



**BOARD OF DIRECTORS  
EAST BAY MUNICIPAL UTILITY DISTRICT**

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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**AGENDA  
REGULAR CLOSED SESSION**

**Tuesday, March 26, 2024**

**11:00 a.m.**

**Boardroom**

**375 11<sup>th</sup> Street**

**Oakland, CA 94607**

**\*\*\*Please see appendix for public participation instructions\*\*\***

**ROLL CALL:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

**ANNOUNCEMENT OF CLOSED SESSION AGENDA:**

1. Existing litigation pursuant to Government Code section 54956.9(a):
  - a. *Saji Pierce, et al. v. East Bay Municipal Utility District, et al.*  
USDC, N.D. Cal., Case No. 3:21-cv-04325-AGT
  - b. *Tapscott Project, LLC v. East Bay Municipal Utility District*  
Alameda County Superior Court, Case No. 23CV039879
  - c. *Top Solutions, LLC v. East Bay Municipal Utility District*  
Contra Costa County Superior Court, Case No. MSC20-01851

***(The Board will discuss Closed Session agenda items in Conference Room 8.)***

**REGULAR BUSINESS MEETING**  
**1:15 p.m.**

**\*\*\*Please see appendix for public participation instructions\*\*\***

**ROLL CALL:**

**BOARD OF DIRECTORS:**

- Recognizing President Lesa R. McIntosh for 25 Years of Service

**ANNOUNCEMENTS FROM CLOSED SESSION:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

**CONSENT CALENDAR:** (Single motion and vote approving 6 recommendations.)

1. Approve the Regular Meeting Minutes of March 12, 2024.
2. File correspondence with the Board.
3. Award a contract beginning on or after March 26, 2024 to the lowest responsive/responsible bidder, Kenneally Optics, Inc. dba Prestige Lens Lab, for supplying prescription safety glasses and optician-supervised fitting services for the District for three years, with two options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$136,727 under Request for Quotation No. 2405.
4. Award a sole source contract beginning on or after March 26, 2024 to A/C Service and Repair, Inc., for supplying one rebuilt Allis Chalmers cone valve for Wastewater Pump Station H for a total cost, after the addition of taxes, not to exceed \$110,000.
5. Authorize the Office of General Counsel to employ the law firm of Complex Appellate Litigation Group LLP, for services of special counsel related to providing representation in the appeal in the *Pierce, et al. v. East Bay Municipal Utility District, et al.* matter.
6. Approve the February 2024 Monthly Investment Transactions Report.

**DETERMINATION AND DISCUSSION:**

7. Authorize the execution of (i) a Second Amendment to the Sumitomo Mitsui Banking Corporation Standby Letter of Credit and Reimbursement Agreement and a related Fee Agreement to extend its expiration date for a term of five years at an annual cost of 0.32 percent based on the District's current credit ratings for the Commercial Paper Notes (Water Series), Tax-Exempt Subseries A-1 and (ii) a Third Amendment to the Bank of America, N.A. Revolving Credit Agreement and a related Fee Agreement to extend its expiration date for a term of four years at an annual cost of 0.32 percent based on the District's current credit ratings for the Commercial Paper Notes (Water Series), Tax-Exempt Subseries A-2. (Resolution)

**DETERMINATION AND DISCUSSION:** (Continued)

8. Authorize actions related to the fourth-year general salary increase. (Resolution)
  - 8a. Approve implementation of the fourth year general salary increase of 3.4% in accordance with the 2021-2025 Memoranda of Understanding between the District and the American Federation of State, County and Municipal Employees Locals 2019 and 444, International Union of Operating Engineers Local 39 and International Federation of Professional and Technical Engineers Local 21.
  - 8b. Authorize a 3.4% general salary increase for Senior Management Team Members, Managers, Confidential employees and other Non-Represented employees in accordance with Resolution No. 35269-22. For purposes of Section 54953(c)(3) of the Brown Act, Senior Management Team Members referenced herein include: General Manager, General Counsel, Secretary of the District, Director of Engineering and Construction, Director of Finance, Director of Operations and Maintenance, Director of Wastewater, Director of Water and Natural Resources, Director of Customer and Community Services, Director of Human Resources, Special Assistant III (Office of Diversity, Equity, and Culture), Special Assistant IV (Legislative Affairs), and Special Assistant IV (Public Affairs).
9. Approve the candidate evaluation criteria and interview questions approved by the Ad Hoc Committee appointed by the Board of Directors for filling the vacant Board seat in East Bay Municipal Utility District Ward 2.
10. Conduct a continued second reading of amendments to East Bay Municipal Utility District Campaign Finance Reform Ordinance No. 316 (CFRO) and adopt an Ordinance to amend the CFRO, entitled “An Ordinance Amending Ordinance No. 316 Entitled ‘East Bay Municipal Utility District Campaign Finance Reform Ordinance’”.  
(Continued Second Reading and Vote – Ordinance No. 375-24)
11. General Manager’s Report.
  - Water Supply Update - water production; precipitation to date; reservoir storage; and forecasted supply conditions for the remainder of water year 2024

**REPORTS AND DIRECTOR COMMENTS:**

12. Committee Reports:
  - Planning
  - Legislative/Human Resources
  - Finance/Administration
13. Other Items for Future Consideration.
14. Director Comments.

**ADJOURNMENT:**

***The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, April 9, 2024.***

**Disability Notice**

*If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.*

**Document Availability**

*Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11<sup>th</sup> Street, Oakland, California, during normal business hours, and can be viewed on our website at [www.ebmud.com](http://www.ebmud.com).*

## BOARD CALENDAR

*Meeting dates, times, and locations are subject to change*

Date	Meeting	Time/Location	Topics
<b>Tuesday, March 26</b>	<b>Finance/Administration Committee</b>	8:30 a.m. Boardroom	<ul style="list-style-type: none"> <li>• Monthly Investment Transactions Report</li> <li>• Extend Liquidity Agreements for Commercial Paper Notes (Water Series) Subseries A-1 and Subseries A-2</li> <li>• Applicant Project Process Improvements Update</li> </ul>
	<b>2024 Recycled Water Strategic Plan Workshop</b>	9:30 a.m. Boardroom	
	<b>Board of Directors</b>	11:00 a.m. Boardroom 1:15 p.m. Boardroom	
<b>Monday, April 1</b>	<b>Cesar Chavez Day Observed</b>		<ul style="list-style-type: none"> <li>• <i>Offices Closed</i></li> </ul>
<b>Tuesday, April 9</b>	<b>Planning Committee</b>	TBD Boardroom	<ul style="list-style-type: none"> <li>• Closed Session</li> <li>• Regular Meeting</li> </ul>
	<b>Legislative/Human Resources Committee</b>	TBD Boardroom	
	<b>Board of Directors</b>	11:00 a.m. Boardroom 1:15 p.m. Boardroom	
<b><u>2024 Board Committee Members</u></b>			
	Finance/Administration	Katz {Chair}, Chan, Patterson	
	Legislative/Human Resources	Patterson {Chair}, McIntosh, Young	
	Planning	Young {Chair}, Chan, Linney	
	Sustainability	Linney {Chair}, Katz, Young	

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**MINUTES**

**Tuesday, March 12, 2024  
East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

**Regular Closed Session Meeting**

Vice-President William B. Patterson called to order the Regular Closed Session Meeting of the Board of Directors at 11:17 a.m. in the Administration Building Boardroom.

**ROLL CALL**

Directors April Chan, Andy Katz, Doug A. Linney, Marguerite Young and Vice-President William B. Patterson were present at roll call. President Lesa R. McIntosh was absent (excused).

Staff participants included General Manager Clifford C. Chan and General Counsel Derek T. McDonald.

**PUBLIC COMMENT**

- Addressing the Board were the following: 1) Eric Larsen, President, AFSCME Local 444 commented on a PERB charge filed on behalf of a Local 444 member, read from the Water Distribution Crew Foreman job classification; and 2) Ivette Rivera commented on the Pierce/Bland case and documents she provided to during the Planning and Legislative/Human Resources Committees earlier in the day.

Director Young asked Eric Larsen his suggested resolution to the matter regarding the Local 444 member. Mr. Larsen responded with a suggested resolution.

**ANNOUNCEMENT OF CLOSED SESSION AGENDA**

Vice-President Patterson announced the closed session agenda and the Board convened to Administration Building Conference Room 8 for discussion.

**Regular Business Meeting**

Vice-President William B. Patterson called to order the Regular Business Meeting of the Board of Directors at 1:17 p.m. in the Administration Building Boardroom.

**ROLL CALL**

Directors April Chan, Andy Katz, Doug A. Linney, Marguerite Young and Vice-President William B. Patterson were present at roll call. President Lesa R. McIntosh was absent (excused).

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, and Secretary of the District Rischa S. Cole.

## **BOARD OF DIRECTORS**

Vice-President Patterson led the Pledge of Allegiance.

Director Young announced EBMUD's newest Affinity Group – Women Employees' Resource Opportunity Collaboration Community (WE ROCC) is honoring Women's History Month at the District and will host two events to broaden awareness and support for the role of women in construction utility service and who were employed at the District. On behalf of the Board of Directors, Director Young expressed support for WE ROCC and Women's History Month.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

Vice-President Patterson announced the Board met in closed session this morning to consider a request by the General Counsel to authorize initiation of litigation in one matter. All Directors were present at the closed session, with the exception of President McIntosh, who was absent and excused, and a Director for the vacant seat in Ward 2. All Directors present voted to authorize the General Counsel to initiate litigation in the matter. The action, defendants, and other particulars will be disclosed, upon inquiry once the action is formally commenced. There were no other announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following: 1) George Cleveland commented on information he received about employee concerns in the District's Contact Center and read excerpts from an online post regarding the employee concerns; and 2) Ivette Rivera commented on documents she provided to the Board regarding the Pierce/Bland case, read excerpts from the documents, and commented on documents regarding 9<sup>th</sup> circuit proceedings in a prior case she had against the District.

## **CONSENT CALENDAR**

- Item 4 was pulled from the Consent Calendar for separate discussion.
  - Motion by Director Young, seconded by Director Linney to approve the recommended actions for Items 1-3 and 5-6 on the Consent Calendar carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).
1. **Motion No. 045-24** – Approved the Regular Meeting Minutes of February 27, 2024.
  2. The following correspondence was filed with the Board: **1)** Presentation entitled, "EBMUD Campaign Finance Reform Ordinance (CFRO)," dated March 12, 2024; **2)** Presentation entitled, "Bay-Delta Water Quality Control Plan Ad Hoc Committee," dated March 12, 2024; **3)** Presentation entitled, "Oakport Development Lease" dated March 12, 2024; **4)** Presentation entitled, "Water Supply Update" dated March 12, 2024; **5)** Speakers' Bureau and Outreach Record CY24 dated March 12, 2024; and **6)** Document titled, "To EBMUD Board of Directors and AFSCME International/AFSCME 57/AFSCME 444 from Ivette Rivera," dated March 11, 2024.
  3. **Motion No. 046-24** – Awarded a sole source contract beginning on or after March 12, 2024 to Rexel USA, Inc. for supplying four 4kV breakers and one remote racking device for Camanche Powerhouse for a total cost, after the addition of taxes, not to exceed \$414,875.

4. **Authorize an agreement beginning on or after March 12, 2024 with Panorama Environmental, Inc. in an amount not to exceed \$249,818 for preparation of California Environmental Quality Act documentation for the Miller Road Trench Soil Management Project.**

Director Chan asked questions about the timeline for completing the California Environmental Quality Act documentation, the project start date, the authoritative bodies that would consider permitting and approving the project, the timeline for Alameda County to repair Redwood Road, whether the District received permission from Alameda County to move barriers on Redwood Road to access the Miller Road site, the number of trucks that currently travel to and from the site, and the need for the Board to approve the agreement at this time since Redwood Road is closed. Senior Civil Engineer Casey J. LeBlanc and Manager of Maintenance and Construction/Water Operations Crystal J. Yezman responded to the questions and said staff would check on Alameda County's timeline for repairing Redwood Road and confirm the District's right to use Redwood Road to access the Miller Road site and Upper San Leandro Dam.

- Motion by Director Young, seconded by Director Linney to approve the recommended actions for Item 4 carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

**Motion No. 048-24** – Authorized an agreement beginning on or after March 12, 2024 with Panorama Environmental, Inc. in an amount not to exceed \$249,818 for preparation of California Environmental Quality Act documentation for the Miller Road Trench Soil Management Project.

5. **Motion No. 047-24** – Authorized the purchase of network firewall hardware and software licensing, maintenance and support, and implementation support beginning on or after March 12, 2024 from NuSpective, Inc. for five years for a total amount not to exceed \$701,866. This purchase will be made under State of California contracts available for use by local governments.
6. **Resolution No. 35389-24** – Authorizing Acceptance Of Grant Awarded By The United States Bureau Of Reclamation For Aquatic Ecosystem Restoration.

## **DETERMINATION AND DISCUSSION**

7. **Legislative Update.**

Manager of Intergovernmental Affairs Kathy Viatella reviewed Legislative Report No. 02-24 which included one bill for consideration and information on legislation relating connection fees and capacity charges. SB 903 (Skinner) Environmental health: product safety: perfluoroalkyl and polyfluoroalkyl (PFAS) substances as amended on February 21, 2024, is intended to provide a comprehensive pollution prevention approach for PFAS. The bill would primarily do four things: 1) beginning January 1, 2030, prohibit the distribution, sale, or offer for sale in the state any product that contains intentionally added PFAS unless the Department of Toxic Substances Control (DTSC) has determined that the use of PFAS in a product is a currently unavoidable use; 2) allow DTSC to implement the PFAS ban earlier than 2030 if it is feasible to do so; 3) establish a process by which manufacturers can petition DTSC for a determination, and DTSC makes an evaluation and determination, as to whether the use of PFAS in a product category is a currently unavoidable use; and 4) require DTSC to adopt regulations on or before January 1, 2027, to implement the bill's provisions. She said staff is recommending the Board vote to support SB 903. The bill was discussed with the Legislative/Human Resources Committee earlier and the Committee voted to support the staff recommendation. Next, she provided an update on legislation relating to connection fees and

capacity charges that is of direct interest to the District: AB 1820 (Schiavo): Housing development projects: applications: fees and exactions; AB 2729 (Joe Patterson): Residential fees and charges; SB 937 (Wiener): Development projects: permits and other entitlements: fees and charges; and SB 1210 (Skinner): New housing construction: electrical, gas, sewer, and water service connections: charges. She reported staff is evaluating these measures and have identified initial areas of concern. Staff has met with the bill authors' offices to understand the intent of the bills and to explain the District's fees and charges. Ms. Viatella responded to questions from the Board regarding the goals of the bills; the one percent cap on connection fees and capacity charges in SB 1210 for electrical gas, sewer and or wastewater service based on the developer's reported permit value; and working with other utilities that have connection fees and capacity charges like the District. Customer Services Manager Jack J. Flynn responded to questions regarding the District's estimated connection fees and charges for Accessory Dwelling Units. Ms. Viatella concluded with a brief update on state and federal legislative activities. The Board requested additional information on California Department of Housing and Community Development grant programs to determine if the programs' grant funding could be used to pay for connection fees and charges to help accelerate affordable housing construction.

- Motion by Director Young, seconded by Director Katz to approve the recommended actions for Item 7 carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

**Motion No. 049-24** – Received Legislative Report No. 02-24 and approved a position on the following bill: SUPPORT SB 903 (Skinner) Environmental health: product safety: perfluoroalkyl and polyfluoroalkyl substances; and received information on connection fee and capacity charge legislation.

8. **Considered a second reading of amendments to East Bay Municipal Utility District Campaign Finance Reform Ordinance No. 316.**

General Counsel Derek T. McDonald presented an overview of the proposed amendments to the Campaign Finance Reform Ordinance (CFRO) No. 316. The District's CFRO was enacted in 1992 and has been amended several times since to reflect changes in federal and state law. The CFRO was last updated in January 2010. Since that time, there have been several changes in the Political Reform Act (PRA) and its implementing regulations that are recommended for incorporation into the CFRO. All recommended changes have been drafted or reviewed in coordination with the District's outside legal counsel who has expertise in campaign finance and elections laws. He highlighted recommended revisions that had been discussed during the January 9 and February 13 Legislative/Human Resources Committee meetings and at the February 27 Board meeting which include incorporating the Levine Act into the CFRO; updating definitions (e.g., contribution, qualified campaign expenditure, Small Contributor Committee); reorganization of the document information; mandating website publishing of contribution limits as a best practice; correcting and updating the reference to the CPI to "San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers"; using non-binary terms when referencing persons; updating references to the PRA and other common terms for consistency; updating the voluntary expenditure limit from \$0.53 to \$0.80 per ward resident to reflect CPI adjustments since the CFRO was last updated in 2010; and updating advertisement disclaimer requirements. During the February 27 Board meeting, the Board began discussing but did not come to consensus on revisions to campaign contribution limits for persons and for Small Contributor Committees; prohibitions on contractor donations; and on increasing the amount a candidate can loan (e.g., self-fund) their campaign. Mr. McDonald reviewed each item and clarified he would be requesting a vote on each recommendation after the Board has

discussed its options. At the January 9 Legislative/Human Resources Committee meeting, staff recommended increasing the contribution limit for persons from \$600 to \$900 to reflect CPI adjustments since 2010; at their February 13 meeting, the Committee requested the contribution limit be increased to \$1,000. During the February 27 meeting, the Board discussed but did not reach consensus on increasing the contribution limits for persons to \$2,500. There was considerable Board discussion and Director Linney commented on costs to run campaigns and how low contribution limits can impact a candidate's ability to raise funds. He recommended increasing contribution limits for persons to \$2,500 and \$5,000 for Small Contributor Committees. Director Linney commented he is okay with leaving the prohibitions on contractor donations as is. Director Young commented on her experience raising campaign funds, expressed support for Director Linney's recommendations, and said she would be willing to consider higher contribution limits. Director Young also commented she is okay with leaving the prohibitions on contractor donations as is. Directors Katz and Chan commented on their preference to increase contribution limits for persons to \$1,000 and \$2,000 for Small Contributor Committees. Director Patterson commented he agreed with increasing the contribution limits for both and expressed support for contribution limits of \$2,500 for persons and \$5,000 for Small Contributor Committees. There was additional Board discussion on the costs to run a campaign; setting contribution limits at \$2,000 for persons and \$4,000 for Small Contributor Committees; the option to increase the contribution limits according to CPI; and voting on all items in one motion. Mr. McDonald clarified that after receiving Board input on each item, he would conduct a straw poll, and then summarize the information for Board consideration. At the January 9 Legislative/Human Resources Committee meeting, staff recommended increasing the contribution limit for Small Contributor Committees from \$1,200 to \$1,800 and adjusting the limit biennially based on CPI; at their February 13 meeting, the Committee requested the limit be increased to \$2,000. During the February 27 meeting, the Board discussed but did not reach consensus on increasing the contribution limits for Small Contributor Committees to \$5,000. Based on earlier discussions, there was general Board consensus to consider increasing the limits for Small Contributor Committees to \$4,000. Next, Mr. McDonald reviewed the request at the February 27 Board meeting by former Director John A. Coleman for the Board to consider establishing a new limit on the amount a candidate can loan (e.g., self-fund) their campaign. Under the CFRO, a candidate may loan up to \$10,000 to their own campaign. California law sets a \$100,000 limit on campaigns for a city or county office. The Board discussed the current limit which was established in the 1990s, adding a provision in the CFRO to allow the limit to be adjusted biennially to reflect CPI, and potential interactions with self-funding limits and contractor donations. There was general Board consensus to increase the amount a candidate can loan their campaign from \$10,000 to \$25,000 and to include a provision in the CFRO to adjust the limit on a biennial basis to reflect CPI. The final item for consideration focused on proposed revisions to the CFRO's prohibition on contractor donations. Mr. McDonald reviewed the current language in the CFRO; the proposed recommendations presented to the Legislative/Human Resources Committee on January 9 which would prohibit donations from any District contractor, not just for Board-approved contracts; prohibit a contractor who violates the CFRO's donation prohibitions from being awarded any contract for one year following the violation, even if the contract is a low-bid contract; and the revisions requested by the Committee at their February 13 meeting which would eliminate the prohibition on contracting with contractors that have contributed in violation of the CFRO, and allow Board members to recuse themselves from participating in consideration of a contract from a contractor that has donated to their campaign. There was considerable Board discussion on the options presented. Directors Katz, Linney and Young expressed concern with the option for allowing Board members to recuse themselves from participating in consideration of a contract from a contractor that donated to their campaign. Director Chan commented on potential confusion if the Board eliminated the prohibition on contracting (the Levine Act would apply) and implemented requirements that included Board member recusal and providing for censure of any Board member who repeatedly accepts contributions in violation of the

CFRO. There was more Board discussion on the penalty for contractors and a penalty for candidates who violate the CFRO. Mr. McDonald clarified the CFRO does not currently include a penalty for candidates who violate provisions regarding contractor donations. Discussions continued on the whether the existing ordinance is enforceable; the Board's authority to enforce provisions of the CFRO; best practices on enforcement provisions; information available to candidates and contractors regarding current contracts at the District; clarification on prohibitions on contracting with contractors that are being considered for a low-bid contract; and revising the CFRO prohibitions on contracting with contractors to include all contracts approved by the Board. After the Board deliberated on the proposed revisions, Mr. McDonald summarized the proposed revisions for the Board to consider which include: increasing campaign contribution limits for persons to \$2,000 and \$4,000 for Small Contributor Committees; expanding the provisions on prohibitions on contractor donations to include all contracts approved by the Board and not just contracts subject to the competitive bidding process; and increasing the amount a candidate can loan (e.g., self-fund) their campaign from \$10,000 to \$25,000, and allow for biennial CPI adjustments. Mr. McDonald also confirmed the Board would consider incorporating the Levine Act into the CFRO; updating definitions (e.g., contribution, qualified campaign expenditure, Small Contributor Committee); reorganization of the document information; mandating website publishing of contribution limits as a best practice; correcting and updating the reference to the CPI to "San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers"; using non-binary terms when referencing persons; updating references to the PRA and other common terms for consistency; updating the voluntary expenditure limit from \$0.53 to \$0.80 per ward resident to reflect CPI adjustments since the CFRO was last updated in 2010; and updating advertisement disclaimer requirements. If approved, Mr. McDonald said the revised CFRO would be presented to the Board for a continued second reading and adoption at its meeting on March 26. If there are no additional revisions and the Board adopts the CFRO on March 26, the CFRO would go into effect 30 days later, or on April 25, 2024. Mr. McDonald thanked the Board for their discussion and deliberation on the CFRO revisions.

- Motion by Director Young, seconded by Director Chan to approve revisions to the East Bay Municipal Utility District Campaign Finance Reform Ordinance No. 316 to be considered for approval during a continued second reading and vote by the Board at its meeting on March 26, 2024, carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

**Motion No. 051-24** – Approved the following revisions to the East Bay Municipal Utility District Campaign Finance Reform Ordinance No. 316 to be considered for approval during a continued second reading and vote by the Board at its meeting on March 26, 2024: Increase campaign contribution limits for persons to \$2,000 and \$4,000 for Small Contributor Committees; expand the provisions on prohibitions on contractor donations to include all contracts approved by the Board and not just contracts subject to the competitive bidding process; increase the amount a candidate can loan (e.g., self-fund) their campaign from \$10,000 to \$25,000, and allow for biennial CPI adjustments; incorporate the Levine Act into the CFRO; update definitions (e.g., contribution, qualified campaign expenditure, Small Contributor Committee); reorganization of the document information; mandate website publishing of contribution limits as a best practice; correct and update the reference to the CPI to "San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers"; use of non-binary terms when referencing persons; update references to the PRA and other common terms for consistency; update the voluntary expenditure limit from \$0.53 to \$0.80 per ward resident to reflect CPI adjustments since the CFRO was last updated in 2010; and update advertisement disclaimer requirements.

**Ordinance No. 375-24** – An Ordinance Amending East Bay Municipal Utility District Campaign Finance Reform Ordinance No. 316. (*Second Reading Only – Ordinance No. 375-24*).

9. **Appoint an Ad Hoc Committee comprised of members of the Board of Directors to advise staff on issues arising from the Bay-Delta Water Quality Control Plan update process, including the development and implementation of the proposed Voluntary Agreements and other alternatives under consideration by the State Water Resources Control Board.**

Environmental Affairs Officer Alice E. Towey presented on the Bay-Delta Water Quality Control Plan update process; the scientific basis report released in 2017 which recommended an unimpaired flow approach; the supplemental report released in 2023 which evaluated Voluntary Agreements (VAs) as an alternative approach; and the State Water Resources Control Board (SWRCB) draft staff report released in September 2023, which was released after several water agencies signed the VA Memorandum of Understanding in 2022, functions as the Substitute Environmental Document for Phase 2, and evaluates unimpaired flow and VAs. Staff has been working with the other VA parties and the State to develop the suite of agreements that would be needed to implement the VAs. EBMUD is working with SWRCB staff to develop a Mokelumne River Implementing Agreement that identifies specific obligations for EBMUD and other Mokelumne stakeholders, and Enforcement Agreements which would be signed by the SWRCB and responsible agencies on the Mokelumne River, and which would spell out specific regulatory protections as well as enforcement mechanisms if VA commitments are not met. The SWRCB is planning a three-day workshop in late April focused on the VAs. This workshop will provide the VA parties an opportunity to provide more detail to the SWRCB and the public on the VA flow and non-flow commitments, accounting protocols, science program, governance, enforcement, and transparency. Later this year, the SWRCB is expected to release a draft Program of Implementation for Phase 2 that specifies an implementation pathway for both the “percent of unimpaired flow” approach and the separate VA alternative. A decision from the SWRCB on how to update the WQCP is expected in early 2025. Staff is recommending the Board appoint two Board members to serve as an Ad Hoc Committee to advise staff on issues arising from the Bay-Delta Water Quality Control Plan update process, including the development and implementation of the proposed VAs and other alternatives under consideration by the SWRCB. General Manager Clifford C. Chan discussed the potential makeup of the Ad Hoc Committee noting that ideally the Committee would not include a quorum of the Legislative/Human Resources, Planning, or Finance/Administration Committees as this topic may be presented to these committees at a later date. There was Board discussion regarding the workload and meeting requirements for Ad Hoc Committee members and when information would be made available to the entire Board. Following additional discussion on the potential makeup of the Committee and being mindful of the District’s upcountry partnerships, Directors Katz and Young agreed to serve as the Ad Hoc Committee.

- Motion by Director Linney, seconded by Director Chan to approve the recommended actions for Item 9 carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

**Motion No. 050-24** – Appointed Directors Andy Katz and Marguerite Young to serve as the Ad Hoc Committee to advise staff on issues arising from the Bay-Delta Water Quality Control Plan update process, including the development and implementation of the proposed Voluntary Agreements and other alternatives under consideration by the State Water Resources Control Board.

