



**NOTICE OF
SPECIAL MEETING
of the
BOARD OF DIRECTORS**

on **September 27, 2023** at **6:30PM** in the
Wind Room of Foster City Community Building
1000 E. Hillsdale Blvd. Foster City, CA 94404

If you have any questions, please call the
BAWSCA office at (650) 349-3000.

See next page for Agenda

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BOARD OF DIRECTORS MEETING

SPECIAL MEETING

PLEASE NOTE DATE AND LOCATION SHOWN BELOW

September 27, 2023

6:30 P.M.

Foster City Community Center – Wind Room

1000 E. Hilldale Blvd., Foster City

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Larsson)	
2. Comments by the Chair	(Larsson)	
3. SFPUC Report	(Ritchie)	
4. Consent Calendar (<i>Attachments</i>)	(Larsson)	
A. Approve Minutes of the July 20, 2023 Meeting		Pg 3
B. Receive and File Pre-Audit Budget Status Report – As of 6/30/23		Pg 7
C. Receive and File Investment Report – As of 6/30/23		Pg 9
D. Receive and File Directors' Reimbursement Report – As of 6/30/23		Pg 11
E. Receive and File Bond Surcharge Collection, Account Balance and Payment Report for Fiscal Year Ending June 30, 2023		Pg 13
5. Public Comments	(Larsson)	
<i>Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Agency. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>		
6. Reports and Discussions		
A. Update on Negotiations of a New Tier 2 Drought Allocation Plan (<i>Attachment</i>)	(Sandkulla)	Pg 17
B. BAWSCA's Long-Term Reliable Water Supply Strategy 2045 (<i>Attachment</i>)	(Sandkulla)	Pg 21
7. CEO Reports	(Sandkulla)	
A. BAWSCA OPEB Liability Funded Status Update (<i>Attachment</i>)		Pg 25
B. BAWSCA Pension Liability Funded Status Update (<i>Attachment</i>)		Pg 29
C. FERC/Bay Delta Plan Update		
D. CEO/General Manager's Letter (<i>Attachment</i>)		Pg 33
E. Board Policy Calendar (<i>Attachment</i>)		Pg 37
F. Correspondence Packet (Under Separate Cover)		

- 8. Closed Session #1** (Schutte)
- 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).
- 9. Report from Closed Session #1** (Schutte)
- 10. Closed Session #2**
- A. Public Employee Performance Evaluation** (Larsson)
Title: CEO/General Manager
Closed Session Pursuant to Government Code Section 54957
(Under Separate Cover)
- 11. Report from Closed Session #2** (Larsson/Schutte)
- 12. Action Item Following Closed Session** (Larsson)
- A. Consider declaration that the compensation and benefits of CEO/General**
Manager uncertain as of September 27, 2023 (*Attachment*) Pg 39
- 13. Directors' Discussion: Comments, Questions and Agenda Requests** (Larsson)
- 14. Date, Time and Location of Future Meetings** (Larsson) Pg 41
(See attached schedule of meetings)
- 15. Adjourn to next meeting scheduled for November 16, 2023 at 6:30 pm** (Larsson)

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 bawzca@bawzca.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 OF DIRECTORS MEETING****July 20, 2023 – 6:30 p.m.**

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 6:31 pm.

BAWSCA Chair, Gustav Larsson, called the meeting to order. CEO/General Manager Nicole Sandkulla was absent due to illness. Water Resource Manager, Tom Francis called the roll. Fifteen (15) members of the Board were present at roll call. Two (2) members of the Board arrived after roll call. A list of Directors present (17) and absent (9) is attached.

2. Comments by the Chair:

Chair Larsson welcomed three new BAWSCA Board Members: Peter Stevenson from the Burlingame City Council, Leslie Marden Ragsdale from the Hillsborough Town Council, and Greer Stone from the Palo Alto City Council.

He also welcomed BAWSCA's summer intern, Ms. Alondra Zamora-Olivares, who is a sophomore at UC Berkely in the College of Natural Resources.

Chair Larsson noted the important presentations for the Board that are related to ensuring the long-term water supply reliability for the 1.8 million water customers that BAWSCA represents:

- SFPUC's Alternative Water Supply Plan, which will serve as the SFPUC's roadmap to guide water supply planning to address supply shortfalls through 2045;
- Update on BAWSCA's efforts to negotiate a new Tier 2 Drought Allocation Plan among the member agencies; and
- Update on BAWSCA's Strategy 2045 effort that has just been initiated.

BAWSCA will celebrate its 20th anniversary at the September 21, 2023 Board meeting. On May 19, 2023, BAWSCA completed its first 20 years since it was formed by member agencies following authorization by the State Legislature with the passage of AB 2058 in 2002.

3. Board Policy Committee Report:

Committee Chair Hardy reported the discussions and actions taken by the Board Policy Committee at its meeting on June 14, 2023. The details of the discussions are reflected in the summary report included in the agenda packet.

4. Consent Calendar:

Director Breault made a motion, seconded by Director Vella, that the Board approve the Minutes of the May 18, 2023 meeting; receive and file the Budget Status Report as of May 31, 2023, and adopt Resolution #2023-03 to Update Authorized Banks for BAWSCA Deposit Accounts.

The motion passed unanimously.

5. SFPUC Report:

Mr. Steve Ritchie, SFPUC Assistant General Manager for Water Enterprise provided a water supply conditions report, and an update on three proposed bills that the SFPUC is monitoring.

Ms. Manisha Kothari, SFPUC Alternative Water Supply Plan Program Manager, provided an overview of SFPUC's Draft Alternative Water Supply Plan published on June 28th, 2023. Comments and questions were received from the Board.

Public comments were provided by Spreck Rosekrans, Executive Director of Restore Hetch Hetchy.

6. Public Comments on Items Not on the Agenda:

There were no public comments.

7. Reports and Discussions:

The Board were presented with the following staff reports:

- A. Update on Negotiations of a New Tier 2 Drought Allocation Plan. Questions and comments were received from the Board.
- B. Initiation of the Development of Strategy 2045. Questions and comments were received from the Board.
- C. CEO/General Manager FY 2022-23 Performance Evaluation Process. Members of the Board will receive an email from the Chair transmitting a link to an online questionnaire.

There were no public comments on the items under Reports and Discussions.

8. CEO Reports:

Mr. Francis, Water Resources Manager, reported that the State Water Resources Control Board (State Board) held a scoping meeting on May 18th for a Notice of Preparation for the development of an environmental document related to the proposed Tuolumne River Voluntary Agreement (TRVA). This scoping meeting initiates the State Board's evaluation of the proposed Tuolumne River Voluntary Agreement as an amendment to the adopted Bay Delta Plan.

BAWSCA and sixteen BAWSCA member agencies provided oral comments in support of the State Board's evaluation of the TRVA.

BAWSCA is supporting the State Board's thorough and robust evaluation of the TRVA as an amendment to the adopted Bay Delta Plan, and is looking to the State Board's analysis of the TRVA's ability to achieve the Bay Delta Plan objectives.

The State Board's draft staff report and environmental report is expected in early 2024 in advance of the State Board's workshops and consideration of the TRVA in Winter/Spring of 2024.

Mr. Francis noted that regardless of the State Board's actions, San Francisco's contractual and legal obligations to the Wholesale Customers remain.

In the interest of time, a report to the Board on BAWSCA's Regional Reliability Roundtable was deferred. Mr. Francis invited the Board to read the "One Water Reliability Roundtable Series Report" posted on the BAWSCA website.

9. Closed Session:

The meeting adjourned to Closed Session at 8:27pm

10. Report from Closed Session:

Chair Larsson reconvened the meeting to Open Session.

Legal Counsel, Allison Schutte, reported that the Board reconvened from Closed Session at 8:40 pm. There was no reportable action taken during Closed Session.

11. Directors' Discussion: Comments, Questions and Agenda Requests:

Chair Larsson noted that BAWSCA's 20th anniversary celebration at the September 21, 2023 Board meeting will have a modest reception with light refreshments prior to the meeting, followed by a short presentation during the Board meeting to highlight vital results and recognize key individuals. This format is modeled after BAWSCA's 10th anniversary celebration.

