



**LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY
AGENDA**

Regular Meeting of the Board of Directors
October 11, 2023 – 9:30 a.m.

To be held at:
ZONE 7 WATER AGENCY
100 North Canyons Parkway
Livermore, CA 94551

JOIN BY ZOOM

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/81404669563>

Or One tap mobile:

+16699006833,,81404669563# (San Jose, US)

Or Telephone 1-669-900-6833 Webinar ID: 814 0466 9563

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available at the Zone 7 Administrative Building lot. If you are a person with a disability and you need disability-related modifications or accommodations to participate in this meeting, please contact the Authority's Clerk at rperea@lagerlof.com. Notification at least 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to ensure accessibility to this meeting. {28 CFR 35.102-35, 104 ADA Title II}.

Members of the public may submit written comments to the Clerk by 4:00 p.m. on the day prior to the meeting for the Clerk to read into the record (subject to three-minute limitation). The meeting Chair will acknowledge such individual(s) at the appropriate time in the meeting prior to making their comment. Materials related to items on this Agenda are available for public review at: www.losvaquerosjpa.com/board-meetings. Each item on the Agenda shall be deemed to include any appropriate motion, resolution, or ordinance, to take action on any item. Members of the public will be disconnected from the meeting prior to any Closed Session, if applicable.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL OF DIRECTORS

Angela Ramirez Holmes, Chair, Zone 7 Water Agency
Anthea Hansen, Vice Chair, San Luis & Delta-Mendota Water Authority
Ellen Wehr, Secretary, Grassland Water District
Paul Sethy, Treasurer, Alameda County Water District
Antonio Martinez, Director, Contra Costa Water District
Michael Tognolini, Director, East Bay Municipal Utility District
Dennis Herrera, Director, San Francisco Public Utilities Commission
Rebecca Eisenberg, Director, Santa Clara Valley Water District
TBD, Director – Ex Officio - Department of Water Resources

ALTERNATE DIRECTORS

Jonathan Wunderlich, Alternate Director, Alameda County Water District
Patt Young, Alternate Director, Contra Costa Water District
Lesa McIntosh, Alternate Director, East Bay Municipal Utility District
Ricardo Ortega, Alternate Director, Grassland Water District
Steve Ritchie, Alternate Director, San Francisco Public Utilities Commission
Jose Gutierrez, Alternate Director, San Luis & Delta-Mendota Water Authority
Richard Santos, Alternate Director, Santa Clara Valley Water District
Sandy Figuers, Alternate Director, Zone 7 Water Agency
TBD, Alternate Director – Ex Officio, Department of Water Resources

PUBLIC COMMENT ON NON-AGENDA ITEMS

Any member of the public wishing to address the Board of Directors regarding items not on the Agenda should do so at this time. The Board welcomes your comments and requests that speakers present their remarks within established time limits and on issues that directly affect the Authority or are within the jurisdiction of the Authority.

CONSENT CALENDAR

- 1.1 Approval of Minutes from September 13, 2023 Board of Directors Meeting**
- 1.2 Treasurer’s Report – Month Ended August 31, 2023**
- 1.3 JPA June FY23 Closeout Treasurer's Report**

ACTION ITEMS

- 2.1 Approval of Contract with Audit Firm**
- 2.2 Appointment of Auditor for FY 2023**
- 2.3 Approval of Contract with Bond Counsel Firm**

DISCUSSION ITEMS

- 3.1 Interim Financing Update**
- 3.2 Permitting Update**
- 3.3 Washington D.C. Engagement Trip and Related Meetings**
- 3.4 Program Management Update**
 - **Agreements Schedule and Update**
 - **JPA Cost Estimate Update**
 - **September Activities**

FUTURE AGENDA ITEMS

REPORTS

- 4.1 Directors**
- 4.2 Executive Director**
- 4.3 General Counsel**
- 4.4 Committee Meeting Summaries**

ADJOURNMENT

CONSENT CALENDAR

ITEM 1.1: APPROVAL OF MINUTES FROM SEPTEMBER 13, 2023 BOARD OF DIRECTORS MEETING

RESPONSIBLE/LEAD STAFF MEMBER:

James Ciampa, General Counsel

RECOMMENDATION:

That the Authority's Board of Directors approve the attached minutes from the September 13, 2023 Board of Directors meeting.

DISCUSSION:

The Clerk, General Counsel and Executive Director have prepared the attached draft minutes from the September 13, 2023 Board of Directors meeting.

ALTERNATIVES:

Any suggested revisions to the draft September 13, 2023 Board meeting minutes will be considered.

FISCAL ANALYSIS:

Not applicable.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

Draft minutes from September 13, 2023 Board of Directors meeting.



LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY

MINUTES

Regular Meeting of the Board of Directors

Held at: **ZONE 7 WATER AGENCY**

100 North Canyons Parkway, Livermore, CA 94551

September 13, 2023 – 9:30 a.m.

Vice Chair Anthea Hansen called the meeting to order at 9:32 a.m.

PLEDGE OF ALLEGIANCE – led by Vice Chair Anthea Hansen

ROLL CALL OF DIRECTORS

Angela Ramirez Holmes, Chair, Zone 7 Water Agency (by telephone)

Anthea Hansen, Vice Chair, San Luis & Delta-Mendota Water Authority

Ellen Wehr, Secretary, Grassland Water District

Paul Sethy, Treasurer, Alameda County Water District

Antonio Martinez, Director, Contra Costa Water District

Michael Tognolini, Director, East Bay Municipal Utility District

Rebecca Eisenberg, Director, Santa Clara Valley Water District (arrived at 9:46 a.m.)

ALTERNATE DIRECTORS

*Steve Ritchie, Alternate Director, San Francisco Public Utilities Commission

*Richard Santos, Alternate Director, Santa Clara Valley Water District (participated on behalf of Santa Clara Valley Water District until Director Eisenberg arrived)

*Participated in place of absent Director

ABSENT

Dennis Herrera, Director, San Francisco Public Utilities Commission

Jonathan Wunderlich, Alternate Director, Alameda County Water District

Patt Young, Alternate Director, Contra Costa Water District

Lesa McIntosh, Alternate Director, East Bay Municipal Utility District

Ricardo Ortega, Alternate Director, Grassland Water District

Jose Gutierrez, Alternate Director, San Luis & Delta-Mendota Water Authority

Sandy Figuers, Alternate Director, Zone 7 Water Agency

OTHERS PRESENT

Taryn Ravazzini, Executive Director
James Ciampa, Lagerlof, LLP, General Counsel
Chuck Gardner, Program Manager, Hallmark Group
Jessica Alwan, Program Manager, Hallmark Group
Maddy Benner, Hallmark Group
John Bezdek, Water and Power Law Group PC
David Moore, Clean Energy Capital
Rosemarie Perea, Board Clerk (by telephone)
Norma Alley, Assistant Board Clerk

Numerous others were present in person and by telephone.

Vice Chair Hansen noted changes in Contra Costa Water District’s Board representation. Antonio Martinez, formerly that district’s Alternate Director is now Director and Patt Young now serves as CCWD’s Alternate Director. Vice Chair Hansen welcomed Alternate Director Young to the Authority.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Vice Chair Hansen called for public comments on non-agenda items. None were received.

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

- 1.1 Approval of Minutes from August 9, 2023 Board of Directors Meeting**
- 1.2 Treasurer’s Report – Month Ended July 31, 2023**

Vice Chair Hansen called for public comments. None were received.

Upon motion by Director Martinez, seconded by Alternate Director Santos, the Consent Calendar, was approved by the following roll call vote:

AYES: Angela Ramirez Holmes, Chair, Zone 7 Water Agency
 Anthea Hansen, Vice Chair, San Luis & Delta-Mendota Water Authority
 Ellen Wehr, Secretary, Grassland Water District
 Paul Sethy, Treasurer, Alameda County Water District
 Antonio Martinez, Director, Contra Costa Water District
 Michael Tognolini, Director, East Bay Municipal Utility District
 Richard Santos, Alternate Director, Santa Clara Valley Water District
 Steve Ritchie, Alternate Director, San Francisco Public Utilities Commission

NOES: None
ABSENT: None
ABSTAIN: None

The motion passed with an 8-0 vote.

ACTION ITEMS

None.

DISCUSSION ITEMS

2.1 Construction Cost Estimate Update

Chuck Gardner, LVR JPA Program Manager, and Chris Hentz, CCWD LVE Project Engineering Manager, provided an overview of the recently completed Project cost update. The June 2023 Project Cost Update was prepared by Contra Costa Water District and its capital programs team of GEI Consultants and Parsons. The estimate is consistent with the June 2023 updated project schedule and provides the most current anticipated costs to plan, design, manage, construct, and permit the facilities associated with the Project.

Cost increases have been driven by design refinements, general escalation, increased construction management costs, construction services costs associated with the Marina relocation, increased staffing and labor costs, funding for water supply alternative conveyance, and inflation resulting from Project delays. Approximately ten percent of the increase is attributable to the schedule delays and additional increases result from increased steel costs for the Transfer-Bethany Pipeline and other facilities.

Treasurer Paul Sethy asked how the increased costs of the Project will be funded. Executive Director Ravazzini noted that \$477 million is expected from the California Water Commission, which is the maximum amount allowed and that amount is fixed. The Authority will apply for the maximum allowed under the WIFIA loan and David Moore of Clean Energy Capital noted the Authority has the ability to increase that loan amount by up to twenty percent from the \$675 million initially approved. Other options would be to issue bonds or other financing or members could contribute monies in lieu of financing.

Director Martinez asked if the CCWD backstop water costs are included in the cost estimate. Mr. Hentz responded that \$3 million has been added as a placeholder amount in the dam expansion costs, but he stated that amount may increase based on EBMUD supply constraints. Mr. Hentz also stated that amount was based on a normal water year and there could be higher costs if dry years are encountered while the reservoir is out of service. Director Eisenberg expressed concern with the use of a normal year for estimating purposes in light of ongoing climate change and thought the estimate should reflect a worst-case scenario. Mr. Hentz noted Project reserves will be sufficient to cover any cost differential.

In connection with the Construction Schedule summary, Treasurer Sethy asked why the Transfer-Bethany Pipeline is scheduled to take so long. Mr. Hentz stated that design schedule includes time for land acquisition, which is the critical path and depends on the timing of California Water Commission funding approval. Secretary Wehr stated members may be able to provide assistance with some issues, including land mitigation issues. She also wants to ensure the Authority pursues inflation increases on both state and federal funding.

Chair Angela Ramirez Holmes asked that the lead agency for various Project components be included in the cost summary. She also asked for clarification on the “Next Steps” slide as to what

“Convene Review and Refinement Workshops for Schedule and Cost Estimate” means. David Moore advised the Pro Forma Model will be updated with new inputs in the next few weeks for distribution to the members and workshops will take place on that updated information. Chair Ramirez Holmes also stated she would like to see an overall schedule with respect to the Service Agreement and other Project agreements. Alternate Director Ritchie agreed and stated it is important to have an integrated schedule of construction, costs and agreement development.

Vice Chair Hansen called for public comments. None were received.

2.2 Washington D.C. Engagement Trip and Related Meetings

Executive Director Taryn Ravazzini noted that since the Authority’s successful introductory trip to Washington, D.C. in September 2022, the Project has been allocated \$110 million in combined federal funding from the Bipartisan Infrastructure Law and the WIIN Act. With continued interest in the Project from members of Congress, it is important for the Authority to engage in another trip to Washington D.C. to meet in person with elected officials. She stated the trip will have an educational focus and will provide an update on the status of the Project. The proposed delegation will consist of Chair Ramirez Holmes, representing urban Authority members, Vice Chair Hansen, representing agricultural members and Secretary Wehr, representing the refuges. Key messaging continues to be developed and talking points and updated leave behind materials will be shared with Members in advance.

John Bezdek, the Authority’s Federal Advocate with Water and Power Law Group, stated it is important for the Authority to reinforce the need for additional funding under the WIIN Act, which is a priority in light of ongoing federal budget discussions. He also emphasized the importance of personal meetings with the Project’s principals.

Director Martinez stated he would like to have all materials at least a week before the trip to provide adequate time to review the materials. He also expressed a concern about possible misrepresentation of the timing of the Project and various Project agreements in light of ongoing open issues.

Director Tognolini asked what is new with the Authority from last year’s trip that necessitates this trip. Executive Director Ravazzini reviewed the Authority’s accomplishments over the past year, including improving the working relationship with the Bureau of Reclamation. Director Tognolini stated the Authority needs to focus on the real issues it faces that need to be resolved in the next few months.

Director Eisenberg noted she feels the trip is very important and she wants to receive feedback from the meetings that occur. Director Ravazzini stated she intends to provide specific meeting notes to the Board members. In response to Director Martinez’s request for talking points at least one week before the trip, these will be prepared following the September 21 leadership workshop with the Bureau of Reclamation.

Chair Ramirez Holmes noted much has happened this past year, that it is important to try to access funding wherever possible and that it is important to continue to build relationships with federal representatives. She acknowledged there is never a perfect time, as the Authority will constantly be juggling multiple issues.

Federal Advocate Bezdek noted that nothing is more important to a congressional office than actually meeting the principals of a project. Additionally, significant work remains to be done and that message is best delivered in person. Executive Director Ravazzini noted it is important to let members of Congress and federal partners know the Authority and Project are still moving forward. Vice Chair Hansen stated the timing of the trip is important and the communication piece is also important.

Vice Chair Hansen called for public comments. None were received.

2.3 Program Management Update

- August Activities
- Fall ACWA Conference
- Outreach and Communications

Chuck Gardner, Program Manager, presented a status update on the transition of administration from CCWD to the Authority as well as ongoing program management activities. Monthly standing updates noted in the presentation included status of Authority contract authorizations, budget, schedule, and agreements. Procurement activities continue with review of proposals for audit services as well as the pending request for proposals for bond counsel services. Continued progress toward drafting project agreements has been made and an updated schedule of those agreements was presented. In addition, a new column reflecting which entity has current responsibility for a particular agreement was added to the summary table.

Mr. Gardner stated the Authority is planning to hold a reception at the ACWA Fall Conference in Indian Wells in late November. Also, the Authority is looking into opportunities for participation on panels and providing Project presentations during that conference.

The communications team conducted a comprehensive communications audit, which included the Authority's current informational materials, website, newsletter, social media, media relations, branding and messaging. Results and recommendations from that audit were used to develop a draft outline for the strategic communications plan which was presented to the Communications and Outreach Committee at its August meeting. The complete communications plan will be developed to align with and build on the overarching goals and priorities to be approved by the Board of Directors. Plan elements will encompass target audiences, communications coordination process, message platform, strategies, tactics, outreach schedule, and methods for evaluation. An overview of upcoming activities was further detailed in the presentation.

A videographer has been selected for the production of a Project overview/virtual tour video, as required by the California Water Commission for any project receiving funding from the Proposition 1/Water Storage Investment Program (WSIP).

Secretary Wehr inquired as to the status of the audit proposal. Executive Director Ravazzini stated the Authority's Audit Policy requires the Finance Committee to first review and make recommendations concerning engagement of the auditor and the auditor selection item will therefore be considered at the September 18 Finance Committee meeting prior to bringing it before the Board at its October 11 meeting.

Vice Chair Hansen inquired about the fact that only \$1,322 was reflected as costs paid to CCWD. Mr. Hentz responded that is a timing issue with respect to consultants' invoices and payments. Vice Chair Hansen also mentioned that on the Authority Budget Report, the column titled "Actual Costs to Date" should be revised to "Paid Costs to Date" to more accurately reflect the nature of the figures in that column. Mr. Gardner stated he will make that change.

On the Planning Phase Funding Schedule, Treasurer Sethy inquired as to what "Section 106" referred. Mr. Gardner stated those figures referred to various permitting milestones.

Director Martinez expressed his concern that the CCWD-EBMUD Backstop Agreement is reflected as being 25% complete. He stated those negotiations have not yet started and he stressed the importance of that agreement as it is necessary for CCWD to meet its needs to provide water service to its customers.

Mr. Gardner then discussed upcoming next steps, including award of the auditor contract at the October Board meeting, ongoing actions to engage Authority bond counsel and drafting of the communications plan for review at the October Communications and Outreach Committee meeting.

Vice Chair Hansen called for public comments. None were received.

FUTURE AGENDA ITEMS

- Further cost update
- Auditor and Bond Counsel recommendations
- Report on Washington DC trip

REPORTS

3.1 Directors

Ad Hoc Committee on CCWD Design and Construction Agreement

This ad hoc committee was established to address issues relating to the CCWD Design and Construction Agreement. The committee met on August 17 and August 23 to discuss CCWD's proposed revisions and to provide direction to Authority staff with respect to proposed changes to the draft term sheet. The draft term sheet has been revised and committee members' comments consolidated. Those comments were provided to CCWD on August 28. The Executive Director and Program Manager met with Chris Hentz, LVE Project Engineering Manager at CCWD, on August 31 to discuss those revisions and comments. Staff level coordination will continue while the Authority awaits a formal response from CCWD.

Secretary Wehr discussed the August 24 meeting with Bureau of Reclamation policy representatives from the Bureau's Denver office. She attended that meeting and provided an overview of the Project and its refuge benefits.

3.2 Executive Director

Executive Director Ravazzini stated her report is included in the meeting materials. She thanked

Secretary Wehr for her attendance at the August 24 meeting with the Bureau of Reclamation representatives and for the overview of all of the Project’s wildlife refuge benefits. She also thanked Maureen Martin for her presentation at that meeting.

She reported that Amendment No. 5 to the Multi-Party Cost Share Agreement has been fully executed, that she has cast the Authority’s votes for ACWA President and Vice President and the CCWD Facilities Usage Agreement Ad Hoc Committee will be meeting soon. She also reported on the initial meeting with the California Department of Fish and Wildlife to commence the Contract for Administration of Public Benefits process.

3.3 - General Counsel

No report.

3.4 Committee Meeting Summaries

The following committee Meeting Summaries were included for the Board’s review:

- O&E Committee Meeting Summary – August 17, 2023
- Communications Committee Meeting Summary – August 23, 2023
- Finance Committee Meeting Summary August 24, 2023

Director Martinez stated that members should be provided drafts of Authority press releases for their review before those press releases are finalized and distributed. Executive Director Ravazzini stated the draft press release on the recent federal funding award was provided to the members’ communications teams before it was finalized and distributed. She also stated that process will be set forth in the communications plan to be developed. Chair Ramirez Holmes emphasized the Authority is a separate entity.

The meeting was adjourned at 11:32 a.m.

Angela Ramirez Holmes, Chair

ATTEST:

Ellen Wehr, Secretary

ITEM 1.2: TREASURER’S REPORT – MONTH ENDED AUGUST 31, 2023

RESPONSIBLE/LEAD STAFF MEMBER:

Taryn Ravazzini, Executive Director

DISCUSSION:

Staff has prepared the Treasurer’s Report for August 2023. This report was reviewed by the Finance Committee at its September 18, 2023 meeting.

ALTERNATIVES:

For discussion purposes.

FISCAL ANALYSIS:

None.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

Treasurer’s Report for Month Ended August 31, 2023.



