



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
REGULAR CLOSED SESSION**

Tuesday, April 9, 2024

11:00 a.m.

Boardroom

375 11th 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. Initiation of litigation pursuant to Government Code section 54956.9(d)(4): two matters.

(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:

- Pledge of Allegiance

PRESENTATION:

- American Society of Civil Engineers Region 9 Award for Outstanding Water Project of the Year:
San Pablo Clearwell and Rate Control Station

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 8 recommendations including 2 resolutions.)

1. Approve the Special Meeting and Regular Meeting Minutes of March 26, 2024.
2. File correspondence with the Board.
3. Award a sole source contract beginning on or after April 9, 2024, to Volvo Construction Equipment and Services for supplying one Volvo JL25H fully electric compact wheel loader with attachments for the Main Wastewater Treatment Plant for a total cost, after the addition of taxes, not to exceed \$189,157.
4. Authorize an agreement beginning on or after April 9, 2024, with Environmental Science Associates in an amount not to exceed \$205,909 for one year to conduct biological field surveys to verify the presence of groundwater dependent ecosystem (GDEs) in the East Bay Plain Subbasin and recommend a subset of verified GDEs for baseline and ongoing ecological health monitoring.
5. Authorize an agreement beginning on or after April 9, 2024 with Woodard & Curran, Inc. for one year, with one option to renew for an additional one-year period for a total amount, including option years, not to exceed \$756,197 for a Value Engineering and Rate Study for the Camanche and Pardee Recreation wastewater facilities.

CONSENT CALENDAR: (Continued)

6. Authorize actions related to paving and other related services.
 - 6a. Authorize amendments to the agreements previously authorized under Board Motion No. 121-22 with ALB, Inc.; American Asphalt Repair & Resurfacing Company; Carone & Company, Inc.; Forticon, Inc.; J.V. Lucas, Inc.; MCK Services, Inc.; and Public Agencies to increase the aggregate amount of those agreements by \$5,000,000 to a total aggregate amount not to exceed \$15,000,000 and extend the agreement terms to April 9, 2025 for paving and other related services.
 - 6b. Authorize additional agreements for paving and other related services, on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on April 9, 2024, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the service providers above to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.
7. Reauthorize the Accounting Systems Supervisor, Manager of Security and Emergency Preparedness, and Controller to execute for and on behalf of the District all documents required for the purpose of obtaining federal and/or state financial assistance, through the California State Office of Emergency Services (Cal OES), including Form 130 – Designation of Applicant's Agent Resolution.

(Resolution)
8. Adopt a resolution authorizing the District to accept grant funding from the Federal Emergency Management Agency (FEMA), in the amount of \$2,406,282 for Phase 1 of the Influent Pump Station Seismic Retrofit Project.

(Resolution)

DETERMINATION AND DISCUSSION:

9. Discuss and consider options for amending the EBMUD Employees' Retirement System Ordinance No. 40 with respect to pension benefits for EBMUD Board members.
10. 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
 - Monthly Report – March 2024

REPORTS AND DIRECTOR COMMENTS:

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

ADJOURNMENT:

The Board of Directors will adjourn the Regular Business Meeting at the conclusion of Item 13 – Director Comments and will reconvene at 4:00 p.m. to continue the Regular Business Meeting.

REGULAR BUSINESS MEETING (Continued)
4:00 p.m.

*President Lesa R. McIntosh will participate via teleconference from
1207 Melville Square #112, Richmond, CA 94804*

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

ROLL CALL:

DETERMINATION AND DISCUSSION:

14. Conduct public interviews with the following candidates: Kurt Arends, James Cervantes, Bill Clarkson, Luz Gomez, and Mariah Lauritzen, and adopt a resolution appointing one of the candidates to serve as the Director representing East Bay Municipal Utility District Ward 2 until the General Election on November 5, 2024. Ward 2 includes Alamo, Lafayette, the Town of Danville; portions of Pleasant Hill, San Ramon, and Walnut Creek; and the communities of Blackhawk and Diablo. (Resolution)

PUBLIC COMMENT: Members of the public shall have the opportunity to provide public comment on Agenda Item 14.

ADJOURNMENT:

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, April 23, 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 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.

BOARD CALENDAR

Meeting dates, times, and locations are subject to change

Date	Meeting	Time/Location	Topics
Tuesday, April 9	Planning Committee	9:00 a.m. Boardroom	<ul style="list-style-type: none"> • Wastewater Pretreatment and Pollution Prevention Programs Update • Los Vaqueros Reservoir Expansion Project Update • Annual Watershed and Recreation Report – 2023
	Legislative/Human Resources Committee	10:00 a.m. Boardroom	<ul style="list-style-type: none"> • Maximizing Employee Retention and Engagement through Stay Interviews • Diversity, Equity, and Inclusion Strategic Plan Update
	Board of Directors	11:00 a.m. Boardroom 1:15 p.m. Boardroom 4:00 p.m. Boardroom	<ul style="list-style-type: none"> • Closed Session • Regular Meeting • Conduct Interviews for Vacant Board Seat in Ward 2
Tuesday, April 23	Finance/Administration Committee	TBD Boardroom	
	Sustainability Committee	TBD Boardroom	
	Cost of Service Study Workshop	TBD Boardroom	
	Board of Directors	11:00 a.m. Boardroom 1:15 p.m. Boardroom	<ul style="list-style-type: none"> • Closed Session • Regular Meeting

2024 Board Committee Members

Finance/Administration	Katz {Chair}, Chan, Patterson
Legislative/Human Resources	Patterson {Chair}, McIntosh, Young
Planning	Young {Chair}, Chan, Linney
Sustainability	Linney {Chair}, Katz, Young



Closed Session and Regular Business Meetings 11:00 a.m.; 1:15 p.m.; and 4:00 p.m.

*EBMUD public Board meetings will be conducted in person and accessible via Zoom.
These meetings are recorded, live-streamed, and posted on the District's website.*

Online*

<https://ebmud.zoom.us/j/97065086667?pwd=eUdZSGh5SG82akZiRDF2UDg2b0IyUT09>

Webinar ID: 970 6508 6667

Passcode: 238500

By Phone*

Telephone: 1 669 900 6833

Webinar ID: 970 6508 6667

Passcode: 238500

International numbers available: <https://ebmud.zoom.us/u/adMXn1VnPp>

*To familiarize yourself with Zoom, please visit <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

Providing public comment - *The EBMUD 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.*

- Each speaker is allotted 3 minutes to speak; the Board President has the discretion to amend this time based on the number of speakers
- The Secretary will track time and inform each speaker when the allotted time has concluded
- Comments on **non-agenda items** will be heard at the beginning of the meeting
- Comments on **agenda items** will be heard when the item is up for consideration
- The Secretary will call each speaker in the order received

In person

- Fill out and submit a blue speaker card which is available in the meeting room

Via Zoom

- Use the raise hand feature in Zoom to indicate you wish to make a public comment
<https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar>
- If you participate by phone, press *9 to raise your hand
- When prompted by the Secretary, please state your name, affiliation if applicable, and topic

Submitting written comments or materials

- Email written comments or other materials for the Board of Directors to SecOffice@ebmud.com
- Please indicate the meeting date and agenda item number or non-agenda item topic in the subject line of the email. Contact information is optional.
- **Please email by 4 p.m. the day prior to the scheduled regular meeting;** written comments and other materials submitted to the Board of Directors will be filed in the record.

To view the livestream of Board meetings, please visit:
<https://www.ebmud.com/about-us/board-directors/board-meetings/>

MINUTES

Tuesday, March 26, 2024

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Special Meeting

President Lesa R. McIntosh called to order the Special Meeting of the Board of Directors at 9:31 a.m. in the Administration Building Boardroom. The Board met in workshop session to receive an update on the District's recycled water goal, California policy and regulatory impacts relating to recycled water, the process to prepare the 2024 Recycled Water Strategic Plan, key recycled water project updates and challenges, changed conditions and considerations, and potential future opportunities.

ROLL CALL

Directors April Chan, Andy Katz, Doug A. Linney, William B. Patterson, Marguerite Young and President Lesa R. McIntosh 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, Manager of Water Supply Improvements Linda H. Hu, Supervisor of Water Recycling Florence T. Wedington, Associate Civil Engineer Reena G. Thomas, and Secretary of the District Rischa S. Cole.

Public Comment. None.

Presentations/Documentation. 1) Presentation entitled "Recycled Water Strategic Plan Update Workshop," dated March 26, 2024.

General Manager Clifford C. Chan introduced the workshop. Manager of Water Supply Improvements Linda H. Hu reviewed the agenda, the workshop goal and objective, and the history of the District's water recycling program and goal. Staff is seeking feedback from the Board on key elements to guide development of the update to the Recycled Water Strategic Plan.

Supervisor of Water Recycling Florence T. Wedington presented an overview of California water policy. The Governor adopted the California Water Supply Strategy plan in August of 2022 which committed the State to development of new water supplies, including recycled water and desalinated water. Statewide recycled water goals are to reuse approximately 800,000 acre feet per year by the year 2030 and 1.8 million acre feet by the year 2040. The State is actually close to meeting its 2030 goal with approximately 750,000 acre feet per year of recycled water produced in 2022, the most current information that is available. Previous State budgets have included funding for recycled water projects however the current State budget deficit may impact this funding. Next, she reviewed regulations governing direct and indirect potable reuse and the process and tasks completed for updating the 2024 Recycled Water Strategic Plan which began in July 2023. Staff worked with a consultant to evaluate the District's recycled water program and projects and develop a revised

recycled water projects priority list based on recommended revised reuse goals. Upcoming tasks include stakeholder outreach while evaluating alternatives and developing project cost estimates, as well as prioritizing and recommending project alternatives and goal. Staff is seeking Board feedback on the evaluation criteria and weighting factors for projects; potential changes to the District's recycled water goal; the Board's level of interest in developing potable reuse; and considering potable reuse in the District's future recycled water goal. Ms. Wedington highlighted other reports in progress that will be used to inform updates to the plan including the East Bayshore Water Quality pilot; the East Bayshore Recycled Water Project (EBRWP) Hydraulic Model; EBMUD-Contra Costa Central Sanitary District (Central San) Recycled Water Project Concept Evaluation Study; and the Dublin San Ramon Services District-EBMUD Regional Water Authority (DERWA) Supply and Operations Plan update. The EBMUD-Central San Recycled Water Project Concept Evaluation Study evaluated the following non-potable reuse projects: the Lamorinda project which would provide tertiary treated recycled water from Central San to District irrigation customers in Walnut Creek, Lafayette, Orinda, and Moraga; satellite water recycling facilities which would consist of packaged treatment facilities owned and operated on-site by large irrigation customers; the San Ramon Valley Recycled Water Program expansion which would involve permanent operation of the existing temporary raw wastewater diversion from Central San to DERWA to provide additional tertiary treated recycled water to EBMUD irrigation customers that are also Central San wastewater customers in the San Ramon Valley; and the refinery recycled water exchange project which would recycle Central San's available wastewater supply through further treatment and provide the recycled water to Contra Costa Water District (CCWD) to serve the two oil refineries near Central San's wastewater treatment plant in lieu of their current raw water deliveries. The study also evaluated concepts for two indirect potable reuse project alternatives that both involve advanced purification of Central San's available wastewater supply and conveyance to local surface water reservoirs (CCWD's Los Vaqueros Reservoir and the District's Briones Reservoir) and two concepts for direct potable reuse projects that involve advanced purification of Central San's available wastewater supply and conveyance to the District's water supply system through either the District's Mokelumne Aqueducts or the Walnut Creek Water Treatment Plant. The study determined the following projects would be considered for further consideration in the District's Recycled Water Strategic Plan update: the San Ramon Valley Recycled Water Program; the two direct potable reuse project alternatives; and the Briones Reservoir indirect potable reuse project alternative. Ms. Wedington, Director of Water and Natural Resources Michael T. Tognolini, and General Manager Clifford C. Chan responded to questions from the Board to clarify the State's goal for developing new water supplies; potential projects that can use recycled water from the EBRWP for cooling towers; potential impacts to DERWA if EBMUD and Central San does not come to agreement regarding the proposed projects; and options for requiring recycled water customers to implement more conservation options.