- 10.1- **Adopt findings and a Mitigation Monitoring Program, as a Responsible Agency under the**  
10.2 **California Environmental Quality Act for the lease of 4.52 acres of property to K to College, d.b.a. SupplyBank.org (SBO) and associated actions at the District’s Oakport property in Oakland; and authorize a 65-year lease with SBO for 4.52 acres of property, located at the District’s Oakport property in Oakland, to allow SBO to develop an office building and a warehouse for its charitable organization and construct for the District a new warehouse and service yard at the District’s Oakport property as consideration for the lease term.**

Director of Customer and Community Services Andrew L. Lee provided the presentation. In 2018, the District and SBO entered into an Exclusive Negotiating Agreement to allow SBO to complete the environmental review and entitlement process for a project proposed by SBO to construct a new office and warehouse to consolidate the headquarters for their non-profit operations on the District’s Oakport property under a 65-year lease. As consideration for the lease, SBO will construct a new warehouse and service yard for the District. SBO has completed its environmental review, obtained conditional use permits, and other approvals from the City of Oakland for its project. Mr. Lee reviewed renderings of the proposed project; the facilities to be constructed; the California Environmental Quality Act (CEQA) documentation completed by the city which includes the project; and EBMUD’s role as the CEQA Responsible Agency in considering the environmental effects in the city’s CEQA documentation. He reported the District has concluded that all potential environmental impacts related to leasing the land and the construction of the facilities by SBO under the lease will be mitigated to a level of less than significant and no other environmental documentation or mitigations are required. The Board is being asked to consider adopting the findings and authorizing the lease with SBO. Mr. Lee responded to Board questions on how much area will be used at the Oakport facility, whether SBO will occupy the entire office space, and clarification on whether SBO and the District will share warehouse space. Supplybank.org Executive Director Benito Delgado-Olson described SBO’s model, how the proposed space has been marketed, proposed lease terms for SBO office space, communications with two prospective anchor tenants, and connectivity to mass transit, and expressed that SBO is not looking to be a commercial landlord but is seeking to build a community of like-minded individuals and organizations.

- Motion by Director Linney, seconded by Director Katz to approve the recommended actions for Item 10.1-10.2 carried (5-0) by the following voice vote: (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

**Resolution No. 35390-24** – Adopting Findings And A Mitigation Monitoring Program As A Responsible Agency Under CEQA And Authorizing Execution Of A Lease Agreement With K To College, Doing Business As SupplyBank.org.

## 11. **General Manager’s Report.**

Water Supply Update – water production; precipitation to date; reservoir storage; and forecasted supply conditions for the remainder of water year 2024

Director of Operations and Maintenance David A. Briggs highlighted the following data as of March 6: gross water production; precipitation in the East Bay (15.73 inches) and in the Mokelumne (34.03 inches); and the snow depth (107 inches) and snow water content (29.10 inches) at Caples Lake. He reviewed 4-day snowfall totals (February 29-March 4), and snowpack levels and snow water equivalent in the Sierras as of March 7. The District’s total system storage was 660,000 acre-feet as of March 6 and is still projected to be approximately 630,000 acre-feet by September 30.

- Director Patterson left the meeting at 3:46 p.m. and returned at 3:51 p.m.

#### General Manager's Report

General Manager Clifford C. Chan announced the Monthly Report was included in the agenda materials and the Speakers' Bureau and Outreach Record CY24 had been provided at Board places.

#### 12. **Committee Reports.**

- Filed with the Board were the Minutes for the February 27, 2024 Finance/Administration Committee.
- Chair Marguerite Young reported the Planning Committee met earlier in the day and received updates and reports on the 2023 Mokelumne Fishery Update; Follow-up Dam Safety Program; Water Quality Program Annual Update – 2023; Regulatory Compliance Semi-Annual Report – July 1, 2023 through December 31, 2023; and Los Vaqueros Reservoir Expansion Project Update.
- Chair William B. Patterson reported the Legislative/Human Resources Committee met earlier in the day and received an update on Legislative Report No. 02-24.

#### REPORTS AND DIRECTOR COMMENTS

#### 13. **Other Items for Future Consideration.**

None.

#### 14. **Director Comments.**

Directors Chan, Katz, Linney, and Young and Vice-President Patterson had no reports.

#### ADJOURNMENT

Vice-President Patterson adjourned the meeting at 3:57 p.m.

SUBMITTED BY:

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Rischa S. Cole, Secretary of the District

APPROVED: March 26, 2024

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William B. Patterson, Vice-President of the Board

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Title:	Prescription Safety Glasses	Meeting Date:	March 26, 2024
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**ALTERNATIVES**

**Do not award this contract.** This alternative is not recommended because the District must comply with Title 8 of the California Code of Regulations, Section 3382, that requires employers to provide eye protection for its employees working in high-risk environments.

**Reject received bid and re-bid.** This alternative is not recommended because the District engaged in a fair and competitive bid process and the bid received meets all specifications and is reasonable for the needed prescription safety glasses.

I:\Sec\2024 Board Related Items\032624 Board Agenda Items\FIN - Prescription Safety Glasses.docx



## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>Materials and Supplies Contract -RFQ 2405</b> Prescription Safety Glasses						<b>DATE:</b> March 18, 2024						
<b>CONTRACTOR:</b> Kenneally Optics, Inc. dba Prestige Lens Lab South San Francisco, CA				Sole Proposer/ Small Business		<b>PERCENTAGE OF CONTRACT DOLLARS</b>						
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>		<b>White Men</b>		<b>25%</b>		<b>0.0%</b>				
\$136,727 *		White	Women	<b>White Women</b>		<b>6%</b>		<b>100.0%</b>				
		White	Women	<b>Ethnic Minorities</b>		<b>25%</b>		<b>0.0%</b>				
<b>CONTRACT EQUITY PARTICIPATION</b>												
<b>COMPANY NAME</b>		<b>ESTIMATED AMOUNT</b>	<b>ETHNICITY</b>	<b>GENDER</b>		<b>CONTRACTING PARTICIPATION</b>						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> Kenneally Optics, Inc. dba Prestige Lens Lab		\$136,727	White		x		100.0%					
<b>SUBS:</b> None												
<b>TOTAL</b>		\$136,727				0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)</b>												
		<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>				
<b>No. of Employees:</b>		1		2		4		7				
<b>Percent of Total Employees:</b>		14.3%		28.6%		57.1%						
<b>MSA Labor Market %:</b>		32.3%		27.8%		39.9%						
<b>MSA Labor Market Location:</b>		Bay Area										
<b>COMMENTS</b>												
<b>Contract Equity Participation:</b> 100% White Women participation. <b>Contract Duration:</b> Three years, with two options to renew for additional one-year periods.  *Total not to exceed: \$136,727												
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>				
NA				NA								





Title:	Purchase of Cone Valve for Wastewater Interceptor Pump Station H	Meeting Date:	March 26, 2024
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**Environmental**

This purchase will facilitate rebuilding or replacement of equipment needed to maintain a critical wastewater pump station which serves over 60 percent of the District’s service area and ensures compliance with the Main Wastewater Treatment Plant’s National Pollution Discharge Elimination System Permit discharge requirements. This pump station equipment is critical to maintaining permit compliance and public health.

**ALTERNATIVES**

**Do not award this contract.** This alternative is not recommended because there is a need for a spare cone valve to facilitate inspection of the existing cone valves.

**Purchase a new cone valve.** This alternative is not recommended because fabricating a new cone valve will not meet the project schedule for the inspection of the existing cone valves and puts the District at risk of a regulatory violation if any of the existing cone valves fail without a spare valve in stock.

I:\Sec\2024 Board Related Items\032624 Board Agenda Items\WW – Purchase Cone Valve for Interceptor Pump Station H.docx



# CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>Materials and Supplies Contract</b> Purchase of Cone Valve for Wastewater Interceptor Pump Station H						<b>DATE:</b> February 28, 2024						
<b>CONTRACTOR:</b> A/C Service and Repair, Inc. York, PA				Sole Source		<b>PERCENTAGE OF CONTRACT DOLLARS</b>						
						<b>Availability Group</b>		<b>Contracting Objectives</b>		<b>Participation</b>		
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>		<b>White Men</b>		25%		<b>100.0%</b>				
		<b>Ethnicity</b>	<b>Gender</b>	<b>White Women</b>		6%		<b>0.0%</b>				
\$110,000 *		White	Men	<b>Ethnic Minorities</b>		25%		<b>0.0%</b>				
<b>CONTRACT EQUITY PARTICIPATION</b>												
<b>COMPANY NAME</b>		<b>ESTIMATED AMOUNT</b>	<b>ETHNICITY</b>	<b>GENDER</b>		<b>CONTRACTING PARTICIPATION</b>						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> A/C Service and Repair, Inc.		\$110,000	White	x		100.0%						
<b>SUBS:</b> None												
<b>TOTAL</b>		\$110,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)</b>												
			<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>			
<b>No. of Employees:</b>			1		0		16		17			
<b>Percent of Total Employees:</b>			5.9%		0.0%		94.1%					
<b>MSA Labor Market %:</b>			46.4%		40.2%		13.4%					
<b>MSA Labor Market Location:</b>			Pennsylvania									
<b>13.2</b>												
<b>Contract Equity Participation:</b> 100% White Men participation. <b>Contract Duration:</b> NA												
*Total not to exceed: \$110,000												
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>				
NA				NA								





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# CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>Professional Services Agreement</b> Authorize The Employment of Complex Appellate Litigation Group as Special Counsel						<b>DATE:</b> <div style="text-align: right; font-size: 1.2em;">March 11, 2024</div>						
<b>CONTRACTOR:</b>						<b>PERCENTAGE OF CONTRACT DOLLARS</b>						
Complex Appellate Litigation Group LLP San Francisco, CA			Direct Award/ Small Business			<b>Availability Group</b>		<b>Contracting Objectives</b>		<b>Participation</b>		
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>				<b>White Men</b>		<b>25%</b>		<b>0.0%</b>		
TBD *		<b>Ethnicity</b>		<b>Gender</b>		<b>White Women</b>		<b>6%</b>		<b>100.0%</b>		
		White		Women		<b>Ethnic Minorities</b>		<b>25%</b>		<b>0.0%</b>		
<b>CONTRACT EQUITY PARTICIPATION</b>												
<b>COMPANY NAME</b>		<b>ESTIMATED AMOUNT</b>	<b>ETHNICITY</b>	<b>GENDER</b>		<b>CONTRACTING PARTICIPATION</b>						
<b>PRIMES:</b> Complex Appellate Litigation Group LLP  <b>SUBS:</b> None			White	M    W		White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
							x		100.0%			
<b>TOTAL</b>		TBD				0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)</b>												
			<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>			
<b>No. of Employees:</b>			2		5		0		7			
<b>Percent of Total Employees:</b>			28.6%		71.4%		0.0%					
<b>MSA Labor Market %:</b>			28.0%		23.6%		48.4%					
<b>MSA Labor Market Location:</b>			California									
<b>COMMENTS</b>												
<b>Contract Equity Participation:</b> 100% White Women participation. <b>Contract Duration:</b> NA  *Total not to exceed:												
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>				
NA				NA								






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**Monthly Investment Transactions Report**  
**February 2024**

This report is presented to the Board pursuant to Government Code Section 53607 and in accordance with the District's Investment Policy 4.07.

The attached report details transactions in the District's portfolio as follows:

- **Monthly Investment Transactions Summary** **Page 1**
- **Monthly Investment Activity** **Page 2**
  - Buys Page 3
  - Deposits Page 4
  - Matured Page 5
  - Calls Page 6
  - Sales Page 7
  - Withdrawals Page 8
- **Monthly Interest Activity** **Page 9**
  - Interest Received (Transferred to Wells Fargo) Page 10
  - Interest Received (Reinvested) Page 11

  
\_\_\_\_\_  
Sophia Skoda (Mar 13, 2024 11:20 PDT)  
Approved by: Sophia D. Skoda, Finance Director

Mar 13, 2024  
\_\_\_\_\_  
Date

SDS:KM:lm



**EAST BAY MUNICIPAL UTILITY DISTRICT**  
**Monthly Investment Transactions Summary**  
**February 2024**

Portfolio	Beginning Balance*	Monthly Net Transaction Activity	Monthly Interest Activity	Ending Balance
001 - Water System Consolidated	389,170,490.93	(12,000,000.00)	194,026.26	377,364,517.19
007 - Wastewater Consolidated	81,426,787.08	(3,000,000.00)	42,329.66	78,469,116.74
049 - Ferc Partnership	2,090,266.00	-	-	2,090,266.00
009 - BACWA	2,364,721.97	-	-	2,364,721.97
015 - DERWA	1,045,136.82	-	-	1,045,136.82
002 - FRWA	1,045,136.82	-	-	1,045,136.82
014 - IICP	157,294.14	-	-	157,294.14
010 - UMRWA	66,888.59	-	-	66,888.59
003 - Employees Retirement	5,969,077.14	(2,597,000.00)	-	3,372,077.14
099 - Wells Fargo**	32,076,155.76	(821,573.36)	138,645.98	31,393,228.38
<b>Total</b>	<b>515,411,955.25</b>	<b>(18,418,573.36)</b>	<b>375,001.90</b>	<b>497,368,383.79</b>

\* Portfolio balance presented at face value.

\*\*Wells Fargo's month-end available balance per bank statement. Gross amount; not allocated by fund and not included in balances above.

A portion of the balance in Wells Fargo is swept to a money market fund to increase investment earnings.

*Leanne Maloney*  
 Prepared by: Leanne Maloney, Accountant III  
*Kevin Ma*  
 Reviewed by: Kevin Ma, Accounting Supervisor  
*David Glasser*  
 Approved by: David Glasser, Controller

03/05/2024  
 Date  
 03/06/2024  
 Date  
 Mar 12, 2024  
 Date



**EAST BAY MUNICIPAL UTILITY DISTRICT**  
**Monthly Investment Activity**  
**February 2024**

Portfolio	Buys	Deposits	Matured	Calls	Sales	Withdrawals	Non-Investment Transactions*	Net Transaction Activity
001 - Water System Consolidated	-	-	-	-	-	(12,000,000.00)	-	(12,000,000.00)
007 - Wastewater Consolidated	-	-	-	-	-	(3,000,000.00)	-	(3,000,000.00)
049 - Ferc Partnership	-	-	-	-	-	-	-	-
009 - BACWA	-	-	-	-	-	-	-	-
015 - DERWA	-	-	-	-	-	-	-	-
002 - FRWA	-	-	-	-	-	-	-	-
014 - IICP	-	-	-	-	-	-	-	-
010 - UMRWA	-	-	-	-	-	-	-	-
003 - Employees Retirement	-	11,171,000.00	-	-	-	(13,768,000.00)	-	(2,597,000.00)
065 - Water S2008A DSRF	-	-	-	-	-	-	-	-
068 - Water 2010A DSRF	-	-	-	-	-	-	-	-
<b>Investment Activity Total</b>	-	<b>11,171,000.00</b>	-	-	-	<b>(28,768,000.00)</b>	-	<b>(17,597,000.00)</b>
<b>099 - Wells Fargo</b>	-	<b>(11,171,000.00)</b>	-	-	-	<b>28,768,000.00</b>	<b>(18,418,573.36)</b>	<b>(821,573.36)</b>
<b>Total</b>	-	-	-	-	-	-	<b>(18,418,573.36)</b>	<b>(18,418,573.36)</b>

\*Non-investment transactions are net receipts and expenditures in Wells Fargo resulting from activities other than investment and interest transactions detailed in this report.

*Steven Goodman-Leibof*

Mar 12, 2024

Reviewed by: Steven Goodman-Leibof, Principal Mgmt Analyst

Date

**Robert Hannay**

Mar 13, 2024

Approved by: Robert L. Hannay, Treasury Manager

Date



EAST BAY MUNICIPAL UTILITY DISTRICT  
Monthly Investment Activity  
February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
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Buys

\*No Transactions this Period\*

0.00 0.00 0.00 0.00



EAST BAY MUNICIPAL UTILITY DISTRICT  
 Monthly Investment Activity  
 February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
<b>Deposits</b>										
003 - Employees Retirement	LAIF	LAIF LGIP	LGIP1005	2/2/2024	2/2/2024	N/A	5,358,000.00	5,358,000.00	0.00	5,358,000.00
003 - Employees Retirement	LAIF	LAIF LGIP	LGIP1005	2/6/2024	2/6/2024	N/A	480,000.00	480,000.00	0.00	480,000.00
003 - Employees Retirement	LAIF	LAIF LGIP	LGIP1005	2/16/2024	2/16/2024	N/A	5,333,000.00	5,333,000.00	0.00	5,333,000.00
					<b>Total</b>		<b>11,171,000.00</b>			
							<b>11,171,000.00</b>	<b>11,171,000.00</b>	<b>0.00</b>	<b>11,171,000.00</b>



EAST BAY MUNICIPAL UTILITY DISTRICT  
Monthly Investment Activity  
February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
Matured										

\*No Transactions this Period\*

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EAST BAY MUNICIPAL UTILITY DISTRICT  
Monthly Investment Activity  
February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
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Calls

\*No Transactions this Period\*

0.00 0.00 0.00 0.00



EAST BAY MUNICIPAL UTILITY DISTRICT  
Monthly Investment Activity  
February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
Sales										

\*No Transactions this Period\*

0.00 0.00 0.00 0.00



EAST BAY MUNICIPAL UTILITY DISTRICT  
 Monthly Investment Activity  
 February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
<b>Withdrawals</b>										
001 - Water System Consolidated	LAIF	LAIF LGIP	LGIP1001	2/15/2024	2/15/2024	N/A	12,000,000.00	12,000,000.00	-	12,000,000.00
					<b>Total</b>		<b>12,000,000.00</b>			
003 - Employees Retirement	LAIF	LAIF LGIP	LGIP1005	2/29/2024	2/29/2024	N/A	13,768,000.00	13,768,000.00	-	13,768,000.00
					<b>Total</b>		<b>13,768,000.00</b>			
007 - Wastewater Consolidated	LAIF	LAIF LGIP	LGIP1001	2/15/2024	2/15/2024	N/A	3,000,000.00	3,000,000.00	-	3,000,000.00
					<b>Total</b>		<b>3,000,000.00</b>			
							<b>28,768,000.00</b>	<b>28,768,000.00</b>	<b>-</b>	<b>28,768,000.00</b>



**EAST BAY MUNICIPAL UTILITY DISTRICT**  
**Monthly Interest Activity**  
**February 2024**

Portfolio	Total Interest Received	Interest Transferred to Wells Fargo*	Net Interest Activity (Reinvested)**
001 - Water System Consolidated	194,026.26	-	194,026.26
007 - Wastewater Consolidated	42,329.66	-	42,329.66
049 - Ferc Partnership	-	-	-
009 - BACWA	-	-	-
015 - DERWA	-	-	-
002 - FRWA	-	-	-
014 - IICP	-	-	-
010 - UMRWA	-	-	-
003 - Employees Retirement	-	-	-
065 - Water S2008A DSRF	-	-	-
068 - Water 2010A DSRF	-	-	-
<b>Interest Transactions Total</b>	<b>236,355.92</b>	<b>-</b>	<b>236,355.92</b>
<b>099 - Wells Fargo</b>	<b>138,645.98</b>	<b>138,645.98</b>	<b>138,645.98</b>
<b>Total</b>	<b>375,001.90</b>	<b>138,645.98</b>	<b>375,001.90</b>

\*Coupon and other interest received; reinvestment unavailable.

\*\*Coupon and other interest payments reinvested in specific portfolio.

Leanne Maloney  
 Prepared by: Leanne Maloney, Accountant III

Kevin Ma  
 Reviewed by: Kevin Ma, Accounting Supervisor

David Glasser  
 Approved by: David Glasser, Controller

03/05/2024  
 Date

03/06/2024  
 Date

Mar 12, 2024  
 Date

\_\_\_\_\_  
 Date



EAST BAY MUNICIPAL UTILITY DISTRICT  
 Monthly Interest Activity  
 February 2024

Portfolio Name	Asset Class	Description	CUSIP/Ticker	Trade Date	Settlement Date	Maturity Date	Face Amount/Shares	Principal	Interest/Dividends	Total
<b>Interest Received (Transferred to Wells Fargo)</b>										
099 - Wells Fargo	Cash	WELLS FARGO Cash	CASH2017	2/1/2024	2/1/2024	N/A	-	-	138,645.98	138,645.98
					<b>Total</b>				<b>138,645.98</b>	<b>138,645.98</b>

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0.00    0.00    138,645.98    138,645.98





Title:	Extend Bank Liquidity Agreements For Commercial Paper Notes (Water Series) Subseries A-1 And Subseries A-2	Meeting Date:	March 26, 2024
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principal on maturing notes. To support the Water CP, the District has covenanted to procure and maintain one or more liquidity facilities enabling it to borrow an aggregate amount at least equal to the principal amount of commercial paper notes outstanding.

The existing liquidity facilities are approaching their expiration dates. Subseries A-1 is currently outstanding in the amount of \$144 million with liquidity support provided by SMBC in the form of an LOC dated December 1, 2015 and amended May 6, 2020 which expires on May 6, 2024. Subseries A-2 is currently outstanding in the amount of \$137 million with liquidity support provided by BANA in the form of an RCA dated December 1, 2015 and amended October 31, 2018 and June 30, 2021 which expires on June 28, 2024.

SMBC and BANA have offered extensions of their liquidity facilities at favorable pricing and terms. The District has negotiated extensions of the SMBC LOC to May 4, 2029 (a five-year term) and BANA RCA to June 28, 2028 (a four-year term) at an annual cost of 0.32 percent (32 basis points) based on the Districts current credit ratings subject to such adjustments as detailed in the Second Amendment to the SMBC LOC and related 2024 SMBC Fee Agreement and Third Amendment to the BANA RCA and related BANA 2024 Fee Agreement. The terms are one year longer and correspondingly the pricing is 2-3 basis points higher than the terms and pricing of the expiring agreements. Consistent with the existing agreements, fees would increase incrementally in the event the District’s credit ratings were to decline.

Based on analysis by District staff and our municipal advisory firms, executing extensions of the existing agreements is the most beneficial and cost-effective option to secure the required liquidity facilities. The pricing and terms offered to the District by SMBC and BANA are very competitive in comparison to recent liquidity agreements procured by other peer agencies. In addition, extending the existing agreements simplifies documentation in comparison to substitution of a liquidity facility from a new bank resulting in lower upfront transaction costs. It is estimated that transaction costs to replace each facility would be \$170,000 compared to \$55,000 for each extension. The annual fee from a new bank would need to be below 0.30 percent (30 basis points) to more than offset the higher transaction costs over a four-year term. In the current market, it is unlikely another highly rated bank would provide a fee proposal this low. Therefore, executing extensions of the existing agreements is the recommended approach.

A summary of the key documents is as follows:

- **Second Amendment to the SMBC LOC:** This amendment extends the expiration date of the SMBC LOC by five years from May 6, 2024 to May 4, 2029 and updates certain definitions and terms such as references to the current Water Bond Indenture documents. The SMBC LOC dated December 1, 2015, as amended, provides the terms and conditions under which SMBC provides liquidity support for the Subseries A-1 notes by agreeing to make available \$144 million which can be borrowed to provide an additional source of repayment for the principal of the Subseries A-1 notes.
- **2024 SMBC Fee Agreement:** This agreement describes the various fees the District will pay to SMBC in accordance with the terms of the SMBC LOC. The primary fee is the Letter of Credit (“LOC”) Fee which is paid quarterly and calculated based on the outstanding amount of Subseries A-1 notes and LOC Fee Rate corresponding to the District’s current

Title:	Extend Bank Liquidity Agreements For Commercial Paper Notes (Water Series) Subseries A-1 And Subseries A-2	Meeting Date:	March 26, 2024
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credit ratings. With \$144 million outstanding and credit ratings of AA+/Aa1 or higher, the District would pay 0.32 percent annually which is \$115,200 quarterly totaling \$460,800 per year under the 2024 SMBC Fee Agreement. The LOC Fee would increase should the District’s credit ratings decline below AA+/Aa1 or upon specified events such as a default by the District under the terms of the LOC. The 2024 SMBC Fee Agreement replaces the existing fee agreement dated May 6, 2020.

- **Third Amendment to the BANA RCA:** This amendment extends the expiration date of the BANA RCA by four years from June 28, 2024 to June 28, 2028 and updates certain definitions and terms such as references to the current Water Bond Indenture documents. The BANA RCA dated December 1, 2015, as amended, provides the terms and conditions under which BANA provides liquidity support for the Subseries A-2 notes by agreeing to make available \$137 million which can be borrowed to provide an additional source of repayment for the principal of the Subseries A-2 notes.
- **2024 BANA Fee Agreement:** This document describes the various fees the District will pay to BANA in accordance with the terms of the BANA RCA. The primary fee is the Commitment Fee which is paid quarterly and calculated based on the outstanding amount of Subseries A-2 notes and Commitment Fee Rate corresponding to the District’s current credit ratings. With \$137 million outstanding and credit ratings of AA/Aa2 or higher, the District would pay 0.32 percent annually which is \$109,600 quarterly totaling \$438,400 per year under the 2024 BANA Fee Agreement. The Commitment Fee would increase should the District’s credit ratings decline below AA/Aa2 or upon specified events such as a default by the District under the terms of the RCA. The 2024 BANA Fee Agreement replaces the existing fee agreement dated June 30, 2021.

SUSTAINABILITY

**Economic**

Assuming Subseries A-1 principal outstanding of \$144 million, the estimated recurring cost for the SMBC LOC is about \$460,800 per year totaling \$2.3 million over the five-year term. Assuming Subseries A-2 principal outstanding of \$137 million, the estimated recurring cost for the BANA RCA is about \$438,400 per year totaling \$1.8 million over the four-year term. These expected costs are in-line with the District’s budgets and will decrease if Water CP principal is paid down and increase if the District’s credit ratings decline. One-time costs for extending the agreements are estimated at \$55,000 for each series and will be paid under existing budget authority.

ALTERNATIVE

**Do not authorize execution of documents required to extend the SMBC LOC and BANA RCA.**

This alternative is not recommended. Liquidity facilities, like the existing SMBC LOC and BANA RCA, are required to support the Water CP program. Implementing liquidity facilities with new banks would result in higher upfront transaction costs and likely higher annual fees. Considering the negotiated annual fees and lower upfront transaction costs, extending the existing liquidity agreements is the most cost-effective option.

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**SECOND AMENDMENT TO  
STANDBY LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT**

This SECOND AMENDMENT TO STANDBY LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT (this "*Amendment*") is dated April 10, 2024 (the "*Amendment Date*"), between EAST BAY MUNICIPAL UTILITY DISTRICT (the "*District*") and SUMITOMO MITSUI BANKING CORPORATION, acting through its New York Branch (the "*Bank*"). All capitalized terms used herein and not defined shall have the meanings set forth in the hereinafter defined Agreement.

