attached to the June 2022 Final Resolution as Exhibit A shall be revised to “Maximum Amount of Issue of Series 2023 Plant Bonds” and such amount shall be revised to “\$772,965,000”.

Section 10. The Authority hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date hereof in furtherance of the purposes of this Resolution and the June 2022 Final Resolution.

Section 11. This Resolution shall take effect immediately upon its passage. Except as amended by this Resolution, the June 2022 Final Resolution remains in full force and effect. The adoption by the Authority of this Resolution for the Borrower shall not be referred to, in any application before any government agency or otherwise, as evidence of the feasibility, practicality or suitability of the Plant or in any application for any required permission or authority to construct or operate the Plant.

Exhibit A

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: June 21, 2022**

**Request to Approve a Final Resolution Authorizing the Issuance of
Tax-Exempt and/or Taxable Water Furnishing Revenue Bonds for
New Money and Refunding Purposes**

Prepared by: Solomita Malko

Applicant:	Poseidon Resources (Channelside) LP and/or its affiliates
Project Location:	City of Carlsbad (San Diego County) and the Pond 15 Restoration Site within the San Diego Bay National Wildlife Refuge and the Otay River Floodplain Restoration Site
Total Final Resolution Amount Requested:	\$722,965,000
New Money Amount Requested:	\$200,000,000
Refunding Amount Requested:	\$522,965,000
Application No.:	884
Final Resolution No.:	22-01-616
Prior Actions:	Original IR approved on 2/16/2016; Amendment, Restatement and Extension, to IR approved 12/19/2018; Amendment, Restatement, and Extension, to IR approved 12/17/2021

Summary. Poseidon Resources (Channelside) LP, and/or its affiliates (the “Borrower”) requests approval of a Final Resolution for a total amount not to exceed \$722,965,000 in the California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP) tax-exempt and/or taxable bonds (the “Series 2022 Plant Bonds”), of which \$522,965,000 will be used to refinance the costs of the acquisition, construction and installation of the Desalination Plant (as defined herein) including refunding the Water Furnishing Revenue Bonds, Series 2012 (Poseidon Resources (Channelside) LP Desalination Project) (the “Series 2012 Plant Bonds”) previously issued by the California Pollution Control Financing Authority (the “Authority”). The new money amount of \$200,000,000 will be used to finance costs and expenses (including previously expended amounts and funding one or more debt service reserve accounts, capitalized interest, or working capital) related to the

acquisition, construction, improvement, renovation, rehabilitation, and/or installation of the intake improvements necessary to comply with the Ocean Plan Amendment and install 1 mm screens with an approach velocity of 0.5 foot per second in the Agua Hedionda Lagoon to provide raw seawater for the Desalination Plant (as defined below) (the “Permanent Intake System Modifications”). The Permanent Intake System Modifications will also include connecting and rerouting the pipeline with the new screens and demolition and removal of Cabrillo Power I LLC assets that are currently being used during interim operations of the desalination plant such as tunnels and travelling screens. Bond proceeds will also be used for a portion of the Otay River Estuary Restoration Project involving the creation, restoration, and enhancement of 125.5 acres, in the aggregate, of coastal wetlands to benefit native fish, wildlife, and plants species and to provide habitat for migratory seabirds, shorebirds, and salt marsh-dependent species within the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge (“Refuge”) (the “Wetlands Restoration Project”) and other facilities functionally related to the intake, outflow, production, and treatment of water by the 50-million gallon per day reverse-osmosis seawater desalination plant, and facilities and equipment functionally related thereto, Claude “Bud” Lewis Carlsbad Desalination Plant (the “Desalination Plant”).

Borrower. The Borrower was organized in Delaware on August 13, 2010. The Borrower is the owner of a reverse-osmosis seawater desalination project located in Carlsbad, California, providing potable water to the water distribution system of the San Diego County Water Authority (“SDCWA”).

The principal stockholders of the Borrower are as follows:

Poseidon Resources Channelside Holdings LLC	99.90%
Poseidon Resources Channelside GP, Inc.	00.10%
Total:	<u>100.00%</u>

The Borrower, Poseidon Resources (Channelside) LP, is 100% owned by Poseidon Resources Channelside Holdings LLC (99.9% directly and 0.1% indirectly through Poseidon Resources Channelside GP, Inc.) which is a direct subsidiary of funds managed by abrdn plc.

Legal Status Questionnaire. The Authority staff has reviewed the Borrower’s responses to the questions contained in the Legal Status Questionnaire portion of the Application. The information disclosed in the Legal Status Questionnaire portion of the Application does not raise concerns regarding the financial viability or legal integrity of this applicant.

Tax Equity and Fiscal Responsibility Act (TEFRA). The TEFRA hearing was held on May 20, 2022. There were no comments received in support of or in opposition to this Project.