Associate Civil Engineer Reena G. Thomas reviewed the criteria, assessment descriptions, and recommended weighting factors used to evaluate projects being considered for inclusion in the Recycled Water Strategic Plan; and key updates on the original and updated planned build-out as well as concerns with the following projects in the 2019 Recycled Water Master Plan Update: East Bayshore Recycled Water Project; Chevron Refinery; San Ramon Valley Recycled Water Program; San Leandro Water Recycled Facility; Richmond Wastewater Treatment Plant; Phillips 66 Refinery Project; and planned satellite projects. There was considerable Board discussion regarding the information presented by Ms. Thomas. Ms. Thomas, General Manager Clifford C. Chan, and Manager of Water Supply Improvements Linda H. Hu responded to Board questions on the original and updated planned build-out information and changing needs for refineries; the lifespan of a recycled water plant facility; addressing lower demand for recycled water throughout the service area; reducing the District's recycled water goal; meeting State recycled water requirements; having a well-balanced,

diversified water supply portfolio; and other California agencies that employ potable reuse and how it is perceived. Next, Ms. Thomas discussed potable reuse project options; significant challenges if the District implements potable reuse; current statewide initiatives to educate the public and build trust in purified water produced by potable reuse projects; and ongoing and planned outreach efforts for the Recycled Water Strategic Plan update.

Manager of Water Supply Improvements Linda H. Hu summarized some of the challenges and changes in the current recycled water program that have resulted in updates to the draft forecast of 2040 recycled water demand. These challenges and changes include decreased wastewater flows; changing wastewater quality; reduced recycled water demands and increased conservation; and refinery industry change and uncertainty. EBMUD's previous need for water analysis from the 2020 Urban Water Management Plan assumed a level of projected demand increase, however actual demand is lower than previously projected which resulted in the need to re-evaluate the amount of supplemental supply the District would need in the third year of a drought from water recycling, water transfers, and regional projects. She discussed future analysis that will be needed to determine the District's need for water and said the Urban Water Management Plan will be updated by 2026 with the recommendations. General Manager Clifford C. Chan commented as the District looks at the assumptions made in the Water Supply Management Plan 2040, all variables in the water supply management portfolio (recycled water, conservation, Central Valley Project availability, water transfers, groundwater, Los Vaqueros, etc.) must be evaluated to determine the right portfolio. Ms. Hu continued with an overview of drivers impacting the need for water and asked for Board feedback on the following points: the Board's level of interest in developing potable reuse and including it in the future recycled water goal; changes to the District's recycled water goal; and developing tiers of recycled water projects. There was considerable Board discussion on potable reuse; benefits from partnering with other agencies on recycled water and supplemental supply projects; uncertainty around keeping or reducing the District's recycled water goals; concerns about potential stranded resources or costs for facilities built to process recycled water; customer perception and public opinion on potable reuse; the cost to include potable reuse in the District's water supply portfolio; and the examples presented on developing tiers of recycled water projects. General Manager Clifford C. Chan summarized the Board's input noting that while customers may not be ready, the District should consider surveying customers and investing in ongoing education around potable reuse. Ms. Hu closed out with an overview of next steps which include completing the remaining tasks to update the Recycled Water Strategic Plan (Board feedback will be incorporated); developing recommendations for preferred projects and the District's recycled water goal; and presenting final recommendations to the Board in September 2024 prior to finalizing the Recycled Water Strategic Plan by the end of 2024.

The Board requested the following:

- A list of potential East Bayshore Recycled Water projects that can use recycled water for cooling towers
- Information on potable reuse regulations and their current applications
- Information on the costs for various water supply options and the potential yield from each option
- Information comparing the State's recycled water goal to total municipal and industrial usage

ADJOURNMENT

President McIntosh adjourned the Special Meeting at 10:56 a.m.

SUBMITTED BY:

Rischa S. Cole, Secretary of the District

APPROVED: April 9, 2024

Lesa R. McIntosh, President of the Board

MINUTES

**Tuesday, March 26, 2024
East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:01 a.m. in the Administration Building Boardroom.

ROLL CALL

Directors April Chan, Andy Katz, Doug A. Linney, Marguerite Young, William B. Patterson and President Lesa R. McIntosh were present at roll call.

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

PUBLIC COMMENT

- Addressing the Board was Ivette Rivera who commented on documents she provided to the Finance/Administration Committee and the Pierce/Bland case; and read an excerpt from the Jan Duffy report.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Lesa R. McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Building Boardroom.

ROLL CALL

Directors April Chan, Andy Katz, Doug A. Linney, Marguerite Young, William B. Patterson and President Lesa R. McIntosh were present at roll call.

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

BOARD OF DIRECTORS

President Lesa R. McIntosh led the Pledge of Allegiance.

Director Lesa R. McIntosh - 25 Years of Service

Vice-President William B. Patterson recognized Director McIntosh for 25 years of service on the Board of Directors. He acknowledged that she is currently serving her fifth term as President of the Board. On behalf of the Board, staff and District customers, Vice-President Patterson thanked Director McIntosh for 25 years of leadership as a member of the Board.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board was Ivette Rivera who congratulated President McIntosh on 25 years of service and Director Young for being an advocate. Ms. Rivera commented on documents she provided to the Board and read an excerpt from the Jan Duffy report.
- Director Chan left the meeting at 1:24 p.m. and returned at 1:25 p.m.

CONSENT CALENDAR

- Item #5 was pulled from the Consent Calendar for separate discussion.
 - Motion by Director Linney, seconded by Director Patterson to approve the recommended actions for Items 1-4 and 6 on the Consent Calendar carried (6-0) by the following voice vote: (Chan, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 052-24** – Approved the Regular Meeting Minutes of March 12, 2024.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Extend Commercial Paper Liquidity Agreements,” dated March 26, 2024; **2)** Presentation entitled, “EBMUD Campaign Finance Reform Ordinance (CFRO),” dated March 26, 2024; **3)** Presentation entitled, “Water Supply Update,” dated March 26, 2024; **4)** Presentation entitled, “Appointment Process for Vacant Board Seat – Ward 2,” dated March 26, 2024; **5)** Speakers’ Bureau and Outreach Record CY24 dated March 26, 2024; **6)** Document titled, “Local 798 v CCSF et al and Henning ESQ. Amicus C. Brief,” dated March 20, 2024; **7)** Document titled, “California Supreme Court Clarifies Standard for Misuse of Public Funds Convictions,” dated June 23, 2016; and **8)** Email dated March 28, 2023 from Ivette Rivera to Andy Katz, EBMUD Board Director/President regarding the comments of public concern raised at EBMUD Board meetings (with attachments).
 3. **Motion No. 053-24** – Awarded 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. **Motion No. 054-24** – Awarded 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.**

Ivette Rivera asked the amount the District is paying for these services and commented on the demographics of the firm. General Counsel Derek T. McDonald responded the amount being authorized is privileged information until the end of the litigation.

- Motion by Director Linney, seconded by Director Patterson to approve the recommended actions for Item 5 carried (5-1) by the following voice vote: (Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (Chan); ABSENT (None).

Motion No. 056-24 – Authorized 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. **Motion No. 055-24** – Approved 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.**

Treasury Manager Robert L. Hannay provided the presentation. The District's Commercial Paper Notes (Water Series) ("Water CP") Tax-Exempt Subseries A-1 ("Subseries A-1") and Tax-Exempt Subseries A-2 ("Subseries A-2") are outstanding in the total amount of \$281 million as of March 21, 2024. In accordance with the Water CP covenants, the District must 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. Subseries A-1 is currently outstanding in the amount of \$144 million with liquidity support provided by Sumitomo Mitsui Banking Corporation (SMBC) which is set to expire on May 6, 2024. Subseries A-2 is currently outstanding in the amount of \$137 million with liquidity support provided by Bank of America, N.A. (BANA) which is set to expire on June 28, 2024. The District has negotiated extensions of the SMBC Standby Letter of Credit and Reimbursement Agreement (LOC) to May 4, 2029 (a five-year term) and BANA Revolving Credit Agreement (RCA) to June 28, 2028 (a four-year term) at an annual cost of 0.32 percent (32 basis points) based on the District's 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. Mr. Hannay explained that extending the current agreements is more cost-effective than substituting a new

liquidity facility. Upfront transaction costs are an estimated \$55,000 for an extension and \$170,000 for a substitution reflective of the simplicity or complexity of required documentation. Also, a new bank is unlikely to propose a low enough annual fee (below 0.30%) to offset the higher upfront costs of a substitution. The Finance/Administration Committee met earlier and supported the staff recommendations.

- Motion by Director Linney, seconded by Director Young to approve the recommended actions for Item 7 carried (6-0) by the following voice vote: (Chan, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35391-24 – 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.

- 8a- **Approve implementation of the fourth year general salary increase of 3.4% in accordance**
8b. **with the 2021-2025 Memoranda of Understanding (MOUs) 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; and 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).**

President McIntosh announced that pursuant to Section 54953(c)(3) of the Government Code, the Board of Directors is providing an oral report for Item 8b prior to taking action on the salary, salary schedule and compensation paid in the form of fringe benefits paid to the members of the Senior Management Team listed below, including the General Manager and the General Counsel. In accordance with Resolution No. 35269-22 and employment agreements with the General Manager and the General Counsel, the Board may authorize the same general salary increases and benefits to the General Manager and the General Counsel as that granted to District employees at the department director level. As such, it is recommended that the General Manager and the General Counsel each receive a 3.4% increase to their current annual salary as set forth in their respective employment agreements and, commensurate with the 3.4% increase being granted to all District employees in this action, effective April 22, 2024. The 3.4% increase consists of a cost-of-living increase of 2.9% based on the Consumer Price Index and an additional 0.5% enhancement. Additionally, it is recommended that the following members of the Senior Management Team also be granted a 3.4% increase in their current annual salary, commensurate with the increase being granted to all District employees in this action, effective April 22, 2024: 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). The current salaries of the aforementioned members of the Senior Management Team are contained in the Salary Schedule dated April 25, 2023, on file with the Secretary of the District.

- Motion by Director Young, seconded by Director Linney to approve the recommended actions for Items 8a – 8b carried (6-0) by the following voice vote: (Chan, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35392-24 – Revise District Salary Ranges, Salaries And Wage Rates.

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.**

General Manager Clifford C. Chan provided the presentation and outlined the process. Staff is seeking Board approval of the candidate evaluation criteria and interview questions approved by the Ad Hoc Committee for the interviews to be conducted during the Board meeting on April 9. Interested candidates had until 4:30 p.m. on March 22, 2024 to submit application materials. The District received five applications by the prescribed deadline. The Board will receive copies of all application materials on March 28. On March 29, the Secretary of the District will notify candidates and staff will issue a press release announcing the candidates that have submitted application materials. The Board will conduct in-person interviews at its regular meeting on Tuesday, April 9, beginning at 4:00 p.m. in the Administration Building Boardroom. The order of the interviews will be based on random selection. Candidates will receive the evaluation criteria and interview questions the week of April 1. On April 9, each candidate interview will be 15 minutes and will include opening and closing remarks as well as responses to the interview questions. This time does not include potential follow-up questions. The public will be able to participate in-person and online and can provide comments after all interviews are completed. The Board will deliberate after public comment. If the Board needs more time to deliberate, they can hold a special Board meeting on April 16 and on April 23, appoint one of the candidates to serve as the Director representing Ward 2 until the General Election on November 5, 2024. Under MUD Act section 11865 *et seq.*, the Board must exercise its option to appoint someone to fill the vacant Board seat in Ward 2 within 60 days of the effective date of John A. Coleman's resignation (no later than May 7, 2024). There was Board discussion regarding the process, the application materials received, and the option to appoint a candidate on April 9 in lieu of waiting until the April 23 Board meeting. The Board asked staff to have the necessary appointment documents available for execution on April 9. There was also discussion on using the forced ranking method during the interview process. The Board requested guidelines on the forced ranking method.

- Motion by Director Young, seconded by Director Chan to approve the recommended actions for Item 9 carried (6-0) by the following voice vote: (Chan, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 057-24 – Approved 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’”.**

General Counsel Derek T. McDonald announced the recommended action to conduct a continued second reading of the amendments to the CFRO and to adopt an ordinance to amend the CFRO. Proposed revisions were presented and discussed with the Legislative/Human Resources Committee on January 9, 2024 and February 13, 2024. The Board conducted a first reading of the revisions to the CFRO at the February 27, 2024 Board meeting, and a second reading at the March 12, 2024 Board meeting. At the March 12 meeting, the Board discussed and voted to approve the incorporation of revisions to the CFRO. Mr. McDonald reviewed the revisions 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. The Board also voted to incorporate the Levine Act into the CFRO; update definitions (e.g., contribution, qualified campaign expenditure, Small Contributor Committee); reorganize 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 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. A summary of the ordinance amendments will be published in a newspaper of general circulation in the District for two successive weeks. The ordinance would be effective April 25, 2024.