TREASURER’S MONTHLY REPORT FOR THE PERIOD ENDED AUGUST 31, 2023

SEPTEMBER 18, 2023

UPCOMING ACTIVITIES

October 26 at 1:00 p.m. – Finance Committee Meeting via Zoom

FINANCE COMMITTEE

Chair: Anthea Hansen, SLDMWA
Vice-Chair: Paul Sethy, ACWD
Rebecca Eisenberg, SCVWD
Michael Tognolini, EBMUD

ACRONYM KEY

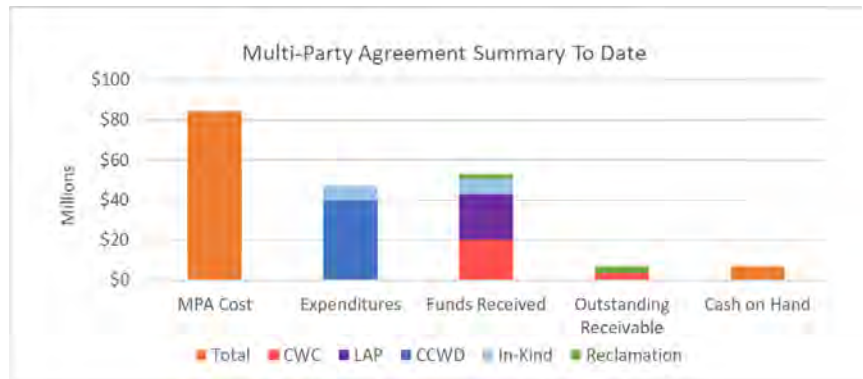
ACWD – Alameda County Water District
CCWD – Contra Costa Water District
CWC – California Water Commission
EBMUD – East Bay Municipal Utility District
LAP – Local Agency Partners
MPA – Multi-party Cost Share Agreement
SCVWD – Santa Clara Valley Water District (Valley Water)
SLDMWA – San Luis & Delta-Mendota Water Authority

MULTI-PARTY AGREEMENT STATUS

Amendment No. 5 to the Multi-Party Cost Share Agreement (MPA) has been fully executed by the JPA, CCWD and all other JPA Members. The first invoice of \$619,500 was mailed to the seven participating member agencies on September 1, 2023.

MPA EXPENDITURES

The following chart provides an overview of the MPA expenditures through August 31, 2023, in addition to in-kind services, funds received, outstanding receivable, and cash on hand. All LAPs remain in good standing and the Project cash on hand remains positive.



MPA Cost: \$84,610,865 (through Amendment No. 5)

Expenditures:
CCWD: \$39,451,750
LVRJPA: \$517,824 (Consultants and Legal)
In-kind: \$7,703,368 (LAPs and Reclamation)
Total: \$47,672,942

Funds Received:
CWC: \$19,944,222
Reclamation: \$2,420,227
LAP: \$22,853,077 (cash contributions)
In-kind: \$7,703,368 (LAPs and Reclamation)
Total: \$52,920,894

Outstanding Receivables:
CWC: \$3,648,020 (invoices and retention)
Reclamation: \$3,025,702
LVRJPA: \$4,336,500 (LAPs)

Cash on Hand:
CCWD: \$7,035,669
LVRJPA: \$1,425,000

FEDERAL FUNDING STATUS

On July 27, 2023, the Bureau of Reclamation announced an additional allocation of \$10M to the project increasing Federal funding under the Bipartisan Infrastructure Law to a total of \$92M.

A total of \$82 million was allocated to the Project in the Bipartisan Infrastructure Law FY22 Spend Plan. The Authority was allocated \$18 million in FY23 from the Water Infrastructure Improvements for the Nation (WIIN) Act. Previous awards of Federal funding during FY21 and FY22 include \$10 million in pre-construction funding and \$54 million in construction funding. CCWD executed an assistance agreement with Reclamation for a total of \$7.2 million in federal funding for permitting, design, and other pre-construction activities and Reclamation has paid the first two invoices. Staff are working with Reclamation to develop an amendment to allocate approximately \$800,000 in additional pre-construction funding.

Future Federal funding requests include the remainder of the requested federal share of 21 percent of the total project cost (approximately \$39 million).

STATE FUNDING STATUS

The Project qualified for funding under the Water Storage Investment Program and received an adjusted Maximum Conditional Eligibility Determination of \$477,558,343 from the California Water Commission (CWC) on March 16, 2022. This amount reflects an additional inflation adjustment of 1.5 percent and an increase in over \$7 million from the previous award.

The Early Funding Agreement with the CWC provides for a cost share of 50 percent of eligible costs during pre-construction. An amendment was executed in November 2022 that extended the agreement through December 31, 2023 and added \$927,917 in additional early funding as a result of the inflation adjustments to the total award amount. The summary below reflects the Total Budget and other budget status information of the amended Early Funding Agreement.

Early Funding Agreement Summary to Date:

Total Budget:	\$47,755,834
Total Program Funding:	\$23,877,917 (50 percent cost share)
Total Billed To Date:	\$47,184,484 (99% spent to date)
Total Amount Remaining:	\$571,350
Total Retention To Date:	\$160,369
Outstanding Invoices:	\$3,648,020

ITEM 1.3: JPA JUNE FY23 CLOSEOUT TREASURER'S REPORT

RESPONSIBLE/LEAD STAFF MEMBER:

Jacqueline Harris, Program Controls Manager

DISCUSSION:

The closeout of the JPA's FY23 resulted in updated cost information that was not yet known at the time the June 2023 Treasurer's Report was originally issued. Since then, CCWD has completed the accounting and closeout of the JPA's FY23. As a result, the JPA has issued an updated June 2023 Treasurer's Report reflecting additional funding sources and expenditures that occurred on or before June 30, 2023.

Summary of updates to the June 2023 Treasurer's Report following the FY23 closeout:

- MPA Cost increased \$19M due to the execution of MPA 5.
- Expenditures increased \$454K due to additional costs reported by CCWD for consultants and labor and in-kind services from LAPs.
- Received funds increased \$269K from LAP in-kind services.
- Outstanding receivables increased due to draw requests submitted to Reclamation and CWC, \$3.3M and \$3M, respectively.
- Cash on hand decreased \$7M due to payment of outstanding FY23 invoices.
- Early Funding Agreement summary reflects additional draw requests submitted for final FY23 costs incurred June 30, 2023 and prior.

ALTERNATIVES:

For discussion purposes.

FISCAL ANALYSIS:

Not applicable.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

Updated June 2023 Treasurer's Report.



TREASURER’S MONTHLY REPORT REVISED JUNE 2023 – FY2023 CLOSE-OUT

SEPTEMBER 18, 2023

UPCOMING ACTIVITIES

July 26 at 1:00 p.m. – Finance Committee Meeting via Zoom

August (TBD) – Finance workgroup and subgroup meetings (Draft Term sheet and Service Agreement Development)

August 24 at 1:00 p.m. – Finance Committee Meeting via Zoom

Finance Committee Members:
Chair: Anthea Hansen, SLDMWA
Vice-Chair: Paul Sethy, ACWD
Rebecca Eisenberg, SCVWD
Michael Tognolini, EBMUD

ACRONYM KEY

ACWD – Alameda County Water District

CCWD – Contra Costa Water District

CWC – California Water Commission

EBMUD – East Bay Municipal Utility District

LAP – Local Agency Partners

MPA – Multi-party Cost Share Agreement

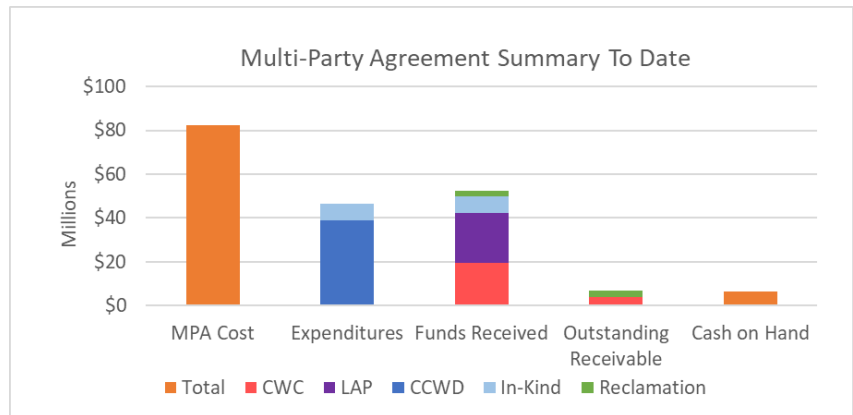
SCVWD – Santa Clara Valley Water District (Valley Water)

SLDMWA – San Luis & Delta-Mendota Water Authority

MULTI-PARTY AGREEMENT STATUS

Amendment No. 5 to the Multi-party Cost Share Agreement (MPA) was previously executed by the JPA and CCWD and is being routed electronically to each JPA Member following their approval. The first invoice of \$619,500 per agency will be sent to JPA Member agencies in September 2023.

The following chart provides an overview of the MPA expenditures through June 30, 2023 in addition to in-kind services, funds received, outstanding receivables, and cash on hand. All LAPs remain in good standing and the Project cash on hand remains positive.



MPA Cost: \$82,510,865 (through Amendment No. 5)

Expenditures:
CCWD: \$38,751,374 (Consultants and Legal)
In-kind: \$7,654,368 (LAPs and Reclamation)
Total: \$46,405,742

Funds Received:
CWC: \$19,520,639
Reclamation: \$2,420,227
LAP: \$22,853,077 (cash contributions)
In-kind: \$7,654,368 (LAPs and Reclamation)
Total: \$52,448,311

Outstanding Receivables:
CWC: \$4,071,603 (invoices and retention)
Reclamation: \$3,025,702 (invoices and retention)
LAP: \$0

Cash on Hand: \$6,612,085

FEDERAL FUNDING STATUS

A total of \$82 million was allocated to the Project in the Bipartisan Infrastructure Law FY22 Spend Plan and Reclamation recommended \$18 million of Water Infrastructure Improvements for the Nation (WIIN) Act to be allocated in FY23. Previous awards of Federal funding during FY21 and FY22 include \$10 million in pre-construction funding and \$54 million in construction funding. CCWD executed an assistance agreement with Reclamation for a total of \$7.2 million in federal funding for permitting, design, and other pre-construction activities and Reclamation has paid the first two invoices. Staff are working with Reclamation to develop an amendment to allocate approximately \$800,000 in additional pre-construction funding.

Future Federal funding requests include the remainder of the requested federal share of 21 percent of the total project cost (approximately \$49 million).

STATE FUNDING STATUS

The Project qualified for funding under the Water Storage Investment Program and received an adjusted Maximum Conditional Eligibility Determination of \$477,558,343 from the California Water Commission (CWC) on March 16, 2022. This amount reflects an additional inflation adjustment of 1.5 percent and an increase in over \$7 million from the previous award.

The Early Funding Agreement with the CWC provides for a cost share of 50 percent of eligible costs during pre-construction. An amendment was executed in November 2022 that extends the agreement through December 31, 2023 and included \$927,917 in additional early funding that is now available as a result of the inflation adjustments to the total award amount. The summary below reflects the Total Budget and other budget status information of the amended Early Funding Agreement.

Early Funding Agreement Summary to Date:

Total Budget:	\$47,755,834
Total Program Funding:	\$23,877,917 (50 percent cost share)
Total Billed To Date:	\$47,184,484 (99% spent to date)
Total Amount Remaining:	\$571,350
Total Retention To Date:	\$160,369
Outstanding Invoices:	\$3,603,693

ACTION ITEMS

ITEM 2.1: APPROVAL OF CONTRACT WITH AUDIT FIRM

RESPONSIBLE/LEAD STAFF MEMBER:

Taryn Ravazzini, Executive Director

RECOMMENDATION:

That the Authority's Board of Directors approve the agreement with C.J. Brown and Company CPAs to provide financial statement audit services to the Authority for a one-year period with an option to extend for two years.

DISCUSSION:

The Authority is required by law and under its Joint Exercise of Powers Agreement to conduct annual audits of its financial statements. The Authority Audit Policy was established and adopted by the Board in July 2023. This policy ensures compliance, establishes audit timing, and guides selection and ongoing engagement with a qualified auditing firm.

In compliance with the Audit Policy, staff has coordinated with the Finance Committee to develop and distribute the request for proposals and received responses from two prospective auditing firms before the policy deadline of August 31, 2023. A review panel consisting of finance staff from the member agencies and the Authority have reviewed the two proposals received, interviewed both responding firms and facilitated client reference inquiries. Based on the proposals submitted, interviews conducted and references received, C.J. Brown and Company CPAs was the recommended candidate to provide the required financial statement audit services.

C.J. Brown and Company CPAs provided their peer review report as requested in the Authority's request for proposals. The firm's peer review report identified certain deficiencies in their system of quality control. Additional due diligence was performed by Authority staff during and after the interview. To address any potential concern around the peer review report, Authority staff recommended to the Finance Committee a one-year contract with C.J. Brown for audit services with an option to extend for two years. That structure will allow for a performance review while also offering the potential for a three-year total term as discussed with the Board and stated in the request for proposals. The Finance Committee reviewed this matter at its September 18, 2023 meeting and was agreeable with the review panel's recommendation.

ALTERNATIVES:

The Board could request further proposals be solicited, although such further solicitation would not allow the Authority to meet the timeline established by the audit policy.

FISCAL ANALYSIS:

C.J. Brown and Company CPAs quoted a \$6,250 all-inclusive maximum fee for the Authority's FY23 audit.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

Audit Selection presentation.

JPA Financial Statement Audit Professional Services Agreement.

The logo for the Los Vaqueros Reservoir Expansion Project is centered in the upper half of the image. It features the words "LOS VAQUEROS" in a bold, blue, sans-serif font. Below this, "RESERVOIR EXPANSION PROJECT" is written in a green, sans-serif font. To the right of the text is a vertical graphic element consisting of four stacked, trapezoidal shapes that resemble a dam or a reservoir cross-section, colored in shades of blue and green.

LOS VAQUEROS RESERVOIR EXPANSION PROJECT

The background of the slide is a scenic landscape photograph. It shows rolling green hills under a clear sky. In the middle ground, a large blue reservoir is visible, surrounded by a concrete dam structure. Several wind turbines are scattered across the hills in the distance. The foreground shows a paved road and some trees on a grassy slope.

LVE Financial Statement Audit Services
October 11, 2023



Background

- Audit Policy adopted by Authority Board in July 2023
- Timing notes receipt of proposals by August with consideration by Finance Committee in September, then before the Authority Board in October
- Authority RFP process was expedited to meet these deadlines and developed in coordination with Finance Committee
- Considered a low-risk audit



Responses

- Two proposals were received
- Timing challenges for firm response due to end of fiscal year
- Both candidates interviewed
- Peer review quality control deficiency noted and addressed
- Recommendation brought before Finance Committee in September
- Finance Committee agreeable to recommendation



C.J. Brown & Company

- Many years of comparable public entity audit experience
- CPA's leading audit team
- Fair cost proposal for level of effort
- Commitment to Authority timing requirements
- Positive references



Recommendation

- Authority award agreement to C.J. Brown & Company
- \$6,250 all-inclusive maximum fee for the Authority's FY23 audit
- Single year agreement with two-year option for extension

AGREEMENT FOR PROFESSIONAL SERVICES
LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY
Standard Services Agreement – Financial Statement Audit Services

THIS AGREEMENT FOR PROFESSIONAL Services is between Los Vaqueros Reservoir Joint Powers Authority (“JPA”) and C.J. Brown & Company CPAs (the "Consultant"). Consultant’s address is 10805 Holder Street, Suite 150, Cypress, California 90630. Consultant’s taxpayer’s identification number is: _____.

1. The Agreement; Changes. JPA and Consultant agree that Consultant shall provide financial audit services to the JPA and shall perform those services on the terms and conditions set forth herein. The specific scope of services (the “Services”) is defined in Attachment A - Scope of Work.

The following documents are attached hereto and is a part of this Agreement:

Attachment A – Scope of Work
Attachment B – Fees

This Agreement, including said attachments, constitutes the entire agreement between the parties and supersedes any prior proposals, representations, or understandings. This Agreement may be modified only by a written amendment signed by each party and tasks other than those specifically described herein shall not be performed without prior written approval of the JPA.

If the JPA requires changes in the tasks or scope of work shown in Attachment A or additional work not specified therein, then the JPA will prepare a written change order. If Consultant believes work or materials are required outside the tasks or scope of work described in Attachment A, it shall submit a written request for a change order to the JPA. A change order must be approved and signed by the JPA’s Executive Director, in accordance with JPA policy, and Consultant before Consultant performs any work outside the scope of work shown in Attachment A. The JPA will not have any responsibility to compensate Consultant for such work without an approved and signed change order. If the change order will result in an increase in the contract amount, then the change order must specify the change in the agreed upon amount for the particular revised Services to be provided.

2. Time of Performance. Consultant is authorized to commence performance of this Agreement upon its execution by the JPA. Unless earlier terminated as set forth herein, this Agreement shall expire and terminate in connection with the services to be provided for the JPA’s Fiscal Year ended June 30, 2023, unless this date is extended by the JPA in writing; subject to the JPA’s option to extend the term for individual one (1) year periods for two (2) subsequent fiscal years. Consultant shall give its full attention and supervision to the fulfillment of the provisions of this Agreement by its employees and any subconsultant and shall be responsible for the timely performance of the Services required by this Agreement.

3. Payment. Only those Services, materials, administrative, overhead and travel expenses specifically listed in Attachment B will be charged and paid. No other costs will be

paid. Consultant agrees not to invoice the JPA for any administrative expenses, overhead or travel time in connection with the Services, unless agreed upon and listed in Attachment B. Consultant shall submit itemized statements of Services performed at the rates and charges set forth in Attachment B. Such invoices must be submitted within thirty (30) days after Consultant has completed its Services for a particular fiscal year. The JPA shall pay for work performed in accordance with professional standards within thirty (30) days after receipt of a statement. Consultant shall keep records of all Services and costs billed pursuant to this Agreement for at least a period of five (5) years after completion of the Services and shall make them available for review and audit if requested by the JPA.

4. Consultant an Independent Contractor. Consultant shall perform the Services under the Agreement as an independent contractor and not as an employee of the JPA. Consultant shall be wholly responsible for the methods of performance and shall furnish, at Consultant's own expense, all labor, materials, equipment and transportation necessary for the successful completion of the Services. The JPA shall have no right to supervise or control Consultant's performance but shall have the right to observe it to ensure compliance with the requirements of this Agreement and Consultant will coordinate various aspects of the Services with the JPA's Executive Director, or their designee, in light of the nature of the project. Consultant maintains its own business office, complies with all applicable business license laws, customarily engages in an independently established business the purposes of which is to perform services of the same nature as that involved in the work performed hereunder, can contract with other businesses to provide the same or similar services, maintains a clientele without restrictions from the JPA and advertises and holds itself out to the public as available to provide the same or similar services as those required hereunder. Consultant shall work closely with the JPA in performing the Services.

Consultant shall be solely responsible for the payment of all federal, state and local income tax, social security tax, Workers' Compensation insurance, state disability insurance, and any other taxes or insurance that Consultant, as an independent contractor, is responsible for paying under federal, state or local law. Consultant is thus not eligible to receive workers' compensation, medical, indemnity or retirement benefits, including, but not limited to, enrollment in CalPERS. Consultant is not eligible to receive overtime, vacation or paid sick leave. Consultant shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of JPA.