Fees. The Borrower has paid an application fee of \$10,000 (\$5,000 for the initial application and \$5,000 for the refunding application) and will pay an administrative fee up to \$1,435,930 at closing based on the total new money and refunding amounts.

Small Business Assistance Fund (SBAF). The SBAF, established in Section 8041 of Division 11 of Title 4 of the California Code Regulations, is funded by fees collected from large-business borrowers with more than 500 employees to help offset the costs of issuance for small businesses that participate in the Authority’s bond program. The SBAF assistance is available on a sliding scale to small-business borrowers, defined in Section 8020(l) of Division 11 of Title 4 of the California Code of Regulations as those who employ no more than 500 employees, unless the par amount of the bond issue is above \$13,750,000.

The Borrower is a large-business borrower and will contribute up to \$1,320,000 to the SBAF at closing.

Prior Financings. Prior financings of the Borrower and its affiliates through CPCFA are listed below.

Description	Date of Bond Issue	Original Amount	Amount Outstanding as of June 1, 2022
Poseidon Resources (Channelside) LP Series 2012	12/24/2012	\$530,345,000	\$526,250,000*
TOTALS:		\$530,345,000	\$526,250,000

*Principal payment of \$3,285,000 is due on July 1, 2022, this payment will bring the balance down to \$522,965,000.

Project Description. Bond proceeds will be used to refinance the costs of the acquisition, construction and installation of the Desalination Plant including refunding the Series 2012 Plant Bonds and finance costs and expenses (including previously expended amounts and funding one or more debt service reserve accounts, capitalized interest, or working capital) related to the acquisition, construction, improvement, renovation, rehabilitation, and/or installation of the Permanent Intake Modifications and a portion of the Wetlands Restoration Project and other facilities functionally related to the intake, outflow, production and treatment of water by the Desalination Plant, all of which are located at the Desalination Plant in San Diego County, except for the Wetlands Restoration Project which is located at the Pond 15 Restoration Site within the Refuge and the Otay River Floodplain Restoration Site

All financed assets, except for the Wetlands Restoration Project, will be owned and operated by the Borrower and/or an affiliate thereof. The Wetlands Restoration Project will be developed, operated, maintained, and monitored by the Otay River Estuary Restoration (“ORERP”) Project, a partnership between the Borrower, the U.S. Fish and Wildlife Service and Refuge.

The Desalination Plant provides San Diego County with a locally controlled, drought-proof supply of high-quality potable water that meets or exceeds all state and federal drinking water standards. In 2020, the Desalination Plant accounted for approximately ten percent of the total regional drinking water supply.

The anticipated project costs are listed below:

Project and Issuance Costs	To Be Paid from Bond Proceeds
Site Preparation	\$21,313,456
Utilities Connection	\$64,639,381
Acquisition and Installation of New Equipment	\$23,429,340
Engineering/Architecture	\$10,981,889
Legal, Permits, etc.	\$8,302,866
Bond Issuance Expenses	\$7,124,058
Interest During Construction	\$12,067,116
Interest Income During Construction	-\$162,657
Refinancing of Existing Loan	\$42,762,654
Reserve Account Funding	\$9,541,897
Subtotal Project Costs:	<u>\$200,000,000</u>
Refinancing of Series 2012 Bonds	<u>\$522,965,000</u>
Total:	<u>\$722,965,000</u>

Note: The Project costs reported in the Borrower’s application and shown here in the Authority’s staff’s report are estimated costs. At transaction closing, the estimated Project costs will be finalized and stated in the Tax Certificate and will comply with all requirements applicable to the use of tax-exempt bond proceeds, including the IRS 2% limitation on costs of issuance, and the expectation is that any amount shown above that is in excess of such limitation would be allocated to one or more of the other cost categories. Variations from the costs shown in the application and in this report may occur prior to the closing due to the increased costs of certain components of the project from original estimates, and other reasons. In addition, those costs may vary after closing also due to increased costs, as well as design and equipment modifications during construction differences in equipment due to future changes in statutes and regulations or for other reasons. However, the Borrower confirms, through the submission of a signed application and will confirm through covenants and representations in various bond documents, that all assets financed with tax-exempt bond proceeds will qualify for tax-exempt financing, they will be used to complete the Project as described, and the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.

Anticipated Project Timeline. The project has been initiated, and the desalination plant project is expected to be completed in 2024 and the wetlands mitigation project is expected to be completed in 2026.

California Debt Limit Allocation Committee (CDLAC) Volume Cap Allocation. The Authority has applied on the Borrower's behalf to CDLAC for an exempt facility allocation in an amount not to exceed \$200,000,000 to be considered at its July 20, 2022, meeting.

Local Government. The Borrower received a letter of support from Sandra L. Kerl, General Manager of the SDCWA. (see Attachment A).