- Motion by Director Chan, seconded by Director Linney to approve the recommended actions for Item 10 carried (6-0) by the following voice vote: (Chan, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Ordinance No. 375-24 – An Ordinance Amending Ordinance No. 316 Entitled "East Bay Municipal Utility District Campaign Finance Reform Ordinance." (*Continued Second Reading and Vote*)

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 20: gross water production; precipitation in the East Bay (15.92 inches) and in the Mokelumne (34.67 inches); and the snow depth (81 inches) and snow water content (29.70 inches) at Caples Lake. He reviewed and snowpack levels and snow water equivalent in the Sierras and current versus average storage for Northern California’s water supply as of March 21. The District’s total system storage was 647,000 acre-feet as of March 20 and is still projected to be approximately 630,000 acre-feet by September 30.

General Manager Clifford C. Chan announced 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.
- President Lesa R. McIntosh reported the Board met earlier for the Recycled Water Strategic Plan Workshop and received information on the District's recycled water goal, California policy and regulatory impacts relating to recycled water, the process to prepare the 2024 Recycled Water Strategic Plan, key recycled water project updates and challenges, changed conditions and considerations, and potential future opportunities.
- Chair Andy Katz reported the Finance/Administration Committee met earlier in the day and received reports on the February 2024 Monthly Investment Transactions Report; Extending Liquidity Agreements for Commercial Paper Notes (Water Series) Subseries A-1 and Subseries A-2; and Applicant Project Process Improvements Update.

REPORTS AND DIRECTOR COMMENTS

13. Other Items for Future Consideration.

None.

14. Director Comments.

- Director Linney reported presenting information on the District, including climate change, to the Alameda Rotary Club on March 19. He thanked staff for their assistance with preparing for the presentation.
- Director Patterson reported receiving the Niagara Movement Foundation's Legacy Award during their fundraising dinner on March 23 in Oakland. He thanked the Board members and staff who attended the event and staff for their congratulatory letters. He also reported attending memorial services for his sister on March 22 on the East Coast.
- Directors Chan, Katz, Young and President McIntosh had no reports.

ADJOURNMENT

President McIntosh adjourned the meeting at 2:11 p.m.

SUBMITTED BY:

Rischa S. Cole, Secretary of the District

APPROVED: April 9, 2024

Lesa R. McIntosh, President of the Board



BOARD ACTION

Agenda Number:	3.	Meeting Date:	April 9, 2024
----------------	----	---------------	---------------

TITLE VOLVO JL25H FULLY ELECTRIC COMPACT WHEEL LOADER

ACTION Motion: Resolution: Ordinance:

RECOMMENDED ACTION Award a sole source contract beginning on or after April 9, 2024, to Volvo Construction Equipment and Services for supplying one Volvo JL25H fully electric compact wheel loader with attachments for the Main Wastewater Treatment Plant (MWWTP) for a total cost, after the addition of taxes, not to exceed \$189,157.


SUMMARY The District plans to purchase one Volvo fully electric compact wheel loader, one set of pallet forks, one multipurpose bucket, and one adjustable skid steer crane jib from Volvo Construction Equipment and Services. This purchase will be partially funded from a Clean Off-road Equipment (CORE) program voucher which the District is pre-qualified to receive. This equipment will be used by staff at the MWWTP for routine work activities and special projects. In addition, the Maintenance Support Division will gain information about the functionality of battery electric off-road construction equipment to inform future procurement decisions.

DISCUSSION The Wastewater Treatment Division (WTD) frequently rents a wheel loader to transport materials, equipment, and debris for routine work activities and special projects at the MWWTP. Routine activities utilizing a wheel loader include equipment installation and repairs and facilities and grounds maintenance. Special project tasks requiring a wheel loader include cleaning large channels and tanks for inspection, repairs, and capital improvements.

Wheel loaders have been needed more frequently at the MWWTP in recent years due to an increase in special projects. The current use level is anticipated to remain the same or increase to support capital improvement projects at the MWWTP. Owning a wheel loader will enable staff to complete routine work and special projects more efficiently compared with renting by customizing the equipment to its specific needs and eliminating mobilization and demobilization downtime.

This work supports the District’s Long Term Infrastructure Investment Strategic Plan goal.

VENDOR SELECTION Volvo Construction Equipment and Services is the sole provider of this battery electric equipment in the State of California.

Originating Department: Wastewater	Department Director or Manager: Amit K. Mutsuddy	CEP Forms? Yes	Board Action Type: Materials and Supplies
Funds Available: FY2024/2025, Award#7000341, Page 126	Budget Coding: 21.913.2007881.55470		Approved: 
Attachment(s): P-035; P-061			

Title:	Volvo JL25H Fully Electric Compact Wheel Loader	Meeting Date:	April 9, 2024
--------	---	---------------	---------------

SUSTAINABILITY

Economic

Funding for this equipment is available in the Fiscal Year 2024 adopted capital budget for General Wastewater. The total cost, after the addition of taxes of \$189,157 is partially offset by a vendor discount of \$26,655 and the CORE program voucher of \$69,946.

Social

This purchase will improve staff safety compared with continuing to rent because the equipment includes additional safety features that are not included with rentals, such as LED work lights, cab enclosure with climate control, rotating beacon lights, and driveline shutoff interlocks.

Environmental

This purchase supports the District's environmental goals to reduce greenhouse gas emissions. Additionally, this purchase supports the California Air Resources Control Board's goals to improve air quality in the West Oakland community, which is included in the Community Emissions Reduction Program for high pollution areas.

ALTERNATIVES

Purchase different equipment. This alternative is not recommended because this equipment is the only fully-electric wheel loader on the market, and the purchase of an internal combustion engine-powered wheel loader would not improve air quality or be eligible for the CORE program voucher.

Do not purchase any equipment. This alternative is not recommended because continued rental of an internal combustion engine powered wheel loader would cost approximately \$43,000 annually.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Materials and Supplies Contract Volvo JL25H Fully Electric Compact Wheel Loader						DATE: March 20, 2024						
CONTRACTOR: Volvo Construction Equipment and Services Los Angeles, CA				Sole Source		PERCENTAGE OF CONTRACT DOLLARS						
BID/PROPOSER'S PRICE: \$189,157 *		FIRM'S OWNERSHIP Foreign		Gender		Availability Group White Men		Contracting Objectives 25%		Participation 0.0%		
		Ethnicity		Gender		White Women		6%		0.0%		
		Foreign				Ethnic Minorities		25%		0.0%		
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Volvo Construction Equipment and Services		\$189,157	Foreign									100.0%
SUBS: None												
TOTAL		\$189,157				0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
			White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:			37		34		59		130			
Percent of Total Employees:			33.3%		0.0%		67.7%					
MSA Labor Market %:			39.0%		33.7%		27.2%					
MSA Labor Market Location:			USA									
COMMENTS												
Contract Equity Participation: Zero Contract Equity Participation. Firm is foreign owned. Contract Duration: NA												
*Total not to exceed: \$189,157.00												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								

Title:	East Bay Plain Subbasin Groundwater Dependent Ecosystems/Biological Monitoring	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

This project supports the District’s Long Term Water Supply and Water Quality and Environmental Protection Strategic Plan goals.

CONSULTANT SELECTION

A request for proposals was posted on the District’s website and sent to nine potential proposers. One service provider submitted a proposal. Environmental Science Associates was the sole service provider to submit a proposal and was selected based on their demonstrated expertise and familiarity with the EBP Subbasin’s GDEs.

SUSTAINABILITY

Economic

Funding for this purpose is available in the Fiscal Year 2025 adopted capital budget for SGMA Compliance.

Social

Locals 2019 and 21 were notified of this agreement on December 21, 2023, and did not raise any specific issues related to this contract.

Environmental

The verification of GDEs will further facilitate the District’s responsibility to implement the GSP and meet SGMA compliance. This project will address data gaps and further characterize the subbasins, resulting in improved management and sustainability of the subbasin.

ALTERNATIVES

Do not authorize this agreement. This alternative is not recommended because the project is necessary to further implement the GSP and fill data gaps for SGMA compliance.

Select a different consultant to perform the work. This alternative is not recommended because the District did not receive any other proposals and the selected firm has demonstrated their ability to perform the work.

Complete the work with District forces. This alternative is not recommended because District staff could not meet the project timeframe, and does not have expertise to meet the SGMA mandated specifications for biological field surveys related to GDEs.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement East Bay Plain Subbasin Groundwater Dependent Ecosystems/Biological Monitoring						DATE: March 18, 2024						
CONTRACTOR: Environmental Science Associates Oakland, CA				Sole Proposer/ Local Business		PERCENTAGE OF CONTRACT DOLLARS						
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		25%		91.0%				
\$205,909 *		White	Men	White Women		6%		9.0%				
		Ethnicities		Ethnic Minorities		25%		0.0%				
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIMES: Environmental Science Associates		\$187,409.00	White	X		91.0%						
SUBS: Rohde Environmental Consulting, LLC		\$18,500	White		x		9.0%					
TOTAL		\$205,909				91.0%	9.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		243		227		228		698				
Percent of Total Employees:		34.8%		32.5%		32.7%						
MSA Labor Market %:		24.5%		21.6%		53.9%						
MSA Labor Market Location:		Alameda										
COMMENTS												
Contract Equity Participation: 91% White Men and 9% White women participation. Contract Duration: One Year *Total not to exceed: \$205,909												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



BOARD ACTION

Agenda Number:	5.	Meeting Date:	April 9, 2024
----------------	----	---------------	---------------

TITLE **CAMANCHE AND PARDEE RECREATION WASTEWATER VALUE ENGINEERING AND RATE STUDY AUTHORIZATION OF PROFESSIONAL SERVICES AGREEMENT**


ACTION Motion: Resolution: Ordinance:

RECOMMENDED ACTION Authorize an agreement beginning on or after April 9, 2024 with Woodard & Curran, Inc. for one year, with one option to renew for an additional one-year period for a total amount, including option years, not to exceed \$756,197 for a Value Engineering and Rate Study for the Camanche and Pardee Recreation wastewater facilities.

SUMMARY EBMUD owns and operates upcountry recreation areas at Camanche Reservoir (Camanche North Shore [CANS] in Amador County and Camanche South Shore [CASS] in Calaveras County) and Pardee Reservoir Recreation Area (PARA) on the northwestern end of Pardee Reservoir in Amador County. The CASS, CANS, and PARA wastewater collection systems and treatment plants serve these areas. This project will provide value engineering and rate studies essential to ongoing operations of these wastewater facilities.

DISCUSSION The study will provide an independent value engineering study of the 90 percent design completed for upgrades at the CASS wastewater facilities, which will also inform value engineering at CANS and PARA. The study will assess the cost of service rates for providing wastewater services at these facilities and identify potential modifications to services and facilities to reduce capital costs. The District requires this information to help inform the Fiscal Year (FY) 2026/2027 capital budget development process, and staff are not available in the necessary timeline to accommodate this schedule. The study will provide a current condition assessment of up to 50 percent of the wastewater manholes, mains, and lift stations at CASS, CANS and PARA with a greater focus on CASS that will enable prioritization of capital expenditures at these facilities.

CONSULTANT SELECTION A request for proposals was posted on the District’s website and sent to 12 firms, including one minority-owned firm with expertise in value engineering and rate studies. One firm submitted a proposal. Woodard & Curran, Inc. was selected based on their qualifications, resources, knowledge of District facilities, and the relevant expertise and experience of their subconsultant team SRT Consultants and National Plant Services, Inc.

Originating Department: Water and Natural Resources	Department Director or Manager: Michael T. Tognolini	CEP Forms? Yes	Board Action Type: Professional Services
Funds Available: FY2024/2025; Award#7000074; Page 26	Budget Coding: 11.440.3100077.52310		Approved: 
Attachment(s): P-035; P-061			

Title:	Camanche and Pardee Recreation Wastewater Value Engineering and Rate Study	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

SUSTAINABILITY

Economic

Funding for this purpose is available in the Fiscal Year 2024/2025 adopted capital budget for the Upcountry Wastewater Treatment Improvements.

