

Pass Water Agency Foundation

DATE: May 13, 2024

TO: Board of Directors of the Pass Water Agency Foundation

FROM: Lance Eckhart, General Manager, SGPWA

BY: Jeff Ferre, General Counsel, SGPWA
Thomas Todd, Chief Financial Officer, SGPWA

SUBJECT: Formation of Pass Water Agency Foundation

RECOMMENDATION

Staff recommends that the Foundation Board of Directors take the following actions for the formation of the Pass Water Agency Foundation:

1. Execute Waivers Of Notice And Consent To Holding Of First Meeting.
2. Elect Presiding Officers To Initiate The First Meeting.
 - A. Temporary Chairperson
 - B. Temporary Secretary
3. Adopt Foundation Resolution No. PWAF 2024-1 Authorizing Formation And Adopting Formation Documents.
4. Ratify, Confirm and Approve the SGPWA Board members as the Board members for the Foundation Board.
5. Elect Officers of the Foundation.
 - A. President
 - B. Vice President
 - C. Treasurer
 - D. Secretary
6. Adopt Foundation Resolution No. PWAF 2024-2 Designating Authorized Representatives To Conduct Financial Transactions.

BACKGROUND

At the November 6, 2023, meeting of the SGPWA Board, the SGPWA Board took action to authorize formation of a nonprofit corporation under the Nonprofit Public Benefit Corporation Law pursuant to Section 501(c)(3) of the Internal Revenue Code. The purpose of the nonprofit is to fund sponsorships and events through the use of non-rate revenue and to potentially be used as an instrument for the acceptance of property donations.

Consistent with the mission of SGPWA, the SGPWA Board authorized formation of a nonprofit corporation in order to: (1) promote the knowledge and implementation of the

Agency's mission which is to import supplemental water and to enhance local water supplies; (2) accept the transfer of, and utilize, non-rate revenue received by SGPWA, for example, from cell tower leases and other non-rate revenue sources; (3) utilize such non-rate revenue to fund the nonprofit's activities including community events or sponsoring a third party's community event; and (4) receive, invest and utilize property acquired through the solicitation of contributions, donations, grants, gifts, bequests and the like for the purposes for which the nonprofit is formed; and

FISCAL IMPACT

As mentioned during the November 6, 2023, Board meeting, there is an attendant cost to forming a nonprofit, as well as costs to make yearly filings and pay ongoing fees to keep the nonprofit in good standing. As mentioned previously, here are some estimates for the costs/fees for formation of a nonprofit and to maintain the nonprofit in good standing:

Formation Costs - Fillings - for example,
Secretary of State, IRS, etc. - Approximately \$1,000.00
Attorney/Paralegal Time - Approximately \$5,000.00
Total – Approximately \$6,000.00

Annual Fees

Secretary of State filing, etc. – Approximately \$250.00
Audits, Audit Reviews, or Audit Compilations - \$500 - \$5,000

ANALYSIS

Attached are the customary documents that need to be approved and/or executed as part of the formation process. A brief explanation of each document/action is set forth below:

Attachment 1 - Waiver Of Notice And Consent To Holding Of First Meeting - Required to be signed by the members of the Foundation Board in order to hold its first meeting where the formation documents have not yet been approved.

Attachment 2 - Foundation Resolution No. PWAF 2024 – 1 Authorizing Formation And Adopting Formation Documents – Actions under this Resolution include, but are not limited to, adopting the Bylaws and Articles of Incorporation, authorizing that certain filings and actions take place, and making certain ratifications and consents.

Attachment 3 - Foundation Resolution No. PWAF 2024-2 Designating Authorized Representatives To Conduct Financial Transactions – Actions under this Resolution include designating who can open bank accounts and conduct financial transactions.

Other actions requested of the Foundation Board include the election of temporary officers to get the meeting started, confirming that the SGPWA Board members will serve as the Foundation Board members, and electing officers.