**WITNESSETH**

WHEREAS, the parties hereto have entered into that certain Standby Letter of Credit and Reimbursement Agreement dated as of December 1, 2015 (as amended, restated, supplemented or otherwise modified to date, the "*Agreement*") relating to the District's Commercial Paper Notes (Water Series) Tax-Exempt Subseries A-1 (the "*Notes*");

WHEREAS, pursuant to Section 9.6(a) of the Agreement, the Agreement may be amended by a written amendment thereto, signed by the parties hereto; and

WHEREAS, the parties hereto desire to extend the Stated Expiration Date and amend the Agreement.

NOW, THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

1. AMENDMENTS.

Upon the satisfaction of the conditions precedent set forth in Section 2 hereof, the Agreement shall be amended as follows:

1.01. The definitions of the following defined terms appearing in Section 1.1 of the Agreement shall be amended and restated in their entireties to read as follows:

*"Federal Funds Rate"* means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Bank on such day on such

transactions as determined by the Bank. Notwithstanding anything herein to the contrary, if the Federal Funds Rate as determined as provided above would be less than zero percent (0.0%), then the Federal Funds Rate shall be deemed to be zero percent (0.0%).

*“Fee Agreement”* means that certain Second Amended and Restated Fee Agreement between the District and the Bank, dated April 10, 2024, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.

*“Prime Rate”* means on any day, the rate of interest in effect for such day as publicly announced from time to time by the Bank as its *“prime rate.”* The *“prime rate”* is a rate set by the Bank based upon various factors including the Bank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by the Bank shall take effect at the opening of business on the day specified in the public announcement of such change. Notwithstanding anything herein to the contrary, if the Prime Rate as determined as provided above would be less than zero percent (0.0%), then the Prime Rate shall be deemed to be zero percent (0.0%).

*“Sanction(s)”* means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, His Majesty’s Treasury or other relevant sanctions authority.

*“Stated Expiration Date”* means **[May 4, 2029]**, as such date may be extended from time to time pursuant to the terms of the Letter of Credit.

*“Water Bond Indenture”* means the Water System Revenue Bond Indenture dated as of April 1, 1990, between the District and U.S. Bank Trust Company, National Association, as successor trustee, (as amended and restated pursuant to the Thirty-First Supplemental Indenture) as amended and supplemented to the date hereof, and as further amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.

1.02. Section 1.1 of the Agreement is hereby amended by the addition of the following defined term to be inserted in its appropriate place in the alphabetical sequence and to read as follows:

*“Thirty-First Supplemental Indenture”* means the Thirty-First Supplemental Indenture dated as of March 1, 2024, between the District and U.S. Bank Trust Company, National Association, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.

1.03. Section 2.3(c) of the Agreement is amended by the addition of a new paragraph (iv) thereto to read as follows:

(iv) The payment of the principal of and interest on the Advance Note shall constitute payment of the principal of and interest on each related Advance and the payment of the principal of and interest on each Advance shall constitute the payment of and principal and interest on the Advance Note. The payment of the principal of and interest on the Term Loan Note shall constitute payment of the principal of and interest on each related Term Loan and the payment of the principal of and interest on each Term Loan shall constitute the payment of and principal and interest on the Term Loan Note.

1.04. Section 3.2(a)(i) of the Agreement is hereby amended and restated in its entirety and as so amended shall read as follows:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge, liquidity ratio or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, the Bank;

1.05. Section 3.2 of the Agreement is amended by the addition of a new paragraph (e) thereto to read as follows:

(e) *Parent or Holding Company.* Solely for purposes of this Section 3.2, the references to the Bank shall include if applicable, and without duplication, the parent or holding company of the Bank.

1.06. Section 6.9 of the Agreement is hereby amended and restated in its entirety and as so amended shall read as follows:

*Section 6.9. Limitation on Additional Debt.* The District will not issue any Water Bonds or any other obligations or securities payable in whole or in part from Adjusted Net Water

Revenues (as defined in the Water Bond Indenture) except in compliance with Sections 3.01 and 3.05 of the Water Bond Indenture (as in effect on April 10, 2024), which Sections (together with all related definitions and ancillary provisions) are hereby incorporated by reference as if set forth herein in their entirety.

1.07. Section 6.31(a) of the Agreement is hereby amended and restated in its entirety and as so amended shall read as follows:

(a) The District will comply with the covenant contained in Section 6.09 of the Water Bond Indenture (as in effect on April 10, 2024), which Section (together with all related definitions and ancillary provisions) is hereby incorporated by reference as if set forth herein in its entirety.

## 2. CONDITIONS PRECEDENT.

This Amendment shall be effective as of the Amendment Date subject to the satisfaction of or waiver by the Bank of all of the following conditions precedent:

2.01. Delivery by the District and the Bank of (i) an executed counterpart of this Amendment and of (ii) the Second Amended and Restated Fee Agreement between the District and the Bank, dated April 10, 2024 (the “*A&R Fee Agreement*”).

2.02. Delivery to the Bank of an enforceability opinion of counsel to the District, in form and substance satisfactory to the Bank and its counsel.

2.03. Receipt by the Bank of (i) a certified copy of the authorizing resolution of the District approving the execution and delivery and performance of its obligations under this Amendment, the Agreement, as amended hereby, and the A&R Fee Agreement and (ii) a customary certificate executed by appropriate officers of the District including the incumbency and signature of the officer of the District executing this Amendment and the A&R Fee Agreement.

2.04. Payment or arrangements for the payment to the Bank of the reasonable legal fees of counsel for the Bank in connection with the execution and delivery of this Amendment and the A&R Fee Agreement.

2.05. All other legal matters pertaining to the execution and delivery of this Amendment and the A&R Fee Agreement shall be reasonably satisfactory to the Bank and its counsel.

## 3. REPRESENTATIONS AND WARRANTIES OF THE DISTRICT.

3.01. The District hereby represents and warrants that the following statements shall be true and correct as of the date hereof:

(a) the representations and warranties of the District contained in Article V (as amended hereby) of the Agreement and in each of the Related Documents are true and correct on and as of the Amendment Date as though made on and as of such date (except to the extent the same expressly relate to an earlier date and except that the representations contained in Section 5.8 of the Agreement shall be deemed to refer to the most recent financial statements of the District furnished to the Bank pursuant to Section 6.1(a) of the Agreement); and

(b) no Default or Event of Default has occurred and is continuing or would result from the execution of this Amendment or the A&R Fee Agreement.

3.02. In addition to the representations and warranties given in Article V of the Agreement, the District hereby represents and warrants as follows:

(a) The execution, delivery and performance by the District of the A&R Fee Agreement, this Amendment and the Agreement, as amended hereby, are within its powers, have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the District.

(b) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the District of the A&R Fee Agreement, this Amendment or the Agreement, as amended hereby, except such as shall have been duly obtained, given or accomplished prior to the execution and delivery hereof.

(c) This Amendment and the A&R Fee Agreement have each been duly executed and delivered and the A&R Fee Agreement, this Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the District enforceable against the District in accordance with their respective terms, except that (i) the enforcement thereof may be limited by bankruptcy, reorganization, insolvency, liquidation, moratorium and other laws relating to or affecting the enforcement of creditors' rights and remedies generally, by general equitable principles (regardless or whether such enforceability is considered in a proceeding in equity or at law) and by limitations on legal remedies against public agencies in the State and (ii) no representation or warranty is expressed as to the availability of equitable remedies.

#### 4. REQUEST FOR EXTENSION OF EXPIRATION DATE.

The District hereby requests that the Bank extend the Stated Expiration Date to **[May 4, 2029]**, pursuant to Section 9.9 of the Agreement. Upon satisfaction of the conditions precedent set forth in Section 2 hereof, the Bank agrees to such request, the Agreement shall be amended by this Amendment and the Stated Expiration Date shall be extended, and the Bank shall deliver to the Issuing and Paying Agent a Notice of Extension substantially in the form attached hereto as Exhibit A to effectuate such extension. The Bank hereby acknowledges that the delivery by the Bank to the Issuing and Paying Agent of the Notice of Extension shall be deemed to be and

shall constitute a determination by the Bank that all conditions precedent set forth in Section 2 hereof (other than Section 2.04) have been satisfied.

5. MISCELLANEOUS.

Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this specific amendment need not be made in any note, document, agreement, letter, certificate, the Agreement itself, or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to the Agreement as hereby amended. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. This Amendment shall be deemed to be a contract made under and shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to conflict of laws provisions (other than New York General Obligation Laws 5-1401 and 5-1402); *provided* that the power and authority of the District to enter into and its rights and obligations under this Amendment shall be governed by and construed in accordance with the laws of the State of California. This Amendment is subject to Section 9.5 of the Agreement *mutatis mutandis*.

This Amendment amends the Agreement but is not intended to be or operate as a novation or an accord and satisfaction of the Agreement or any other Related Document or the indebtedness, obligations and liabilities of the District evidenced or provided for thereunder. This Amendment does not extinguish the obligations for the payment of money outstanding under the Agreement or any other Related Document or discharge or release the obligations or the liens or priority of any pledge or any other security therefor.

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered on the date first above written.

EAST BAY MUNICIPAL UTILITY DISTRICT

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUMITOMO MITSUI BANKING CORPORATION,  
acting through its New York Branch

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**STANDBY LETTER OF CREDIT NO. LG/MIS/NY-090230**

April [\_\_], 2024

**[ISSUING AND PAYING AGENT]**  
as Issuing and Paying Agent

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Re: Notice of Extension

Ladies and Gentlemen:

1. Pursuant to Section 9.9 of that certain Standby Letter of Credit and Reimbursement Agreement, dated as of December 1, 2015 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof, the “*Reimbursement Agreement*”), by and between the East Bay Municipal Utility District (the “*District*”) and Sumitomo Mitsui Banking Corporation, acting through its New York Branch (the “*Bank*”), the Bank has approved an extension of Standby Letter of Credit No. LG/MIS/NY-090230 (the “*Letter of Credit*”), dated December 2, 2015. The new Stated Expiration Date is **[May 4, 2029]**. You are hereby authorized to attach this Notice of Extension to the Letter of Credit and to treat this Notice of Extension as extending the Stated Expiration Date of the Letter of Credit.

The District’s acknowledgment hereof shall be deemed to be the District’s representation that all its representations contained in Article V of the Reimbursement Agreement are true and correct and will be true and correct as of the date hereof and that no Default or Event of Default has occurred and is continuing.

Very truly yours,

SUMITOMO MITSUI BANKING CORPORATION,  
acting through its New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: Dealers

Accepted as of \_\_\_\_\_, \_\_\_\_\_ by  
**[ISSUING AND PAYING AGENT]**, as Issuing and  
Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_

Acknowledged as of \_\_\_\_\_, \_\_\_\_\_  
by EAST BAY MUNICIPAL UTILITY DISTRICT

By \_\_\_\_\_  
Title \_\_\_\_\_

**SECOND AMENDED AND RESTATED FEE AGREEMENT**  
**DATED APRIL 10, 2024**

Reference is hereby made to (i) the Standby Letter of Credit dated December 2, 2015 (the “*Letter of Credit*”), issued by Sumitomo Mitsui Banking Corporation, acting through its New York Branch (the “*Bank*”) pursuant to the Standby Letter of Credit and Reimbursement Agreement dated as of December 1, 2015 (as amended, supplemented, restated or otherwise modified from time to time, the “*Agreement*”), between the East Bay Municipal Utility District (the “*District*”) and the Bank, supporting the District’s Commercial Paper Notes (Water Series) Tax-Exempt Subseries A-1 (the “*Commercial Paper Notes*”) and (ii) the Amended and Restated Fee Agreement dated May 6, 2020 (the “*Existing Fee Agreement*”), between the District and the Bank. Capitalized terms not otherwise defined herein have the meanings set forth in the Agreement.

The District has requested that the Bank make certain modifications to the Existing Fee Agreement, and, for the sake of clarity and convenience, the Bank and the District wish to amend and restate the Existing Fee Agreement as set forth herein. The purpose of this Amended and Restated Fee Agreement (this “*Fee Agreement*”) is to confirm the agreement between the Bank and the District with respect to the Letter of Credit Fees (as defined below) and certain other fees payable by the District to the Bank. This Fee Agreement is the Fee Agreement referenced in the Agreement, and the terms hereof are incorporated by reference into the Agreement. The District acknowledges and agrees that all fees previously paid to the Bank under the Existing Fee Agreement were fully earned and nonrefundable. This Fee Agreement and the Agreement are to be construed as one agreement between the District and the Bank, and all obligations hereunder are to be construed as obligations thereunder. All references to amounts due and payable under the Agreement will be deemed to include all amounts, fees and expenses payable under this Fee Agreement.

ARTICLE I. FEES.

*Section 1.1. Letter of Credit Fee.* The District hereby agrees to pay or cause to be paid to the Bank on July 1, 2024, for the period commencing on April 1, 2024, to and including June 30, 2024, and in arrears on the first Business Day of each October, January, April and July occurring thereafter to the Termination Date, and on the Termination Date, a non-refundable Letter of Credit Fee (the “*Letter of Credit Fee*”) with respect to the Available Amount under the Letter of Credit in an amount equal to the rate per annum associated with the Rating (as defined below) specified below (the “*Letter of Credit Fee Rate*”) for each day in the related fee period and the Available Amount for each day in each related fee period:

(i) for the period commencing on April 1, 2024, to but not including May 6, 2024, the Letter of Credit Fee Rate for such period shall be determined in accordance with the pricing grid set forth below:

LEVEL	S&P RATING	MOODY'S RATING	FITCH RATING	LETTER OF CREDIT FEE RATE
Level 1:	AA+ or higher	Aa1 or higher	AA+ or higher	0.30%
Level 2:	AA	Aa2	AA	0.40%
Level 3:	AA-	Aa3	AA-	0.50%
Level 4:	A+	A1	A+	0.70%
Level 5:	A	A2	A	0.90%
Level 6:	A-	A3	A-	1.20%
Level 7:	BBB+	Baa1	BBB+	1.75%
Level 8:	BBB	Baa2	BBB	2.25%
Level 9:	BBB-	Baa3	BBB-	2.50%

(ii) for the period commencing on and including May 6, 2024, and at all times thereafter, the Letter of Credit Fee Rate for such period shall be determined in accordance with the pricing grid set forth below:

LEVEL	S&P RATING	MOODY'S RATING	FITCH RATING	LETTER OF CREDIT FEE RATE
Level 1:	AA+ or higher	Aa1 or higher	AA+ or higher	0.32%
Level 2:	AA	Aa2	AA	0.42%
Level 3:	AA-	Aa3	AA-	0.52%
Level 4:	A+	A1	A+	0.72%
Level 5:	A	A2	A	0.92%
Level 6:	A-	A3	A-	1.22%
Level 7:	BBB+	Baa1	BBB+	1.75%
Level 8:	BBB	Baa2	BBB	2.25%
Level 9:	BBB-	Baa3	BBB-	2.50%

The term “*Rating*” as used above shall mean the long-term unenhanced debt rating assigned by each Rating Agency to any outstanding Water Bond. In the event of a split rating (*i.e.*, the Rating of one of the foregoing Rating Agencies is at a different Level than the Rating of either of the other Rating Agencies), the Letter of Credit Fee Rate shall be based upon the Level in which the lower of the two highest Ratings appears; *provided, however*, that if only two Rating Agencies are then rating the Water Bonds, the Letter of Credit Fee Rate shall be based upon the Level in which the lower of the two Ratings appears; *provided, further*, that for purposes of this sentence only, any Rating that appears in a higher numbered Level than the Level in which a Rating of another Rating Agency appears shall be deemed to be a “lower” Rating for purposes of determining the Letter of Credit Fee Rate. Any change in the Letter of Credit Fee Rate resulting from a change in a Rating shall be and become effective as of and on

the date of the announcement of the change in a Rating. References to Ratings above are references to rating categories as presently determined by the Rating Agencies, and in the event of adoption of any new or changed rating system by any such Rating Agency, including, without limitation, any recalibration of the Ratings in connection with the adoption of a “global” rating scale, each of the Ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The District and the Bank acknowledge that as of the date hereof the Letter of Credit Fee Rate that is or would be applicable is that specified above for Level 1 in paragraph (i) and (ii) of this Section 1.1. In the event that either (i) a Rating is suspended, withdrawn or otherwise unavailable from any Rating Agency for credit related reasons or (ii) there shall have occurred and be continuing any Event of Default, in each such case, the Letter of Credit Fee Rate shall immediately increase to a rate per annum equal to 3.00% (the “*Fee Increase*”); *provided, however*, that the Fee Increase shall not occur pursuant to clause (i) of this sentence if any such rating shall have been suspended or withdrawn by or becomes otherwise unavailable from a Rating Agency due to (a) the District’s failure to apply for such rating or failure to provide information to such Rating Agency, in each case as a result of such Rating Agency’s imposition or proposed imposition of conditions to issuing such rating with which the District cannot legally comply or (b) a determination by the District to cease maintaining such rating and following such withdrawal, the District is in compliance with Section 6.29 of the Agreement. The Letter of Credit Fees shall be payable quarterly in arrears, together with interest on the Letter of Credit Fees from the date payment is due until payment in full at the Default Rate. Such fee shall be payable in immediately available funds and computed on the basis of a 360 day year and the actual number of days elapsed.

In connection with the Letter of Credit Fees payable pursuant to this Section 1.1 for any fee period, the Bank hereby agrees to use its best efforts to deliver an invoice to the District for such Letter of Credit Fees at least thirty (30) days in advance of the payment due date; *provided, however*, that the failure to provide any such invoice shall not limit or otherwise affect the obligation of the District to pay such Letter of Credit Fees when due.

*Section 1.2. Drawing Fees.* For each Drawing under the Letter of Credit, the District agrees to pay to the Bank a non-refundable drawing fee equal to \$300, payable without any requirement of notice or demand by the Bank on the date of such Drawing.

*Section 1.3. Transfer Fee.* Upon each transfer of the Letter of Credit in accordance with its terms to a successor Issuing and Paying Agent under the Issuing and Paying Agent Agreement, the District agrees to pay the Bank a non-refundable fee of \$5,000, and to reimburse the Bank for its actual costs and expenses associated with such transfer or appointment (including, without limitation, the reasonable fees and expenses of counsel to the Bank), payable on the date of such transfer or appointment.

*Section 1.4. Amendment Fee.* The District agrees to pay to the Bank on the date of each amendment, supplement, or modification to the Agreement (or any Related Document, the amendment, supplement or modification of which requires the consent of the Bank or a waiver from the Bank), a non-refundable fee equal to \$5,000, or such other fee as may be agreed to between the District and the Bank, plus, in each case, the reasonable fees and expenses of

counsel to the Bank; *provided, however*, that no fee pursuant to this Section 1.4 shall be required to be paid to the Bank in the event that any such amendment relates solely to an extension of the Stated Expiration Date.

*Section 1.5. Termination Fee.* (a) Notwithstanding anything set forth herein or in the Agreement to the contrary, the District hereby agrees not to terminate the Letter of Credit prior to May 6, 2025, without the payment by the District to the Bank of a termination fee in an amount equal to the product of (i) the Letter of Credit Fee Rate in effect pursuant to Section 1.1 hereof on the date of such termination, (ii) the Available Amount (without taking into account any unreimbursed Drawing under the Letter of Credit) in effect on April 10, 2024, and (iii) a fraction, the numerator of which is equal to the number of days from and including the date of such termination to and including May 6, 2025, and the denominator of which is 360. Notwithstanding any provisions of this Section 1.5(a) to the contrary, the District will not be required to pay such termination fee if (i) any two of Moody's, S&P or Fitch shall have withdrawn or suspended the short-term credit rating of the Bank for credit related reasons or lowered the short-term credit rating of the Bank below "P-1," "A-1" and "F1," respectively, and thereafter for so long as such withdrawal, suspension or reduction shall be continuing (*provided*, that for the avoidance of doubt, the ratings referenced in this clause (i) shall mean those ratings assigned to Sumitomo Mitsui Banking Corporation, acting through its New York Branch and not ratings assigned to Sumitomo Mitsui Banking Corporation, acting through its New York Branch's parent or holding company or any other affiliate of the Bank), (ii) the Bank submits to the District a request for payment of amounts payable pursuant to Section 3.2 of the Agreement or (iii) the District elects to terminate the Letter of Credit in connection with retirement of the Commercial Paper Notes in full from a source of funds which does not involve the issuance by a bank or other financial institution of a letter of credit, liquidity facility, or credit facility or a direct purchase of such debt by a bank or other financial institution.

(b) Notwithstanding the foregoing and anything set forth herein or in the Agreement to the contrary, the District agrees not to permanently reduce the Available Amount in effect on April 10, 2024, prior to May 6, 2025, without the payment by the District to the Bank of a reduction fee in connection with each and every permanent reduction of the Available Amount as set forth herein in an amount equal to the product of (A) the Letter of Credit Fee Rate in effect on the date of such permanent reduction, (B) the difference between the Available Amount (without taking into account any unreimbursed Drawing under the Letter of Credit) prior to such permanent reduction and the Available Amount (without taking into account any unreimbursed Drawing under the Letter of Credit) after such permanent reduction, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such permanent reduction to and including May 6, 2025, and the denominator of which is three hundred sixty (360). Notwithstanding any provisions of this Section 1.5(b) to the contrary, the District will not be required to pay such reduction fee if the District elects to permanently reduce the Available Amount in connection with a retirement of a portion of the Commercial Paper Notes from a source of funds which does not involve the issuance by a bank or other financial institution of a letter of credit, liquidity facility, or credit facility or a direct purchase of such debt by a bank or other financial institution.

ARTICLE II. Miscellaneous.

*Section 2.1. Out-of-Pocket Expenses.* The District shall pay to the Bank promptly upon receipt of invoice any and all reasonable fees and expenses of the Bank (including the out-of-pocket expenses of the Bank and the reasonable fees and disbursements of both domestic and foreign counsel to the Bank) all payable in accordance with this Fee Agreement and Section 9.2(a) of the Agreement.

*Section 2.2. Payment Account.* As provided in the Agreement, all payments hereunder shall be made by means of wire transfer of funds to the Bank's Payment Account.

*Section 2.3. Amendments.* No amendment to this Fee Agreement shall become effective without the prior written consent of the District and the Bank.

*Section 2.4. Governing Law.* THIS FEE AGREEMENT SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN NEW YORK GENERAL OBLIGATIONS LAWS 5-1401 AND 5-1402); PROVIDED THAT THE POWER AND AUTHORITY OF THE DISTRICT TO ENTER INTO AND ITS RIGHTS AND OBLIGATIONS UNDER THIS FEE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF CALIFORNIA. THIS FEE AGREEMENT IS SUBJECT TO SECTION 9.5 OF THE AGREEMENT *MUTATIS MUTANDIS*.

*Section 2.5. Counterparts.* This Fee Agreement may be executed in two or more counterparts, each of which shall constitute an original but both or all of which, when taken together, shall constitute but one instrument. Delivery of a counterpart hereof by facsimile transmission or by e-mail transmission of an Adobe portable document file (also known as a "PDF" file) shall be effective as delivery of an original executed counterpart hereof.

*Section 2.6. Severability.* Any provision of this Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

*Section 2.7. Representation by Legal Counsel; Joint Preparation.* The parties hereto have participated jointly in the negotiation and drafting of this Fee Agreement, and each of the parties was represented by its respective legal counsel during the negotiation and execution of this Fee Agreement. In the event an ambiguity or question of intent or interpretation arises, this Fee Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Fee Agreement.

*Section 2.8. Amendment and Restatement.* This Fee Agreement amends and restates in its entirety the Existing Fee Agreement but is not intended to be or operate as a novation or an accord and satisfaction of the Existing Fee Agreement or the indebtedness, obligations and

liabilities of the District evidenced or provided for thereunder. Reference to this specific Fee Agreement need not be made in any agreement, document, instrument, letter, certificate, the Existing Fee Agreement itself, or any communication issued or made pursuant to or with respect to the Existing Fee Agreement, any reference to the Existing Fee Agreement being sufficient to refer to the Existing Fee Agreement as amended and restated hereby, and more specifically, any and all references to the Fee Agreement in the Agreement shall mean this Fee Agreement.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Fee Agreement to be duly executed and delivered by their respective officers thereunto duly authorized on the date first set forth above.

EAST BAY MUNICIPAL UTILITY DISTRICT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUMITOMO MITSUI BANKING CORPORATION,  
acting through its New York Branch

By: \_\_\_\_\_  
Name: Eric J. Isban  
Title: Managing Director

**THIRD AMENDMENT TO  
REVOLVING CREDIT AGREEMENT**

**BETWEEN**

**EAST BAY MUNICIPAL UTILITY DISTRICT**

**AND**

**BANK OF AMERICA, N. A**

**DATED: April 10, 2024**

**relating to**

**EAST BAY MUNICIPAL UTILITY DISTRICT  
COMMERCIAL PAPER NOTES (WATER SERIES) TAX-EXEMPT SUBSERIES A-2**

## **THIRD AMENDMENT TO REVOLVING CREDIT AGREEMENT**

This **THIRD AMENDMENT to REVOLVING CREDIT AGREEMENT**, dated April 10, 2024 (this “*Third Amendment*”), is between EAST BAY MUNICIPAL UTILITY DISTRICT (the “*District*”) and BANK OF AMERICA, N.A. (the “*Bank*”). Terms used herein with initial capital letters and not otherwise defined shall have the respective meanings attributed thereto in the Revised Agreement (as defined below).

### **RECITALS**

WHEREAS, the District and the Bank entered into a Revolving Credit Agreement, dated as of December 1, 2015 (the “*Original Agreement*”), as amended by the First Amendment to Revolving Credit Agreement, dated as of October 31, 2018 (the “*First Amendment*”), and as further amended by the Second Amendment to Revolving Credit Agreement, dated as of June 30, 2021 (the “*Second Amendment*”; and, together with the Original Agreement and the First Amendment, the “*Revised Agreement*”), and a Fee Agreement, dated December 2, 2015 (the “*2015 Fee Agreement*”), as superseded by a Fee Agreement, dated October 31, 2018 (the “*2018 Fee Agreement*”), which was subsequently superseded by a Fee Agreement, dated June 30, 2021 (the “*2021 Fee Agreement*”), pursuant to which the Bank agreed to provide liquidity support for the District’s Commercial Paper Notes (Water Series) Tax-Exempt Subseries A-2 (the “*Commercial Paper Notes*”), and such liquidity support under the Agreement (as defined below) is evidenced by the Revolving Loan Note and the Term Loan Note; and

WHEREAS, the Stated Expiration Date (as defined in the Revised Agreement) of the Revised Amendment is currently June 28, 2024, and the District has requested that the Bank extend the term of the Revised Agreement; and

WHEREAS, the Bank has agreed to extend the term of the Revised Agreement on the terms and conditions set forth in this Third Amendment; and

WHEREAS, the District and the Bank now desire to, among other things, (i) extend the Stated Expiration Date of the Revised Agreement from June 28, 2024 to June 28, 2028, (ii) make certain additional amendments to the Revised Agreement, and (iii) execute a new fee agreement to document certain pricing changes (the “*New Fee Agreement*”); and

NOW, THEREFORE, in consideration of the respective agreements contained herein and in the Revised Agreement, and intending to be legally bound, the District and the Bank hereby agree as follows.

