

**DELTA CONVEYANCE FINANCE AUTHORITY
BOARD OF DIRECTORS MEETING**

REGULAR MEETING

Thursday, February 21, 2019
11:30 a.m.

Sacramento Public Library, Tsakopoulos Library Galleria
828 I Street, Sacramento, CA 95814

AGENDA

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested person must request the accommodation at least two working days in advance of the meeting by contacting support staff at (916) 347-0486 or lstandlee@dcmfinanceauthority.org

California Environmental Quality Act (CEQA) Notice: Discretionary actions taken by the Delta Conveyance Finance Authority are in furtherance of financing the design and construction of the California WaterFix project. The Board of Directors of the Finance Authority, acting as a Responsible Agency under CEQA, determined that it has reviewed and considered Lead Agency DWR's Final Environmental Impact Report and Addendum for the California Water Fix Project and adopted DWR's CEQA determinations, and filed Notices of Determination in compliance with CEQA in July 2018.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. PUBLIC COMMENT**

Members of the public may address the Authority on matters that are within the Authority's jurisdiction but are not on the agenda today. Speakers are limited to three minutes each. Persons wishing to speak are requested to complete speaker cards. The Board Chair will call individuals to the podium in turn. Speaker comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

- 5. OTHER MATTERS**
 - a. None.
- 6. CONSENT CALENDAR**

Items on the Consent Calendar are considered to be routine by the Board of Directors and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a

director so requests, in which event the item will be removed from the Consent Calendar and considered separately.

- a. Approval of the minutes from the meeting of January 17, 2019

7. SCHEDULED ITEMS

- a. Election of board officers and appointment of Treasurer/Controller
- b. Executive Committee appointments
- c. Consider and authorize the executive director to negotiate a contract with Norton Rose Fulbright US LLP to serve as bond counsel for the Delta Conveyance Finance Authority for an amount not to exceed \$75,000 for fiscal year 2018/19
- d. Consider and authorize the executive director to negotiate a contract with Stradling Yocca Carlson & Rauth, P.C. to serve as disclosure counsel for the Delta Conveyance Finance Authority for an amount not to exceed \$50,000 for fiscal year 2018/19

8. REPORTS AND ANNOUNCEMENTS

- a. Executive Director's Report
- b. General Counsel's Report

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING
Thursday, January 17, 2019
11:30 am

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

The regular meeting of the Delta Conveyance Finance Authority (DC Finance Authority) Board of Directors was called to order by President Record at the Sacramento Public Library, Tsakopoulos Library Galleria, 828 I Street, Sacramento, CA, at 11:30 a.m.

2. PLEDGE OF ALLEGIANCE

Director Pryor led the Pledge of Allegiance.

3. ROLL CALL

Board members in attendance were Randy Record, Gary Kremen, Valerie Pryor, Jeff Davis, Matt Stone, Paul Sethy, Doug Headrick, Kathy Cortner, Mark Krause, and Dwayne Chisam.

Director Record welcomed the three new board members (Kathy Cortner, Mojave Water District; Dwayne Chisam, Antelope Valley-East Kern Water Agency; and Mark Krause, Desert Water Agency).

Staff members in attendance were Brian Thomas and June Skillman.

4. PUBLIC COMMENT

President Record declared public comment open, limiting speaking time to three minutes. With no persons requesting time to speak, President Record closed public comment.

5. OTHER MATTERS

5.a. None.

6. CONSENT CALENDAR:

6.a. Approval of the minutes from the meeting of December 14, 2018.

| | |
|------------------|--|
| Motion: | Approve minutes from the meeting of December 14, 2018 |
| Move to Approve: | Gary Kremen |
| Second: | Valerie Pryor |
| Yeas: | Doug Headrick, Dwayne Chisam, Gary Kremen, Jeff Davis, Kathy Cortner, Mark Krause, Matt Stone, Paul Sethy, Randy Record, and Valerie Pryor |
| Nays: | None |
| Abstains: | None |

Recusals: None
Absent: None
Summary: 10 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-1-01)

7. SCHEDULED ITEMS

- 7.a. Status report on current Delta Conveyance Design and Construction Authority activities. [Information item.]

