

**MINUTES**

**Tuesday, September 24, 2024  
East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

**Regular Closed Session Meeting**

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:36 a.m. in the Administration Building Boardroom.

**ROLL CALL**

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

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

**PUBLIC COMMENT**

- Addressing the Board was Ivette Rivera who commented on documents she provided to the Finance/Administration Committee, her comments to the Committee regarding the draft Board Governance Manual and policies, and the General Manager's and General Counsel's performance appraisals.

**ANNOUNCEMENT OF CLOSED SESSION AGENDA**

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

**Regular Business Meeting**

President Lesa R. McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:22 p.m. in the Administration Building Boardroom.

**ROLL CALL**

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

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

**BOARD OF DIRECTORS**

President McIntosh led the Pledge of Allegiance.

Recognizing National Disability Employment Awareness Month and the District's Disability Advocacy and Rights Team Affinity Group.

Director Young announced EBMUD is recognizing National Disability Employment Awareness Month and the District's Disability Advocacy and Rights Team Affinity Group, also known as DART. Founded in 2022 for disabled employees, caretakers of disabled people, and employees interested in learning more about disability, DART supports the District's efforts to promote hiring of qualified individuals with disabilities. Each October, the U.S. Department of Labor recognizes National Disability Employment Awareness Month (NDEAM). Director Young highlighted the activities DART will host throughout October which will reflect the NDEAM 2024 theme "Access to Good Jobs for All." On behalf of the Board of Directors, Director Young thanked DART for all their work at the District supporting individuals with disabilities and encouraged all staff to participate in NDEAM activities. A proclamation will be signed by President McIntosh on behalf of the Board of Directors to recognize and commemorate the 79<sup>th</sup> anniversary of NDEAM.

**PRESENTATION**

General Manager Clifford C. Chan announced the District received the National Association of Clean Water Agencies (NACWA) Platinum Peak Performance Award at the July 2024 NACWA Annual Summer Conference. The award recognizes wastewater agencies with 100 percent compliance with their discharge permit over a consecutive five-year period. Platinum Award status continues when 100 percent compliance is maintained beyond the initial award. This award represents the 19th consecutive Platinum Award for the District and celebrates 24 years of perfect permit compliance at the Main Wastewater Treatment Plant. He also reported that as of August 2024, the District achieved 25 years of perfect permit compliance for which staff will request recognition from NACWA. Director Patterson thanked staff for their achievements and presented the award to the following staff representing the Wastewater Department: Ernesto Dimitri Araica, Assistant Civil Engineer; Evan Klein-Corman, Wastewater Plant Operator II; Genesis Castellanos, Laboratory Technician III; Kevin Dickison, Wastewater Treatment Superintendent; Khi Lai, Senior Wastewater Control Inspector; Lauren McQuiston, Laboratory Technician III; Raul Ruiz, Assistant Civil Engineer; Vincent Castleman, Wastewater Plant Operator II; Vladimir Rankovic, Laboratory Technician III; and Zoe Lake, Wastewater Control Representative.

**ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

**PUBLIC COMMENT**

- Addressing the Board were the following: 1) George Cleveland commented on ongoing employee concerns in the District's Contact Center; thanked the District and Special Assistant to the General Manager Kelly Zito for sponsoring El Sobrante's 1<sup>st</sup> annual Pride event on September 22; and congratulated Directors McIntosh, Linney, and Patterson on their upcoming retirements; 2) Ivette Rivera commented on documents she provided to the Board, General Manager, and General Counsel and on information from Government Code section 53296 et al. not being referenced in the District's draft Protection of Whistleblowers policy. She read an excerpt from the District's proposed Board Governance Manual.

## **CONSENT CALENDAR**

- Items 4a-4b were pulled from the Consent Calendar for separate discussion.
  - Motion by Director Linney, seconded by Director Patterson, to approve the recommended actions for Items 1-3 and 5-10 on the Consent Calendar carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 176-24** – Approved the Regular Meeting Minutes of August 27, 2024 and September 10, 2024.
  2. The following correspondence was filed with the Board: 1) Presentation entitled, “Proposition 4,” dated September 24, 2024; 2) Speakers' Bureau and Outreach Record CY24, dated September 24, 2024; 3) Revised Policy 7.03 – Emergency Preparedness/Business Continuity; 4) Revised Policy 4.04 – Financial Planning and Budgetary Control; 5) EBMUD Organization Chart dated January 2024; 6) Memo dated January 8, 2015 from Delores Turner, Manager of Human Resources to the Board of Directors regarding Employer-Employee Relations Policy (Employer-Employee Relations Policy effective 3/13/73 attached); and 7) Document titled Disclosure of Information: Local Government 53296-53299.
  3. **Motion No. 177-24** – Awarded a contract beginning on or after September 24, 2024 to the lowest responsive/ responsible bidder, RFI Enterprises, Inc., for supplying net video recorders and related software licenses for one year, with two options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$334,729 under Request for Quotation No. 2412.
  - 4a. – **Authorize agreements beginning on or after September 24, 2024 with Allied Materials, Inc.; Channa Trucking; CIA Trucking; Curbside Trucking LLC; Darrah Trucking & Excavating, Inc.; EM Blair Trucking; East Bay Trans, Inc.; Edwards-Enterprise LLC; Galray Trucking Inc.; Gloria Washington Trucking, Inc.; Hills Trucking; Robert Ibarra, Inc. dba Ibarra Trucking; Inder Trucking, Inc.; Jackson Transportation; Mae Trucking; Northbay Logistics Group, Inc.; Royal Trucking / Maintenance; S & L Transport, LLC; Sky Rock, Inc.; SMG Trucking; Sudden Sam's Trucking; TGI Freight, LLC; Tri Valley Water Trucks, Inc.; and Wide Area, Inc. for one year in an aggregate amount not to exceed \$5,900,000 for dump truck services; and authorize additional agreements for dump truck services on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on September 24, 2024, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the above service providers to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.**
  - 4b. – Addressing the Board was Eric Larsen, President, AFSCME Local 444 who commented the language in the staff report that said Local 444 did not raise specific issues related to the agreements was inaccurate. He commented on meetings and communications with management regarding the need to hire staff and purchase equipment to perform this work

