



BOARD POLICY COMMITTEE

October 13, 2021

1:30 p.m.

DUE TO COVID-19, THIS MEETING WILL BE CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 54953(e). MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON.

The following members of the BAWSCA Board Policy Committee are listed to permit them to appear telephonically at the BPC Meeting on October 13, 2021: Tom Chambers, Alison Cormack, Karen Hardy, Steve Jordan, Gustav Larsson, Juslyn Manalo, Al Mendall, Barbara Pierce, Sepi Wood, and Tom Zigterman.

Members of the public wanting to participate in the meeting may do so by:

Participating via Video Conference:

- Click on the link to Join the meeting, <https://us02web.zoom.us/j/86518619930>
- Meeting ID: **865 1861 9930**
- Password: **713910**
- The web browser client will download automatically when you start or join your first Zoom meeting. It is also available for [manual download here](#).

OR,

Participating via Telephone:

- Dial **888 788 0099** US Toll-free US Toll-free
 - Meeting ID: **865 1861 9930**
 - Password: **713910**
- To Mute or UnMute, Press *6.
- To Raise Hand, Press *9.
- The Presentation will be available prior to the meeting at www.bawsca.org.

All audio and video will be OFF upon entry. Remaining on mute will reduce background noise.

Videos of Non-Board meeting participants will be kept OFF at all times during the meeting. Audio for Non-Board meeting participants will be enabled during allocated public speaking times and will be disabled when public comment time has expired.

In the event of technical malfunction on Zoom, the meeting will be conducted via the Call-In #.

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BAWSCA

Bay Area Water Supply & Conservation Agency

BOARD POLICY COMMITTEE

October 13, 2021

1:30 p.m.

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page#</u>
1. <u>Call To Order, and Roll Call</u> Roster of Committee Members (<i>Attachment</i>)	(Zigterman)	Pg 5
2. <u>Special Order of Business</u> A. Adoption of Resolution 2021-02, declaring that Board Policy Committee meetings will continue to be held via teleconference (<i>Attachment</i>) <u>Issue:</u> What is required to comply with the new Brown Act provisions during the current ongoing state of emergency? <u>Information to Committee:</u> Oral report. <u>Committee Action Requested:</u> That the Board Policy Committee adopt Resolution #2021-02.	(Schutte)	Pg 7
3. <u>Comments by Chair</u>	(Zigterman)	
4. <u>Public Comment</u> <i>Members of the public may address the committee on any issues not listed on the agenda that are within the purview of the committee. Comments on matters that are listed on the agenda may be made at the time the committee is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>	(Zigterman)	
5. <u>Special Report</u> A. Water Supply Conditions <u>Issue:</u> What are the current water supply conditions for the Regional Water System and how is the SFPUC addressing curtailment orders by the State? <u>Information to Committee:</u> Oral report. <u>Committee Action Requested:</u> Questions and comments.	(Ritchie)	
6. <u>Consent Calendar</u> A. Approval of Minutes from the Special September 7, 2021, meeting (<i>Attachment</i>)	(Zigterman)	Pg 11
7. <u>Action Calendar</u> A. Adoption of Resolution #2021-03 Approving Tier 2 Drought Allocation (<i>Attachment</i>) <u>Issue:</u> What is BAWSCA's recommendation to address the December 2021 expiration of the Tier 2 Drought Allocation Plan? <u>Information to Committee:</u> Staff memo and oral report. <u>Committee Action Requested:</u> That the Board Policy Committee recommend Board adoption of Resolution #2021-03.	(Francis)	Pg 23

- B. Annual Review and Consideration of BAWSCA's Statement of Investment Policy (Attachment) (Tang) Pg 29

Issue: BAWSCA's Investment Policy requires the Board to act on it annually irrespective of any changes. No changes are recommended.

Information to Committee: Staff memo and oral report.

Committee Action Requested: That the Board Policy Committee recommend Board re-affirmation of the current Statement of Investment Policy.

- C. Administrative Revision to BAWSCA's CalPERS Health Benefit Resolution **(Sandkulla)** Pg 39
(Attachment)

Issue: BAWSCA needs to adopt a new resolution related to its CalPERS health benefits to reflect recent administrative name changes adopted by CalPERS.

Information to Committee: Staff memo and oral report

Committee Action Requested: That the Board Policy Committee recommend Board adoption of Resolution #2021-04.

8. Reports

- A. Water Supply Conditions
- B. Bay Delta Plan/FERC Update
- C. CEO's Letter (*Attachment*)
- D. Board Policy Committee Calendar (*Attachment*)
- E. Correspondence Packet ([Under Separate Cover](#))

9. Closed Session

- A. **Conference with Legal Counsel – Existing Litigation pursuant to**
Paragraph (1) of subdivision (d) of Government Code Section 54956.9
Federal Energy Regulatory Commission Final License Application
Proceedings for Don Pedro Hydroelectric Project, P-2299-082, and La
Grange Hydroelectric Project, P-14581-002.
- B. **Conference with Legal Counsel – Existing Litigation pursuant to**
Paragraph (1) of subdivision (d) of Government Code Section 54956.9 State
Water Board Cases (Sacramento County Superior Court Case No. 5013).

10. Report from Closed Session

11. Comments by Committee Members

12. Adjournment to the Next Meeting

Unless otherwise noticed:

December 8, 2021 at 1:30pm – Venue to be announced

Accessibility for Individuals with Disabilities

Upon request, BAWSCA will provide for written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, auxiliary aid, service or alternative format requested at least two days before the meeting. Requests should be emailed to bawsca@bawsca.org or submitted by phone at 650-349-3000. Requests will be granted whenever possible and resolved in favor of accessibility.



BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

2021 Committee Roster:

Tom Zigterman, Stanford University (Chair)

Juslyn Manalo, City of Daly City (Vice Chair)

Thomas Chambers, Westborough Water District (BAWSCA Vice Chair)

Alison Cormack, City of Palo Alto

Karen Hardy, City of Santa Clara

Steve Jordan, Purissima Hills Water District

Gustav Larsson, City of Sunnyvale (BAWSCA Chair)

Al Mendall, City of Hayward

Barbara Pierce, City of Redwood City

Sepi Wood, City of Brisbane

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Declaring that Board Policy Committee Meetings Will Continue to be Held via Teleconference**

Summary:

The Board Policy Committee has followed relaxed teleconference requirements under Executive Orders issued by the Governor in response to the COVID-19 pandemic. Those Executive Orders have since expired. Assembly Bill (AB) 361 now allows the BPC to continue meeting under the same procedures. The attached resolution declares the BPC's intent to continue meeting via teleconference under AB 361.

Fiscal Impact:

This item has no impact on BAWSCA's annual operating budget.

Recommendation:

That the Committee adopt Resolution #2021-02 declaring that it will continue to meet via teleconference, in accordance with AB 361 and the provisions of Government Code Section 54953(e).

Discussion:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings electronically without a physical meeting place.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20, effective October 1, 2021. At that point, agencies would have transitioned back to public meetings held in full compliance with the preexisting Brown Act teleconference rules. Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Governor's proclaimed State of Emergency remains in effect, and state and local officials, including the San Mateo County Health Officer, the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

On September 16, 2021, the Governor signed Assembly Bill (AB) 361 into law, effective October 1, 2021, to allow agencies to use teleconferencing for public meetings during proclaimed state of emergencies without requiring the teleconference locations to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction. AB 361 will sunset on January 31, 2024.

Under AB 361, a local agency will be allowed to meet remotely without complying with prior Brown Act teleconference requirements when:

- The local agency holds a meeting during a state of emergency declared by the Governor, and either
 - State or local health officials have imposed or recommended measures to promote social distancing, or
 - The legislative body finds that meeting in person would present imminent risks to the health or safety of attendees.

As discussed above, state and local officials continue to recommend social distancing. Therefore, the Committee can continue to conduct meetings via teleconference, as long as it adheres to the following emergency requirements under Government Code Section 54953(e)(2), added by AB 361:

1. The legislative body gives notice and posts agendas as otherwise required by the Brown Act, including directions for how the public can access the meeting.
2. The legislative body does not take formal action on any item whenever there is a disruption in the meeting broadcast.
3. The public is allowed to provide comment in real time.
4. The legislative body allows time during a public comment period for members of the public to register with any internet website required to submit public comment.

For upcoming teleconference meetings, the Committee can continue to follow the AB 361 requirements by declaring at each meeting, that it has reconsidered the circumstances of the state of emergency and either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (2) state or local officials continue to impose or recommend measures to promote social distancing. The Committee and Board are separate legislative bodies, so both bodies will need to adopt resolutions to this effect. These findings can be made through the consent calendar.

**RESOLUTION NO. 2021 – 02
BY THE BOARD POLICY COMMITTEE OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**DECLARING THAT BOARD POLICY COMMITTEE MEETINGS WILL CONTINUE TO BE
HELD VIA TELECONFERENCE**

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow legislative bodies to conduct meetings electronically without a physical meeting place; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which specified that Executive Order N-29-20 would remain in effect through September 30, 2021, at which point it would expire; and

WHEREAS, on September 16, 2021, the Governor signed Assembly Bill 361 into law as urgency legislation that goes into effect on October 1, 2021, amending Government Code Section 54953 of the Brown Act to allow legislative bodies to continue to meet remotely during a proclaimed state of emergency where state or local officials have recommended measures to promote social distancing; and

WHEREAS, the Governor's proclaimed State of Emergency remains in effect, and State and local officials, including the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

NOW, THEREFORE, BE IT RESOLVED that, in order to ensure the health and safety of the public, meetings of the Board Policy Committee of the Bay Area Water Supply and

Conservation Authority will continue to be held via teleconference in accordance with Assembly Bill 361 and the provisions of Government Code Section 54953(e).

Regularly passed and adopted this 13th day of October, 2021 by the following vote:

AYES:

NOES:

ABSENT:

CHAIR, BOARD OF DIRECTORS

ATTEST:

Board Secretary

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
SPECIAL BOARD POLICY COMMITTEE**

September 7, 2021 – 1:30 p.m.