### **ARTICLE I. INTENTION OF PARTIES, AGREEMENT PROVISIONS.**

The District and the Bank have entered into this Third Amendment and the New Fee Agreement to, among other things, extend the Stated Expiration Date and change other terms set forth in the Revised Agreement and to reflect the delivery of the New Fee Agreement to replace the Prior Fee Agreement. The terms of the Revised Agreement, as amended by this Third Amendment (as so amended, the “*Agreement*”), shall govern the rights and obligations of the District, and the Bank in connection with the transactions contemplated by the Revised Agreement.

The Bank and the District hereby agree that no amendments are needed with respect to the Revolving Loan Note and the Term Loan Note.

**ARTICLE II. AMENDMENTS.** The Revised Agreement is hereby amended as follows:

- (a) The definition of “Fee Agreement” in Section 1.1 of the Revised Agreement is hereby amended by deleting it in its entirety and replacing it with the following:

“ ‘Fee Agreement’ means that certain Fee Agreement dated the Third Amendment Effective Date, between the District and the Bank, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.”

- (b) The defined term “Stated Expiration Date” in Section 1.1 of the Revised Agreement is hereby amended by deleting “June 28, 2024” therein and replacing it with “June 28, 2028”.

- (c) The defined term “Water Bond Indenture” in Section 1.1 of the Revised Agreement is hereby amended by deleting it in its entirety and replacing it with the following:

“ ‘Water Bond Indenture’ means the Water System Revenue Bond Indenture dated as of April 1, 1990, between the District and U.S. Bank Trust Company, National Association, as successor trustee, (as amended and restated pursuant to the Thirty-First Supplemental Indenture) as amended and supplemented to the date hereof, and as further amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.”

- (d) Section 1.1 of the Revised Agreement is hereby amended by the addition of the following definitions which are to be situated therein by alphabetical order:

“ ‘Third Amendment’ means that certain Third Amendment to Revolving Credit Agreement, dated April 10, 2024, between the District and the Bank.”

“ ‘Third Amendment Effective Date’ means April 10, 2024.”

“Thirty-First Supplemental Indenture” means the Thirty-First Supplemental Indenture dated as of March 1, 2024, between the District and U.S. Bank Trust Company, National Association, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.

- (e) Section 6.9 of the Agreement is hereby amended and restated in its entirety and as so amended shall read as follows:

“Section 6.9. *Limitation on Additional Debt.* The District will not issue any Water Bonds or any other obligations or securities payable in whole or in part from Adjusted Net Water Revenues (as defined in the Water Bond Indenture) except in compliance with Sections 3.01 and 3.05 of the Water Bond Indenture (as in effect on April 10, 2024), which Sections (together with all related definitions

and ancillary provisions) are hereby incorporated by reference as if set forth herein in their entirety.”

- (f) Section 6.31(a) of the Agreement is hereby amended and restated in its entirety and as so amended shall read as follows:

(a) “The District will comply with the covenant contained in Section 6.09 of the Water Bond Indenture (as in effect on April 10, 2024), which Section (together with all related definitions and ancillary provisions) is hereby incorporated by reference as if set forth herein in its entirety.”

### **ARTICLE III. CONDITIONS TO DELIVERY OF THIS THIRD AMENDMENT.**

The amendments to the Revised Agreement provided for in Article II hereof shall become effective on the Third Amendment Effective Date; *provided* that each of the following conditions shall be fulfilled to the satisfaction of the Bank (which satisfaction shall be evidenced by the execution of this Third Amendment by the Bank and delivery thereof to the District):

(a) Documentation:

- (i) An executed counterpart of this Third Amendment and the New Fee Agreement, each signed by the District and the Bank;
- (ii) Opinion of Counsel to the District regarding due authorization and execution of this Third Amendment and the New Fee Agreement in form and substance acceptable to the Bank;
- (iii) A certified copy of the District resolution approving the execution and delivery of this Third Amendment and the New Fee Agreement;
- (iv) The District shall have paid or made arrangements for payment of all costs and expenses incurred by the Bank in connection with this transaction, including without limitation reasonable attorney’s fees; provided, that the District shall pay the Bank’s attorney’s fees of \$7,500 within 30 days following its receipt of an invoice from such counsel; and
- (v) All other legal matters pertaining to the execution and delivery of this Third Amendment and the New Fee Agreement shall be satisfactory to the Bank and the execution and delivery hereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank.

(b) Representations and Warranties True.

(i) The representations and warranties of the District contained in Article V of the Revised Agreement and in this Third Amendment shall be true and correct with the same effect as though made on and as of the Third Amendment Effective Date, except to the extent a representation or warranty relates specifically to an earlier date (in which case,

such representation and warranty shall be true and correct as of such date) and except that the representations in Section 5.8 of the Revised Agreement refers to the District's 2023 financial statements (instead of the 2020 financial statements) which have been previously provided to the Bank.

(ii) In addition to the foregoing representations, the District hereby represents and warrants as follows:

(A) The execution, delivery and performance by the District of this Third Amendment and the New Fee Agreement are within their powers, have been duly authorized by all necessary actions and do not contravene any law or any contractual restriction binding on or affecting the District;

(B) No further authorization, approval or other action by, and no notice to or filing, is required for the due execution, delivery and performance by the District of this Third Amendment and the New Fee Agreement that has not been received as of the Third Amendment Effective Date;

(C) The District will provide, or will cause to have provided, (i) written notice of this Third Amendment, together with an updated Exhibit F reflecting the extension of the Stated Expiration Date of the Agreement, to the Issuing and Paying Agent and (ii) notice of the extension of the Stated Expiration Date of the Agreement, together with an executed copy of this Third Amendment, to the Rating Agencies; and

(D) The Revised Agreement (as amended by this Third Amendment) constitute the legal, valid and binding obligation of the District enforceable against the District in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) and by limitations on legal remedies against public agencies in the State.

(c) Absence of Certain Events. (i) There shall not have occurred any material adverse change in the affairs, condition and/or operations, financial or otherwise, of the District since the date of the most recent financial information provided to the Bank pursuant to Section 6.1(a) of the Revised Agreement that would impair the ability of the District to perform its obligations under the Revised Agreement; on or prior to the Third Amendment Effective Date, no change shall have occurred in any law, rule or regulation or in any interpretation thereof that, in the opinion of the Bank, would make it illegal for the Bank to execute and deliver this Third Amendment; and (ii) no event has occurred which constitutes an Event of Default under the Revised Agreement.

#### **ARTICLE IV. MISCELLANEOUS.**

(a) The parties hereto acknowledge and confirm that, from and after the Third Amendment Effective Date, any reference in the Revised Agreement or in the other Related Documents to the "Agreement" shall mean and refer to the Revised Agreement as amended hereby.

(b) Except as provided herein, the Revised Agreement shall remain in full force and effect and unaffected hereby except, as set forth herein, from and after the Third Amendment Effective Date.

(c) This Third Amendment and the Revised Agreement, as amended hereby, shall be subject to Section 9.6 and Section 9.9 of the Revised Agreement. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby.

(d) The parties agree that the electronic signature of a party to this Third Amendment shall be as valid as an original signature of such party and shall be effective to bind such party to this Third Amendment. The parties agree that any electronically signed document (including this Third Amendment) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually-signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e-mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

(e) This Third Amendment may be executed in one or more counterparts, each of which shall constitute an original and when taken together shall constitute one original and all of which shall constitute one and the same instrument.

[Remainder of page intentionally left blank; signature page follows.]

**IN WITNESS WHEREOF**, the parties have duly executed this Third Amendment as of the day and year first above written.

**EAST BAY MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_

Name: Sophia D. Skoda

Title: Director of Finance

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_

Name:

Title:

**FEE AGREEMENT**

April 10, 2024

Reference is hereby made to that certain Revolving Credit Agreement, dated as of December 1, 2015, as amended by that certain First Amendment to Revolving Credit Agreement, dated October 31, 2018, as amended by the Second Amendment to Revolving Credit Agreement, dated June 30, 2021, and as further amended by the Third Amendment to Revolving Credit Agreement, dated April 10, 2024 (as further amended, supplemented, restated or otherwise modified from time to time, the “*Agreement*”), between the East Bay Municipal Utility District (the “*District*”) and Bank of America, N.A. (the “*Bank*”), relating to the District’s Commercial Paper Notes (Water Series) Tax-Exempt Subseries A-2. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

The purpose of this Fee Agreement is to replace the Fee Agreement, dated June 30, 2021, between the Bank and the District (the “*2021 Fee Agreement*”) and to confirm the agreement between the Bank and the District with respect to the Commitment Fees (as defined below) and certain other fees payable by the District to the Bank. This Fee Agreement is the Fee Agreement referenced in the Agreement, and the terms hereof are incorporated by reference into the Agreement.

ARTICLE I.  
FEES.

*Section 1.1. Commitment Fee.* The District hereby agrees to pay or cause to be paid to the Bank a non-refundable Commitment Fee (the “*Commitment Fee*”) with respect to the Available Commitment of the Bank under the Agreement in an amount equal to the rate per annum (the “*Commitment Fee Rate*”) specified below on the average daily Available Commitment from time to time in effect during each related period.

<b>LEVEL</b>	<b>S&amp;P RATING</b>	<b>MOODY’S RATING</b>	<b>FITCH RATING</b>	<b>COMMITMENT FEE RATE</b>
Level 1:	AA or higher	Aa2 or higher	AA or higher	0.32%
Level 2:	AA-	Aa3	AA-	0.47%
Level 3:	A+	A1	A+	0.62%
Level 4:	A	A2	A	0.77%
Level 5:	A-	A3	A-	0.97%
Level 6:	BBB+	Baa1	BBB+	1.17%
Level 7:	BBB	Baa2	BBB	1.47%
Level 8:	BBB-	Baa3	BBB-	1.87%

The term “*Rating*” as used above shall mean the lowest long-term unenhanced debt rating assigned by each Rating Agency to any outstanding Water Bond. In the event of a split rating (*i.e.*, the Rating of one of the foregoing Rating Agencies is at a different Level than the Rating of any other Rating Agency), the Commitment Fee Rate shall be based upon the Level in which the lower of the two highest Ratings appears; *provided, however*, that if only two Rating Agencies are then rating Water Bonds, the Commitment Fee Rate shall be based upon the Level in which the

lower of the two Ratings appears; *provided, further*, that, for purposes of this sentence only, any Rating that appears in a higher numbered Level than the Level in which a Rating of another Rating Agency appears shall be deemed to be a “lower” Rating for purposes of determining the Commitment Fee Rate. Any change in the Commitment Fee Rate resulting from a change in a Rating shall be and become effective as of and on the date of the announcement of the change in a Rating. References to Ratings above are references to rating categories as presently determined by the Rating Agencies, and in the event of adoption of any new or changed rating system by any such Rating Agency, including, without limitation, any recalibration of the Ratings in connection with the adoption of a “global” rating scale, each of the Ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The District and the Bank acknowledge that as of the Third Amendment Effective Date the Commitment Fee Rate is that specified above for Level 1. In the event that either (i) a Rating is suspended, withdrawn or otherwise unavailable from any Rating Agency for credit related reasons or (ii) there shall have occurred and be continuing any Event of Default, in each such case the Commitment Fee Rate shall increase by 1.50% per annum from the Commitment Fee Rate in effect on the date of the occurrence of such suspension, withdrawal, unavailability or Event of Default, as applicable (the “*Fee Increase*”); *provided, however*, that the Fee Increase shall not occur pursuant to clause (i) of this sentence if any such rating shall have been suspended or withdrawn by or becomes otherwise unavailable from a Rating Agency due to (a) the District’s failure to apply for such rating or failure to provide information to such Rating Agency, in each case as a result of such Rating Agency’s imposition or proposed imposition of conditions to issuing such rating with which the District cannot legally comply or (b) a determination by the District to cease maintaining such rating and following such withdrawal or suspension the District is in compliance with Section 6.29(iii) of the Agreement. The Commitment Fees shall be payable quarterly in arrears, together with interest on the Commitment Fees from the date payment is due until payment in full at the Default Rate. Such fee shall be payable in immediately available funds and computed on the basis of a 360-day year and the actual number of days elapsed.

In connection with the Commitment Fees payable pursuant to this Section 1.1 for any fee period, the Bank hereby agrees to use its best efforts to deliver an invoice to the District for such Commitment Fees at least thirty (30) days in advance of the payment due date; *provided, however*, that the failure to provide any such invoice shall not limit or otherwise affect the obligation of the District to pay such Commitment Fees when due.

The Commitment Fee shall be payable in immediately available funds quarterly in arrears commencing on the first Business Day of July 2024; *provided, however*, that in connection with the payment due on July 1, 2024, the Commitment Fee shall be computed as follows: (X) at a rate equal to 0.29% per annum for the period from and including April 1, 2024 to and including June 28, 2024 (subject to any applicable adjustments as set forth in the 2021 Fee Agreement), and (Y) at a rate equal to 0.32% per annum commencing on and including June 29, 2024 to and including June 30, 2024; and, thereafter, on the first Business Day of each subsequent October, January, April, and July thereafter to the Commitment Termination Date, and on the Commitment Termination Date, in all cases, covering the period from the date of the immediately preceding payment to such Business Day. The Bank’s determination of the Commitment Fee pursuant hereto shall be conclusive absent manifest error.

*Section 1.2. Loan Fees.* Upon the making of each Loan, the District agrees to pay to the Bank a non-refundable Loan fee equal to \$250, payable without any requirement of notice or demand by the Bank on the day on which such Loan is made by the Bank.

*Section 1.3. Transfer Fee.* Upon each transfer of the Agreement by the District in accordance with its terms or appointment of a successor Issuing and Paying Agent under the Issuing and Paying Agent Agreement, the District agrees to pay the Bank a non-refundable fee of \$2,500, and to reimburse the Bank for its actual costs and expenses associated with such transfer or appointment (including, without limitation, the reasonable fees and expenses of counsel to the Bank), payable on the date of such transfer or appointment.

*Section 1.4. Amendment Fee.* The District agrees to pay to the Bank on the date of each amendment, supplement, or modification to the Agreement (or any Related Document, the amendment, supplement or modification of which requires the consent of the Bank), a non-refundable fee equal to \$2,500, or such other fee as may be agreed to between the District and the Bank, plus, in each case, the reasonable fees and expenses of counsel to the Bank.

## ARTICLE II. MISCELLANEOUS.

*Section 2.1. Out-of-Pocket Expenses.* The District shall pay to the Bank promptly upon receipt of an invoice any and all reasonable fees and expenses of the Bank (including the out-of-pocket expenses of the Bank and the reasonable fees and disbursements of counsel to the Bank) all payable in accordance with this Fee Agreement and Section 9.2(a) of the Agreement.

*Section 2.2. Payment Account.* As provided in the Agreement, all payments hereunder shall be made by means of wire transfer of funds to the Bank's Payment Account.

*Section 2.3. Amendments.* No amendment to this Fee Agreement shall become effective without the prior written consent of the District and the Bank.

*Section 2.4. Governing Law.* THIS FEE AGREEMENT SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN NEW YORK GENERAL OBLIGATIONS LAWS 5-1401 AND 5-1402); PROVIDED THAT THE POWER AND AUTHORITY OF THE DISTRICT TO ENTER INTO AND ITS RIGHTS AND OBLIGATIONS UNDER THIS FEE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF CALIFORNIA.

*Section 2.5. Counterparts.* This Fee Agreement may be executed in two or more counterparts, each of which shall constitute an original but both or all of which, when taken together, shall constitute but one instrument. Delivery of a counterpart hereof by facsimile transmission or by e-mail transmission of an Adobe portable document file (also known as a "PDF" file) shall be effective as delivery of an original executed counterpart hereof.

*Section 2.6. Severability.* Any provision of this Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

*Section 2.7. 2021 Fee Agreement Replacement.* For the avoidance of doubt, this Fee Agreement replaces in its entirety that certain Fee Agreement, dated June 30, 2021, between the Bank and the District, and the parties hereby agree and confirm that such fee letter is no longer in force and effect.

[Remainder of page intentionally left blank; signature page follows.]

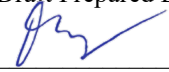
IN WITNESS WHEREOF, the parties hereto have caused this Fee Agreement to be duly executed and delivered by their respective officers thereunto duly authorized on the date first set forth above.

**EAST BAY MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_  
Name: Sophia D. Skoda  
Title: Director of Finance

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_  
Name:  
Title:



RESOLUTION NO. \_\_\_\_\_

AUTHORIZING THE EXECUTION OF (I) A THIRD AMENDMENT TO REVOLVING CREDIT AGREEMENT AND A RELATED FEE AGREEMENT AND (II) A SECOND AMENDMENT TO STANDBY LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT AND A RELATED FEE AGREEMENT, AND AUTHORIZING OTHER MATTERS IN CONNECTION THEREWITH

Introduced by Director

; Seconded by Director

WHEREAS, the Board of Directors (the “Board”) of the East Bay Municipal Utility District (the “District”) by Resolution No. 34062-15, adopted on November 24, 2015, authorized the issuance of commercial paper notes, including the District’s Commercial Paper Notes (Water Series), Tax-Exempt Subseries A-1 (the “Subseries A-1 Commercial Paper Notes”) and Commercial Paper Notes (Water Series), Tax-Exempt Subseries A-2 (the “Subseries A-2 Commercial Paper Notes” and, together with the Subseries A-1 Commercial Paper Notes, the “Commercial Paper Notes (Water Series)”), under Article 1 of Chapter 7.5 of the Municipal Utility District Act (the “Act”) and declared the terms and conditions upon and subject to which commercial paper notes shall be issued; and

WHEREAS, the District has previously arranged for bank credit in connection with the Subseries A-1 Commercial Paper Notes by entering into a Standby Letter of Credit and Reimbursement Agreement dated as of December 1, 2015, as amended by a First Amendment to Standby Letter of Credit and Reimbursement Agreement dated May 6, 2020 (the “SMBC Reimbursement Agreement”) with Sumitomo Mitsui Banking Corporation, acting through its New York Branch (“SMBC”), pursuant to which SMBC issued a Standby Letter of Credit (the “SMBC Letter of Credit”) for the account of the District to provide an additional source of repayment for the principal of the Subseries A-1 Commercial Paper Notes, and also previously entered into an Amended and Restated Fee Agreement dated May 6, 2020 (the “2020 SMBC Fee Agreement”) with SMBC in connection with such First Amendment to Standby Letter of Credit and Reimbursement Agreement; and

WHEREAS, the District has previously arranged for bank credit in connection with the Subseries A-2 Commercial Paper Notes by entering into a Revolving Credit Agreement dated as of December 1, 2015, as amended by a First Amendment to Revolving Credit Agreement dated October 31, 2018, and a Second Amendment to Revolving Credit Agreement dated June 30, 2021 (the “BANA Revolving Credit Agreement”) with Bank of America, N.A. (“BANA”) to provide an additional source of repayment for the principal of the Subseries A-2 Commercial Paper Notes, and also previously entered into a Fee Agreement dated June 30, 2021 (the “2021 BANA Fee Agreement”) with BANA in connection with such Second Amendment to Revolving Credit Agreement; and

WHEREAS, under the terms of the SMBC Letter of Credit, the Stated Expiration Date (as defined in the SMBC Letter of Credit) of the SMBC Letter of Credit for the Subseries A-1 Commercial Paper Notes is currently May 6, 2024; and

WHEREAS, under the terms of the BANA Revolving Credit Agreement, the Stated Expiration Date (as defined in the BANA Revolving Credit Agreement) of the BANA Revolving Credit Agreement is currently June 28, 2024; and

WHEREAS, the District has requested SMBC to extend the Stated Expiration Date of the SMBC Letter of Credit and to provide for such extension there has been presented to this meeting a proposed form of a Second Amendment to Standby Letter of Credit and Reimbursement, and a new fee agreement to replace the 2020 SMBC Fee Agreement documenting certain pricing terms (the “2024 SMBC Fee Agreement” as hereinafter further defined) relating to the Second Amendment to Standby Letter of Credit and Reimbursement Agreement; and

WHEREAS, the District has requested BANA to extend the Stated Expiration Date of the BANA Revolving Credit Agreement and to provide for such extension there has been presented to this meeting a proposed form of a Third Amendment to Revolving Credit Agreement, and a new fee agreement to replace the 2021 BANA Fee Agreement documenting certain pricing terms (the “2024 BANA Fee Agreement” as hereinafter further defined) relating to the Third Amendment to Revolving Credit Agreement; and

WHEREAS, the Board does hereby find and determine that it would be in the best interest of the District to: (i) extend the Stated Expiration Date of the SMBC Letter of Credit and to approve the Second Amendment to Standby Letter of Credit and Reimbursement Agreement and the 2024 SMBC Fee Agreement; and (ii) extend the Stated Expiration Date of the BANA Revolving Credit Agreement and to approve the Third Amendment to Revolving Credit Agreement and the 2024 BANA Fee Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District, as follows:

Section 1. Recitals True and Correct. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Approval of Second Amendment to Standby Letter of Credit and Reimbursement Agreement and 2024 SMBC Fee Agreement. The General Manager, the Director of Finance or the Treasury Manager or any such officer serving in an acting or interim capacity as such or any duly authorized designee of any of the foregoing (each, a “Designated Officer”) is hereby authorized and directed to execute for and on behalf of the District the Second Amendment to Standby Letter of Credit and Reimbursement Agreement and the related 2024 SMBC Fee Agreement relating to the Subseries A-1 Commercial Paper Notes, in substantially the form of the Second Amendment to Standby Letter of Credit and Reimbursement Agreement and related 2024 SMBC Fee Agreement submitted to this meeting, with such changes, insertions and omissions as the Designated Officer executing such agreements shall approve after consultation with the District’s General Counsel and Stradling Yocca Carlson & Rauth LLP, the District’s Bond Counsel (“Bond Counsel”), such approval to be evidenced by the execution and delivery thereof by any Designated Officer; provided that the initial annual Letter of Credit Fee Rate (as defined in the 2024 SMBC Fee Agreement) to be paid to SMBC (based on the current long-term unenhanced debt ratings assigned to any outstanding Water Bond, as such term is defined in the SMBC Reimbursement Agreement as amended by the Second Amendment to

Standby Letter of Credit and Reimbursement Agreement) shall not exceed 32 basis points (0.32%) per annum (which Letter of Credit Fee shall be subject to such adjustments as set forth in the 2024 SMBC Fee Agreement). The Second Amendment to Standby Letter of Credit and Reimbursement Agreement and related 2024 SMBC Fee Agreement, as executed and delivered, are hereinafter referred to as the “Second Amendment to Standby Letter of Credit and Reimbursement Agreement” and the “2024 SMBC Fee Agreement,” respectively, and the execution, delivery and performance of such Second Amendment to Standby Letter of Credit and Reimbursement Agreement and 2024 SMBC Fee Agreement are hereby approved.

Section 3. Approval of Third Amendment to Revolving Credit Agreement and 2024 BANA Fee Agreement. Any of the Designated Officers is hereby authorized and directed to execute for and on behalf of the District the Third Amendment to Revolving Credit Agreement and the related 2024 BANA Fee Agreement, in substantially the form of the Third Amendment to Revolving Credit Agreement and related 2024 BANA Fee Agreement submitted to this meeting, with such changes, insertions and omissions as the Designated Officer executing the same shall approve after consultation with the District’s General Counsel and Bond Counsel, such approval to be evidenced by the execution and delivery thereof by any Designated Officer; provided that the initial annual Commitment Fee Rate (as defined in the 2024 BANA Fee Agreement) to be paid to BANA (based on the current long-term unenhanced debt ratings assigned to any outstanding Water Bond, as such term is defined in the BANA Revolving Credit Agreement as amended by the Third Amendment to Revolving Credit Agreement) shall not exceed 32 basis points (0.32%) per annum (which Letter of Credit Fee shall be subject to such adjustments as set forth in the 2024 SMBC Fee Agreement). The Third Amendment to Revolving Credit Agreement and related 2024 BANA Fee Agreement, as executed and delivered, are hereinafter referred to as the “Third Amendment to Revolving Credit Agreement” and the “2024 BANA Fee Agreement,” respectively, and the execution, delivery and performance of such Third Amendment to Revolving Credit Agreement and 2024 BANA Fee Agreement are hereby approved.

Section 4. Additional Actions. Each of the Designated Officers and such other proper officers of the District be and they hereby are authorized, individually and collectively, to do any and all things and to execute and deliver such other agreements, documents and certificates (including, but not limited to providing for the giving of written directions and notices or the securing of any required third party approvals required by any documents related to the Commercial Paper Notes (Water Series) or otherwise in connection with the extension of the Stated Expiration Date of the SMBC Letter of Credit, the extension of the Stated Expiration Date of the BANA Revolving Credit Agreement, and the transactions contemplated by this Resolution and the delivery of any amendment to or update of the commercial paper offering memorandum related to the District’s Commercial Paper Notes (Water Series) issued pursuant to Resolution No. 34032-15) as may be necessary, convenient, or advisable and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, Resolution No. 34032-15, the Issuing and Paying Agent Agreement relating to the District’s Commercial Paper Notes (Water Series), the SMBC Reimbursement Agreement as amended by the Second Amendment to Standby Letter of Credit and Reimbursement Agreement, the 2024 SMBC Fee Agreement, the BANA Revolving Credit Agreement as amended by the Third Amendment to Revolving Credit Agreement, the 2024 BANA Fee Agreement, and the transactions herein authorized. All actions heretofore taken by the officers (or their designees), employees and agents of the District in

furtherance of the transactions contemplated by this Resolution are hereby approved, ratified and confirmed.

ADOPTED this 26th day of March, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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President

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Secretary

APPROVED AS TO FORM AND PROCEDURE:

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General Counsel

{00093978;1}



Title:	Revise District Salary Ranges, Salaries and Wage Rates	Meeting Date:	March 26, 2024
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3) District officers, assistant officers, civil service exempt and certain civil service management classifications assigned to the Management Salary Plan and includes the following members of the Senior Management Team: General Manager, General Counsel, Secretary of the District, Director of Engineering and Construction, Director of Finance, Director of Operations and Maintenance, Director of Wastewater, Director of Water and Natural Resources, Director of Customer and Community Services, Director of Human Resources, Special Assistant III (Office of Diversity, Equity, and Culture), Special Assistant IV (Legislative Affairs), and Special Assistant IV (Public Affairs).