Pollution Control and/or Environmental Benefits. The Borrower represents the project will generate the pollution control and environmental benefits described below:

Reliable Water Supply. The Borrower states, "With an annual operating capacity of 56,000 Acre-Feet per Year (AFY) (50 MGD), the Carlsbad Desalination Plant (CDP) achieves the goals of the City of Carlsbad, Valley Center Municipal Water District, Rincon del Diablo Municipal Water District, Sweetwater Authority, Rainbow Municipal Water District, Vallecitos Water District, Santa Fe Irrigation District, Olivenhain Municipal Water District, and the City of Oceanside (Water Agencies) to strengthen the economic base of their respective service areas and the communities they serve. The CDP provides the Water Agencies with a reliable, drought-resistant water supply that provides high technology, biotechnology, agriculture, tourism, and other water-dependent industries the reliable water supply necessary to maintain their operations and attract new businesses. It provides San Diego with approximately 10% of the county's drinking water supply and serves 300,000 San Diegans annually. The stability created by this reliable water source is an extraordinary benefit given the realities of the political and regulatory variability of water supply."

Higher Quality Drinking Water. The Borrower states, "The CDP provides and will continue to provide, with the new permanent intake system, a higher quality drinking water supply than can be purchased from the San Diego County Water Authority (SDCWA). The CDP delivers a drinking water supply that meets all State and Federal health standards, as well as a 30 to 50 percent reduction in the total dissolved solids (TDS) compared to imported water from the Colorado River and Sacramento- San Joaquin Delta provided by the SDCWA. Desalinated water is supplied at a TDS of 250-350 mg/L compared to imported water that has a TDS of 500-700 mg/L. The higher quality desalinated water assists in facilitating water conservation and recycling programs and provide extraordinary economic and aesthetic benefits for residents and businesses through avoided industrial water treatment costs and reduced maintenance, repair, and replacement costs of end-user appliances and equipment."

Water Supply Redundancy. The Borrower states, "The CDP provides, and will continue to provide with the new permanent intake system, water supply redundancy for the Water Agencies, strengthening security and reliability of water supply for residents and businesses. The Water Agencies maintain their membership in and right to purchase water at the SDCWA, while receiving some or all of their potable water supply needs from the CDP, thereby creating a redundant supply of water available in the event of catastrophe or unforeseen circumstances."

Acquisition of Land for Public Purpose. The Borrower states, “The CDP has achieved the South Carlsbad Coastal Redevelopment Plan and Coastal Act goals of developing new beach and coastal recreational opportunities. The CDP and the new permanent intake system are consistent with and include elements specifically intended to advance the goals of the State of California and the City of Carlsbad related to the protection, maintenance, and enhancement of the overall quality of the coastal zone environment, while maximizing public recreational opportunities along the coast. The project includes the extraordinary dedication of nearly 20 acres of ocean and lagoon front property to the public for recreation and access to coastal amenities.”

Restore and Enhance the Marine Environment: The Borrower states, “As a wholesale water supplier regulated by the California State Water Resources Control Board and California Coastal Commission, the CDP operator is subject to the provisions of the federal Safe Drinking Water Act that require restoration, protection, and enhancement of watersheds upstream of a source of drinking water supply. As a result, the CDP owner (Poseidon Resources (Channelside) LP) and the CDP operator are actively involved in activities aimed at protecting, restoring, and enhancing the health and vitality of Agua Hedionda Lagoon, the surrounding 30 square mile watershed upstream of the Lagoon and the near shore environment. In addition, the owner has committed to the creation, restoration, and enhancement of 125.5 acres of coastal wetlands to benefit native fish, wildlife, and plant species and to provide habitat for migratory seabirds and shorebirds and salt marsh-dependent species within the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge. Poseidon Resources (Channelside) continues to preserve the 400-acre Agua Hedionda Lagoon and its recreational and marine life resources and has planted 5,000 trees in areas damaged by 2007 wildfires.”

Increased Revenue to City and Redevelopment Agency. The Borrower states, “The CDP provides an extraordinary benefit to the residents and businesses of Carlsbad by generating approximately \$4.6 million per year in property tax revenue, 85% of which will remain in the City of Carlsbad to support schools, municipal services, and the Redevelopment Agency. Among other things, this revenue can be used to support the proposed public improvements identified in the Redevelopment Plan. Additionally, the CDP generates substantial sales tax revenue that goes to the general funds of Carlsbad and other San Diego County cities to support police, fire, health, welfare, and transportation.”

Economic Activity Generated by Project. The Borrower states, “Construction of the new permanent intake system and wetlands mitigation project will infuse millions of dollars into the local economy while creating new jobs in the desalination, engineering, construction, and other service industries.”

Facilitate Conservation and Recycling. The Borrower states, “The Water Agencies are recognized leaders in the area of water conservation and water recycling. The combined effect of the lower TDS and reduced water softener brine discharges to the

local wastewater collection system results in significant improvement in the quality of the recycled water produced at local water recycling facilities. Higher quality recycled water lowers the cost of production and improves customer acceptance and utilization of recycled water.”