Zoom Video Conference

DUE TO COVID-19, THIS MEETING WAS CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT.

MINUTES

1. **Call to Order:** Committee Chair, Tom Zigterman, called the meeting to order at 1:35 pm. A list of Committee members who were present (9), absent (1) and other attendees is attached.

The Committee took the following action and discussed the following topics.

2. **Call to Order:** Committee Chair, Tom Zigterman, called the meeting to order at 1:35 pm. A list of Committee members who were present (9), absent (1) and other attendees is attached.

The Committee took the following action and discussed the following topics:

3. **Comments by Committee Chair:** Committee Chair Zigterman welcomed and thanked members of the Committee for attending the Special meeting. He reviewed the general procedures for conducting the meeting virtually to ensure efficiency in completing the necessary business.

Chair Zigterman welcomed Director Hardy as a new member of the Committee. He noted the three actions requested of the Committee which will be done by roll call vote, and two informational reports for discussion by the Committee from the Board Chair and CEO/General Manager.

The Committee's consideration of the action items and reports continue to be critically important to the Agency's ability to ensure a reliable supply of high-quality water at a fair price.

4. **Public Comments:** Public comment on items not included on the agenda was made by Lilian Koenig.
5. **Special Report:** SFPUC Assistant General Manager for Water Enterprise, Steve Ritchie, provided a report on current water supply conditions and updates on the curtailment orders issued by the State Water Resources Control Board (State Water Board).

As of August 30th, Hetch Hetchy was at 74% capacity and total system storage was at 69% capacity; both below average at this time of the year. Mr. Ritchie noted that we are in a statewide drought with precipitation upcountry and in the Bay Area well below historical averages.

Total system deliveries have decreased in comparison to 2020, 2019 and the 5-year average, which demonstrates water customers' response to the call for water use

reduction. In comparison to 2020 water use, the Regional Water System water use reduction for the period of July 1st to August 31st shows a combined 7.5% water use reduction by SF Retail Customers and Wholesale Customers. This is half of the Governor's call for a 15% voluntary water use reduction against 2020 levels.

On June 15th the State Water Board issued notices of water unavailability to all post-1914 appropriative water right holders in the Delta watershed.

On July 23rd, the State Water Board released a draft emergency water right curtailment and associated water use reporting requirements for water diverters. The regulations include:

- Curtailment of all diversions such that full natural flow is uninterrupted. This means that agencies that received curtailment orders would not be able to divert any water.
- Initiation and suspension of any curtailments based on current information regarding a diverter's supplies and demands. The State intends to keep track of water activities in the state.
- The curtailment will be in place for up to one-year, but could be repealed if conditions improve.

Additionally, on July 23rd, the State Water Board issued notices of water unavailability applicable to the SFPUC for its points of diversion in the Tuolumne River watershed. On August 3rd, the State Water Board adopted the emergency regulations and on August 19th, the State Office of Administrative Law approved the regulations and filed them with the Secretary of State. On August 20th, San Francisco was issued curtailment orders applicable to seven points of diversions, including the Regional Water System's main reservoirs of Eleanor, Cherry, and Hetch Hetchy.

The SFPUC has been releasing water above full natural flow to meet instream flow requirements and provide for rafting obligations with the Stanislaus National Forest, while generating obligated hydropower. Water released above full natural flow has been credited to the Water Bank which is not affected under a curtailment order because the order does not affect previously stored water.

The SFPUC will offset Tuolumne curtailment requirements with releases of stored water from Cherry and Eleanor, while continuing to divert available water into Hetch Hetchy Reservoir.

The State Board's notices provide for the request for exceptions to curtailment for Non-Consumptive Uses, Human Health and Safety, and Alternative Water Sharing Agreements.

A brief report (e.g., certificate) indicating compliance with the curtailment order was due to the State Board by September 3rd. A form noticing that an exception request(s) would be made, or would be possible during the course of the coming fiscal year, are due to the State Board by September 10th. When and if an exception is formally requested, additional supporting data would be required. The SFPUC expects to make requests under specific categories for different situations including non-consumptive use on diversions for the Moccasin Fish Hatchery, and human health and safety for the Regional Water System customers that meet the use-per-day requirement.

SFPUC filed its Certificate of Compliance on September 2nd. Additionally, and through the San Joaquin Tributaries Authority, in which San Francisco is a member of, a lawsuit has been filed against the underlying regulations.

As required by the curtailment order, the SFPUC will begin filing monthly reports accounting for Tuolumne releases from Cherry and Eleanor Reservoirs and diversions to Hetch Hetchy Reservoir to demonstrate compliance. If dry conditions continue, SFPUC will take additional actions regarding reductions in available water supply in January 2022, potentially including declaring a water supply emergency.

In response to questions from members of the Committee, Mr. Ritchie confirmed that the earliest SFPUC would declare a water supply emergency would likely be in January 2022. Such an action would be deemed appropriate by the SFPUC if dry conditions persist. Mr. Ritchie reiterated that in accordance with requirements of the curtailment order, the SFPUC must declare a state of emergency under the water code in order to request exemptions. Mr. Ritchie also indicated that coupled with the declaration of a water supply emergency, the SFPUC would put in place mandatory obligations, including mandatory rationing, for San Francisco and the wholesale customers, in keeping with the process detailed under the Water Supply Agreement. Additionally, the Governor could potentially issue another Executive Order for mandatory water use reductions throughout the state which could impact SFPUC actions.

Mr. Ritchie stated that for the wholesale customers' planning purposes for messaging to their water customers, a mandatory 10% - 20% water use reduction from 2020 levels could be expected if SFPUC declares an emergency drought situation later this year. SFPUC will closely monitor the situation to determine the best course of action.

Public comments were provided by Peter Drekmeier and Blair Beekman

6. Consent Calendar: Approval of Minutes from the June 9, 2021 meeting.

Public comments were made by Blair Beekman.

Director Cormack made a motion, seconded by Director Larsson, that the minutes of the June 9, 2021 Board Policy Committee meeting be approved.

The motion carried unanimously by roll call.

5. Action Calendar:

A. Establishing a Debt Management Policy: Christina Tang, BAWSCA Finance Manager, reported that as part of the efforts to refund its Bond Series 2013A, BAWSCA needs to establish a Debt Management Policy to comply with Government Code section 8855(i), which went into effect January 1, 2017. The draft policy was prepared by BAWSCA's municipal advisor, KNN Public Finance, in a conventional format to meet the following objectives:

- Guide and regulate BAWSCA's issuance of debt;
- Protect credit rating and minimize borrowing costs; and
- Incorporate best practices into debt administration.

The draft policy was previously presented to the Board and has been modified to reflect the comments received at the July Board meeting. A clean and redlined version were included as Attachments 1 and 2 of the staff report.

There were no questions or comments from members of the Committee.

Public comments were provided by Blaire Beekman.

Director Wood made a motion, seconded by Director Chambers, that the Committee recommend Board adoption of the proposed Debt Management Policy.

The motion carried unanimously by roll call vote.

- B. Authorization of BAWSCA's Issuance of Refunding Revenue Bonds in an Aggregate Principal Amount Not-To-Exceed \$180 Million, Including Authorizing the forms of and Directing the Execution of the Related Documents: Ms. Tang reported on BAWSCA's continuing efforts to refund BAWSCA's 2013A bonds. She introduced BAWSCA's financing team who were present to answer the Committee's questions: Dan Cox and David Brodsky from KNN Public Finance; Steven Spitz from Orrick; Chris Higgins from Goldman Sachs, BAWSCA's Senior Underwriter; and Allison Schutte, BAWSCA's legal counsel.

The team has prepared a bond resolution that requires Board consideration and approval to authorize the issuance of Refunding Revenue Bonds to refund the callable portion of BAWSCA's 2013A bonds.

The proposed Board action requires the expected Net Present Value (NPV) savings, after costs, to be at least \$20 M in order for staff to have the authorization to complete the refunding. Based on the minimum savings threshold, the average annual savings is approximately \$2M after bond settlement. The estimated costs of issuance is up to \$1.2M including both contingent and non-contingent costs. The proposed not-to-exceed principal amount of \$180M is set conservatively high enough to accommodate flexibility to pursue an advance refunding in a highly unlikely event that it becomes available and/or proves to be more economical.

The resolution also authorizes execution of financing documents that include:

1. Second Supplemental Revenue Bond Indenture
2. Contract of Purchase
3. Continuing Disclosure Certificate
4. Escrow Agreement
5. Preliminary Official Statement

A description of each document was included in the staff report along with a copy of each document as attachments.

Based on current market conditions, a tax-exempt forward delivery refunding continues to be determined as most economical. Key terms presented to the Board in July remain the same. The method of sale will be a negotiated sale with a final maturity date of October 1, 2034, the same maturity as the 2013A and 2013B bonds. The stabilization fund requirement remains at 50% of maximum annual debt service. This is determined as most cost effective by the team. Given the lower debt service, the stabilization fund requirement is estimated to be reduced by up to \$1.1 million. This reduction amount and a reasonable contribution from the current

excess stabilization fund will be used to pay down the principal amount of the refunding bonds.

In response to Board feedback, BAWSCA evaluated the consideration of a “Green” Designation”. Staff’s analysis recommends execution for the refunding as a single series without a green designation. Green designation provides no assurance of financial benefits, and could add an additional non-contingent cost of \$20K-\$25K for the green verification process that BAWSCA would be required to engage in. There is minimal possibility to warrant a green designation for all refunding bonds, and lastly, there could be a delay in the bond sale which would expose the refunding to additional market risks.

With the Committee’s actions, the Board will be asked to authorize the issuance of the bonds and approve the bond documents at its September meeting. The credit rating process, bond pricing, and document closing will take place between September and November 2021, based on a tax-exempt forward refunding. The bond settlement is expected in January 2023.

Ms. Sandkulla expressed her confidence on the work Ms. Tang and the finance team has done, and looked forward to hearing the Committee’s discussions.

Legal Counsel, Allison Schutte, supports the work as well.

In response to questions from members of the Committee, the finance team provided the following clarifications.