Sergio Valles and Jill Duerig from the Delta Conveyance Design and Construction Authority (DCA) presented a report and presentation on current DCA activities. It was noted that work is underway to fill interim positions, award contracts for services; evaluate responses to SOQs and RFPs; develop policies and procedures for property acquisition, survey, mapping and right of way; obtain permits; select a new office location; and negotiate agreements with SMUD and the Western Area Power Administration for power. Ms. Duerig noted that the FY2018-19 adopted budget of \$133.57 million had been revised down to \$61.88 million given the expected pace of current activities. Director Davis queried Ms. Duerig about the timing of when financing from DC Finance would be needed, with Ms. Duerig noting that estimates indicate a need in spring 2020. Director Kremen asked about hiring local, delta labor for the project, with Ms. Duerig noting that the DCA had recently adopted a Small and Disabled Veteran Business Enterprise Policy, which may be amended to also include preference to hiring local (Delta) labor for the project.

- 7.b. Status report on DWR Consistency Opinion and State Water Resources Control Board Activities. [Information item.]

Ken Bogdan and Greg Farley from the Department of Water Resources (DWR) presented an oral report on Delta Stewardship Council Consistency Opinion and State Water Resources Control Board Activities. Mr. Bogdan discussed the regulatory process, noting that in December 2018 DWR withdrew its Certification of Consistency for the California WaterFix. Mr. Bogdan noted that DWR staff will begin working with Delta Stewardship Council staff to address issues of concern, with a goal to file a new Certification of Consistency in 2019. Mr. Bogdan also discussed activities at the State Water Resources Control Board (SWRCB), noting that DWR and the U.S. Bureau of Reclamation (Reclamation) filed a joint change petition to add points of diversion and rediversion on the lower Sacramento River as part of the California WaterFix project. A hearing on the petition commenced in July 2016 and is continuing. The hearing is subdivided into two parts, with Part 2 of the hearing focused on the potential effects of the petition on fish and wildlife and recreational uses and conditions that should be placed on any approval of the petition to protect those uses, including consideration of appropriate Delta flow criteria as required by the 2009 Delta Reform Act.

- 7.c. Consider and approve membership of the Coachella Valley Water District.

Recommendation: Consider and approve membership of the Coachella Valley Water District.

Agenda Item 6.a

Executive Director Brian Thomas provided the staff report to the Board. Mr. Thomas noted that Section 15 of the Delta Conveyance Finance Authority Joint Powers Agreement requires a unanimous vote to approve any Public Water Agency requesting membership after December 3, 2018 (five months after the effective date of the Joint Powers Agreement.) The Coachella Valley Water District (Coachella) approved a resolution to join the Finance Authority on December 11, 2018. Mr. Thomas noted that adding a new member will reduce the administrative costs for all members as the administrative costs are distributed among a larger number of participants.

Motion: Approve membership of the Coachella Valley Water District.
Move to Approve: Doug Headrick
Second: Kathy Cortner
Yeas: Doug Headrick, Dwayne Chisam, Gary Kremen, Jeff Davis, Kathy Cortner, Mark Krause, Matt Stone, Paul Sethy, Randy Record, and Valerie Pryor
Nays: None
Abstains: None
Recusals: None
Absent: None
Summary: 10 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-1-02)

7.d. Consider and approve a reimbursement policy

Recommendation: Consider and approve a reimbursement policy

Executive Director Brian Thomas provided the staff report to the Board. Mr. Thomas noted that Section 5.1.3(e) of the Finance Authority's bylaws states the board shall establish a reimbursement policy under which a Director or others (e.g., staff) may receive reimbursement for travel and meeting expenses. The policy recognizes that the Directors are reimbursed by their appointed agencies for travel expenses associated with Finance Authority board and committee meetings. As such, the Finance Authority would not reimburse such expenses. It also notes the President must approve travel and meetings in which a Director participates on behalf of the Finance Authority for which a Director would be reimbursed. The policy describes the types of expenses that could be reimbursed (reasonable and necessary expenses). In addition, the guidelines for reimbursable expenses apply to staff who may be reimbursed for Finance Authority meetings (including consultants).

Motion: Approve the reimbursement policy
Move to Approve: Valerie Pryor
Second: Kathy Cortner
Yeas: Doug Headrick, Dwayne Chisam, Gary Kremen, Jeff Davis, Kathy Cortner, Mark Krause, Matt Stone, Paul Sethy, Randy Record, and Valerie Pryor
Nays: None
Abstains: None
Recusals: None
Absent: None

Agenda Item 6.a

Summary: 10 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-1-03)

- 7.e. Consider selection of General Counsel and authorize President and Executive Director to negotiate a contract with the selected firm for an amount not to exceed \$75,000.

Recommendation: Authorize President and Executive Director to negotiate a contract with the selected firm for an amount not to exceed \$75,000.

Executive Director Brian Thomas provided the staff report to the Board. Mr. Thomas noted that on January 14, 2019, an interview committee consisting of the Executive Director, certain Board members, and certain professional staff from DC Finance Authority member agencies interviewed the lead candidate law firms for the role of Authority Counsel from the pool identified in the agenda notice and previous staff report.