Reduced Health Risks. The Borrower states, “The higher quality water supply produced by the project can result in reduced health risk. The desalinated water has significantly lower concentrations of disinfection byproducts (TTHM and HAA) than other water supplies for the County of San Diego. Disinfection byproducts are suspected carcinogens, and reduced concentrations of these constituents in the drinking water are considered to be a public health benefit.”

Affordable Price & Future Savings. The Borrower states, “The desalinated water produced by the CDP is delivered to the Water Agencies under a long-term agreement at a price not to exceed the price that the Water Agencies would have otherwise paid for their water, ensuring a cost-effective supply for the businesses and residents served by the project. In addition, due to the structure of the Water Purchase Agreement and the expected inflation of the price of imported water to San Diego County, the CDP is anticipated to potentially save the contracting Water Agencies hundreds of millions of dollars on the cost of water over the 30-year life of the Water Purchase Agreement. These are savings that will be passed through to San Diego County ratepayers.”

Equitable Access to Benefits. The Borrower states, “Water from the CDP serves over 300,000 San Diego County households annually, thereby ensuring residents and businesses equitable access to all of the CDP’s benefits described above. The residents and businesses in Valley Center Municipal Water District, Rincon del Diablo Municipal Water District, Sweetwater Authority, Rainbow Municipal Water District, Vallecitos Water District, Santa Fe Irrigation District, Olivenhain Municipal Water District and the City of Oceanside will gain equitable access to the water supply reliability and pricing benefits.”

Improved Air Quality. The Borrower states, “Through its *Energy Minimization and Greenhouse Gas Reduction Plan* Poseidon Resources (Channelside) has committed to offset the net indirect GHG emissions associated with the CDP’s operations, thus improving air quality. Poseidon Resources (Channelside) has been heralded for building and managing the first large- scale infrastructure project in California to voluntarily commit to being net carbon neutral.”

Avoided Cost of TDS-Related Damages. The Borrower states, “High concentrations of Total Dissolved Solids in water supply can cause corrosion of pipes, scaling, and spotting; reduce the useful life of water-using appliances; require greater use of cleansers; impair taste; and damage vegetation and reduce crop yields. Industrial users can incur extra treatment costs for uses in cooling towers, boilers and manufacturing processes. High TDS water is also a primary water quality constraint to water recycling and groundwater replenishment. The Carlsbad Desalination Plant has significant economic benefits related to lower TDS in the desalinated water it supplies. These

benefits include the life-cycle savings for major water using appliances and the value residential customers may place on better tasting water. The estimated savings to the commercial and industrial customer segments consist primarily of avoided softening and demineralization costs.”

Permitting and Environmental Approvals. The Borrower provided a signed letter from Sachin Chawla, President, articulating that the Project is consistent with its existing zoning and permitting requirements. The Borrower represents that the Project neither requires a new California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) process nor does it require any additional discretionary permits.

Financing Details. The Borrower anticipates the issuance of negotiated, tax-exempt Series 2022 Plant Bonds through a limited public offering to Qualified Institutional Buyers (QIBs) as defined in Rule 144A under the Securities Act of 1933 (the “Securities Act”), in denominations of \$250,000 and multiples of \$5,000 in excess thereof and restrictions on transfers to QIBs. In addition, the Borrower anticipates that the issuance of negotiated, taxable Series 2022 Plant Bonds privately placed with the Initial Purchasers, may be necessary, including to the extent that the full, requested tax-exempt allocation is not received. The Initial Purchasers expect to offer and resell the taxable Series 2022 Plant Bonds to QIBs in conformance with Rule 144A of the Securities Act, in denominations of \$250,000 and multiples of \$5,000 in excess thereof and with additional restrictions on transfers to QIBs pursuant to Rule 144A of the Securities Act. The target date for financing is anticipated to be in October 2022.

As part of the marketing effort, a draft Preliminary Limited Offering Memorandum (PLOM) has been prepared and is also being presented to the Authority for approval. A link to the PLOM can be found here:



Adobe Acrobat
Document

Given that the financing structure for the transaction depends upon, among other factors, the amount of exempt facility volume cap allocation received from CDLAC, and that the issuance is anticipated to be in October 2022, the Borrower anticipates needing to update the PLOM prior to issuance. The Borrower may also separate the offering of the tax-exempt Series 2022 Plant Bonds from the taxable Series 2022 Plant Bonds and produce a separate offering memorandum for the taxable Series 2022 Plant Bonds. In either case, the Borrower will return to the Authority for approval of an updated PLOM prior to its posting and/or the approval of an offering memorandum for the taxable Series 2022 Plant Bonds.

Financing Team.