The adoption of the resolution authorizes BAWSCA to proceed with the issuance and completion of the refunding efforts given that all criteria within the resolution are met. BAWSCA will apply for the credit ratings in September and Goldman Sachs will price the bonds and market the bonds to investors. BAWSCA will report the pricing to the Board for its information, with no further Board actions needed.

Mr. Cox explained that while the bonds will technically be a public offering, forward delivery refunding are likely purchased by institutional investors because of the requirement from investors to enter into a contract with the underwriters. The agreement obligates the investors to deliver the funds at the time of settlement. The investors are reputable institutions with established relationships with Goldman Sachs. Based on the current market, there may be more orders than bonds which may allow leverage to further tighten pricing, but the end result would be an equal buy and sell.

Ms. Tang stated that based on a tax-exempt forward delivery refunding, Attachment 1 of the staff report includes an Estimated Principal of \$143M. The Not-To-Exceed amount of \$180M represent an alternative method should market conditions change and a taxable advance refunding becomes more economical for BAWSCA. Inclusion of this alternative method in the Resolution provides staff the flexibility to proceed with completion of the bond under these conditions without having to go back to the Board.

Mr. Spitz explained that the bonds are held in book entry forms so that the owner of the bonds will be the depository trust company (DTC). Individual bond holders will

hold their bonds through DTC, and in accordance with DTC procedures, the bond trustee will wire transfer all payments to DTC.

Ms. Tang explained that ACWD, Cal Water, Hayward, Mountain View, Palo Alto, Redwood City, and Sunnyvale represent the top seven water purchasers among the member agencies and were the agencies included in the official statement of the 2013 bond issuance. This will be maintained for the issuance of the refunding. The 7 agencies present BAWSCA's financial stability to make debt service payments. Mr. Cox added that for disclosure purposes, it is common practice to include the top users as opposed to including all 26 member agencies. More importantly, Mr. Spitz stated that it is important for investors to know who the principal surcharge payers are. These bonds are an obligation of BAWSCA payable from the surcharges that are assessed against all of the purchasers of water. The bonds are not a debt obligation of any BAWSCA member agencies. The members' obligation is to pay the surcharges that are levied on the water purchase. The 7 top agencies purchase more water, and therefore will pay a larger amount of the surcharge, which investors want to know about.

Regarding the bond redemption, Mr. Spitz explained that if less than all of the bonds of a particular maturity are being redeemed, DTC will, in their proprietary random procedure, select the participants whose bonds are redeemed. Redemption of particular maturity of bonds will be selected at random by the issuer, but within a maturity.

The Chair and Vice Chair of the Board are in a position to sign in addition to the CEO/General Manager. Mr. Spitz explained that it is normal to authorize multiple officials to sign, which would be relevant only when the CEO/General Manager is unavailable at a critical moment, particularly at a time of urgency to execute bond documents promptly.

The Committee was appreciative of the work by the CEO/General Manager and the Finance Team. There were no further comments from members of the Committee. There were no public comments.

Director Jordan made a motion, seconded by Director Wood, that the Committee recommend Board approval of the following actions needed to continue proceeding with BAWSCA's potential bond refunding:

- 1. Adopt Resolution No. 2021-01 authorizing the issuance of the Refunding Revenue Bonds in an amount not to exceed \$180 million and authorizing the forms of the following financing documents provided as attachments to the staff report**
 - a. Second Supplemental Revenue Bond Indenture;**
 - b. Contract of Purchase;**
 - c. Continuing Disclosure Certificate;**
 - d. Escrow Agreement**
 - e. Preliminary Official Statement; and**
- 2. Authorize the CEO/General Manager to execute these financing documents, subject to the satisfaction of specified criteria**

- a. **NPV savings: not less than \$20 million**
- b. **Principal amount: not to exceed \$180 million**
- c. **Underwriter's discount: not to exceed 0.25% of the principal amount**

The motion passed by roll call vote. Eight (8) Committee members present voted yes. Director Hardy was unavailable.

- C. Authorization to Increase the Contract Amount with Maddaus Water Management and Extend the Completion Date for the 2021 Demand Study Update: Water Resources Manager, Tom Francis, provided a report on BAWSCA's progress on contract negotiations for the 2021 Demand Study Update which was approved by the Board in May as part of the FY 2021-22 work plan. Since the May Board approval, BAWSCA has been in discussions with Maddaus Water Management (MWM) on the project's scope, schedule and budget, to ensure that the end product of the update meets BAWSCA's needs prior to finalizing the contract agreement. The discussions have resulted in modifications to the scope to include additional clarity on the sensitivity analysis, and re-formatting the updated water demand projections report as a stand-alone document versus a Technical Memorandum.

These changes result in an increase to the project's budget by an additional \$75K and an extension of the project's schedule by an additional 6-months. The adopted FY 2021-22 work plan and operating budget includes \$275K for completion in June of 2022. With the changes, the total cost will be \$350K with a completion date of December 2022.

Mr. Francis noted that billing rates for MWM have not changed. The costs and additional time are related to the additional work necessary to complete the study according to BAWSCA's goal of producing a defensible water demand estimate that will support regional water planning.

Mr. Francis noted that demand studies in general, as well as BAWSCA's 2020 demand study, have been subject to intense scrutiny by interest groups, particularly environmental organizations with the concern that demand projections are inflated. It has been claimed that demands should stay flat despite growing population because of conservation efforts in the region as well as throughout the State.

Mr. Francis explained that the addition of a sensitivity analysis will provide information to better understand how key factors may affect water demand projections. The sensitivity analysis will include the impacts of a range of population, employment, and climate scenarios to better quantify uncertainties in water demand. Results of the study will assist BAWSCA and member agencies in refining future efficiency programs and enhance future regional and agency water-use forecasting. Additionally, the stand-alone report can serve as a reference, particularly for the SFPUC and its work on an Alternative Water Supply Plan.

The additional costs relative to the list of additional efforts during each phase of the study were presented to the Committee. Mr. Francis reminded the Committee that the Balancing Account will be used to fund the effort. BAWSCA will work with its

auditors to ensure appropriate procedures are followed given that this work will be carried out over two fiscal years.

In response to questions from members of the Committee, the following clarifications were provided.

Mr. Francis explained that the sensitivity analysis will be a modeling tool in which scenarios can be inputted to see how sensitive the output is. BAWSCA will include key drivers that impact demands, including population. The existing demand study is based primarily on population data from ABAG, and BAWSCA's goal is to develop other possible options for what level of population growth may take place in the future. This will similarly be done for employment and other factors that affect it, such as the impacts of COVID.

The result of the sensitivity analysis will include both a static report as well as data applicable to the DSS models that have been developed for each member agency that include population and employment.

BAWSCA's current population baseline is ABAG's 2040 data. The sensitivity analysis will use the member agencies' 2020 UWMP and will weigh if and how the use of ABAG's 2050 data would be appropriate or possible.

The analysis will also evaluate the impacts of COVID, the current drought conditions, and how long will it take for a drought rebound to occur. The sensitivity analysis is to develop additional future options to better understand its impacts to future demands.

Price elasticity will be considered in the study should it be determined as a significant factor in the BAWSCA region.

The Balancing Account currently has \$60M as of June 30, 2021.

The sensitivity analysis is supported by the member agency appointed Water Management Representatives, as well as by the SFPUC staff and Commission members.

There were no further comments from members of the Committee.

Public comments were provided by Peter Drekmeier and Blair Beekman.

Director Cormack made a motion, seconded by Director Pierce, that the Committee recommend the Board authorize:

- 1. A \$75k increase in the not to exceed budget amount, for a total not to exceed amount of \$350k, and a 6-month extension for completion on December 31, 2022, for BAWSCA's 2021 Demand Study Update; and**
- 2. Authorize a request for transfer of \$75k from the Balancing Account to BAWSCA in accordance with BAWSCA's Balancing Account Policy, Res. No. 2020-02.**

The motion passed by roll call vote. Eight (8) Committee members present voted yes. Director Hardy was unavailable.

7. Reports and Discussions:

- A. CEO/General Manager Evaluation Metrics for FY 2021-2022: Chair Larsson reported that the online execution of FY 2020-21 CEO/General Manager Performance Evaluation successfully generated a very good response from members of the Board. The feedback was positive. Chair Larsson welcomed additional comments to further improve the format moving forward.

The Board now have an opportunity to make changes to the evaluation metrics should it desire to do so, and to inform the CEO/General Manager what is expected of her in FY 2021-22.

The current objectives for the CEO/General Manager have been developed over a number of years and have gone through substantial refinements. But there is always room for improvement, and today's meeting as well as the September Board meeting will be the place to discuss that.

Director Wood was pleased with the online process. She recommended to continue providing the Board with full information of the CEO/General Manager's Employment Agreement.

Director Cormack noted that sometimes Board members may not have enough information to evaluate the CEO's performance for a particular objective, and that providing an evaluation option (or metric) indicating that should be considered.

There were no further comments or questions from members of the Committee.

Public comments were provided by Peter Drekmeier and Blair Beekman.

- B. BAWSCA Board and Committee Meeting Logistics Post October 1, 2021: Legal Counsel, Allison Schutte, reported on current legislative efforts to address the expiration of the modifications to the Brown Act teleconference requirements.

AB 361 is a bill that will effectively allow agencies to use the existing teleconference requirements with the following provisions:

- Whenever the state or counties have declared state of emergency
- State or local officials have recommended social distancing

The bill is currently in the Senate for adoption by September 10th. It would be effective as soon as the Governor signs it, but no later than October 11th, as long as it is not vetoed. All indications show strong support for the bill.

With the bill, the agency's legislative body must make findings that in-person attendance would "present imminent risks to the health and safety of attendees", and must renew this finding every 30-days as long as the state of emergency continues.

Ms. Schutte explained that once the initial finding is made, it is Legal Counsel's opinion that renewals can be approved through the Consent Calendar.