After considering written responses and results of the interview, the committee recommends the selection of Olivarez Madruga Lemieux O'Neill. Staff recommends that the Board authorize the President and Executive Director to negotiate a contract for services, at a cost not to exceed \$75,000 in fiscal year 2018/19. Future annual contract amounts will be subject to board appropriation through the budget process.

Motion: Authorize the President and Executive Director to negotiate a contract with Olivarez Madruga Lemieux O'Neill for an amount not to exceed \$75,000 in fiscal year 2018/19.

Move to Approve: Gary Kremen

Second: Kathy Cortner

Yeas: Doug Headrick, Dwayne Chisam, Gary Kremen, Jeff Davis, Kathy Cortner, Mark Krause, Matt Stone, Paul Sethy, Randy Record, and Valerie Pryor

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 10 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-1-04)

8. REPORTS AND ANNOUNCEMENTS

8.a. Executive Director Report

Mr. Thomas discussed with the board the activities that occurred over the last month, noting that these activities included review of general counsel proposals and preparing and distributing a request for proposals for bond and disclosure counsel and discussing financing options with a number of investment banks and advisors.

Mr. Thomas noted that future activities will include reviewing bond and disclosure counsel (including tax counsel) responses, selecting a firm or firms to assist the Finance Authority prepare for an initial borrowing, querying for external audit services,

as well as working with the board to schedule a workshop to discuss the Finance Authority's work in 2019. Lastly, Mr. Thomas noted that work continues on the website, with a goal for the website to be live in March 2019.

8.b. Treasurer's Report

Ms. Skillman, DC Finance Authority Treasurer, discussed with the board the Treasurer's Report. Ms. Skillman noted that for the six months ended December 2018, receipts totaled \$133,794, consisting of contributions from five member agencies and interest receipts; disbursements totaled \$79,969; and the cash balance in the DCFA Trust at December 31, 2018 was \$53,825. Ms. Skillman noted that new members would be receiving an invoice for \$26,000, and would have 30 days to pay it.

9. FUTURE AGENDA ITEMS:

Board President Record requested future agenda items be raised at this time. Executive Director Thomas noted that future agenda items would include a draft Ethics Policy, which would be brought to the Executive Committee for review as well as an RFP for auditor services.

10. ADJOURNMENT:

President Record adjourned the meeting at 12:21 p.m.

Delta Conveyance Finance Authority

Board Memo

Contact: Brian Thomas, Executive Director

AGENDA DATE: February 21, 2019

Item No. 7.c

Subject: Bond Counsel

Executive Summary

The Finance Authority distributed a request for proposals for Bond, Disclosure and Tax Counsel services on January 5, 2019. The Finance Authority received 7 responses, two of which were limited to disclosure counsel services. After review by a selection committee including the Executive Director, General Counsel, and staff from Metropolitan Water District, Santa Clara Valley Water District and Alameda County Water District, it is recommended that the Finance Authority retain Norton Rose Fulbright US LLP (Norton Rose) as bond counsel. In their role as bond counsel, Norton Rose will also provide tax counsel services.

Detailed Report

Bond Counsel is a critical member of the Finance Authority's financing team. Bond counsel is responsible for ensuring the necessary actions and documents for a successful financing are legal, flexible, and meet the Finance Authority's needs. They will serve an important role as the Finance Authority and its members develop the final financing structure, including the legal structure to support any debt issued by the Finance Authority. Bond counsel will draft the financing resolutions, as well as the form of agreements the Members will need to approve to support the financing. Further, bond counsel will assist in reviewing and negotiating any bank documents needed to support a financing. Bond counsel will provide guidance to the Finance Authority Board as the Finance Authority moves forward with raising funds for the WaterFix to ensure that the Board has a complete understanding of the legal risks and benefits of different structures. Bond counsel will also assist in the application and processing of any WIFIA loans. The firm will also provide needed tax opinions and other legal opinions and filings necessary to comply with state and federal laws. In addition, bond counsel will work with the Executive Director, General Counsel, and Members and other State Water Contractors to help ensure the financing structure meets the various needs of different Members.