12. Date, Time and Location of Next Meeting: The next meeting scheduled on September 21, 2023 at 6:30pm.

13. Adjournment: The meeting adjourned at 8:42 pm

Respectfully submitted,

Tom Francis
Water Resources Manager

TF/NS/le

Attachments: 1) Roll Call & Voting Log
2) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board of Directors Meeting Attendance Roster

Director	Agency	July 20, 2023	May 18, 2023	Mar. 16 2023	Jan. 19, 2023	Nov. 17, 2022	Sept. 15, 2022
Andrews, Angela	Hayward	✓	✓		✓	✓	✓
Breault, Randy	Guadalupe	✓			✓	✓	
Chambers, Tom	Westborough	✓	✓	✓	✓	✓	✓
Cohen, David	San Jose			✓	✓	*	*
Doerr, Maria	Menlo Park	✓	✓	✓	✓	*	✓*
Hamilton, Tom	San Bruno	✓	✓	✓	✓	✓	✓
Hardy, Karen	Santa Clara	✓	✓	✓	✓	✓	✓
Hindi, Sam	Foster City		✓	✓		✓	✓
Jordan, Steve	Purissima	✓	✓	✓	✓	✓	✓
Larsson, Gustav	Sunnyvale	✓	✓	✓	✓	✓	✓
Lopez, Antonio	East Palo Alto				✓	✓	✓
Manalo, Juslyn	Daly City		✓	✓	✓	✓	✓
Matichak, Lisa	Mountain View	✓	✓	✓	✓		✓
Mickelsen, Chris	Coastside		✓	✓	✓	✓	
Montano, Carmen	Milpitas	✓		✓			✓
Piccolotti, Tom	North Coast		✓	✓	✓	✓	✓
Pierce, Barbara	Redwood City	✓	✓	✓	✓	✓	✓
Ragsdale, Leslie	Hillsborough	✓	✓*	*	✓*	✓*	*
Schneider, Ann	Millbrae	✓	✓	✓	✓	*	*
Smegal, Tom	Cal Water	✓			✓		✓
Stone, Greer	Palo Alto		✓*	✓*	✓*	✓*	✓*
Stevenson, Peter	Burlingame	✓	✓*	✓*	✓*	✓*	✓*
Vella, Louis	Mid-Peninsula	✓	✓	✓	✓	✓	✓
Weed, John	ACWD		✓	✓	✓	✓	✓
Zigterman, Tom	Stanford	✓	✓	✓			✓
Vacant	Brisbane	vacant	✓*	*	✓*	✓*	✓*

✓ : Present

* : Predecessor


Bay Area Water Supply & Conservation Agency

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

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: September 12, 2023

SUBJECT: Pre-Audit Budget Status Report as of June 30, 2023

This memorandum shows fiscal year budget status for FY 2022-23. It includes major areas of spending, provides an assessment of the overall budget, and summarizes reserve fund balances. This report covers the budget and expenses for BAWSCA, RFA & BAWUA.

Operating Budget Summary:

For the twelve-month period ending June 30, 2023, total expenditures were \$4,297,922 or 90 percent of the total budget of \$4,750,885.

Table 1. Operating Budget Summary as of June 30, 2023

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	1,678,820	1,498,155	89%
Fair Pricing	284,200	128,818	45%
Administration	116,000	161,409	139%
Subtotal	2,079,020	1,788,382	86%
Administration and General			
Salary & Benefits	2,198,190	2,124,185	97%
Other Expenses			
BAWSCA	465,100	384,709	83%
BAWUA	1,050	0	0%
Subtotal	4,743,360	4,297,276	91%
Capital Expenses	3,000	0	0%
Budgeted Contingency	2,500	0	0%
Regional Financing Authority	2,025	646	32%
Grand Total	4,750,885	4,297,922	90%

Overview:

Overall expenditures for FY 2022-23 tracked within budget.

Consultants

The \$45,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 82 percent expended. The Operating Budget allocation of \$150,000 for strategic counsel was 100 percent expended. The Operating Budget allocation of \$856,499 budget for legal counsel was 100 percent expended. The \$326,320 budget for water management and conservation-related activities was 62 percent expended.

Administration and Other Expenses

Budgets for salaries and other expenses were 97 percent and 83 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

In June, the CEO entered into the following agreement under her discretionary spending authority:

- A second contract amendment in the amount of \$24,999 with Hanson Bridgett to provide specialized services for legal counsel.

The FY 2022-23 Operating Budget remains the same.

Use of Reserve and Reserve Fund Balance:

Unspent funds at the end of FY 2021-22 were \$124,744. In accordance with the adoption of the FY 2022-23 annual budget in May 2022, the Board approved a transfer of \$193,012 to the General Reserve. In January 2023, the Board approved a transfer of \$30,000 from the General Reserve to fund the outside consultant support needed to initiate scoping an update to BAWSCA's Long-Term Reliable Water Supply Strategy, as a result of the adopted changes to the FY 2022-23 Work Plan and the Operating Budget.

The General Reserve balance as of June 30, 2023 reflects all three transfers mentioned above, and represents 22% of the adopted FY 2022-23 Operating Budget.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 05/31/23)	Account Balance (As of 06/30/23)
General Reserve	\$1,046,550	\$1,046,550



Bay Area Water Supply & Conservation Agency

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(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: September 12, 2023

SUBJECT: Investment Report – As of June 30, 2023

In February 2004, the Board originally adopted an investment policy consistent with the Government Code that requires a report on the Agency's investments be provided to the Board. This report presents fund management in compliance with the current investment policy. As a result of the recent review of the policy, proposed modifications to the current statement of investment policy ensuring safety of bank deposits over the FDIC limit was presented and approved by the Board at its May 18, 2023 meeting.

BAWSCA funds not deposited in banks are invested in the BAWSCA's Local Agency Investment Fund (LAIF) account throughout the year to ensure compliance with BAWSCA's investment policy.

BAWSCA's prior and current period LAIF account balances are shown below:

<u>03/31/23</u>	<u>06/30/23</u>
\$3,730,803	\$3,176,924

Of the total in the BAWSCA LAIF account as of June 30, 2023, \$1,046,550 represents BAWSCA's General Reserve Fund, equivalent to approximately 22 percent of FY 2022-2023 Operating Budget. The remaining amount consists of Subscription Conservation Program funds and unrestricted funds.

Recent historical quarterly interest rates for LAIF deposits are shown below:

<u>03/31/23</u>	<u>06/30/23</u>
2.74%	3.15%

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Bay Area Water Supply & Conservation Agency

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MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: September 12, 2023

SUBJECT: Directors' Reimbursement Quarterly Report for the Period Ending June 30, 2023

In March 2006, the board adopted a directors' expense reimbursement policy consistent with the Government Code that requires a quarterly report on the Agency's reimbursement of directors' expenses. This report shall show the amount of expenses reimbursed to each director during the preceding three months.

Table 1 presents the reimbursed expenses for BAWSCA Directors during the quarter ending June 30, 2023.

Table 1. Director Reimbursement Expenses

BAWSCA Director	Expense Amount	Purpose
Gustav Larsson, Chair	\$309	Lodging & Mileage May 2023 – ACWA Spring Conference Monterey, CA
	\$241	Hetch Hetchy Tour May 2023 - Mileage

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Bay Area Water Supply & Conservation Agency

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MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Christina Tang, Finance Manager

DATE: September 20, 2023

**SUBJECT: Bond Surcharge Collection, Account Balance and Payment Report
for Fiscal Year Ending June 30, 2023**

In February 2013, BAWSCA's Revenue Bond Series 2013A and Series 2013B (Taxable) were issued to prepay the remaining capital cost recovery payments that the BAWSCA agencies owed San Francisco as of June 30, 2013, when the payments were paid off. In January 2023, BAWSCA completed the settlement of Series 2023A bonds to refund the 2013A bonds based on a tax-exempt forward delivery, which resulted in a reduced monthly surcharge from the agencies starting March 2023. The bond transactions and the prepayment program are anticipated to generate approximately \$89.4 million in net present value savings to the water customers from 2013 to 2034 when the bonds will be paid off.

Bond Surcharge Collections

BAWSCA collects the bond surcharge from member agencies through the SFPUC as a separate item on SFPUC's monthly water bills to agencies. The bond surcharge payments are used to make debt service payments on BAWSCA's revenue bonds. As of today, BAWSCA has received surcharge payments of \$22,033,623, which is \$145,701 short of the total surcharges billed in FY 2022-23. As in the past, partial payments of surcharges billed for May 2023 and all payments of surcharges billed for June 2023 were remitted to Trustee after the fiscal year ended.