Director Cormack noted that it is difficult to make a finding that meeting in person would present an imminent risk to health and safety while kids are attending school and essential workers are coming to work in relatively close proximity everyday. She would need more information to make such a finding, given that she is aware of other scenarios being contemplated on; including a hybrid format that allows staff and elected officials to be present while requiring vaccination proofs from members of the public. She understands the complexity of the issue, and appreciates the legislative efforts being done.

Ms. Sandkulla reported that BAWSCA is engaged with agencies that has a similar Board size in investigating a hybrid format. There is currently no resolution due to the technological capabilities required to accommodate such a hybrid format. Additionally, BAWSCA does not own a space where Board meetings are held and spaces that BAWSCA rent are currently not open during the times the Board meetings. Staff will continue to investigate possibilities.

Directors Pierce, Mendall, Larsson and Wood expressed their support for making the necessary findings to continue meeting in a virtual format legally should current COVID conditions continue.

Public comments were provided by Blair Beekman.

8. CEO Reports:

- A. Water Supply Conditions and Drought Update: Ms. Sandkulla reported that as of June 30, 2021, total potable water use is 3.2% less than in June 2020 and 19% less than in June 2013. There is continued suppressed demand from the 2013 drought which supports the need for a sensitivity analysis to determine whether demand will bounce back. BAWSCA will continue to track the trends closely to support the member agencies with the current drought and the Governor's call for water use reductions.

BAWSCA continues its conservation efforts including online landscape education classes, discussions with San Mateo County and Valley Water on potential conservation partnerships, and BAWSCA's participation on San Mateo County's Office of Emergency Services' Drought Task force.

- B. SFPUC Alternative Water Supply Program: Ms. Sandkulla reported that the SFPUC will hold a workshop on its Alternative Water Supply (AWS) Program on September 17th from 2-5pm. It will be a virtual format and will be open to the public. BAWSCA will attend and may be asked to participate directly. Member agency staff and Board members are encouraged to attend. Meeting details will be provided to the Board and Water Management Representatives when available.

Ms. Sandkulla reported that the San Francisco's Citizen Advisory Committee, in which she serves on as the San Francisco Mayor's appointee to represent the Wholesale Customers, adopted a Resilient Water Supply Resolution" urging the SFPUC to include in its AWS program specific projects to meet the full amount of identified supply shortfall for the SF RWS, and to provide those plans with options,

costs, and timelines to the public in a timely manner. A staff memo and copy of the resolution were included in the agenda packet.

There were no questions or comments from members of the Committee.

Public comments were provided by George Barber and Blair Beekman.

Given the time duration of the meeting, the Committee voted to extend the meeting to 5pm;

Director Mendall made a motion, seconded by Director Wood, to extend the meeting time to 5pm.

The motion passed by roll call vote. Seven (7) Committee members present voted yes. Director Hardy voted no. Director Pierce was unavailable.

9. **Closed Session:** The Committee adjourned to Closed Session at 4:08.
10. **Reconvene to Open Session:** The Committee reconvened from Closed Session at 4:13 pm. Ms. Schutte reported that no action was taken during Closed Session.

11. **Comments by Committee Members:**

Director Hardy expressed her support for BAWSCA's efforts in protecting the Bay Area water users, the environment, fish and wildlife that depend on the Tuolumne River.

Director Cormack noted her interest in the SFPUC's Climate Change Study, and requested a Study Session when the results are released.

Director Pierce appreciated the CAC's adoption of the Resolution regarding the SFPUC's AWS Program. She noted that BAWSCA's role is to ensure that San Francisco provides the water supply that it is responsible for, on behalf of the water customers in the region, but not at the expense of the environment.

12. **Adjournment:** The meeting was adjourned at 4:17 pm. The next meeting is October 13, 2021 with the location and format to be announced.

Respectfully submitted,

Nicole Sandkulla, CEO/General Manager

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Attachments: 1) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

Agency	Director	Sept. 7, 2021	Aug. 11, 2021	Jun. 9, 2021	Apr. 14, 2021	Feb. 10 2021	Dec. 9 2020	Oct. 14, 2020	Aug. 12, 2020
Stanford	Zigterman, Tom	✓	Meeting Cancelled	✓	✓	✓	✓	✓	✓
Daly City	Manalo, Juslyn				✓	✓	n/a	n/a	n/a
Westborough	Chambers, Tom	✓		✓	✓	✓	✓	✓	✓
Palo Alto	Cormack, Alison	✓		✓	✓	✓		✓	✓
Purissima	Jordan, Steve	✓		✓	✓	✓	✓	✓	✓
Santa Clara	Hardy, Karen	✓		n/a	n/a	n/a	n/a	n/a	n/a
Sunnyvale	Larsson, Gustav	✓		✓	✓	✓	✓	✓	✓
Hayward	Mendall, Al	✓		✓	✓	✓	✓	✓	✓
Redwood City	Pierce, Barbara	✓		✓	✓	✓	✓	✓	✓
Brisbane	Wood, Sepi	✓		✓	✓	✓	✓	✓	✓

✓: present

☎: Teleconference

September 7, 2021 Special Meeting Attendance (Via Zoom in compliance with Gov. Order #29-20 due to COVID-19)

BAWSCA Staff:

Nicole Sandkulla	CEO/General Manager	Nathan Metcalf	Legal Counsel, Hanson Bridgett, LLP
Tom Francis	Water Resources Manager	Nicole Witt	Legal Counsel, Hanson Bridgett, LLP
Danielle McPherson	Sr. Water Resources Specialist	Bud Wendell	Strategic Communications
Negin Ashoori	Sr. Water Resources Engineer	Dan Cox	KNN, Public Finance
Kyle Ramey	Water Resources Specialist	David Brodsky	KNN, Public Finance
Christina Tang	Finance Manager	Steven Spitz	Orrick
Lourdes Enriquez	Assistant to the CEO/General Manager	Chris Higgins	Goldman Sachs
Allison Schutte	Legal Counsel, Hanson Bridgett, LLP		

Public Attendees:

Paul Sethy	ACWD	Alison Kastama	SFPUC
Leonard Ash	ACWD	Steve Ritchie	SFPUC
George Barber	Cal Water	Blair Beekman	Self
Cheryl Munoz	Hayward	Lilian Koenig	Self
Ed Cooney	Hillsborough	Kyle Vinson	Self
Lisa Bilir	Palo Alto	Peter Drekmeier	Tuolumne River Trust

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Adoption of Resolution 2021-03 Approving Tier 2 Drought Allocation Plan Extension**

Summary:

The Tier 2 Drought Implementation Plan ('Tier 2 Plan' or 'Plan') allocates the collective Wholesale Customer share of the water made available by the San Francisco Public Utilities Commission (SFPUC) during shortages caused by drought among individual Wholesale Customers.

The Tier 2 Plan was first adopted by each Wholesale Customer in the winter/spring of 2011 pursuant to Section 3.11.C of the July 2009 Water Supply Agreement between the City and County of San Francisco and the Wholesale Customers (WSA). That Tier 2 Plan, which initially expired on December 31, 2018, was extended in 2018, 2019, and 2020 in light of the continued uncertainties surrounding new statewide water use efficiency requirements. The current Tier 2 Plan expires December 31, 2021.

Given the current drought conditions and the need for a drought allocation methodology among the Wholesale Customers to be in place in the event of a drought emergency and associated rationing requirements from the SFPUC, it is recommended that the Board extend the present Tier 2 Plan drought allocation methodology for one calendar year; from January 1, 2022 through December 31, 2022.

Recommendation:

That the Committee recommend Board adoption of Resolution 2021-03 which keeps the present Tier 2 Plan drought allocation methodology in place for the upcoming year from January 1, 2022 through December 31, 2022.

Discussion:

The Tier 2 Plan describes the method for allocating the water made available by the SFPUC among the Wholesale Customers during shortages caused by drought.

The Tier 2 Plan was adopted by each Wholesale Customer pursuant to Section 3.11.C of the WSA in the winter/spring of 2011. The Tier 2 Plan, which initially expired on December 31, 2018, was extended each year in 2018, 2019, and 2020 through action by the BAWSCA Board.

In the event that the SFPUC declares a water shortage emergency before December 31, 2021, the current Tier 2 Plan will be implemented. Extension of the Tier 2 Plan through December 31, 2022 by the Board is necessary in the event that the SFPUC declares a water shortage emergency after December 31, 2021 when the current plan expires.

In 2018, legislation was passed to implement the new statewide water use efficiency requirements, which may substantially impact the normal year and drought year water use within the BAWSCA member agencies' service areas. The State, through the Department of Water Resources (DWR), has indicated that it will release recommended water use efficiency

requirements in late-October 2021 and receive comments thru the spring of 2022, such that final requirements would be released in June 2022. Until the impacts of implementation of these requirements in each member agency's service area are better understood, it is not recommended that BAWSCA or the member agencies develop a new Tier 2 methodology.

The WSA provides that the SFPUC will honor allocations of water among the Wholesale Customers provided by BAWSCA, or unanimously agreed to by all Wholesale Customers. Legal Counsel has determined that the Board may rely on the water allocations included in the present Tier 2 Plan and provide those to the SFPUC in accordance with Section 3.11.C.3 of the WSA.

Tier 2 Plan Policy Principles

During the original development of the Tier 2 Plan, BAWSCA member agencies agreed upon the following six policy principles. Specifically, the Tier 2 Plan shall:

1. Provide certainty of drought allocations with consistent and predetermined rules for calculation;
2. Provide sufficient amounts of water for basic needs of customers;
3. Create an incentive for water conservation at all times and the development and management of alternative water supplies;
4. Avoid preventable, adverse economic impacts;
5. Avoid reallocation of water supply assets and investments among agencies without mutual consent and compensation; and
6. Recognize inherent differences in land use and climate.

Proposal to Extend the Present Tier 2 Plan for One Year

Given that the WSA has a provision that gives the BAWSCA Board the authority to set an allocation method, BAWSCA staff proposes that the Board authorize the SFPUC to follow the present Tier 2 Plan method for an additional year, thereby effectively extending the term of the Tier 2 Plan such that it expires on December 31, 2022.

