

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
BOND FINANCING PROGRAM  
Approval Date: December 17, 2021**

***Request to Approve an Amendment, Restatement, and Extension of an Initial Resolution Reflecting Official Intent to Issue Revenue Bonds***

Prepared by: Andrea Gonzalez

<b>Applicant:</b>	Poseidon Resources (Channelside) LP, and/or its affiliates	<b>Amount Requested:</b>	\$200,000,000
<b>Project Location:</b>	City of Carlsbad (San Diego County)	<b>Application No.:</b>	884
		<b>Initial Resolution No.:</b>	16-02
		<b>Prior Action:</b>	Original IR approved on 2/16/2016; amendment, extension, and reinstatement approved 12/19/2018

**Summary.** Poseidon Resources (Channelside) LP and/or its affiliates (the “Company”) request approval of an amendment, restatement and extension of Initial Resolution (IR) 16-02 for an increased amount not to exceed \$200,000,000 to finance 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 Claude “Bud” Lewis Carlsbad Desalination Plant (the “Desalination Plant”).

The Company’s current request to increase the IR amount reflects (i) increased costs related to advancing the development of the project, (ii) increased engineering, procurement, and construction costs as a result of inflation, (iii) the current requirement for a multi-phased project to ensure compliance with new regulations, and (iv) adjustments to the scope of the stand-alone intake and wetlands mitigation projects as requested by permitting agencies.

**Background.** The original IR was approved by the CPCFA Board on February 16, 2016, for a total amount of \$50,000,000. On December 19, 2018, the Executive Director approved the amendment, restatement and extension of the original IR, in the amount of \$95,000,000 under the Executive Director’s delegated authority by the CPCFA Board (Resolution of the California Pollution Control Financing Authority Delegating to the Executive Director the Authority to Approve Initial Resolutions Related to Bond Financings, Resolution No. 18-01-002).

**Borrower.** The Company was organized in Delaware on April 15, 2003. The Company is the owner of a 54-million gallon per day reverse osmosis seawater desalination project located in Carlsbad, California, providing potable water to the water distribution system of the San Diego County Water Authority (the Water Authority).

The principal stockholders of the Company are as follows:

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

**Legal Questionnaire.** CPCFA staff has reviewed the Company'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.

**Project Description.** The Company anticipates using bond proceeds to construct and install a dedicated screening structure in the lagoon to comply with the California Ocean Plan Amendment for supplying 299 million gallons per day ("MGD") of seawater to the Desalination Plant. The screening structure will be integrated with the Dilution Pump Structure to provide 200 MGD of seawater for dilution of brine from the Seawater Reverse Osmosis process. The Dilution Pump Structure also features three fish-friendly, low-impact pumps (two in services, one redundant). Per the Desalination Plant permit, the completion of 125 acres of Wetlands restoration and marine life mitigation work is required and will be completed.

Relative to the application, dated January 22, 2016, and the amendment to the application on November 29, 2018, there have been proposed modifications to the Permanent Intake Structure. The new Alternative 22 Intake Design contemplates moving the new intake structure close to the shore, eliminating the intake pipelines, and using 1 mm traveling screens to comply with the Ocean Plan Amendment. These modifications are necessary to address operational reliability challenges associated with the Alternative 21 Intake Design. Engineers have estimated that the capital costs for implementing the Alternative 22 are significantly higher than Alternative 21, due to the more complex marine construction closer to the shore for ease of operation and maintenance. Additionally, recent engineer's estimates for the cost of wetlands mitigation work is higher than previously forecasted. The most recent estimate factors in the latest designs and final approved permits in 2021 for the work. The increased amount requested reflects the costs of the additional scope.

**Volume Cap Allocation.** The Company anticipates applying to the California Debt Limit Allocation Committee for a volume cap allocation within the 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 2022.

**Financing Details.** The Company anticipates the issuance of negotiated tax exempt bonds.

**Financing Team.**

<b>Underwriter(s):</b>	Bank of America and Morgan Stanley
<b>Bond Counsel:</b>	Orrick, Herrington and Sutcliffe LLP
<b>Issuer's Counsel:</b>	Office of the Attorney General

**Staff Recommendation.** Staff recommends the approval of the amendment, restatement, and extension of Initial Resolution No. 16-02 for Poseidon Resources (Channelside) LP, and/or its affiliates for an amount not to exceed \$200,000,000.