Additionally, this resolution amends the District's Salary Schedule, a copy of which is on file in the Secretary's Office, to reflect the new salary rates described above. All proposed increases will be effective at 12:01 a.m. on April 22, 2024 and will be reflected in paychecks of May 10, 2024 for all eligible employees.

SUSTAINABILITY

**Economic**

Adoption of this resolution will increase the District’s personnel costs for the remainder of FY 2024 by approximately \$2.9 million, including salary and benefit costs. The FY 2025 District personnel costs will increase by approximately \$15.3 million, including salary and benefit costs. Funding is available in the FY 2024/2025 adopted operating and capital budgets.

**Social**

Locals 2019, 444, 39 and 21 have been advised of the amount of the fourth year general salary increase.

ALTERNATIVE

**Do not provide a general salary increase.** This alternative is not recommended because it would violate provisions of the MOUs with District Unions.



RESOLUTION NO. \_\_\_\_\_

REVISE DISTRICT SALARY RANGES, SALARIES AND WAGE RATES

Introduced by Director \_\_\_\_\_ ; Seconded by Director \_\_\_\_\_

WHEREAS, Resolution No. 35269-22 was adopted on January 25, 2022, to approve implementation of the 2021-2025 Memorandum of Understanding and other special agreements with the IUOE Local 39; and to amend the Position Resolution and revise salary ranges, salaries, and wage rates and other benefits for Senior Management Team Members, Managers, Confidential and Non-Represented employees; and

WHEREAS, Resolution No. 35274-22 was adopted on February 22, 2022, to approve implementation of the 2021-2025 Memorandum of Understanding and other special agreements with IFPTE Local 21 and to amend the Position Resolution and revise salary ranges, salaries and wage rates and other benefits for employees represented by IFPTE Local 21; and

WHEREAS, Resolution No. 35276-22 was adopted on March 8, 2022, to approve implementation of the 2021-2025 Memorandum of Understanding and other special agreements with AFSCME Local 444 and to amend the Position Resolution and revise salary ranges, salaries and wage rates and other benefits for employees represented by AFSCME Local 444; and

WHEREAS, Resolution No. 35283-22 was adopted on April 12, 2022, to approve implementation of the 2021-2025 Memorandum of Understanding and other special agreements with AFSCME Local 2019 and to amend the Position Resolution and revise salary ranges, salaries and wage rates and other benefits for employees represented by AFSCME Local 2019; and

WHEREAS, the East Bay Municipal Utility District's (District) 2021-2025 Memoranda of Understanding with American Federation of State, County and Municipal Employees (AFSCME) Local 2019, AFSCME Local 444, International Union of Operating Engineers (IUOE) Local 39, and International Federation of Professional and Technical Engineers (IFPTE) Local 21 provide for a fourth year general salary increase effective April 22, 2024, that is 0.5% higher than the February 2023 through February 2024 San Francisco/Oakland CPI-W, with a minimum increase of 2% and a maximum increase of 6.5%; and

WHEREAS, the San Francisco/Oakland Consumer Price Index – Urban Wage Earners and Clerical Employees (CPI-W) for the period February 2023 through February 2024 was 2.9%; and

WHEREAS, the General Manager has recommended a general salary or wage increase of 3.4% in salary ranges, monthly salary rates, and wage rates for (1) employees assigned to temporary, and other non-represented classifications, (2) confidential employees subject to the Performance Pay Policy, and (3) District officers, assistant officers, civil service exempt and certain civil service classifications assigned to the Management Salary Plan;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby find and determine as follows:

**Section 1. Salary Ranges – IUOE Local 39**

Section 2 of Resolution No. 35269-22 is amended as follows:

- (a) The monthly salaries of all employees occupying positions in classifications represented by IUOE Local 39 shall be adjusted and increased by 3.4% in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024 a copy of which is on file with the Secretary of the District.
- (b) Unless specifically indicated otherwise, the 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 2. Salary Ranges – IFPTE Local 21**

Section 2 of Resolution No. 35274-22 is amended as follows:

- (a) The monthly salaries of all employees occupying positions in classifications represented by IFPTE Local 21 shall be adjusted and increased by 3.4% in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.
- (b) Unless specifically indicated otherwise, the 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 3. Salary Ranges – AFSCME Local 444**

Section 2 of Resolution No. 35276-22 is amended as follows:

- (a) The monthly salaries of all employees occupying positions in classifications represented by AFSCME Local 444 shall be adjusted and increased by 3.4% in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.
- (b) Unless specifically indicated otherwise, the 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 4. Salary Ranges – AFSCME Local 2019**

Section 2 of Resolution No. 35283-22 is amended as follows:

- (a) The monthly salaries of all employees occupying positions in classifications represented by AFSCME Local 2019 shall be adjusted and increased by 3.4% in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.

- (b) Unless specifically indicated otherwise, the 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 5. Salary Ranges for Confidential Classifications Subject to Performance Pay Policy**

Section 6 of Resolution No. 35269-22 is amended as follows:

- (a) The monthly salary ranges of all confidential employees subject to the District Performance Pay Policy shall be adjusted and increased by 3.4% in accordance with the confidential job classifications and monthly salary rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.
- (b) Unless specifically indicated otherwise, the 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 6. Monthly Wage Rates for Temporary, Temporary Construction, Part-Time, Limited Term and Other Related Non-Represented Classes**

Section 7 of Resolution No. 35269-22 is amended as follows:

- (a) The monthly wage rates for employees assigned to temporary, temporary construction, part-time, limited term and other related non-represented classes, shall be increased by 3.4% in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.
- (b) The 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

**Section 7. Management Salary Plan**

Section 8 of Resolution No. 35269-22 is amended as follows:

- (a) The salary ranges shall be increased by 3.4% for District officers, assistant officers, civil service exempt and certain civil service management classes assigned to the Management Salary Plan, including the following members of the Senior Management Team: General Manager, General Counsel, Secretary of the District, Director of Customer & Community Services, Director of Engineering & Construction, Director of Finance, Director of Human Resources, Director of Operations & Maintenance, Director of Wastewater, Director of Water & Natural Resources, Special Assistant III (Office of Diversity, Equity and Culture), Special Assistant IV (Legislative Affairs), and Special Assistant IV (Public Affairs) in accordance with the classifications and monthly wage rates listed in the salary schedule effective April 22, 2024, a copy of which is on file with the Secretary of the District.

- (b) Salary rate adjustments reflective of individual employee work performance for employees assigned to the Management Salary Plan shall be in accordance with the authority granted to the General Manager pursuant to Section 5(b) and (c) of Resolution No. 32729.
- (c) The 3.4% salary increase shall be effective for all such employees as of 12:01 a.m. on April 22, 2024, and will be paid in the employees' paychecks on May 10, 2024.

BE IT FURTHER RESOLVED that insofar as practicable and unless otherwise specified, the application of the foregoing amendments shall apply to the aforementioned employees on the payroll on April 22, 2024.

BE IT FURTHER RESOLVED that any Resolution in conflict herewith is hereby superseded and canceled.

BE IT FURTHER RESOLVED that the budgets for Fiscal Years 2024 and 2025 and the terms and conditions for the payment of demands as previously established by proper Resolutions of this Board, and as the same may have been from time to time amended, shall be adjusted as necessary in accordance with this Resolution.

ADOPTED this 26th day of March, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM AND PROCEDURE:

\_\_\_\_\_  
General Counsel



Title:	Approve The Candidate Evaluation Criteria and Interview Questions For Filling The Vacant Board Seat In EBMUD Ward 2	Meeting Date:	March 26, 2024
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- Leadership experience
- Experience with/knowledge of water/wastewater issues

Candidate Interview Questions

Each candidate will have 15 minutes for the final interview including 1 minute for opening remarks, 1 minute for closing remarks, and the remaining time to respond to six questions (approximately 2 minutes per question).

1. Describe your experience dealing with local issues affecting Ward 2 and the East Bay. Who were some of the people or groups you worked with on these issues?
2. What key issues facing EBMUD most interest you and tell us about your experience in any of these areas – infrastructure investment, long-term planning, financial stability (including affordability and rates), water supply (including water conservation and recycling), drinking water quality, workforce development and planning, or climate change and environmental protection?
3. What do you view as the role of the EBMUD Board of Directors including working with internal and external parties of interest?
4. What do you see as the most significant challenges facing EBMUD? How would you approach these challenges as a Board member?
5. Describe your views on the importance of Diversity, Equity, and Inclusion (DEI) efforts in the workplace and in the broader community EBMUD serves. How would you promote DEI for EBMUD?
6. At times, Board members may disagree with staff recommendations, with each other, or how to address issues raised by the Union or the public. How would you deal with these situations?

SUSTAINABILITY

**Economic**

There is no fiscal impact associated with the recommended actions.

**Social**

The appointment process recommended by the Ad Hoc Committee, which includes evaluating candidates and interview questions, is open and transparent and allows ample opportunity for public participation.

ALTERNATIVE

**Do not approve the candidate evaluation criteria and interview questions approved by the Ad Hoc Committee.** This alternative is not recommended because the Board appointed the Ad Hoc Committee to develop an appointment process which included candidate evaluation criteria and interview questions.



Title:	Consideration and Adoption of Amendments to EBMUD Campaign Finance Reform Ordinance No. 316 (Second Reading)	Meeting Date:	March 26, 2024
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**DISCUSSION**

The proposed revisions to the CFRO reflect the new applicability of the Levine Act (Government Code section 84308) to local elected officials, Fair Political Practices Commission (FPPC) rules on advertising disclosures, and edits for additional clarity and consistent use of terminology. Additional revisions have been made in accordance with direction provided by the Board during the second reading at the March 12, 2024 Board meeting. These include increases to contribution limits and expansion of the prohibition on donations from contractors. The specific revisions to each paragraph are discussed below.

Recitals

Minor clarifying edits have been made to the Recitals.

Paragraph I, “Findings and Declarations,” and Paragraph II, “Purpose of this Ordinance”

No revisions are being made in Paragraphs I or II.

Paragraph III, “Definitions”

The definitions in this paragraph were reorganized alphabetically for ease of reference. Minor revisions have been made to clarify certain definitions, such as stating that the fair rental value of a premises is not to be included in calculating the costs of holding a fundraising event in a person’s home or office when reporting the value of the fundraising event as a “contribution.”

Several edits have been made to the definition of a “Qualified Campaign Expenditure.” The words “broadcast or print” have been removed as a qualifier for communications costs to reflect the nature of modern media. The limitation of “by name or image” has been removed as a reference to identification of campaign communications based on FPPC advice that any identification of a candidate qualifies as a communication in connection to election to a future term of office.

The definition of a “small contributor committee” has been updated to more clearly match that stated in the PRA.

Paragraph IV.1.a, “Limitations on Contributions from Persons”

When last amended in 2010, the CFRO provided a contribution limit from persons of \$600, to be adjusted annually based on the Consumer Price Index (CPI). Today the limit under the CFRO, after CPI adjustments since 2010, is \$890. At the direction of the Board, this limit is being raised to \$2,000, subject to CPI adjustments starting January 1, 2025.

Paragraph IV.1.a has also been added to mandate publishing of this contribution limit biennially on the District’s website, which captures the District’s current practice.

Paragraph IV.1.e (Personal Loans)

The CFRO imposes a \$10,000 limit on the amount a candidate may loan to their campaign from personal funds. At the March 12, 2024 Board meeting, the Board directed the CFRO to be revised to raise this limit to \$25,000, and to allow for biennial CPI adjustments.

Title:	Consideration and Adoption of Amendments to EBMUD Campaign Finance Reform Ordinance No. 316 (Second Reading)	Meeting Date:	March 26, 2024
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Paragraph IV.2, “Limitations on Contributions from Small Contributor Committees”

In 2010 the CFRO set a \$1,200 limit for contributions from Small Contributor Committees and did not provide for CPI adjustments. At the direction of the Board, this limit is being raised to \$4,000. Additionally, Paragraph IV.2 has been revised to reflect outside counsel’s recommendation that the contribution limit for Small Contributor Committees be adjusted biennially based on the CPI, and that the adjustment be published on the District’s website.

Paragraph IV.4, “Prohibition on Contributions from Contractors Doing Business With the District”

Paragraph IV.4 of the CFRO prohibits contributions from any person submitting bids for or contracting with the District for contracts “not subject to the competitive bidding process,” meaning contracts that are not required to be awarded to the low bidder. In 2022, the Levine Act was amended to apply to officials of agencies with elected governing bodies. The Levine Act (Government Code section 84308) prohibits an officer of the agency from accepting, soliciting, or directing a contribution of more than \$250 from any “party” or “participant” with a matter pending before the agency involving a license, permit, entitlement, or contract, both during the matter’s pendency and for 12 months following.

Paragraph IV.4 of the CFRO has been revised to add a new subparagraph (a) explicitly stating that Section 84308 now applies to the District.

The CFRO has been revised at Paragraphs IV.4.b and c at the direction of the Board to clarify that contributions from any persons contracting with the District, pursuant to a contract approved by the Board, are prohibited, not just those that are not subject to the competitive bidding process.

Paragraph IV.6, “Post-Election Fundraising”

This paragraph states that a candidate may only accept contributions post-election to the extent the contributions do not exceed “net debts outstanding” for the election, and has been amended with recommended updates that clarify the definition of “net debts outstanding from the election” by separately defining the component definitions of “outstanding debts” and “assets.”

Paragraph V.4, “Amount of Expenditure Ceiling”

Paragraph V.4 has been amended with a recommended increase in the voluntary expenditure limit from \$0.53 (fifty-three cents) to \$0.80 (eighty cents) per ward resident to reflect CPI adjustments since the CFRO was last updated. Additionally, recommended language has been added to clarify that the ceiling shall be adjusted biennially and published on the District’s website.

Title:	Consideration and Adoption of Amendments to EBMUD Campaign Finance Reform Ordinance No. 316 (Second Reading)	Meeting Date:	March 26, 2024
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Paragraph VII, “Independent Expenditures in District Elections”

Paragraph VII has been edited with recommended updates for compliance with FPPC requirements for advertisement disclaimers. The amount of \$5,000 is included as the recommended threshold for the identification of top contributors.

Recommended Revisions throughout the CFRO

Certain revisions are recommended for adoption that appear throughout the CFRO. The term “he or she” has been replaced with the more inclusive, nonbinary “their.” References to the PRA have been updated for consistency. References to the “San Francisco/Oakland Consumer Price Index for Urban Wage Earners and Clerical Workers” have been changed to the “San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers” to reflect the correct name for the CPI region and the fact that the broader CPI-U covers 93 percent of the population whereas the CPI-W covers only 29 percent.

**SUSTAINIBILITY**

**Economic**

Revisions to the CFRO will not have an economic impact on the District.

**Social**

The intent of the CFRO is to provide equal opportunities for all candidates to participate in District elections, and to ensure that all business conducted by the Board is free of unlawful influence.

**Environmental**

Revisions to the CFRO will not have an environmental impact.

**ALTERNATIVE**

**Do not adopt amendments to the CFRO.** This alternative is not recommended because certain changes to the CFRO, as outlined above, reflect compliance with updates to the PRA.

# **ATTACHMENT 1**

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**EAST BAY MUNICIPAL UTILITY DISTRICT  
CAMPAIGN FINANCE REFORM ORDINANCE**

BE IT ENACTED by the Board of Directors of East Bay Municipal Utility District that this Ordinance is adopted as the policy of East Bay Municipal Utility District setting forth that:

Campaigns for election to the Board of Directors of the East Bay Municipal Utility District be conducted fairly and that each candidate for election to the District Board be aware of the District's commitment to fair campaigns.

Candidates for election to the Board of Directors of the East Bay Municipal Utility District be permitted to accumulate the resources necessary to effectively advocate and to campaign for election to the Board.

Campaigns for election to the Board of Directors of the East Bay Municipal Utility District be free of corruption or the appearance of corruption.

Campaigns for election to the Board of Directors of East Bay Municipal Utility District be free from improper influence stemming from the dependence of candidates on large campaign contributions.

Campaign contributions be reasonably limited so as to not unduly infringe upon the First Amendment rights of political expression and association and not have a significant adverse effect on the funding of campaigns for District office.

The contribution limits set forth herein shall apply for each election to the Board of Directors of the East Bay Municipal Utility District.

**I. FINDINGS AND DECLARATIONS**

The Board of Directors of the East Bay Municipal Utility District find and declare each of the following:

- (a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process. However, disproportionately large contributions from certain persons or organizations may lead to a perception that they exercise a disproportionate or controlling influence upon candidates.
- (b) The increasing costs of political campaigns compel many candidates to raise larger percentages of money from interest groups with a specific financial stake in matters which may come before the Board of Directors. This has caused a public perception that votes may be improperly influenced by monetary contributions.
- (c) The tendency for campaign contributions to be dominated by a small number of very large contributors undermines the integrity of the

governmental process, the competitiveness of campaigns, and the public's confidence in local officials and local agencies.

## II. PURPOSE OF THIS ORDINANCE

The Board of Directors enacts this Ordinance to accomplish the following purposes:

- (a) To improve methods of financing campaigns in order to ensure the public's right-to-know, combat corruption and undue influence, and promote citizen participation in the political process.
- (b) To prevent parties with a specific financial interest in the District's decisions from exerting undue influence over those decisions by means of large campaign contributions.
- (c) To improve the disclosure of contribution sources in reasonable and effective ways.
- (d) To restore public trust in governmental and electoral institutions.

## III. DEFINITIONS

1. Unless otherwise specifically provided in this Ordinance or required by the context, the words and phrases in this Ordinance shall have the same meanings as in the ~~California Elections Code and in the~~ Political Reform Act of 1974 as amended (Government Code section 81000 *et seq.*, hereafter "Political Reform Act") and regulations adopted thereunder by the Fair Political Practices Commission (hereafter "FPPC").
2. "Candidate" means a candidate for election to the Board of Directors of the East Bay Municipal Utility District, or an incumbent who holds that office.
3. "Contribution" has the same meaning as in the Political Reform Act of 1974, Government Code section 82015, and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless or if it is clear from the surrounding circumstances that ~~the~~ the payment is not made for political purposes. A non-monetary contribution shall be valued at the true or estimated fair market value of the goods, services, or facilities contributed to the campaign. A fair market value is the price that a person would be required to pay to acquire the same goods or services or facilities in the open market place.

The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the **total** costs for the meeting or fundraising event are five hundred dollars (\$500) or less, **exclusive of the fair rental value of the premises**; nor does it include volunteer personal services or payments

made by any individual for his or her~~her~~their own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid for such expenses to him or her.

A contribution to the committee designated by the candidate for his or her~~her~~their election to the District Board of Directors is deemed a contribution to the candidate.

4. “District” means the East Bay Municipal Utility District.
5. “Expenditure” has the same meaning as in the Political Reform Act of 1974, Government Code section 82025 and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of his or her~~her~~their own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.
6. “Officeholder expenses” means those expenditures that arise out of the performance of the officeholder’s official duties, directly assist the officeholder in performing his or her~~her~~those official duties, or are directly related to a governmental purpose. Officeholder expenses include, but are not limited to:
  - (a) Donations to charitable organizations;
  - (b) Cost of tickets to political or community events;
  - (c) Postage, office supplies, stationery and similar expenses related to the conduct or performance of the officeholder’s governmental activities and duties;
  - (d) Reasonable expenses for travel to conferences, seminars, educational events or similar activities related to the officeholder’s position; or
  - (e) Costs of books or publications reasonably related to the officeholder’s position.

The expenses listed in (a) through (e) shall be considered officeholder expenses as long as they are not used in connection with the candidate’s election to a future term of office.

- ~~3.1. “Small Contributor Committee” means a committee of persons that has been in existence for more than six months and within 36 months before making a contribution has received contributions from 100 or more persons of no more than \$200 per person per calendar year and has made contributions to five or~~

~~more candidates of at least \$25 each. For purposes of this paragraph, the term “Candidate” shall have the same meaning as in the Political Reform Act of 1974 (Government Code Section 82007).~~

~~4.1. “District” means the East Bay Municipal Utility District.~~

~~5.1. “Contribution” has the same meaning as in the Political Reform Act of 1974, Government Code section 82015, and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. A non-monetary contribution shall be valued at the true or estimated fair market value of the goods, services, or facilities contributed to the campaign. A fair market value is the price that a person would be required to pay to acquire the same goods or services in the open market place.~~

~~The term “contribution” does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less; nor does it include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.~~

~~A contribution to the committee designated by the candidate for his or her election to the District board is deemed a contribution to the candidate.~~

~~8.7. “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, limited liability company, corporation, association, committee, and any other organization or group of persons acting in concert.~~

~~9.1. “Expenditure” has the same meaning as in the Political Reform Act of 1974, Government Code section 82025 and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of his or her own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.~~

~~10.8. “Qualified Campaign Expenditure” means any expenditure made or incurred by a candidate or ~~his or her~~their agent for the purpose or with the primary effect of influencing or attempting to influence the actions of the voters for or against the election of the candidate. Such expenditures shall include, but are not limited to:~~

- (a) Payments for fundraising and campaign strategy expenses for election to a future term of office;
- (b) Payments for mass mailings, political advertising, opinion polls or surveys, and other ~~broadcast or print~~ communications in connection with election to a future term of office. For purposes of this ~~section paragraph~~, a mass mailing, political advertisement, opinion poll or survey, or other communication shall be considered “in connection with election to a future term of office” if it makes reference to the candidate’s future election or status as a candidate for a future term of office, or if it is made by an incumbent officeholder within three (3) months prior to an election for which he or she will be a candidate and it features the candidate ~~by name or image~~;
- (c) Payments for services and actual expenses of political consultants, the campaign treasurer and other campaign staff, pollsters and other persons providing services directly in connection with a future election;
- (d) Payments for office space, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the candidate’s campaign to a future term of office;
- (e) Payments for voter registration and get-out-the-vote drives;
- (f) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the cost actually paid or incurred by the candidate; and
- (g) A non-monetary contribution provided at the request of or with the approval of the candidate or his or her agent which is made in connection with the candidate’s future election.

“Qualified campaign expenditure” does not include officeholder expenses.

~~11.1. “Officeholder expenses” means those expenditures that arise out of the performance of the officeholder’s official duties, directly assist the officeholder in performing his or her official duties, or are directly related to a governmental purpose. Officeholder expenses include:~~

~~(a) Donations to charitable organizations;~~

~~(a) Cost of tickets to political or community events;~~

~~(a) Postage, office supplies, stationery and similar expenses related to the conduct or performance of the officeholder’s governmental activities and duties;~~

~~(a) Reasonable expenses for travel to conferences, seminars, educational events or similar activities related to the officeholder's position; or~~

~~(a) Costs of books or publications reasonably related to the officeholder's position.~~

~~The expenses listed in (a) through (e) shall be considered officeholder expenses as long as they are not used in connection with the candidate's election to a future term of office.~~

9. "Small Contributor Committee" has the same meaning as in the Political Reform Act, Government Code section 85203 and Cal. Code of Regulations, title 2, section 18503, and includes means:

(a) A committee of persons that has been in existence for more than six months, and

(b) Within 36 months before making a contribution has received contributions from 100 or more persons, and

(c) Maintains campaign funds that do not include any contributions of no more than \$200 per person per calendar year, and

(d) Has made contributions to five or more candidates every 36 months of at least \$25 each.

For purposes of this Paragraph III.9 only, the term "Candidate" shall have the same meaning as in the Political Reform Act of 1974 (Government Code Section 82007).

#### IV. CAMPAIGN CONTRIBUTION LIMITATIONS

##### 1. Limitations on Contributions from Persons

(a) Except as provided in Paragraph IV.2 of this Ordinance, no person shall make to any candidate and no such candidate shall solicit or accept any contribution which would cause the total amount contributed by that person to that candidate to exceed ~~\$600~~ \$2,000 for each election. The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-~~Oakland-Hayward~~-Consumer Price Index for Urban ~~Wage Earners and Clerical Workers~~ Consumers. This adjustment shall be rounded to the nearest ten dollars (\$10) and shall be published on the District's website no later than the 1st day of February in the year the adjustment is made.

- (b) No person shall make an anonymous contribution or contributions to a candidate, and no candidate shall accept or solicit an anonymous contribution, totaling twenty-five dollars (\$25) or more for an election.
- (c) A candidate shall maintain a written record of the name and address of each person from whom contributions of twenty-five dollars (\$25) or more are received for an election.
- (d) The provisions of this paragraph shall not apply to a candidate's contribution of ~~his or her~~their own personal funds to ~~his or her~~their designated candidate committee. "Personal funds" includes a loan obtained from a commercial lending institution.
- (e) A candidate may not personally loan to ~~his or her~~their campaign an amount, the outstanding balance of which exceeds ~~ten twenty-five~~ thousand dollars (~~\$10,000~~25,000). The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers. This adjustment shall be rounded to the nearest ten dollars (\$10) and shall be published on the District's website no later than the 1st day of February in the year the adjustment is made.

2. Limitations on Contributions from Small Contributor Committees

No small contributor committee shall make contributions to any candidate and no candidate shall solicit or accept any contribution which would cause the total amount contributed by that small contributor committee to that candidate to exceed ~~\$1,200~~4,000 for each election. The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-/Oakland-Hayward Consumer Price Index for Urban Wage Earners and Clerical WorkersConsumers. This adjustment shall be rounded to the nearest ten dollars (\$10) and shall be published on the District's website no later than the 1st day of February in the year the adjustment is made.

3. Return of Excess Contributions

A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

4. Prohibition on Certain Contributions ~~f~~From ~~Contractors Doing~~Persons with Business Before~~With~~ the District

- (a) Contributions from participants, parties and their agentsor participants in a proceeding before the District involving a license, permit, or other

entitlement for use shall be subject to the restrictions and prohibitions of the ~~Levine Act~~ Political Reform Act, Government Code section 84308 and applicable regulations of the FPPC.

~~(a)~~(b) In addition to the prohibitions and restrictions imposed by Government Code section 84308 and applicable regulations of the FPPC, No person who contracts with the District, pursuant to a contract approved by the Board of Directors ~~for the rendition of personal services, for the furnishing of any material, supplies, or equipment to the District or for selling of any land or building to the District, whenever the contract was not obtained as a result of a competitive bidding process,~~ shall make any contribution to a candidate at any time between the submittal of a proposal for said contract and ~~one year~~twelve months following the completion of the performance under such contract.

~~(b)~~(c) No person who submits a proposal to contract with the District, pursuant to a contract to be approved by the Board of Directors ~~for the rendition of personal services, for the furnishing of any material, supplies, or equipment to the District or for the selling of any land or building to the District, when the contract is not subject to the competitive bidding process,~~ shall make any contribution to a candidate at any time between the submittal~~ation~~ of a proposal for said contract and a final determination by the District to reject the proposal.

