



Santa Clara Valley Water District

File No.: 18-0566

Agenda Date: 7/6/2018

Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Update on California WaterFix; Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement; and Adopt a Resolution for Approval of the Delta Conveyance Finance Authority Joint Powers Agreement.

RECOMMENDATION:

- A. Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement;
- B. Designate a District Representative and Alternate to serve on the Board of Directors of the Delta Conveyance Finance Authority for the first two years following formation; and
- C. Adopt a Resolution for APPROVAL OF THE DELTA CONVEYANCE FINANCE AUTHORITY JOINT POWERS AGREEMENT.

SUMMARY:

1.0 Update on WaterFix

On May 8, 2018, the District Board took several actions related to the California WaterFix (WaterFix), including adopting Resolution 18-23 (Attachment 4), making Responsible Agency findings pursuant to the California Environmental Quality Act (CEQA) and Resolution 18-24 (Attachment 5), authorizing support of, and participation in, the WaterFix. In addition, the Board authorized execution of a Joint Powers Agreement forming the Delta Conveyance Design and Construction Joint Powers Authority (DCA) and designated Director Tony Estremera as the District's representative and Director Barbara Keegan as his alternate on the DCA Board of Directors. The DCA Agreement was executed by the District, Metropolitan Water District of Southern California (MWD) and Zone 7 Water Agency on May 14, 2018 and the first meeting of its Board was held on May 17, 2018. The next meeting of the DCA Board of Directors will be on July 19, 2018.

On May 8, 2018, the District Board also directed staff to continue participating in WaterFix discussions to further develop the best and most responsible agreements and contract amendments to protect the District's investment and to bring those agreements to the Board for consideration prior to execution. Staff has continued those discussions and have engaged in negotiations on the formation of the Finance Authority, which will be the entity that will provide financing for planning, design and construction of the WaterFix until there is a final resolution for the validation action the Department of Water Resources (DWR) filed in the Sacramento County Superior Court on July 21, 2017. The validation action seeks to affirm DWR's authority to, among other things, issue revenue

bonds to finance the planning, design, construction and other capital costs of the WaterFix. Staff had previously provided the Board with an overview of the validation action at the September 12, 2017 Board Meeting.

This agenda item provides a summary of the key provisions in the Finance JPA Agreement and recommends that the Board approve and authorize execution of a Finance JPA Agreement that is in substantial conformance to the agreement, and designate a District representative and alternate to serve on the Board of Directors of the Finance Authority for the first two years following formation.

2.0 Finance JPA Agreement and Resolution of Intent to Support Financing

2.1 Joint Powers Agreement Forming the Conduit Finance Authority (Finance Authority Formation Agreement)

Since the May 8, 2018 Board meeting staff has continued discussions and negotiations on approaches for financing the WaterFix. Several public water agencies have approved the formation of a Finance Authority that would finance the planning, design and construction of the WaterFix.

The Finance JPA Agreement will govern the operations of the Finance Authority. Importantly, the execution of the Finance JPA Agreement, in and of itself, does not impose any financial commitment on the member agencies of the Finance Authority. The financial commitments of the Member agencies will be the subject of further negotiations among the Member agencies and the Finance Authority prior to the first bond issuance by the Finance Authority. Any financial commitments, and the terms and conditions of such commitments, will be brought to the Board for consideration and approval at a future date.

Membership in the Finance Authority will be limited to “public water agencies”, which include State Water Project contractors and Central Valley Project contractors. Kern County Water Agency is given the option to create a government unit which may also become a Member of the Agency. Until December 29, 2018 (tentative), any public water agency whose Board adopts a resolution approving the execution of the Finance JPA Agreement and either authorizes financial support for the Finance Authority’s bonds or expresses its intent, but not commitment, to authorize financial support for the JPA’s bonds will be eligible to become a Member without any further action by the Finance Authority or its Board of Directors. After December 29, 2018 (tentative), any public water agency wishing to join the Agency will require the unanimous vote of the Board of Directors of the Finance Authority.