Consultant represents and warrants that in the process of hiring Consultant's employees who participate in the performance of Services, Consultant conducts such lawful screening of those employees (including, but not limited to, background checks and Megan's Law reviews) as are appropriate and standard for employees who provide Services of the type contemplated by this Agreement.

5. Insurance.

A. Without in any way limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage:

(1) Workers' Compensation, in not less than statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence, \$2,000,000 aggregate, for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Non-Owned and Hired auto coverage, as applicable; and

(4) Professional liability insurance, applicable to Consultant's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement. Such coverage shall be placed with a carrier with an A.M. Best rating of no less than A-: VII, or equivalent. The retroactive date (if any) of such insurance coverage shall be no later than the effective date of this Agreement. In the event the Consultant employs sub-Consultants as part of the Services covered by this Agreement, Consultant shall be responsible for requiring and confirming that each sub-Consultant meets the minimum insurance requirements specified herein.

B. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to:

(1) Name as Additional Insureds, the JPA, its members and their respective directors, officers, agents, employees, and volunteers. Consultant will file with JPA, before beginning to provide the Services, ACORD certificates of insurance, or other certificates of insurance satisfactory to JPA, evidencing general liability coverage of not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage; automobile liability (owned, scheduled, non-owned or hired) of at least \$1,000,000 for bodily injury and property damage each accident limit; requiring 30 days (10 days for nonpayment of premium) notice of cancellation to JPA. For the coverage required under this paragraph, the insurer(s) shall waive all rights of subrogation against the JPA, and its members, directors, officers, agents, attorneys, consultants or volunteers. Any insurance pool coverage, or self-insurance maintained by the JPA shall be excess of the Consultant's insurance and shall not contribute to it.

(2) The general liability coverage shall give JPA, and its members, directors, officers, agents, attorneys, consultants and authorized volunteers additional insured status using ISO endorsement CG2010, CG2033, or equivalent. Coverage shall be placed with a carrier with an A.M. Best rating of no less than A: VII, or equivalents. In the event that the Consultant employs a sub-consultant as part of the work covered by the Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum

insurance requirements specified herein, including naming the JPA, and its members, directors, officers, agents, attorneys, consultants and volunteers and the Consultant as Additional Insureds.

(3) Provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

C. Regarding Workers' Compensation, Consultant hereby agrees to waive its rights to subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

D. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of four years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

E. Before commencing any work under this Agreement, Consultant shall furnish to the JPA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to the JPA, in form evidencing all coverage set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

F. Approval of the insurance by the JPA shall not relieve or decrease the liability of Consultant hereunder.

6. Abandonment by Consultant. In the event the Consultant ceases performing Services under this Agreement or otherwise abandons its work prior to completing all of the Services described in this Agreement, Consultant shall, without delay, deliver to the JPA all materials and records prepared by Consultant specifically for and required to be delivered to JPA pursuant to the terms hereof, or obtained by Consultant specifically for and required to be delivered to JPA in the performance of this Agreement, and shall be paid for the reasonable value of the Services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which the JPA incurs as a result of such cessation or abandonment, such as expenses associated with obtaining substitute services.

7. Records and Documents. Upon request, and at no additional charge, Consultant shall deliver to the JPA all records, data, and reports prepared by Consultant specifically for and required to be delivered to JPA pursuant to the terms hereof or obtained by Consultant specifically for and required to be delivered to JPA in the performance of the Agreement, which shall become and remain the property of the JPA. This includes, but is not limited to, all materials and records of a finished nature that are prepared or obtained in the performance of this Agreement, and all materials of a preliminary nature, such as computations and other data prepared or obtained in the performance of this Agreement. To the extent that Consultant utilizes any of its property

(including, without limitation, any hardware or software of Consultant or any proprietary or confidential information of Consultant or any trade secrets of Consultant) in performing Services hereunder, such property shall remain the property of Consultant, and the JPA shall acquire no right or interest in such property. Consultant shall not publish or release any of the results of its examinations without the express written permission of the Authority.

Consultant hereby assigns to JPA for no additional consideration, all of Consultant's intellectual property rights, including, but not limited to, copyrights, in all deliverables and other works prepared by the Consultant specifically for JPA and required to be delivered under this Agreement. Consultant shall, and shall cause its employees and agents to, promptly sign and deliver any documents and take any actions that JPA reasonably requests to establish and perfect the rights assigned to JPA under this provision.

8. Right to Audit. Consultant shall permit the JPA and its authorized representatives to examine, re-examine, make excerpts, transcribe and copy Consultant's books, documents, papers, materials, payrolls, records, accounts, computer disks, tapes and any and all data relevant to the Agreement at any reasonable time upon at least seventy-two (72) hours' prior written notice within three (3) years after final payment under the Agreement. Consultant shall also permit the JPA and its authorized representatives to audit and verify statements, invoices, or bills submitted by Consultant pursuant to the Agreement. Consultant shall provide such assistance as may be reasonably required in the course of such examination and audit.

9. Compliance with Laws and Regulations. In performing this Agreement, Consultant shall comply with all applicable laws, statutes, ordinances, rules and regulations whether federal, state or local in origin, and all applicable auditing standards. Consultant shall not allow its employees and/or agents to discriminate, harass, or allow harassment, retaliation, or abusive conduct by or against any person or persons in violation of applicable federal, state or local law. Immediate and appropriate corrective action by the JPA, up to and including termination of this Agreement, will be implemented as warranted for any and all such reported misconduct.

10. Standard of Care; Breach, Error, and Omission. In the event that Consultant fails to perform any of the Services described in this Agreement or otherwise breaches this Agreement, the JPA shall have the right to pursue all remedies provided by law or equity, including termination of this Agreement in accordance with Section 16, below. Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Agreement as would be exercised by a reasonable professional performing similar work under similar circumstances, and shall, at no cost to JPA, re-perform Services which fail to satisfy this standard of care. In addition, any costs incurred by the JPA (including but not limited to additional administrative costs, to the extent that such costs are recoverable under California law) and used to correct deficiencies caused by the Consultant's errors and omissions shall be borne solely by the Consultant. The JPA is relying upon the Consultant's qualifications concerning the Services furnished under this Agreement, and therefore the fact that the JPA has accepted or approved the Consultant's work shall in no way relieve the Consultant of these responsibilities.

11. Permits and Licenses. Consultant shall procure and maintain all permits, licenses and other government-required certification necessary for the performance of its Services, all at

the sole cost of Consultant. None of the items referenced in this section shall be reimbursable to Consultant under the Agreement. Consultant shall comply with any and all applicable local, state, and federal regulations and statutes, including Cal/OSHA requirements.

12. Indemnification. To the fullest extent permitted by applicable law, Consultant shall indemnify, defend (subject to subparagraph H, below) and hold harmless JPA, and its members, directors, officers, consultants and authorized volunteers, and each of them from and against:

A. When the law establishes a professional standard of care for the Consultant's services, all claims and demands of all persons that arise out of, pertain to, or relate to the Consultant's negligence, recklessness or willful misconduct in the performance (or actual or alleged non-performance) of the Services. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the Services hereunder and shall not tender such claims to JPA, nor to its members, directors, officers, employees, or authorized volunteers, for defense or indemnity.

B. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.

C. Any and all losses, expenses, damages (including damages to the work itself), attorney's fees incurred by counsel of the JPA's choice and other costs, including all costs of defense (subject to subparagraph H, below), which any of them may incur with respect to the failure, neglect, or refusal of Consultant to faithfully perform the Services and all of the Consultant's obligations under the Agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by counsel of the JPA's choice, incurred by the indemnified parties in any lawsuit to which they are a party.

D. To the extent permitted by law, Consultant shall also indemnify the JPA, its members and their respective directors, officers, employees, and agents, against any and all claims, demands, costs and expenses at law or in equity including reasonable attorney's fees, and liability, suffered or incurred on account of, or that may at any time arise out of, or are in any way connected with, any breach by Consultant, or its employees, agents, sub-consultants, or subcontractors, of the obligations, covenants, or any other provisions of this Agreement.

E. Subject to subparagraph H, below, Consultant shall immediately defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted by any third party against JPA, or its members, directors, officers, employees, or authorized volunteers with legal counsel reasonably acceptable to JPA, as applicable, and shall not tender such claims to JPA, nor to its members, directors, officers, agents, or authorized volunteers.

F. Consultant shall promptly pay and satisfy any judgment, award or decree that may be rendered against the JPA, or its members, directors, officers, agents, or authorized volunteers, in any and all such suits, actions, or other legal proceedings.

G. Consultant shall promptly reimburse JPA, or its members, directors, officers, agents, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing indemnity herein provided.

H. Notwithstanding any provision of this Section 12 to the contrary, Consultant shall have no obligation to defend the JPA in connection with any claims arising from Consultant's actual or alleged errors or omissions in the performance of professional services under this Agreement.

I. Consultant's obligation to indemnify shall survive the termination or completion of this agreement for the full period of time allowed by law and shall not be restricted to insurance proceeds, if any, received by the JPA, or its members, directors, officers, agents, or authorized volunteers.

13. Confidentiality. Consultant shall treat any information it may come to have relating to the Agreement with confidence, revealing information to third parties only with prior written approval of JPA or as required by law or applicable professional standards. Consultant understands that all documents, records, reports, data, or other materials (collectively, "Materials") provided by the JPA to Consultant pursuant to the Agreement, including but not limited to draft reports, final report(s) and all data, information, documents, graphic displays and other items that are not proprietary to Consultant and that are utilized or produced by Consultant pursuant to the Agreement may be considered confidential for all purposes, except to the extent disclosure may be required by law, including the California Public Records Act.

Consultant shall be responsible for protecting the confidentiality and maintaining the security of all Materials and records in its possession that have been provided by the JPA. Consultant understands the sensitive nature of the above and agrees that neither its officers, partners, employees, agents or sub-consultants will release, disseminate, or otherwise publish said reports or other such data, information, documents, graphic displays, or other materials except as provided herein or as authorized, in writing, by the JPA. Consultant agrees not to make use of such Materials for any purpose not related to the performance of the Services. Consultant shall not make written or oral disclosures thereof, other than as necessary for its performance of the Services hereunder, without the JPA's prior written approval. Disclosure of confidential Materials shall not be made to any individual, agency, or organization except as provided for in this Agreement or as provided for by law or applicable professional standards.

All confidential Materials saved or stored by Consultant in an electronic form shall be protected by adequate security measures to ensure that such confidential Materials are safe from theft, loss, destruction, erasure, alteration, and any unauthorized viewing, duplication, or use. Such security measures shall include, but not be limited to, the use of current virus protection software, firewalls, data backup, passwords, and internet controls.

The provisions of this section survive the termination or completion of the Agreement.

14. Assignment; No Third Party Rights. The Agreement shall not be assignable or transferable in whole or in part by Consultant, whether voluntarily, by operation of law, or otherwise without the JPA's prior written consent. Any other purported assignment, transfer, or

subcontracting shall be void. Nothing in the Agreement shall be construed to give any right or benefit to anyone other than JPA and Consultant.

15. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that venue of any action brought hereunder shall be in Contra Costa County, California.

16. Termination. JPA may terminate this Agreement at any time by thirty (30) days prior written notice to Consultant. Either party may terminate this Agreement upon written notice if the other party has breached the Agreement and such breach is not remedied within at least fifteen (15) days after written notice of that breach is provided to the breaching party, or if such breach is not capable of being remedied within that fifteen (15) day period, the breaching party fails to commence and diligently pursue that remedy within that fifteen (15) day period. Upon termination, the JPA shall pay Consultant for all amounts due for services rendered up to the date of termination. In the event of termination: (1) all work product prepared by or in the custody of Consultant made specifically for JPA and required to be delivered under this Agreement shall be promptly delivered to the JPA; (2) the JPA shall pay Consultant all payments due under this Agreement at the effective date of termination; (3) Consultant shall promptly submit a final invoice to the JPA, which shall include any and all non-cancelable obligations owed by Consultant at the time of termination, (4) neither Consultant nor the JPA waives any claim of any nature whatsoever against the other for any breach of this Agreement; (5) the JPA may withhold 125 percent of the estimated value of any disputed amount pending resolution of the dispute; and (6) the JPA and Consultant agree to exert their best efforts to expeditiously resolve any dispute between them.

17. Equal Opportunity. The JPA is committed to a policy of equal opportunity for all and to providing a work environment that is free of unlawful discrimination and harassment. In keeping with this commitment, the JPA prohibits unlawful discrimination and harassment in any form based on race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy or childbirth, marital status, gender, gender identity, gender expression, reproductive health decisions, sex, sexual orientation, veteran status, age or any other protected status under federal or state law by officials, employees and non-employees (vendors, contractors, etc.).

This policy applies to all employees, consultants and contractors of the JPA. Appropriate corrective action will be taken against all offenders, up to and including immediate discharge or termination of this Agreement. During, and in conjunction with, the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status, national origin, physical or mental disability, ancestry, medical condition, pregnancy or childbirth, gender, gender identity, gender expression, reproductive health decisions, sex, sexual orientation, veteran status or any other protected class under applicable law.

18. Attorneys' Fees. In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney's fees incurred therein by the prevailing party (including, without limitations, such costs, expense and fees on any appeals), and

if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses, including those of expert witnesses and attorneys' fees, shall be included as part of this judgment.

19. Counterparts; Electronic Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. This Agreement may be executed by signatures transmitted by facsimile or electronic means (including by PDF) and any such facsimile or electronically transmitted signature shall be deemed as valid as an original, "wet" signature.

[Signature page follows]

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement as of the day and year written below.

Los Vaqueros Reservoir Joint Powers Authority

By: _____

Name: Taryn Ravazzini
Title: Executive Director

Date: _____, 2023

Consultant: C.J. Brown & Company CPAs

By: _____

Name: Christopher J. Brown, CPA CGMA
Title: Partner

Date: _____, 2023

APPROVED AS TO FORM:

JPA Legal Counsel

ATTACHMENT A

SCOPE OF WORK TO BE PERFORMED

A. Services to be performed by Auditors.

1. In general, the auditors will perform a financial and compliance audit to determine (a) whether the combined financial statements of the Authority fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles, and (b) whether the Authority has complied with laws and regulations that may have a material effect upon the financial statements.

2. The auditors will examine the Authority's internal accounting controls and accounting procedures and render written reports of their findings and recommendations to the Executive Director or their designee, who will provide them to the Authority's Finance Committee for initial review. The examination shall be made, and reports rendered in accordance with generally accepted government auditing standards and all applicable requirements of the Governmental Accounting Standards Board. In addition, the auditors shall communicate any reportable conditions found during the audit that can be defined as either a significant or material weakness in the design or operation of the internal control structure, which could adversely affect the Authority's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement.

3. Auditors shall be required to make an immediate, written report to the Authority's Executive Director of all irregularities and illegal acts or indications of illegal acts of which they become aware.

4. Auditors shall include all funds of the Authority.

5. Under the requirements of the Federal Government's program covering a single audit for all federal grant funds, auditors shall conduct an audit in accordance with the Single Audit Act Amendments of 1996 as amended by the Uniform Guidance and in generally accepted auditing standards as well as generally accepted governmental auditing standards. For the purposes of the prospective auditor's proposal, the cost for the single audit shall be separately stated.

6. Auditors shall submit a management letter setting forth their findings and/or recommendations on those matters noted and observed during the conduct of the examination of the financial records and developed within the scope usually associated with such an examination relating to, but not limited to, a) improvement in systems of internal control, b) improvement in accounting system, c) apparent noncompliance with laws, rules, and regulations, and d) any other material matter coming to the attention of the firm during the conduct of the examination.

7. Auditors shall also prepare the Authority's annual financial transactions report to be filed with the State Controller's Office and prepare any necessary tax filings.

B. Timeline Requirements.

1. Auditors shall schedule with the Authority’s accounting consultant for the Fiscal Year 2023 audit.

2. All Authority books must be closed and ready for audit by the mutually agreed upon start date. Authority staff shall prepare detailed lead sheets and account reconciliations for the auditors.

3. Fieldwork shall commence on an agreed upon date between auditors and Authority staff but no later than the first week of November and shall be completed by no later than the third week of December, at which time a draft copy of all reports listed under “Specific Deliverables to the Authority” shall be prepared and delivered to the Authority’s accounting consultant.

4. The Entrance Conference, Progress Reporting, and Exit Conference should be held by the time frames indicated on the schedule shown below:

i.	Entrance Conference with the Authority’s accounting consultant to discuss work to be performed, establish overall liaison for audit and arrangements for space and other needs of the auditor	Prior to start of field work
ii.	Progress conference with the Authority’s accounting consultant to discuss the year-end work to be performed	Midway through audit work
iii.	Exit conference with the Authority’s accounting consultant and Executive Director to summarize the results of the field work and to review significant findings	At the conclusion of the year-end audit work

C. Reporting and Communication.

1. The auditors will meet continuously during the field work process with the Authority’s accounting consultant, to discuss preliminary audit findings and management recommendations.

2. Prior to issuing their final reports, the auditors will meet with the Authority’s accounting consultant with all audit reports to be addressed to the Authority’s Board of Directors.

3. The auditors may be consulted occasionally throughout the year as an information resource. Auditors may be asked to provide guidance on implementation of Government

Account Standards Board (GASB) requirements and specifics of federal and state regulations as they may affect local government accounting.

D. Other Considerations.

1. All working papers and reports must be retained, at the auditor’s expense, for a minimum of five (5) years, unless the firm is notified in writing by the Authority of the need to extend the retention period.

2. The auditors will be required to make working papers available upon request to the appropriate parties. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

3. Throughout the year, the auditor will provide financial advice and counsel on matters occurring throughout the year that would affect the annual report.

4. The audit partner/manager must attend a meeting of the Authority’s Finance Committee and a meeting of the Authority’s Board of Directors to review the draft and final audit report and to explain or clarify financial statements or accounting requirements.

E. Specific Deliverables to the Authority.

Reports	Due Date	Qty.
Audit of the general-purpose financial statements and review of the preparation of the ACFR, and delivery of opinion letter for the ACFR	No later than February 1	15
Single Audit Report (photo ready)	No later than March 1	15

ATTACHMENT B

FEEES

Exhibit II – Schedule of Professional Fees

Fees By Fiscal Year	Audit Fees			Other Item Financial Transactions Report	Total All-Inclusive Maximum Price	Optional Item (If Required) Single Audit Report	Total All-Inclusive Maximum Price with the Optional Item
	Audit Service Fees	Out-of-Pocket Expenses	Total Audit Maximum				
Fiscal Year 2023	\$ 5,500	250	5,750	500	6,250	4,325	10,575
Fiscal Year 2024 OPTIONAL	\$ 5,500	250	5,750	500	6,250	4,325	10,575
Fiscal Year 2025 OPTIONAL	\$ 5,500	250	5,750	500	6,250	4,325	10,575
Total Fees by Fiscal Year	<u>16,500</u>	<u>750</u>	<u>17,250</u>	<u>1,500</u>	<u>18,750</u>	<u>12,975</u>	<u>31,725</u>
Optional Years							
Fiscal Year 2026	\$ 5,675	250	5,925	516	6,441	4,465	10,906
Fiscal Year 2027	\$ 5,675	250	5,925	516	6,441	4,465	10,906

Please note that any additional services requested by the Authority during the audit period shall be negotiated at the stated hourly rates per year as noted in the following schedules.

