



# Board Agenda Item 50

DATE: March 1, 2016

TO: Board of Supervisors

SUBMITTED BY: Bernard Jimenez, Interim Director  
Department of Public Works and Planning

SUBJECT: Amended Financial Assistance Application to the State Water Resources Control Board  
Clean Water State Revolving Fund Program, Loan Funding; Waterworks District No. 38  
Sky Harbour, Wastewater Treatment Facilities

RECOMMENDED ACTION(S):

**Sitting as the Board of Directors of Waterworks District No. 38:**

- 1. Adopt a Resolution authorizing the Director of the Department of Public Works and Planning, or his or her designee, to submit a financial assistance application to the State Water Resources Control Board, Clean Water State Revolving Fund, for funding for the construction of improvements to the wastewater treatment facilities serving Waterworks District No. 38, and designating the Chairman as the Authorized Representative to execute the financing agreement and the Director of Public Works and Planning, or his or her designee, as the Authorized Representative for all other purposes, including giving required assurances, certifications, and commitments (\$600,000), and**
- 2. Adopt a Resolution relating to reimbursement from the State Water Resources Control Board, Clean Water State Revolving Fund, increasing the maximum principal amount for capital expenditures for Wastewater Treatment Facility Improvements for the facility serving Waterworks District No. 38 (\$600,000).**

The Clean Water State Revolving Fund (CWSRF) is a federal and state funded program administered by the State Water Resources Control Board (SWRCB), created to provide funding for a wide variety of water quality projects including municipal wastewater treatment projects. The Department of Public Works and Planning (Department) proposes to use CWSRF funds for the construction of improvements to the wastewater treatment plant and sewer collection system (Facilities) serving Waterworks District No. 38 (WWD 38).

As a condition of funding, the SWRCB requires that there be an Authorized Representative to serve as designated signatory for application documents, many of which must be certified by a licensed civil engineer. In addition, an Authorized Representative must be designated to sign the financing agreement that may be offered. The Board of Supervisors, sitting as the Board of Directors of WWD 38 (Board), previously authorized submittal of an application and execution of a financing agreement in an amount not to exceed \$500,000, through Resolution 11-351 (adopted October 25, 2011). The Board also adopted a reimbursement resolution (13-460, adopted December 10, 2013) with the same authorization amount.

Approving the first recommended action will increase the maximum principal amount and borrowing authority originally stated in Resolutions 11-351 and 13-460, from \$500,000 to \$600,000. The resolution also provides

that the Chairman of the Board is the Authorized Representative for purposes of signing the financing agreement and that the Director of Public Works and Planning (Director), or his or her designee, is the Authorized Representative for all other purposes, including providing the assurances, certifications, and commitments required for the financial assistance application.

Approval of Recommended Action 2 will declare the County's intent to seek reimbursement for project expenses incurred in relation to the construction of the facilities.

#### ALTERNATIVE ACTION(S):

Declining to approve the recommended actions would require the community to seek an alternative source of funding for the proposed additional improvements. This would delay and increase the costs associated with the project because new application materials would need to be completed. The existing assessment (levied by Resolution 13-256, adopted August 6, 2013) dedicated as pledged revenue for repayment of the loan (Resolution 13-459, adopted December 10, 2013) is sufficient to cover the increase in principal.

#### FISCAL IMPACT:

There will be no net County cost associated with the recommended actions. All costs associated with the project will be paid by the benefiting property owners within WWD 38, through the SWRCB CWSRF loan.

#### DISCUSSION:

WWD 38 was formed in 1965 to provide community water and wastewater service for the Sky Harbour subdivision, also known as Millerton Lake Park Estates. The subdivision contains 231 lots and is located approximately six miles north of Millerton Road on Sky Harbour Road. The County provides operations and maintenance services for WWD 38.

The Facilities serving WWD 38 is more than 40 years old and several pieces of equipment involved in the treatment process have exceeded their useful service life. Planned improvements include the installation of clarifier machinery, aerator, effluent pump, and safety features. Installing those improvements will increase the Facility's efficiency, reliability and performance. In addition, two sewage lift stations adjacent to the Millerton Lake shoreline will be repaired and improved with monitoring/telemetry equipment and backup electrical generators, which will improve response time in the event of a lift station failure, thus decreasing the potential for sewage overflow into Millerton Lake.