The Finance Authority will be governed by a Board of Directors. Each Member agency will have one Director on the Board. All administrative matters will be decided by a majority vote of the Board of Directors with one vote per Director. The decision to issue the first set of Finance Authority bonds will also be decided by a majority vote of the Board of Directors with one vote per Director. Following the first issuance of Finance Authority bonds, each Director will be allocated voting rights based upon its Member’s financial commitment to pay the costs of the project, and decisions will be based on majority weighted vote. Accordingly, it is likely that Metropolitan Water District will have majority control of the Finance Authority Board after the first bond issuance for non-administrative matters. A super majority vote (meaning a unanimous vote of all of the Directors) is required for the following matters:

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1. The addition of any Public Water Agency as a new member
 2. The termination of the JPA agreement
 3. Any actions that could cause the Finance Authority to default

The Finance JPA Agreement also requires the creation of an Executive Committee comprised of the President, Vice President, and Secretary. Additional members may be elected by a majority vote of the Board of Directors.

The agreements which will evidence the terms and conditions of the financial commitment of each Member agency will be the subject of future negotiations. It is presently contemplated that each State Water Contractor will be obligated to pay Finance Authority bonds in amounts corresponding to its allocation under its State Water Project contract.

The Finance Authority's bond proceeds will be used to purchase bonds issued by DWR, and the payments on the DWR bonds (which will mirror the Finance Authority's bonds) will be used to pay the Finance Authority's bonds. However, should the State's validation action fail and DWR ceases making payments on its DWR bonds, the Finance Authority bonds would be supported by Member agencies in proportion to their financial commitments. Staff will bring forth these financing agreements for the District Board for consideration and approval at a future date.

The Finance Authority may also issue bonds to finance MWD's commitment to pay the portion of the project which is not payable by DWR. However, MWD retains the right to assign its interest in all or a portion of its capacity interest to other public water agencies, who may join the Finance Authority.

Any Member may withdraw from the Finance Authority at any time. However, if the Finance Authority has issued bonds or incurred other financial obligations which the Member has committed to pay, the Member will still be obligated to pay those financial obligations prior to withdrawing from the Finance Authority.

2.2 Other Important Agreements

Staff anticipates bringing several other important agreements and amendments to the District Board in the future. These include:

- Installment purchase agreements that would obligate Member agencies to provide funding to support bond issuances by the Finance Authority;
- Several additional financing agreements related to charges, crediting, and bond issuance; and
- An amendment to the SWP contract for WaterFix cost allocation and improved water management.
- An amendment to the District's CVP contract to provide for conveyance of the District's CVP supplies through the WaterFix.

3.0. Next Steps

Staff will continue to coordinate with the DWR, the U.S. Bureau of Reclamation, the Finance Authority, and other SWP and CVP contractors to develop additional needed agreements and will bring these items to the District Board for consideration upon completion of negotiations.

FINANCIAL IMPACT:

The execution of the Finance JPA Agreement does not impose any financial commitment on the District at this time. The District's financial commitment will be the subject of further negotiations prior to the first bond issuance and will be executed via separate agreements, which will be subject to Board approval at a future date. There will likely be administrative costs associated with the operation of the Finance Authority to be determined. Staff estimates the District's portion of those costs will be less than \$500,000 per year. Authorization and approval to commit these funds would be brought back to the board for approval at a later date.

CEQA:

On May 8, 2018, the Board adopted Resolution 18-23 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act to Authorize Execution of Agreements Relating to Design, Construction, and Financing of the California Waterfix Project. The District has since filed a Notice of Determination (Attachment 6) pursuant to CEQA.

ATTACHMENTS:

Attachment 1: Agreement
Attachment 2: Resolution
Attachment 3: PowerPoint
Attachment 4: Resolution 18-23
Attachment 5: Resolution 18-24
Attachment 6: Notice of Determination

UNCLASSIFIED MANAGER:

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