Underwriters/Initial

Purchasers: BofA Securities, Inc., and Morgan Stanley & Co. LLC
Bond Counsel: Orrick, Herrington, & Sutcliffe LLP
Issuer's Counsel: Office of the Attorney General
Trustee: U.S. Bank National Association

Staff Recommendation. Staff recommends the approval of Final Resolution No. 22-01-616 in a total amount not to exceed \$722,965,000 for Poseidon Resources (Channelside) LP and/or its affiliates.

Note: Any information related to the Borrower, including any data or analysis related to the Borrower's financial condition or ability to repay the financing, described in this staff report was prepared solely for members of the CPCFA Board and to satisfy certain provisions of Division 27 of the Health and Safety Code § 44500 - 44563. Investors should not rely on information in this staff report and prospective investors must read the entire PLOM and Limited Offering Memorandum to obtain information essential to the making of an informed investment decision with respect to the tax-exempt and taxable Series 2022 Plant Bonds.

Attachment A



May 11, 2022

MEMBER AGENCIES

- Carlsbad Municipal Water District
 - City of Del Mar
 - City of Escondido
 - City of National City
 - City of Oceanside
 - City of Poway
 - City of San Diego
 - Fallbrook Public Utility District
 - Helix Water District
 - Lakeside Water District
 - Olivenhain Municipal Water District
 - Otay Water District
 - Padre Dam Municipal Water District
 - Camp Pendleton Marine Corps Base
 - Rainbow Municipal Water District
 - Ramona Municipal Water District
 - Rincon del Diablo Municipal Water District
 - San Dieguito Water District
 - Santa Fe Irrigation District
 - South Bay Irrigation District
 - Vallecitos Water District
 - Valley Center Municipal Water District
 - Vista Irrigation District
 - Yuima Municipal Water District
- OTHER REPRESENTATIVE
County of San Diego

Shela Tobias-Daniel, Executive Director
California Pollution Control Financing Authority
P.O. Box 942809
Sacramento, CA 94209-0001

RE: 2022 Carlsbad Desalination Project Plant Bond Issuance – Statement of Local Government Support

Dear Shela:

I am pleased to provide this statement of local government support for the Carlsbad Desalination Project (CDP) in conformance with Section 5434 of the California Debt Limitation Allocation Committee regulations.

The Water Authority supports the CDP as an important regional asset for San Diego County. Ocean water desalination remains a valuable tool, diversifying water supply and ensuring safe and reliable water production no matter the weather. Its value is highlighted by the ongoing megadrought. Poseidon's additional capital investment in the Project is required by law and necessary for continued operation.

We appreciate your attention to this matter and would be pleased to discuss this issue further.

Sincerely,

Sandra L. Kerl
General Manager

Enclosure(s)

cc: Nancee Robles, Interim Executive Director, California Debt Limit Advisory Corporation
Aaron Epstein, Poseidon Resources (Channelside) LP

**FINAL BOND RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO THE FINANCING AND REFINANCING OF WATER
FURNISHING FACILITIES AND EQUIPMENT FOR
POSEIDON RESOURCES (CHANNELSIDE) LP AND/OR ITS AFFILIATES**

June 21, 2022

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has received the application of Poseidon Resources (Channelside) LP, a Delaware limited partnership (the “Borrower”), for financial assistance to: (a) refinance the costs of the acquisition, construction and installation of certain water furnishing facilities, located in San Diego County, and all as more particularly described under the heading “Existing Plant” in the Term Sheet attached hereto as Exhibit A (the “Term Sheet”) and incorporated herein (the “Existing Plant”); and (b) to finance the costs of the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping, certain wetlands, and other facilities functionally related to the intake, outflow, production and treatment of water by the Existing Plant, and all as more particularly described under the heading “2022 Project” in the Term Sheet (the “2022 Project” and, together with the Existing Plant, the “Plant”); and

WHEREAS, pursuant to that certain Trust Indenture, dated December 24, 2012 (the “2012 Plant Indenture”), by and between the Authority and U.S. Bank, National Association, as successor trustee (the “Series 2012 Plant Trustee”), the Authority has previously issued its California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series

2012 (the “Series 2012 Plant Bonds”), in the aggregate principal amount of \$530,345,000 to finance a portion of the cost of acquiring, constructing, rehabilitating, renovating, improving, installing and equipping the Existing Plant; and

WHEREAS, the proceeds of the Series 2012 Plant Bonds were loaned to the Borrower pursuant to that certain Plant Loan Agreement, dated December 24, 2012 (as amended and supplemented, the “Series 2012 Plant Loan Agreement”), between the Authority and the Borrower; and

WHEREAS, the Borrower secured its obligations under the Series 2012 Plant Loan Agreement under a Collateral Trust Agreement, dated December 24, 2012 (the “Original Collateral Trust Agreement”), among the Borrower, the 2012 Plant Trustee, U.S. Bank, National Association, as successor collateral agent (the “Collateral Agent”), and others; and