The amount of \$145,701 billed for June and collected in August was included in the SFPUC's total remittance to BAWSCA Trustee in an amount of \$2,124,569.45 sent on September 13, 2023. Upon review, BAWSCA identified that the funds had not arrived into the BAWSCA Trustee account by September 15. On the following business day, BAWSCA notified the SFPUC of the missing funds, and later that day, the SFPUC identified that the funds were erroneously remitted to a bank account belonging to the San Francisco Airport. On September 19, the SFPUC secured a reversal of the remittance and expects the funds to be returned to San Francisco by September 26. The SFPUC has committed that the remittance replacement to the BAWSCA Trustee account will be processed immediately after the funds become available in San Francisco's bank account. The delay of the SFPUC's September remittance has no impact on BAWSCA's capability to make the upcoming debt service payments due on October 1, 2023. As of today, there are sufficient funds in the Trustee account to make the payment.

Table 1 below presents a payment collection summary for FY 2022-23.

Table 1: Summary of Surcharges Remitted to Trustee for Fiscal Year Ending 6/30/2023

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2022	\$2,057,856	\$2,057,856	\$0
August 2022	\$2,057,856	\$2,057,856	\$0
September 2022	\$2,057,856	\$2,057,856	\$0
October 2022	\$2,057,856	\$2,057,856	\$0
November 2022	\$2,057,856	\$2,057,856	\$0
December 2022	\$2,057,856	\$2,057,856	\$0
January 2023	\$2,057,856	\$2,057,856	\$0
February 2023	\$2,057,856	\$2,057,856	\$0
March 2023	\$1,429,119	\$1,429,119	\$0
April 2023	\$1,429,119	\$1,429,119	\$0
May 2023	\$1,429,119	\$1,429,119	\$0
June 2023	<u>\$1,429,119</u>	<u>\$1,283,418</u>	<u>\$145,701*</u>
Total	\$22,179,324	\$22,033,623	\$145,701

- The remaining balance of \$145,701 is expected to be deposited into the BAWSCA Trustee account before the end of September 2023.

Bond Surcharge Account Balances

All surcharge payments are deposited with the Bank of New York, the Trustee, which manages BAWSCA's accounts and administers debt service payments. BAWSCA's account balances at the Trustee and the account activities in FY 2022-23 are shown in Table 2 below.

Table 2: Bank of New York Bond Trustee Account Activity for Fiscal Year Ending 6/30/2023

	30,218,076	Account Market Value as of 6/30/2022
<i>plus:</i>	23,122,357	<i>Surcharge Collected in July 2022 through June 2023</i>
<i>plus:</i>	557,260	<i>Money Market Fund Interest, Security Coupons/Accrued Interest Received</i>
<i>plus:</i>	(75,652)	<i>Change in Market Value of Held and Matured Treasury Bonds</i>
<i>minus:</i>	22,047,890	<i>Debt service payment to bondholders</i>
<i>minus:</i>	2,997,134	<i>Principal for Treasury bonds purchased</i>
<i>minus:</i>	5,130	<i>Accrued interest for Treasury bonds purchased</i>
<i>plus:</i>	2,938,719	<i>Market Value of Purchased Bonds</i>
<i>minus:</i>	6,493,131	<i>Transfers to the 2023A Escrow</i>
<i>plus:</i>	(18,873)	<i>Reimbursement to BAWSCA for bond administration expenses</i>
	25,198,602	Account Market Value as of 6/30/2023

In April 2023, BAWSCA re-evaluated its investment strategy for the bond stabilization fund during the annual review of the Investment Policy. As the Federal Reserve has continued its campaign to raise interest rates in response to elevated inflation, rates in the 0-5 year range have risen significantly. BAWSCA's longer-term 0-5 year ladder maturity investment strategy continues to provide a disciplined approach for extending portfolio duration at prevailing market rates. With a ladder maturity distribution, the fund has taken advantage of being able to reinvest into the higher rates available on longer-term bonds. The current 0-5 year ladder maturity investment strategy continues to provide important yield curve diversification against both market price and reinvestment rate risks consistent with BAWSCA's risk tolerances and primary investment objectives. For this reason,

BAWSCA and its investment advisor believe that the current 0-5 year laddered maturity investment strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

As of June 30, 2023, the book yield and market yield on BAWSCA's revised portfolio strategy was 1.95% and 4.82% respectively, as compared to the yield of 4.98% for the money market fund.

All investment interest earnings are deposited directly in the Trustee account, and will be used to pay for future expenses and debt service of the bonds. Ultimately, all interest earnings are returned to the member agencies through annual savings and through distribution of the Stabilization Fund, including interest, once the bonds are fully paid.

Revenue Bond Series 2023A and Series 2013B Debt Service Payment Status

During FY 2022-23, BAWSCA made debt service payments twice, using the bond surcharges collected from the agencies, consistent with the initial bond structure. The first payment of \$19,324,356 was made on October 1, 2022. The second payment of \$2,723,534 was made on April 1, 2023. The next debt service payment of \$14,072,026 will be made on October 1, 2023. There are sufficient funds in the Trustee account to make the payment. Debt service payments are made on April 1st and October 1st of each year until 2034.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: Update on Negotiations of a New Tier 2 Drought Allocation Plan

Summary:

The Tier 2 Plan (Plan) lead negotiators have made progress over the past two months on important topics both adjacent and directly related to the strawperson concept. In August, the lead negotiators came to an early agreement that the updated Tier 2 Plan term should align with the term of the Water Supply Agreement between San Francisco and the Wholesale Customers (WSA), which ends in 2034. Additional details need to be finalized with the help of legal counsel, such as a potential extension processes if the Wholesale Customers agree the Plan is operating as intended. However, this early decision is significant in establishing a timeframe to which other decisions will be limited.

Topics directly related to the strawperson concept have been focused on ways to implement the policy principles. For example, policy principle #3 states that the Plan should, “Provide predictability of drought allocations through consistent and predetermined rules for calculation, while allowing flexibility to respond to unforeseen circumstances.” There is an inherent contradiction in this policy principle as the Plan cannot be equally predictable and flexible. The lead negotiators have had productive discussions on how the updated Plan should weigh predictability and flexibility, what unforeseen circumstances the Plan can be expected resolve, and how flexibility can be implemented given the short timeline for BAWSCA and the SFPUC to implement the Tier 1 and Tier 2 Plans.

Over the next few months, the lead negotiators will continue to discuss ways to implement the policy principles as well as make refinements to the strawperson concept.

BAWSCA encourages Board members to engage with their appointing agency’s lead negotiator for updates on the negotiations. A list of each agency’s lead negotiator and attendance at meetings to date is provided as an attachment.

The existing Tier 2 Plan is set to expire December 31, 2023. At this time, Board consideration of another one-year extension of the existing Tier 2 Plan is scheduled for the Board’s November 16, 2023 meeting in order to provide more time to complete negotiations and ensure that a Tier 2 Plan is in place in the event of a drought next year.

Fiscal Impact:

None

Recommendation:

This item is for discussion purposes only. No Board action is requested at this time.

Discussion:

The Tier 1 Plan allocates water between the San Francisco retail customers and the Wholesale Customers collectively. The Tier 2 Plan is the method for allocating the collective Wholesale Customer share of the Regional Water System (RWS) supply made available by the San Francisco Public Utilities Commission (SFPUC) during shortages of up to 20 percent or less caused by drought. The Tier 2 Plan calculates the proportion of total available RWS supply made available to each Wholesale Customer.

The existing Tier 2 Plan was first adopted by each Wholesale Customers in the winter/spring of 2011 pursuant to Section 3.11.C of the Water Supply Agreement between the City and County of San Francisco and the Wholesale Customers (WSA). That Tier 2 Plan, which was initially set to expire on December 31, 2018, was extended three times in 2018, 2019, and 2020 by the Board. In 2021, the Board adopted a slightly modified Tier 2 Plan that addressed unintended consequences resulting from changed circumstances over time, and extended the Plan again in anticipation of starting a comprehensive update of the Plan. The current Tier 2 Plan expires December 31, 2023.

At this time, it is anticipated that the Board will need to consider another one-year extension of the existing Tier 2 Plan. To support the Board's potential future action, monthly updates on the Tier 2 Plan negotiations are provided to the Board.

Current Tier 2 Plan Negotiations

In January 2022, BAWSCA and the member agencies initiated an update to the Tier 2 Plan. BAWSCA is facilitating negotiations among the WMR, with technical support from the consulting firm Woodard & Curran. Early on, each agency appointed a lead negotiator to represent its agency's interests and perspectives. Notable progress to date includes agreement on a set of policy principles that are guiding development of an updated methodology; identification of the range of factors to be considered for inclusion on the potential Tier 2 formula being negotiated and how those factors should be calculated; and a strawperson concept which brings these factors together into a spreadsheet tool that can be manipulated for negotiation purposes.