Social

Locals 2019 and 21 were notified of this agreement on November 3, 2023 and did not raise any specific issues related to this agreement.

Environmental

This project will provide information to prioritize needed capital work to eliminate environmental impacts and meet regulatory requirements of upcountry wastewater systems.

ALTERNATIVES

Do not perform the work. This alternative is not recommended because the Project is needed to plan for wastewater system improvements that meet ongoing and future needs at upcountry recreational facilities.

Perform the work with District forces. This alternative is not recommended because District staff are unable to conduct this specialized study within the timeframe needed to meet the FY 2026/2027 capital budget development process.

I:\Sec\2024 Board Related Items\040924 Board Agenda Items\WNR - Cam & Pardee Rec WW VE and Rate Study.docx



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement Camanche & Pardee Recreation Wastewater Value Engineering and Rate Study Authorization of Professional Services Agreement						DATE: March 26, 2024						
CONTRACTOR:						PERCENTAGE OF CONTRACT DOLLARS						
Woodard & Curran, Inc. Walnut Creek, CA			Sole Proposer/ Local Business			Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP				White Men		25%		90.9%		
		Ethnicity		Gender		White Women		6%		9.1%		
\$756,197 *		White		Men		Ethnic Minorities		25%		0.0%		
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIMES:												
Woodard & Curran, Inc.		\$605,907	White	X		80.1%						
SUBS:												
SRT Consultants		\$69,100	White		x		9.1%					
National Plant Services, Inc.		\$81,190	White	x		10.7%						
TOTAL		\$756,197				90.9%	9.1%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
			White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:			686		307		131		1,124			
Percent of Total Employees:			61.0%		27.3%		11.7%					
MSA Labor Market %:			39.0%		33.7%		27.2%					
MSA Labor Market Location:			USA									
COMMENTS												
Contract Equity Participation: 90.9% White Men and 9.1% White women participation. Contract Duration: One year, with one option to renew for additional one-year period. *Total not to exceed: \$756,197												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



BOARD ACTION

Agenda Number:	6a.-6b.	Meeting Date:	April 9, 2024
----------------	---------	---------------	---------------

TITLE AMEND AGREEMENTS FOR PAVING AND OTHER RELATED SERVICES

ACTION Motion: Resolution: Ordinance:

RECOMMENDED ACTION

- Authorize amendments to the agreements previously authorized under Board Motion No. 121-22 with ALB, Inc.; American Asphalt Repair & Resurfacing Company; Carone & Company, Inc.; Forticon, Inc.; J.V. Lucas, Inc.; MCK Services, Inc.; and Public Agencies to increase the aggregate amount of those agreements by \$5,000,000 to a total aggregate amount not to exceed \$15,000,000 and extend the agreement terms to April 9, 2025 for paving and other related services.
- Authorize additional agreements for paving and other related services, on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on April 9, 2024, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the service providers above to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager’s monthly report.

SUMMARY


In repairing and replacing water distribution pipelines and appurtenances, the District performs approximately 4,000 annual street excavations to support maintenance work and pipeline replacement. Restoring the street in accordance with local agency encroachment permit requirements includes replacing asphalt pavement and completing related paving services (e.g., asphalt sealing). These agreements are required to address peaks in seasonal workload and to collaborate with cities and counties in performing joint paving projects.

The original agreements were authorized under Board Motion No. 121-22 for \$5,000,000 on June 14, 2022; an amendment to the agreements for an additional \$5,000,000 was authorized under Board Motion No. 085-23 on May 9, 2023.

DISCUSSION

The District has utilized contract paving services since the early 1990s to meet workload peaks, work with cities and counties on joint paving projects, and perform specialized paving District forces do not typically perform. Many cities have extensive paving plans which must be coordinated with District work to replace street paving from curb-to-curb. For example, nearly all paving in Oakland following pipeline replacement is now performed through joint projects.

The services contracted for in these agreements cannot be satisfactorily performed under the District civil service and therefore contracting out is proper. This work supports the District’s Long-Term Infrastructure Investment Strategic Plan goal.

Originating Department: Maintenance and Construction	Department Director or Manager: Crystal J. Yezman	CEP Forms? Yes	Board Action Type: General Services
Funds Available: FY2024/2025; Award#7000005; Page 29, Award#7000003; Page 32, Award#7000006; Page 33, Award#7000024; Page 34.		Budget Coding: 11-747-Various-53110	
Attachment(s): P-035; P-061		Approved: 	

Title:	Amend Agreements for Paving and Other Related Services	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

SERVICE PROVIDER SELECTION

In February 2022, a request for qualifications was sent to 11 potential proposers. Six service providers submitted qualifications. ALB, Inc.; American Asphalt Repair & Resurfacing Co., Inc.; Carone & Company, Inc.; Forticon, Inc.; J. V. Lucas Paving, Inc.; and MCK Services, Inc. were selected based on previous positive service experiences and relationships with the District. Additional service providers may be added as they are identified through other public agencies or the District’s Equalizer Newsletter. As service providers are added, they will be selected for specific jobs on a rotational basis except in cases where the estimated cost of the individual job exceeds \$10,000. In those cases, staff will request quotes from three service providers (or all approved service providers if less than three) and the work will be awarded to the lowest responsive bidder.

Work under these agreements is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of the Department of Industrial Relations of the State of California. All listed service providers are licensed to perform work in California, and are not on the State Department of Industrial Relations debarment list.

In the event another public agency chooses to manage the construction; that agency will be responsible for complying with public contracting requirements and the District will pay that agency the District’s share of the project costs.

SUSTAINABILITY

Economic

Funding for this purpose is available in the FY 2024 and FY 2025 adopted capital budget for Pipeline System Extensions, Pipeline Rebuild, Pipeline Relocation and Pipeline System Improvements. The authorized funds also allow the District to participate in joint paving projects with local agencies. Advantages of joint projects include cost savings and streamlined contract management.

Social

Local 444 was notified of this amendment on February 1, 2024. Local 444 issues were addressed at meetings on February 20, 2024 and March 19, 2024 and resolved.

ALTERNATIVES

Do not perform this work. This alternative is not recommended because pavement restoration must be performed.

Perform all work with District staff. This alternative is not recommended because without additional resources, the paving backlog will increase and the District would be unable to participate in joint paving agreements with other public agencies.

I:\Sec\2024 Board Related Items\040924 Board Agenda Items\OMD – Amend Agreements for Paving and Other Related Services.docx



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE General Services Agreement - Amendment Amend Agreements for Paving and Other Related Services	DATE: <p style="text-align: center; font-size: 1.2em;">March 19, 2024</p>
---	---

CONTRACTOR:	PERCENTAGE OF CONTRACT DOLLARS		
Various Firms Local Businesses/ Small Businesses	Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		
	White Men	25%	50.0%
	White Women	6%	0.0%
\$5,000,000 *	Ethnic Minorities	25%	50.0%

CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME:											
ALB, Inc.	\$833,333	Hispanic	X					16.7%			
American Asphalt Repair & Resurfacing Company	\$833,333	White	X		16.7%						
Carone & Company, Inc.	\$833,333	White	X		16.7%						
Forticon, Inc.	\$833,333	Hispanic	X					16.7%			
J.V. Lucas, Inc.	\$833,333	Hispanic	X					16.7%			
MCK Services, Inc.	\$833,333	White	x		16.7%						
TOTAL	\$5,000,000				50.0%	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	See P-061			
Percent of Total Employees:				
MSA Labor Market %:				
MSA Labor Market Location:				

COMMENTS

Contract Equity Participation: 50% White Men and 50% Ethnic minority participation.
Contract Duration: Until April 9, 2025

Total not to exceed: \$15,000,000 = \$5,000, 000 (original amount) + \$5,000,000 (2023 amended amount) + \$5,000,000 (2024 Amendment).

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	NA	



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Amend Agreements for Paving and Other Related Services		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
General Services Agreement-Amendment		DATE:							
		3/19/2024	National		10.5	10.7	3.7	0.7	27.3
			9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9
		Alameda/CC Counties		10.7	15.6	15.4	0.5	46.2	
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	EMM-H: L/SBE	Company Wide	0	26	0	0	26	70.3%	38.5%
ALB, Inc.		Manager/Prof	0	3	0	0	3	50.0%	
Robert Gonzalez		Technical/Sales	0	0	0	0	0	0.0%	
552 W. 10th St		Clerical/Skilled	0	13	0	0	13	72.2%	
Pittsburg, CA 94565		Semi/Unskilled	0	10	0	0	10	83.3%	
925-427-1197		Bay Area	0	26	0	0	26	70.3%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		6/30/2020		
		Co. Wide MSA:	Contra Costa		# Employees-Co. Wide:		37	Bay Area:	37
RP	WM: L/SBE	Company Wide	2	134	2	0	138	83.6%	53.9%
American Asphalt Repair & Resurfacing Company		Manager/Prof	0	7	0	0	7	58.3%	
Steve Aguirre		Technical/Sales	0	0	0	0	0	0.0%	
24200 Clawiter Rd.		Clerical/Skilled	2	127	2	0	131	91.6%	
Hayward, CA 94545		Semi/Unskilled	0	0	0	0	0	0.0%	
510-723-0280		Bay Area	2	134	2	0	138	83.6%	39.9%
		Co. Wide MSA:	Alameda		# Employees-Co. Wide:		165	Bay Area:	165
RP	WM: L/SBE	Company Wide	2	32	2	0	36	42.4%	38.5%
Carone & Company, Inc.		Manager/Prof	0	1	0	0	1	16.7%	
Lloyd Carone		Technical/Sales	0	0	0	0	0	0.0%	
5009 Forni Drive, Ste. A		Clerical/Skilled	0	1	2	0	3	42.9%	
Concord, CA 94520		Semi/Unskilled	2	30	0	0	32	44.4%	
925-602-8800		Bay Area	2	32	2	0	36	42.4%	39.9%
		Co. Wide MSA:	Contra Costa		# Employees-Co. Wide:		85	Bay Area:	85
RP	EMM-H: L/SBE	Company Wide	0	10	0	0	10	90.9%	53.9%
Forticon, Inc.		Manager/Prof	0	1	0	0	1	100.0%	
Everado Llanos		Technical/Sales	0	1	0	0	1	50.0%	
1300 Clay St, Ste 600		Clerical/Skilled	0	1	0	0	1	100.0%	
Oakland, CA 94612		Semi/Unskilled	0	7	0	0	7	100.0%	
510-328-3230		Bay Area	0	10	0	0	10	90.9%	39.9%
		Co. Wide MSA:	Alameda		# Employees-Co. Wide:		11	Bay Area:	11
RP	EMM-H: L/SBE	Company Wide	0	17	0	0	17	68.0%	38.5%
J.V. Lucas, Inc.		Manager/Prof	0	2	0	0	2	50.0%	
Alberto Perez		Technical/Sales	0	0	0	0	0	0.0%	
865 Howe Road		Clerical/Skilled	0	10	0	0	10	71.4%	
Martinez, CA 94553		Semi/Unskilled	0	5	0	0	5	83.3%	
925-283-8027		Bay Area	0	17	0	0	17	68.0%	39.9%
		Co. Wide MSA:	Contra Costa		# Employees-Co. Wide:		25	Bay Area:	25
RP	WM: L/SBE	Company Wide	5	50	3	0	58	70.7%	38.5%
MCK Services, Inc.		Manager/Prof	0	0	0	0	0	0.0%	
Jennifer McLaughlin		Technical/Sales	0	0	0	0	0	0.0%	
865 Howe Road		Clerical/Skilled	0	3	1	0	4	26.7%	
Martinez, CA 94553		Semi/Unskilled	5	47	2	0	54	83.1%	
925-957-9200		Bay Area	5	50	3	0	58	70.7%	39.9%
		Co. Wide MSA:	Contra Costa		# Employees-Co. Wide:		82	Bay Area:	65

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)

Title:	Reauthorize Designation of Agents to State Office of Emergency Services for Disaster Reimbursement	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

Management Agency (FEMA) and Cal OES. Form 130 will be applicable to all such opportunities over the next three years.

ALTERNATIVE

Do not reauthorize the three agents. This alternative is not recommended because the District would not be able to work with Cal OES and FEMA to complete the disaster relief action, application, and reimbursement process.

