RESOLUTION NO. 424

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CHESTER PUBLIC UTILITY DISTRICT (THE "DISTRICT") AUTHORIZING THE INTER-FUND BORROWING AND TRANSFER OF $500,000.00 FROM THE SEWER FUND OF THE DISTRICT TO THE FIRE FUND OF THE DISTRICT, AUTHORIZING AND DIRECTING EXECUTION OF A PROMISSORY NOTE AND AN INTER-FUND TRANSFER AGREEMENT, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the Chester Public Utility District (the **"District")** is a public utility district duly organized and validly existing under and by virtue of the Constitution and laws of the State of California; and

WHEREAS, the District requires a short-term transfer of funds in the amount of $500,000.00 from its Sewer Account to its Fire Account to make advance payments for wages, benefits, and other operational costs; and

WHEREAS, to accomplish and properly document the transfer of funds from the District's Sewer Account to the District's Fire Account, the District has prepared for execution an Inter-Fund Promissory Note (the **"Note"),** and an Inter-Fund Transfer Agreement (the **"Inter-Fund Transfer Agreement")** (together the **"Inter-Fund Transfer Documents,"** constituting the **"Inter-Fund Transfer Transaction");** and

WHEREAS, the District has duly considered the Inter-Fund Transfer Transaction, and wishes at this time to approve said transaction in the public interests of the District.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CHESTER PUBLIC UTILITY DISTRICT AS FOLLOWS:

Section 1. Approval of the Inter-Fund Transfer Transaction. The findings set forth in the recitals hereof are true and correct. The District hereby approves the Inter-Fund Transfer Transaction, approves the Inter-Fund Transfer Documents in substantially the form on file with the Secretary, together with any additions thereto, changes therein, or additional documentation deemed necessary or advisable by the President, the Vice President or the General Manager, or their authorized representatives (collectively, the **"Authorized Officers"),** upon consultation with District Counsel, and authorizes the execution, delivery, and performance of the Inter-Fund Transfer Documents by any of the Authorized Officers for the purposes hereinbefore described. Resolution 19-18

Section 2. Transfer of Funds. Upon execution and delivery of the Inter-Fund Transfer Documents, the District hereby authorizes the transfer of $500,000.00 from the District's Sewer Account to the District's Fire Account for the purposes hereinbefore described.

Section 3. Official Action. The officers and staff of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in order to consummate the Inter-Fund Transfer Transaction.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 26th day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CHESTER PUBLIC UTILITY DISTRICT

President

ATTESTED:

District Clerk

APPROVED AS TO FORM:

Margaret E. Long, District Counsel

INTER-FUND TRANSFER AGREEMENT
Chester Public Utility District

This Inter-Fund Transfer Agreement **("Agreement")** is entered into as of August 2, 2018, between Chester Public Utility District - Fire Fund **("Borrower"),** and Chester Public Utility District - Sewer Fund **("Lender"),** with reference to the following:

A. Borrower has requested that Lender temporarily lend funds to Borrower's Fire Fund from Lender's Sewer Fund, to be used by Borrower exclusively for the purpose of funding wages, benefits, and other operational costs, and as more particularly specified in the attached Exhibit A, and not for personal, family, or household purposes.

B. Lender has considered Borrower's request and is willing to temporarily lend Borrower funds for the purposes set forth in the attached Exhibit A on the terms stated in this Agreement, and pursuant to Lender's Resolution dated July 26, 2022.

Now, therefore, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree as follows:

1. Term loan (Promissory Note)

(a) On or before August 1, 2022, on Borrower's request, Lender will lend to Borrower the principal sum of $500,000.00. That loan shall be evidenced by a promissory note **("Note"),** in the form attached as Exhibit B, executed by Borrower, dated the date the loan is made, providing for the payment of interest at one-quarter of one percent (0.250%) per month, computed on the basis of a 365-day or 366-day year, as the case may be, and actual days elapsed, all due and payable on or before December 31, 2032.

(b) The loan described in this section is called the **"Loan."**

2. Conditions Precedent to the Making of the Loan. Lender's obligation to make the Loan is subject to the conditions that, on or before August 1, 2022 **("Closing Date"),** there shall have been delivered to Lender, in form and substance satisfactory to Lender and its counsel:

(a) A request from an authorized representative of Borrower's Fire Department, authorizing the borrowing provided for in this Agreement, and the execution, delivery, and performance of this Agreement and any note or other instrument or agreement required under this Agreement.

(b) Any note or notes required by Section 1 of this Agreement.