*Note: An Initial Resolution approval is not a commitment that the Authority's Board will approve a Final Resolution and bond financing for the proposed project.*

**AMENDMENT, RESTATEMENT AND EXTENSION OF  
RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO  
FINANCE WATER FURNISHING FACILITIES FOR  
POSEIDON RESOURCES (CHANNELSIDE) LP AND/OR ITS AFFILIATES**

**December 17, 2021**

**WHEREAS**, the California Pollution Control Financing Authority (the “Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (the “Act”) to issue bonds for the purpose of defraying the cost of facilities for the furnishing of water; and

**WHEREAS**, at the request of Poseidon Resources (Channelside) LP, a Delaware limited partnership (the “Applicant”), and/or its affiliates (collectively, the “Company”), the Authority adopted its Initial Resolution No. 16-02 on February 16, 2016 (the “2016 Initial Resolution”), in the amount of \$50,000,000 to assist in financing the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping and other facilities functionally related to the intake, outflow, production and treatment of water by the Claude “Bud” Lewis Carlsbad Desalination Plant, owned and operated by the Company (the “Plant”), all as more fully described in the Company’s application; and

**WHEREAS**, at the request of the Company, the Authority amended, restated and extended the 2016 Initial Resolution on December 19, 2018 (the “2018 Amended Resolution”), in the amount of \$95,000,000 to assist in financing the acquisition, construction, improvement, renovation, rehabilitation and/or installation of intake piping, outflow piping and other facilities functionally related to the intake, outflow, production and treatment of water by the Plant, all as more fully described in the Company’s application, as amended; and

**WHEREAS**, the Company has submitted an amendment to its application to the Authority and has requested that the Authority further amend the 2018 Amended Resolution in order to update the cost estimates relating 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 Plant, all as more fully described in the Company’s application, as amended (the “Project”); and

**WHEREAS**, the Authority deems it necessary and advisable to further the purposes of the Act to amend, restate and extend the 2018 Amended Resolution; and

**WHEREAS**, the Authority desires to encourage the Company to provide water supply facilities and equipment which will serve the public of the State; and

**WHEREAS**, the Authority deems it necessary and advisable to further the purposes of the Act that the Project be constructed at the earliest practicable date, but

the Company requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance the Project; and

**WHEREAS**, the Company expects to incur or pay from its own funds certain expenditures in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis; and

**WHEREAS**, subject to meeting all the conditions set forth in this Resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$200,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Company for its prior expenditures for the Project; and

**WHEREAS**, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Project with proceeds of a subsequent borrowing; and

**WHEREAS**, Authority Resolution No. 21-01-001 delegates to the Executive Director the authority to approve initial resolutions related to bond financings;

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

**Section 1.** The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an “Affiliate” of the Applicant means any person or entity which controls, is controlled by, or is under common control with, the Applicant, 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. An Affiliate shall also be a “participating party” as defined in the Act.

**Section 2.** The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$200,000,000 principal amount of bonds of the Authority for the Project; including for the purpose of reimbursing to the Company costs incurred for the Project prior to the issuance of the bonds.

**Section 3.** The bonds will be payable solely from revenues received by the Authority pursuant to that certain Loan Agreement, dated as of December 24, 2012, by and between the Authority and the Borrower, as it may be amended and supplemented, or other agreements to be entered into between the Authority and the Company in connection with the Project. Each bond shall contain a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or any local agency is pledged to the payment of the principal of, premium, if any, or any interest on this bond.”

**Section 4.** The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and

conditions of the loan of the bond proceeds to finance the Project; (ii) all requisite governmental approvals shall have first been obtained; (iii) a Final Resolution shall have been received from the Authority; and (iv) an allocation shall have been received from the California Debt Limit Allocation Committee for any portion of the bonds which are to be sold as exempt from federal income tax.

**Section 5.** The Executive Director of the Authority has authority under Authority Resolution No. 21-01-001 to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Company by defraying the cost of the Project, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and to meeting all other requirements of the Authority.

**Section 6.** It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended. It is also intended that this statement of “official action” or “official intent” by the Authority shall continue in full force and effect even if this Resolution ceases to be effective for other purposes.

**Section 7.** This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter; provided that, subject to Section 6 above, this Resolution shall cease to be effective on December 17, 2024 unless the Authority specifically adopts a further resolution extending the effective date of this Resolution. The Authority will consider such extension upon receiving a specific request for such action from the Company, accompanied by any additional information requested by the Authority to supplement the Company’s application, and an explanation of the status of the Project.

**Section 8.** This Resolution restates and incorporates the 2016 Initial Resolution and the 2018 Amended Resolution, and is intended to relate back to February 16, 2016.

**EXHIBIT A**

NUMBER: 16-02  
LOCATION: 4590 Carlsbad Boulevard  
Carlsbad, California 92008  
TYPE: Water Furnishing  
AMOUNT: Up to \$200,000,000