with District forces and to reduce contracting out. The Board discussed Mr. Larsen's comments and amending the staff report to reflect that the union did raise specific issues related to the agreements. General Manager Clifford C. Chan commented that while the union did express concerns during meetings with management, the union did not object to contracting out under these agreements. Mr. Larsen confirmed Local 444 did not object to the agreements being considered by the Board but reiterated the union did express concerns about vacancies and allocating resources to reduce contracting out for these services. There was additional Board discussion. Manager of Maintenance and Construction/Water Operations Crystal J. Yezman provided information on available equipment, current vacancy levels, and efforts to reduce costs for contracting for these services. There was additional discussion on amending the staff report to document Local 444 concerns. Secretary of the District Rischa S. Cole stated the meeting minutes will reflect Local 444's position and that future staff reports for fully maintained and operated services will reflect any concerns raised by the unions.

- Motion by Director Patterson, seconded by Director Gómez to approve the recommended actions for Items 4a-4b carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 183-24** Authorized agreements beginning on or after September 24, 2024 with Allied Materials, Inc.; Channa Trucking; CIA Trucking; Curbside Trucking LLC; Darrah Trucking & Excavating, Inc.; EM Blair Trucking; East Bay Trans, Inc.; Edwards-Enterprise LLC; Galray Trucking Inc.; Gloria Washington Trucking, Inc.; Hills Trucking; Robert Ibarra, Inc. dba Ibarra Trucking; Inder Trucking, Inc.; Jackson Transportation; Mae Trucking; Northbay Logistics Group, Inc.; Royal Trucking / Maintenance; S & L Transport, LLC; Sky Rock, Inc.; SMG Trucking; Sudden Sam's Trucking; TGI Freight, LLC; Tri Valley Water Trucks, Inc.; and Wide Area, Inc. for one year in an aggregate amount not to exceed \$5,900,000 for dump truck services; and authorized additional agreements for dump truck services on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on September 24, 2024, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the above service providers to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.

5. **Motion No. 178-24** – Authorized an amendment to the agreement originally authorized under Board Motion No. 056-18 with AECOM Technical Services, Inc. to increase the agreement amount by \$1,142,687 to a total amount not to exceed \$3,161,550 for additional design services to complete design of the shortened tower alternative and engineering services during construction for the Lafayette Reservoir Tower Safety Upgrade Project.
6. **Motion No. 179-24** – Authorized an amendment to the contract previously awarded under Board Motion No. 166-20 with AqueoUS Vets dba American Veterans Products and Services, Inc. to increase the contract amount by \$7,000,000 to a total amount not to exceed \$24,500,000 and extend the contract term to February 28, 2026, for supplying ductile iron pipe and fittings for the District's pipeline replacement program.

7. **Motion No. 180-24** – Authorized the purchase of endpoint detection and security response software licensing and support beginning on or after September 24, 2024 from NuSpective, Inc., for three years and three months for a total amount not to exceed \$380,000. This purchase will be made under State of California contracts available for use by local governments.
8. **Motion No. 181-24** Approved the August 2024 Monthly Investment Transactions Report.
9. **Motion No. 182-24** – Authorized the Office of General Counsel to continue the employment of the law firm of Liebert Cassidy Whitmore for specialized legal services related to providing representation in the *Ivette Rivera v. East Bay Municipal Utility District, et al.*, matter.
10. **Resolution No. 35418-24** – Adopting Revised Policy 4.04, Financial Planning And Budgetary Control; Revised Policy 6.08, Contract Equity Program; Revised Policy 6.09, Contractors' Compliance With Equal Employment Opportunity; And Revised Policy 7.03, Emergency Preparedness/Business Continuity.
  - General Manager Clifford C. Chan reported additional modifications to Policy 4.04 and Policy 7.03 were reviewed with the Finance/Administration Committee earlier in the day and the Committee unanimously supported the revisions to all four policies. Copies of the modifications to Policy 4.04 and Policy 7.03 had been provided at Board places.