WHEREAS, the Borrower now wishes to cause the refunding of the Series 2012 Plant Bonds, currently outstanding in the aggregate principal amount of \$522,965,000; and

WHEREAS, the Borrower has requested the Authority to issue its revenue bonds from time to time in an amount not to exceed \$722,965,000 to assist in the refunding of the Series 2012 Plant Bonds and the financing of the 2022 Project; and

WHEREAS, the proceeds of such revenue bonds will be loaned to the Borrower under a loan agreement with the Authority (the “Series 2022 Plant Loan Agreement”); and

WHEREAS, the Borrower has applied for an allocation to finance the 2022 Project and certain costs of issuance of the Authority’s revenue bonds, in the aggregate

amount of \$200,000,000, from the California Debt Limit Allocation Committee (“CDLAC”) (the “Allocation”); and

WHEREAS, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds is now sought; and

WHEREAS, the Borrower has provided documentation to the Authority demonstrating that the Plant has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division; and

WHEREAS, the Borrower will additionally secure its obligations under the Series 2022 Plant Loan Agreement pursuant to the Original Collateral Trust Agreement, as amended and supplemented, including as amended and supplemented by a proposed Second Amendment to Collateral Trust Agreement (collectively, the “Collateral Trust Agreement”), by and among the Borrower, the Series 2022 Plant Trustee (as hereinafter defined), the Collateral Agent, and others; and

WHEREAS, the Borrower has caused forms of the Bond Financing Documents (as hereinafter defined) to be prepared and placed on file with the Authority prior to this meeting, and the Borrower has communicated to the Authority that it anticipates updating the Preliminary Limited Offering Memorandum (as hereinafter defined) to account for, among other factors, the amount of exempt facility allocation available to the 2022 Project (the “Updated Preliminary Limited Offering Memorandum”), in which case the Borrower will return to the Authority for approval of such updated Preliminary Limited Offering Memorandum at a meeting of the Authority no later than December 13, 2022; and

WHEREAS, the Borrower has caused a form of the Collateral Trust Agreement, including any amendments, restatements and/or supplements to be prepared and placed on file with the Authority prior to this meeting;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Plant constitutes a “project,” and the Borrower is a “participating party” both within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

Section 2. Pursuant to the Act, revenue obligations of the Authority, designated as the “California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series 2022A” (the “Series 2022A Plant Bonds”), and the California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series 2022B (Federally Taxable) (the “Series 2022B Plant Bonds” and, together with the Series 2022A Plant Bonds, the “Series 2022 Plant Bonds”), or such alternate designation as may be approved by the Executive Director of the Authority, in an aggregate principal amount not to exceed \$722,965,000, are hereby authorized to be issued. The Series 2022 Plant Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, bearing interest at a tax exempt or taxable rate in accordance with the Series 2022 Plant Indenture (as hereinafter defined) as finally executed. The proceeds of the Series 2022 Plant Bonds shall be used to make a loan to the Borrower to (i) to refinance the costs of the acquisition, construction and installation of the Original Plant, including by refunding in full the Series 2012 Plant Bonds, (ii) to finance the costs of the 2022 Project (including, without limitation, reimbursing the Borrower for costs incurred for the 2022 Project prior to the issuance of the Series 2022 Plant Bonds and funding one or more debt service reserve accounts, capitalized interest or

working capital), and (iii) to pay a portion of the costs of issuance of the Series 2022 Plant Bonds.

Section 3. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Series 2022 Plant Bonds, at one time or from time to time on or before December 31, 2022, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt) as the Treasurer may determine, such determination to be as set forth in the hereinafter referred to Series 2022 Plant Bond Purchase Agreements.

Section 4. The following documents (collectively, the “Bond Financing Documents”):

- i. a Loan Agreement relating to the Series 2022 Plant Bonds (the “Series 2022 Plant Loan Agreement”), between the Authority and the Borrower;
- ii. an Indenture relating to the Series 2022 Plant Bonds (the “Series 2022 Plant Indenture”), between the Authority and the trustee named in the Term Sheet (the “Series 2022 Plant Trustee”);
- iii. a bond purchase agreement relating to the tax-exempt Series 2022 Plant Bonds among the Authority, the Treasurer of the State of California and the underwriters named in the Term Sheet (the “Underwriters”), and approved by the Borrower, and a bond purchase agreement relating to the taxable Series 2022 Plant Bonds among the Authority, the Treasurer of the State of California and the initial purchasers named in the Term Sheet (the “Initial Purchasers”), and approved by the Borrower, (collectively, the “Series 2022 Plant Bond Purchase Agreements”); and

- iv. the limited offering memorandum relating to the Series 2022 Plant Bonds (in the form of either the “Preliminary Limited Offering Memorandum” or the final “Limited Offering Memorandum”).

are hereby approved in substantially the forms on file with the Authority prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect changes required by the rating agencies or potential investors) in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the Series 2022 Plant Loan Agreement, the Series 2022 Plant Indenture, and the Series 2022 Plant Bond Purchase Agreements and, unless the Borrower prepares an Updated Preliminary Limited Offering Memorandum and returns to the Authority for its approval, by delivery thereof in the case of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum.