The Finance Authority received responses from the following firms to the Request for Proposals:

1. Norton Rose Fulbright US LLP
2. Hawkins Delafield & Wood LLP
3. Stradling Yocca Carlson & Rauth PC
4. Jones Hall PC
5. Best Best & Krieger LLP
6. Schiff Hardin LLP (disclosure counsel only)
7. Polsinelli LLP (disclosure counsel only)

All seven of the respondents are highly qualified firms. The review committee determined that Norton Rose would be the best fit for the Finance Authority on the basis of the firm's large public finance presence, understanding, and experience working with water and wastewater agencies, experience with joint powers authority financing, experience of the lead attorney, and their understanding of WaterFix and California water issues. In particular, the firm's lead attorney, Eric Tashman, has been a part of the working group that has developed the concepts leading to the formation of the Finance Authority.

Norton Rose is one of the country's largest public finance firms, and was the number two ranked bond counsel firm as ranked by Thomson Reuters. Norton Rose has served as bond counsel or disclosure counsel for Metropolitan Water District, Santa Clara Valley Water District, East Bay Municipal Utility District, and Desert Water Agency. This experience and understanding of California Water utilities' objectives and challenges will be valuable background as the Finance Authority weighs different financing approaches. Norton Rose does not anticipate its work as bond counsel would involve conflicts, but does not anticipate issues receiving conflict waivers if required by any existing clients.

Funding

The 2018/19 budget includes \$150,000 for bond counsel, disclosure counsel and municipal advisory services. It is anticipated that work leading to a financing will be paid on a time-and-material basis, while work associated with a financing would be paid from proceeds of the financing. It is anticipated that the majority of bond counsel costs in future years will be reflected in the cost of issuance associated with a financing, which will be subject to board approval at the time of each future financing.

Recommended Action

Approve selection of Norton Rose Fulbright LLP to serve as bond counsel for the Delta Conveyance Finance Authority, and authorize the President and Executive Director to negotiate a contract in an amount not to exceed \$75,000 in fiscal year 2018/19.

ATTACHMENTS:

None.

Delta Conveyance Finance Authority

Board Memo

Contact: Brian Thomas, Executive Director

AGENDA DATE: February 21, 2019

Item No. 7.d

Subject: Disclosure Counsel

Executive Summary

The Finance Authority distributed a request for proposals for Bond, Disclosure and Tax Counsel services on January 5, 2019. The Finance Authority received 7 responses, two of which were limited to disclosure counsel services. After review by a selection committee including the Executive Director, General Counsel, and staff from Metropolitan Water District, Santa Clara Valley Water District, and Alameda County Water District, it is recommended that the Finance Authority retain Stradling Yocca Carlson & Rauth PC (Stradling) as disclosure counsel.

Detailed Report

Disclosure counsel is an important member of the Finance Authority's financing team. Disclosure counsel is responsible for preparing the preliminary and final official statement, and helping to ensure the Finance Authority meets applicable securities laws regarding disclosure to the market and investors. Given increased enforcement activity by the Securities and Exchange Commission (SEC) in the municipal sector, disclosure counsel plays an important role in developing communications with investors, continuing disclosure requirements once a public offering has been completed, developing disclosure procedures and policies, and training and updating board and staff on changes in disclosure responsibilities. Given a financing with a number of Finance Authority Members, disclosure counsel will help coordinate all of the agencies' information and ensure consistent procedures. Familiarity and understanding of California water challenges and issues, along with experience working in a multi-agency environment will be helpful in this regard. In addition, disclosure counsel will work with the Executive Director, General Counsel, and bond counsel on rating agency and investor presentations. Disclosure counsel will also participate in discussions with the board of directors regarding financing.

The Finance Authority received responses to the Request for Proposals from the following firms:

1. Norton Rose Fulbright US LLP
2. Hawkins Delafield & Wood LLP
3. Stradling Yocca Carlson & Rauth PC
4. Jones Hall PC
5. Best Best & Krieger LLP
6. Schiff Hardin LLP (disclosure counsel only)
7. Polsinelli LLP (disclosure counsel only)

All seven of the respondents are highly qualified firms. The review committee determined that Stradling Yocca Carlson & Rauth PC would be the best fit for the Finance Authority on the basis of the firm's public finance presence in California, understanding and experience working with water and wastewater agencies, experience with joint powers authority financing, and their understanding of the WaterFix financing structure and California water issues. The firm's lead attorney, Brian Forbath, has decades of experience with water and wastewater agencies in California, in particular with financing authorities with similar structures as the Financing Authority.

Stradling has the second largest group of public finance attorneys in California, and is consistently ranked as one of the top two disclosure firms in California, achieving the number one ranking in 2018 (based on number of transactions). Stradling has served as bond and/or disclosure counsel for Santa Clara Valley Water District, Mojave Water Agency, East Bay Municipal Utility District, Eastern Municipal Water District, Coachella Valley Water District, Santa Clarita Valley Water Agency and West Basin Municipal Water District. Further, Stradling worked with the State Water Project Contractors Authority on earlier versions of a financing structure similar to that contemplated by the Finance Authority. This experience and understanding of California Water utilities' objectives and challenges provides a solid foundation for work with the Finance Authority. Stradling has indicated its work as disclosure counsel would not involve conflicts and does not anticipate issues receiving conflict waivers if required by any existing clients.