Exhibit III – Schedule of Fees By Hours

Los Vaqueros Reservoir Joint Powers Authority Fiscal Year 2023

Breakdown of Fees by Hours

	Hours	Hourly Rates	Total
Fiscal Year 2023 Audit of:			
Authority's Basic Financial Statements			
Partner - Engagement & Technical	10	\$ 150	\$ 1,500
Manager/Supervisor	15	125	1,875
Staff	25	85	2,125
Total Financial Statement Audit for 2023	50		5,500
Out-of-Pocket Expenses (Travel, Mileage, Printing, etc.)			250
Total Maximum for 2023			\$ 5,750
Other Items Asked to be Priced by the Authority:			
Preparation of the Annual Financial Transactions Report	4	125	500
Total All-Inclusive Maximum fee for 2023			\$ 6,250
	Hours	Hourly Rates	Total
Optional Items Asked to be Priced by the Authority:			
Single Audit of Federal Awards			
Partner - Engagement & Technical	5	150	\$ 750
Manager/Supervisor	15	125	1,875
Staff	20	85	1,700
Total Optional Items for 2023	40		4,325
Total All-Inclusive Maximum fee for 2023 with Optional Items			\$ 10,575

Exhibit III – Schedule of Fees By Hours

Los Vaqueros Reservoir Joint Powers Authority **OPTIONAL******
Fiscal Year 2024

Breakdown of Fees by Hours

	Hours		Hourly Rates		Total
Fiscal Year 2024 Audit of:					
Authority's Annual Comprehensive Financial Report					
Partner - Engagement & Technical	10	\$	150	\$	1,500
Manager/Supervisor	15		125		1,875
Staff	25		85		2,125
Total Financial Statement Audit for 2024	50				5,500
Out-of-Pocket Expenses (Travel, Mileage, Printing, etc.)					250
Total Maximum for 2024				\$	5,750
Other Items Asked to be Priced by the Authority:					
Preparation of the Annual Financial Transactions Report	4		125		500
Total All-Inclusive Maximum fee for 2024				\$	6,250
Optional Items Asked to be Priced by the Authority:					
Single Audit of Federal Awards					
Partner - Engagement & Technical	5	\$	150	\$	750
Manager/Supervisor	15		125		1,875
Staff	20		85		1,700
Total Optional Items for 2024	40				4,325
Total All-Inclusive Maximum fee for 2024 with Optional Items				\$	10,575

Exhibit III – Schedule of Fees By Hours

Los Vaqueros Reservoir Joint Powers Authority*OPTIONAL*****
Fiscal Year 2025

Breakdown of Fees by Hours

	Hours	Hourly Rates	Total
Fiscal Year 2025 Audit of:			
Authority's Annual Comprehensive Financial Report			
Partner - Engagement & Technical	10	\$ 150	\$ 1,500
Manager/Supervisor	15	125	1,875
Staff	25	85	2,125
Total Financial Statement Audit for 2025	50		5,500
Out-of-Pocket Expenses (Travel, Mileage, Printing, etc.)			250
Total Maximum for 2025			\$ 5,750
Other Items Asked to be Priced by the Authority:			
Preparation of the Annual Financial Transactions Report	4	125	500
Total All-Inclusive Maximum fee for 2025			\$ 6,250
Optional Items Asked to be Priced by the Authority:			
Single Audit of Federal Awards			
Partner - Engagement & Technical	5	150	\$ 750
Manager/Supervisor	15	125	1,875
Staff	20	85	1,700
Total Optional Items for 2025	40		4,325
Total All-Inclusive Maximum fee for 2025 with Optional Items			\$ 10,575

ITEM 2.2: APPOINTMENT OF AUDITOR FOR FY 2023

RESPONSIBLE/LEAD STAFF MEMBER:

Taryn Ravazzini, Executive Director

RECOMMENDATION:

That the Board of Directors appoint C.J. Brown and Company CPAs as the Authority's auditor for the 2022-23 Fiscal Year.

DISCUSSION:

The Authority's Joint Exercise of Powers Agreement, in Section 4.4, authorizes the Board of Directors to appoint the Authority's auditor. Thus, it is necessary for the Board to act to appoint the Authority's auditor for the 2022-23 Fiscal Year.

Based on the recommended action under the preceding item, staff recommends the Board of Directors appoint C.J. Brown and Company CPAs as the Authority's auditor for the 2023 Fiscal Year.

FISCAL ANALYSIS:

None for this action; fiscal impact results from the contract considered under Item 2.1.

ALTERNATIVES:

Any alternative would relate to any alternate action taken under Item 2.1.

EXHIBITS/ATTACHMENTS:

None.

ITEM 2.3: APPROVAL OF CONTRACT WITH BOND COUNSEL FIRM

RESPONSIBLE/LEAD STAFF MEMBER:

James Ciampa, General Counsel

RECOMMENDATION:

Staff recommends the Authority engage Stradling Yocca Carlson & Rauth, a Professional Corporation (“Stradling”) as the Authority’s bond counsel for interim financing, WIFIA loan and other debt issuance services.

DISCUSSION:

As has been discussed, the Authority is moving into the phase where various financing alternatives are being pursued. Interim financing, the WIFIA loan (for which the application was recently submitted to the U.S. Environmental Protection Agency) and other possible debt issuances are now approaching. In addition, the preparation of a Master Resolution with respect to Authority debt will also be forthcoming in the next few months.

These financing activities necessitate engagement of bond counsel to assist the Authority with advice on selection of appropriate debt vehicles, appropriate structuring of that debt to ensure compliance with federal tax requirements and related services in negotiating various agreements in connection with any debt issuances. Also, bond counsel will take the lead in drafting the Authority’s Master Resolution.

A request for proposal was provided to various law firms with expertise in serving as bond counsel for public agencies. Four firms submitted responsive proposals: Best, Best & Krieger, LLP; Hawkins Delafield & Wood, LLP; Orrick, Herrington & Sutcliffe LLP; and Stradling Yocca Carlson & Rauth, A Professional Corporation. The Authority convened a selection committee consisting of its general counsel, financial consultant David Moore, program manager Chuck Gardner and attorneys from East Bay Municipal Utility District (Tim Kline), San Luis & Delta-Mendota Water Authority (Rebecca Akroyd) and Santa Clara Valley Water District (Andy Gschwind).

The selection committee reviewed all four proposals received and interviewed each of the four proposing firms. Following that process, the selection committee unanimously concurred that Stradling Yocca Carlson & Rauth would best meet the Authority’s needs. Stradling’s experience with WIFIA loans and with Water Storage Investment Program projects was especially impressive, as was the approach it conveyed with respect to rendering the necessary services. Based on the totality of the factors considered, the Bond counsel selection committee unanimously recommends the Authority engage Stradling Yocca Carlson & Rauth to render bond counsel services in accordance with the agreement provided.

ALTERNATIVES:

The Board of Directors could select a different firm from among the firms that submitted proposals or could direct staff to proceed with further procurement for bond counsel services.

FISCAL ANALYSIS:

Fees are estimated at \$100,000 for the WIFIA loan (hourly basis) and between \$50,000 and \$65,000 (fixed fee) for interim financing depending on the debt vehicle utilized. Disclosure counsel services would be rendered for \$40,000 (fixed fee). Other services would be billed on an hourly basis.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

JPA Bond Counsel Professional Services Agreement.

AGREEMENT FOR PROFESSIONAL SERVICES
LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY
Standard Services Agreement – Bond Counsel Services

THIS AGREEMENT FOR PROFESSIONAL Services is between Los Vaqueros Reservoir Joint Powers Authority (“JPA”) and Stradling Yocca Carlson & Rauth, a Professional Corporation (the "Consultant"). Consultant’s address is 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660. Consultant’s taxpayer’s identification number is: 95-3347002.

1. The Agreement; Changes. JPA and Consultant agree that Consultant shall provide bond counsel services to the JPA and shall perform those services on the terms and conditions set forth herein. The specific scope of services (the “Services”) is defined in Attachment A - Scope of Work.

The following documents are attached hereto and is a part of this Agreement:

Attachment A – Scope of Work
Attachment B – Fees

This Agreement, including said attachments, constitutes the entire agreement between the parties and supersedes any prior proposals, representations, or understandings. This Agreement may be modified only by a written amendment signed by each party and tasks other than those specifically described herein shall not be performed without prior written approval of the JPA.

If the JPA requires changes in the tasks or scope of work shown in Attachment A or additional work not specified therein, then the JPA will prepare a written change order. If Consultant believes work or materials are required outside the tasks or scope of work described in Attachment A, it shall submit a written request for a change order to the JPA. A change order must be approved and signed by the JPA’s Executive Director, in accordance with JPA policy, and Consultant before Consultant performs any work outside the scope of work shown in Attachment A. The JPA will not have any responsibility to compensate Consultant for such work without an approved and signed change order. If the change order will result in an increase in the contract amount, then the change order must specify the change in the agreed upon amount for the particular revised Services to be provided.

2. Time of Performance. Consultant is authorized to commence performance of this Agreement upon its execution by the JPA. Unless earlier terminated as set forth herein, this Agreement shall expire and terminate in connection with the services to be provided for the JPA’s Fiscal Year ended June 30, 2025, unless this date is extended by the JPA in writing. Consultant shall be responsible for the timely performance of the Services required by this Agreement.

3. Payment. Only those Services, materials, administrative, overhead and travel expenses specifically listed in Attachment B will be charged and paid. No other costs will be paid. Consultant agrees not to invoice the JPA for any administrative expenses, overhead or travel time in connection with the Services, unless agreed upon and listed in Attachment B. Consultant shall submit itemized statements of Services performed at the rates and charges set forth in

Attachment B on a monthly basis, by the tenth (10th) day of the month for services provided in the prior month. The JPA shall pay for work performed in accordance with professional standards within thirty (30) days after receipt of a statement. Consultant shall keep records of all Services and costs billed pursuant to this Agreement for at least a period of five (5) years after completion of the Services and shall make them available for review and audit if requested by the JPA.

4. Consultant an Independent Contractor. Consultant shall perform the Services under the Agreement as an independent contractor and not as an employee of the JPA. Consultant shall be wholly responsible for the methods of performance and shall furnish, at Consultant's own expense, all labor, materials, equipment and transportation necessary for the successful completion of the Services. The JPA shall have no right to supervise or control Consultant's performance but shall have the right to observe it to ensure compliance with the requirements of this Agreement and Consultant will coordinate various aspects of the Services with the JPA's General Counsel, or their designee, in light of the nature of the project. Consultant maintains its own business office, complies with all applicable business license laws, customarily engages in an independently established business the purposes of which is to perform services of the same nature as that involved in the work performed hereunder, can contract with other businesses to provide the same or similar services, maintains a clientele without restrictions from the JPA and advertises and holds itself out to the public as available to provide the same or similar services as those required hereunder. Consultant shall work closely with the JPA in performing the Services.

Consultant shall be solely responsible for the payment of all federal, state and local income tax, social security tax, Workers' Compensation insurance, state disability insurance, and any other taxes or insurance that Consultant, as an independent contractor, is responsible for paying under federal, state or local law. Consultant is thus not eligible to receive workers' compensation, medical, indemnity or retirement benefits, including, but not limited to, enrollment in CalPERS. Consultant is not eligible to receive overtime, vacation or paid sick leave. Consultant shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of JPA.

Consultant represents and warrants that in the process of hiring Consultant's employees who participate in the performance of Services, Consultant conducts such lawful screening of those employees (including, but not limited to, background checks and Megan's Law reviews) as are appropriate and standard for employees who provide Services of the type contemplated by this Agreement.

5. Insurance.

A. Without in any way limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage:

- (1) Workers' Compensation, in not less than statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence, \$2,000,000 aggregate, for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Non-Owned and Hired auto coverage, as applicable; and

(4) Professional liability insurance, applicable to Consultant's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement. Such coverage shall be placed with a carrier with an A.M. Best rating of no less than A-: VII, or equivalent. The retroactive date (if any) of such insurance coverage shall be no later than the effective date of this Agreement. In the event the Consultant employs sub-Consultants as part of the Services covered by this Agreement, Consultant shall be responsible for requiring and confirming that each sub-Consultant meets the minimum insurance requirements specified herein.

B. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to:

(1) Name as Additional Insureds, the JPA, its members and their respective directors, officers, agents, employees, and volunteers. Consultant will file with JPA, before beginning to provide the Services, ACORD certificates of insurance, or other certificates of insurance satisfactory to JPA, evidencing general liability coverage of not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage; automobile liability (owned, scheduled, non-owned or hired) of at least \$1,000,000 for bodily injury and property damage each accident limit; requiring 30 days (10 days for nonpayment of premium) notice of cancellation to JPA. For the coverage required under this paragraph, the insurer(s) shall waive all rights of subrogation against the JPA, and its members, directors, officers, agents, attorneys, consultants or volunteers. Any insurance pool coverage, or self-insurance maintained by the JPA shall be excess of the Consultant's insurance and shall not contribute to it.

(2) The general liability coverage shall give JPA, and its members, directors, officers, agents, attorneys, consultants and authorized volunteers additional insured status using ISO endorsement CG2010, CG2033, or equivalent. Coverage shall be placed with a carrier with an A.M. Best rating of no less than A: VII, or equivalents. In the event that the Consultant employs a sub-consultant as part of the work covered by the Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified herein, including naming the JPA, and its members, directors, officers, agents, attorneys, consultants and volunteers and the Consultant as Additional Insureds.

(3) Provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

C. Regarding Workers' Compensation, Consultant hereby agrees to waive its rights to subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

D. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of four years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

E. Before commencing any work under this Agreement, Consultant shall furnish to the JPA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to the JPA, in form evidencing all coverage set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

F. Approval of the insurance by the JPA shall not relieve or decrease the liability of Consultant hereunder.

6. Abandonment by Consultant. In the event the Consultant ceases performing Services under this Agreement or otherwise abandons its work prior to completing all of the Services described in this Agreement, Consultant shall, without delay, deliver to the JPA all materials and records prepared by Consultant specifically for and required to be delivered to JPA pursuant to the terms hereof, or obtained by Consultant specifically for and required to be delivered to JPA in the performance of this Agreement, and shall be paid for the reasonable value of the Services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which the JPA incurs as a result of such cessation or abandonment, such as expenses associated with obtaining substitute services.

7. Records and Documents. Upon request, and at no additional charge, Consultant shall deliver to the JPA all materials prepared by Consultant specifically for and required to be delivered to JPA pursuant to the terms hereof or obtained by Consultant specifically for and required to be delivered to JPA in the performance of the Agreement, which shall become and remain the property of the JPA. This includes, but is not limited to, all materials and records of a finished nature that are prepared or obtained in the performance of this Agreement, and all materials of a preliminary nature, such as computations and other data prepared or obtained in the performance of this Agreement. To the extent that Consultant utilizes any of its property (including, without limitation, any hardware or software of Consultant or any proprietary or confidential information of Consultant or any trade secrets of Consultant) in performing Services

hereunder, such property shall remain the property of Consultant, and the JPA shall acquire no right or interest in such property.

8. Right to Audit. Consultant shall permit the JPA and its authorized representatives to audit and verify statements, invoices, or bills submitted by Consultant pursuant to the Agreement. Consultant shall provide such assistance as may be reasonably required in the course of such examination and audit.

9. Compliance with Laws and Regulations. In performing this Agreement, Consultant shall comply with all applicable laws, statutes, ordinances, rules and regulations whether federal, state or local in origin. Consultant shall not allow its employees and/or agents to discriminate, harass, or allow harassment, retaliation, or abusive conduct by or against any person or persons in violation of applicable federal, state or local law. Immediate and appropriate corrective action by the JPA, up to and including termination of this Agreement, will be implemented as warranted for any and all such reported misconduct.

10. Standard of Care; Breach, Error, and Omission. In the event that Consultant fails to perform any of the Services described in this Agreement or otherwise breaches this Agreement, the JPA shall have the right to pursue all remedies provided by law or equity, including termination of this Agreement in accordance with Section 16, below. Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Agreement as would be exercised by a reasonable professional performing similar work under similar circumstances, and shall, at no cost to JPA, re-perform Services which fail to satisfy this standard of care. In addition, any costs incurred by the JPA (including but not limited to additional administrative costs, to the extent that such costs are recoverable under California law) and used to correct deficiencies caused by the Consultant's errors and omissions shall be borne solely by the Consultant. The JPA is relying upon the Consultant's qualifications concerning the Services furnished under this Agreement, and therefore the fact that the JPA has accepted or approved the Consultant's work shall in no way relieve the Consultant of these responsibilities.

11. Permits and Licenses. Consultant shall procure and maintain all permits, licenses and other government-required certification necessary for the performance of its Services, all at the sole cost of Consultant. None of the items referenced in this section shall be reimbursable to Consultant under the Agreement.

12. Indemnification. To the fullest extent permitted by applicable law, Consultant shall indemnify, defend (subject to subparagraph H, below) and hold harmless JPA, and its members, directors, officers, consultants and authorized volunteers, and each of them from and against:

A. When the law establishes a professional standard of care for the Consultant's services, all claims and demands of all persons that arise out of, pertain to, or relate to the Consultant's negligence, recklessness or willful misconduct in the performance (or actual or alleged non-performance) of the Services. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the Services hereunder and shall not tender such claims to

JPA, nor to its members, directors, officers, employees, or authorized volunteers, for defense or indemnity.

B. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.

C. Any and all losses, expenses, damages (including damages to the work itself), attorney's fees incurred by counsel of the JPA's choice and other costs, including all costs of defense (subject to subparagraph H, below), which any of them may incur with respect to the failure, neglect, or refusal of Consultant to faithfully perform the Services and all of the Consultant's obligations under the Agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by counsel of the JPA's choice, incurred by the indemnified parties in any lawsuit to which they are a party.

D. To the extent permitted by law, Consultant shall also indemnify the JPA, its members and their respective directors, officers, employees, and agents, against any and all claims, demands, costs and expenses at law or in equity including reasonable attorney's fees, and liability, suffered or incurred on account of, or that may at any time arise out of, or are in any way connected with, any breach by Consultant, or its employees, agents, sub-consultants, or subcontractors, of the obligations, covenants, or any other provisions of this Agreement.

E. Subject to subparagraph H, below, Consultant shall immediately defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted by any third party against JPA, or its members, directors, officers, employees, or authorized volunteers with legal counsel reasonably acceptable to JPA, as applicable, and shall not tender such claims to JPA, nor to its members, directors, officers, agents, or authorized volunteers.

F. Consultant shall promptly pay and satisfy any judgment, award or decree that may be rendered against the JPA, or its members, directors, officers, agents, or authorized volunteers, in any and all such suits, actions, or other legal proceedings.

G. Consultant shall promptly reimburse JPA, or its members, directors, officers, agents, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing indemnity herein provided.

H. Notwithstanding any provision of this Section 12 to the contrary, Consultant shall have no obligation to defend the JPA in connection with any claims arising from Consultant's actual or alleged errors or omissions in the performance of professional services under this Agreement.