~~(e)~~(d) No candidate, or ~~his or her~~their agent, shall knowingly solicit or accept any contribution from any person or organization prohibited by Paragraph IV.4(a), ~~or~~ (b) or (c) of this Ordinance from making such contribution.

~~(d)~~(e) No person who knowingly violates Paragraph IV.4(~~ba~~) or (~~cb~~) of this Ordinance shall be awarded a contract a which is not obtained as a result of a competitive bidding process for one (1) year after the date of the violation.

## 5. Limitations on Transfers from Candidate Controlled Committees

Contributions received by any other committee controlled by a candidate shall be subject to the contribution limitations set forth in this Ordinance when such contributions are transferred to the candidate's committee for election to the District ~~B~~board of Directors. The following method shall be utilized to calculate the amount that is in compliance with the contribution limitations.

(a) The candidate shall review the contributions which have been received by the candidate controlled committee beginning with the last contribution received and working back in time until the total amount of cash and cash equivalents held by the candidate controlled committee is reached.

- (b) Should the review indicate that the aggregate amount of contributions from a contributor in the candidate controlled committee and in the candidate's committee for election to the District Board exceeds any applicable limitation, the total amount that may be transferred shall be reduced by the amount in excess of the applicable contribution limitation.

6. Post-Election Fundraising

- (a) A contribution for an election may be accepted by a candidate after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) "Net debts outstanding from the election" means the total of a committee's outstanding debts minus its assets.

(b)(c) "Outstanding debts" includes all of the following:

- (1) An amount necessary to cover the cost of raising funds as permitted under this Ordinance.
- (2) Costs related to complying with the post-election filing requirements of this Ordinance and the Political Reform Act of 1974 and for other reasonable and necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies.
- (3) Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount.
- (4) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election.

(4)(d) "Assets" includes all of the following; ~~less the sum of both of the following:~~

- (A)(1) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value.
- (B)(2) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or

receivables, or a commercially reasonable amount based on the collectability of those credits, refunds, returns, or receivables.

~~(e)~~(e) Raising Funds. A candidate may accept contributions after the date of the election only up to the amount of net debts outstanding from the election. The contributions accepted are subject to the applicable contribution limit for that election. The candidate shall reduce the total amount of net debts outstanding as additional funds are received. The candidate and ~~his or her~~their controlled committee(s) may not accept a contribution that exceeds the total amount of net debts outstanding on the date the contribution is received. A contribution that exceeds the amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the contribution limits.

~~(d)~~(f) Paying Net Debt. A candidate may only use a contribution accepted after the election for payment of net debts outstanding from the election. The candidate shall use available funds to pay net debts outstanding as soon as practicable.

~~(e)~~(g) Transfer. A candidate may transfer campaign funds from another of ~~his or her~~their controlled committees for the purpose of paying the net debts outstanding of ~~his or her~~their District committee. A transfer of this type is subject to the ~~contribution limit~~transfer and attribution requirements ~~of this Ordinance in Paragraph IV.5.~~

## 7. Surplus Funds

- (a) Funds remaining in the committee established by the candidate for ~~his or her~~their election to the District ~~B~~oard of Directors as of the end of the first postelection reporting period after the candidate is defeated or has left office may be used only for the following purposes:
- (1) To pay campaign debts or debts from officeholder expenses;
  - (2) To refund contributions;
  - (3) To donate to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the candidate, any member of ~~his or her~~their immediate family, or ~~his or her~~their campaign treasurer; and
  - (4) To pay professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation arising directly out of the candidate's duties or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a

violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

- (b) Funds remaining in the committee established by the candidate for ~~his or her~~their election to the District ~~B~~oard as of the end of the first postelection reporting period after the candidate is defeated or has left office may not be used for ~~his or her~~their election to any other office unless they are first transferred to a committee set up for that other office.

## V. VOLUNTARY EXPENDITURE CEILING

### 1. Ballot Designation of Candidate Accepting Voluntary Expenditure Ceiling

Candidates who adopt the voluntary expenditure ceiling as defined below shall be designated in the voter information portion of the sample ballot as having voluntarily agreed to the expenditure ceiling set forth in this paragraph.

### 2. Statement Accepting Voluntary Expenditure Ceiling

All candidates who accept the voluntary campaign expenditure ceiling as defined below must file a statement with the Secretary of the District indicating acceptance of the expenditure ceiling and acknowledging such decision to be irrevocable. Said statement shall be filed no later than the time for filing the FPPC Form 501 (Candidate Statement of Intention). A candidate who does not adopt the voluntary campaign expenditure ceiling by filing the required statement shall be presumed to have rejected the expenditure ceiling.

### 3. Statement Declining Voluntary Expenditure Ceiling

Candidates who decline to accept the voluntary campaign expenditure ceiling as defined below shall file a statement with the Secretary of the District indicating their decision not to adopt the expenditure ceiling. Said statement shall be filed no later than the time for filing the FPPC Form 501 (Candidate Statement of Intention). A candidate who has filed a statement with the Secretary of the District indicating ~~his or her~~their decision not to accept the expenditure ceiling may, no later than the deadline for filing nomination papers within section 8020 of the Elections Code, revoke such decision by filing with the Secretary of the District a statement accepting the expenditure ceiling and a separate statement, signed under penalty of perjury, verifying that the candidate's qualified campaign expenditures to date have not exceeded the expenditure ceiling.

### 4. Amount of Expenditure Ceiling

- (a) Candidates who agree to expenditure ceilings shall not incur qualified campaign expenditures during the election cycle exceeding \$0.~~53-80~~(fifty-three)eighty cents) multiplied by the number of residents in the

ward in which the candidate seeks election. At the beginning of each election cycle, the number of residents in each ward shall be determined by the Secretary of the District based upon EBMUD's redistricting plan or federal census data, whichever provides the most current information.

(b) The District shall adjust the amount otherwise determined under this Paragraph V.4 in January of every odd-numbered year commencing January 1, 2025, based on the increase or decrease in the San Francisco ~~–Oakland–Hayward~~ Consumer Price Index for Urban ~~Wage Earners and Clerical Workers~~ Consumers. The adjusted expenditure ceiling is adjustment shall be rounded to the nearest one hundred dollars (\$100) and shall be published on the District website no later than the 1st day of February in the year the adjustment is made.

5. Expenditure Ceiling Lifted

If any candidate declines to accept the campaign expenditure ceiling by the deadline provided in Paragraph V.3 of this section, then the expenditure ceiling shall no longer be binding on any candidate.

## VI. DISCLOSURE

1. Statements of Organization, Candidate Intention Statements, and Campaign Statements.

Any Statement of Organization (Form 410), Candidate Intention Statement (Form 501) and Campaign Statements (including Forms 460, 465, 470, 495, 496 or 497) required to be filed under the Political Reform Act ~~of 1974 (Government Code Section 81000 et seq.)~~ shall also be filed at the same time with the Secretary of the District. The candidate's obligation to file such campaign statements with the Secretary of the District shall continue until such time as the candidate has filed all campaign statements required by the Political Reform Act ~~of 1974~~ for the period ending December 31 following the election, including the Semi-Annual Campaign Statement (Form 460) due on January 31 following the election.

2. Statement Accepting or Declining Voluntary Expenditure Ceiling

Each candidate shall file a statement with the Secretary of the District accepting or declining the voluntary expenditure ceiling for each election as set forth in Paragraphs VI.1 and VI.2 of this Ordinance. The Secretary shall provide each candidate with a form that may be used for this purpose.

3. Press Disclosure

The Secretary of the District shall, upon determining that a candidate has failed to comply with any filing deadline set forth in this Ordinance,

immediately notify the candidate of the apparent violation by any method that provides for confirmation of receipt, including but not limited to certified mail, telephone call and e-mail. The candidate shall be given five (5) working days from the date of actual notification to either cure the violation or to demonstrate that the required filings have been made. Upon conclusion of the five-day period, if the candidate has not demonstrated that full compliance has occurred, the Secretary shall disclose to the public by press release the name of any candidate who has failed to file any statements required under this Ordinance in the current election.

## VII. INDEPENDENT EXPENDITURES IN DISTRICT ELECTIONS

### 1. Campaign Advertising Disclosure

(a) ~~In addition to the disclaimers required to appear on advertisements by the Political Reform Act, Government Code sections 84501 *et seq.* and the regulations of the Fair Political Practices Commission (FPPC), a~~Any committee ~~that spends at least \$1,000 on advertisements to primarily formed to support or oppose candidates in the District Board election that makes, during the calendar year in which the election is held, more than \$1000 in independent expenditures to~~ support or oppose any candidate for ~~election to~~ the District Board shall list the following information ~~in its advertisements in a clear and legible manner on the bottom one-third of the front page of any printed communication, including mailings, yard signs, billboards, bumper stickers and campaign buttons 10 inches in diameter or larger, paid for by the committee that mentions a candidate or the election:~~ “~~Ad p~~Ad paid for by [name of committee]. ~~Major funding by~~Ad Committee’s Top Funders: [name and occupation of ~~two-three~~ largest contributors of \$5,000 or more to the committee within the prior 12 months].”

(b) The requirements of this paragraph shall not apply to any communication distributed by an organization solely to its own members, employees, shareholders, or families of members, employees, or shareholders.

### 2. Independent Expenditure Reports

~~In addition to the reporting requirements of the Political Reform Act of 1974,~~ aAny committee ~~primarily formed to support or oppose a District candidate that makes independent expenditures totaling five hundred dollars~~\$1,000 (\$500) or more ~~within 90 days of a District election in a calendar year to~~ support or oppose a candidate for election to the District Board of Directors shall file a copy of their Form 496 24-Hour Independent Expenditure Report with the Secretary of the District. ~~a copy of all campaign statements required to be filed under the California Political Reform Act of 1974. The deadline for filing such campaign statements with the Secretary shall be the same deadline~~

~~for filing campaign statements with the California Secretary of State or any county clerk as set forth in the California Political Reform Act of 1974.~~

## **IX.VIII. ENFORCEMENT**

1. Campaign Statement Review
  - (a) The Secretary of the District shall monitor all campaign forms and statements filed by candidates for the District Board and shall notify the candidate of any of the following apparent violations of this Ordinance:
    - (1) The non-filing or late filing of any required campaign forms or statements.
    - (2) A statement that does not conform on its face with the requirements of this Ordinance.
    - (3) Any reported contributions that exceed the allowable maximums established under this Ordinance.
  - (b) The Secretary of the District shall also investigate any report or information received indicating that a candidate may have failed to file a statement required under this Ordinance, if the Secretary has sufficient information to reasonably conduct such investigation.
  - (c) The candidate shall be allowed to correct any reports within five days after receipt of notice of an apparent violation by the Secretary of the District.
  - (d) The Secretary of the District shall refer to the ~~Fair Political Practices Commission~~FPPC any complaint alleging a violation of the Political Reform Act ~~of 1974~~ (Government Code Section 81000 *et seq.*) by any candidate or committee and shall cooperate in any investigation conducted by the ~~Commission~~FPPC as a result of such referral.
2. Violations
  - (a) In addition to any other remedies provided in this Ordinance, the East Bay Municipal Utility District and any person residing in the District may bring a civil action against any person or committee who intentionally or negligently violates the reporting requirements or the contribution and expenditure limitations set forth herein, and may also sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Ordinance. Any such action must be brought within 4 (four) years of the date of the violation.

- (b) In any legal action brought under this Ordinance for injunctive relief or civil liability, the court may award to a plaintiff or defendant who prevails ~~his or her~~their costs of litigation, including reasonable attorney's fees.
- (c) In any legal action brought under this Ordinance for injunctive relief or civil liability, where it is determined that the candidate has accepted a contribution or contributions in excess of the applicable limit set forth herein, the full amount of said contribution(s) shall be forfeited to the District general fund. If funds are not available in the candidate's designated committee account for this purpose, the candidate shall be personally liable to pay said amount to the District general fund.

3. Enforcement by Other Agencies

Nothing in Paragraph VII shall be construed as limiting the authority of any law enforcement agency, prosecuting attorney or other person to enforce the provisions of this Ordinance, under any circumstances where such law enforcement agency, prosecuting attorney or other person has lawful authority to do so.

**X.IX. APPLICABILITY OF OTHER LAWS**

Nothing in this Ordinance shall exempt any person or committee from applicable provisions of any other laws of this State.

**X.X. SEVERABILITY**

If any provision of this Ordinance shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

THE EFFECTIVE DATE of this Ordinance shall be May 26, 1992; the amendments adopted on February 8, 1994 shall take effect on May 11, 1994 provided however that the contribution limits specified in Paragraphs IV.1(a) and IV.2(a) shall take effect on, January 25, 1994; the amendments adopted on March 12, 1996 shall take effect on April 11, 1996; the amendments adopted on June 9, 1998 shall take effect on July 9, 1998; the amendments adopted on August 11, 1998 shall take effect on September 10, 1998; the amendments adopted on January 8, 2002 shall take effect on February 7, 2002; the amendments adopted on January 12, 2010 shall take effect on February 12, 2010; the amendments adopted on \_\_\_\_\_, 2024 shall take effect on \_\_\_\_\_, 2024.

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# **ATTACHMENT 2**

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 316 ENTITLED "EAST BAY MUNICIPAL UTILITY DISTRICT CAMPAIGN FINANCE REFORM ORDINANCE"

Introduced by Director \_\_\_\_\_ ; Seconded by Director \_\_\_\_\_

WHEREAS, the Board of Directors of the East Bay Municipal Utility District enacted the Campaign Finance Reform Ordinance (CFRO) in 1992 and adopted it as the policy of the District; and

WHEREAS, the Board of Directors has amended the CFRO a number of times since its enactment in 1992, with the last adoption of amendments taking place in 2010; and

WHEREAS, since the CFRO's last amendment in 2010, there have been changes in the Political Reform Act and its implementing regulations that are recommended for incorporation into the CFRO; and

WHEREAS, the CFRO amendments necessitated by changes in law and opinions of the Fair Political Practices Commission include incorporation of the Levine Act into the CFRO, updates to the definition of a qualified campaign expenditure and updates to campaign advertisement disclaimer requirements; and

WHEREAS, other revisions to the CFRO are recommended for clarity and constancy, including alphabetization of definitions, correcting and updating the reference to the Consumer Price Index used in the CFRO, replacing "his or her" with the nonbinary term "their," and other minor revisions for the consistent use of terminology throughout the CFRO; and

WHEREAS, proposed revisions to the CFRO were presented to the Legislative/Human Resources Committee on January 9, 2024 and February 13, 2024, and the Committee recommended revisions for consideration by the Board of Directors; and

WHEREAS, the Board of Directors conducted a first reading of proposed revisions to the CFRO on February 27, 2024; and

WHEREAS, the Board of Directors conducted a second reading of proposed revisions to the CFRO on March 12, 2024 and, following discussion, voted to incorporate additional revisions to the CFRO; and

WHEREAS, the Board of Directors desires to increase the campaign contribution limits set forth in the CFRO from \$600 to \$2,000 for persons and from \$1,200 to \$4,000 for small contributor committees and to allow for biennial CPI adjustments to the contribution limit for small contributor committees; and

WHEREAS, the Board of Directors desires to increase the \$10,000 limit on the amount a candidate may loan to their campaign from personal funds to \$25,000, and to allow for biennial CPI adjustments of this amount; and

WHEREAS, the Board of Directors desires to expand the CFRO's prohibition on candidate contributions from persons contracting with the District to any Board-approved contract with the District and not only contracts that are not subject to the competitive bidding process; and

WHEREAS, following receipt of direction from the Board of Directors on further revisions to the CFRO at the second reading on March 12, 2024, the second reading of the amended ordinance was continued to the regular Board meeting of March 26, 2024;

NOW, THEREFORE, BE IT ENACTED by the Board of Directors of the East Bay Municipal Utility District that Ordinance No. 316 be amended as shown in Exhibit A.

THE EFFECTIVE DATE of this Ordinance shall be April 25, 2024.

---

President

I HEREBY CERTIFY that the revisions to Ordinance No. 316 were duly and regularly introduced at a regular meeting of the East Bay Municipal Utility District Board of Directors held on February 27, 2024, at the office of said District, 375 11th Street, Oakland, California, and thereupon, after being read, further action was scheduled for the regular meeting of said Board of Directors held at the same place on March 12, 2024, and for the regular meeting of said Board of Directors held at the same place on March 26, 2024, at which time Ordinance No. 375-24, adopting the revisions to Ordinance No. 316, was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

---

Secretary

APPROVED AS TO FORM AND PROCEDURE

---

General Counsel

**EAST BAY MUNICIPAL UTILITY DISTRICT  
CAMPAIGN FINANCE REFORM ORDINANCE**

BE IT ENACTED by the Board of Directors of East Bay Municipal Utility District that this Ordinance is adopted as the policy of East Bay Municipal Utility District setting forth that:

Campaigns for election to the Board of Directors of the East Bay Municipal Utility District be conducted fairly and that each candidate for election to the District Board be aware of the District's commitment to fair campaigns.

Candidates for election to the Board of Directors of the East Bay Municipal Utility District be permitted to accumulate the resources necessary to effectively advocate and to campaign for election to the Board.

Campaigns for election to the Board of Directors of the East Bay Municipal Utility District be free of corruption or the appearance of corruption.

Campaigns for election to the Board of Directors of East Bay Municipal Utility District be free from improper influence stemming from the dependence of candidates on large campaign contributions.

Campaign contributions be reasonably limited so as to not unduly infringe upon the First Amendment rights of political expression and association and not have a significant adverse effect on the funding of campaigns for District office.

The contribution limits set forth herein shall apply for each election to the Board of Directors of the East Bay Municipal Utility District.

**I. FINDINGS AND DECLARATIONS**

The Board of Directors of the East Bay Municipal Utility District find and declare each of the following:

- (a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process. However, disproportionately large contributions from certain persons or organizations may lead to a perception that they exercise a disproportionate or controlling influence upon candidates.
- (b) The increasing costs of political campaigns compel many candidates to raise larger percentages of money from interest groups with a specific financial stake in matters which may come before the Board of Directors. This has caused a public perception that votes may be improperly influenced by monetary contributions.
- (c) The tendency for campaign contributions to be dominated by a small number of very large contributors undermines the integrity of the

governmental process, the competitiveness of campaigns, and the public's confidence in local officials and local agencies.

## **II. PURPOSE OF THIS ORDINANCE**

The Board of Directors enacts this Ordinance to accomplish the following purposes:

- (a) To improve methods of financing campaigns in order to ensure the public's right-to-know, combat corruption and undue influence, and promote citizen participation in the political process.
- (b) To prevent parties with a specific financial interest in the District's decisions from exerting undue influence over those decisions by means of large campaign contributions.
- (c) To improve the disclosure of contribution sources in reasonable and effective ways.
- (d) To restore public trust in governmental and electoral institutions.

## **III. DEFINITIONS**

1. Unless otherwise specifically provided in this Ordinance or required by the context, the words and phrases in this Ordinance shall have the same meanings as in the Political Reform Act of 1974 as amended (Government Code section 81000 *et seq.*, hereafter "Political Reform Act") and regulations adopted thereunder by the Fair Political Practices Commission (hereafter "FPPC").
2. "Candidate" means a candidate for election to the Board of Directors of the East Bay Municipal Utility District, or an incumbent who holds that office.
3. "Contribution" has the same meaning as in the Political Reform Act, Government Code section 82015, and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes. A non-monetary contribution shall be valued at the true or estimated fair market value of the goods, services, or facilities contributed to the campaign. A fair market value is the price that a person would be required to pay to acquire the same goods or services or facilities in the open market place.

The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the total costs for the meeting or fundraising event are five hundred dollars (\$500) or less, exclusive of the fair rental value of the premises; nor does it include volunteer personal services or payments

made by any individual for their own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid for such expenses.

A contribution to the committee designated by the candidate for their election to the District Board of Directors is deemed a contribution to the candidate.

4. “District” means the East Bay Municipal Utility District.
5. “Expenditure” has the same meaning as in the Political Reform Act, Government Code section 82025 and includes a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of their own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.
6. “Officeholder expenses” means those expenditures that arise out of the performance of the officeholder’s official duties, directly assist the officeholder in performing those official duties, or are directly related to a governmental purpose. Officeholder expenses include, but are not limited to:
  - (a) Donations to charitable organizations;
  - (b) Cost of tickets to political or community events;
  - (c) Postage, office supplies, stationery and similar expenses related to the conduct or performance of the officeholder’s governmental activities and duties;
  - (d) Reasonable expenses for travel to conferences, seminars, educational events or similar activities related to the officeholder’s position; or
  - (e) Costs of books or publications reasonably related to the officeholder’s position.

The expenses listed in (a) through (e) shall be considered officeholder expenses as long as they are not used in connection with the candidate’s election to a future term of office.

7. “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, limited liability company, corporation, association, committee, and any other organization or group of persons acting in concert.

8. “Qualified Campaign Expenditure” means any expenditure made or incurred by a candidate or their agent for the purpose or with the primary effect of influencing or attempting to influence the actions of the voters for or against the election of the candidate. Such expenditures shall include, but are not limited to:
- (a) Payments for fundraising and campaign strategy expenses for election to a future term of office;
  - (b) Payments for mass mailings, political advertising, opinion polls or surveys, and other communications in connection with election to a future term of office. For purposes of this paragraph, a mass mailing, political advertisement, opinion poll or survey, or other communication shall be considered “in connection with election to a future term of office” if it makes reference to the candidate’s future election or status as a candidate for a future term of office, or if it is made by an incumbent officeholder within three (3) months prior to an election for which he or she will be a candidate and it features the candidate;
  - (c) Payments for services and actual expenses of political consultants, the campaign treasurer and other campaign staff, pollsters and other persons providing services directly in connection with a future election;
  - (d) Payments for office space, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the candidate’s campaign to a future term of office;
  - (e) Payments for voter registration and get-out-the-vote drives;
  - (f) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the cost actually paid or incurred by the candidate; and
  - (g) A non-monetary contribution provided at the request of or with the approval of the candidate or his or her agent which is made in connection with the candidate’s future election.

“Qualified campaign expenditure” does not include officeholder expenses.

9. “Small Contributor Committee” has the same meaning as in the Political Reform Act, Government Code section 85203 and Cal. Code of Regulations, title 2, section 18503, and includes:
- (a) A committee of persons that has been in existence for more than six months, and

- (b) Within 36 months before making a contribution has received contributions from 100 or more persons, and
- (c) Has campaign funds that do not include any contributions of more than \$200 per person per calendar year, and
- (d) Has made contributions to five or more candidates every 36 months of at least \$25 each.

For purposes of this Paragraph III.9 only, the term “Candidate” shall have the same meaning as in the Political Reform Act (Government Code section 82007).

#### **IV. CAMPAIGN CONTRIBUTION LIMITATIONS**

##### **1. Limitations on Contributions from Persons**

- (a) Except as provided in Paragraph IV.2 of this Ordinance, no person shall make to any candidate and no such candidate shall solicit or accept any contribution which would cause the total amount contributed by that person to that candidate to exceed \$2,000 for each election. The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers. This adjustment shall be rounded to the nearest ten dollars (\$10) and shall be published on the District’s website no later than the 1st day of February in the year the adjustment is made.
- (b) No person shall make an anonymous contribution or contributions to a candidate, and no candidate shall accept or solicit an anonymous contribution, totaling twenty-five dollars (\$25) or more for an election.
- (c) A candidate shall maintain a written record of the name and address of each person from whom contributions of twenty-five dollars (\$25) or more are received for an election.
- (d) The provisions of this paragraph shall not apply to a candidate’s contribution of their own personal funds to their designated candidate committee. “Personal funds” includes a loan obtained from a commercial lending institution.
- (e) A candidate may not personally loan to their campaign an amount, the outstanding balance of which exceeds twenty-five thousand dollars (\$25,000). The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers. This adjustment shall be rounded to the

nearest ten dollars (\$10) and shall be published on the District's website no later than the 1st day of February in the year the adjustment is made.

2. Limitations on Contributions from Small Contributor Committees

No small contributor committee shall make contributions to any candidate and no candidate shall solicit or accept any contribution which would cause the total amount contributed by that small contributor committee to that candidate to exceed \$4,000 for each election. The District shall adjust this amount in January of every odd-numbered year starting on January 1, 2025 based on the increase or decrease in the San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers. This adjustment shall be rounded to the nearest ten dollars (\$10) and shall be published on the District's website no later than the 1st day of February in the year the adjustment is made.

3. Return of Excess Contributions

A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

4. Prohibition on Certain Contributions from Persons with Business Before the District

- (a) Contributions from participants, parties and their agents in a proceeding before the District involving a license, permit, or other entitlement for use shall be subject to the restrictions and prohibitions of the Political Reform Act, Government Code section 84308 and applicable regulations of the FPPC.
- (b) In addition to the prohibitions and restrictions imposed by Government Code section 84308 and applicable regulations of the FPPC, no person who contracts with the District, pursuant to a contract approved by the Board of Directors, shall make any contribution to a candidate at any time between the submittal of a proposal for said contract and twelve months following the completion of the performance under such contract.
- (c) No person who submits a proposal to contract with the District, pursuant to a contract to be approved by the Board of Directors, shall make any contribution to a candidate at any time between the submittal of a proposal for said contract and a final determination by the District to reject the proposal.

- (d) No candidate, or their agent, shall knowingly solicit or accept any contribution from any person or organization prohibited by Paragraph IV.4(a), (b) or (c) of this Ordinance from making such contribution.
- (e) No person who knowingly violates Paragraph IV.4(b) or (c) of this Ordinance shall be awarded a contract which is not obtained as a result of a competitive bidding process for one (1) year after the date of the violation.

5. Limitations on Transfers from Candidate Controlled Committees

Contributions received by any other committee controlled by a candidate shall be subject to the contribution limitations set forth in this Ordinance when such contributions are transferred to the candidate's committee for election to the District Board of Directors. The following method shall be utilized to calculate the amount that is in compliance with the contribution limitations.

- (a) The candidate shall review the contributions which have been received by the candidate controlled committee beginning with the last contribution received and working back in time until the total amount of cash and cash equivalents held by the candidate controlled committee is reached.
- (b) Should the review indicate that the aggregate amount of contributions from a contributor in the candidate controlled committee and in the candidate's committee for election to the District Board exceeds any applicable limitation, the total amount that may be transferred shall be reduced by the amount in excess of the applicable contribution limitation.

6. Post-Election Fundraising

- (a) A contribution for an election may be accepted by a candidate after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.
- (b) "Net debts outstanding from the election" means the total of a committee's outstanding debts minus its assets.
- (c) "Outstanding debts" includes all of the following:
  - (1) An amount necessary to cover the cost of raising funds as permitted under this Ordinance.
  - (2) Costs related to complying with the post-election filing requirements of this Ordinance and the Political Reform Act

and for other reasonable and necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies.

