



Santa Clara Valley Water District

File No.: 21-0340

Agenda Date: 5/11/2021

Item No.: 9.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt the Resolution Authorizing the Execution and Delivery of a Tax-Exempt Tax and Revenue Anticipation Note and a Taxable Tax and Revenue Anticipation Note to Support a Commercial Paper Program and Other Short-Term Obligations, Adopt the Resolution Regarding Intention to Issue Tax-Exempt Obligations for Water Utility Enterprise, Adopt the Resolution Regarding Intention to Issue Tax-Exempt Obligations for Safe, Clean Water and Natural Flood Protection Program, and Adopt the Resolution Providing for the Allocation of Safe, Clean Water Program Revenues and Establishing Covenants to Secure the Payment of Obligations Payable Therefrom.

RECOMMENDATION:

- A. Adopt the Resolution AUTHORIZING THE EXECUTION AND DELIVERY OF A TAX-EXEMPT TAX AND REVENUE ANTICIPATION NOTE AND A TAXABLE TAX AND REVENUE ANTICIPATION NOTE (TRANS) TO SUPPORT A COMMERCIAL PAPER PROGRAM AND OTHER SHORT-TERM OBLIGATIONS;
- B. Authorize the Chief Executive Officer, or Chief Financial Officer (in each case, including any acting, interim or otherwise appointed such officer as the case may be) to execute the TRANS, and the Certificate as to Uncollected Taxes, Income, Revenue, Cash Receipts and Other Money;
- C. Authorize the Chief Executive Officer, District Counsel, and such other chief executives of Valley Water (in each case, including any acting, interim or otherwise appointed such officer as the case may be) to execute such other instruments, documents and papers as are necessary to carry out this short-term debt financing program for Fiscal Year 2021-22;
- D. Authorize the District Counsel (including any acting, interim or otherwise appointed such officer as the case may be) to execute the TRANS;
- E. Adopt the Resolution Regarding INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR WATER UTILITY ENTERPRISE;
- F. Adopt the Resolution Regarding INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
- G. Adopt the Resolution PROVIDING FOR THE ALLOCATION OF SAFE, CLEAN WATER PROGRAM REVENUES AND ESTABLISHING COVENANTS TO SECURE THE PAYMENT OF OBLIGATIONS PAYABLE THEREFROM (SAFE, CLEAN WATER MASTER RESOLUTION).

SUMMARY:**Tax and Revenue Anticipation Notes and Reimbursement Resolutions (Recommendations A-F)**

Each fiscal year, the Board of the Santa Clara Valley Water District (Valley Water) is legally required to adopt a new resolution reauthorizing the execution and delivery of Tax Revenue Anticipation Notes (TRANs) to support Valley Water's existing short-term debt financing program (Short Term Debt Program), which currently allows for the issuance of commercial paper (CP) certificates and revolving line of credit certificates. Additionally, Board approval of a resolution of intention to issue tax-exempt obligations is required to allow Valley Water to reimburse itself from proceeds of tax-exempt obligations for certain eligible capital costs of the Water Utility Enterprise and Safe, Clean Water and Natural Flood Protection (SCW) Program from future debt proceeds.

If the Board does not approve the resolution reauthorizing the TRANs, the Short Term Debt Program will need to be deactivated which will result in Valley Water not being able to issue new short-term debt in Fiscal Year (FY) 2021-22 as planned and require all outstanding CP and revolving line of credit certificates to be repaid upon maturity. The impact of not taking action would likely increase financing costs and result in delays to the Water Utility and SCW Capital Improvement Programs.

The recommended actions with respect to the resolutions of intention to issue tax-exempt obligations do not obligate Valley Water to issue any debt; rather, they provide Valley Water flexibility to reimburse costs from future tax-exempt debt proceeds. The anticipated annual maximum amount of the Water Utility project costs to be reimbursed is \$274.5 million. The anticipated annual maximum amount of the SCW project costs to be reimbursed is \$97.7 million. These capital outlay amounts, which include expected project carryovers, are from the draft FY 2021-22 Operating and Capital Budget, which is scheduled to be recommended for adoption by the Board on May 11, 2021.

The recommended actions are in compliance with Executive Limitation 4.7 regarding debt management for Valley Water, and certain Internal Revenue Service regulations applicable to municipal financing transactions.

Short Term Debt Program

Valley Water's Short Term Debt Program has a maximum principal issuance capacity of \$320 million and is supported by (1) a \$150 million Letter of Credit (LOC) from MUFG Bank, Ltd. (MUFG Bank) and (2) a \$170 million revolving Line of Credit (Line of Credit) from a banking syndicate led by U.S. Bank National Association (U.S. Bank) that includes three local Bay Area banks, First Foundation Bank, Bank of San Francisco, and Community Bank of the Bay (collectively, the "Line of Credit Syndicate").

