

RESOLUTION NO. 2015-14

A RESOLUTION OF THE HEBER PUBLIC UTILITY DISTRICT AMENDING RESOLUTION 2015-2 REIMBURSEMENT RESOLUTION FOR THE FINANCIAL ASSISTANCE APPLICATION SUBMITTED TO THE STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD)

WHEREAS, the Heber Public Utility District "Agency" desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the Agency intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations; and

WHEREAS, on March 19, 2015, the Heber Public Utility District adopted Resolution 2015-2 which stated that the reasonably expected maximum principal amount of the Project Funds is \$7,000,000; and

WHEREAS, the Heber Public Utility District has determined through a competitive bidding process that the total project cost exceeds the expected maximum principal amount established by Resolution 2015-2.

NOW, THEREFORE, THE AGENCY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$10,000,000.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, this Agency is not aware of the previous adoption of

HEBER PUBLIC UTILITY DISTRICT

REPORT TO BOARD OF DIRECTORS

MEETING DATE: October 15, 2015

FROM: Laura Fischer, General Manager

SUBJECT: Adopt Resolution 2015-14 Amending Resolution 2015-2 Adopting a Reimbursement Resolution for the Financial Assistance Application Submitted to the State Water Resources Control Board.

ISSUE:

Shall the Board of Directors adopt Resolution 2015-14 Amending Resolution 2015-2 adopting a reimbursement resolution for the financial application to the State Water Resources Control Board?

GENERAL MANAGER'S RECOMMENDATION:

It is recommended that the Board of Directors adopt Resolution 2015-14 Amending Resolution Number 2015-2 adopting a reimbursement resolution for the finance agreement with State Water Resources Control Board.

FISCAL IMPACT:

The bid for the construction of the project came in about \$3M over the Engineer's Probable Cost Estimate. The Resolution 2015-2 states that the total finance agreement would not exceed \$7 Million dollars. This amount needs to be adjusted to \$10 Million dollars.

BACKGROUND:

On March 19th the Board adopted Resolution Number 2015-2 which allows the Heber Public Utility District to get reimbursed for expenditures made toward the water treatment plant improvement project prior to the completed finance agreement. The Resolution establishes a Finance Agreement Limit of \$7 Million dollars.

Since the bids received were over the engineer's probable cost estimate the total project cost has increased from \$6,236,000 (estimated) to an actual cost of \$9,553,345 a new Finance Agreement Limit must be set. I have attached a copy of the letter we submitted to the State Water Board requesting additional funding for the completion of the Water Treatment Plant Improvement Project.

DISCUSSION:

The adoption of Resolution 2015-14 establishes a new Finance Agreement Limit of \$10 Million dollars and allows the Heber Public Utility District to get reimbursed for expenditures made toward the water treatment plant improvement project prior to the completed finance agreement.

CONCLUSION:

This Resolution is a requirement from the State Water Board in order to secure the Financing for the Water Treatment Plant Improvement Project.

ALTERNATIVES:

- 1) Do not adopt Resolution 2015-14, which will further delay the project.
- 2) Do not adopt Resolution 2015-14, but direct staff to make some changes to the language.
- 3) Provide alternate direction to staff regarding the Resolution 2015-14 and the possible reimbursement of expenditures made in preparation of the completed water treatment plant improvement project.

Respectfully Submitted,

Laura Fischer,
General Manager

Attachments: Resolution 2015-14

Letter to State Water Board Requesting Additional Funding for Water Treatment Plant Improvement Project

official intents by the Agency that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the Agency in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

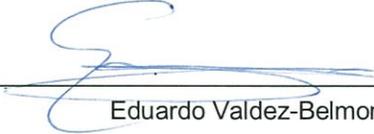
SECTION 7. All the recitals in this Resolution are true and correct and this Agency so finds, determines and represents.

AYES: S. Escobedo, T. Sandoval, E. Valdez-Belmonte, D. Garcia-Ruiz, M. Lizarraga

NOES:

ABSENT:

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Heber Public Utility District held on the 15th day of October, 2015.



Eduardo Valdez-Belmonte, Board President

APPROVE AS TO FORM:



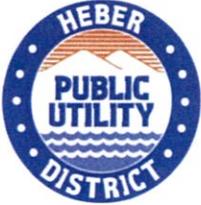
Steven M. Walker, General Counsel

ATTEST:

I, Raquel R. Carrillo, Secretary to the Board of the Heber Public Utility District, County of Imperial, State of California, DO HEREBY CERTIFY that the foregoing resolution was duly passed, approved and adopted by the Board of Directors of the Heber Public Utility District at its regularly scheduled meeting held on the 15th of October 2015.



Raquel Carrillo, Secretary of the Heber Public Utility District



Heber Public Utility District

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October 1, 2015

Trinh-Le Uyen
State Water Resources Control Board
Senior Sanitary Engineer
P. O. Box 97377
Sacramento, CA 95899

Agreement Number: 14-300-550; Project Number: 1310007-002C

Dear Ms. Uyen;

Thank you, on behalf of the Heber Public Utility District (HPUD) Board of Directors and myself for your invaluable assistance in maximizing the HPUD Water Treatment Plant Improvement Project (Project) funding assistance. In March of 2015, the HPUD Board of Directors approved a Finance Agreement with the State Water Board. At that time the Engineer's Probable Cost Estimate had a projected construction cost of \$5,171,429 and a total project cost estimate of \$6,236,000 (including design and other allowances). The purpose of this letter is to inform the Water Board that actual costs have been determined for the Project, which far exceed the previously communicated \$6.2 Million estimate, and to respectfully request additional funding and an amendment to the aforementioned funding agreement.

The HPUD advertised the project for construction bids in August of 2015. The District received three bids. The two lowest bids were within \$132,000 of each other, thus the costs were determined to be reliable. The lowest bid was deemed 'non-responsive' as they did not submit completed DBE requirements with the bid packet as stipulated in the bidder instructions. This bid will be rejected and the next lowest bid is being considered for approval. The bid tabulation documents have been submitted to the Water Board Engineering staff for their review and consideration.

The responsive bid for construction was \$8,099,000. The adjusted Engineering and other allowances, which are based on a percentage of actual construction costs, total \$1,454,345. The construction and engineering allowances bring the total project cost estimate to \$9,553,345. This is \$3,317,345 over the projected total project cost.

Based on the project need and clearly demonstrated hardship, we respectfully request an additional \$2,000,000 in grant funds and an additional \$1,317,345 in subsidized loan proceeds. This would bring the total grant amount to \$5,000,000 and the loan amount to \$4,553,345. This increase will allow the HPUD to move forward with the completion of the water treatment plant improvement project.

Again, I wholeheartedly express my gratitude to you and your team. Should you need additional information or documentation, please don't hesitate to contact me at (760) 482-2440 or on my cell at (760) 336-1572.

Sincerely,

A handwritten signature in blue ink that reads "Laura Fischer". The signature is written in a cursive, flowing style.

Laura Fischer,
General Manager

CC: Sean Sterchie, P.E. Water Board
Scott Ketchum, P.E. Water Board
John Paul Blanco, P.E. Water Board
Graciela Lopez, Finance Manager HPUD
Steve Walker, General Counsel HPUD
Diana Chuang, Bond Counsel HPUD
Jack Holt, District Engineer
Justina Arce, THG