3. Representations and Warranties. Borrower represents and warrants to Lender that the following statements are true, correct, and complete as of the Closing Date:

(a) Borrower has the requisite power and authority to borrow the sums provided for in this Agreement, to execute and deliver this Agreement and any note or other instrument or agreement required under this Agreement, and to perform and observe the terms and provisions of this Agreement and of all such other notes, instruments, and agreements.

(b) All action by Borrower and its designated officers necessary for the authorization, execution, delivery, and performance of this Agreement and any note or other instrument or agreement required under this Agreement, has been duly taken.

(c) The officers of Borrower executing this Agreement and the Note or any other instrument or agreement required under this Agreement have been duly appointed to such office and are fully authorized to execute the Agreement and the Note or any other instrument or agreement required under this Agreement.

(d) This Agreement has been duly executed and delivered by Borrower, and constitutes the legal, valid, and binding obligation of Borrower, enforceable against it in accordance with its terms, and any note or other instrument or agreement required under this Agreement, when executed and delivered by Borrower, will similarly constitute the legal, valid, and binding obligation of Borrower, enforceable against it in accordance with its terms.

(e) All financial information and other data furnished by Borrower to Lender are complete and correct.

4. Affirmative Covenants. Borrower covenants and agrees that as long as the credit granted by this Agreement shall remain available, and until the full and final payment of the Loan and all other obligations outstanding under this Agreement, it will, unless Lender waives compliance in writing:

(a) Use the proceeds of the Loan exclusively for the purposes described in Exhibit A attached hereto.

(b) Deliver to Lender, in form and detail reasonably satisfactory to Lender:

(1) All statements, lists of property and accounts, budgets, forecasts, or reports regarding Borrower that Lender reasonably may request, and

(2) Execute and deliver any further instruments, certificates, or documents, and take such further action, as may reasonably be requested by Lender to implement or effect the purposes of this Agreement.

5. Events of Default. The occurrence of any of the following events shall constitute an Event of Default under the Agreement:

(a) Borrower shall fail to pay all amounts due under the Note, including all interest and principal, in accordance with the terms of this Agreement or of the Note evidencing the Loan; or

(b) Any representation or warranty by Borrower in this Agreement or in any agreement, instrument, or certificate executed under this Agreement or in connection with any transaction contemplated by this Agreement shall be false or misleading in any material respect when made.

6. Remedies.

Without limiting any other rights or remedies of Lender provided for elsewhere in this Agreement, the Note, or any other instruments or agreements executed in connection therewith, on the occurrence and during the continuance of an Event of Default under Section 5, without further act, the unpaid principal amount of the Note, together with all accrued interest thereon and any fees and other amounts owing under this Agreement, the Note, and the other instruments and agreements executed in connection therewith, shall automatically accelerate and become immediately due and payable, without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, anything herein or in the Note or other instrument or agreement to the contrary notwithstanding.

7. Addresses.

Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and, if delivered personally, when it is delivered; if delivered electronically through the Internet, when it is received; or, if delivered in another manner, the earlier of when it is actually received by the party to whom it is directed or, if it is sent to the address listed below or to any other address that the party may designate for itself by notice given in accordance with this section, when the period set forth below expires (whether or not it is actually received):

(a) if deposited with the U.S. Postal Service, postage prepaid and addressed to the party to receive it as set forth below, (1) 3 days after such deposit as registered or certified mail if addressed to a location in the U.S.A., or (2) 10 days after such deposit as registered or certified airmail if addressed to a location outside of the U.S.A.; or

(b) if accepted by Federal Express or a similar delivery service in general usage for delivery to the address of the party to receive it as set forth below, 24 hours after the delivery time promised by the delivery service.

If to Lender:

General Manager
Chester Public Utility District,
251 Chester Airport Rd.
Chester, CA 96020

If to Borrower:

Office Manager
Chester Public Utility District,
251 Chester Airport Rd.
Chester, CA 96020

8. Successors and Assigns. The provisions of this Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns, provided that Borrower shall not assign this Agreement or any of the rights, duties, or obligations of Borrower under this Agreement without Lender's prior written consent.

9. Delay and waivers. No delay or omission to exercise any right, power, or remedy accruing to Lender on any breach or default of Borrower under this Agreement shall impair any right, power, or remedy of Lender, nor shall it be construed to be a waiver of any breach or default, or an acquiescence in breach or default, or waiver of or acquiescence in any similar breach or default occurring later; nor shall any waiver of any single breach or default be considered a waiver of any other prior or subsequent breach or default. Any waiver, permit, consent, or approval of any kind by Lender of any breach or default under this Agreement, or any waiver by Lender of any provision or condition of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in that writing. All remedies, either under this Agreement or by law or otherwise afforded to Lender, shall be cumulative and not alternative.