- (3) Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount.
  - (4) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election.
- (d) “Assets” includes all of the following:
- (1) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value.
  - (2) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectability of those credits, refunds, returns, or receivables.
- (e) Raising Funds. A candidate may accept contributions after the date of the election only up to the amount of net debts outstanding from the election. The contributions accepted are subject to the applicable contribution limit for that election. The candidate shall reduce the total amount of net debts outstanding as additional funds are received. The candidate and their controlled committee(s) may not accept a contribution that exceeds the total amount of net debts outstanding on the date the contribution is received. A contribution that exceeds the amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the contribution limits.
- (f) Paying Net Debt. A candidate may only use a contribution accepted after the election for payment of net debts outstanding from the election. The candidate shall use available funds to pay net debts outstanding as soon as practicable.
- (g) Transfer. A candidate may transfer campaign funds from another of their controlled committees for the purpose of paying the net debts outstanding of their District committee. A transfer of this type is subject to the transfer and attribution requirements in Paragraph IV.5.

## 7. Surplus Funds

- (a) Funds remaining in the committee established by the candidate for their election to the District Board of Directors as of the end of the first postelection reporting period after the candidate is defeated or has left office may be used only for the following purposes:
  - (1) To pay campaign debts or debts from officeholder expenses;
  - (2) To refund contributions;
  - (3) To donate to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the candidate, any member of their immediate family, or their campaign treasurer; and
  - (4) To pay professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation arising directly out of the candidate's duties or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.
- (b) Funds remaining in the committee established by the candidate for their election to the District Board as of the end of the first postelection reporting period after the candidate is defeated or has left office may not be used for their election to any other office unless they are first transferred to a committee set up for that other office.

## **V. VOLUNTARY EXPENDITURE CEILING**

### **1. Ballot Designation of Candidate Accepting Voluntary Expenditure Ceiling**

Candidates who adopt the voluntary expenditure ceiling as defined below shall be designated in the voter information portion of the sample ballot as having voluntarily agreed to the expenditure ceiling set forth in this paragraph.

### **2. Statement Accepting Voluntary Expenditure Ceiling**

All candidates who accept the voluntary campaign expenditure ceiling as defined below must file a statement with the Secretary of the District indicating acceptance of the expenditure ceiling and acknowledging such decision to be irrevocable. Said statement shall be filed no later than the time for filing the FPPC Form 501 (Candidate Statement of Intention). A candidate who does not adopt the voluntary campaign expenditure ceiling by filing the required statement shall be presumed to have rejected the expenditure ceiling.

3. Statement Declining Voluntary Expenditure Ceiling

Candidates who decline to accept the voluntary campaign expenditure ceiling as defined below shall file a statement with the Secretary of the District indicating their decision not to adopt the expenditure ceiling. Said statement shall be filed no later than the time for filing the FPPC Form 501 (Candidate Statement of Intention). A candidate who has filed a statement with the Secretary of the District indicating their decision not to accept the expenditure ceiling may, no later than the deadline for filing nomination papers within section 8020 of the Elections Code, revoke such decision by filing with the Secretary of the District a statement accepting the expenditure ceiling and a separate statement, signed under penalty of perjury, verifying that the candidate's qualified campaign expenditures to date have not exceeded the expenditure ceiling.

4. Amount of Expenditure Ceiling

- (a) Candidates who agree to expenditure ceilings shall not incur qualified campaign expenditures during the election cycle exceeding \$0.80 (eighty cents) multiplied by the number of residents in the ward in which the candidate seeks election. At the beginning of each election cycle, the number of residents in each ward shall be determined by the Secretary of the District based upon EBMUD's redistricting plan or federal census data, whichever provides the most current information.
- (b) The District shall adjust the amount otherwise determined under this Paragraph V.4 in January of every odd-numbered year commencing January 1, 2025, based on the increase or decrease in the San Francisco-Oakland-Hayward Consumer Price Index for Urban Consumers. The adjusted expenditure ceiling shall be rounded to the nearest one hundred dollars (\$100) and shall be published on the District website no later than the 1st day of February in the year the adjustment is made.

5. Expenditure Ceiling Lifted

If any candidate declines to accept the campaign expenditure ceiling by the deadline provided in Paragraph V.3, then the expenditure ceiling shall no longer be binding on any candidate.

## **VI. DISCLOSURE**

1. Statements of Organization, Candidate Intention Statements, and Campaign Statements.

Any Statement of Organization (Form 410), Candidate Intention Statement (Form 501) and Campaign Statements (including Forms 460, 465, 470, 495, 496 or 497) required to be filed under the Political Reform Act shall also be

filed at the same time with the Secretary of the District. The candidate's obligation to file such campaign statements with the Secretary of the District shall continue until such time as the candidate has filed all campaign statements required by the Political Reform Act for the period ending December 31 following the election, including the Semi-Annual Campaign Statement (Form 460) due on January 31 following the election.

2. Statement Accepting or Declining Voluntary Expenditure Ceiling

Each candidate shall file a statement with the Secretary of the District accepting or declining the voluntary expenditure ceiling for each election as set forth in Paragraphs VI.1 and VI.2. The Secretary shall provide each candidate with a form that may be used for this purpose.

3. Press Disclosure

The Secretary of the District shall, upon determining that a candidate has failed to comply with any filing deadline set forth in this Ordinance, immediately notify the candidate of the apparent violation by any method that provides for confirmation of receipt, including but not limited to certified mail, telephone call and e-mail. The candidate shall be given five (5) working days from the date of actual notification to either cure the violation or to demonstrate that the required filings have been made. Upon conclusion of the five-day period, if the candidate has not demonstrated that full compliance has occurred, the Secretary shall disclose to the public by press release the name of any candidate who has failed to file any statements required under this Ordinance in the current election.

## **VII. INDEPENDENT EXPENDITURES IN DISTRICT ELECTIONS**

1. Campaign Advertising Disclosure

(a) In addition to the disclaimers required to appear on advertisements by the Political Reform Act, Government Code sections 84501 *et seq.* and the regulations of the FPPC, any committee that spends at least \$1,000 on advertisements to support or oppose any candidate for election to the District Board shall list the following information in its advertisements: "Ad paid for by [name of committee]. Ad Committee's Top Funders: [name and occupation of three largest contributors of \$5,000 or more to the committee within the prior 12 months]."

(b) The requirements of this paragraph shall not apply to any communication distributed by an organization solely to its own members, employees, shareholders, or families of members, employees, or shareholders.

2. Independent Expenditure Reports

**VIII.** In addition to the reporting requirements of the Political Reform Act, any committee primarily formed to support or oppose a District candidate that makes independent expenditures totaling \$1,000 or more within 90 days of a District election to support or oppose a candidate for election to the District Board of Directors shall file a copy of their Form 496 24-Hour Independent Expenditure Report with the Secretary of the District. **ENFORCEMENT**

1. Campaign Statement Review

- (a) The Secretary of the District shall monitor all campaign forms and statements filed by candidates for the District Board and shall notify the candidate of any of the following apparent violations of this Ordinance:
  - (1) The non-filing or late filing of any required campaign forms or statements.
  - (2) A statement that does not conform on its face with the requirements of this Ordinance.
  - (3) Any reported contributions that exceed the allowable maximums established under this Ordinance.
- (b) The Secretary of the District shall also investigate any report or information received indicating that a candidate may have failed to file a statement required under this Ordinance, if the Secretary has sufficient information to reasonably conduct such investigation.
- (c) The candidate shall be allowed to correct any reports within five days after receipt of notice of an apparent violation by the Secretary of the District.
- (d) The Secretary of the District shall refer to the FPPC any complaint alleging a violation of the Political Reform Act (Government Code Section 81000 *et seq.*) by any candidate or committee and shall cooperate in any investigation conducted by the FPPC as a result of such referral.

2. Violations

- (a) In addition to any other remedies provided in this Ordinance, the East Bay Municipal Utility District and any person residing in the District may bring a civil action against any person or committee who intentionally or negligently violates the reporting requirements or the contribution and expenditure limitations set forth herein, and may also sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Ordinance. Any such action must be brought within 4 (four) years of the date of the violation.

- (b) In any legal action brought under this Ordinance for injunctive relief or civil liability, the court may award to a plaintiff or defendant who prevails their costs of litigation, including reasonable attorney's fees.
- (c) In any legal action brought under this Ordinance for injunctive relief or civil liability, where it is determined that the candidate has accepted a contribution or contributions in excess of the applicable limit set forth herein, the full amount of said contribution(s) shall be forfeited to the District general fund. If funds are not available in the candidate's designated committee account for this purpose, the candidate shall be personally liable to pay said amount to the District general fund.

3. Enforcement by Other Agencies

Nothing in Paragraph VII shall be construed as limiting the authority of any law enforcement agency, prosecuting attorney or other person to enforce the provisions of this Ordinance, under any circumstances where such law enforcement agency, prosecuting attorney or other person has lawful authority to do so.

**IX. APPLICABILITY OF OTHER LAWS**

Nothing in this Ordinance shall exempt any person or committee from applicable provisions of any other laws of this State.

**X. SEVERABILITY**

If any provision of this Ordinance shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

THE EFFECTIVE DATE of this Ordinance shall be May 26, 1992; the amendments adopted on February 8, 1994 shall take effect on May 11, 1994 provided however that the contribution limits specified in Paragraphs IV.1(a) and IV.2(a) shall take effect on, January 25, 1994; the amendments adopted on March 12, 1996 shall take effect on April 11, 1996; the amendments adopted on June 9, 1998 shall take effect on July 9, 1998; the amendments adopted on August 11, 1998 shall take effect on September 10, 1998; the amendments adopted on January 8, 2002 shall take effect on February 7, 2002; the amendments adopted on January 12, 2010 shall take effect on February 12, 2010; the amendments adopted on \_\_\_\_\_, 2024 shall take effect on \_\_\_\_\_, 2024.

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**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: March 26, 2024

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager CCC

FROM: David A. Briggs, Director of Operations and Maintenance DAB

SUBJECT: Water Supply Update – March 26, 2024

The attached presentation outlines water production, precipitation to date, reservoir storage, and forecasted supply conditions for the remainder of the water year under various hydrology scenarios. A water supply update will be presented at the March 26, 2024 Board meeting.

CCC:DAB:sd

Attachment: Water Supply Update Presentation

I:\SEC\2024 Board Related Items\032624 Board\OMD – Water Supply Update.docx

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# Water Supply Update

Board of Directors

March 26, 2024

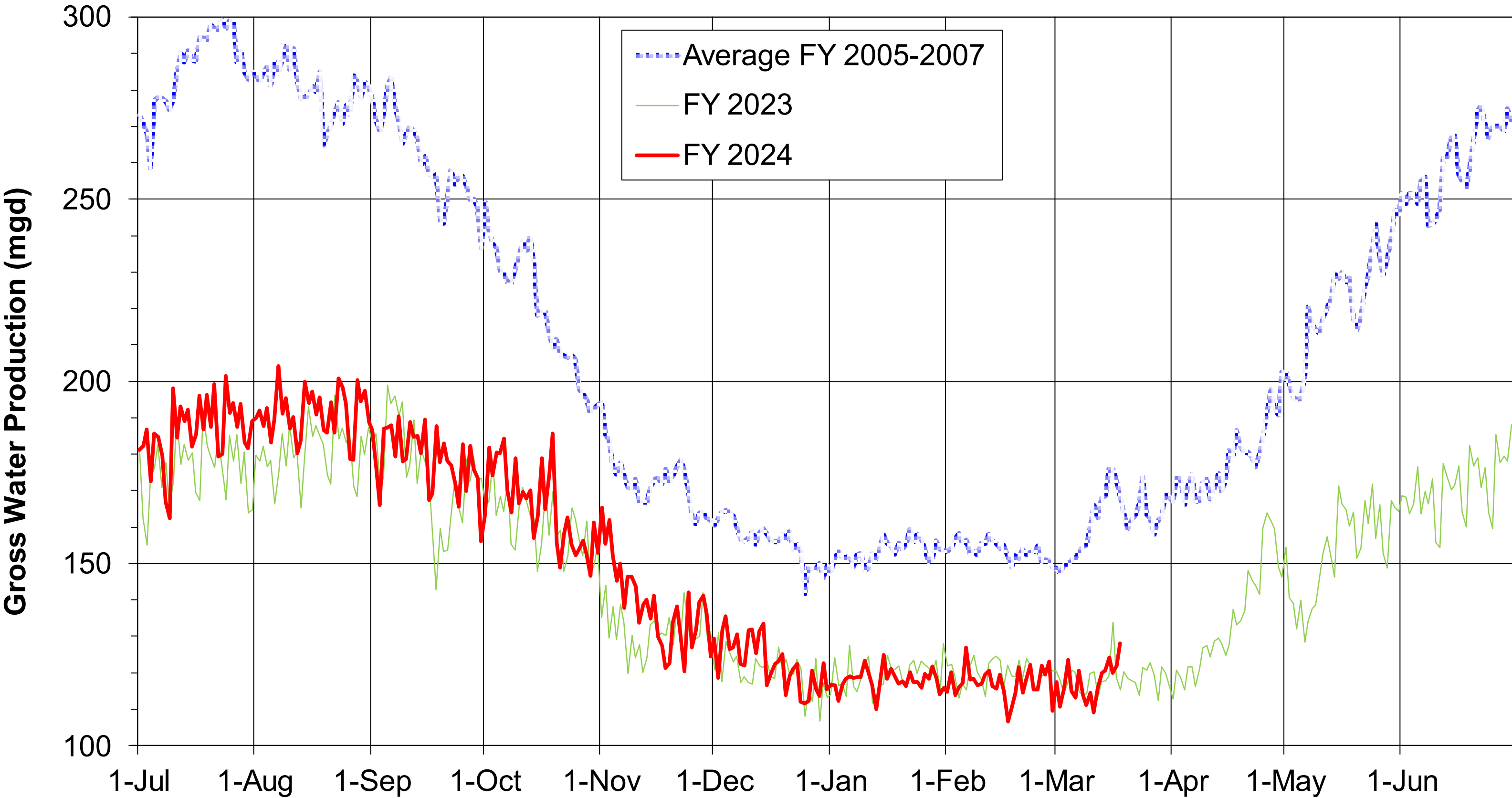
# Water Supply Briefing

- Current Water Supply
- California Water Supply
- Water Supply Projections



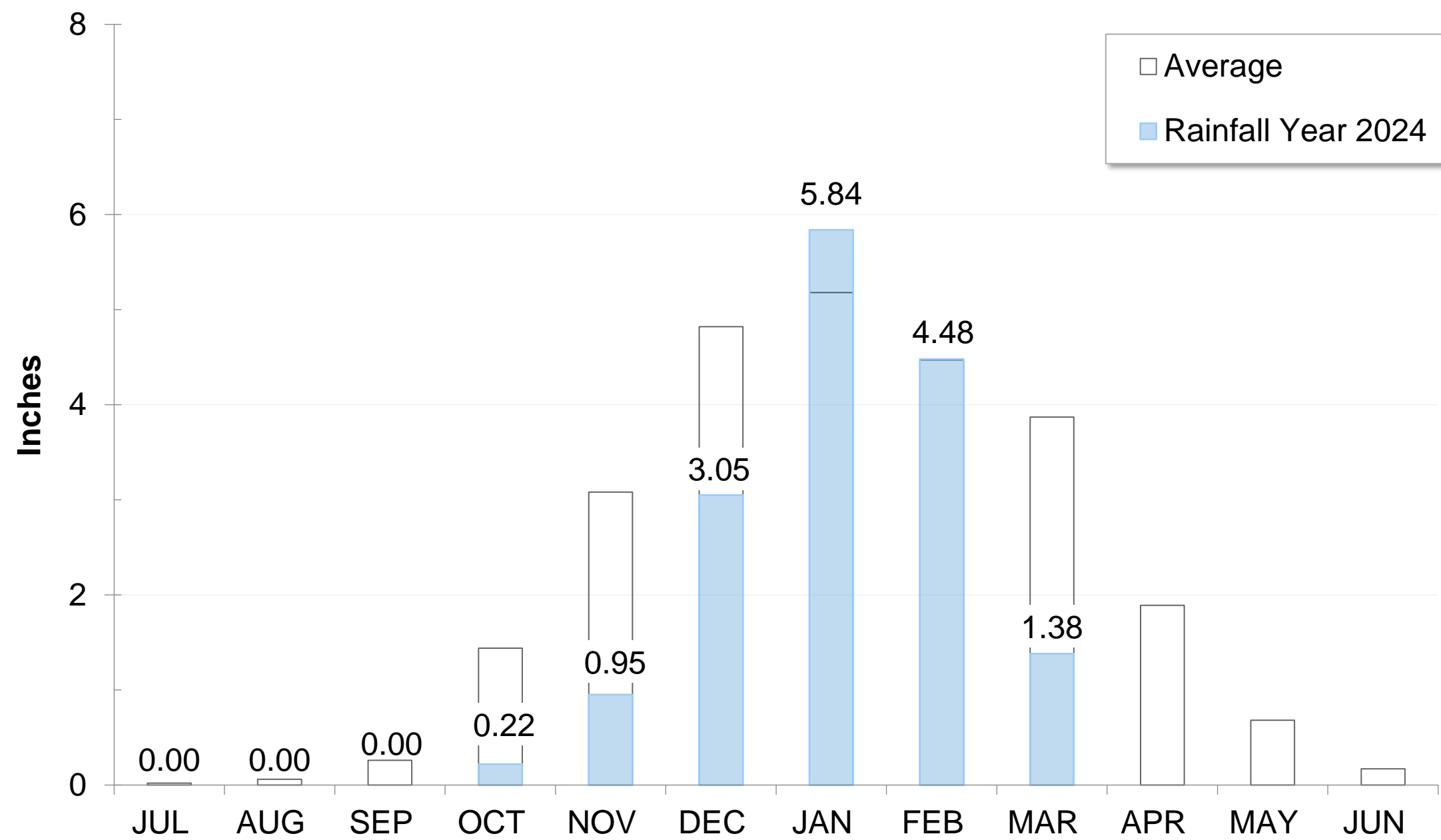
# Current Water Supply

# Gross Water Production



# Precipitation as of March 20

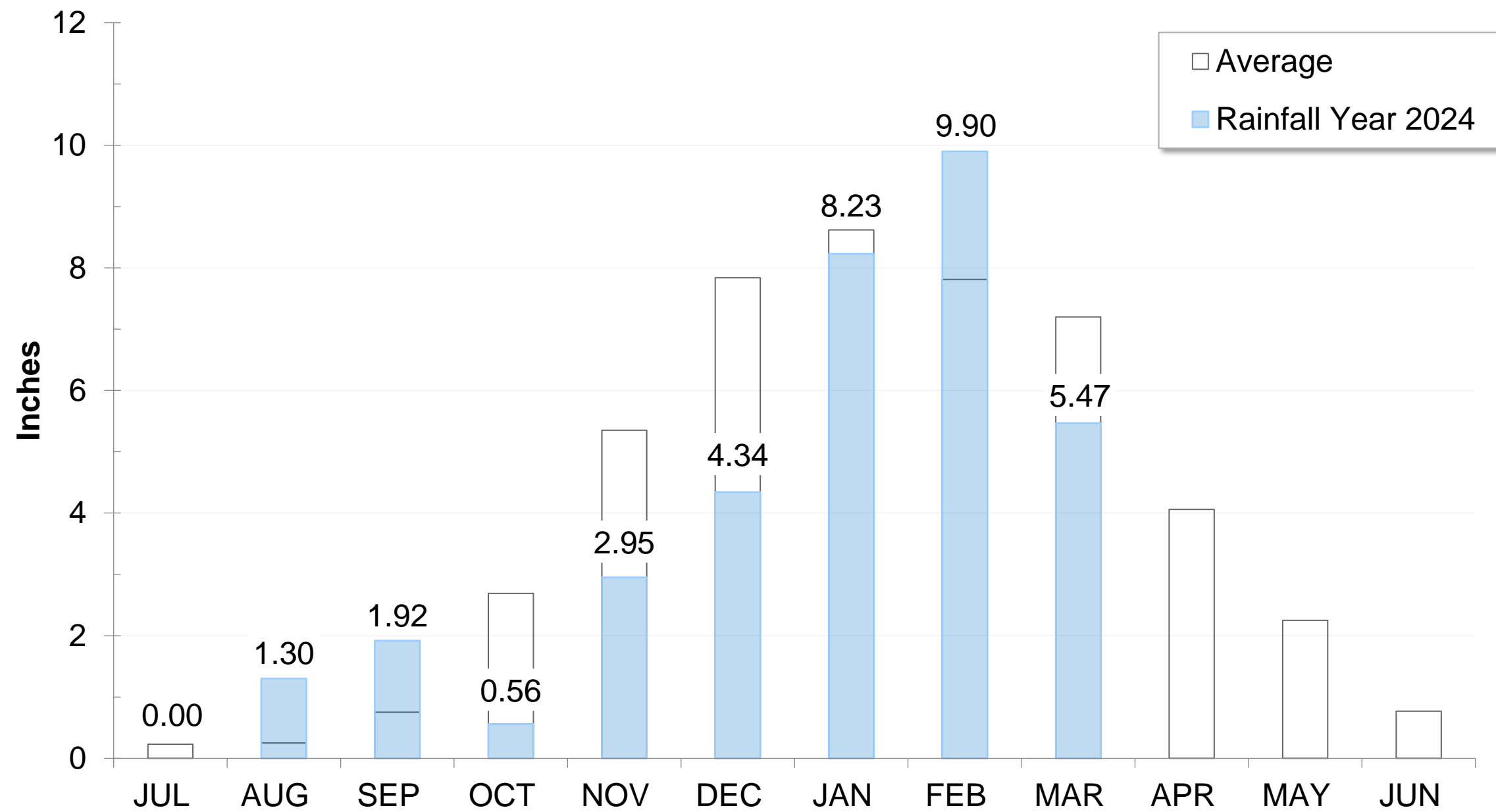
East Bay: 15.92" (71% of average)



San Pablo Reservoir Weather Station, D. Hansen, February 2024

# Precipitation as of March 20

Mokelumne: 34.67" (90% of Average)



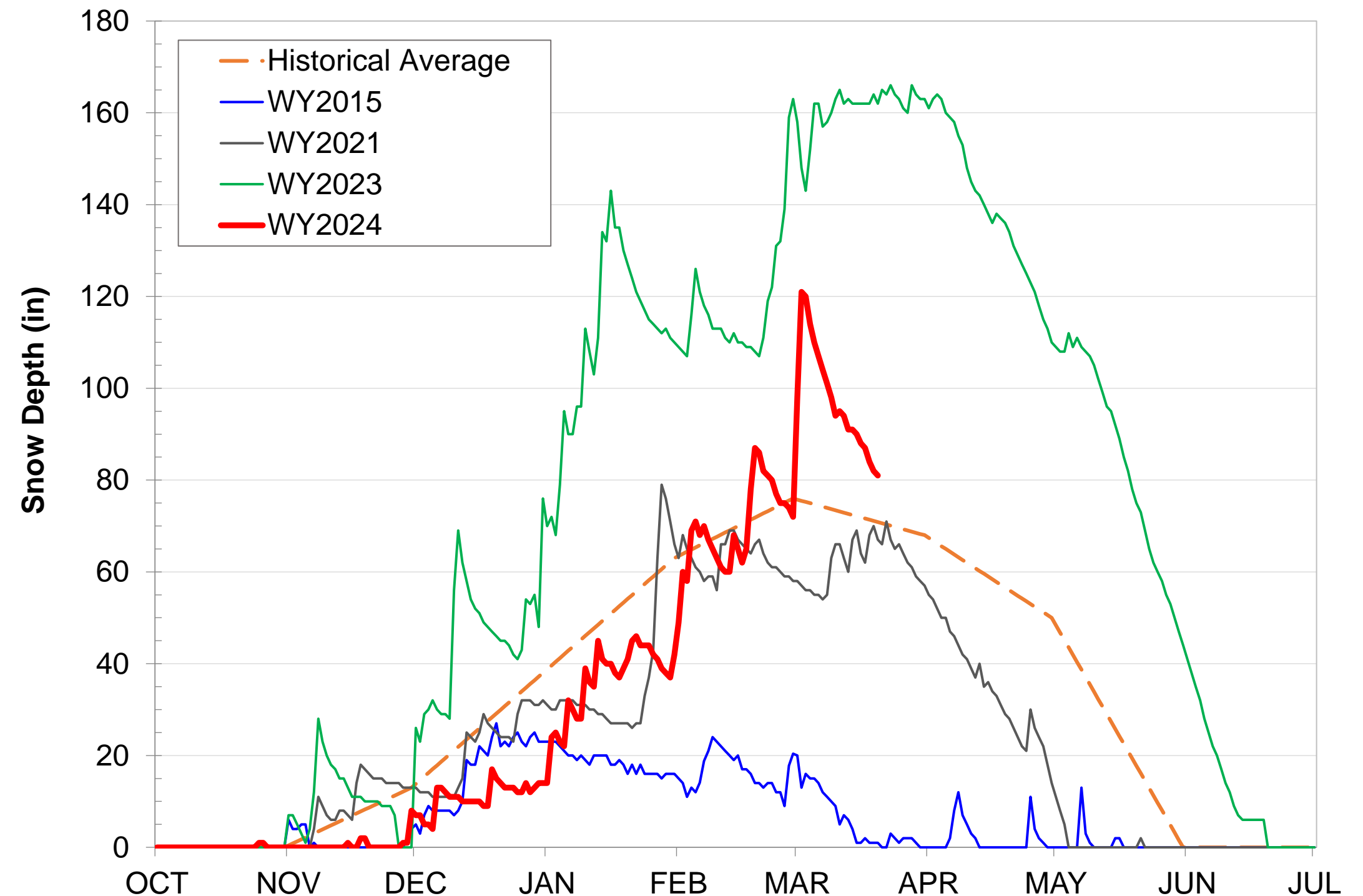
# High-Elevation Snow (Caples Lake) as of March 20

Snow Depth

81" (114% of average)

Snow Water Content

29.70" (107% of average)