In April 2022, the lead negotiators agreed to the following set of policy principles that have been used to guide the discussions:

1. Provide sufficient water for basic health and safety needs of customers.
2. Minimize economic and other adverse impacts of water shortages on customers and the BAWSCA region.
3. Provide predictability of drought allocations through consistent and predetermined rules for calculation, while allowing flexibility to respond to unforeseen circumstances.
4. Recognize benefits of, and avoid disincentives for, water use efficiency and the development of alternative water supply projects.

Using these policy principles, BAWSCA and the technical consultant identified and presented to the WMR the range of factors that could be incorporated into an updated Tier 2 Plan. For example, consideration for health and safety, non-residential and seasonal use, and ISG. The WMR have engaged in discussions about these factors, how to calculate each factor, and narrowed the potential factors down to a single strawperson concept. A high-level summary of this concept is provided below.

Strawperson Concept

Combining the policy principles and identified list of factors to be considered in a new Tier 2 formula, an Excel-based spreadsheet tool has been created that can be manipulated for illustration and negotiation purposes. Using this spreadsheet tool, a strawperson concept has been developed that reflects the following allocation priorities:

1. Provides water for health and safety needs of the agency's customers from the Regional Water System.
2. Provides water for non-residential indoor use to avoid adverse economic impacts.
3. Ensures a minimum amount of water to each agency based upon past purchases.

4. Remaining water is provided based upon 1) each agency's ISG and 2) each agency's seasonal (outdoor) demand.

The WMR continue to negotiate inputs and thresholds to this strawperson concept to ensure it achieves the policy principles. For example - What should the health and safety floor be? How much weight should be given to ISG? What should the minimum and maximum cutbacks be?

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. In adopting the WSA and the Tier 2 Plan, each Wholesale Customer 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 current Tier 2 Plan was as follows:

- Provided the structure for the discussion and analyses to support decision making;
- Facilitated negotiations on a formula that could be accepted unanimously; and
- Supporting agencies in the adoption process.

When the WMR agree to a new Tier 2 Plan, each BAWSCA member agency's governing board will need to consider whether to adopt the Plan. 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 among the Wholesale Customers during a drought.

ATTACHMENT A: Tier 2 Plan Update Lead Negotiators and Meeting Attendance*

Agency	Lead Negotiator	2-Sep-2022	19-Sep-2022	14-Oct-2022	2-Nov-2022	12-Dec-2022	6-Feb-2023	6-Mar-2023	3-Apr-2023	1-May-2023	5-Jun-2023	10-Jul-2023	7-Aug-2023	11-Sep-2023
ACWD	Leonard Ash	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Brisbane/GVMID	Randy Breault	✓			✓	✓			✓			✓		✓
Burlingame	Kevin Okada	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Coastside	Mary Rogren	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CWS	Scott Wagner	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Daly City	Thomas Piccolotti	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
East Palo Alto	Humza Javed	✓	✓	✓	✓	✓			✓		✓	✓	✓	✓
Estero	Louis Sun	✓	✓	✓	✓		✓	✓			✓	✓	✓	✓
Hayward	Cheryl Muñoz	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓
Hillsborough	Paul Willis		✓	✓		✓	✓	✓		✓	✓		✓	✓
Menlo Park	Pam Lowe	✓	✓		✓	✓	✓	✓		✓			✓	✓
Mid-Peninsula	Rene Ramirez	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Millbrae	Bill Giang	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Milpitas	Elaine Marshall	✓	✓	✓					✓		✓	✓		✓
Mountain View	Elizabeth Flegel	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
North Coast	Adrianne Carr	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓
Palo Alto	Lisa Bilir	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Purissima Hills	Phil Witt	✓		✓					✓		✓	✓	✓	✓
Redwood City	Justin Chapel	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	
San Bruno	Steven Salazar	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
San Jose	Jeff Provenzano				✓	✓		✓		✓	✓	✓		✓
Santa Clara	Shilpa Mehta	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Stanford	Julia Nussbaum	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sunnyvale	Mansour Nasser	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Westborough	Patricia Mairena			✓	✓									

* Meeting attendance includes in-person meetings only starting September 2022. Additional meetings were held via Zoom and at Water Management Representative meetings in the first half of 2022.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **BAWSCA’s Long-Term Reliable Water Supply Strategy 2045**

Summary:

This memo is for informational purposes to provide the Board with an update on the current work related to the scoping of the Long-Term Reliable Water Supply Strategy 2045 (Strategy 2045). This memo also provides a preview of upcoming discussions with the BAWSCA Board regarding the purpose, objective and desired outcomes of Strategy 2045. Board feedback on those matters will enable BAWSCA to select the tasks that will be included in the Strategy 2045 development effort, which will commence in FY 2024-25. Feedback from BAWSCA agencies, through the BAWSCA Water Management Representatives (WMR) is also critical.

Recommendation:

This item is for information and discussion purposes only. No action is requested at this time.

Discussion:

Learning from the 2015 Strategy Development

Since its’ formation, BAWSCA’s goal has been “a reliable supply of high-quality water at a fair price”. BAWSCA’s goal is overarching, and applies to all the work that BAWSCA performs, including the 2015 Strategy, as well as the future strategy development work that will be performed in the coming years (Strategy 2045).

As part of the 2015 Strategy development, BAWSCA further clarified its goal with the following Water Management Objective “Ensure that a reliable, high-quality supply of water is available where and when people within the BAWSCA member agency service area need it.”

Beyond BAWSCA’s goal and Water Management Objective, the 2015 Strategy had a purpose.

The 2015 Strategy Purpose: The 2015 Strategy purpose provided further detail into the task work that would be needed in the development of the 2015 Strategy to accomplish BAWSCA’s goal and Water Management Objective. The 2015 Strategy purpose established was as follows: “Quantify the water supply reliability needs of the BAWSCA member agencies through 2040, identify water supply management projects and/or programs that could be developed to meet those regional water reliability needs, and develop an implementation plan.”

2015 Strategy Development and Recommendations: It took several years to quantify supply reliability needs, identify projects, and come up with an implementation plan. That documentation and discussion formed the body of the 2015 Strategy, and the implementation plan proposed in the 2015 Strategy included five recommended actions that have informed the policy actions of the BAWSCA Board of Directors and were used to prepare BAWSCA’s Annual Operating Budgets and Work Plans, including projects and funding designed to help achieve the Water Management Objective defined for the 2015 Strategy. The results achieved from implementing these recommended actions are summarized in **Table 1**.

While implementation of the 2015 Strategy recommendations continues to provide value to BAWSCA and the BAWSCA agencies, several significant changes on the supply, demand, project development, and regulatory fronts are anticipated to impact the future regional supply

reliability, driving the need for an update to the 2015 Strategy. Given these changes, it is important to establish the Purpose and Objectives of the updated Strategy. A logical approach is to revisit the 2015 Strategy Purpose, as shared above, to identify the work that each BAWSCA agency has done since 2015 related to their individual water reliability needs, and to engage with BAWSCA agencies to understand if there are other considerations or regional needs that factor into the development of Strategy 2045.

First Task for Strategy 2045 Scoping – Needs Assessment

Over the past two months, BAWSCA and its' consultants, EKI Environment & Water, Inc. and Hazen & Sawyer (EKI Team), reviewed a variety of regional and local planning documents within the BAWSCA area to develop a comprehensive summary of known local and regional needs plus identify technical gaps in water resources planning that could be addressed through Strategy 2045. Other long-term water resources plans prepared by large water agencies outside of the BAWSCA service area were reviewed to identify potential innovative tools and techniques employed. Some of those tools include alternative approaches to water demand forecasting, the modeling of supply risks, the inclusion of adaptive management approaches, and options for institutional frameworks that could be used for regional water planning, including elements that have been effective and their potential drawbacks.

In mid-September 2023, BAWSCA completed a Draft Planning Framework Assessment and Needs Analysis Technical Memorandum (Draft TM #1) which identifies opportunities for Strategy 2045 to provide regional value to BAWSCA and its agencies, including an assessment of local and regional planning needs, opportunities, and knowledge or technical gaps that could potentially be addressed through Strategy 2045. The Draft TM #1 is currently being reviewed by the WMR. The WMR have also been asked to respond to an online survey which seeks further member agency input on their water management and planning needs and desired outcomes for Strategy 2045. The deadline for the agencies to complete the agency survey is September 28, 2023. Survey results, together with comments to Draft TM #1 will be used to prepare the Needs Assessment. The Needs Assessment will be completed by late October 2023 and will include the survey results.

