

Agenda Item: {{section.number}}D

May 18, 2022

TO: THE BOARD OF DIRECTORS

Brenda Dennstedt, President
Gracie Torres, Vice President
Mike Gardner, Secretary-Treasurer
Fauzia Rizvi
Laura Roughton

FROM: Craig D. Miller, P.E., General Manager

CONSIDER JOINING THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY AND ADOPT RESOLUTION NO. 3222 AUTHORIZING THE GENERAL MANAGER TO EXECUTE THE JOINT EXERCISE OF POWERS AGREEMENT

RECOMMENDATION:

The Engineering, Operations and Water Resources Committee and Staff recommend the Board of Directors:

1. Join the Santa Ana River Watershed Infrastructure Financing Authority;
2. Discuss and designate a representative and an alternate representative to the Authority;
and
3. Adopt Resolution No. 3222 authorizing the General Manager to execute the Joint Exercise of Powers Agreement.

EXECUTIVE SUMMARY:

In the summer of 2021, the San Bernardino Valley Municipal Water District Board approved the formation of the Upper Santa Ana River Watershed Infrastructure Financing Authority, a Joint Powers Authority also known as Watershed Connect. Watershed Connect was developed to allow for a regional, programmatic framework to apply for low-cost Water Infrastructure Financing and Innovation Act financing through the U.S. Environmental Protection Agency. Water Infrastructure Financing and Innovation Act loans can fund a program, or combination of projects, if they share common geography, timeframes, and purpose.

Western Municipal Water District and Valley District, jointly serving as Court-appointed Watermasters under a 1969 Judgment, are long-time partners managing the water rights and the sustainability of several of the local groundwater basins. Western represents four parties with water rights in these groundwater basins. The 1969 Judgment also provides for adjustment of water rights through the construction of projects that were not in place at the time of the settlement. The parties within Western are interested in funding projects that may result in adjusted water rights. Western has executed cost-sharing agreements for some of the projects included in Watershed Connect. For these reasons, Western's participation in Watershed Connect is important for regional collaboration.

BUDGET IMPACT:

Proceeding with this action has no budget impact.

DETAIL:

In the summer of 2021, the San Bernardino Valley Municipal Water District (Valley) successfully formed the Upper Santa Ana River Watershed Infrastructure Financing Authority and obtained low-cost Water Infrastructure Financing and Innovation Act (WIFIA) financing through the U.S. Environmental Protection Agency (EPA). This effort is a regional infrastructure program that requires a governance and financing structure; therefore, a Joint Powers Authority (JPA) agreement has been prepared to describe the framework of this financing mechanism and how the program will be administered. Currently the other members that have joined the JPA include the City of San Bernardino Municipal Water District, San Bernardino Valley Water Conservation District and the Yucaipa Valley Water District. The JPA is a vehicle for providing infrastructure funding over time as each agency is ready to build their project. However, each agency will construct, own, and operate their facilities with the specific payback terms for each project being addressed through an individual Project Agreement between the owner agency and the JPA. The JPA serves as a conduit to the EPA financing and other future funding sources. Any costs associated with program administration or sustaining the JPA will be included in the Project Agreements. Therefore, there is no risk or financial obligation to participating in the JPA at this time, rather, program or JPA administrative costs only apply once an agency moves forward to build projects using this financing tool.

A JPA formed pursuant to California Government Code, Title 1, Sec 6500, et seq. provides the necessary legal rights, protections, and flexibility to providing infrastructure finance for the separate agencies. A JPA will support the program's regional scope and will be funded through project agreements with member agencies. In addition, the formation of a regional JPA will

increase the competitiveness of securing state and federal financing and is expected to positively impact loan interest rates and repayment terms. Below is a summary of the JPA agreement.

- Purpose: The JPA is an organization separate from the member agencies with the powers to create and enter into contracts, incur debts and liabilities, and adopt rules and regulations for the operation of the JPA, amongst other powers provided by the Agreement.
- Governance: The JPA Board of Directors consist of one representative and an alternate from each member agency, designated by motion or resolution; the representative can be a governing board member or employee of the member agency. Each member agency has one vote, which will be equally weighted. All actions of the Board shall be approved by a majority vote.
- Meetings: The agreement requires regular meetings be held at least twice a month in accordance with provisions of the Brown Act; the JPA Board can reconsider meeting frequency.
- Membership: Members include the founding agencies and additional members joining the JPA at later dates; the admission of additional members must be approved by the JPA Board. Any member may withdraw from the JPA by providing at least ninety (90) days written notification. Withdrawal of a member does not relieve that member agency from any obligations incurred by the JPA on behalf of that agency.
- Risks: The JPA Agreement states that the debts, liabilities, and obligations of the Authority, shall not be debts, liabilities, and obligations of any of the member agencies. Support for loans and other program funding will be transferred through the individual project agreements with the member agencies.
- Revenue: The JPA can secure bonds, loans, notes and other indebtedness that are repaid with payments resulting from project agreements with member agencies.
- Project Agreements: A document authorized by the governing board of a member agency and also the JPA Board to finance or refinance a project and specifies how the JPA will fund the project and how the member agency will pay the JPA.

Pursuant to a 1969 Judgment, Western and Valley are co-Watermasters that are responsible for the management and oversight of several groundwater basins where water supply projects under the JPA will be constructed. As the Watermaster, Western represents four parties that hold water rights in these groundwater basins: Meeks and Daley Water Company, Riverside Highland Water

Company, the City of Riverside and the University of California, Riverside. In addition, Western retail customers currently receive a portion of this groundwater through agreements with the City of Riverside and Elsinore Valley Municipal Water District. As a long-time partner with Valley District staff recommends that Western formally join the JPA.

Reason for Action:

Adoption of a resolution and execution of the Joint Exercise of Powers Agreement is required to join the JPA.

Solution:

Approve Resolution No. 3222 and the Joint Exercise of Powers Agreement.

STRATEGIC PRIORITIES REFERENCE:

This action is in alignment with Western's Strategic Priority of Resource Management.

LEGAL COUNSEL REVIEW:

At the time this letter was published in the Committee packet, legal counsel was still reviewing the proposed agreement. Legal counsel will complete review of the Agreement before the May 18, 2022, Board meeting.

Respectfully submitted by:

Craig D. Miller, P.E., General Manager

Attachments:

1. Joint Powers Agreement
2. Resolution No. 3222
3. Watershed Connect PowerPoint Presentation