I. Consultant's obligation to indemnify shall survive the termination or completion of this agreement for the full period of time allowed by law and shall not be restricted to insurance proceeds, if any, received by the JPA, or its members, directors, officers, agents, or authorized volunteers.

13. Confidentiality. Consultant shall treat any information it may come to have relating to the Agreement with confidence, revealing information to third parties only with prior written approval of JPA or as required by law or applicable professional standards. Consultant understands that all documents, records, reports, data, or other materials (collectively, "Materials") provided by the JPA to Consultant pursuant to the Agreement, including but not limited to draft reports, final report(s) and all data, information, documents, graphic displays and other items that are not proprietary to Consultant and that are utilized or produced by Consultant pursuant to the Agreement may be considered confidential for all purposes, except to the extent disclosure may be required by law, including the California Public Records Act.

Consultant shall be responsible for protecting the confidentiality and maintaining the security of all Materials and records in its possession that have been provided by the JPA. Consultant understands the sensitive nature of the above and agrees that neither its officers, partners, employees, agents or sub-consultants will release, disseminate, or otherwise publish said reports or other such data, information, documents, graphic displays, or other materials except as provided herein or as authorized, in writing, by the JPA. Consultant agrees not to make use of such Materials for any purpose not related to the performance of the Services. Consultant shall not make written or oral disclosures thereof, other than as necessary for its performance of the Services hereunder, without the JPA's prior written approval. Disclosure of confidential Materials shall not be made to any individual, agency, or organization except as provided for in this Agreement or as provided for by law or applicable professional standards.

All confidential Materials saved or stored by Consultant in an electronic form shall be protected by adequate security measures to ensure that such confidential Materials are safe from theft, loss, destruction, erasure, alteration, and any unauthorized viewing, duplication, or use. Such security measures shall include, but not be limited to, the use of current virus protection software, firewalls, data backup, passwords, and internet controls.

The provisions of this section survive the termination or completion of the Agreement.

14. Assignment; No Third Party Rights. The Agreement shall not be assignable or transferable in whole or in part by Consultant, whether voluntarily, by operation of law, or otherwise without the JPA's prior written consent. Any other purported assignment, transfer, or subcontracting shall be void. Nothing in the Agreement shall be construed to give any right or benefit to anyone other than JPA and Consultant.

15. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that venue of any action brought hereunder shall be in Contra Costa County, California.

16. Termination. JPA may terminate this Agreement at any time by thirty (30) days prior written notice to Consultant. Either party may terminate this Agreement upon written notice if the other party has breached the Agreement and such breach is not remedied within at least fifteen (15) days after written notice of that breach is provided to the breaching party, or if such breach is not capable of being remedied within that fifteen (15) day period, the breaching party fails to commence and diligently pursue that remedy within that fifteen (15) day period. Upon termination, the JPA shall pay Consultant for all amounts due for services rendered up to the date

of termination. In the event of termination: (1) all work product prepared by or in the custody of Consultant made specifically for JPA and required to be delivered under this Agreement shall be promptly delivered to the JPA; (2) the JPA shall pay Consultant all payments due under this Agreement at the effective date of termination; (3) Consultant shall promptly submit a final invoice to the JPA, which shall include any and all non-cancelable obligations owed by Consultant at the time of termination, (4) neither Consultant nor the JPA waives any claim of any nature whatsoever against the other for any breach of this Agreement; (5) the JPA may withhold 125 percent of the estimated value of any disputed amount pending resolution of the dispute; and (6) the JPA and Consultant agree to exert their best efforts to expeditiously resolve any dispute between them.

17. Equal Opportunity. The JPA is committed to a policy of equal opportunity for all and to providing a work environment that is free of unlawful discrimination and harassment. In keeping with this commitment, the JPA prohibits unlawful discrimination and harassment in any form based on race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy or childbirth, marital status, gender, gender identity, gender expression, reproductive health decisions, sex, sexual orientation, veteran status, age or any other protected status under federal or state law by officials, employees and non-employees (vendors, contractors, etc.).

This policy applies to all employees, consultants and contractors of the JPA. Appropriate corrective action will be taken against all offenders, up to and including immediate discharge or termination of this Agreement. During, and in conjunction with, the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status, national origin, physical or mental disability, ancestry, medical condition, pregnancy or childbirth, gender, gender identity, gender expression, reproductive health decisions, sex, sexual orientation, veteran status or any other protected class under applicable law.

18. Attorneys' Fees. In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney's fees incurred therein by the prevailing party (including, without limitations, such costs, expense and fees on any appeals), and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses, including those of expert witnesses and attorneys' fees, shall be included as part of this judgment.

19. Counterparts; Electronic Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. This Agreement may be executed by signatures transmitted by facsimile or electronic means (including by PDF) and any such facsimile or electronically transmitted signature shall be deemed as valid as an original, "wet" signature.

[Signature page follows]

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement as of the day and year written below.

Los Vaqueros Reservoir Joint Powers Authority

By: _____

Name: Taryn Ravazzini
Title: Executive Director

Date: _____, 2023

Consultant: **Stradling Yocca Carlson & Rauth, APC**

By: _____

Name:
Title:

Date: _____, 2023

APPROVED AS TO FORM:

JPA Legal Counsel

ATTACHMENT A
SCOPE OF WORK

PROPOSED SCOPE OF WORK FOR INITIAL PHASE

WIFIA Loan

In connection with the Authority's proposed participation in the WIFIA loan program, Stradling Yocca Carlson & Rauth, a Professional Corporation (the "Firm"), proposes the following scope of services as Bond Counsel.

1. The Firm will undertake the following Scope of Services with respect to bond counsel services:

Advise the Authority with respect to the WIFIA loan, including but not limited to:

- (a) advice and consultation with the executive director, general counsel, other staff of the Authority and the Board of Directors regarding the financing process;
- (b) prepare all legal proceedings in connection with the proposed financing, including, but not limited to drafting various resolutions, documents and agreements for consideration by the Board of Directors of the Authority;
- (c) draft a Master Resolution, if requested by the Authority;
- (d) review Service Agreements to assure consistency with the financing documents;
- (e) review draft WIFIA application and comment as appropriate and participate in calls and meetings to discuss the WIFIA application;
- (f) review due diligence requests from EPA and EPA consultants and draft responses to such requests and participate in calls and meetings to discuss the WIFIA due diligence questions;
- (g) participation in meetings, hearings or negotiations with the Authority staff, Board of Directors, municipal advisors, the EPA and the EPA's consultants as the circumstances require;
- (h) identify and suggest precedent loan documentation to EPA, review and negotiate WIFIA loan and/or master agreements with EPA and EPA outside counsel; and
- (i) render the necessary opinions and prepare required closing documentation to close the WIFIA loan and/or master agreements with the EPA.

Interim Financing – Notes or Bonds

In the event that the Authority determines to issue interim notes or bonds, the Authority proposes the below scope of services in connection therewith.

1. The Firm will undertake the following Scope of Services with respect to Bond Counsel services:

Advise the Authority with respect to (1) compliance with the provisions of the WIFIA loan agreement documents, if the agreements have been executed, and (2) proposed financing, including but not limited to:

(a) advice and consultation with the executive director, general counsel, other staff of the Authority and the Board of Directors regarding the financing process;

(b) prepare all legal proceedings in connection with the proposed financing, including, but not limited to drafting various resolutions, documents and agreements for consideration by the Board of Directors of the Authority;

(c) participation in meetings, hearings or negotiations with the Authority staff, Board of Directors, municipal advisors, underwriters and other financing team members as the circumstances require;

(d) render a validity opinion with respect to the proposed debt obligation and, with respect to transactions expected to be tax exempt, deliver a tax opinion that interest earned with respect to the Authority's debt obligation is exempt from State and Federal taxes, if applicable;

(e) review and prepare summaries of the major legal documents for inclusion in the Official Statement; and

(f) prepare final closing documents to be executed by the Authority to effect delivery of any financing (including the tax certificate).

2. The Firm will undertake the following Scope of Services with respect to disclosure counsel services if the interim obligations are publicly sold:

(a) Prepare disclosure documents for the Authority for the Preliminary and Final Official Statements for use in all offering documents to comply with federal disclosure regulations;

(b) Obtain information to prepare the Preliminary and Final Official Statements from counsel, municipal advisors, underwriters, underwriters' counsel and the Authority as appropriate;

(c) Provide the "10b-5 Negative Assurance Letter" with respect to the Official Statements, as well as prepare the 15c2-12 Certificate to be signed by the Authority with respect to the Preliminary Official Statement and the Continuing Disclosure Certificate;

(d) Prepare on the Authority's behalf all documents and materials necessary to comply with all applicable continuing disclosure requirements for the transaction(s);

(e) Assist the Authority to comply with ongoing disclosure requirements including:

a. Assist with the determination of whether an action, activity or event constitutes a "material event," as defined in SEC Rule 15c2-12, and prepare the appropriate disclosure of such material event;

b. Assist with the review of the compilation of the "annual financial information" needed to comply with the Authority's continuing disclosure requirements under SEC Rule 15c2-12 and any current continuing disclosure statement;

c. Review the audited financial statements for purposes of confirming compliance with current continuing disclosure agreements; and

d. Assist Authority in preparing disclosure, if any, of any material failure to comply with SEC Rule 15c2-12.

(f) Keep the Authority informed of all rulings and findings by Federal and State regulatory agencies, including but not limited to, the Internal Revenue Service, the U.S. Securities and Exchange Commission, the Municipal Securities Rulemaking Board, and the California Legislature, which impact the Authority's issuance compliance and ongoing disclosure obligations;

(g) Participate in due diligence and other meetings as requested;

(h) Review rating agency presentations and investor presentations for consistency with Official Statement and compliance reasons;

(i) Participate in rating agency meetings; and

(j) As requested, provide training on disclosure practices and law as requested by the Authority.

Interim Financing – Bank Loan (Direct Private Placement)

In the event that the Authority determines to enter into a private placement with a bank or banks, the Authority proposes the below scope of services in connection therewith.

1. The Firm will undertake the following Scope of Services with respect to bond counsel services:

Advise the Authority with respect to (1) compliance with the provisions of the WIFIA loan agreement documents, if the agreements have been executed, and (2) proposed financing, including but not limited to:

(a) advice and consultation with the executive director, general counsel, other staff of the Authority and the Board of Directors regarding the financing process;

(b) prepare all legal proceedings in connection with the proposed financing, including, but not limited to drafting various resolutions, documents and agreements for consideration by the Board of Directors of the Authority;

(c) participation in meetings, hearings or negotiations with the Authority staff, Board of Directors, municipal advisors, the lender bank or banks as the circumstances require;

(d) review lender solicitation document and prepare document containing the key terms that are to be included in any bank loan documents to be included in the lender solicitation document;

(e) negotiate provisions of the private placement documents with the lender and its counsel;

(f) render a validity opinion with respect to the proposed debt obligation and, with respect to transactions expected to be tax exempt, deliver a tax opinion that interest earned with respect to the Authority's debt obligation is exempt from State and Federal taxes, if applicable; and

(g) prepare final closing documents to be executed by the Authority to effect delivery of any financing (including the tax certificate).

Interim Financing – Tax-Exempt Commercial Paper

In the event that the Authority determines to issue a tax-exempt commercial paper, the Authority proposes the below scope of services in connection therewith.

1. The Firm will undertake the following Scope of Services with respect to bond counsel services:

Advise the Authority with respect to (1) compliance with the provisions of the WIFIA loan agreement documents, if the agreements have been executed, and (2) proposed financing, including but not limited to:

(a) advice and consultation with the executive director, general counsel, other staff of the Authority and the Board of Directors regarding the financing process;

(b) prepare all legal proceedings in connection with the proposed financing, including, but not limited to drafting various resolutions, documents and agreements for consideration by the Board of Directors of the Authority;

(c) participation in meetings, hearings or negotiations with the Authority staff, Board of Directors, municipal advisors, the commercial paper dealer as the circumstances require;

(d) review credit facility solicitation document and prepare document containing the key terms that are to be included in any credit facility documents to be included in the credit facility solicitation document;

(e) negotiate provisions of the documents relating to the credit facility that will be supporting the commercial paper;

(e) prepare offering memorandum to be distributed by the commercial paper dealer;

(f) render a validity opinion with respect to the proposed debt obligation and, with respect to transactions expected to be tax exempt, deliver a tax opinion that interest earned with respect to the Authority's debt obligation is exempt from State and Federal taxes, if applicable; and

(g) prepare final closing documents to be executed by the Authority to effect delivery of any financing (including the tax certificate).

ATTACHMENT B
FEEES

COST INFORMATION

The Firm proposes to bill the Authority for Bond Counsel services in connection with the WIFIA loan on an hourly basis at the rates set forth in the table below, reflecting the Firm’s discounted rates offered to public agency clients. Such rates may change from time-to-time but no increases in excess of 2% per annum shall be implemented without the written consent of general counsel to the Authority. Total fees to clients on WIFIA master agreements and loans have ranged from \$40,000 to in excess of \$150,000. Given the complexity of a joint powers authority structure, and assuming EPA agrees to relevant precedent and covenants, a fee in the range of \$100,000 for the WIFIA master agreement and the initial loan is estimated. Subsequent loans under the master agreement would be \$25,000 or less, assuming EPA does not propose changes to the loan agreement used for the prior loan.

In connection with the interim financing, the Firm proposes to bill the Authority for its services as Bond Counsel and Disclosure Counsel on a fixed-fee basis per transaction for services rendered as Bond and Disclosure Counsel at the fixed fees identified in the below table. Such fees reflect a 2024 issuance.

The Firm’s fees in connection with the interim financing would be contingent on the closing of a financing. For on-going legal advice (non-transaction), the Firm proposes to bill the Authority on an hourly basis at the rates set forth in the table below, reflecting the Firm’s discounted rates offered to public agency clients. The hourly rates include all travel, administrative and overhead costs; the Firm does not propose to charge the Authority separately for any expenses. (If the Authority would prefer to not utilize the fixed-fee basis, the Firm could instead bill for transactions on an hourly rate basis, using the hourly rates set forth below.)

Proposed Fee Schedule

Transaction	Proposed Fee Type	Proposed or Estimated Fee
WIFIA Loan – Bond Counsel – master agreement and initial loan	Hourly Rates	Estimated \$100,000
WIFIA Interim Financing – Notes, Bonds or Certificates of Participation – Bond Counsel on a single fixed rated series	Fixed Fee	\$65,000
WIFIA Interim Financing – Bank Loan (Direct Private Placement) – Bond Counsel on a single series or single credit facility	Fixed Fee	\$50,000
WIFIA Interim Financing – Tax-Exempt Commercial Paper – Bond Counsel on a single series of commercial paper with a single credit facility	Fixed Fee	\$60,000
WIFIA Interim Financing – Notes or Bonds – Disclosure Counsel on a single series of obligations where the Firm is also serving as Bond Counsel	Fixed Fee	\$40,000

Because the Firm is highly experienced with WIFIA master agreements and loans, we believe that we can represent the Authority more efficiently on an hourly basis than other firms.

Schedule of Hourly Rates

Personnel	Title	Hourly Rate
Douglas Brown	Shareholder	\$650
Carol Lew	Shareholder	\$650
Jonathan Guz	Shareholder	\$500
Eddie Miranda	Associate	\$400
--	Paralegal	\$125

DISCUSSION ITEMS

ITEM 3.1: INTERIM FINANCING UPDATE

RESPONSIBLE/LEAD STAFF MEMBER:

David Moore, Financial Consultant

RECOMMENDATION:

None.

DISCUSSION:

The Plan of Finance Sub-Group has determined that a draft plan of finance describing the JPA's financial objectives, constraints, and initial plan of finance is an appropriate next-step for setting direction for interim financing. Clean Energy Capital is developing a draft plan of finance and intend to incorporate review and comments by the Authority's newly-engaged bond counsel. The draft plan of finance will then be shared with the plan of finance subgroup comprising financial representatives of the Members. Following such review, the draft plan of finance will be presented to the Finance Committee and Board.

This process is expected to produce a staff-level consensus regarding the interim financing debt instrument and procurement process. Staff will present findings and recommendations to the Finance Committee when the plan of finance and consensus recommendation has been established. Implementation of the interim financing debt instrument is expected to proceed concurrently with finalization of the Service Agreement and key Project Agreements such that interim financing is available to the JPA upon the effective date of the Service Agreement.

ALTERNATIVES:

None.

FISCAL ANALYSIS:

Not applicable.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

None.

ITEM 3.2: PERMITTING UPDATE

RESPONSIBLE/LEAD STAFF MEMBER:

Maureen Martin, CCWD LVE Program Manager

DISCUSSION:

Provide an update on the status of acquisition of required environmental permits for implementation of the LVE Phase 2 Expansion. Includes discussion of anticipated compensatory mitigation.

ALTERNATIVES:

None.

FISCAL ANALYSIS:

None.

ENVIRONMENTAL REQUIREMENTS:

None.

EXHIBITS/ATTACHMENTS:

Presentation entitled “Environmental Permitting Update” for the LVE Phase 2 Expansion.

The logo for the Los Vaqueros Reservoir Expansion Project. It features the words "LOS VAQUEROS" in blue, "RESERVOIR EXPANSION" in green, and "PROJECT" in green. To the right of the text is a stylized graphic of a dam or reservoir structure, composed of several horizontal bars of varying heights, colored in shades of blue and green.

LOS VAQUEROS RESERVOIR EXPANSION PROJECT

A large white text overlay on a background image of a reservoir and rolling green hills. The text reads "Environmental Permitting Update" on the top line and "JPA Board Meeting" on the bottom line.