Background

On January 13, 2015, the Board adopted Resolution No. 15-02 authorizing the execution and delivery of various agreements for a \$150 million Letter of Credit (LOC) supporting Valley Water's CP program (CP Program). The LOC from MUFG Bank is effective through December 10, 2021 and

may be extended in accordance with the resolution granting authority for the Chief Executive Officer to enter into extensions subject to certain conditions and amendments to the Reimbursement Agreement that are mutually acceptable to MUFG Bank, Valley Water, and the Santa Clara Valley Water District Public Facilities Financing Corporation (PFFC).

In response to the ongoing economic uncertainties related to the COVID-19 pandemic that emerged in March 2020, and to create a secondary source of liquidity to manage Valley Water's CIP, on April 28, 2020, the Board adopted Resolution 20-11 to establish a revolving bank line of credit. On October 13, 2020, the Board authorized staff to proceed with the execution of a bank line of credit with the Line of Credit Syndicate for a not to exceed amount of \$200 million. On October 30, 2020, Valley Water entered into a \$170 million Line of Credit Agreement with the Line of Credit Syndicate for a three-year term through October 27, 2023. The Line of Credit may be extended thereafter in accordance with Resolution No 20-11 granting authority for the Chief Executive Officer, Chief Financial Officer, or Treasury and Debt Officer to enter into extensions subject to certain conditions and amendments to the Line of Credit Agreement that are mutually acceptable to the Line of Credit Syndicate, Valley Water, and the PFFC.

Analysis

Debt proceeds from the Short Term Debt Program may be used for any Valley Water purposes, including, but not limited to, capital expenditure, investment and reinvestment, and the discharge of any obligation or indebtedness of Valley Water. Per Board approval on January 13, 2015, the Short Term Debt Program was directed to be utilized to fund eligible Water Utility and SCW expenditures only. The repayment of Short Term Debt Program debt is allocated between Water Utility and SCW funds based on actual issuance for the respective funds.

The obligation of Valley Water to make payments of principal of and interest on the TRANs is a general obligation of Valley Water. Valley Water has also pledged Net Water Utility System Revenues of Valley Water on a subordinate basis to the payment of bonds and contracts of Valley Water to additionally secure the payment of the principal of and interest on the TRANs, all in accordance with the Water Utility Parity System Master Resolution No. 16-10 adopted by the Board of Directors on February 23, 2016, as amended from time to time. The TRANs do not constitute a debt of Valley Water or the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

To ensure flexibility in utilizing the Short Term Debt Program to meet the needs for tax-exempt and taxable debt issuances in FY 2021-22, the tax-exempt TRAN authorization is established at \$275 million and the taxable TRAN authorization at \$120 million. This is in compliance with Article 7.6, Chapter 4, Part 1, Division 2, Title 5 of the California Government Code which allows TRANs to be issued (principal and interest) in an amount up to 85% of the budgeted uncollected taxes, income, revenue, cash receipts and other monies of Valley Water which will be available for the payment of the principal and interest on the TRANs. Actual debt issuances are currently limited, however, to an aggregate total of \$320 million for both tax-exempt and taxable short-term debt due to the capacity to borrow against the MUFG Bank LOC and the Line of Credit. The aggregate issuance amount could increase in the future if the Board authorizes additional credit facilities.

The long-term strategy is to issue short-term debt to provide just-in-time funding for capital expenditures which avoids the issuance and repayment of long-term debt earlier than necessary and having unused debt proceeds prior to future spending on projects. As the outstanding short-term debt reaches the Short Term Debt Program capacity, the outstanding debt is refunded with long-term debt to be repaid over the life of the improvements.

CP certificates issued to the open market under the MUFG Bank LOC are a source of low-cost short-term debt issued at a variable interest rate and remarketed periodically. For the most recent 12 months, Valley Water paid interest rates ranging from a low of 0.11% to a high of 0.45% for tax-exempt CP certificates, and a low of 0.14% to a high of 1.00% for taxable CP certificates. Valley Water has not issued any Line of Credit certificates since entering into the Line of Credit Agreement in October 2020 and has no draws planned for the remainder of FY 2020-21.

For the Water Utility Program, the periodic issuance of long-term debt helps keep water charges lower and more stable over the long-term while resulting in inter-generational equity and allows for the completion of capital projects in a timely manner. The timing and amount of debt financing is dependent on the incurrence of Water Utility capital project costs.

Funding for SCW projects is primarily from the special parcel tax authorized by voters through the passage of Measure S in November 2020. The timing and amount of debt financing is dependent on the incurrence of SCW capital project costs.