## **DETERMINATION AND DISCUSSION**

### **11. Legislative Update.**

Manager of Legislative Affairs Kathy Viatella reviewed Legislative Report No. 07-24 which discussed Proposition 4. On July 3, 2024, Senate President Pro Tempore Mike McGuire, serving as Acting Governor, signed into law SB 867 (Allen), known as the Safe Drinking Water Act, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024. SB 867 will appear on the November 5, 2024 general election ballot as Proposition 4, a \$10 billion general obligation bond that, if approved by voters, would fund various natural resources and climate activities. She highlighted the eight main funding categories in Proposition 4 and noted under which categories EBMUD or its partners, including East Bay Regional Park District and the Upper Mokelumne River Watershed Authority may be eligible to compete for funding. Ms. Viatella discussed the proposition's fiscal effects and support and opposition arguments. Staff is recommending the Board approve a support position on Proposition 4. Next, she provided updates on federal and state legislative activities.

- Motion by Director Young, seconded by Director Chan to approve the recommended actions for Item 11 carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 184-24** – Received Legislative Report No. 07-24 and approved a position on the following: SUPPORT Proposition 4 – Authorizes Bonds for Safe Drinking Water, Wildfire Prevention, and Protecting Communities and Natural Lands from Climate Risks (Legislative Initiative).

12. **Adopt a resolution supporting Proposition 4 – Authorizes Bonds for Safe Drinking Water, Wildfire Prevention, and Protecting Communities and Natural Lands from Climate Risks (Legislative Initiative).**

- Motion by Director Gómez, seconded by Director Chan to approve the recommended actions for Item 12 carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Resolution No. 35419-24** – Resolution Supporting Proposition 4 - Authorizes Bonds For Safe Drinking Water, Wildfire Prevention, And Protecting Communities And Natural Lands From Climate Risks (Legislative Initiative).

13. **Adopt a resolution to declare October 2, 2024, to be “California Clean Air Day” at the District and to encourage all employees to participate in California Clean Air Day.**

Environmental Affairs Officer and Co-Chair of the District’s Employee Sustainability Committee Alice E. Towey said the Board is being asked to adopt a resolution to declare October 2, 2024 to be California Clean Air Day at the District. She provided background on California Clean Air Day, the importance of improving air quality for the planet and human health as well as actions that individuals and communities can take to decrease air pollution. If the Board approves the resolution, staff will invite District employees to participate in programs in support of California Clean Air Day.

- Motion by Director Linney, seconded by Director Patterson to approve the recommended actions for Item 13 carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Resolution No. 35420-24** – Resolution Supporting Declaration Of California Clean Air Day.

14. **General Manager’s Report.**

General Manager Clifford C. Chan announced the Speakers’ Bureau and Outreach Record CY24 had been provided at Board places.

**REPORTS AND DIRECTOR COMMENTS**

15. **Committee Reports.**

- Filed with the Board were the Minutes for the September 10, 2024 Planning Committee.
- President Lesa R. McIntosh reported the Board met earlier for the Recycled Water Strategic Plan Workshop No. 2 where staff provided recommendations for future recycled water projects to meet the District’s recycled water goal and information requested by the Board during the March 26, 2024 Recycled Water Strategic Plan Workshop.

- Director April Chan reported the Dublin San Ramon Services District-EBMUD Recycled Water Authority Board (DERWA) met on September 23, 2024 and approved meeting minutes; Treasurer Reports; Quarterly Investment Reports; a Task Order for ICF Jones & Stokes, Inc. for Public Information Services; and Proclamations for Jan Lee and Richard Sykes.
- Chair Andy Katz reported the Finance/Administration Committee met earlier and received an update on the Monthly Investment Transactions Report; Fiscal Year 2024 Key Performance Indicators Report; Revisions to District Policies; and Draft Board of Directors Governance Policies and Proposed Board Governance Manual. Director Katz recommended Board members review the Committee materials which includes a timeline for them to review and provide feedback on the governance policies and proposed Board Governance Manual. General Manager Clifford C. Chan advised staff will provide copies of the documents for the Board to review and provide feedback by October 8.

16. **Other Items for Future Consideration.**

None.

17. **Director Comments.**

- Director Gómez reported attending the 2024 WaterReuse California Conference September 15 – September 17, 2024 in Garden Grove.
- Directors Chan, Katz, Linney, Patterson, Young and President McIntosh had no reports.

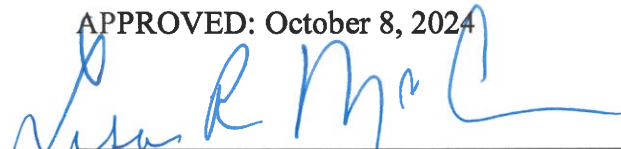
**ADJOURNMENT**

President McIntosh adjourned the meeting at 2:16 p.m.

SUBMITTED BY:

  
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Rischa S. Cole Secretary of the District

APPROVED: October 8, 2024

  
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Lesa R. McIntosh, President of the Board