Board Engagement – October & November 2023

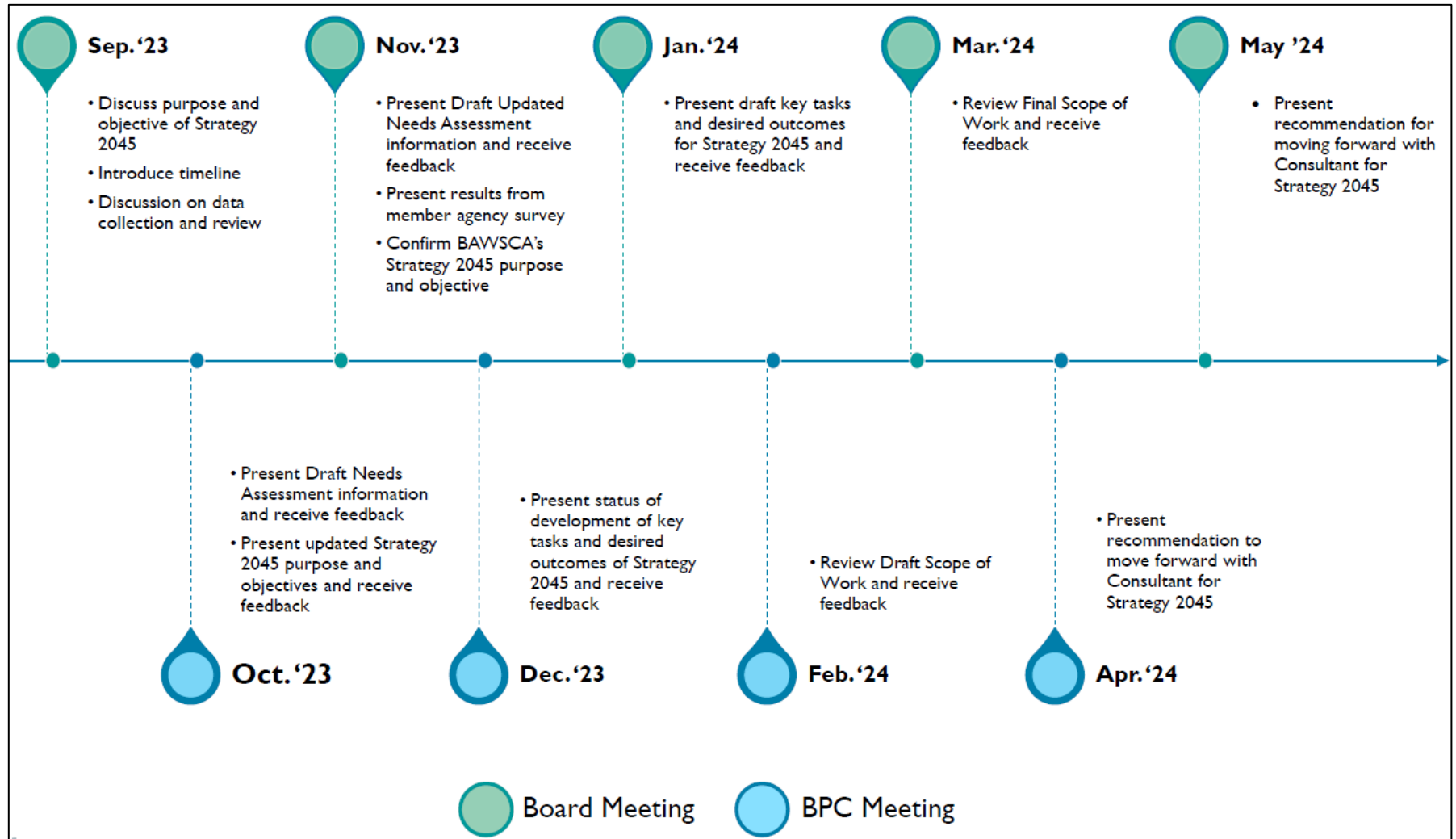
To guide the development of the Strategy 2045 Scope, BAWSCA proposes to update the 2015 Strategy Purpose to a new Strategy 2045 Purpose (long-term goal(s) of Strategy 2045) as well as to identify Strategy 2045 Objectives (short-term goals for Strategy 2045 that are specific, concrete and measurable). The desired outcomes/results for Strategy 2045 will follow from the Purpose and Objectives for Strategy 2045.

At the October 11, 2023, Board Policy Committee (BPC) Meeting, a presentation on the preliminary details of the Needs Assessment will be provided. Additionally, draft Strategy 2045 Purpose and Objectives will be presented for feedback from the BPC. It is envisioned that the preliminary results of the Needs Assessment can give the BPC context in terms of what Strategy 2045 Purpose and Objectives should be. The BPC will also be asked to provide insight into what additional information would be useful for the Board for a similar discussion at its November meeting. The anticipated schedule for Board engagement at this time is shown in **Figure 1**.

Table 1: 2015 Strategy Recommended Actions and Results Achieved

Recommended Actions	2015 Strategy - Results Achieved to Date
1. Lead water transfer development and implementation including identifying and evaluating water storage options.	<ul style="list-style-type: none"> Identified opportunities and barriers to implementing water transfer and storage projects Developed template agreements and vetted technical, institutional, and operational transfer frameworks and partnerships, documented in BAWSCA Pilot Water Transfer Efforts Report Completed Bay Area Regional Reliability Partnership (BARR) Shared Water Access Program
2. Facilitate desalination and recycled water partnerships and pursue outside funding for related studies	<ul style="list-style-type: none"> Engaged in regional supply projects planning efforts, including: <ul style="list-style-type: none"> Los Vaqueros Reservoir Expansion (2015 to current) Partnering with California Water Service on a Potential Brackish Groundwater Desalination Project (2015) SF- Peninsula Purewater Project (2016 to today) San Francisco Public Utilities Commission (SFPUC) - Union Sanitary District- Alameda County Water District Purified Water Project (2017 to current, engaged in support) South Bay Purified Water Project (2020 to current, engaged in support)
3. Support member agency-identified projects (i.e., recycled water and groundwater) and local capture and reuse.	<ul style="list-style-type: none"> Expanded core and subscription conservation programs Developed the “Making Conservation a Water of Life” Strategic Plan – Phase 1, which evaluated the feasibility of implementing the urban water use objectives proposed by the State and identified actions to support BAWSCA agencies Implemented the One Water Reliability Roundtable Series, identify possible opportunities for agency collaborations Supported transfers of Individual Supply Guarantee and minimum purchase requirement (amendment to the Water Supply Agreement) Supported City/County Association of Governments of San Mateo County stormwater projects Provided support letters for agencies pursuing funding
4. Participate in regional planning studies in cooperation with others.	<ul style="list-style-type: none"> Developed tools supporting regional planning efforts, including: <ul style="list-style-type: none"> BAWSCA Regional Water System & Supply Reliability Model (2017 to current) BAWSCA Regional Groundwater Model (2013 to current) Engaged in BARR Partnership, including Drought Contingency Plan and Shared Water Access Program (2014 to current) Prepared Regional Water Demand and Conservation Projections (2020 report and 2022 update) Supported agencies’ 2015 and 2020 Urban Water Management Plan development efforts
5. Continue monitoring regional water supply investments and policies.	<ul style="list-style-type: none"> Tracking and providing feedback on the SFPUC Alternative Water Supply Plan Monitoring SFPUC’s Capital Improvement Program Participating in the implementation and assessment of potential water supply impacts of the Bay-Delta Water Quality Control Plan and associated Voluntary Agreements Continued coordination with Valley Water on monitoring and addressing water supply challenges of common member agencies/retailers

Figure 1: Current BPC and Board Schedule for Developing Scope of Strategy 2045



BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **BAWSCA Other Post-Employment Benefits (OPEB) Liability
Funded Status Update**

Summary:

BAWSCA participates in the California Employers' Retiree Benefit Trust (CERBT) program, administered by CalPERS, to prefund the agency's Other Post-Employment Benefits (OPEB) obligations. Since entering the CERBT program on April 26, 2014 through June 30, 2023, BAWSCA has had total contributions of \$877,731 and investment earnings of \$226,760. The average annual rate of return was 4.1%.