Environmental Permitting Update JPA Board Meeting

October 11, 2023



Major Applicable Laws

- Endangered Species Acts (federal/state)
- National Historic Preservation Act
- Clean Water Act and Title 23 California Code of Regulations §3013
- Bald and Golden Eagle Protection Act
- California Fish and Game Code §1600 - §1616

Endangered Species Act

- Requirements
 - Assessment of effects to federally protected species and critical habitat in a biological assessment (BA) to USFWS and to state protected species and their habitat in an incidental take permit application to CDFW
- Federal Status (Section 7)
 - Construction
 - ✓ April 2021 – request to initiate consultation for effects to terrestrial species
 - ❑ USFWS currently drafting the Biological Opinion (BO)
 - Operations – effects to aquatic species anticipated to be covered by existing BO's

Endangered Species Act, cont'd

- State Status (Section 2081)
 - Construction
 - ✓ April 2021 – application submitted
 - ✓ November 2021 – application deemed complete
 - October 2023 – permit anticipated
 - Operations
 - ✓ July 2023 – application submitted
 - ✓ August 2023 – application deemed complete
 - November 2023 – permit anticipated

Endangered Species Act, cont'd

- Compensatory Mitigation
 - Construction
 - Approximately 2,500 acres proposed for acquisition and protection to meet species/habitat-based mitigation requirements
 - District has 747 - 921 acres proposed to meet acquisition requirements in San Joaquin County (Corral Hollow)
 - Operations
 - District currently in negotiations with CDFW



National Historic Preservation Act

- Status of Requirements
 - ✓ Cultural Resource Assessment
 - ✓ Evaluation of Eligibility and Effects
 - ✓ State Historic Preservation Officer (SHPO) determination
 - ✓ Tribal consultation
 - SHPO consultation
 - December 2022/January 2023 – Execution of Memorandum of Agreement (MOA) to resolve adverse effects to historic properties

Clean Water Act & Title 23 CCR §3013



- Status of Requirements
 - ✓ November 2020 to February 2022 – Aquatic Resources Delineation submitted to USACE; jurisdictional determination requested and received
 - ✓ January 2021 – application and alternatives analysis submitted to USACE and RWQCB
 - ✓ August 2021 – mitigation plans submitted; no compensatory mitigation required; self mitigating
 - ✓ June 2022 – RWQCB issued Section 401 Water Quality Certification and Order
 - USACE Permit/Decision Document to be issued after Section 7 ESA & Section 106 NHPA are complete



Bald and Golden Eagle Protection Act

- Requirements
 - Application for ‘take’ of nest and territory
- Status
 - ✓ September 2021 – Application submitted
 - ✓ February 2023 – USFWS published an Environmental Assessment/Finding of No Significant Impact
 - ✓ March 2023 – Long-term Incidental Take Permit issued
 - ❑ Requires Mitigation for Nest Disturbance and Territory Loss (power pole retrofitting) and for Cumulative Effects (power pole retrofitting and/or acquisition, preservation, enhancement of 598 acres)

California Fish and Game Code §1602

- Status

- ✓ September 2021 – Submitted Application for Standard Agreement
 - ✓ Included assessment of impacts to bed, channel, and bank of the river, stream, or lake, and the associated riparian habitat
- ✓ May 2023 – At CDFW request, submitted Application for Master Agreement
- ❑ December 2023 - Master Agreement anticipated
 - ❑ Compensatory mitigation for impacts to regulated features



Compensatory Mitigation Cost Assumptions

- Endangered Species Acts
 - \$36.8 M, conservative estimate for acquisition and preservation of 2,500 acres at \$15,000 per acre
 - District has 747 - 921 acres proposed, if accepted, total cost would be reduced
- Bald and Golden Eagle Protection Act
 - \$765,000 to fund pole retrofits in local flyway, if feasible
 - Enhancement of 598 acres of habitat for the benefit of golden eagles
- Above are cost assumptions, need Final Award Hearing to be able to implement/incur compensatory mitigation cost

Status and Schedule Summary



Applicable Regulation	Timing
<u><i>In-Process</i></u>	
National Historic Preservation Act *	December 2023/January 2024 – Execution of Memorandum of Agreement
Federal Endangered Species Act *	
Construction/Terrestrial	Fall 2023 – Biological Opinion
State Endangered Species Act	
Construction/Terrestrial	October 2023 – Incidental Take Permit
Operations/Fisheries	November 2023 – Incidental Take Permit
Clean Water Act Section 404	After Execution of Memorandum of Agreement & Issuance of Biological Opinion
California Fish and Game Code Section 1602	December 2023 – Master Agreement
<u><i>Issued</i></u>	
Clean Water Act Section 401	June 30, 2022
Bald and Golden Eagle Protection Act	March 28, 2023

* Required for ROD

QUESTIONS?



ITEM 3.3: WASHINGTON D.C. ENGAGEMENT TRIP AND RELATED MEETINGS

RESPONSIBLE/LEAD STAFF MEMBER:

Taryn Ravazzini, Executive Director

DISCUSSION:

The Authority Chair, Vice Chair, Secretary, and Executive Director traveled to Washington, D.C. for meetings with Congressional and Administration officials on September 27 and 28, 2023. The main objectives of the 14 meetings conducted were 1) to demonstrate to elected officials that the Authority is working towards resolution on outstanding issues that could impact federal investment, and 2) to strengthen support for ongoing and future federal funding. These objectives were met and exceeded with every meeting confirming strong support for the Project and resulting in actions that progressed the Project timeline and pursued continued federal funding.

Key takeaways from the trip:

- Broad federal support continues for the Project both among elected and administration officials.
- US Bureau of Reclamation Commissioner expressed strong support for LVE and committed to working within the Project schedule.
- Willingness of congressional members to independently offer amendments and other communications in support of continued federal funding and secure commitments to complete the Project.
- Invaluable education for new congressional staff and USEPA WIFIA team about the Project.

The attached two staff reports detail the considerable progress made by the Authority and its member agencies with the Project's federal partners over the past month.

ALTERNATIVES:

For discussion purposes.

FISCAL ANALYSIS:

Not applicable.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

3.3.1 Federal Relations Report

3.3.2 Engagement Activities with Reclamation

3.3.3 LVE Informational Document

3.3.1 FEDERAL RELATIONS REPORT

WATER AND POWER LAW GROUP PC

BERKELEY · WASHINGTON, D.C.



To: Board of Directors, *Los Vaqueros Reservoir Joint Powers Authority*

From: Natural Resource Results and Water and Power Law Group

RE: Board Report – October 2023

Washington DC Trip

The JPA had a very productive time in DC meeting with the following:

1. Congressman DeSaulnier
2. EPA's WIFIA Office
3. Congresswoman Eshoo's staff
4. Commissioner Touton
5. Senate Energy & Natural Resources Committee staff
6. Congressman Garamendi
7. Senator Feinstein's staff
8. Congressman Harder
9. Congressman Swalwell's staff
10. Senator Padilla's staff
11. Congressman Costa
12. House Natural Resources Committee staff
13. Congresswoman Lee's staff
14. Congressman Huffman's staff

During the congressional meetings, the JPA –

- Provided a general overview, including the benefits the project will provide and the project participants.
- Highlighted the fact that there is currently no environmental opposition.
- Discussed the current cost-share, including the remaining federal funding needs and the JPA's WIFIA application to support the local cost-share.
- Discussed the current timeline and the need for Reclamation to issue a ROD by February to meet CWC final funding award requirements. The JPA noted that there has been improved engagement with Reclamation since its last DC visit but there are still items that Reclamation needs to make decisions about.

There was unanimous support for the project across all the congressional meetings, with many members and staff saying things like "If we can't get this project done, we might as well go home because it's a no-brainer".

Some congressional offices asked about water rights for the projects so JPA explained that the change petition will hopefully be submitted to the SWRCB in November. The petition will be a modification of existing rights held by CCWD, Reclamation, and DWR but the project is not seeking any new water rights.

Congressman Huffman's staff asked the JPA if the project will utilize some of the CEQA reforms championed by Governor Newsom and were told that they are not applicable because LVE has already finalized its EIR/EIS.

During conversations about federal funding, the JPA highlighted that Reclamation has transmitted its FY24 WIIN Act storage account funding proposal to Congress and made the request that Congress include language in any FY24 appropriation bill to approve that list so funds can be released to projects like LVE, which led to Members taking action with amendments (more on that below) and phone calls to Reclamation encouraging the allocation of the remaining federal commitment to the project.

Both the Feinstein and Padilla offices were supportive of leading a congressional letter of support for the JPA's WIFIA application once the final loan amount is settled.

During the meeting with EPA's WIFIA team, the JPA began by –

- Providing a general overview, including the benefits the project will provide and the project participants.
- Highlighting the fact that there is currently no environmental opposition.
- Discussing the current cost-share, including the remaining federal funding needs and the JPA's WIFIA application to support the local cost-share.

The meeting was an opportunity to meet the people who will be reviewing the JPA's WIFIA application, begin to build relationships, and to ask or answer questions about the process and project. EPA had a very positive response towards the project and was clear that the review process will be an open dialogue and mentioned a few key items including:

- EPA will need a ROD from Reclamation to close the loan.
- EPA will do the environmental and technical review of the project in concert with the financial review.
 - For environmental review, EPA will adopt Reclamation's environmental documents.
 - For technical review, EPA will bring on an outside engineering firm to do a high-level technical review to ensure technical feasibility and confirm no major engineering risks in the design.
- EPA has sufficient budget authority to support a larger loan if the JPA determines it is needed due to cost escalation.

EPA staff asked about water rights for the project and the JPA explained that the change petition will hopefully be submitted to the SWRCB in November. The petition will be a modification of existing rights held by CCWD, Reclamation, and DWR but the project is not seeking any new water rights.

During the meeting with Commissioner Touton, the JPA began by thanking the Commissioner for the funding that Reclamation has provided the project to date, highlighted the improved coordination with regional staff since the JPA's last DC visit and stressed the importance of completing the ROD by February of 2024.

The Commissioner shared that Reclamation is now looking at limited op-flex options. She noted that Reclamation typically tries to utilize its investment in projects to provide benefits for its contractors but in the case of LVE, many of the federal contractors that Reclamation would be providing benefits for will already benefit from the project because of their direct investment therefore Reclamation is adjusting its approach.

The Commissioner shared with the JPA that the project is a priority for the Administration and that she believes Reclamation will be able to meet the JPA's timelines.

House Energy and Water Appropriations

As a result of the JPA's meeting, Congressman Garamendi offered an amendment to the FY24 House Energy and Water appropriations bill that would release previously appropriated WIIN Act storage funding to projects in California. The amendment, which is cosponsored by Congressman Harder and Congressman Costa, would provide funding for LVE, Sites, Del Puerto, and B.F. Sisk.

A quick refresher on the WIIN Act storage account process – after funding is appropriated into the storage account by Congress, Reclamation develops a list of projects to fund using those funds. That list is then transmitted to Congress (we believe the FY24 list went to Congress in late August). Reclamation cannot obligate this funding until Congress approves the list which is done by specifically naming the projects that Reclamation has requested funding for in an appropriations bill (the Garamendi amendment would do this). Once that bill is signed into law, those funds are available for Reclamation to obligate to the projects included on the list submitted to Congress. Since Reclamation's list has not been made public, Garamendi decided to cast a wide net and include all the WIIN Act storage projects in California.

Congressman Harder also offered an amendment to the FY24 Energy and Water bill that would direct Reclamation to expedite the completion of the ROD for LVE Phase II, which mirrors the language in his SAVE Water Resources Act. The amendment was the topic of conversation during the JPA's meeting with the Congressman. He was sympathetic toward the JPA's need to remain neutral on the amendment given its relationship with Reclamation, but he was clear that he views his role as one of oversight and will continue to hold Reclamation accountable. The JPA clearly voiced its appreciation for his continued effort to keep the project moving forward.

3.3.2. SEPTEMBER 2023 ENGAGEMENT ACTIVITIES WITH RECLAMATION

The JPA, CCWD staff, and consultants are continuing to engage with Reclamation to advance several required agreements, approvals, and permits for the project construction. We held a meeting with Reclamation and SLDMWA members on 9/14/2023 to discuss potential Federal investment in Operational Flexibility benefits. We held the fourth workshop with Reclamation's leadership on September 21, 2023. We continue to make progress towards defining Federal investment towards Refuge water supply benefits, Refuge Water Supply Acquisition agreement, Federal Partnership agreement, and Federal Record of Decision. Reclamation continues to demonstrate commitment to meeting the Strike Team schedule. The fifth leadership workshop between the JPA, CCWD, and Reclamation is scheduled for October 26, 2023.

ABOUT THE PROJECT

The Los Vaqueros Reservoir Expansion Project will increase Bay Area and Central Valley water supply reliability, develop water supplies for wildlife refuges, and improve water quality while protecting Delta fisheries and providing additional Delta ecosystem benefits.

When completed, it will increase the Los Vaqueros Reservoir capacity from 160,000 acre-feet to 275,000 acre-feet and add new and modified conveyance facilities to provide environmental, water supply reliability, operational flexibility, water quality, and recreational benefits.

PROJECT BENEFITS



Water for Wetlands

Reliable water for South of Delta wildlife refuges



Water Quality

Improved quality of delivered water



Water for Communities

Reliable water supply for 11 M Californians



Recreational Area

Enhancement of recreation facility



Regional Integration

High potential for regional water system integration



Climate Resiliency

Improved water supply reliability for the region



Economic Growth

Anticipated creation of up to 20,000 jobs

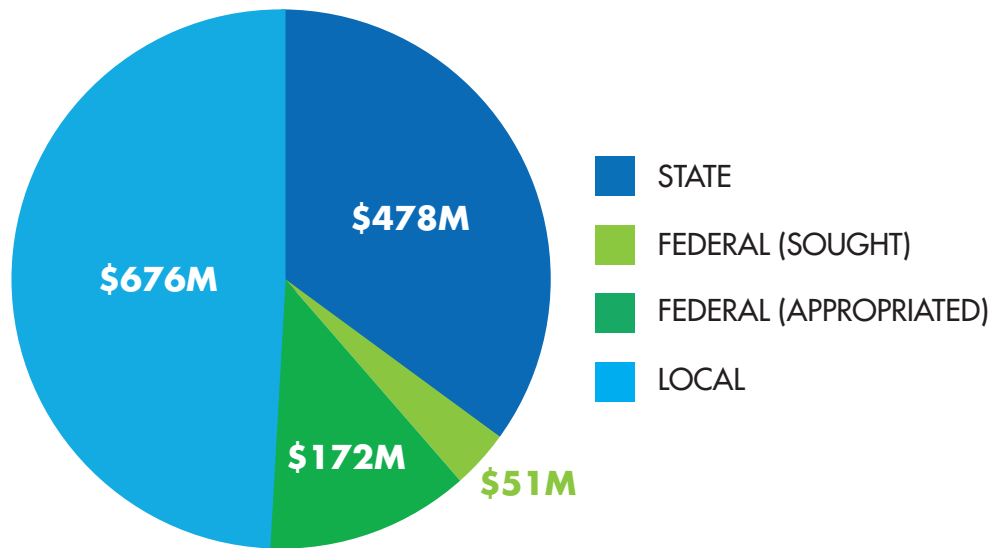


Drought Management

Provide emergency water supply storage



FUNDING



Federal funding from Congress

- Supports wildlife refuges
- Water Infrastructure Improvements for the Nation (WIIN) Act and Bipartisan Infrastructure Law

State funding from the California Water Commission (Proposition 1, 2014)

- Supports wildlife refuges, emergency response, and recreation

Local funding from partner agencies

- Supports regional water supply reliability
- LV JPA is seeking a low-interest, federal loan*

Total project cost as of September 2023: \$1.377B

- Since November 2014, inflation has increased construction costs by more than 40%**

* Water Infrastructure Finance and Innovation Act ** Engineering News Record Index

PROJECT TIMELINE

Preliminary California Water Commission (CWC) eligibility and funding decisions

2020 - 2023

Final Supplement to the Final EIS/EIR

August 2020

Permitting, agreements, and design

July 2018

February 2020

Final Federal Feasibility Report

JPA MEMBER AGENCIES



2024

PHASE 2 EXPANSION

Capacity 275,000 acre ft.
Dam Height 281 ft.



2012

PHASE 1 EXPANSION

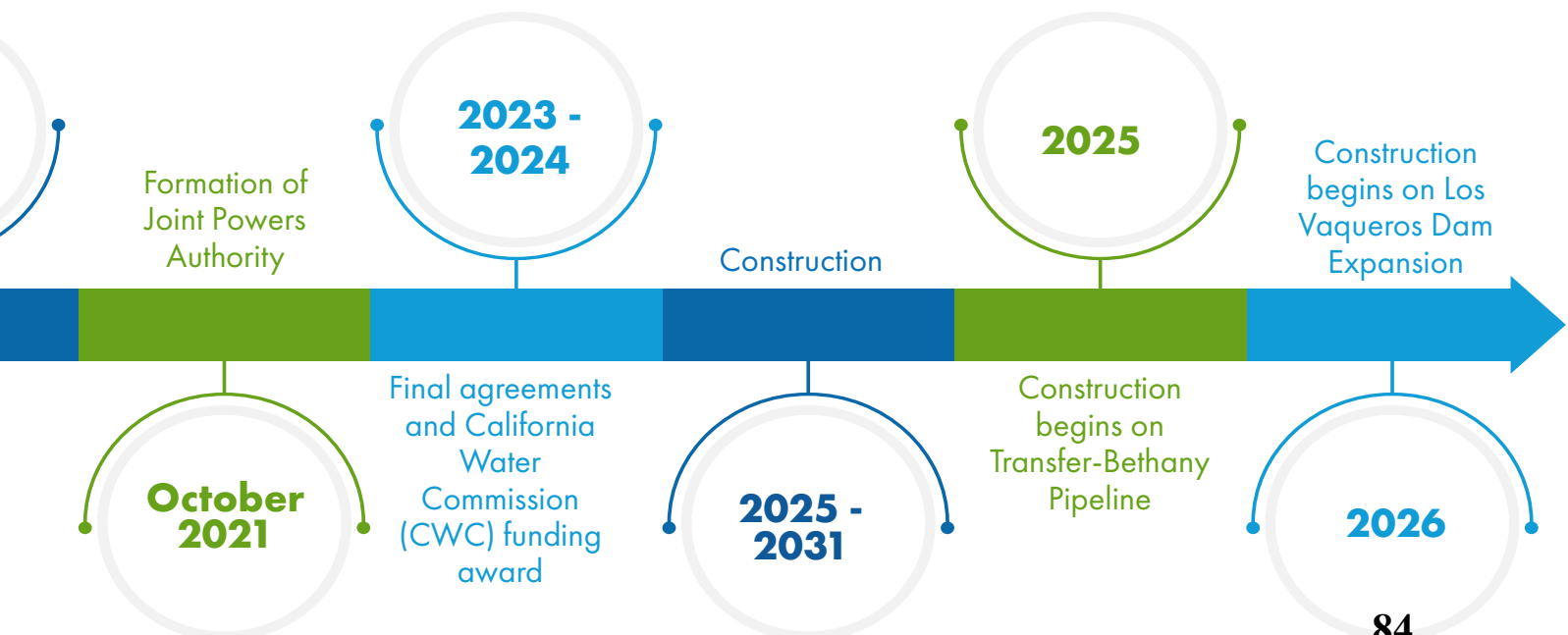
Capacity 160,000 acre ft.
Dam Height 226 ft.



1998

ORIGINAL DAM CONSTRUCTION











Capacity 100,000 acre ft.
Dam Height 192 ft.



New JPA Creates Unique Partnership

Established in October 2021, the Los Vaqueros Reservoir Joint Powers Authority (JPA) is a unique and diverse regional partnership of eight Member Agencies working to improve water supply reliability for Californians and their environment. The JPA is responsible for the governance and administration of the Los Vaqueros Reservoir Expansion Project.

JPA Members Serving Diverse Beneficiaries

-  Alameda County Water District
-  Contra Costa Water District
-  City of Brentwood*
-  East Bay Municipal Utility District
-  Grassland Water District
-  Santa Clara Valley Water District
-  San Francisco Public Utilities Commission
-  Bay Area Water Supply & Conservation Agency (BAWSCA)*
-  San Luis & Delta-Mendota Water Authority**
-  Zone 7 Water Agency

* The City of Brentwood and BAWSCA are not signatory parties to the JPA. Rather, these parties contract for project benefits through their wholesale providers.