Feedback from Water Management Representatives

Beginning in July 2019, BAWSCA's CEO held three workshops with Water Management Representatives (WMR) a group comprised of representatives appointed by their respective BAWSCA member agencies, to discuss the potential development of an updated Tier 2 Plan. The workshops covered the following topics:

1. Review of the present Tier 2 Plan, including Plan history and policy principles.
2. Analysis of projected allocations to each BAWSCA member agency for a variety of past and future drought scenarios using the present Plan.
3. Analysis of potential modifications to the present Plan and associated potential allocations to each BAWSCA member agency.

During those 2019 workshops, the WMRs provided the following feedback to the CEO:

1. Overall, the present Tier 2 Plan continues to meet the policy principles upon which the Plan is based, and these policy principles are still appropriate.
2. Future changes to the Tier 2 Plan may be appropriate, in particular as additional information becomes available on the long-term water use efficiency targets.

3. An annual review of the Tier 2 Plan to evaluate its continued effectiveness would be beneficial.
4. Additional information on the process for water transfers between BAWSCA member agencies would be helpful in preparing for potential Tier 2 Plan implementation.

In accordance with WMR feedback provided in 2019, BAWSCA provided an annual review of the Tier 2 Plan at the October 7, 2021 WMR meeting. Despite concerns about the current drought and the potential significant impacts of further voluntary or mandatory rationing requirements from the SFPUC, the WMRs did not express an objection to keeping the existing Tier 2 Plan through December 31, 2022. BAWSCA will continue to work with the WMRs in reviewing and finalizing the Tier 2 calculation in the event that the SFPUC will declare a water shortage emergency and trigger implementation of both the Tier 1 and Tier 2 Plans.

Background:

The WSA with San Francisco includes a Tier 1 Plan, which divides the available water supply between San Francisco retail customers and the collective Wholesale Customers during a drought. The WSA also provides that the SFPUC will honor allocation of water among the Wholesale Customers provided by BAWSCA, or unanimously agreed to by the Wholesale Customers. In 2011, the Wholesale Customers adopted the original Tier 2 Plan, which takes that collective Wholesale Customer allocation and further divides it among each Wholesale Customers. The Tier 2 Plan details the methodology used to divide the available supply during a drought. That methodology used in the original Tier 2 Plan has not been modified to date.

The Tier 2 Plan applies when the SFPUC determines that a system-wide water shortage of 20 percent or less exists, as set forth in a declaration of water shortage emergency adopted by the SFPUC pursuant to California Water Code Sections 350 *et seq.* The Tier 2 Plan applies only to water acquired and distributed by the SFPUC to the Wholesale Customers and has no effect on water obtained by a Wholesale Customer from any source other than the SFPUC.

The Tier 2 Plan initially established December 31, 2018 as the Plan's expiration date to allow for the consideration of matters such as the inclusion of the cities of San Jose and Santa Clara as permanent customers, and to allow for the development of a new Tier 2 Plan. In May 2018, the Tier 2 Plan was extended by the Board's adoption of Resolution 2018-01 to provide formal drought allocations to the SFPUC through December 31, 2019. In November 2019 and November 2020, the Tier 2 Plan was extended by the Board for a year. The current Tier 2 Plan expires December 31, 2021.

During the most recent drought, the SFPUC did not declare a water shortage emergency and the Tier 1 and Tier 2 Plans were not implemented. Rather, the State Water Resources Control Board (SWRCB) imposed water use reductions based on separate criteria unrelated to the drought allocation plans for the Regional Water System.

Existing Tier 2 Plan Methodology

The Tier 2 Plan's methodology consists of a stepwise process that is followed to determine each Wholesale Customer's allocation. More specifically, a seven-step allocation process is followed which takes into account factors such as: volume of water purchased by each agency in most recent non-drought year(s); seasonal demand fluctuations; Individual Supply Guarantee (ISG) allocations; minimum and maximum cutback levels; and the public health and safety needs of East Palo Alto.

The estimation process is iterative, in that if after one “round” of calculations, one or more agencies has a proposed cutback of less than 10% of their normal supply or if a proposed cutback for a particular agency is quite severe, adjustments are made to the calculation procedure and a revised estimate is developed.

The above discussion is brief in that it does not go into the complexity and nuances of the estimation process. The estimate takes time to perform and a firm understanding of member agency water use specifics.

BAWSCA’s Role in the Tier 2 Plan

The Tier 1 Plan identifies BAWSCA as the party to perform the Tier 2 Plan calculations. The Tier 1 Plan requires SFPUC to allocate water to each Wholesale Customer in accordance with BAWSCA’s calculations. By adopting the WSA and the Tier 2 Plan, each Wholesale Customer thereby authorized BAWSCA to perform the allocation calculations. BAWSCA interacts with both the SFPUC and the Wholesale Customers to obtain needed input data.

BAWSCA’s role in developing the existing Tier 2 Plan was as follows:

- Assist agencies in agreeing on a formula that could be accepted unanimously;
- Providing the structure for the discussion and analyses to support decision making;
- Encouraging decisions regarding the adoption of a proposed method based on fact, analyses, and practicality; and
- Supporting agencies in the adoption process.

When a new Tier 2 Plan is proposed, if the allocation method incorporated into the Plan is not unanimously adopted by the BAWSCA member agencies, the WSA provides that the BAWSCA Board has the authority to set an allocation method. If the BAWSCA Board does not set an allocation method, the SFPUC retains final authority to allocate water to the Wholesale Customers during a drought.

Complicating Factors

In 2016, Governor Brown issued Executive Order B-37-16 which included several directives related to “Making Water Conservation a California Way of Life”. These directives included the implementation of new, long-term water use efficiency targets for urban water suppliers in California. This requirement, when implemented, could have long-term impacts on the BAWSCA member agencies’ water use patterns and ability to further reduce water use during times of shortage. Legislation to adopt these new requirements is in development by DWR and is scheduled to be finalized in 2022. Given the potential impacts of these requirements, BAWSCA staff recommends postponing revisions to the Tier 2 Plan until DWR releases the recommended efficiency targets so their impacts on water use can be fully understood.

Attachments:

1. Draft Resolution 2021-03 Approving the Extension of the Tier 2 Drought Implementation Plan

**RESOLUTION NO. 2021-03
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**APPROVING THE EXTENSION OF
THE TIER 2 DROUGHT IMPLEMENTATION PLAN**

WHEREAS, the Bay Area Water Supply and Conservation Agency ("BAWSCA") is organized and established pursuant to the Bay Area Water Supply and Conservation Agency Act, Water Code section 81300, et seq. (the "Act"); and

WHEREAS, the July 2009 Water Supply Agreement between the City and County of San Francisco and the Wholesale Customers in Alameda County, San Mateo County and Santa Clara County (WSA) sets forth the terms for ensuring the Wholesale Customers receive a reliable supply of high quality water at a fair price; and

WHEREAS, section 3.11(C)(1) of the WSA established the Water Shortage Allocation Plan (Tier 1 Shortage Plan) to allocate water from the Regional Water System between Retail and Wholesale Customers during system-wide shortages of 20% or less; and

WHEREAS, pursuant to section 3.11(C)(2) of the WSA and section 5.5 of the Tier 1 Shortage Plan, the Tier 1 Shortage Plan will remain in effect for the term of the WSA; and

WHEREAS, subsequent to the Tier 1 Shortage Plan, the Wholesale Customers adopted the Tier 2 Drought Implementation Plan (Tier 2 Plan), to document the method of allocating, among the Wholesale Customers, the collective Wholesale Customer share of the water made available by the San Francisco Public Utilities Commission (SFPUC); and

WHEREAS, the Tier 2 Plan was adopted in the Winter and Spring of 2011 by the governing bodies of each Wholesale Customer; and

WHEREAS, the current Tier 2 Plan established December 31, 2018 as an interim expiration deadline in order to allow for the consideration of matters such as the inclusion of the cities of San Jose and Santa Clara as permanent customers and to allow for the development of a new Tier 2 Plan; and

WHEREAS, in 2015, the State Water Resources Control Board implemented water conservation targets for each BAWSCA member agency that effectively negated the implementation of the Tier 2 Plan during the most recent drought; and

WHEREAS, in May 2018, the BAWSCA Board of Directors adopted Resolution 2018-01 extending the Tier 2 Plan for one year until December 31, 2019; and

WHEREAS, in 2018, the California Legislature adopted Senate Bill 606 and Assembly Bill 1668 which established a process for developing and implementing long-term water use efficiency targets for urban water suppliers; and

WHEREAS, in November 2019, the BAWSCA Board of Directors adopted Resolution 2019-02 extending the Tier 2 Plan for one year until December 31, 2020; and

WHEREAS, in November 2020, the BAWSCA Board of Directors adopted Resolution 2020-03 extending the Tier 2 Plan for one year until December 31, 2021; and

WHEREAS, the BAWSCA member agencies have determined that an extension of the allocation method in the current Tier 2 Plan is appropriate at this time so that BAWSCA and the Wholesale Customers have adequate time to consider the new state water use efficiency requirements in developing a new Tier 2 Plan and to complete consideration of the inclusion of additional permanent customers; and

WHEREAS, section 3.11(C)(3) of the WSA provides that the SFPUC will honor allocations of water among the Wholesale Customers provided by BAWSCA or if unanimously agreed to by all Wholesale Customers; and

WHEREAS, pursuant to section 3.11(C)(3) of the WSA, BAWSCA is authorized to provide the SFPUC with the allocations set forth in the Tier 2 Plan; and

WHEREAS, the BAWSCA Board of Directors desires to continue to rely on the allocation methodology set forth in the Tier 2 Plan for one year, thereby effectively extending the Tier 2 Plan for one year until December 31, 2022.

BE IT RESOLVED, that the Board of Directors of the Bay Area Water Supply and Conservation Agency will rely on the methodology provided in the Tier 2 Drought Implementation Plan for one additional year, through December 31, 2022, and requests the CEO/General Manager to transmit the methodology to the San Francisco Public Utilities Commission for drought planning purposes.