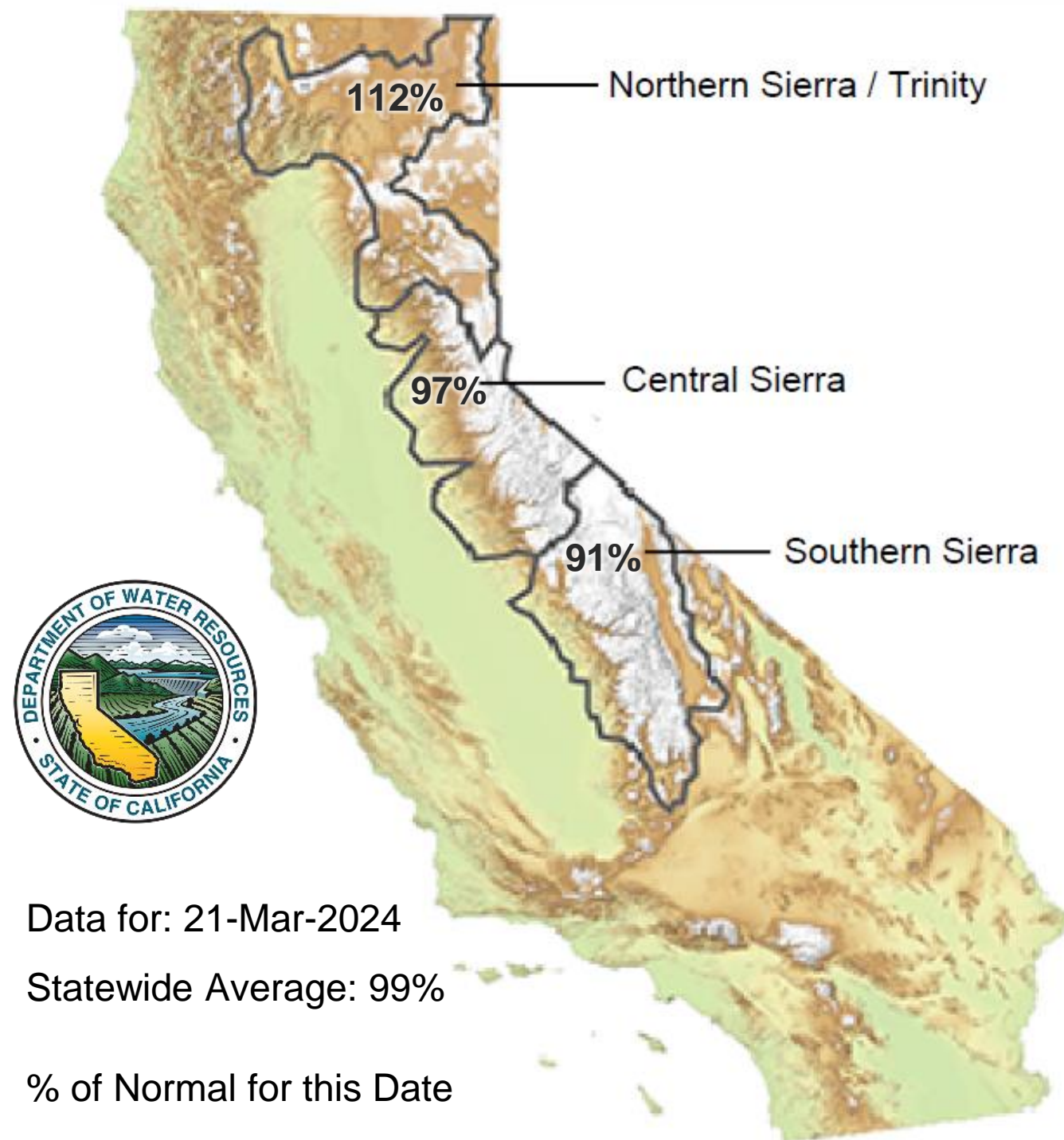


# California Water Supply



# Snowpack as of March 21

Snow Water Equivalent:  
97% in Central Sierra



Data for: 21-Mar-2024

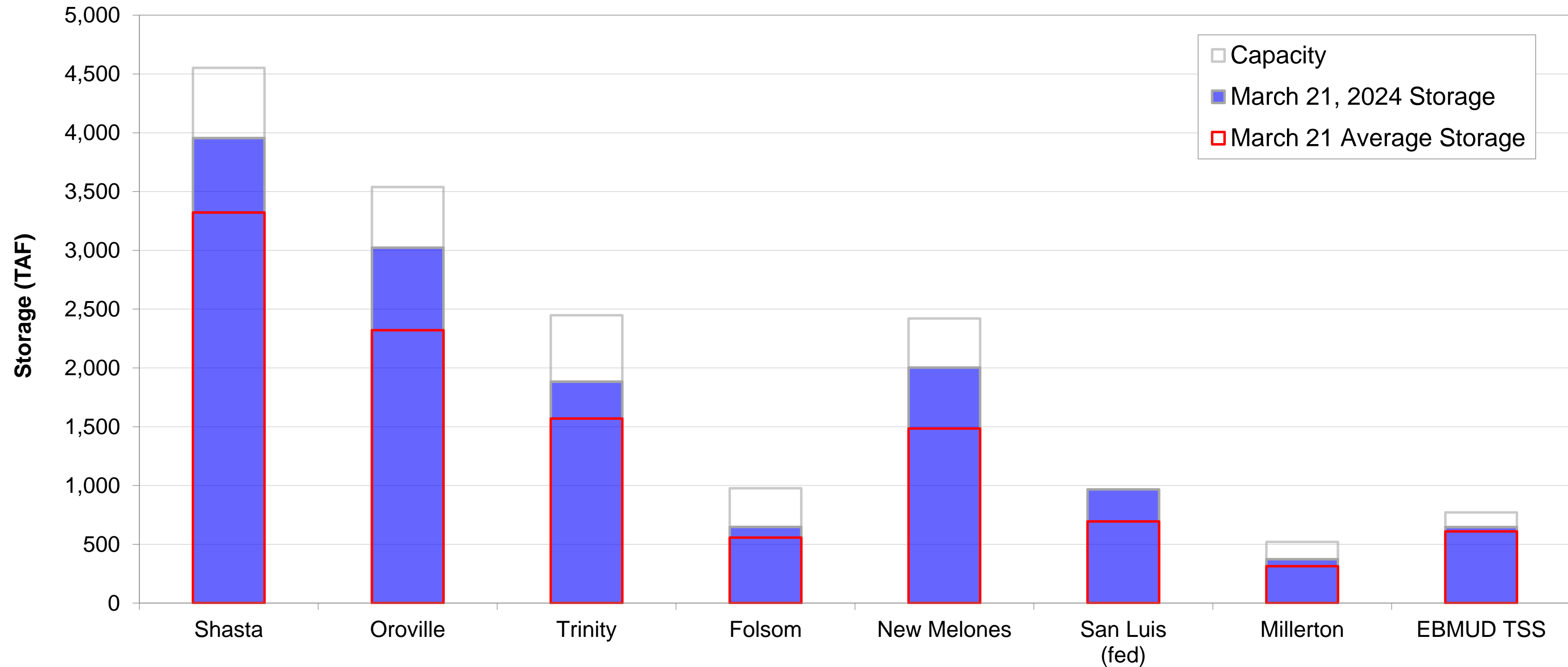
Statewide Average: 99%

% of Normal for this Date



# Northern California Water Supply

## Current vs. Average Storage



TAF: Thousand Acre-Feet

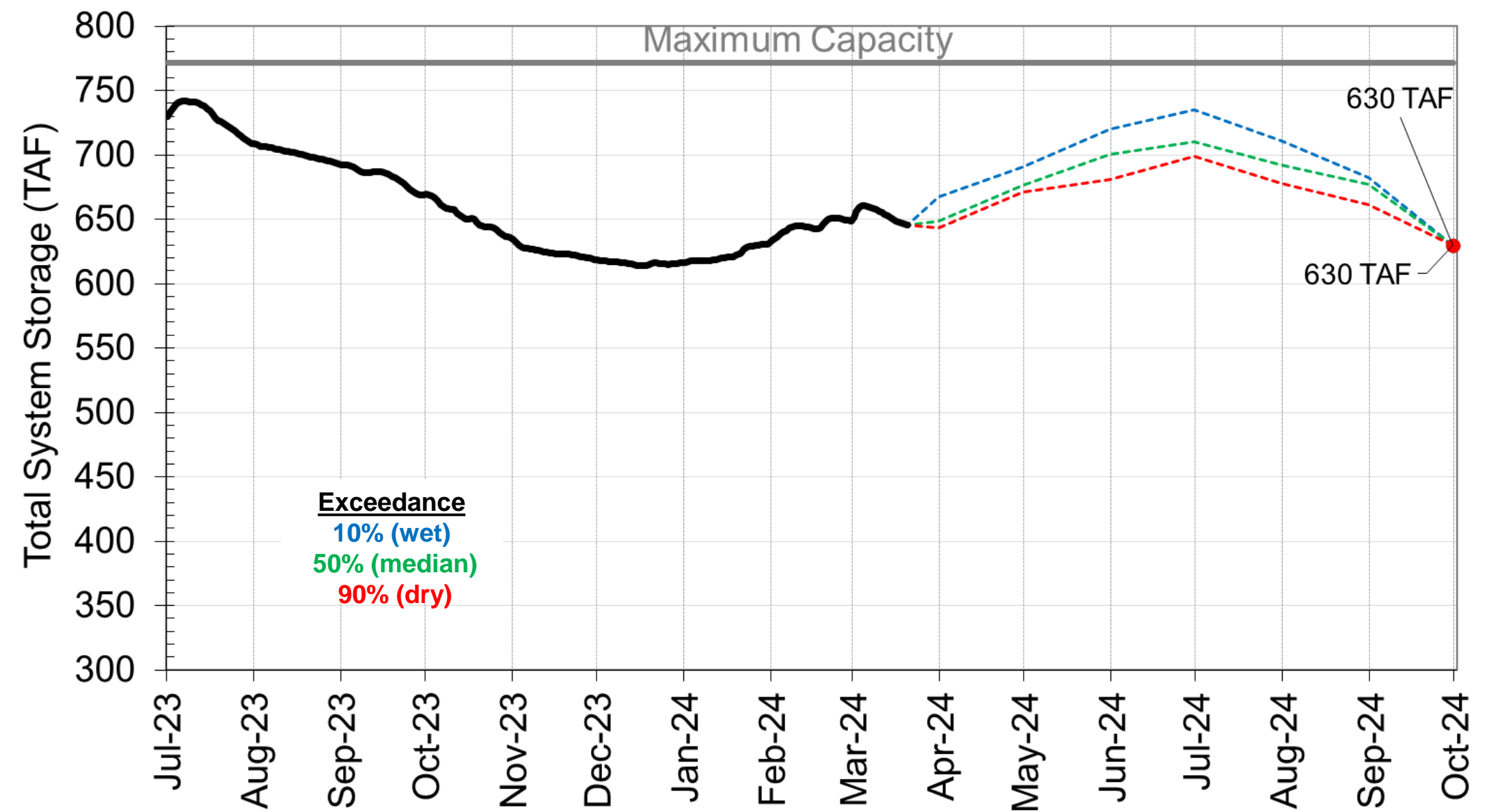
# Water Supply Projections

# Total System Storage as of March 20

Current: 647 TAF (106% of Average)

Reservoir	Current Storage, TAF	Percent of Average	Percent of Capacity
Pardee	173	93%	85%
Camanche	337	116%	81%
East Bay	137	101%	91%
<b>Total System</b>	<b>647</b>	<b>106%</b>	<b>84%</b>

Projected: 630 TAF by 9/30



TAF: Thousand Acre-Feet

# Questions



*Pardee Powerhouse, J. Wood, January 2023*



**FLOWING  
INTO  
THE  
FUTURE**

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**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: March 21, 2024

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager *CCC*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Planning Committee Minutes – March 12, 2024

Chair Marguerite Young called to order the Planning Committee meeting at 9:01 a.m. in the Administration Building Boardroom. Directors April Chan and Doug A. Linney were present at roll call. Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Director of Water and Natural Resources Michael T. Tognolini, Engineering Manager Bradley M. Ledesma, Manager of Fisheries and Wildlife Michelle L. Workman, Director of Operations and Maintenance David A. Briggs, Manager of Water Quality Susan M. Teefy, Meter Repair and Testing Supervisor Jeffrey A. Braun, Manager of Regulatory Compliance David M. Woodard, Senior Civil Engineer Grace W. Su, and Secretary of the District Rischa S. Cole.

**Public Comment.** Addressing the Committee was Ivette Rivera who commented on court documents related to the Pierce/Bland case and read excerpts from the documents.

**Presentations/Documentation.** 1) Presentation entitled, “2023 Mokelumne River Salmon Return Update,” dated March 12, 2024; 2) Presentation entitled, “Follow-Up Dam Safety Program Planning for Extreme Precipitation Events,” dated March 12, 2024; 3) Presentation entitled, “Water Quality Program Annual Update,” dated March 12, 2024; 4) Presentation entitled, “Regulatory Compliance Semi-Annual Report,” dated March 12, 2024; 5) Presentation entitled, “Los Vaqueros Reservoir Expansion Project Updates,” dated March 12, 2024; 6) Document titled, “Case 3:21-cv-04-325-AGT Document 293,” dated February 28, 2024.

Chair Young announced Agenda Item 4 would be presented first.

**2023 Mokelumne Fishery Update.** Manager of Fisheries and Wildlife Michelle L. Workman presented the update noting in 2023, the Mokelumne River Chinook salmon return hit record-setting numbers with 28,698 total salmon returning, and 9,881 entering the hatchery to produce over 13 million eggs. In October 2023, six planned pulses, closing the Delta Cross Channel gates multiple times in October and November 2023, and long-term river management assisted with lowering stray rates. Of all coded wire tag returns to the Central Valley of Mokelumne Origin fish, 69 percent were recovered on the Mokelumne River and only 15 percent were recovered on the American River as strays. She reviewed Steelhead annual hatchery trapping data from 2000 to present; outcomes from media outreach on the 2023 Mokelumne River Chinook salmon return; juvenile survival projections, including potential impacts to incubation from the State’s update to the Water Quality Control Plan and Voluntary Agreement flow proposals; and habitat restoration and protection actions completed on the lower Mokelumne River in 2023. Due to the low statewide numbers of fish escaping the ocean fishery to freshwater in 2022, the commercial and recreational seasons were closed in 2023 to support a rebound of the stocks. While the Mokelumne experienced record returns in 2023, the same was not true of other watersheds. In 2024, the District will receive over \$8 million in grant funding to support projects over the next eight years to support Voluntary Agreement non-flow measures. The Committee asked for information on the percentage of the salmon return that were EBMUD fish versus overall ocean fish and information on media outreach and social media activity regarding the

salmon return. It was moved by Director Linney, seconded by Director Chan, and carried (3-0) by voice vote to accept the report.

**Follow-up Dam Safety Program.** Engineering Manager Bradley M. Ledesma provided the presentation in response to questions raised during the Dam Safety Program update at the September 12, 2023 Planning Committee meeting on how the District plans for extreme precipitation events, including climate change, along with estimates for other events (e.g., Atmospheric River 1,000 or ARkStorm 2.0). Mr. Ledesma highlighted the District's Dam Safety Program and discussed how the Federal Energy Regulatory Commission and/or the California Department of Water Resources Division of Safety of Dams provide regulatory oversight of District dams. Both agencies require dam owners to calculate a probable maximum precipitation (PMP) event and the resulting probable maximum flood (PMF) event for dam, spillway, and appurtenant structures within their jurisdiction. He reviewed how the District calculates PMP; data on PMP in the Mokelumne River watershed; PMF data, which included comparing select historical floods against an ARkStorm 2.0 event; anticipated improvements and changes to federal and state regulatory requirements that would integrate climate change and risk analysis into PMP/PMF methodology; and the District's multi-pronged approach to address extreme precipitation events. Mr. Ledesma responded to questions from the Committee regarding the District's process for notifying the public, particularly neighbors in the vicinity of District reservoirs, about potential flood events and planned releases from reservoirs. It was moved by Director Linney, seconded by Director Chan, and carried (3-0) by voice vote to accept the report.

**Water Quality Program Annual Update – 2023.** Manager of Water Quality Susan M. Teefy presented the update. In calendar year 2023, the District met all federal and state drinking water standards and 94 percent of the District's internal goals (119 of 126 goals were met). As in previous updates, levels of three types of disinfection byproducts (DBPs) – total trihalomethanes, five haloacetic acids, and N-nitrosodimethylamine were higher than District goals. Additional goals related to distribution system operations, the corrosion control index, and total coliform bacteria were not met. Ms. Teefy reviewed the highest locational running annual average per quarter for the DBPs; District goals for chlorine residual in the distribution system; and corrosion control treatment at water treatment plants, noting the District met its goal at all plants except Sobrante where exceedances occurred in 3 of 12 months. In one month during 2023, 0.57 percent of samples were positive for total coliform, slightly exceeding the District's internal goal of no more than 0.5 percent positive samples in any month. Next, she reviewed the District's efforts to minimize customer exposure to lead in drinking water. Several District monitoring programs (customer sampling voucher program, regulatory monitoring data, school sampling, and other sampling data) confirm the absence of lead in customer drinking water. During this reporting period, 3,700 customers requested sample vouchers. The District continues to make progress in removing District-side service laterals with lead components. The state requires the District to remove 125 services per year; approximately 616 services remain so this work will be completed by 2030, ahead of the state's 2040 deadline. Revisions to the federal Lead and Copper Rule released in late 2021 included new requirements applicable to the District. Among other actions, the service line inventory was expanded to include customer-side galvanized service lines (termed Galvanized Requiring Replacement (GRR) in the inventory), that were formerly connected to a District-side lead service line. She highlighted outreach efforts to cities, counties, and local groups regarding this matter and said a District contractor began inspecting about 10,000 services beginning in April 2023 and is expected to complete all inspections by October 2024. There are about 4,000 GRRs in the District's service area and in accordance with U.S. Environmental Protection Agency (EPA) requirements, staff has been sending 150-250 letters per week to notify customers. In November 2023, the EPA published proposed changes to the Lead and Copper Rule which includes an additional requirement for water systems to replace any portion of a lead service line including the customer portion. GRRs are considered lead under federal regulation so any galvanized customer-side service line that was

formerly downstream of a lead service line on the District-side would be required to be replaced. She discussed potential impacts to the District as the proposed regulations are not clear on who would pay for customer-side replacements. Additional regulatory changes are expected in late 2024. Federally required monitoring is underway at all District treatment plants for per-and polyfluoroalkyl substances (PFAS), and nearly all results are below federal reporting levels. California initiated PFAS monitoring through a series of phased monitoring orders and the latest phase, in 2022, required sampling of the Sacramento River, including the Freeport intake. The Freeport sampling began in the first quarter of 2023 and continues quarterly. The local and upcountry watersheds are considered more protected against PFAS contamination and have yet to be included in the State Board's monitoring orders. All results under the State's monitoring orders to date are below the minimum reporting levels. She reported on sampling results from the following: several creeks supplying San Pablo and Upper San Leandro reservoirs where several PFAS compounds have been detected in raw water, some at levels above the proposed regulatory standards for water treatment plant effluent, and likely resulting from stormwater runoff from the cities of Orinda and Moraga; San Joaquin County groundwater associated with the District's Demonstration Recharge Extraction and Aquifer Management Project where no PFAS compounds were detected; Bayside groundwater monitoring wells where low levels of Perfluorobutanoic acid and PFOS were detected in one well, immediately adjacent to the Bayside well and a low concentration of PFOS in another monitoring well located about 0.5 miles upgradient of the Bayside well. In 2022, the well located about 0.5 miles upgradient was properly decommissioned and sealed. All PFAS detected in the Bayside monitoring wells are below EPA's proposed regulatory standards. She reviewed next steps for PFAS monitoring and said staff will continue following regulatory developments and court cases on this topic. Next, Meter Repair and Testing Supervisor Jeffrey A. Braun discussed new requirements in the State Board's new *Cross-Connection Control Policy Handbook*, which was adopted in December 2023, that could have significant impacts on the District. The handbook requires increased non-residential site surveys which would be a substantial effort for the District's roughly 60,000 existing commercial devices, and potential expanded use of backflow devices for residential properties with fire sprinklers or swimming pools. Per its water service regulations, the District is currently responsible for the purchase, installation, and testing of residential devices (unlike non-residential devices). Staff estimates tens of thousands of new residential backflow devices may be needed for the service area. In addition to substantial cost impacts, the District may need to revise its water service regulations to shift responsibility for purchasing and maintaining backflow devices to homeowners. Mr. Braun reported the District will work with other water utilities to provide input to the state on the new regulations. In response to questions from the Committee, Ms. Teefy reported feedback from customers who receive letters notifying them they have GRRs has been minimal. She also explained the District's notification process regarding GRRs and clarified when customers in the sampling voucher program detect lead at levels higher than the recommended level (less than 1 ppb), the District sends an inspector to check the source. Ms. Teefy also clarified when the District will provide personal water filters to customers and pointed out that most GRRs are in Oakland, Richmond and San Pablo – areas that are close to former shipyards and army or naval facilities. The Committee asked staff to evaluate alternative notification methods for customers that need GRRs replaced and information on the number of personal water filters provided to customers and the rationale for providing the filters. It was moved by Director Linney, seconded by Director Chan, and carried (3-0) by voice vote to accept the report.

**Regulatory Compliance Semi-Annual Report – July 1, 2023 through December 31, 2023.** Manager of Regulatory Compliance David M. Woodard presented the report which included actions to address failed quarterly bioassay tests at the Orinda Water Treatment Plant (WTP) which began in 2022 and continued throughout 2023; a grout leak into San Pablo Creek adjacent to the Orinda WTP in September 2023 resulting from the use of pressurized grout to stabilize a large excavation area; and sanitary sewer overflows at the Camanche South Shore recreation area in July 2023 and at North Shore in October 2023. The District negotiated a settlement of \$20,000 with the Bay Area Air Quality Management District in

October 2023 for two Notices of Violation for digester gas releases from the Main Wastewater Treatment Plant May 18, 2021 and April 2, 2023. He closed out with an overview of the District's Lost Time Injury Rate; Cal/OSHA defined COVID-19 outbreaks at District facilities; and total COVID cases of which 10 were assumed to be work related transmissions and 219 were assumed to be non-work related. It was moved by Director Chan, seconded by Director Linney, and carried (3-0) by voice vote to accept the report.

**Los Vaqueros Reservoir (LVR) Expansion Project Update.** Senior Civil Engineer Grace W. Su presented the update. The LVR Joint Powers Authority (JPA) has revised the schedule for the development of the LVR Project agreements (EBMUD Facilities Usage Agreement (FUA), Contra Costa Water District (CCWD) agreements [Facilities Usage, Operations and Maintenance, Design and Construction], CCWD Backstop Plan Agreements, Service Agreement, and the Contracts for Administration of Public Benefits (CAPBs)), to allow more time to address key issues. Because of the schedule delay, the JPA has developed a plan to reduce the JPA's and CCWD's monthly expenditures and will extend the existing funds in the LVR Multi-Party Agreement Amendment No. 5 (MPA 5). The JPA is drafting MPA 6, which will be a no cost time extension with a term from July 1, 2024 through June 30, 2025. Ms. Su reviewed the purpose, status and key issues to be addressed with the EBMUD FUA, CCWD Backstop Plan Agreements, CCWD Design and Construction Agreement, the Project Service Agreement, and the CAPBs. The Project agreements that will be presented to EBMUD's Board for consideration have been delayed from spring 2024 until July/August 2024, at the earliest, and include the EBMUD FUA, the Backstop Water Conveyance Agreement, and the Service Agreement. The California Water Commission (CWC) award hearing for the Project is currently anticipated in November 2024. Development of the funding agreement between the JPA and CWC is anticipated to be completed in February 2025. Next steps include updating EBMUD's unit cost evaluation with 2023 project cost estimates; continuing negotiations on the Project agreements and resolving key issues; continuing to advance discussions with Sacramento Municipal Utility District (SMUD) and Reclamation on SMUD CVP assignment as one source of water supply; advancing recycled water credits as another source of water supply; and providing updates to the Planning Committee and Board over the next four months prior to deciding on the District's participation in the project. Ms. Su responded to Committee questions on why the EBMUD FUA cannot commit to using the Freeport facilities to convey water during drought years; CCWD's request to maintain overall authority on decisions impacting construction and costs while JPA member agencies take on the financial risk; when information on water costs will be available; and clarification on liability that could be assumed by member agencies.

**Adjournment.** Chair Young adjourned the meeting at 10:37 a.m.

CCC:RSC

## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: March 21, 2024

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager *CCC*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Legislative/Human Resources Committee Minutes – March 12, 2024

Chair William B. Patterson called to order the Legislative/Human Resources Committee meeting at 10:42 a.m. in the Administration Building Boardroom. Director Marguerite Young was present at roll call. Director Lesa R. McIntosh was absent (excused). Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Manager of Intergovernmental Affairs Kathy Viatella, and Secretary of the District Rischa S. Cole.

**Public Comment.** Addressing the Committee was Ivette Rivera who commented on court documents related to the Pierce/Bland lawsuit and read excerpts from the documents.

**Presentations/Documentation.** 1) Document titled, “Case 3\_21-cv-04-325-AGT Document 293,” dated February 28, 2024.

**Legislative Update.** Manager of Intergovernmental Affairs Kathy Viatella reviewed Legislative Report No. 02-24 which included one bill for consideration and information on legislation relating to connection fees and capacity charges. SB 903 (Skinner) Environmental health: product safety: perfluoroalkyl and polyfluoroalkyl (PFAS) substances as amended on February 21, 2024, is intended to provide a comprehensive pollution prevention approach for PFAS. The bill would primarily do four things: 1) beginning January 1, 2030, prohibit the distribution, sale, or offer for sale in the state any product that contains intentionally added PFAS unless the Department of Toxic Substances Control (DTSC) has determined that the use of PFAS in a product is a currently unavoidable use; 2) allow DTSC to implement the PFAS ban earlier than 2030 if it is feasible to do so; 3) establish a process by which manufacturers can petition DTSC for a determination, and DTSC makes an evaluation and determination, as to whether the use of PFAS in a product category is a currently unavoidable use; and 4) require DTSC to adopt regulations on or before January 1, 2027, to implement the bill’s provisions. She reviewed prior legislation supported by the District to address PFAS pollution at its source and said staff is recommending the Board vote to support SB 903. It was moved by Director Young, seconded by Director Patterson, and carried (2-0) by voice vote to support the staff recommendation. Director McIntosh was absent (excused). Next, Ms. Viatella reviewed information on legislation relating to connection fees and capacity charges that is of direct interest to the District: AB 1820 (Schiavo): Housing development projects: applications: fees and exactions; AB 2729 (Joe Patterson): Residential fees and charges; SB 937 (Wiener): Development projects: permits and other entitlements: fees and charges; and SB 1210 (Skinner): New housing construction: electrical, gas, sewer, and water service connections: charges. She reported staff is evaluating these measures and have identified initial areas of concern. In general, the bills fail to acknowledge or recognize that connection fees and capacity charges are fees for service and therefore different from other development and mitigation fees. Also, the bills assume that special districts provide permits for, or are included in the permitting of, developments. Staff has met with

the bill authors' offices to understand the intent of the bills and to explain the District's fees and charges. Staff will continue to monitor and evaluate this legislation and will bring relevant measures to the Board for consideration, as appropriate. The Committee commented on SB 903 and the connection fee and capacity charge legislation and asked staff to track SB 903 to ensure it includes language to deter willful violations of the law.

**Adjournment.** Chair Patterson adjourned the meeting at 11:12 a.m.

CCC/RSC