The Department, acting on behalf of WWD 38, is seeking funding through the CWSRF program for needed improvements to the Facility. The CWSRF was established by the 1987 Amendments to the Clean Water Act to promote water quality by funding a wide variety of water quality projects including municipal wastewater treatment projects. Standard terms for loans under SWRCB programs are 20 year terms with an interest rate set at half of the average rate of State issued general obligation bonds issued within the prior year. This will be set at the time a funding commitment is made by SWRCB, but is presently averaging approximately 1.6%.

Loans under the CWSRF program are accomplished by an installment sale agreement. CWSRF program funds may include the proceeds of tax-exempt bonds issued by the State. For that reason, standard terms for CWSRF installment sale agreements also include:

- Imposing certain "material event" continuing disclosure requirements on the recipient during the term of the loan;
- Obligating the recipient not to take, authorize, permit, or fail to take any action during the term of the loan that would impair the tax-exempt status of the State's bonds;
- Requiring the recipient to allocate at least 85 percent of disbursements to project expenditures within

three years of the agreement;

- Requiring the recipient to limit “private business use” of the project (which includes use by the federal government) during the term of the loan; and
- Prohibiting the recipient from privatizing the project during the term of the loan.

Proceeds from CWSRF loans may only be spent on “eligible project costs,” as defined in the SWRCB’s “Policy for Implementing the Clean Water State Revolving Fund.” All expenses related to the project are anticipated to be eligible project costs.

The Board previously adopted Resolution 11-351 on October 25, 2011, authorizing submittal of an application in the amount of \$500,000. Resolution 11-351 also authorized the Director of the Department to execute any related documents or agreements necessary to participate in the CWSRF program, subject to the approval of County Counsel and the Auditor-Controller/Treasurer-Tax Collector. The first recommended action will increase the borrowing limit from \$500,000 to \$600,000 and transfer authority to execute the agreement to the Chairman of the Board. On December 10, 2013, the Board adopted Resolution 13-460, required to allow the reimbursement of capital expenditures up to \$500,000 on the project.

The proposed Resolutions will amend the existing resolutions to increase the maximum principal amount and borrowing authority originally stated in Resolutions 11-351 and 13-460 from \$500,000 to \$600,000. The first recommended resolution directs and authorizes the Director to submit an amended application to the SWRCB for financing through the CWSRF program in an amount not to exceed \$600,000, and authorizes the Chairman as the only representative authorized to execute a financing agreement. The second resolution demonstrates to the SWRCB that the County intends to seek reimbursement for project related capital expenditures up to \$600,000.

Formal direction from the Board to submit an application for financing under the CWSRF program, including the maximum principal amount is required by the SWRCB. Funds disbursed under the CWSRF program may include proceeds from the sale of tax-exempt bonds issued by the state; therefore, the SWRCB also requires the agency adopt a resolution to request reimbursement for capital expenditures. The proposed resolutions specify that all other provisions of Resolutions 11-351 and 13-460 remain in effect.

To receive financing through these programs a dedicated source of revenue for repayment of the loan must also be designated. Resolution 13-256 (adopted August 6, 2013) authorized and adopted the levy of an assessment for operation and maintenance of, including improvements to or replacement of, the Facilities and their components. Resolution 13-459 (adopted December 10, 2013) pledged and dedicated revenues from that assessment to repayment of a CWSRF loan. The projected assessment revenues will cover the increased borrowing authority being requested.

#### OTHER REVIEWING AGENCIES:

The Citizens Advisory Committee for WWD 38 approved the submittal of the application. The Debt Advisory Committee reviewed and recommended the maximum principal amount increase on January 15, 2016.

#### REFERENCE MATERIAL:

BAI #35; December 10, 2013  
BAI #17; August 6, 2013  
BAI #31; June 18, 2013  
BAI #33; October 25, 2011

ATTACHMENTS INCLUDED AND/OR ON FILE:

Location Map

On file with the Clerk - Amended Authorization Resolution

On file with the Clerk - Reimbursement Resolution

CAO ANALYST:

John Hays