PASSED AND ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Annual Review and Consideration of BAWSCA's Statement of Investment Policy**

Summary:

The Board's Investment Policy states that the CEO/General Manager shall annually submit a Statement of Investment Policy to the Board, which the Board will consider at a public meeting. The previous review occurred on November 19, 2020 and resulted in a modification to the policy to include U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles that were allowed by the Investment Policy at that time. Quarterly investment reports are provided to the Board as required by the policy. The last investment report was provided to the Board on September 16, 2021.

BAWSCA's Investment Policy delegates the management and oversight of BAWSCA's investments for the bond funds to the CEO/General Manager. Based on a recent review of the agency's circumstances and the primary investment objectives, BAWSCA believes the current permitted investment instruments are consistent with the agency's risk tolerances and primary investment objectives. In consideration of the long-term nature of the stabilization fund, BAWSCA has determined that the current 0-5 year ladder maturity investment strategy is appropriate and continues to provide the agency opportunities to pursue higher yields and benefit from longer maturity and higher yielding investments over time.

Legal counsel has confirmed that the Investment Policy reflects language consistent with current State law. A copy of the current policy is attached. No changes to the policy, including the investment strategy for the bond proceeds, are recommended at this time.

Fiscal Impact:

No impact on BAWSCA's annual operating budget.

Recommendation:

That the Board Policy Committee recommend Board re-affirmation of the current Statement of Investment Policy.

Discussion

The primary objectives of BAWSCA's Investment Policy are safety, liquidity and return on investment. All BAWSCA funds are invested in accordance with the Investment Policy and the California Government Code. Legal counsel has reviewed the applicable State law and believes that BAWSCA's current Investment Policy reflects language consistent with current State law.

Investment of Agency Funds

The current Investment Policy requires the agency funds that are not invested in the Local Agency Investment Fund (LAIF) to be deposited only in state or national banks and state or federal savings associations with offices in California that meet the requirements and

conditions of the Government Code. The current policy also limits the maturity of any Certificate of Deposit to 12 months or less.

Although the current California Debt and Investment Advisory Commission (CDIAC) investment guidelines allow for community bank participation in holding local agency funds and for Certificates of Deposits with a maturity of up to 5 years, it is determined that a change to allow longer maturity of Certificate of Deposits is not needed at this time, given the agency's high liquidity needs. BAWSCA will continue investigating these additional investment options as the Investment Policy may be amended from time to time.

Permitted Investment Vehicles for Bond Proceeds

BAWSCA's bond proceeds are invested in accordance with the Bond Indenture and the agency's Investment Policy. The Bond Indenture specifies investments in which BAWSCA is permitted to invest bond proceeds. In November 2012, as part of the establishment of the bond structure, the BAWSCA Board amended the Investment Policy to further restrict allowable investments for bond proceeds to three specific instruments: Federal Securities, Money Market Mutual Funds, and Certificates of Deposit. In October 2020, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments.

Over the last year, no purchases of U.S. Agency Securities were made as such securities currently trade at yields equal to or below government guaranteed Treasury Securities. Although the authorized U.S. Agency Securities are government-sponsored enterprises, they are not backed by the full faith and credit of the United States government. As a result, BAWSCA's investment portfolio continued to favor U.S. Treasury Securities over the period as they have been providing a better combination of safety and yield.

Based on a recent review of the agency's circumstances and the primary investment objectives, BAWSCA believes the current permitted investment instruments are consistent with the agency's risk tolerances and primary investment objectives. No changes to the permitted investments for the bond proceeds are recommended at this time.

Stabilization Fund Investment Strategy

In addition, BAWSCA performed a review of the investment strategy for the stabilization fund, in consultation with the investment advisor, given current market conditions. In an effort to mitigate the economic damage caused by the COVID-19 pandemic, the Federal Reserve reduced the Fed Funds rate by 150 basis points (1.50%) at its two emergency meetings in March 2020 to a current range of between 0% and 0.25%. In response, interest rates across the yield curve declined dramatically reflecting both the Federal Reserve's actions as well as expectations for slowing global growth and recession. As economic prospects have improved over the past year with the advent of COVID vaccines and progress towards normalization, the yield curve has steepened as interest rates across the curve have increased.

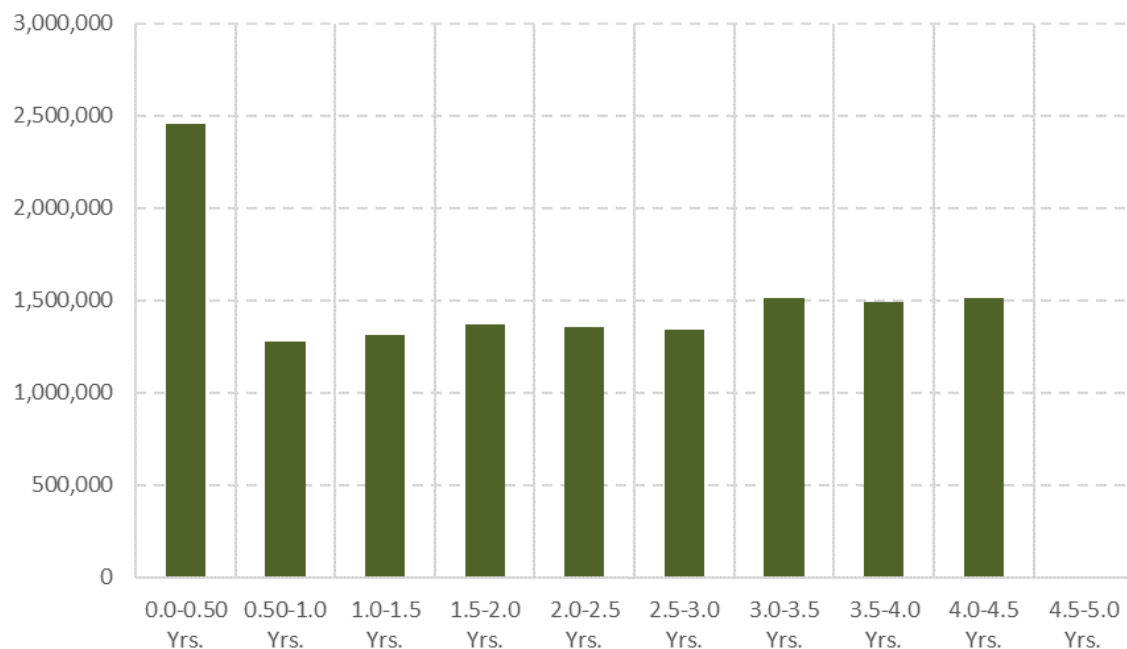
Against this backdrop, BAWSCA's longer-term 0-5 year ladder investment strategy has performed well as previously purchased securities have provided fixed yields that were well above available interest rates. And with a ladder maturity distribution, the fund has taken advantage of being able to reinvest into higher rates as they have become available. The current 0-5 year ladder investment strategy continues to provide important yield curve diversification and generate attractive returns throughout market cycles. For this reason, BAWSCA and its investment advisor believe that the current 0-5 year ladder portfolio

strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

As of October 1, 2021, the total balance held by the bond trustee, Bank of New York, was \$17,777,663, which includes: (1) the bond surcharges of \$4,170,095 collected from the member agencies to pay the next semi-annual debt service payment, and (2) the stabilization fund of \$13,607,568 that is a reserve to cover the debt service payments in the event of potential shortfalls in the surcharge revenue received from the BAWSCA agencies.

A summary of the current investment portfolio maturity distribution for BAWSCA's stabilization fund is shown in Figure 1. The CEO/General Manager anticipates another evaluation of the agency's circumstances and the investment strategy during next year's Investment Policy review. The result of the evaluation will be reported to the Committee and the Board.

Figure 1: Stabilization Fund Investment Portfolio Maturity Distribution as of 10/1/2021



Background:

Results of Prior Evaluations of Investment Strategy with Investment Advisor's Assistance

In July 2013, BAWSCA implemented an investment strategy that assumed 70% of the necessary bond surcharge revenues are collected on time and available for scheduled debt service payments. Therefore, 30% of the necessary debt service payment must be accessible to the bond trustee through the stabilization fund to supplement bond surcharge revenues. The stabilization fund was invested by purchasing US Treasury Securities (a subset of Federal Securities as defined in the Investment Policy) with 6 month or one-year maturities coinciding with the debt service payment dates.

In September 2015, the annual on-time surcharges collection assumption was changed from 70% to 80% based on BAWSCA's experience in collecting bond surcharge revenues. BAWSCA also implemented an investment strategy that involved both a 6-month rolling and a 0-3 year ladder security structure designed to provide the agency an appropriate balance of safety, liquidity, and yield.

In October 2017, BAWSCA reviewed the investment strategy again to determine whether a change in the agency's circumstances, surcharge revenue experience, or market conditions may justify a change in the investment strategy to better align the agency's objectives and risk tolerance. Due to a limited history of bond surcharge payment collection from the member agencies and a then recent delay in surcharge deposits to the Trustee due to the SFPUC's wire transfer error and agreement misinterpretation, no changes were made to the investment strategy at that time.

In April 2018, BAWSCA re-evaluated the investment strategy and determined that a modest extension of portfolio maturity was appropriate to pursue higher yields while still satisfying the primary objectives of safety and liquidity. Following the April debt service payment, BAWSCA began to transition to a 0-5 year ladder portfolio strategy without an on-time surcharge collection assumption. It was anticipated to take about 3 years to smooth out the ladder.

In November 2019, BAWSCA reviewed the investment strategy in light of recent market developments and changes to interest rate policy made by the Federal Reserve. In 2019, the Federal Reserve reduced the Fed Funds rate three times by 25 basis points at each of its July, September, and October FOMC meetings. Historically, the flattening/inverting of the yield curve has preceded periods of economic slowdown and often times declining future interest rates. Accordingly, the 0-5 year ladder portfolio strategy continued to be determined appropriate.

In October 2020, BAWSCA re-evaluated the credit quality, market price risk, and liquidity characteristics of all investment instruments permitted by the Bond Indenture. As a result of this review, BAWSCA determined that the U.S. Agency Securities would be appropriate for consideration to increase the portfolio's potential yield consistent with the prioritized objectives of safety and liquidity. Accordingly, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles (Federal Securities, Money Market Mutual Funds, and Certificates of Deposit) that were allowed by the policy at that time.