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10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement by their respective duly authorized officers on the day and year first above written.

Borrower:	Lender:
Chester Public Utility District, Fire Fund	Chester Public Utility District, Sewer Fund
By: Joe Waterman	By: _____
Printed Name: JOE WATERMAN	Printed Name: Adam Cox
Title: Fire Chief	Title: General Manager

EXHIBIT A

INTER-FUND LOAN PURPOSE

Funding of wages, benefits, and other operational costs.

EXHIBIT B

FORM OF PROMISSORY NOTE

INTER-FUND PROMISSORY NOTE

Principal amount: $500,000.00 Date: August 1, 2022

On or before December 31, 2032 (the **"Maturity Date"),** for value received, the undersigned **("Borrower")** unconditionally promises to pay to the order of Chester Public Utility District, Sewer Fund **("Lender"),** in the manner and at the place provided below, the principal sum of $500,000.00, plus all accrued and unpaid interest.

Fixed Interest Rate. Interest on the unpaid principal balance of this Note is payable from the date of this Note until this Note is paid in full, at the rate of one-quarter of one percent (0.250%) per month.

Interest Calculation. Accrued interest will be computed on the basis of a 365-day or 366-day year, as the case may be, based on the actual number of days elapsed in the period during which it accrues.

Payment Terms:

All payments of principal and interest in respect of this note shall be made on or before the Maturity Date in lawful money of the United States of America in same day funds, without offset, deduction, or counterclaim of any kind, at Chester Public Utility District, 51 Chester Airport Rd., Chester, CA 96020, or other place as Lender may from time to time designate in writing.

In no event shall the interest rate payable on this Note exceed the maximum rate of interest permitted to be charged under applicable law.

Prepayment Permitted. Borrower may prepay this Note in whole or in part and on any date.

Events of Default. All sums remaining unpaid under this Note become immediately due and payable, at Lender's option, without notice, demand, or presentment, and regardless of any prior forbearance, on the occurrence of any of the following events:

Borrower's failure to make the payment due under this Note at its maturity; or

Borrower's default, breach, or failure to perform, under any agreement or instrument executed in connection with this Note.

Acceleration. On the occurrence of any event of default under this Note, Lender, at its option and without notice or demand on Borrower, may terminate any or all obligations that it may have to extend further credit to Borrower and may declare the entire unpaid principal balance of this Note and all accrued interest thereon to be immediately due and payable. All rights of Lender stated in this Note are cumulative and in addition to all other rights provided by law, in equity, or in any agreement executed in connection with this Note.

Waiver of Certain Matters. Diligence, demand, presentment, notice of dishonor, and protest are waived by all Borrowers, sureties, guarantors, and endorsers of this Note. To the extent permitted by law, Borrower waives the right, in any action on this Note, to assert that the action was not commenced within the time required by law for commencement of the action.

Loan Purpose. The proceeds of this Note are to be used by Borrower exclusively for wages, benefits, and other operational costs, and not for personal, family, or household purposes.

Time of the Essence. Time is of the essence for every obligation under this Note.

Choice of Law. This Note, and all matters relating hereto and arising herefrom (whether sounding in contract law, tort law or otherwise), shall be interpreted in accordance with the internal laws (and not the conflict of laws rules) of the state of California governing contracts to be performed entirely within California. The provisions of the Loan Agreement regarding consents to jurisdiction and venue, service of process and waivers of jury trial are incorporated here by reference.

Headings. The headings in this Note are included solely for convenience of reference and shall not affect the interpretation of any provision of this Note or any of the rights or obligations of the Lender or Borrower.

Severability of Note. If a court or an arbitrator of competent jurisdiction holds any provision of this Note to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining provisions of this Note shall not be affected.

Waiver. No delay or omission by Lender in exercising any right or remedy under this Note or any other agreement executed in connection with this Note operates as a waiver of the future exercise of that right or remedy or of any other rights or remedies under this Note or any other agreement executed in connection with this Note. Further, no waiver of any breach, any failure of a condition, or any right or remedy under this Note (1) shall be effective unless it is in writing and signed by the party making the waiver; (2) shall be deemed to be a waiver of, or consent, to any other breach, failure of a condition, or right or remedy, or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

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IN WITNESS WHEREOF, and intending to be legally bound, the undersigned executed this Note as of the day and year first hereinabove set forth.

Borrower: Chester Public Utility District, Fire Fund

By: _____
Printed Name: JOE WATERMAN
Title: Fire Chief