** Activity Agreement Partners include Byron-Bethany Irrigation District, City of Tracy, Del Puerto Water District, Panoche Water District, and Westlands Water District



CONTACT THE JPA

Taryn Ravazzini
Executive Director

Los Vaqueros Reservoir JPA
1331 Concord Ave., Concord, CA 94520
916-206-5367 | info@losvaquerosjpa.com

www.losvaquerosjpa.com



ITEM 3.4: PROGRAM MANAGEMENT UPDATE

RESPONSIBLE/LEAD STAFF MEMBER:

Chuck Gardner, Program Manager

DISCUSSION:

Chuck Gardner, Program Manager, will present a status of JPA program-level activities. Monthly standing updates noted in the presentation include status of Authority contract authorizations, budget, schedule, and agreements. Continued progress toward drafting project agreements has been made and an updated schedule for completion of those agreements as related to project funding is included in the presentation. At the request of the Board, projections for completion of each agreement is further detailed in the attached presentation noting key issues and approach to resolution with negotiations proposed to begin in October.

The program controls team has developed a cash flow for the JPA which is included in the presentation. The JPA cash flow will be updated on a quarterly basis consistent with ongoing reporting requirements. Additional detail as related to the updated JPA Construction Cost Estimate has been updated specific to JPA costs, consistent with the assumptions included in the WIFIA application.

Staff continues to seek opportunities for participation on panels and to providing project presentations during the Association of California Water Agencies (ACWA) fall conference. Additionally, staff is working to schedule a reception comparable to the successful event from the spring conference. The draft Strategic Communications Plan has been developed to align with and build on the overarching goals and priorities set forth by the Communications & Outreach Committee and approved by the Board of Directors. Plan elements encompass target audiences, communications coordination process, message platform, strategies, tactics, outreach schedule, and methods for evaluation. The draft plan will be reviewed with the Communications and Outreach Committee at the October meeting.

ALTERNATIVES:

For discussion purposes.

FISCAL ANALYSIS:

None.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

September Program Management Update Presentation.

The logo for the Los Vaqueros Reservoir Expansion Project is centered in the upper half of the image. It features the words "LOS VAQUEROS" in a bold, blue, sans-serif font. Below this, the words "RESERVOIR EXPANSION PROJECT" are written in a green, sans-serif font. To the right of the text is a vertical graphic element consisting of four stacked, trapezoidal shapes that resemble a dam or a reservoir cross-section, colored in shades of blue and green.

LOS VAQUEROS RESERVOIR EXPANSION PROJECT

The background of the slide is a scenic landscape photograph. It shows rolling green hills under a clear sky. In the middle ground, a large blue reservoir is visible, surrounded by a concrete dam structure. Several wind turbines are scattered across the hills in the distance. The foreground shows a dirt road winding through the grassy hills.

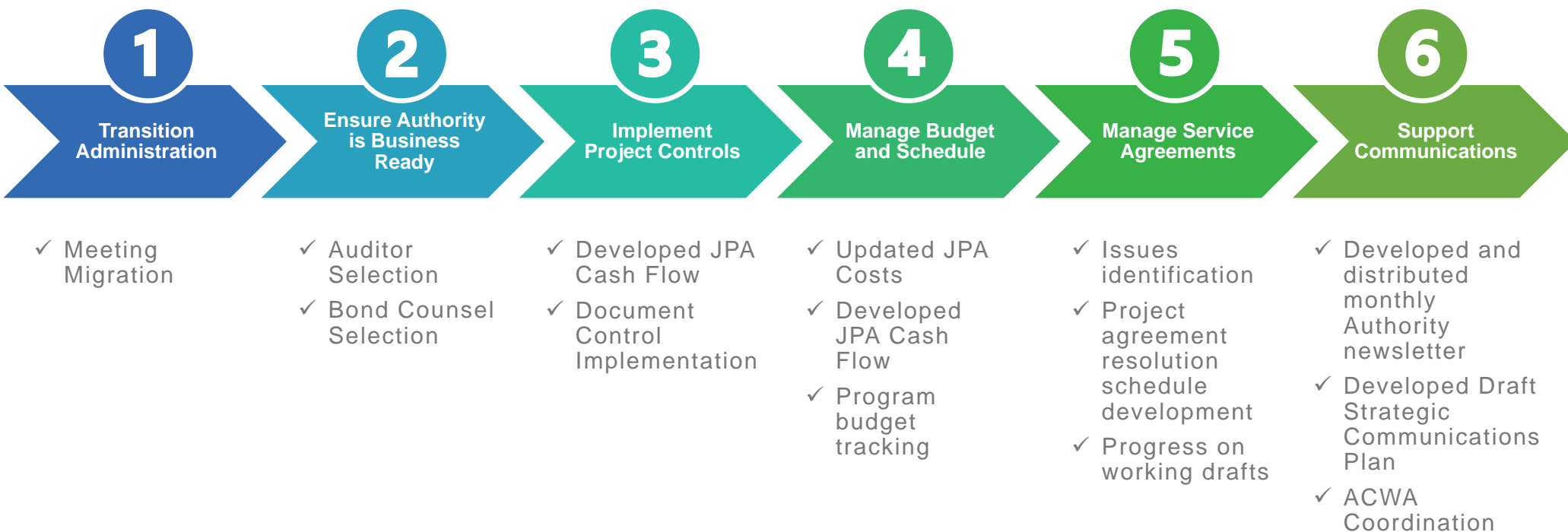
LVE Program Management Update
October 11, 2023



Overview

1. Accomplishments
2. Authority Contract Authorizations
3. Budget
4. Cash Flow
5. Schedule
6. Agreements
7. Next Steps

September Accomplishments



Authority Contract Authorizations



Los Vaqueros JPA Active Contracts and Progress Billings - August 2023

Contractor/Consultant/Vendor	Primary Responsibility	Contract Term	Max. Contract Value/NTE	Billed Through August 2023	Remaining Contract Value	% Term Expired	% Billed
CalMutuals - JPRIMA ¹	JPA Insurance Policy	05/30/2023 - 04/01/2024	\$ 62,261.00	\$ 62,261.00	\$ -	30%	100%
Clean Energy Capital - CEC	Finance/Credit Support	08/25/2022 - 06/30/2024	\$ 1,090,515.00	\$ 704,344.79	\$ 386,170.21	55%	65%
Eide Bailly, LLP	Accounting Services	07/01/2023 - 06/30/2024	\$ 98,000.00	\$ 6,864.25	\$ 91,135.75	17%	7%
Hallmark Group	Project Management/Controls	05/22/2023 - 06/30/2024	\$ 1,251,440.00	\$ 360,708.35	\$ 890,731.65	26%	29%
J Comm, Inc. ²	Social Media	08/16/2023 - 01/31/2024	\$ 22,000.00	\$ 10,000.00	\$ 12,000.00	9%	45%
Lagerlof, LLP ³	Legal	07/01/2023 - 06/30/2024	\$ 300,000.00	\$ 43,380.01	\$ 256,619.99	17%	14%
Natural Resource Results, LLC	Federal Relations/Lobbying	05/16/2023 - 06/30/2024	\$ 212,500.00	\$ 52,500.00	\$ 160,000.00	26%	25%
Regional Government Services - RGS ⁴	Board Clerk/Administration	03/08/2023 - 06/30/2023	\$ 25,000.00	\$ 13,076.00	\$ 11,924.00	Month-to-Month	52%
S&P Global Ratings	Rating Evaluation	12/19/2022 - [Open]	\$ 55,000.00	\$ 50,000.00	\$ 5,000.00	Open	91%
T. Ravazzini Consulting	Executive Director	09/14/2022 - 06/30/2025	\$ 1,270,220.00	\$ 413,599.25	\$ 856,620.75	34%	33%
TBD ⁵	JPA Financial Audit	TBD		TBD			

¹ Payment in full required on policy renewal date.

² Contract terms required \$10,000 payment due at signing.

³ Legal services "contract value" is an estimated FY24 cost projection not an actual contract or NTE.

⁴ Contract is month-to-month effective July 1, 2023.

⁵ Auditor selection is in progress. Audit report due by June 2024.

Authority Budget Report

Month End August 31, 2023



Budget Cost Category	FY24 Budget	Monthly Budget (straight line)	Budget To Date	Paid/Accrued Costs to Date	Budget Variance Over/(Under)
JPA Services					
Management	\$ 1,706,000	\$ 142,167	\$ 284,333	\$ 320,866	\$ 36,533
Administration	\$ 250,000	\$ 20,833	\$ 41,667	\$ 1,569	\$ (40,098)
Financial	\$ 720,000	\$ 60,000	\$ 120,000	\$ 100,376	\$ (19,624)
External Affairs/Agency Support	\$ 470,000	\$ 39,167	\$ 78,333	\$ 40,000	\$ (38,333)
Legal	\$ 505,000	\$ 42,083	\$ 84,167	\$ 43,380	\$ (40,787)
Total JPA Services	\$ 3,651,000	\$ 304,250	\$ 608,500	\$ 506,191	\$ (102,309)
CCWD Services					
Management	\$ 75,000	\$ 6,250	\$ 12,500	\$ -	\$ (12,500)
Environmental Planning/Design			\$ -		
Dam Raise	\$ 1,324,400	\$ 110,367	\$ 220,733	\$ 980	\$ (219,753)
Transfer Bethany Pipeline	\$ 2,564,800	\$ 213,733	\$ 427,467	\$ 94,865	\$ (332,602)
Pumping Plant No. 1	\$ 1,260,800	\$ 105,067	\$ 210,133	\$ 1,375	\$ (208,758)
Program (not facility specific)	\$ 2,475,333	\$ 206,278	\$ 412,556	\$ 78,576	\$ (333,980)
Legal	\$ 860,000	\$ 71,667	\$ 143,333	\$ 29,723	\$ (113,610)
Fees	\$ 584,000	\$ 48,667	\$ 97,333	\$ -	\$ (97,333)
Total CCWD Services	\$ 9,144,333	\$ 762,028	\$ 1,524,056	\$ 205,519	\$ (1,318,537)
CCWD Labor					
Management	\$ 203,000	\$ 16,917	\$ 16,917	\$ 75,401	\$ 58,484
Environmental Planning/Design					
Dam Raise	\$ 427,100	\$ 35,592	\$ 35,592	\$ 30,473	\$ (5,119)
Transfer Bethany Pipeline	\$ 621,780	\$ 51,815	\$ 51,815	\$ 66,383	\$ 14,568
Pumping Plant No 1	\$ 427,080	\$ 35,590	\$ 35,590	\$ 39,995	\$ 4,405
Program (not facility specific)	\$ 2,423,500	\$ 201,958	\$ 201,958	\$ 331,605	\$ 129,647
Total CCWD Labor	\$ 4,102,460	\$ 341,872	\$ 341,872	\$ 543,857	\$ 201,985
Total CCWD	\$ 13,246,793	\$ 1,103,899	\$ 1,865,927	\$ 749,376	\$ (1,116,551)
Total (excluding contingency)	\$ 16,897,793	\$ 1,408,149	\$ 2,474,427	\$ 1,255,567	\$ (1,218,860)
Contingency	\$ 2,175,207	\$ 181,267	\$ 181,267	\$ -	\$ (181,267)
Total	\$ 19,073,000	\$ 1,589,417	\$ 2,655,694	\$ 1,255,567	\$ (1,400,127)

Quarterly Projected Cash Flow Report

Fiscal Year 2024



	Beginning	FY24 - Q1 Jul - Sep	FY24 - Q2 Oct - Dec	FY24 - Q3 Jan - Mar	FY24 - Q4 Apr - Jun	Total
CASH - Beginning of Year	\$ -	\$ -	\$ 1,429,112	\$ 1,097,591	\$ 1,385,571	
CASH SOURCES						
LAP Funding (from Contra Costa Water District)		1,425,000	-	-	-	1,425,000
LAP Funding (invoiced by JPA - September 1, 2023)		619,500	3,717,000	-	-	4,336,500
LAP Funding (to be invoiced by JPA - January 5, 2024)		-	-	4,336,500	-	4,336,500
TOTAL CASH SOURCES		2,044,500	3,717,000	4,336,500	-	10,098,000
TOTAL CASH AVAILABLE	-	2,044,500	5,146,112	5,434,091	1,385,571	
CASH USES						
CCWD Progress Payments (per MPA 5)		-	2,913,000	2,913,000	-	5,826,000
EPA WIFIA Loan Application Fee		100,000	-	-	-	100,000
Management		320,866	414,322	414,322	414,322	1,563,832
Administration		1,569	75,866	75,866	75,866	229,167
Financial		100,376	153,208	153,208	153,208	560,000
External Affairs/Agency Support		40,000	130,279	130,279	130,279	430,837
Legal - General Counsel		43,380	77,207	77,207	77,207	275,000
Legal - Bond Counsel (TBD)		-	75,000	75,000	75,000	225,000
Insurance - General and Excess Liability		-	-	-	62,261	62,261
Contingent Costs		-	194,639	194,639	194,639	583,917
Direct Reimbursable Costs		9,197	15,000	15,000	15,000	54,197
TOTAL CASH USES		615,388	4,048,521	4,048,521	1,197,782	9,910,211
CASH - End of Year	\$ -	\$ 1,429,112	\$ 1,097,591	\$ 1,385,571	\$ 187,789	

Table 6 – Estimated Cost at Completion – All Costs Comparison (Costs in \$1,000)¹

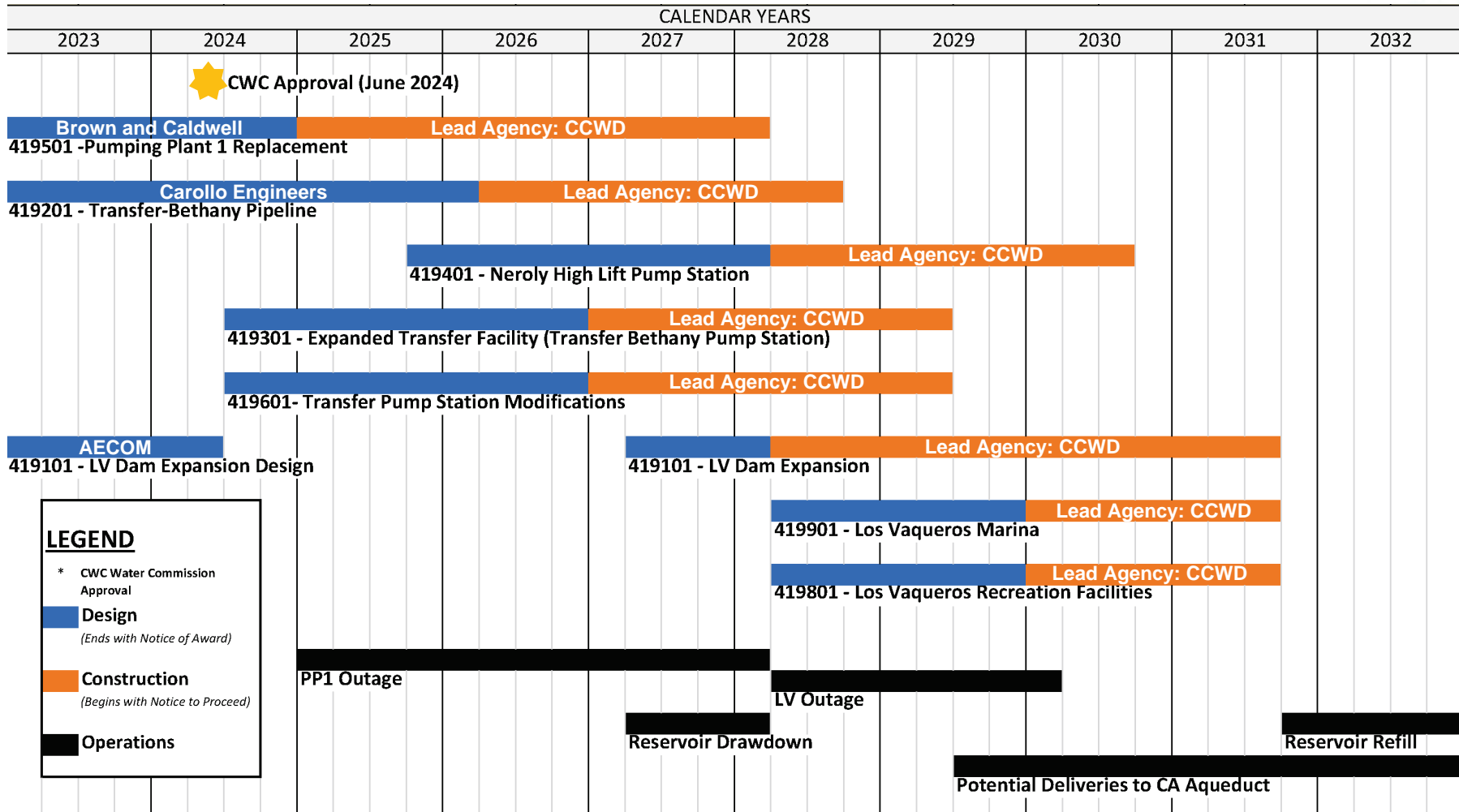
¹ All costs shown are multiples of \$1,000 and are rounded up to the nearest \$100,000.