Attachment:

1. Statement of Investment Policy

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

Adopted February 19, 2004

Amended by the Board, July 15, 2010

Amended by the Board, July 21, 2011

Amended by the Board, November 15, 2012

Amended by the Board, November 19, 2020

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BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

1. Introduction

The investment policies and practices of the Bay Area Water Supply & Conservation Agency (BAWSCA) are based on state law and prudent money management. All funds will be invested in accordance with the Agency's Investment Policy and the California Government Code.

2. Scope

This policy applies to all funds and investment activities under the direction of the Agency, including funds held in the name of the Bay Area Water Users Association (BAWUA), a California nonprofit corporation of which the Agency is the sole member.

3. Prudence

The standard of prudence to be used by investment officials shall be the "prudent investor" standard and shall be applied in the context of managing an overall portfolio. All persons investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds shall act with care, skill, prudence and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and anticipated needs of the Agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency.

Investments shall be made with the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived, and in accordance with the provisions of Government Code Section 53600 et seq.

4. Objectives

The primary objectives, in priority order, of the Agency's investment activities shall be:

A. Safety. Safety of principal is the foremost objective of the investment program. The Agency's funds shall be invested in a manner that seeks to ensure preservation of capital.

B. Liquidity. The Agency's investments will remain sufficiently liquid to enable the Agency to meet its cash flow requirements.

C. Return on Investment. The Agency's investments shall be designed with the objective of attaining a market rate of return consistent with the constraints imposed by its safety and liquidity objectives.

5. Delegation of Authority

The management and oversight responsibility for investments is hereby delegated to the CEO/General Manager who shall monitor and review all investments for consistency with this Investment Policy.

6. Investment of Funds

A. Permitted Investments and Depositories

(i) Agency funds may be deposited only in state or national banks and state or federal savings associations with offices in California that meet the requirements and conditions of the Government Code, as it may be amended from time to time.

(ii) Funds not deposited in banks or savings associations shall be invested in the Local Agency Investment Fund administered by the Treasurer of the State of California, in accordance with Government Code Section 16429.1.

B. Other Limitations

(i) The maximum amount of funds deposited with any bank or savings association shall be \$250,000; provided that if funds are each separately insured by the Federal Deposit Insurance Corporation ("FDIC"), the General Manager may maintain separate accounts for the Agency and for BAWUA (to a maximum of \$250,000 for each entity) at one bank or savings association. The temporary increase from \$100,000 to \$250,000 in the standard maximum deposit insurance amount has been permanently extended by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(ii) Investment maturities shall be based on a review of cash flow forecasts and shall be scheduled so as to allow the Agency to meet all projected obligations. The maturity of any certificate of deposit shall not exceed 12 months.

7. Investment of Bond Proceeds

Permitted Investments and Depositories. Pursuant to Government Code section 53601(m), a local agency may invest bond proceeds "in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance of those bonds." Typically, a local agency will specify in its investment policy that the investment of bond proceeds is out of the scope of the investment policy because permitted investments are specified in the bond indenture.

Instead, BAWSCA has determined that it would like to at least temporarily use its Investment Policy to restrict the vehicles permitted for the investment of bond proceeds to more conservative investments than are permitted by the Revenue Bond Indenture, dated January 1, 2013, by and between BAWSCA and the Trustee (the "Indenture"). This gives

BAWSCA the flexibility to, through amendments to future Investment Policies, gradually expand permitted investments for bond proceeds to include some or all of the investment vehicles permitted in the Indenture. As such, notwithstanding language allowing a broader range of investment vehicles in the Indenture, bond proceeds may be invested only in the following instruments:

(i) “Federal Securities” meaning direct and general obligations of the United States of America, or those which are fully and unconditionally guaranteed as to timely payment of principal and interest by the same;

(ii) “Money Market Mutual Funds” meaning funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by Standard & Poor’s of “AAAm-G” or “AAAm” and, if rated by Moody’s, having a rating by Moody’s of “Aaa,” including money market funds from which the Trustee or its affiliates derive a fee for investment advisory or other services to the fund or for which the Trustee or any of its affiliates serve as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(iii) “Certificates of Deposit” (including those placed by third parties pursuant to an agreement between the Agency and the Trustee), trust funds, trust accounts, overnight bank deposits, interest bearing money market accounts, time deposits, savings accounts, deposit accounts, bankers’ acceptances or money market deposits which are fully insured by the Federal Deposit Insurance Corporation, including those of the Trustee or its affiliates; and

(iv) “U.S. Agency Securities” meaning bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies: (1) senior debt obligations of the Federal Home Loan Bank System; (2) senior debt obligations of the Federal Home Loan Mortgage Corporation (FHLMC); (3) senior debt obligations of the Federal National Mortgage Association (FNMA); and (4) consolidated systemwide bonds and notes of the Farm Credit System. The investment in U.S. Agency Securities has a sector allocation limit not to exceed 40% of total stabilization fund market value at the time of purchase.

8. Reporting Requirements

The CEO/General Manager shall provide the Board a quarterly investment report, which shall include the information specified in Government Code Section 53646.

9. Annual Review of Investment Policy

The CEO/General Manager shall annually submit a Statement of Investment Policy to the Board, which the Board will consider at a public meeting.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Administrative Revision to BAWSCA's CalPERS Health Benefit Resolution**

Summary:

BAWSCA's health benefit provider, CalPERS Medical Plan, is making an administrative change to rename its "PERS Choice Plan" to "PERS Platinum Plan". The Board is asked to rescind Resolutions No. 2003-03A & 2003-03B and to adopt Resolution No. 2021-04. Resolution No. 2021-04 reflects CalPERS' administrative name change that replaces "PERS Choice Plan" with "PERS Platinum Plan."

Fiscal Impact

None.

Recommendation:

That the Committee recommend the Board:

- a. Rescind Resolutions No. 2003-03A & 2003-03B, which specify PERS Choice Plan; and
- b. Adopt replacement Resolution No. 2021-04 (provided by CalPERS), which specifies PERS Platinum Plan.

Discussion:

Effective January 1, 2022, CalPERS Medical Plan is making an administrative name change in which the existing "PERS Choice Plan" is being renamed as the "PERS Platinum Plan." There is no fiscal impact of this change.

In order to adhere to the CalPERS Health Program, which is governed by the Public Employees Medical and Hospital Care Act (PEMHCA), and the California Code of Regulations (CCR), of the California Public Employees Retirement Law (PERL), BAWSCA must rescind Resolutions 2003-03A & 2003-03B and replace them with Resolution 2021-04. Only one new resolution, Resolution 2021-04, is necessary to replace the prior two resolutions as CalPERS now considers retirees as the same as annuitants for these purposes.

PEMHCA contains all the rules and regulations that a contracting agency must adhere to. PEMHCA is defined as the actual *health contract*, and the *resolution* as the method by which an agency elects to become subject to PEMHCA.

Attachment:

1. Resolutions 2003-03A & 2003-03B.
2. Resolution 2021-04

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**RESOLUTION ELECTING TO BE SUBJECT TO
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT
AND
FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE
EMPLOYER'S CONTRIBUTION FOR RETIREES AT DIFFERENT AMOUNTS**

- WHEREAS, (1) Government Code Section 22850 extends the benefits of the Public Employees' Medical and Hospital Care Act to employees of contracting agencies on proper application by an agency; and
- WHEREAS, (2) Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for retired employees and survivors at different amounts provided that the monthly contribution for retired employees and survivors shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and
- WHEREAS, (3) Government Code Section 22754 (g) defines any Special District as a contracting agency, and
- WHEREAS, (4) A Special District is hereby defined as a non-profit, self-governed public agency within the State of California, and comprised solely of public employees performing a governmental rather than proprietary function, and
- WHEREAS, (5) BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, hereinafter referred to as Special District is an entity meeting the above definition; and
- WHEREAS, (6) The Special District desires to obtain for its employees, retired employees, and survivors the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now, therefore, be it
- RESOLVED, (a) That the Special District elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further
- RESOLVED, (b) That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his enrollment, including the enrollment of his family members in a health benefits plan up to a maximum of the PERSChoice Plan or the highest cost California HMO in the CalPERS Health Program, whichever is higher; and be it further

RESOLVED, (c) That the employer's contribution for each retired employee or survivor shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of \$180.87 per month for single party, \$345.74 per month for two party, and \$449.66 per month for three party; and be it further

RESOLVED, (d) That the employer's contribution for each retired employee or survivor shall be increased annually by 10 percent of the monthly contribution for employees, until such time as the contributions are equal;

And that the contributions for employees, retired employees and survivors shall be in addition to those amounts contributed by the Special District for administrative fees and to the Contingency Reserve Fund; and be it further

RESOLVED, (e) That the executive body appoint and direct, and it does hereby appoint and direct, the General Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Special District all functions required of it under the Act and Regulations of the Board of Administration; and be it further

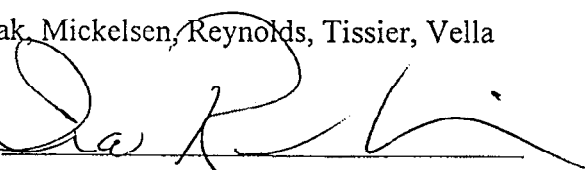
RESOLVED, (f) That coverage under the Act be effective on February 1, 2004

Adopted at a regular meeting of the Bay Area Water Supply & Conservation Agency, at Foster City, Ca., this 20th day of November, 2003

AYES: (22) Auer, Beecham, Breault, Cooper, Craig, Goff, Hershman, Kinney, Livengood, Nelson, O'Connell, O'Mahony, Panza, Parle, Piccolotti, Reed, Risch, Ruskin, Seidel, Weed, Woods, Wykoff

NOES: (0)

ABSENT: (6) Gage, Kasperzak, Mickelsen, Reynolds, Tissier, Vella

Signed: 

Ira Ruskin, Chairman

Attest: 