Funding

The 2018/19 budget includes \$150,000 for bond counsel, disclosure counsel and municipal advisory services. It is anticipated that disclosure counsel will participate in discussions as the Finance Authority prepares for its initial financing, and most of this time will be paid on a time-and-material basis, while work associated with a financing would be paid from proceeds of the financing. It is anticipated that the majority of disclosure counsel costs in future years will be reflected in the cost of issuance associated with a financing, which will be approved at the time of financing. In addition, work for ongoing training and continuing disclosure would be paid on a time-and-material basis and provided in the operating budget.

Recommended Action

Approve selection of Stradling Yocca Carlson & Rauth PC to serve as disclosure counsel for the Delta Conveyance Finance Authority, and authorize the President and Executive Director to negotiate a contract in an amount not to exceed \$50,000 in fiscal year 2018/19.

ATTACHMENTS:

None.

Delta Conveyance Finance Authority

Board Memo

Contact: Brian Thomas, Executive Director

AGENDA DATE: January 21, 2019

Item No. 8.a

Subject: Executive Director's Report

Executive Summary

Activity included review of responses to the request for proposals for bond and disclosure counsel, and coordinating the review committee. The recommended firms are presented for approval at the January 21, 2019, meeting. I also discussed different financing approaches with members and state water project contractors. I continued to discuss financing options with different investment banks and advisors.

Detailed Report

Activities

Administration. The conflict of interest code was submitted to the Fair Political Practices Commission, who made minor changes and have posted for their public review. Upon conclusion of their comment period, the conflict of interest code will be considered and approved by the FPPC. In the meantime, we are required to submit Form 700s by March 1, 2019, pursuant to FPPC guidelines for public officials filing under Section 87200 of the Government Code (including the board, executive director, and treasurer). I reviewed the bond and disclosure counsel submittals, and working with a committee that included Bryan Otake and June Skillman from Metropolitan, Charlene Sun from Santa Clara, Jonathan Wunderlich from Alameda County Water District, and Steve O'Neill, we selected Norton Rose Fulbright LLP and Stradling Yocca Carlson Rauth PC as our recommendation to serve as bond counsel and disclosure counsel, respectively.

I prepared a bid package for audit firms.

I have also attached a table of actions approved by the board, adding the Reimbursement Policy, hiring the law firm of Olivervez Madruga Lemieux O'Neill to serve as general counsel for the Finance Authority, and extending the contract with Michael Bell Management Consulting for executive director services through December 2019.

Meetings. I participated in a number of discussions and meetings with financial consultants, investment bankers, buy-side analysts, state water project contractors and attorneys regarding the financing structure and other issues associated with financing WaterFix.

Future Activities.

Work continues on the website, with a goal to be up and running by March 2019. In addition, we have prepared bids for external audit services with a goal to get a firm approved by April. We will be working with the board to schedule a workshop to discuss the Finance Authority's work in 2019.

Recommended Action

Informational.

ATTACHMENTS:

Approved Board Actions

DELTA CONVEYANCE FINANCE AUTHORITY

Completed Actions as of:

January 31, 2019

| Action | Date |
|---|------------|
| Adopted the CEQA determination for actions related to California Water Fix – that the Board has reviewed and considered the BDCP/California WaterFix environmental documentation and adopts the lead agency’s Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program | 7/19/2018 |
| Approved agreement with Metropolitan to provide treasury and accounting services | 7/19/2018 |
| Approved submittal of WIFIA Letter of Interest | 7/19/2018 |
| Approved execution of agreement with Michael Bell Consulting to retain the services of Brian Thomas as Interim Executive Director | 7/19/2018 |
| Approved Fiscal Year 2018/19 Operating Budget | 8/16/2018 |
| Approved Debt Management Policy | 8/16/2018 |
| Approved Investment Policy | 8/16/2018 |
| Approved Bylaws | 11/15/2018 |
| Approved extension of contract with Michael Bell Management Consulting for the services of Brian Thomas as Executive Director through December 31, 2019 | 12/14/2018 |
| Adopted Conflict of Interest Code | 12/28/2018 |
| Approved Reimbursement Policy | 1/17/2019 |
| Approved execution of agreement with Oliverrez Madruga Lemieux O'Neill to serve as general counsel | 1/17/2019 |