Section 5. Any modification to the 2022 Project made prior to the issuance of the Series 2022 Plant Bonds shall be reported to the Executive Director of the Authority, and such modification shall be subject to further approval by the Authority.

Section 6. Any material changes to the Series 2022 Plant Bonds sale structure prior to the issuance of the Series 2022 Plant Bonds are subject to further approval by the Authority.

Section 7. The Authority understands and agrees that pursuant to the terms of the Series 2022 Plant Loan Agreement the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity or by Affiliates of such Borrower. For purposes of this Resolution, an “Affiliate” of the Borrower means any person or entity which meets the definition of “Participating Party” in the Act and controls, is controlled by, or is under common control with, the Borrower, as shown by the

possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 8. The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of each series of the Series 2022 Plant Bonds (including, but not limited to, the establishment of debt service reserve funds) shall be as provided in the Series 2022 Plant Indenture, as finally executed.

Section 9. Unless the Borrower prepares an Updated Preliminary Limited Offering Memorandum and returns to the Authority for its approval, the Underwriters and the Initial Purchasers are hereby authorized to distribute the Preliminary Limited Offering Memorandum to persons who may be interested in the purchase of the Series 2022 Plant Bonds, in each case subject to the limitations provided in the Bond Purchase Agreements. The Underwriters and the Initial Purchasers are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the Series 2022 Plant Bonds pursuant to the respective Bond Purchase Agreements.

Section 10. The Series 2022 Plant Bonds shall be executed by the manual or facsimile signature of the Chair or any Deputy to the Chair and the seal of the Authority shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the Series 2022 Plant Indenture. The Series 2022 Plant Bonds, when executed, shall be delivered to the Series 2022 Plant Trustee under the Series 2022 Plant Indenture for authentication by the Series 2022 Plant Trustee. The Series 2022 Plant Trustee is hereby requested and directed to authenticate the Series 2022 Plant Bonds by executing the Series 2022 Plant Trustee's certificate of authentication appearing thereon. The Series 2022 Plant Trustee is hereby requested and directed to deliver the Series 2022 Plant Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriters and Initial Purchasers, as applicable, in

accordance with written instructions executed on behalf of the Authority, which instructions are hereby approved. Such instructions shall provide for the delivery of the Series 2022 Plant Bonds to The Depository Trust Company, on behalf of the Underwriters and Initial Purchasers thereof, as applicable, upon payment of the purchase price thereof.

Section 11. The Authority hereby dedicates and confirms the Allocation to the Series 2022 Plant Bonds of \$200,000,000 from the Allocation to be received from CDLAC, if approved, to finance or refinance certain costs of the 2022 Project (including, without limitation, reimbursing the Borrower for costs incurred for the 2022 Project prior to the issuance of the Series 2022 Plant Bonds and funding one or more debt service reserve accounts, capitalized interest or working capital) and to pay certain costs of issuance of the Series 2022 Plant Bonds, so as to satisfy the requirements of Section 146(e) of the Internal Revenue Code of 1986, with respect to the Series 2022 Plant Bonds. The Allocation shall automatically revert to CDLAC unless the Authority has executed Series 2022 Plant Bonds on behalf of the Borrower by the close of business one hundred eighty (180) days from the date of the approval of the Allocation. The Executive Director of CDLAC may approve an extension of up to ninety (90) days, which approval shall not be unreasonably withheld. This extension will result in a forfeiture of the 2022 Project's performance deposit to the extent that the performance deposit has not previously been forfeited. The Authority shall return any unused Allocation to CDLAC.

Section 12. Each officer of the Authority, acting alone, is hereby authorized and directed to do any and all ministerial acts that the officer may deem necessary or advisable in order to consummate the issuance, sale, delivery or remarketing of the Series 2022 Plant Bonds, and otherwise to effectuate the purposes of this Resolution and the Series 2022 Plant Indenture, the Series 2022 Plant Loan Agreement, the Series 2022 Plant Bond Purchase Agreements and the Limited Offering Memorandum. The Authority hereby

approves any and all documents to be delivered in furtherance of the foregoing purposes, including, without limitation, any certifications and one or more tax certificates.