Arthur R. Jensen, Secretary

**RESOLUTION ELECTING TO BE SUBJECT TO
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT
AND
FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE
EMPLOYER'S CONTRIBUTION FOR ANNUITANTS AT DIFFERENT AMOUNTS**

- WHEREAS, (1) Government Code Section 22850 provides the benefits of the Public Employees' Medical and Hospital Care Act to employees and annuitants of local agencies contracting with the Public Employees' Retirement System on proper application by a local agency; and
- WHEREAS, (2) Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and
- WHEREAS, (3) BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, hereinafter referred to as Public Agency is a local agency contracting with the Public Employees' Retirement System; and
- WHEREAS, (4) The Public Agency desires to obtain for its employees and annuitants the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now, therefore, be it
- RESOLVED, (a) That the Public Agency elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further
- RESOLVED, (b) That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan or plan up to a maximum of the PERSChoice Plan or the highest cost California HMO in the CalPERS Health Program, whichever is higher; and be it further
- RESOLVED, (c) That the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of \$180.87 per month for single party, \$345.74 per month for two party, and \$449.66 per month for three party per month; and be it further

RESOLVED, (d) That the employer's contribution for each annuitant shall be increased annually by 10 percent of the monthly contribution for employees, until such time as the contributions are equal;

And that the contributions for employees and annuitants shall be in addition to those amounts contributed by the Public Agency for administrative fees and to the Contingency Reserve Fund; and be it further

RESOLVED, (e) That the executive body appoint and direct, and does hereby appoint and direct, the General Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board of Administration; and be it further

RESOLVED, (f) That coverage under the Act be effective on February 1, 2004.

Adopted at a regular meeting of the Bay Area Water Supply & Conservation Agency, at Foster City, Ca, this 20th day of November 2003.

AYES: (22) Auer, Beecham, Breault, Cooper, Craig, Goff, Hershman, Kinney, Livengood, Nelson, O'Connell, O'Mahony, Panza, Parle, Piccolotti, Reed, Risch, Ruskin, Seidel, Weed, Woods, Wykoff

NOES: (0)

ABSENT: (6) Gage, Kasperzak, Mickelsen, Reynolds, Tissier, Vella .

Signed: _____

Ira Ruskin, Chairman

Attest: _____

Arthur R. Jensen, Secretary

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

RESOLUTION NO. 2021-04 FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS

- WHEREAS, (1) Bay Area Water Supply and Conservation Agency is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; now, therefore be it
- RESOLVED, (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the PERS Platinum Region 1 Basic/Medicare/Supplemental or the highest cost HMO Region 1 Basic/Medicare/Supplemental, whichever is higher per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) Bay Area Water Supply and Conservation Agency has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of Bay Area Water Supply and Conservation Agency shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Bay Area Water Supply and Conservation Agency would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, the Chief Executive Officer and General Manager to file with the Board a verified copy of this resolution, and to perform on behalf of Bay Area Water Supply and Conservation Agency all functions required of it under the Act; and be it further



RESOLVED, (e) That coverage under the Act be effective on January 1, 2022.

Adopted at a regular meeting of the Board of Directors of the Bay Area Water Supply and Conservation Agency held via teleconference in accordance with California Government Code Section 54953(e) , this 18th day of November, 2021.

Signed: _____
Gustav Larsson, Chair

Attest: _____
Nicole Sandkulla, Secretary

BAWSCA

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
San Mateo, California 94402
(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: October 8, 2021
SUBJECT: Chief Executive Officer/General Manager's Letter

Refunding Revenue Bond – Credit Rating Update

On October 7, 2021, Moody's Investor's Service, Inc. assigned BAWSCA's upcoming Refunding Revenue Bonds, Series 2023A a rating of Aa3. Moody's generally acknowledged the large and dynamic service area of the member agencies, with areas of significant wealth and the reliable water supply from SFPUC, among other positive factors, all of which help mitigate the narrow debt service coverage. The assigned rating is the same as the existing rating on Series 2013A&B. The Standard & Poor's rating is pending.

WaterPalooza! Event – Sustainable Silicon Valley

Sustainable Silicon Valley hosted its annual WaterPalooza! event, held on the afternoons of September 30 and October 1, 2021. The event included numerous presentations by Bay Area water leaders and decision makers that focused on efforts, insights and visions as to how to build a more resilient, equitable and prosperous Bay Area. As a sponsor, BAWSCA's logo, along with other sponsors, was included on agenda materials as well as event advertisements. The event was attended by over 100 participants representing state and local governments, agencies, institutional users, engineering and service providers.

BAWSCA's Water Resources Manager, Tom Francis, served on a panel discussion along with representatives from California Water Services (Cal Water) and a representative from Santa Clara Valley Water District (Valley Water). Each panelist presented information regarding their respective conservation programs as well as matters pertaining to how their agency is responding to the current drought.

Los Vaqueros Expansion Project – Letter of Support and News Release:

The Los Vaqueros Reservoir Expansion Project (Project) passed a significant milestone on Thursday October 7, 2021, in officially filing agreements needed to form a Joint Powers Authority (JPA). The formation of the JPA is an important milestone that puts the project one step closer to implementation. Statements by members of the JPA were included in the news release. BAWSCA directly benefits from the SFPUC's participation in the Project, as water supplies received will go toward helping meet a portion of the San Francisco Regional Water System's water supply needs during times of drought. As such, BAWSCA's CEO/GM also provided a statement that is included in the news release, which is included in the correspondence packet.

In addition to a news release, the project partners anticipate sending a joint letter of support to Karla Namath, the head of California's Department of Water Resources (DWR). The letter

will note that the Project embodies what the voters approved when they passed Proposition 1, and of which the Project would receive significant funding. The letter will also note the importance of the long partnership with DWR on the development of the Project to date and requests DWR's continued support for the Project as the project partners work to secure final Proposition 1 funding from the California Water Commission. The letter is anticipated to be finalized shortly. Similar to the news release, BAWSCA has been asked to be a signatory to the letter. Based on the final draft language of the letter, BAWSCA has agreed to be a signatory. BAWSCA will provide a copy of the final letter to the Board as part of the upcoming BAWSCA Board correspondence packet for the November 2021 Board Meeting.

Final EIR for Plan Bay Area 2050:

The Final Environmental Impact Report (Final EIR) for Plan Bay Area 2050, a long-range plan for the San Francisco Bay Area, was released by the Metropolitan Transportation Commission / Association of Bay Area Governments (MTC/ABAG) for public review on October 1, 2021. Plan Bay Area 2050 (Plan) is designed to serve as the Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS) for the nine-county region.

BAWSCA, along with a number of Bay Area water agencies including several BAWSCA member agencies, provided comments to the Plan's Draft EIR. BAWSCA's comments were submitted to MTC/ABAG on July 10, 2021 and were shared with the BAWSCA Board shortly thereafter. BAWSCA is reviewing MTC/ABAG's response to BAWSCA's comments, as well as its response to comments generated by other water agencies. An initial review indicates that MTC/ABAG's response to BAWSCA's comments, while thorough, continues to view that the concerns raised by BAWSCA are speculative in nature. More specifically, that the possible water supply impacts of the Bay-Delta Plan on BAWSCA member agencies' ability to meet the growth proposed in Plan Bay Area 2050 do not merit further consideration in the Final EIR. Further review by BAWSCA is warranted, however, before BAWSCA reports findings to the Board.

MTC/ABAG is hosting two public meetings in October in preparation for the certification of the Final EIR and adoption of the Plan. The first public meeting will be held on October 8, 2021, during the regular meeting of the Joint MTC Planning Committee with the ABAG Administrative Committee. At that meeting, the committees will make a recommendation to the MTC/ABAG Executive Board regarding certification of the Final EIR and adoption of the proposed Plan. The second public meeting will be held on October 21, 2021, conducted jointly by MTC/ABAG's Executive Board. At that meeting, a final action will be taken regarding certification of the Final EIR and adoption of the proposed Plan.

BAWSCA will keep the Board apprised of Final EIR developments as well as provide the Board with BAWSCA staff and legal counsel findings as it relates to ABAG/MTC's response to BAWSCA's comments.

Launch of Two New Conservation Programs:

BAWSCA has recently launched two new water conservation subscription programs. The Irrigation Hardware Rebate Program provides BAWSCA member agencies with a cost-effective way to help their customers enhance irrigation efficiency by offering a rebate for the purchase and installation of high efficiency irrigation equipment. The program provides rebates of up to \$5 for high-efficiency sprinkler nozzles, up to \$10 for spray bodies with pressure regulation, and up to \$30 for large rotors. There are currently five agencies participating in this program for FY 2021-22.

The Residential Self-Audit Tool (RSAT) provides residents with the ability to participate in a self-administered home water audit. It also offers the opportunity for residents to order a conservation kit or follow online instructions to conduct the home audit. The RSAT kit

includes a step-by-step guide to perform the at-home audit, free water conservation items, toilet dye tablets, and a simple device to help measure the flow rates of sinks and showers. To begin the process, residents will have two options: (1) use BAWSCA's online conservation portal to follow the step-by-step guide for immediate water audit help; or (2) order a full water audit kit to complete the audit. Currently, the online version of the guide is available to all BAWSCA agencies that participate in any of BAWSCA's water conservation programs and there are three agencies that participate in the physical kit portion of the program.

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Board Policy Committee

Policy Calendar Through April 2022

Meeting Date	Purpose	Issue or Topic
October 2021	D&A D&A	Consideration of Action to Extend Current Tier 2 Drought Plan Annual Review and Consideration of BAWSCA's Statement of Investment Policy
December 2021	D&A D&A	FY 2021-22 Mid-Year Work Plan, Budget, & General Reserve Balance Review BAWSCA Internship
February 2022	R&D D&A R&D R	Presentation of Preliminary FY 2022-23 Work Plan and Budget Consideration of BAWSCA Bond Surcharges for FY 2022-23 Review of Agency Personnel Handbook Review of Water Supply Forecast
April 2022	D&A R	Consideration of Proposed FY 2021-22 Work Plan and Budget Review of Water Supply Forecast