As of June 30, 2023, BAWSCA's unfunded OPEB liability, also known as Net OPEB Liability, was \$907,569, which is estimated to be paid off by 2036 based on the current amortization schedule. The total OPEB liability has been 55% funded based on a discount rate of 5.5%, which is the same as the CERBT's expected long-term rate of return for Strategy 2 asset allocation.

Fiscal Impact:

BAWSCA's FY 2023-24 Operating Budget includes a CERBT contribution of \$78,000 to fully fund the annual OPEB expense for FY 2023-24 per the actuarial valuation as of June 30, 2022 based on a discount rate of 5.5%. This amount was deposited into BAWSCA's CERBT account in August 2023.

Recommendation:

This item is for informational purposes only. No Board action is requested at this time.

Discussion:

Like many other public agencies, BAWSCA prefunds its OPEB obligations in order to generate investment income from employer-controlled contributions to pay for future retiree benefits, reduce future employer cash flow requirements, and reduce OPEB liabilities reported on the agency's annual financial statements. To achieve these goals, BAWSCA established a CalPERS CERBT trust to prefund OPEB obligations in April 2014.

BAWSCA participates in CERBT's Strategy 2 asset allocation portfolio and considers its actual investment performance during the annual OPEB actuarial valuations. Over the past 9 years (from inception to June 30, 2023), BAWSCA's average annual rate of return was 4.1%. Per the CERBT, the longer the investments are in the trust, the more they gradually align closer to their 20-year expected rate of return of 5.5% that was adopted by CalPERS in 2022. In consideration of both CERBT's expected future returns and BAWSCA's historical returns, BAWSCA reduced its assumed discount rate for actuarial valuation last year, from 5.75% used in the valuation as of June 30, 2021 to 5.5% used in the valuation as of June 30, 2022. Per CERBT's investment benchmarks, their long-term gross investment returns continue to outperform the public market and Local Agency Investment Fund (LAIF) where BAWSCA's fund was previously invested.

To align the long-term rate of return assumption with the nature of the OPEB liabilities, BAWSCA and its actuary determined that the same discount rate of 5.5% continues to be the most reasonable for the recent valuation as of June 30, 2023 provided as Attachment 1 ([under separate cover](#)). In general, a lower discount rate results in a higher annual OPEB expense and a decreased funded status, but will reduce the agency's unfunded liability risk from overly optimistic interest rate assumptions in the future.

As of June 30, 2023, BAWSCA's unfunded OPEB liability was \$907,569. The unfunded OPEB liability represents the excess of the total OPEB liability of \$2,006,935 over the value of assets of \$1,099,366 that have been accumulated in the CERBT trust. The total OPEB liability is the actuarial present value of projected benefit payments that have been earned by employees based on past years of service. As of June 30, 2023, BAWSCA's total OPEB liability has been 55% funded based on a discount rate of 5.5%.

The table below provides a summary of BAWSCA's CERBT account as of June 30, 2023.

CERBT Account Summary as of June 30, 2023	
Total Contributions (Initial contribution made on 4/26/2014)	\$877,731
Total Disbursements	-
Total CERBT Expenses	(\$5,125)
Total Investment Earnings	\$226,760
Total Assets	\$1,099,366
Current Asset Allocation Strategy Selection	CERBT Strategy 2
CERBT 20-Year Expected Rate of Return	5.5%
BAWSCA's Discount Rate Used in OPEB Actuarial Valuation as of June 30, 2023	5.5%
BAWSCA Actual Cumulative Annualized Rate of Return* from Inception (4/26/2014) through 6/30/2023	4.1%
BAWSCA Net OPEB Liability as of 6/30/2023 (Estimated to Be Paid Off by 2036)	\$907,569
Funded Status	55%

**Net of fees*

SFPUC's OPEB Liability Funded Status Update

The SFPUC participates in the single employer defined benefit plan that is maintained by the City and County of San Francisco (San Francisco) and administered through the San Francisco Health Service System. San Francisco's funding has been based on "pay-as-you-go" plus a contribution to the Retiree Health Care Trust Fund (Trust Fund).

SFPUC Share of Net San Francisco Liability. Per San Francisco's latest OPEB actuarial valuation as of June 30, 2022 as provided in Attachment 2 ([under separate cover](#)), the total San Francisco net OPEB liability was \$3.691 billion, which is estimated to be paid off by 2048. San Francisco's net OPEB liability is calculated by subtracting the Trust Fund balance of \$0.719

billion from San Francisco's total liability of \$4.410 billion. The SFPUC's proportionate share was 6.15% of San Francisco's net OPEB liability, or \$227.147 million, that includes \$144.115 million for the Water Enterprise and \$14.240 million for Hetchy Water, based on a discount rate of 7.0%. For context, the SFPUC's FY 2022-23 operating budget, which includes contributions to the Trust Fund and pay as you go benefits payments, was \$1.652 billion.

SFPUC Share of Total Contributions. For FY 2021-22, the SFPUC's proportionate share of the City's contribution to the Trust Fund was \$15.560 million, which includes \$9.873 million for the Water Enterprise and \$0.975 million for Hetchy Water.

BAWSCA Advisors' Analysis of Member Agencies Accounting Treatment of SFPUC's Unfunded OPEB and Pension Liabilities

BAWSCA consulted with its auditors, Chavan & Associates, LLP on the Board's concerns related to SFPUC's current level of the unfunded OPEB and pension liabilities, and potential risk to the Wholesale Customers.

The auditors confirmed that SFPUC's unfunded OPEB and pension liabilities are not liabilities of BAWSCA or its member agencies. There are no accounting guidelines that would require BAWSCA agencies to report their share of SFPUC's unfunded OPEB and pension liabilities in the agencies' financial statements. The auditors are unaware of any future obligation that the BAWSCA agencies would have in relation to SFPUC's unfunded OPEB and pension liabilities.

The SFPUC prepares a cash budget, including retirement benefit payments based on pay as you go and Trust Fund contributions as part of the benefits portion of salary. Through the established wholesale water rates, BAWSCA agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current employees. A copy of the letter from Chavan & Associates is provided as Exhibit A.

BAWSCA also consulted with its legal counsel, who confirmed that per the Water Supply Agreement (WSA), BAWSCA agencies should only pay their share of expenses of SFPUC operations from which they receive benefit. BAWSCA agencies' share of the SFPUC's labor costs, including OPEB and pension benefits, is calculated based on the terms specified in the WSA. BAWSCA legal counsel agreed with the results of the auditors' analysis as stated above.

Attachments ([Under Separate Cover](#)):

1. Item 7A – Attachment 1: BAWSCA OPEB Actuarial Valuation as of June 30, 2023
2. Item 7A – Attachment 2: City and County of San Francisco OPEB Actuarial Valuation as of June 30, 2022



Chavan and Associates, LLP
Certified Public Accountants

To the Board of Directors of
the Bay Area Water Supply and Conservation Agency

As the auditors of the Bay Area Water Supply and Conservation Agency (BAWSCA), management has consulted with us regarding the Board's concerns related to the San Francisco Public Utility Commission's (SFPUC) current level of unfunded OPEB and pension liabilities, and the potential risk to wholesale customers related to these liabilities.

Based on current governmental accounting standards, SFPUC's unfunded OPEB and pension liabilities are not liabilities of BAWSCA or its member agencies. There are no accounting guidelines that would require BAWSCA member agencies to report their share of SFPUC's unfunded OPEB and pension liabilities in the agencies' financial statements. We are unaware of any future obligation that the BAWSCA member agencies would have in relation to SFPUC's unfunded OPEB and pension liabilities.

BAWSCA member agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current employees through the established wholesale water rates. The allocable costs of SFPUC's employee benefits are included in the determination of the wholesale water rates and are based on SFPUC's annual pay as you go OPEB and pension contributions.

This communication is intended solely for the information and use of management, the Board, and others within the organization and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

C & A LLP

August 22, 2023
Morgan Hill, California

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **BAWSCA Pension Liability Funded Status Update**

Summary:

BAWSCA offers its employees and retirees a defined pension benefit plan that is managed and administered by California Public Employees' Retirement System (CalPERS), a State of California Pension Trust Program.

Per the latest CalPERS actuarial valuation as of June 30, 2022, BAWSCA's pension Unfunded Accrued Liability (UAL) was \$1,101,421, which is estimated to be paid off by 2043 based on the current amortization schedule, based on a discount rate of 6.8%.