I:\Sec\2024 Board Related Items\040924 Board Agenda Items\FIN - Reauthorize Agents to State Office of Emergency Services.docx

RESOLUTION NO. _____

REAUTHORIZING DESIGNATION OF AGENTS TO STATE OFFICE OF
EMERGENCY SERVICES FOR DISASTER REIMBURSEMENT

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, the East Bay Municipal Utility District (District), as a public agency, is eligible for funds under federal and state disaster relief laws, in the event of disasters judged to exceed the resources available to local government; and

WHEREAS, the California Governor's Office of Emergency Services (Cal OES) requires the District to designate Authorized Agents to engage with the Federal Emergency Management Agency and Cal OES regarding grants for which they have applied; and

WHEREAS, the District has determined that the Accounting Systems Supervisor should be redesignated as an Authorized Agent and as the primary contact on the District's Designation of Applicant's Agent Resolution for Non-State Agencies form (OES Form 130) to represent the District in the event of a disaster in order for the District to receive disaster funds; and

WHEREAS, the other District officers assigned as Authorized Agents are the Manager of Security and Emergency Preparedness and the Controller, and the District has determined that such officers should be redesignated as additional Authorized Agents;

NOW, THEREFORE, BE IT RESOLVED that the Accounting Systems Supervisor, the Manager of Security and Emergency Preparedness, and the Controller, as Authorized Agents of the District, are hereby authorized to execute and submit for and on behalf of the District, a public entity established under the laws of the State of California, the application(s) for filing with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under any existing or future grant program, including, but not limited to P.L. 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, the Flood Mitigation Assistance Program, the National Earthquake Hazards Reduction Program, the California Early Earthquake Warning and/or state financial assistance under the California Disaster Assistance Act.

BE IT FURTHER RESOLVED that the Accounting Systems Supervisor, the Manager of Security and Emergency Preparedness, and the Controller are hereby authorized to provide to the California Governor's Office of Emergency Services for all matters pertaining to such disaster assistance such assurances and agreements as may be required for said financial assistance, in a form approved by the General Counsel.

BE IT FURTHER RESOLVED that the authority delegated by this Resolution shall be effective for all open and future disasters or grants declared up to three years following the date of approval of this Resolution.

ADOPTED this 9th day of April, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

Title:	Accept Federal Emergency Management Agency Grant Funds for Phase 1 of the Influent Pump Station Seismic Retrofit Project	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

As with all federal grants, the District is expected to comply with requirements, including procurement policies stricter than District standards, and specific accounting and documentation requirements, as well as quarterly progress reporting, site visits, and more. By approving this resolution, the Board is authorizing the General Manager to execute all agreements necessary to accept the HMGP funds for Phase 1. If Phase 2 is awarded by FEMA and CalOES, additional Board action will be requested.

This project supports the District’s Long-Term Infrastructure Investment Strategic Plan goal.

SUSTAINABILITY

Economic

Funding for this project is available in the FY 2024 and FY 2025 adopted capital budget for Preliminary Treatment. The project was expected to be entirely funded by rate revenue. This significant amount of federal funding, especially if Phase 2 is awarded, will provide a substantial benefit to the District and will increase resources available to invest in wastewater infrastructure without increased debt issuance or higher rate increases. The \$28.9 million total federal funding that may be awarded, including Phase 2, would equal 52 percent of the Wastewater System’s total capital expenses for FY 2023.

Social

This project will reduce the risk of workers or loss of life following a seismic event and will allow the IPS to return to function quickly following such an event, reducing the likelihood of sewer system overflows that could impact public health.

Environmental

The IPS is a critical component of the intake of wastewater for treatment. By improving the seismic reliability and resiliency, the IPS will better be able to withstand an earthquake and continue to support plant operations, ensuring the San Francisco Bay is protected from sewer overflows and reducing the likelihood of regulatory violations.

ALTERNATIVE

Do not accept the HMGP grant award. This alternative is not recommended because the project is critical to the operation of the MWWTP, and the federal funding will provide a substantial financial benefit to the District and its ratepayers.

RESOLUTION NO. _____

AUTHORIZING ACCEPTANCE OF GRANT AWARDED BY THE
FEDERAL EMERGENCY MANAGEMENT AGENCY FOR PHASE 1 OF
THE INFLUENT PUMP STATION SEISMIC RETROFIT PROJECT

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, the Federal Emergency Management Agency (FEMA) provides grant funding through FEMA's Hazard Mitigation Grant Program to provide cost sharing to entities engaged in long-term efforts to reduce risk and the potential impact of future disasters; and

WHEREAS, in 2022 the East Bay Municipal Utility District (District) applied for grant funding through FEMA's Hazard Mitigation Grant Program for the Influent Pump Station (IPS) Seismic Retrofit Project (Project); and

WHEREAS, the Project will include design and construction of seismic retrofits at the IPS building, located at the Main Wastewater Treatment Plant, to reduce or prevent the risk of loss of life, loss of function, and property damage resulting from a major earthquake; and

WHEREAS, in late 2023 FEMA awarded the grants, and a grant in the amount of two million four hundred six thousand two hundred and eighty-two dollars (\$2,406,282) was awarded to the District for Phase 1 of the Influent Pump Station Seismic Retrofit Project;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District hereby authorizes the General Manager to accept the FEMA grant funds for Phase 1 of the Influent Pump Station Seismic Retrofit Project and authorizes the General Manager or his designee(s) to execute all agreements and other documents required to accept and administer the FEMA grant, including any indemnity, defense and hold harmless provisions in such agreements, in a form approved by the General Counsel, and further authorizes the General Manager or his

designee(s) to sign and submit all progress reports, reimbursement claims, and requests for disbursements, which may be necessary for the award of grant funds.

ADOPTED this 9th day of April, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

This page is intentionally left blank.

EAST BAY MUNICIPAL UTILITY DISTRICT
Office of the General Counsel

DATE: April 4, 2024

MEMO TO: Board of Directors

FROM: Derek McDonald, General Counsel *JDS*
for DM

SUBJECT: Options for Amending Retirement Ordinance No. 40 with Respect to Pension Benefits for Board Members

SUMMARY

Board member Marguerite Young requested options for amending the EBMUD Employees' Retirement System Ordinance No. 40 (Retirement Ordinance) with respect to the pension benefits conferred upon members of the Board of Directors (Board). The options were presented at the March 21, 2024 Retirement Board meeting. At the request of the Retirement Board, below is information regarding options to amend the Retirement Ordinance with respect to pension benefits for Board members. This memorandum discusses options for modifying the terms in the Retirement Ordinance to achieve the purpose of preventing a windfall; special considerations and issues under the California Public Employees' Pension Reform Act (PEPRA) with respect to District retirees; and steps needed to implement proposed changes. Attachment A includes the proposed Retirement Ordinance amendments.

DISCUSSION

Background Information

The Municipal Utility District Act (MUD Act) authorized the Board to establish a retirement system, and pursuant to this authority, the Board enacted Retirement Ordinance No. 40 in 1937 to establish the EBMUD Employees' Retirement System (Retirement System).¹ Board members were excluded from participating in the Retirement System until 1987. In 1986, the state legislature amended the MUD Act to allow officers "whether elective or appointed, or both" to become members of the Retirement System. Accordingly, the Board amended the Retirement Ordinance to allow Board members to become members of the Retirement System and recognize their service as full-time employees. Thus, while Board members do not work a full-time schedule for the District, they are able to accrue service on the same basis as full-time employees.²

¹ MUD Act § 12301.

² Retirement Ordinance Section 2(b): "'Employee' shall also include persons holding an elective office as Director of the District." (See also Section 2(i), which states: "For purposes of this Ordinance, a Director shall be considered as being in the District service at all times during which the office of Director is held.")

To allow Board members to participate in the Retirement System, Section 5(k) was added to the Retirement Ordinance to state: “Every Director in office on January 1, 1987 shall become a Member of the Retirement System on that date. All persons thereafter assuming the office of Director shall become Members on the date of assumption of office.” To recognize Board members as “full time” employees, Section 2(b) was amended to state “Employee shall also include persons holding an elective office as Director of the District” and Section 2(g) to state: “[f]or purposes of this Ordinance, a Director shall be considered as being in the District service at all times during which the office of Director is held.”

Options for Modifying the Terms for Board Members

Section 12331 of the MUD Act provides the Board considerable latitude in determining the terms governing the amount of pension to which Board members may be entitled. The 1986 amendment to the MUD Act did not *require* elected Board members to become members of the Retirement System, but rather permitted the Board to allow Board members to participate. Thus, the Board would have a range of options for modifying pension benefits for the Board.

Board Members Become Ineligible to Participate in the Retirement System

One option could be to revert back to precluding Board members from participating in the Retirement System. Under this option, Board members would not be eligible to receive a retirement allowance from the District, which would preclude eligibility for reciprocity. This option would allow employees who retire from the District to become members of the Board without being subject to provisions under PEPRA, which will be more fully discussed below. This option would also require the least administrative changes to the operations of the Retirement System.

Less than Full-Time Service for Purposes of Calculating the Retirement Allowance

Another option would be to calculate service for Board members on a less than full-time basis to reflect the part-time nature of the Board members. The Board could pro-rate service that would be counted as creditable service for the purpose of calculating a Board member’s pension. For example, for every full year of service, a Board member could receive 0.25 years of service.

The pro-rated service would be used to calculate the amount of retirement allowance a Board member would be entitled. Section 12 of the Retirement Ordinance provides: “When the District Service of any Member is terminated, except by death or retirement, and prior to the completion of five years of Continuous Employment, he or she shall cease to be a Member of the Retirement System.” For purposes of calculating the years of service to determine whether a member may remain in the Retirement System, the Board could treat one year of service on the Board as a full year and not prorate that service.

To illustrate: Board member A serves a full four-year term and is not re-elected for a second term. Board member A would accrue four years of service for purposes of determining their eligibility under Section 12; however, they would not be permitted to remain in the Retirement

System because Board member A did not achieve five years of Continuous Employment. Thus, Board member A would not be eligible for any pension benefits nor would they be eligible for the Health Insurance Benefit (HIB) for medical expenses.

In another example, Board member B serves two four-year terms and retires at age 67³ after eight years of serving on the Board. Board member B would have two years of service (8 years x 0.25) for purposes of determining the retirement allowance but eight years of service for the purposes of determining their eligibility to remain a member of the Retirement System. Thus, if Board member B left the Board and decided to defer retirement, Board member B could remain a member of the Retirement System. When Board member B retires, they would be eligible for a pension based on two years of service. However, Board member B would also not be eligible to receive an HIB, which would require at least 5 years of continuous service.⁴

Implementing the option to pro-rate the amount of service as less than full-time would require significant administrative changes to the operation of the Retirement System. Additionally, the Retirement Ordinance currently excludes employees employed as part-time, limited-term, temporary, and temporary construction. These changes would create a new class of members for Directors.

Alternative Benefit

If the Board decides to exclude Board members from joining the Retirement System, the Board could offer another benefit, if such a benefit was also offered to District employees. Government Code section 53208.5 permits members of a legislative body to participate in any plan of health or welfare benefits, provided they are not greater than that received by the employees of the agency. Currently, Board members are eligible to participate in the District's 457 and 401k Deferred Compensation plans.⁵

PEPRA Considerations for District Retirees Elected or Appointed to the Board

Reinstatement from Retirement

Another consideration is when an employee who retires from the District is elected or appointed to the Board. PEPRA expressly states: “[a] retired person shall not serve, be employed by, or be employed through a contract directly by a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement.”⁶

³ Pursuant to PEPRA and Section 42 of the Retirement Ordinance, the retirement multiplier of 2.5% may be applied only upon attaining age 67.

⁴ See Section 36(d) of the Retirement Ordinance.

⁵ There are significant limitations on the ability of new Directors covered by PEPRA to be provided additional retirement benefits that may make it impractical to provide additional benefits under the District's 401(k) or 457(b) deferred compensation plans. If the Board wishes to pursue the possibility of offering some additional benefit, additional review could be undertaken to determine any feasible options for additional benefits.

⁶ Cal. Govt. Code § 7522.56(b).

In the event a District retiree is elected or appointed to serve on the Board, the District retiree would be required to be reinstated to the Retirement System and the Retirement System must stop the payment of retirement benefits for the time the retiree sits on the Board.

Reciprocity for District Retirees

Reciprocal benefits of a District retiree could also be affected if a retiree reinstates from retirement to serve on the Board. California Public Employees' Retirement System (CalPERS) deems reinstatement from retirement as breaking concurrent retirement and thus rendering reciprocity inapplicable.⁷ According to CalPERS, without reciprocity, retirement benefits after reinstatement will be based on the final compensation earned from each of the respective agencies from which the retiree retired and not based on the highest compensation of any of the respective agencies. This would only apply to a District retiree who becomes a Director after retirement. This would not prevent reciprocity to continue for a Director who is not a retiree of the District.