PFFC Short Term Debt Program Authorization

Due to the statutory limitations in the District Act regarding short-term borrowing, Valley Water is required to issue CP and Line of Credit certificates in conjunction with the PFFC. In addition to Valley Water Board authorizations, the PFFC Board was required to provide its authorizations, accordingly. The PFFC Board adopted the resolution authorizing the issuance of CP certificates on May 10, 2012 (Resolution No. PFFC 12-001) and adopted Amendments No. 1 and No. 2 to Resolution No. PFFC 12-001 on December 10, 2014. On January 28, 2016, the PFFC adopted Resolution No. PFFC 16-001 to authorize certain amendments to the CP Program pursuant to the Water Utility Parity System Master Resolution No. 16-10 adopted by Valley Water's Board on February 23, 2016. On November 10, 2016, the PFFC adopted Resolution No. PFFC-16-005 to amend and restate Resolution No. PFFC-12-001, as previously amended, to supplement the CP Program to allow for the sale of revolving credit certificates in addition to CP certificates. On April 17, 2020, the PFFC Board adopted Resolution No. 20-01 authorizing the solicitation, negotiation of, and execution and delivery of various agreements for a bank line of credit.

ESG Policy

At its August 11, 2020 meeting, the Board approved the addition of Executive Limitation 4.7.7 to stipulate that Valley Water can only do business with banks that have an Environmental, Social and Governance (ESG) risk rating of "Average/Medium" or better from at least one professional ESG research company. Small and local banks/credit unions located within the nine Bay Area counties

with total assets at or below \$10 billion are exempt from this provision. MUFG Bank and U.S. Bank both have an ESG rating of "Medium" from ESG ratings and research firm, Sustainalytics (Attachment 4). The other banks in the Line of Credit Syndicate - First Foundation Bank, Bank of San Francisco, and Community Bank of the Bay - are all exempt from the Executive Limitation.

Safe, Clean Water Program Master Resolution for Debt Obligations (Recommendation G)

As part of the the Fiscal Year 2021-22 financing strategy for the SCW program, staff is beginning work on applying for an approximately \$100 million low-cost Water Infrastructure Finance and Innovation Act (WIFIA) loan to fund up to 49% of eligible project costs for the following SCW flood protection projects: Coyote Creek, San Francisquito Creek, Upper Llagas, and Sunnyvale East and West Channels. Based on initial discussions between Valley Water and the U.S. Environmental Protection Agency (EPA), the identified SCW projects, selected by staff for their similar near-term construction schedules, appeared primarily eligible for a WIFIA loan.

The EPA released its 2021 Notice of Funding Availability (NOFA) for its WIFIA program on April 27, 2021, indicating that it has budget authority to provide approximately \$5.5 billion in credit assistance. Interested applicants for a WIFIA loan must submit a Letter of Interest (LOI) by July 23, 2021. To prepare for the LOI submission and ensure Valley Water can meet the deadlines, staff worked with District Counsel, Bond Counsel (Stradling, Yocca, Carlson and Rauth) and Municipal Advisor (Public Resources Advisory Group) to draft the SCW Master Resolution (Attachment 5). Board adoption of the SCW Master Resolution will allow Valley Water to provide for a well-established method to secure both short-term debt (e.g., commercial paper) and long-term debt (e.g., WIFIA loan) issued for the SCW program and obtain credit ratings that will be submitted as part of the WIFIA LOI. For more information on the SCW Master Resolution, see the SCW Master Resolution Questions & Answers (Q&A) (Attachment 6).

FINANCIAL IMPACT:

The Short Term Debt Program is an on-going activity of Valley Water and associated costs are budgeted annually as costs of operations. The estimated cost of the Short Term Debt Program, including interest and other costs associated with the program (e.g. banking, legal and other related fees), in FY 2021-22 is \$6.6 million. Upon the future issuance of CP certificates and other debt obligations, certain eligible capital expenditures initially paid for by Valley Water will be reimbursable from proceeds of these obligations.

Regarding the SCW Master Resolution and staff's effort to prepare the WIFIA LOI, the EPA does not charge a fee for the LOI submission. If the EPA invites Valley Water to proceed with the loan application, there is a fee of \$100,000 payable at the time of the application submission. Additionally, staff estimates that approximately \$500,000 in loan underwriting, financial and legal advisory fees incurred by the EPA will be charged to Valley Water as part of the loan closing process. These fees are offset by the estimated \$1 million in annual debt service savings, or approximately \$30 million total savings for a 30-year loan, associated with securing a \$100 million WIFIA loan compared to issuing long-term debt in the municipal bond public market. Funds for these fees are budgeted in the SCW debt financing project number 26993001, subject to Board approval of the FY 2021-22 Budget

scheduled for May 11, 2021.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Resolution, Authorizing TRANS
Attachment 2: Resolution, Water Utility Obligations
Attachment 3: Resolution, SCW Obligations
Attachment 4: Sustainability ESG Risk Ratings
Attachment 5: SCW Master Resolution
Attachment 6: SCW Master Resolution Q&A
*Handout 9.1-A: R. Norton email

UNCLASSIFIED MANAGER:

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