Fiscal Impact:

BAWSCA's FY 2023-24 Operating Budget includes the CalPERS required employer contributions of \$250,154, which represents 5.2% of the annual budget of \$4,814,667.

Recommendation:

This item is for informational purposes only. No Board action is requested at this time.

Discussion:

CalPERS retirement benefits are based on a formula, rather than contributions and earnings to a savings plan. Retirement formulas vary based on classifications of the employees (e.g., miscellaneous, safety, or industrial). BAWSCA only participates in the pension plan for miscellaneous employees. Every year, CalPERS provides BAWSCA an actuarial valuation report that includes the latest pension trust plan funded status and the minimum required employer contributions for the next fiscal year. The minimum required employer contributions represent the sum of the Normal Cost (expressed as a percentage of total active payroll) plus the amortization of the Unfunded Accrued Liability.

Per the latest CalPERS actuarial valuation as of June 30, 2022 provided as Attachments 1 and 2 ([under separate cover](#)), BAWSCA's unfunded pension liability was \$1,101,421, which is estimated to be paid off by 2043. The unfunded pension liability represents the liability for service that has been earned but not funded. Based on the current amortization schedule, BAWSCA's minimum required employer contribution towards the UAL for FY 2023-24 is \$85,252.

BAWSCA's CalPERS Pension Plan Funded Status

The measure of funded status is an assessment of the sufficiency of plan assets to cover future employee benefits for completed service years. The Present Value of Projected Benefits (PVB) presents the total value of all future pension liabilities for current and former employees. The Unfunded Accrued Liability (UAL) is the present value of future employer contributions for service that has already been earned and is in addition to future normal cost contributions for active members. BAWSCA's latest CalPERS pension plan funded status is summarized below in Table 1.

Table 1. Summary of BAWSCA's Pension Plan Funded Status as of 6/30/2022

Actuarial Calculation	CalPERS "Misc." Plan Value
a. Present Value of Projected Benefits (PVB)	\$7,495,375
b. Entry Age Normal Accrued Liability (AL)	\$5,540,750
c. Market Value of Assets (MVA)	\$4,439,329
d. Unfunded Accrued Liability (UAL) =b-c	\$1,101,421
e. Funded Ratio =c/b	80.1%

SFPUC's Pension Liability Funded Status Update

The SFPUC participates in a cost-sharing multiple-employer defined benefit pension plan (the Plan) that is maintained by the City and County of San Francisco (San Francisco) and administered by the San Francisco City and County Employees' Retirement System (SFERS).

SFPUC Share of Net San Francisco Liability. Per the San Francisco Controller's Office, San Francisco's unaudited total net pension liability as of June 30, 2023 was \$2.691 billion. San Francisco's net pension liability is calculated by subtracting the total SFERS balance of \$32.799 billion from San Francisco's total liability of \$35.490 billion. The SFPUC's proportionate share was 7.62% of San Francisco's net pension liability, or \$194.760 million that includes \$111.742 million for the Water Enterprise and \$31.343 million for Hetchy Water, based on a discount rate of 7.4%. For context, the SFPUC's FY 2022-23 operating budget, which includes the pension benefit payments, was \$1.652 billion. As of June 30, 2023, San Francisco's total funded ratio was an estimated 92.4%. The latest SFERS Actuarial Valuation Report as of July 1, 2022 is provided for your reference in Attachment 3 ([under separate cover](#))

SFPUC Share of Total Contributions. For FY 2022-23, the SFPUC's estimated proportionate share of employer contributions was \$59.094 million, which include \$33.367 million for the Water Enterprise and \$4.130 million for Hetchy Water.

BAWSCA Advisors' Analysis on Member Agencies Accounting Treatment of SFPUC's Unfunded OPEB and Pension Liabilities

BAWSCA consulted with its auditors Chavan & Associates, LLP on the Board's concerns related to SFPUC's current level of the unfunded OPEB and pension liabilities and potential risk to the Wholesale Customers.

The auditors confirmed that SFPUC's unfunded OPEB and pension liabilities are not liabilities of BAWSCA or its member agencies. There are no accounting guidelines that would require BAWSCA agencies to report their share of SFPUC's unfunded OPEB and pension liabilities in the agencies' financial statements. The auditors are unaware of any future obligation that the BAWSCA agencies would have in relation to SFPUC's unfunded OPEB and pension liabilities.

The SFPUC prepares a cash budget, including retirement benefit payments based on pay as you go and Trust Fund contributions as part of the benefits portion of salary. Through the established wholesale water rates, BAWSCA agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current employees. A copy of the letter from Chavan & Associates is shown in Exhibit A.

BAWSCA also consulted with its legal counsel, who confirmed that per the Water Supply Agreement (WSA), BAWSCA agencies should only pay their share of expenses of SFPUC operations from which they receive benefit. BAWSCA agencies' share of the SFPUC's labor costs, including OPEB and pension benefits, is calculated based on the terms specified in the WSA. BAWSCA legal counsel agreed with the results of the auditors' analysis as stated above.

Attachments ([Under Separate Cover](#)):

1. Item 7B – Attachment 1: BAWSCA Miscellaneous Plan of CalPERS Actuarial Valuation Report as of June 30, 2022
2. Item 7B – Attachment 2: BAWSCA PEPRA Miscellaneous Plan of CalPERS Actuarial Valuation Report as of June 30, 2022
3. Item 7B – Attachment 3: City and County of San Francisco Employees' Retirement System Actuarial Valuation Report as of July 1, 2022



Chavan and Associates, LLP
Certified Public Accountants

To the Board of Directors of
the Bay Area Water Supply and Conservation Agency

As the auditors of the Bay Area Water Supply and Conservation Agency (BAWSCA), management has consulted with us regarding the Board's concerns related to the San Francisco Public Utility Commission's (SFPUC) current level of unfunded OPEB and pension liabilities, and the potential risk to wholesale customers related to these liabilities.

Based on current governmental accounting standards, SFPUC's unfunded OPEB and pension liabilities are not liabilities of BAWSCA or its member agencies. There are no accounting guidelines that would require BAWSCA member agencies to report their share of SFPUC's unfunded OPEB and pension liabilities in the agencies' financial statements. We are unaware of any future obligation that the BAWSCA member agencies would have in relation to SFPUC's unfunded OPEB and pension liabilities.

BAWSCA member agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current employees through the established wholesale water rates. The allocable costs of SFPUC's employee benefits are included in the determination of the wholesale water rates and are based on SFPUC's annual pay as you go OPEB and pension contributions.

This communication is intended solely for the information and use of management, the Board, and others within the organization and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

C & A LLP

August 22, 2023
Morgan Hill, California



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: September 20, 2023
SUBJECT: Chief Executive Officer/General Manager's Letter

BAWSCA Landscape Education Class Series:

BAWSCA has finalized its Water Efficient Landscape Education Program for the Fall 2023 season. BAWSCA's landscape education classes are designed to introduce homeowners and landscape professionals to the concepts of sustainable landscape design with a focus on creating beautiful, water-efficient gardens as an alternative to lawns. For Fall 2023, in conjunction with BAWSCA's member agencies, BAWSCA will be hosting 24 workshops consisting of lecture, hands-on and virtual formats. The topics include Integrated Pest Management, Landscape Design and Plant Selection, Turf Replacement and Garden Transformation, Edible Water-Wise Gardening, and much more. A complete list of classes and workshops can be found on the BAWSCA website at <https://bawasca.org/conserve/programs/classes>.

Alternative Water Supply Plan:

On July 28, 2023, the SFPUC released its draft Alternative Water Supply Plan (AWS Plan) for public comment. Comments were due to the SFPUC by August 31, 2023.

The SFPUC views the AWS Plan as a roadmap to guide water supply planning to help address SF RWS's projected supply shortfalls through 2045. As a strategy document, the AWS Plan proposes a number of projects that, if implemented, would address water supply needs in consideration of various demand drivers, such as population increase and climate change. It also considers the potential impact that future regulations may have on the availability of existing supplies. The future water supply needs of the BAWSCA Agencies, and moreover the legal and contractual requirements that exist between the San Francisco and its's wholesale customers play an integral role into how the AWS Plan is shaped.

BAWSCA submitted a comment letter to the SFPUC on the AWS Plan. A copy of this letter was provided to the Board under separate cover on September 1, 2023. In its letter, BAWSCA indicated its' support of the SFPUC's AWS Plan and also requested edits to the AWS Plan to address BAWSCA's identified issues.