Because of the restrictions posed by PEPRA for retirees returning to the agencies from which they retired, the Board may also want to consider amending the Retirement Ordinance to prevent District retirees from having to reinstate from retirement. Under the broad discretion conferred on the Board in MUD Act section 12331, the Board could exclude District retirees from being members of the Retirement System if they return as a member of the Board. If District retirees are excluded from being members of the Retirement System, they would be allowed to continue to receive their pension; allowed to retain reciprocity; and permitted to receive Board compensation as members of the Board. Attachment A includes proposed amendments to exclude District retirees who serve on the Board from being members of the Retirement System upon election or appointment.

NEXT STEPS

The Board will discuss and consider options for amending the Retirement Ordinance at its meeting on April 9, 2024. The Retirement Board will be apprised of any direction provided by the Board at a special meeting of the Retirement Board scheduled on April 16, 2024. To effectuate amendments to the Retirement Ordinance by July 1, 2024, the Board must adopt the amendments no later than May 28, 2024 and notice of the adoption of the ordinance must be published within 15 days of its enactment. The first reading of the ordinance must take place no later than May 14, 2024.

DM:LM:vsh

Attachment: A - Proposed Amendments to Retirement Ordinance

⁷ A Guide to CalPERS Reinstatement from Retirement.

ATTACHMENT A
Proposed Amendments to Retirement Ordinance

Below are proposed language amendments to the Retirement Ordinance to reflect the modifications discussed in the memo.

Formalize the definition of “Director”

The term “Director” as used in Section 5(k) of the Retirement Ordinance is not currently defined. For clarity and consistency in applying the term “Director” throughout the Retirement Ordinance, it is recommended that the following definition be added to Section 2:

Director shall mean an individual elected or appointed to serve on the East Bay Municipal Utility District Board of Directors.

Board Members Become Ineligible to Participate in the Retirement System

Section 5(k) of the Retirement Ordinance currently states:

Every Director in office on January 1, 1987 shall become a Member of the Retirement System on that date. All persons thereafter assuming the office of Director shall become Members on the date of assumption of office.

To effectuate a change that would exclude members of the Board from membership, Section 5(k) would be amended as follows:

Every Director in office on January 1, 1987 shall become a Member of the Retirement System on that date. All persons thereafter assuming the office of Director shall become Members on the date of assumption of office. *A Director who assumes office on or after July 1, 2024 shall not become a Member of the Retirement System.*

Section 26 of the Retirement Ordinance would also require an amendment as follows:

No person who has been retired for service and who receives a Retirement Allowance under the Retirement System shall be paid for any service rendered by him or her after the effective date of retirement; provided, however, the Board of Directors may adopt a policy authorizing payment of any person after the effective date of retirement when it is in the best interest of the District to do so, and payment of compensation for such services shall not prejudice the retirement rights or benefits of the person; provided further that this Section shall not prohibit payment for services rendered as a Director of the District, *who first became a Member before July 1, 2024*, or for services rendered as an Independent Contractor.

Less Than Full-Time Service for Purposes of Calculating the Retirement Allowance

To reflect the modification to the rate of accrual of service, Section 2(g) would be amended. Section 2(g) defines “District Service” and states, in part:

For purposes of this Ordinance, a Director shall be considered as being in the District service at all times during which the office of Director is held.

This portion of Section 2(g) would be amended as follows (using the 25% option as an example):

For purposes of this Ordinance, a Director *who became a member before July 1, 2024* shall be considered as being in the District service at all times during which the office of Director is held.

For the purpose of determining the retirement allowance pursuant to Section 15 or Section 42, a Director, who becomes a Member of the Retirement System on or after July 1, 2024, shall accrue District Service at a rate of ¼ or 25% of each year of service on the Board of Directors, such that a Director who serves a four-year term shall accrue one year of District Service.

Section 2(jj) defining “Continuous Employment” for purposes of Section 12(a) which allows a member to remain in the Retirement System after five years of service should be amended to add:

For purposes of Section 12(a) only “Continuous Employment” for a Director, who becomes a Member of the Retirement System on or after July 1, 2024, shall mean the period of time that a Director maintains continuous and unbroken service on the Board of Directors calculated on the basis of the anniversary date the Director took office on the Board of Directors and every year thereafter the Director holds such office.

Section 5(k), which authorizes members of the Board to become members would remain unchanged.

Amendments to Exclude District Retirees who are Elected or Appointed to the Board of Directors

To exclude District retirees who are appointed or elected to the Board of Directors, Section 5(k) of the Retirement Ordinance could be amended as follows:

Every Director in office on January 1, 1987 shall become a Member of the Retirement System on that date. All persons thereafter assuming the office of Director shall become Members on the date of assumption of office. *Effective on or after July 1, 2024, any person who has been retired for service and who receives a Retirement Allowance under the Retirement System and who is elected or appointed to serve on the East Bay Municipal Utility District Board of Directors shall be not become a Member of the Retirement System.*

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: April 9, 2024
MEMO TO: Board of Directors
THROUGH: Clifford C. Chan, General Manager *CCC*
FROM: David A. Briggs, Director of Operations and Maintenance *DB*
SUBJECT: Water Supply Update – April 9, 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 April 9, 2024 Board meeting.

CCC:DAB:sd

Attachment: Water Supply Update Presentation

I:\SEC\2024 Board Related Items\040924 Board\OMD – Water Supply Update.docx

This page is intentionally left blank.



