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REPORT NO. R 15 - 00 4 4
FEB 2 0 2015

REPORT RE:

**DRAFT ORDINANCE TO APPROVE A RESOLUTION AUTHORIZING
THE ESTABLISHMENT OF A JOINT POWERS AUTHORITY FOR
WATER PROJECT FINANCING**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance would approve Resolution No. 015-151, dated February 3, 2015, authorizing the formation of a Joint Powers Authority (JPA) to finance certain Los Angeles Department of Water and Power (LADWP) water system capital projects.

Summary

The Board letter (Board Letter), dated January 23, 2015, and attachments accompanying the Resolution describe in further detail the proposed JPA, which would be called the "Southern California Public Water Authority." The two initial members of the JPA would be the City of Los Angeles and the City of Burbank. Additional water agencies may join later. The JPA has been developed based on the prior direction of the Board of Water and Power Commissioners (Board), at its meeting held on December 17, 2013, to take such steps as were necessary to further the development of a JPA, and return to the Board the recommended proposals to be transmitted to the City Council to establish the proposed JPA by ordinance in accordance with the applicable City Charter and California Government Code sections.

The JPA would be used, starting in the fall of 2015, to finance certain water system capital projects for LADWP, specifically projects related to local water supply, and mandated projects such as those that address water quality. The JPA could finance such projects for LADWP at a lower cost to LADWP's customers, including through a financing approach called "securitization" (also known as "rate reduction bonds").

The enclosed Resolution No. 015-151 recommends to the City Council approval of the Joint Powers Agreement (JPA Agreement) attached to the Board Letter and the formation and further development of the proposed JPA.

City Council approval is required according to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with Section 6500).

Background

The Board Letter and attachments provide discussion regarding the value of forming a JPA to finance certain water system capital projects. The objective of this effort is to provide another method to finance important capital projects at a lower rate impact to customers. LADWP has been working on this effort since 2012 in a three-step process. With the approval of this draft ordinance, step two would be completed and LADWP staff efforts can move to step three, as described below.

1. Enactment of legislation to allow a JPA to issue securitized bonds. Step one was completed in October 2013 with the signing of AB850 by Governor Brown.
2. Discussions with other water agencies with a potential interest in forming a JPA with the City of Los Angeles/LADWP, and negotiation and adoption of a JPA Agreement with such agencies.
3. Executing the initial financing transaction to fund a portion of LADWP's Water System capital budget for Fiscal Year 2015/16.

In the past year, LADWP has discussed the formation of a JPA with various Southern California water agencies. Discussions with the City of Burbank/Burbank Water and Power have resulted in the development of the JPA Agreement attached to the Board Letter. The JPA Agreement provides the basis for the formation of the JPA. It is comparable to the agreement that was used nearly 35 years ago in the formation of the Southern California Public Power Authority (SCPPA) which has served LADWP's interests effectively on the power side. Other terms and provisions regarding the operation of the JPA will be specified in later documents, such as bylaws and other operating agreements that may specify the allocation of JPA costs among its members.

The execution of the JPA Agreement would allow for the formation of the JPA, and would allow LADWP to begin focusing on the planned bond issuance through the JPA.

Pursuant to Government Code Section 6502, the formation of the JPA requires City Council authorization. See Cal. Gov't. Code Section 6502 (“[i]f authorized by their *legislative or other governing bodies*, two or more *public agencies* by agreement may jointly exercise any power common to the contracting parties, authority to levy a fee, assessment, or tax. . . .”) (emphasis added); and Cal. Gov't. Code Section 6500 (definition of public agency specifically identifies cities, but not subdivisions of the city).

Once the JPA has been formed, the Department, as a “local agency” within the definition of Government Code Section 6585(j), following Board approval, may make applications to the JPA for financing; City Council approval of each application is not required. See Cal. Gov't. Code Section 6585(j) (“Local agency” means “[a] party to the agreement creating the authority, *or an agency or subdivision of that party*, sponsoring a project of public capital improvements, or any city, county, city and county, authority, district, or public corporation of this state.”) (emphasis added); Cal. Gov't. Code Section 6588.7(c) (“[a] *local agency* shall not apply to an authority [the JPA] for financing of a utility project pursuant to this section unless the *legislative body* of the *local agency* has determined all of the following ... (requirements omitted).” (emphasis added); and Cal. Gov't. Code Section 6585(i) (“Legislative body” means “[t]he governing body of a *local agency*.”) (emphasis added).

Pursuing this financing tool now by forming the JPA does not commit the Board or City Council to any project, financing or rate. As noted above, the Board will be required to approve each financing application before it is submitted to the JPA. If the JPA is formed, the Department plans to request authorization for the first financing (for approximately \$400 million) sometime during the summer 2015, with a targeted closing date in the fall of 2105.

The remaining steps to be conducted that will culminate in the financing through the JPA are listed in an attachment to the Board Letter.

Charter Requirements

This draft ordinance is transmitted for your approval pursuant to Article 6 of the City Charter and Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with Section 6500), after approval by the Board of Water and Power Commissioners of the Department of Water and Power.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the establishment of a joint powers authority is pursuant to the General Exemption described in CEQA Guidelines Section 15061(b)(3).

Recommendation

Based on the foregoing, it is requested that the City Council adopt the draft ordinance, which has been provided for your consideration and action. A copy of the CAO report, Board Letter and attachments, and Resolution are included in the Council File.

Council Rule 38 Referral

Pursuant to Council Rule 38, a copy of the draft ordinance has been presented to the Board of Water and Power Commissioners.

If you have any questions regarding this matter, please contact Assistant City Attorney Richard Tom, at (213) 367-4580. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM/RT:me
Transmittal