The SFPUC received other comment letters from BAWSCA Agencies, other interest groups, and individual members of the public.

The SFPUC will address comments received as part of the Final AWS Plan. Once finalized, the AWS Plan will be shared with the SFPUC Commission. At this time, it is uncertain if the Commission will be asked to adopt and/or endorse the AWS Plan.

Water Use Efficiency Standards:

On August 18, 2023, the State Water Resources Control Board (Water Board) released draft regulations to implement the water use efficiency framework known as “Making Conservation a California Way of Life.” The release of the draft regulations initiates the first public comment period in the rulemaking process, which is expected to take approximately one year. The Water Board will hold a public workshop on October 4, 2023, at which time urban water suppliers, the public, and other stakeholders can provide oral comments. Written comments may be submitted until October 17, 2023.

BAWSCA has actively engaged in the development of the draft regulations since 2018 and provides regular updates to the Water Management Representatives. BAWSCA and Valley Water have also partnered on a project to develop resources to help agencies understand the upcoming requirements. The new regulations, as drafted, will mandate new conservation programs aimed at improving water use efficiency across commercial, industrial, and institutional sectors. BAWSCA anticipates that member agencies will request that BAWSCA develop core and subscription conservation programs to assist with compliance. If so, development of these programs will need to be considered as part of BAWSCA’s Work Plan in the next fiscal year.

SFPUC’s WSIP FY 2022-23 Annual Report to the State:

On September 1, 2023, in accordance with the state law per AB 1823 (Papan, 2002), the SFPUC provided the State of California’s Seismic Safety Commission (SSC) and the Division of Drinking Water (DDW) the Water System Improvement Program (WSIP) Annual Report for Fiscal Year 2022-23 (WSIP Annual Report).

The WSIP Annual Report documents the SFPUC’s progress toward completion of WSIP. WSIP is 99% complete with two projects left to complete: the Alameda Creek Recapture Project and the Regional Groundwater Storage and Recovery Project. The SFPUC continues to have challenges related to the construction of both projects. The WSIP Annual Report details these challenges and foreshadows that project implementation delays will impact the completion date of WSIP beyond the currently adopted completion date of February 2027. Extending the date of WSIP completion will require that the SFPUC follow a formal notification process outlined in state law. The SFPUC has indicated to the State that such a formal notification will take place in the Winter of 2023-24. The SFPUC is uncertain at this time whether the overall funding for WSIP implementation will need to be increased.

BAWSCA is aware of the issues that the SFPUC faces with project implementation and continues to be engaged with the SFPUC on how it proposes to overcome those challenges. Both remaining WSIP projects are of significant importance to the RWS as they provide added supply yield during times of drought.

BAWSCA and its consultant are reviewing the WSIP Annual Report. That review is anticipated to be completed in late September 2023. BAWSCA intends to produce a letter that will be provided to the SSC and DDW detailing its comments. Further, BAWSCA will prepare a separate letter to the SFPUC detailing its comments. Those comment letters will be shared with the Board following their completion.

Wholesale Revenue Requirement Review for FY 2020-21:

On September 14, 2023, BAWSCA received the Compliance Auditors' report on the SFPUC's calculation of the annual Wholesale Revenue Requirement (WRR) and changes in the Balancing Account for the fiscal year ended June 30, 2021. Pursuant to Section 7.06 of the Water Supply Agreement (WSA), BAWSCA will conduct a WRR review and expects to complete its review by November 13, 2023. Further updates will be provided to the Board as appropriate.

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Board of Directors

Policy Calendar Through May 2024

Meeting Date	Purpose	Issue or Topic
November 2023	D&A R&D R&D R&D	Consideration of Action Regarding Tier 2 Drought Allocation Plan Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Consultant Billing Rate Market Analysis
January 2024	D&A R&D R&D S S	Mid-Year 2023-24 Work Plan, Budget and General Reserve Review Tier 2 Drought Allocation Plan Negotiations Review of Water Supply Forecast Strategy 2045 FY 2023-24 Work Plan and Budget Study Session
March 2024	D&A R&D R&D R&D R&D R	Consideration of FY 2024-25 Bond Surcharges Discussion of Preliminary FY 2024-25 Work Plan and Budget Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Review of Water Supply Forecast Annual WSA Balancing Account Update
May 2024	D&A R&D R&D R&D	Consideration of Proposed FY 2024-25 Work Plan and Budget Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Review of Water Supply Forecast

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Consider Declaration that the Compensation and Benefits of the CEO/General Manager are Uncertain as of September 27, 2023 Due to Ongoing Negotiations**

Summary:

The Board evaluated the CEO/General Manager's performance during FY 2022-23 and negotiations regarding an adjustment to the CEO/General Manager's compensation are ongoing. Declaring the compensation and benefits of the CEO/General Manager uncertain preserves BAWSCA's ability to adjust the CEO/General Manager's compensation effective September 27, 2023, at a regularly scheduled Board meeting pending the outcome of the ongoing negotiations.

Legal Counsel recommends that the Board approve such a motion.

Fiscal Impact:

Given that negotiations regarding an adjustment to the CEO/General Manager's compensation are ongoing, the fiscal impact of this motion is unknown. However, the agency's adopted FY 2023-24 budget includes an allowance for any potential compensation for the CEO/General Manager. The Chair of the Board desires any change in compensation to be retroactive to the September 27, 2023 Board meeting.

Recommendation:

That the Board approve a motion declaring that the compensation of the CEO/General Manager is under ongoing negotiation and is therefore uncertain and undetermined, with the understanding that any such new compensation for the CEO/General Manager, as may be subsequently adopted by the Board of Directors, may be applied effective as of September 27, 2023, in consideration of the services provided by the CEO/General Manager henceforth, should labor negotiations result in such a recommendation.

Background:

BAWSCA is in labor negotiations with its CEO/General Manager regarding an adjustment to her compensation. BAWSCA last considered an adjustment to the CEO/General Manager's compensation on September 15, 2022.

Section 3.A of the CEO/General Manager's Employment Agreement specifies that BAWSCA will conduct a performance review and evaluate the CEO/General Manager's performance at least once annually, no later than the September Board meeting. Additionally, the Agreement states that the CEO/General Manager's salary will be subject to increase based upon such evaluation.

Given the ongoing negotiations, and that the September meeting is a Special Meeting¹, the Board may not consider a compensation adjustment at this time. Declaring the compensation and benefits of the CEO/General Manager uncertain mitigates potential "gift of public funds" claims because where compensation is not fixed, the compensation employees ultimately earn cannot accurately be deemed "extra compensation." Thus, the recommended motion preserves BAWSCA's ability to pay an adjusted compensation effective as of September 27,

¹ The Brown Act, Gov't Code §54956(b), prohibits consideration of compensation at a special meeting.

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2023, pending the outcome of the ongoing negotiations. Legal Counsel recommends that the Board approve such a motion.

**Bay Area Water Supply and Conservation Agency
and Regional Financing Authority**

Meeting Schedule through December 2024

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 6:30 – 8:45 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – November 16, 2023	Burlingame Community Center – Sequoia Room
Thursday – January 18, 2024	Burlingame Community Center – Sequoia Room
Thursday – March 21, 2024	Burlingame Community Center – Sequoia Room
Thursday – May 16, 2024	Burlingame Community Center – Sequoia Room
Thursday – July 18, 2024	Burlingame Community Center – Sequoia Room
Thursday – September 19, 2024	Burlingame Community Center – Sequoia Room
Thursday – November 21, 2024	Burlingame Community Center – Sequoia Room

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 18, 2024	Burlingame Community Center – Sequoia Room

Schedule for BAWSCA Board Policy Committee Meetings (Meetings held from 1:30-4:00 p.m.)	
<u>Date</u>	<u>Location</u>
Wednesday, October 11, 2023	Burlingame Community Center – Sequoia Room B
Wednesday, December 13, 2023	Burlingame Community Center – Sequoia Room B
Wednesday, February 14, 2024	Burlingame Community Center – Sequoia Room B
Wednesday, April 10, 2024	Burlingame Community Center – Sequoia Room B
Wednesday, June 12, 2024	Burlingame Community Center – Sequoia Room B
Wednesday, August 14, 2024	Burlingame Community Center – Sequoia Room B
Wednesday, October 9, 2024	Burlingame Community Center – Sequoia Room B
Wednesday, December 11, 2024	Burlingame Community Center – Sequoia Room B