Water Supply Update

Board of Directors

April 9, 2024

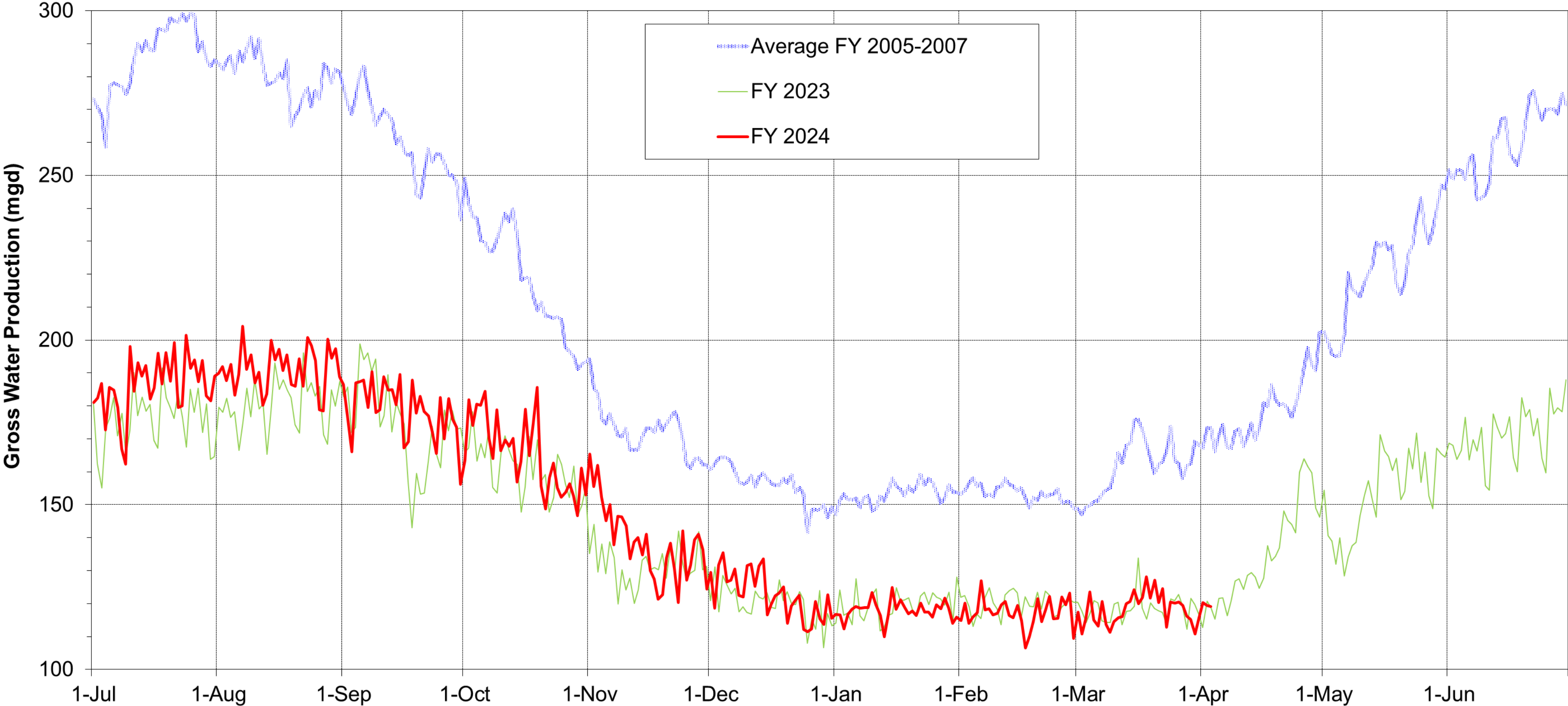
Water Supply Briefing

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



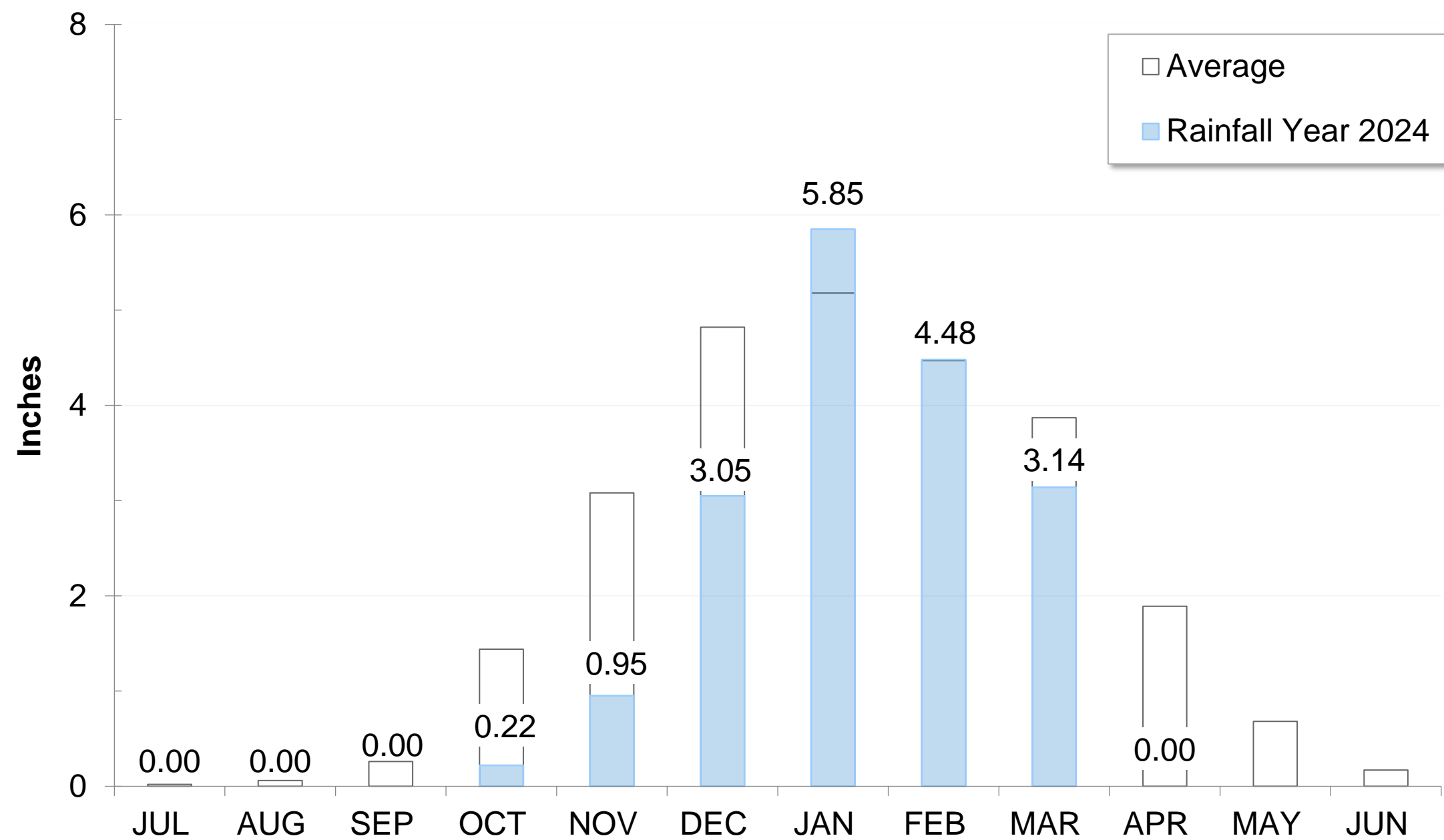
Current Water Supply

Gross Water Production



Precipitation as of April 3

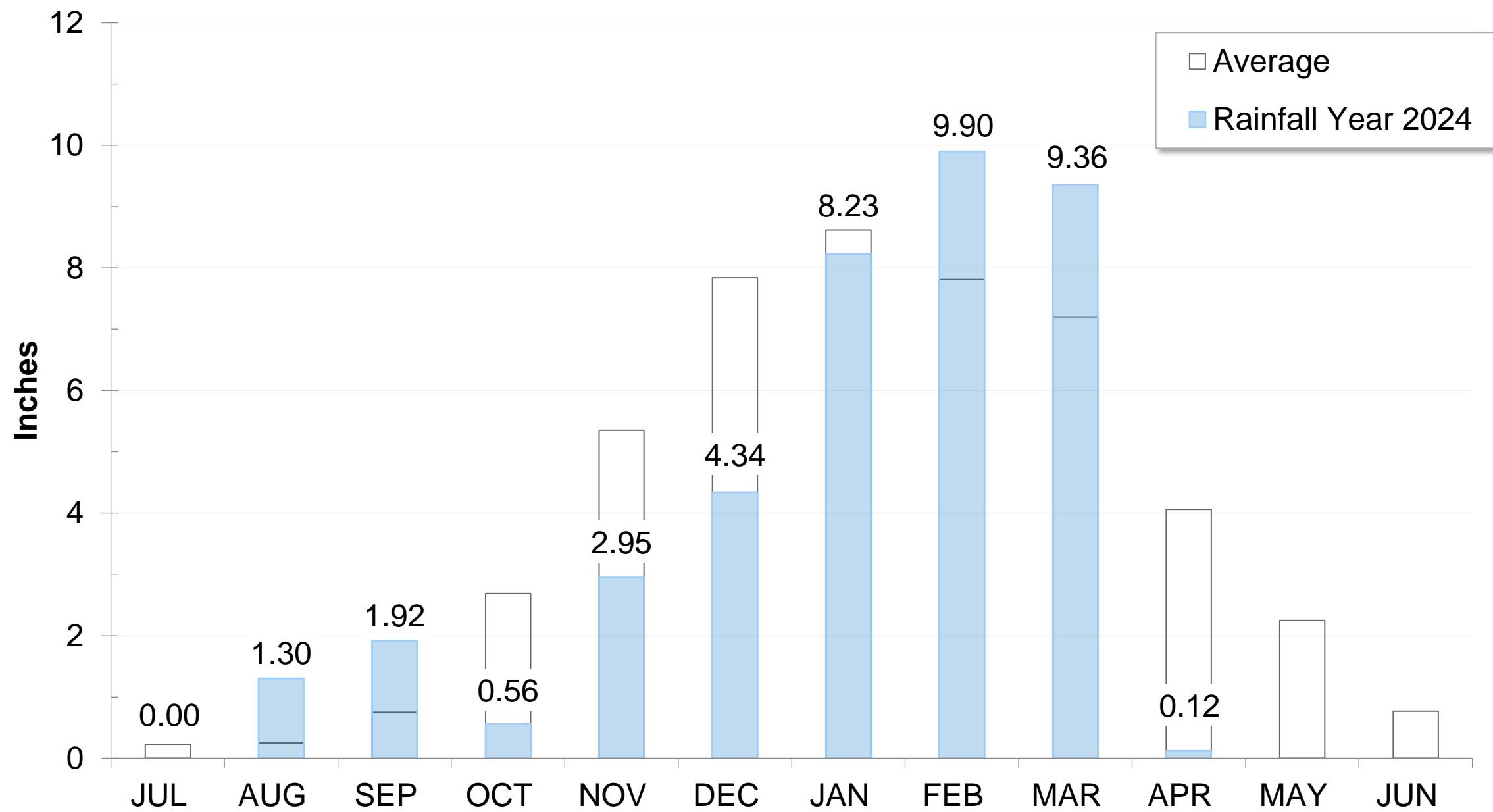
East Bay: 17.69" (74% of average)



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

Precipitation as of April 3

Mokelumne: 38.68" (93% of Average)



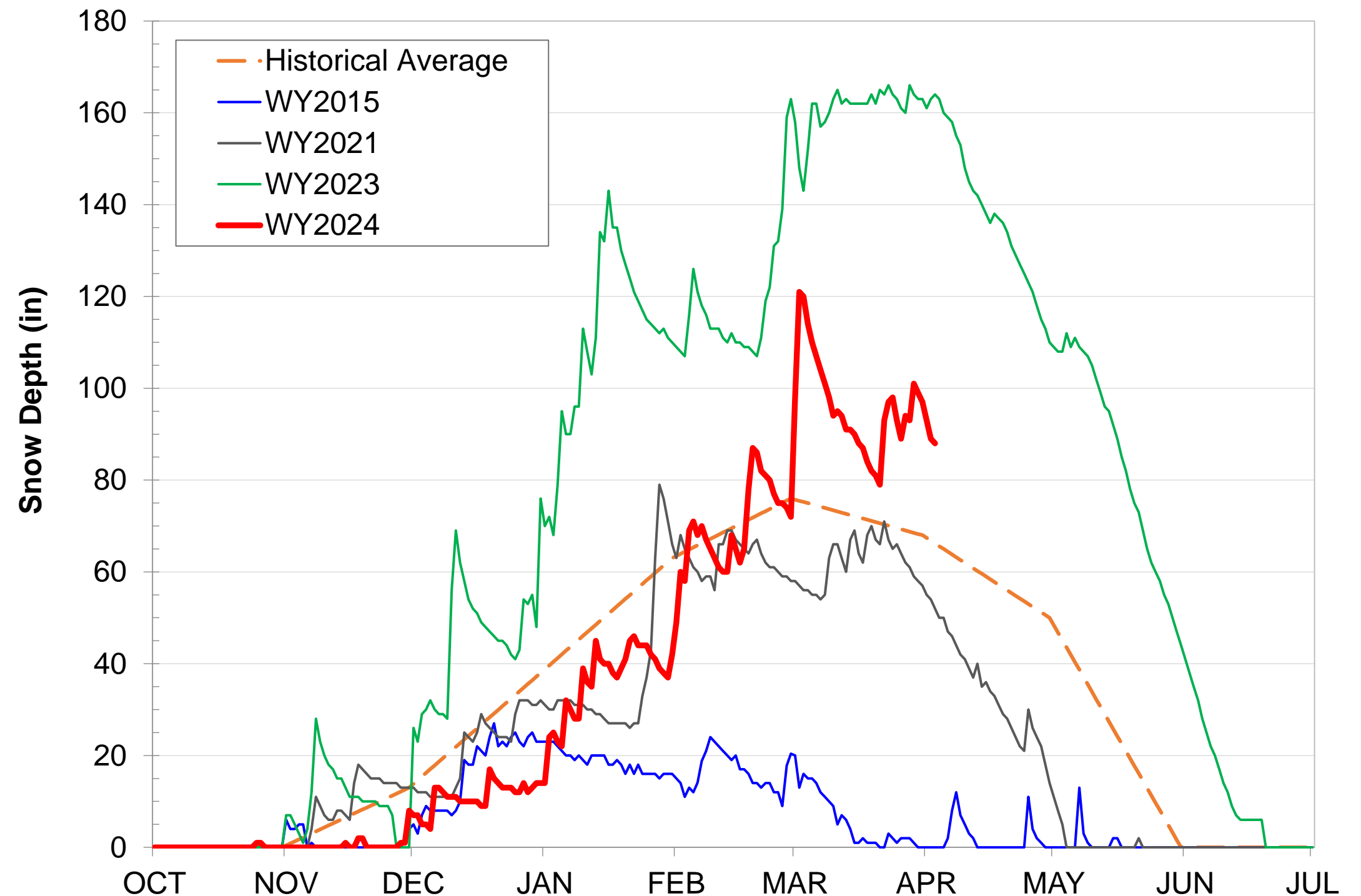
High-Elevation Snow (Caples Lake) as of April 3

Snow Depth

88" (133% of average)

Snow Water Content

32.76" (118% of average)