Section 13. The provisions of the resolution of the Authority entitled “Resolution of the California Pollution Control Financing Authority Delegating Certain Powers and Authorizing Certain Actions Related to Bond Financings” adopted by the Authority on January 19, 2021, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

Section 14. The provisions of the Initial Resolution No. 16-02, originally approved by the Authority on February 16, 2016, as it has been amended, restated and extended, including as amended, restated and extended on December 17, 2021, by the Executive Director of the Authority pursuant to her delegated authority, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

Section 15. The Certification of Compliance II or equivalent form must be submitted by the Borrower to the Authority by February 1st annually, until the 2022 Project's Certificate of Completion has been submitted to the Authority, as provided in the Series 2022 Plant Loan Agreement. These forms may be found at this website location: <http://www.treasurer.ca.gov/cdlac>. A failure to demonstrate compliance may result in disqualification from future allocations of the State Ceiling on Qualified Private Activity Bonds.

Section 16. The Series 2022 Plant Loan Agreement, the Series 2022 Plant Indenture and the Series 2022 Plant Bond Purchase Agreements expressly provide that CDLAC is a third-party beneficiary of the terms and conditions set forth in CDLAC's Resolution. Once the Series 2022 Plant Bonds are executed and delivered, the terms and conditions set forth in CDLAC's Resolution shall be enforceable by CDLAC through an action for specific performance or any other available remedy.

Section 17. The Authority hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date hereof in furtherance of the purposes of this Resolution.

Section 18. This Resolution shall take effect immediately upon its passage. The adoption by the Authority of this Resolution for the Borrower shall not be referred to, in any application before any government agency or otherwise, as evidence of the feasibility, practicality or suitability of the Plant or in any application for any required permission or authority to construct or operate the Plant.

EXHIBIT A

TERM SHEET

Name of Issue:	California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) (AMT) Series 2022A (the " <u>Series 2022A Plant Bonds</u> ") and California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series 2022B (Federally Taxable) (the " <u>Series 2022B Plant Bonds</u> ") and, together with the Series 2022A Plant Bonds, the " <u>Series 2022 Plant Bonds</u> ")
Maximum Amount of Issue of Series 2022 Plant Bonds:	\$722,965,000
Issuer:	California Pollution Control Financing Authority (the " <u>Authority</u> "), Sacramento, CA
Borrower:	Poseidon Resources (Channelside) LP
Series 2022 Plant Trustee:	U.S. Bank Trust Company, National Association
Underwriters:	BofA Securities, Inc. and Morgan Stanley & Co. LLC
Initial Purchasers:	Morgan Stanley & Co. LLC and BofA Securities, Inc.
Bond Counsel:	Orrick, Herrington & Sutcliffe LLP, San Francisco, CA
Existing Plant	The 50 MGD reverse-osmosis seawater desalination plant, and facilities and equipment functionally related thereto, located adjacent to the Encina Power Station, at 4590 Carlsbad Boulevard, Carlsbad, California 92008, the costs of

which were financed from proceeds of the Series 2012 Plant Bonds.

2022 Project

A portion of the Series 2022 Plant Bonds will finance costs and expenses related to the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping, certain wetlands, and other facilities functionally related to the intake, outflow, production and treatment of water by the Existing Plant, all of which are located at the Existing Plant in San Diego County, California, except for the wetlands which are located at the Pond 15 Restoration Site within the San Diego Bay National Wildlife Refuge and the Otay River Floodplain Restoration Site. The 2022 Project includes the Permanent Intake System Modifications and a portion of the Wetlands Restoration Project.

Permanent Intake System Modifications

Includes the design and construction of the intake improvements necessary to comply with certain amended regulatory and permit requirements, including installation of intake screens for the Existing Plant. The Permanent Intake System Modifications will also include connecting and rerouting the pipeline with the new screens and demolition and removal of Cabrillo Power I LLC assets that are currently being used during interim operations of the Existing Plant, such as tunnels and travelling screens.

Wetlands Restoration Project

The Otay River Estuary Restoration Project involving the creation, restoration, and enhancement of 125.5 acres, in the aggregate, of coastal wetlands to benefit native fish, wildlife and plants species and to provide habitat for migratory seabirds and shorebirds and salt marsh-dependent species within the South San Diego Bay Unit of the San Diego Bay National Wildlife

Refuge. This project is a requirement under the certain permits to mitigate for marine life impacts for the operational life of the Plant.

Maximum Bond Term:	Not to exceed 30 years
Type of Sale:	Negotiated limited offering to Qualified Institutional Buyers as defined in Rule 144A under the Securities Act of 1933
Description of Minimum Denominations:	\$250,000 or any integral multiple of \$5,000 in excess thereof
Financing Structure:	Fixed rate bonds
Maximum Interest Rate:	12%
Other Credit Enhancement:	Not applicable
Anticipated Bond Rating:	A rating of at least "Baa3," "BBB-," or "BBB-" from at least one of Moody's, S&P and Fitch, respectively
Type of Financing:	Water furnishing revenue bonds
Prepared by:	Kevin O'Brien, Managing Director, BofA Securities, Inc., (213) 345-9576 Zachary Solomon, Executive Director, Morgan Stanley & Co. LLC, (212) 761-9110