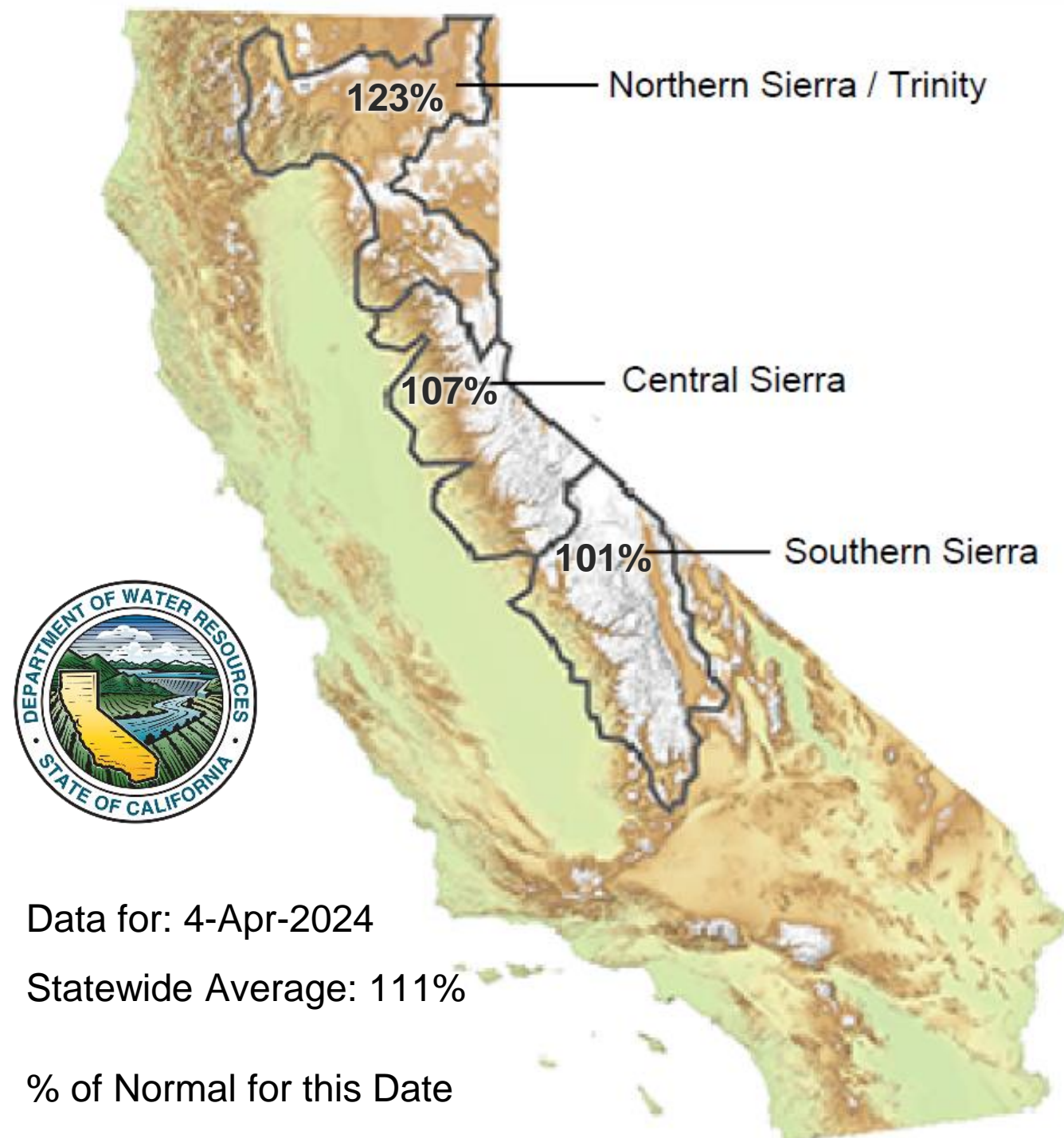


California Water Supply



Snowpack as of April 4

Snow Water Equivalent:
107% in Central Sierra



Data for: 4-Apr-2024

Statewide Average: 111%

% of Normal for this Date



Caples Lake, J. Toone, January 2024

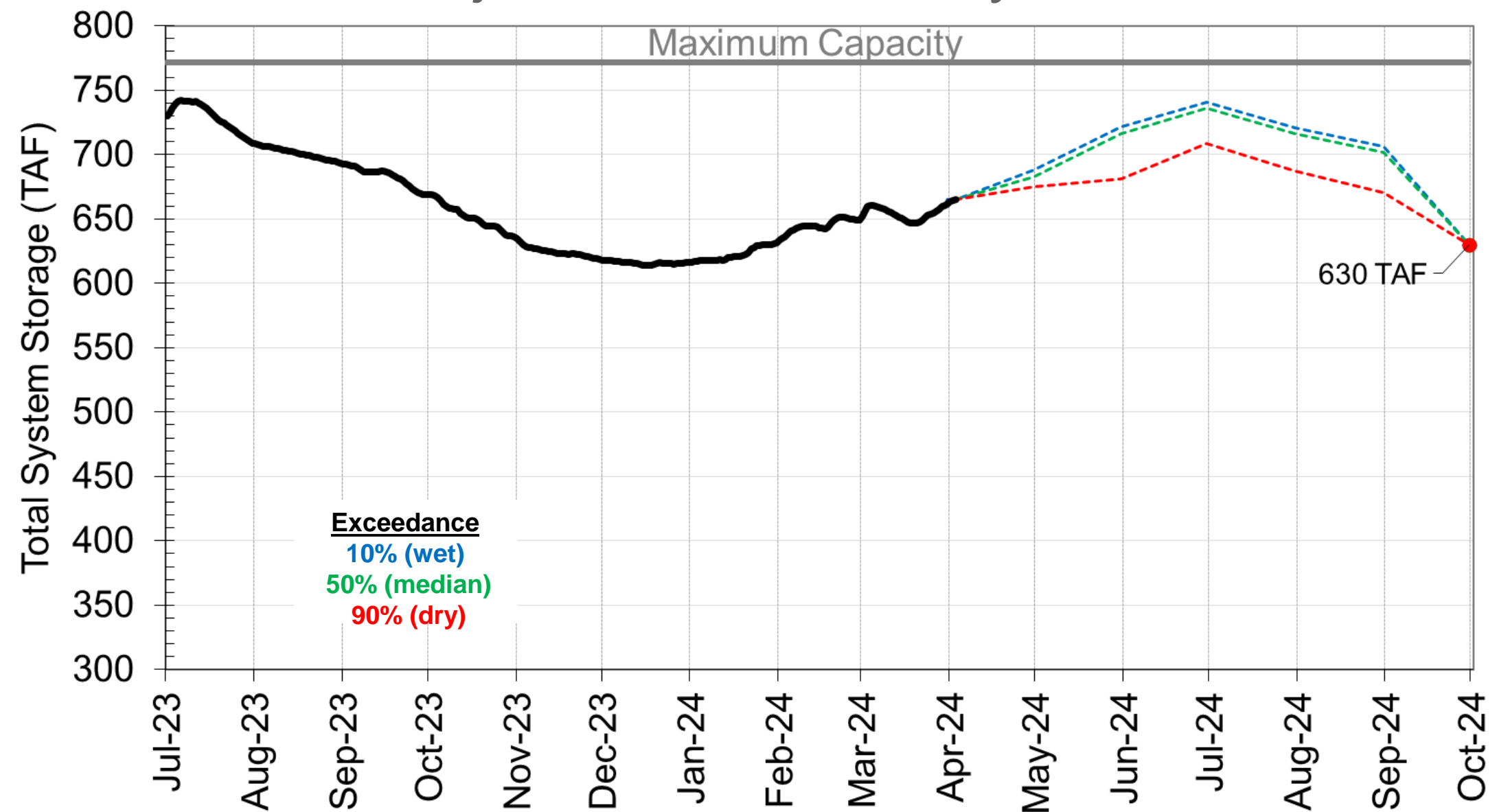
Water Supply Projections

Total System Storage as of April 3

Current: 665 TAF (106% of Average)

Reservoir	Current Storage, TAF	Percent of Average	Percent of Capacity
Pardee	177	95%	87%
Camanche	349	116%	84%
East Bay	139	100%	92%
Total System	665	106%	86%

Projected: 630 TAF by 9/30



TAF: Thousand Acre-Feet

Questions



Camanche Reservoir, J. Wood, March 2024



**FLOWING
INTO
THE
FUTURE**

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: April 4, 2024

MEMO TO: Board of Directors

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

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

SUBJECT: Finance/Administration Committee Minutes – March 26, 2024

Director April Chan called to order the Finance/Administration Committee meeting at 8:50 a.m. in the Administration Building Boardroom. Directors April Chan and William B. Patterson were present at roll call. Chair Andy Katz arrived at 8:52 a.m. Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Director of Finance Sophia D. Skoda, Treasury Manager Robert L. Hannay, Director of Customer and Community Services Andrew L. Lee, Customer Services Manager Jack J. Flynn, and Secretary of the District Rischa S. Cole.

Public Comment. Addressing the committee was Ivette Rivera who commented on two documents she provided to the Committee.

Presentations/Documentation. 1) Presentation entitled “Extend Commercial Paper Liquidity Agreements,” dated March 26, 2024; 2) Presentation entitled “Applicant Project Process Improvement Updates,” dated March 26, 2024; 3) Document titled California Supreme Court Clarifies Standard for Misuse of Public Funds Convictions dated June 23, 2016; and 4) Document titled CC Water and Dublin Water Retirement Benefits and Medical Vesting.

Monthly Investment Transactions Report. Treasury Manager Robert L. Hannay reviewed the February 2024 report and reported the portfolio is currently yielding about 4.0 percent. The report will be submitted to the Board for consideration at its meeting in the afternoon. The Committee raised no questions. It was moved by Director Patterson, seconded by Director Chan, and carried (3-0) by voice vote to accept the report.

Extend Liquidity Agreements for Commercial Paper Notes (Water Series) Subseries A-1 and Subseries A-2. Treasury Manager Robert L. Hannay presented the report. The District’s Commercial Paper Notes (Water Series) (“Water CP”) Tax-Exempt Subseries A-1 (“Subseries A-1”) and Tax-Exempt Subseries A-2 (“Subseries A-2”) are outstanding in the total amount of \$281 million as of March 21, 2024. In accordance with the Water CP covenants, the District must 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 Sumitomo Mitsui Banking Corporation (SMBC) which is set to expire on May 6, 2024. Subseries A-2 is currently outstanding in the amount of \$137 million with liquidity support provided by Bank of America, N.A. (BANA) which is set to expire on June 28, 2024. The District has negotiated extensions of the SMBC Standby Letter of Credit and Reimbursement Agreement (LOC) to May 4, 2029 (a five-year term) and BANA Revolving Credit Agreement (RCA) to June 28, 2028

(a four-year term) at an annual cost of 0.32 percent (32 basis points) based on the District's 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. Mr. Hannay explained that extending the current agreements is more cost-effective than substituting a new liquidity facility as upfront transaction costs are estimated at \$55,000 for an extension and \$170,000 for a substitution reflective of the simplicity or complexity of required documentation. Also, a new bank is unlikely to propose a low enough annual fee (below 0.30%) to offset the higher upfront costs of a substitution. The Board will be asked to consider authorizing extension of the existing agreements at its meeting in the afternoon. It was moved by Director Chan, seconded by Director Patterson, and carried (3-0) by voice vote to support the staff recommendation.

Applicant Project Process Improvements Update. Customer Services Manager Jack J. Flynn presented the update. In May 2023, the District conducted an internal three-day Applicant Project Process Improvement Workshop. During the workshop, District subject matter experts reviewed the process for each type of applicant project and identified priority areas for improving the application process to reduce the time of providing new water services. One recommendation was to modify specific sections of the District's Regulations Governing Water Service to clarify the District's requirements. Mr. Flynn reviewed proposed modifications to the following sections: Section 1 - Explanation of Terms; Section 2 - Applying for Service; Section 3 - Standard Service; Section 18 - Location of Service; Section 23 - District Equipment on Customer Property; and Section 31 - Water Efficiency Requirements. The Board will be asked to consider adopting the modifications at its April 23, 2024 meeting. Mr. Flynn and General Manager Clifford C. Chan responded to questions from the Committee on the current timeline for completing the application processes for single-family residences and main extensions; the type of feedback received from single-family home developers; and whether staff will provide metrics on improvements at the April 23 Board meeting. The Committee requested information comparing the current timeline versus the updated timeline after process improvements are implemented; an estimate of time saved because of improvements to the District's general work order system; and asked staff to inform stakeholders of the proposed modifications to the Regulations prior to the April 23 Board meeting. It was moved by Director Patterson, seconded by Director Chan, and carried (3-0) by voice vote to support the staff recommendations.

Adjournment. Chair Katz adjourned the meeting at 9:14 a.m.

CCC/RSC

Title:	Interview Candidates and Adopt a Resolution Appointing a Candidate to Fill the Vacant Board Seat in East Bay Municipal Utility District WARD 2	Meeting Date:	April 9, 2024
--------	--	---------------	---------------

DISCUSSION

The Board will conduct in-person interviews at its regular meeting on Tuesday, April 9, beginning at 4:00 p.m. in the Administration Building Boardroom. The order of the interviews will be based on random selection. Candidates received the evaluation criteria and interview questions the week of April 1. On April 9, candidates will report to a “waiting room” prior to the interviews and have the option to remain in the Board meeting after their interview has concluded. Each interview will be 15 minutes and will include opening and closing remarks as well as responses to the interview questions. This time does not include potential follow-up questions. The public will be able to participate in-person and online and can provide comments after all interviews are completed. The Board will deliberate after public comment and consider appointing one of the candidates to serve as the Director representing Ward 2 until the General Election on November 5, 2024. If the Board needs more time to deliberate, they can hold a special Board meeting on April 16 and consider an appointment at that time or during the regularly scheduled Board meeting on April 23. Under MUD Act section 11865 *et seq.*, the Board must exercise its option to appoint someone to fill the vacant Board seat in Ward 2 within 60 days of the effective date of Director Coleman’s resignation (no later than May 7, 2024).

After the appointment, the selected candidate will be sworn in and participate in the April 23 Board meeting (if appointed on April 9) or in the May 14 Board meeting (if appointed after April 9) as the Director representing Ward 2.

SUSTAINABILITY

Economic

There is no fiscal impact associated with the recommended actions.

Social

The appointment process recommended by the Ad Hoc Committee and the interviews to be conducted by the Board during a public meeting promote an open and transparent process that allows ample opportunity for public participation.

ALTERNATIVE

Do not interview candidates and make an appointment to fill the vacant Board seat in Ward 2. This alternative is not recommended because the Board voted to use the appointment process developed by the Ad Hoc Committee to fill the vacant Board seat in Ward 2 until the General Election on November 5, 2024.



RESOLUTION NO. _____

APPOINTING _____ TO THE
BOARD OF DIRECTORS OF THE EAST BAY MUNICIPAL UTILITY DISTRICT

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, John A. Coleman resigned from the Board of Directors of the East Bay Municipal Utility District (Board of Directors) effective March 8, 2024; and

WHEREAS, it is the desire and intention of the remaining members of the Board of Directors to fill the vacant seat for Ward 2 by appointment until the next General Election in November 2024, in accordance with section 11865(a) of the Municipal Utility District Act; and

WHEREAS, notice of the vacancy was posted in accordance with section 11865(a) and published in three local newspapers, and persons wishing to be considered were provided opportunity to apply for appointment to the Board of Directors; and

WHEREAS, five candidates submitted applications for appointment to the vacant seat; and

WHEREAS, the Board of Directors has considered the application materials submitted by the candidates and has conducted public interviews of all five candidates at a duly-noticed regular meeting of the Board of Directors on April 9, 2024;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby appoint _____ to serve as Director representing Ward 2 until the next General Election in November 2024.

ADOPTED this 9th day of April, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

This page is intentionally left blank.