² Program Reserves in 2022 include: Applied Program Contingency (\$47.121M); Capital Project Reserve (\$47.573M); Debt Service Reserve Fund (\$39.995M); and Administrative and Operating Fund Reserve (\$3.731M)

Project Element	June 2022 Capital Cost Estimate Cost at Completion	June 2023 Capital Cost Estimate Cost at Completion	Changes Between Updates	Percent Change (%)
Implementation Costs	\$88,600	\$89,700	\$1,100	1%
Los Vaqueros Dam Expansion	\$449,200	\$532,800	\$83,600	19%
Transfer Bethany Pipeline	\$219,400	\$264,600	\$45,200	21%
Expanded Transfer Facility	\$94,700	\$99,000	\$4,300	5%
Neroly High Lift Pump Station	\$68,900	\$77,400	\$8,500	12%
Pumping Plant No. 1 Replacement	\$94,100	\$112,200	\$18,100	19%
Transfer Pump Station Modifications	\$60,700	\$57,100	(\$3,600)	-6%
Los Vaqueros Recreation Facilities	\$14,400	\$10,000	(\$4,400)	-31%
Los Vaqueros Marina Relocation	\$84,700	\$100,500	\$15,800	19%
Program Reserves ²	\$138,400	\$100,000	(\$38,400)	-27%
Total	\$1,313,000	\$1,443,300	\$130,300	10%
EBMUD Mokelumne Aqueduct	\$23,700	\$23,700	\$0	0%
JPA Costs				
Financing Cost	\$19,100	\$20,990	\$1,890	10%
JPA Admin Costs (Pre-Operations)	\$18,500			
Interest on LAP Contributions	\$2,300	\$2,450	\$150	7%
Program Total	\$1,376,600			

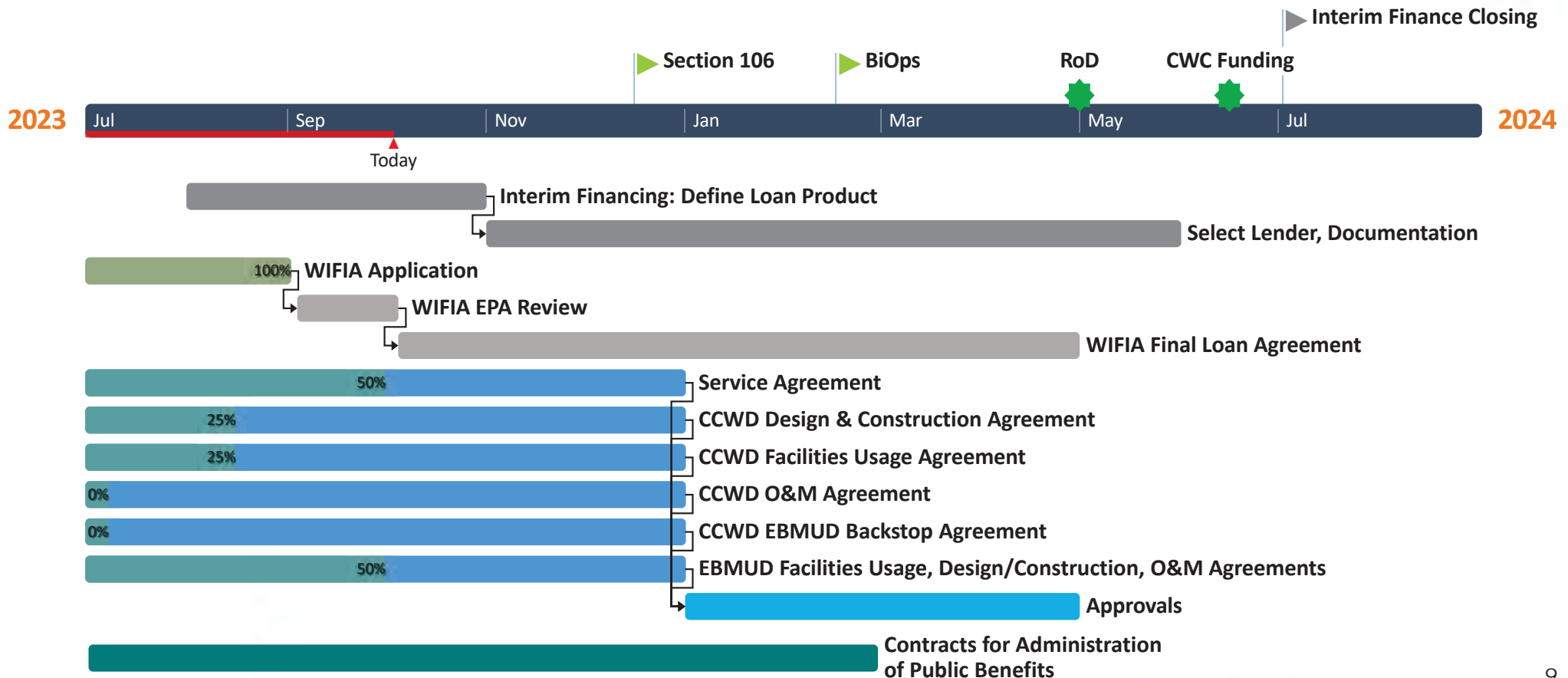
Construction Schedule Summary

July 13, 2023



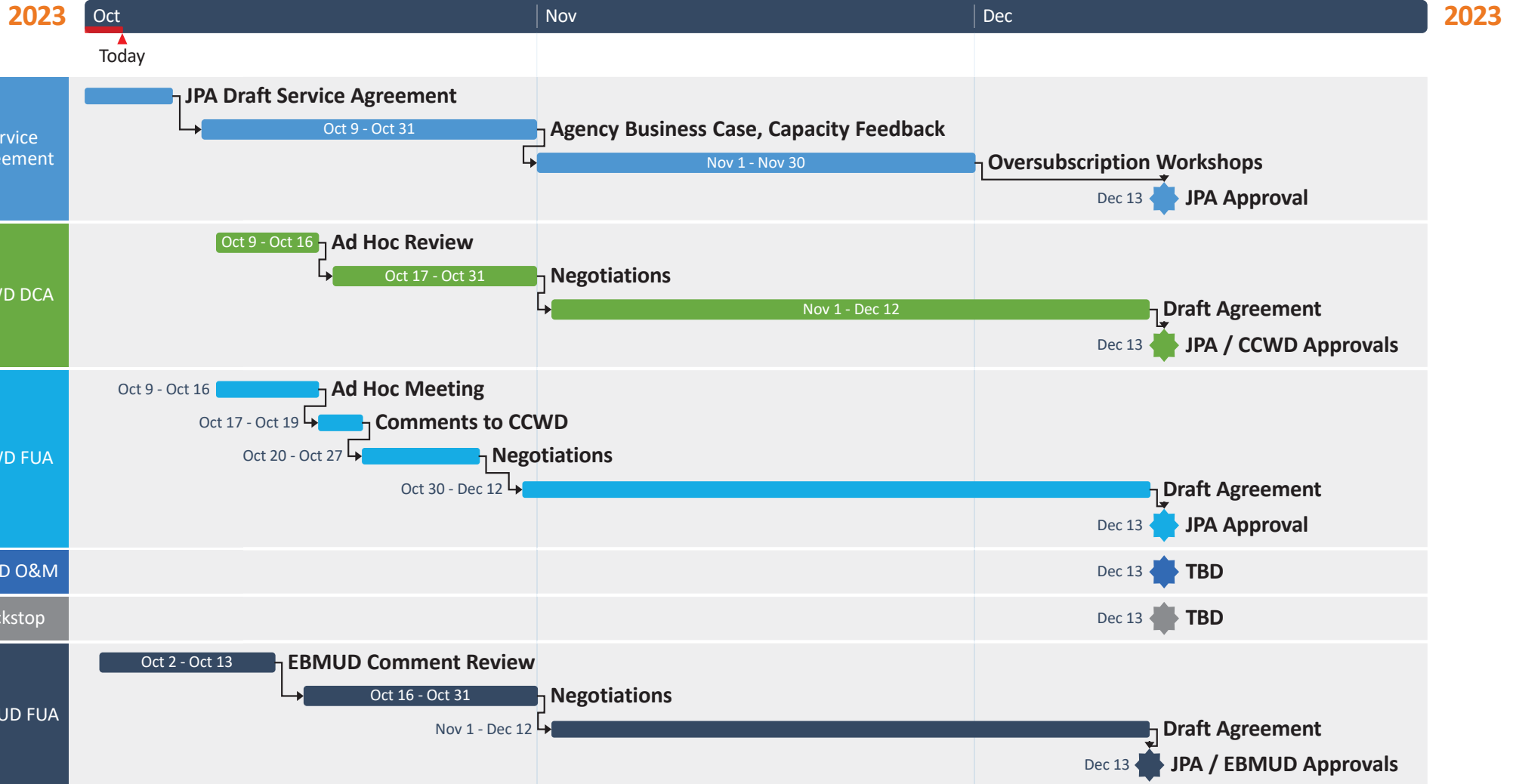
Planning Phase Funding Schedule

September 2023



LVE Service Agreements Completion Schedule

September 2023



Federal Agreement Development Progress

Agreement	Owner	Status	Ball In Court	Due Date
Operations	D. Sereno (CCWD)	Not started		4/1/2024
Partnership	T. Ravazzini (JPA Staff)	Not started		3/1/2024
Refuge Water Supply	E. Wehr (Grassland)	Not started		4/1/2024

Contract for Administration of Public Benefits Update

- Initial meetings with DFW and DWR held in August.
- Staff are working on developing initial adaptive management plan drafts for each CAPB.
- CAPB Workgroup is scheduled for Oct. 10 (Kick off and ecosystem benefits) and Oct. 13 (emergency response and recreation) and will be provided updates and opportunities for input as more work product is developed.
- Draft adaptive management plan for ecosystem benefits will be shared with Reclamation prior to sharing with DFW.
- Final draft CAPBs are expected by February of 2024 for review by the California Water Commission and opportunity for public comment prior to executing the CAPBs before the final funding award hearing.

Service Agreements

Status	Issues
<ul style="list-style-type: none"> • Member workshops convened in July • Term sheet developed • LVE Partners Operations Simulation Tool • JPA support of member Business Case development 	<ul style="list-style-type: none"> • Operational rules • Cost allocation rules • Storage and conveyance capacity share

CCWD Facilities Usage Agreement

Status	Issues
<ul style="list-style-type: none"> • CCWD terms reviewed by member staff • Comments consolidated • Impasse issues by outside facilitator if necessary 	<ul style="list-style-type: none"> • Definition of provided capacity. • Accommodation of members use in relation to CCWD priority use.

EBMUD Design & Construction, O&M, Facilities Usage Agreement

Status	Issues
<ul style="list-style-type: none"> • Comments received from member staff • Comments out for internal review • Impasse issues by outside facilitator if necessary 	<ul style="list-style-type: none"> • Availability of Freeport during drought conditions • Lead time for use of Freeport

CCWD Design Construction Agreement

Status	Issues
<ul style="list-style-type: none"> • Comments received from member staff • Comments received by ad hoc committee • Comments sent to CCWD • Impasse issues by outside facilitator if necessary 	<ul style="list-style-type: none"> • Cost Control • Reviews and Approvals • Contract Authority • Design Review Team

Next Steps

- Agreement Issues Resolution
- Finalize Authority Cost Report format
- Finalize Authority Progress and Cost Report for CCWD Grant Reimbursement
- Finalize Draft Communications Plan

REPORTS

ITEM 4.2: EXECUTIVE DIRECTOR'S REPORT

The following highlights additional key activities which occurred last month.

WIFIA Loan Application Submitted – The Executive Director submitted the Authority's Water Infrastructure Financing and Innovation Act (WIFIA) loan application to the U.S. Environmental Protection Agency (EPA) on Friday, September 22, 2023 and approved payment of the \$100,000 application fee as authorized by the Authority Board of Directors. This important milestone preceded the Authority's trip to Washington, D.C. and allowed for the WIFIA loan application review team to be assembled and join us for our meeting at EPA on September 27, 2023. As noted in the Federal Relations Report, the Authority's meeting with EPA was very positive and set a great tone for the upcoming interactions with the application review team. Please see Federal Relations Report 3.3.1.

Memorandum of Understanding with Department of Water Resources (DWR) – As an intended recipient of WSIP funding, the Authority is subject to Water Code section 79759(b), which states: “[t]he department [DWR] shall be an ex officio member of each joint powers authority subject to this section, but the department shall not control the governance, management, or operation of the surface water storage projects.” The Executive Director shared with DWR the draft MOU that establishes the roles and responsibilities of DWR's ex officio seat and is making progress toward finalizing it. The next meeting is set for mid-October.

California Water Commission (CWC)/California Natural Resources Agency (CNRA) – The Executive Director and member agency staff continue to engage with CWC and CNRA staff to review the Strike Team schedule and discuss Project status with the most recent meeting held in September. Current progress on permitting and partnership agreements was shared along with outstanding issues that may impact the Strike Team schedule. CWC and CNRA maintain a strong commitment to facilitating WSIP-related issues with state and federal agency partners in an effort to keep the WSIP projects on track. The Executive Director will continue to keep the CWC/CNRA apprised of Project progress.

Presentations – Updates on the Los Vaqueros Reservoir Phase 2 Expansion Project were requested by and made to the Alameda County Special Districts Association (Sept. 13) and the Contra Costa Special District Association (Sept. 18). The Program Manager will be presenting updated Project costs and schedule to the Valley Water - Water Storage Exploratory Committee on October 13.

EXHIBITS/ATTACHMENTS:

None.

Monthly List of Authority Contracts Entered into by Executive Director

September 2023

<u>Contracts</u>	<u>Amount</u>	<u>Purpose</u>
None		
Total		

ITEM 4.4: COMMITTEE MEETING SUMMARIES

RESPONSIBLE/LEAD STAFF MEMBER:

Taryn Ravazzini, Executive Director

RECOMMENDATION:

None.

ALTERNATIVES:

Not applicable.

FISCAL ANALYSIS:

Not applicable.

ENVIRONMENTAL REQUIREMENTS:

Not applicable.

EXHIBITS/ATTACHMENTS:

- Finance Committee Meeting Summary September 18, 2023



SUMMARY OF REGULAR MEETING OF FINANCE COMMITTEE

September 18, 2023 – 2:00 p.m.

Directors Participating Telephonically:

Anthea Hansen	107 Cayuga, Santa Cruz, California 95063
Paul Sethy	46961 Zapotec Drive, Fremont, California 94539
Rebecca Eisenberg	2345 Waverly Street, Palo Alto, California 94301
Michael Tognolini	375 Eleventh Street, Oakland, California 94607

Chair Hansen called the meeting to order at 2:02 p.m. Authority staff and members of the public also attended the meeting.

Chair Hansen called for public comments on non-agenda items; none were received.

1.1 August 24, 2023 Finance Committee Meeting Summary. The draft summary of the August 24, 2023 Finance Committee meeting was presented for the Committee’s review and discussion. Executive Director Ravazzini noted a change to the “Future Agenda Items” section of those minutes, noting the presentation on September 18 would be made to the Contra Costa Special County Special Districts Association and not the ACWD Board. The draft summary was approved by the Committee, as revised.

Chair Anthea Hansen called for comments from members of the Committee and for public comments; none were received.

1.2 Draft Treasurer’s Report – Month Ended August 31, 2023. Jacqueline Harris, Program Controls Manager, presented the draft Treasurer’s Report for the month ended August 31, 2023. The Treasurer’s Report for the month ended August 31, 2023, was approved as presented.

Chair Anthea Hansen called for comments from members of the Committee and for public comments; none were received.

1.3 Summary of Invoices – Month Ended August 31, 2023. Ms. Harris advised that at the request of the Authority’s Board of Directors, the Finance Committee is provided with a

summary of the monthly invoices received and paid each month. The summary of invoices for August 2023 was presented for the Committee's review and discussion. Ms. Harris noted a correction to the Summary of Invoices with respect to Regional Government Services. The services provided in the amount of \$2,313.71 were actually incurred in July and not in August as noted on the Summary.

Chair Anthea Hansen called for comments from members of the Committee and for public comments; none were received.

1.4 Interim Financing Update. David Moore, the Authority's Financial Consultant with Clean Energy Capital, advised that the Authority's Board has directed staff to develop options for the interim financing of Project costs to supplement anticipated funding through the WIFIA, WSIP and WIIN Act programs. The Plan of Finance Subgroup, comprised of Members' financial representatives, has met to review the pros and cons of alternative interim financing approaches and to develop a recommended path forward for the Authority. To support this evaluation process, Clean Energy Capital arranged for three commercial/investment banks to give informational presentations to the Plan of Finance Subgroup. Each banking team was provided an information package containing a description of the JPA's long-term plan of finance and interim financing needs as well as a series of preliminary, non-binding cashflows to allow the banks to understand the scale and timing of financing required. Those banks were informed the selection of any financial counterparty to the Authority would be made in a later competitive procurement process. Three banks provided presentations: Citibank, JP Morgan and Bank of America.

Following the presentations, the Plan of Finance Subgroup met internally and discussed the recommendations and preferred interim financing strategies. Staff intends to present a recommended plan for interim financing to the Finance Committee at its October 26 meeting. Once an Interim Financing strategy has been defined, the Authority will use an RFP process to select one or more financing counterparties for that financing.

In preparation for the banker presentations, the banks requested the Authority provide an Independent Registered Municipal Advisor ("IRMA") exemption letter to serve as written documentation that the Authority has engaged Clean Energy Capital as its Municipal Advisor. The Authority has developed and executed this letter which is now available upon request.

Chair Anthea Hansen called for comments from members of the committee and for public comments; none were received.

1.5 LVR JPA Financial Statement Audit Services. Executive Director Taryn Ravazzini stated the Authority has solicited proposals for services for the audit of the Authority's financial statements for the fiscal year end June 30, 2023 and possibly subsequent fiscal years. Two proposals were received, and the audit selection committee interviewed both firms and contacted references provided by one of the firms, C.J. Brown & Company CPAs. The audit selection committee is recommending that the Authority contract with C.J. Brown & Company CPAs for a one-year term, with an Authority option to extend for two years.

The preferred candidate, C.J. Brown & Company CPAs (C.J. Brown), comes with considerable professional audit experience working with special districts and joint powers

authorities. Two reference responses from current C.J. Brown clients have been received and both were very positive. As part of the proposal, C.J. Brown provided its peer review report as requested in the Authority's request for proposals. The firm's peer review report identified certain deficiencies in its system of quality control. Additional due diligence was performed by Authority staff during and after the interview and C.J. Brown noted the deficiency has been addressed. However, to be cautious leading into the recommended engagement, Authority staff is recommending an initial one-year contract with C.J. Brown for audit services with an option for the Authority to extend the engagement for two additional years. That structure will allow for a short-term performance review while also offering the potential for a three-year total term as discussed with the Board and stated in the request for proposals. C.J. Brown quoted a \$6,250 all-inclusive maximum fee for the Authority's FY23 audit.

Committee Member Sethy asked who the members of the selection committee were. Executive Director Ravazzini responded that Jacqueline Harris, Chuck Gardner, James Ciampa, Jonathan Wunderlich and herself were the members on the committee. He also asked how C.J. Brown responded to questions about the deficiencies noted in the peer review report. He was advised that firm was in a period of transition and that primary partners were shifting roles which contributed to the deficiency noted. He was also advised that the selection committee was unanimous in their consent to choosing C. J. Brown.

Committee Member Tognolini inquired about the other proposal received. Ms. Harris responded that firm did not respond to the Authority's requests for additional information.

Chair Anthea Hansen called for comments from members of the public. Herman Williams, CCWD's Finance Director, expressed concern with the deficiency noted and that the Committee should proceed cautiously. Executive Director Ravazzini advised Ms. Harris is a CPA and that she will be working closely with the auditor to provide additional assurance.

Committee Member Sethy asked why the second firm was not selected. He was advised that they had limited experience with financing systems like the Authority's and they did not appear well prepared for their interview. In addition to failing to provide additional requested information, that firm also did not submit an updated cost proposal, as they were requested.

Committee Member Tognolini asked whether staff is recommending this C.J. Brown. Executive Director Ravazzini stated staff is recommending C.J. Brown, particularly in light of the need to begin the audit process and the impact of the delay if a new request for proposals was to be prepared and distributed. Committee member Sethy recommended moving forward with C.J. Brown, especially because the Fiscal Year 2023 audit should not be difficult to perform, and he feels there is low risk at this time. He would like to move forward with C.J. Brown for one year and that this recommendation be brought to the Board for approval. Committee Members Eisenberg and Tognolini agreed with Committee Member Sethy. Chair Hansen stated she trusts the committee members and would also like to recommend C.J. Brown to the Board.

1.6 JPA June FY23 Closeout Treasurer's Report. Ms. Harris advised that the closeout of the JPA's FY23 Treasurer's Report resulted in updated cost information that was not known at the time the June 2023 Treasurer's Report was originally issued. Since then, CCWD has completed the accounting and closeout of the JPA's FY23. As a result, the JPA has issued an

updated June 2023 Treasurer’s Report reflecting additional funding sources and expenditures that occurred on or before June 30, 2023. The “Draft” Treasurer’s Report was presented for discussion. A “Final” Treasurer’s Monthly Report FY 2023 Close Out will be presented to the Board.

Summary of updates to the June 2023 Treasurer’s Report following the FY23 closeout:

- Multi-Party Agreement cost increased \$19 million due to the execution of MPA Amendment No. 5.
- Expenditures increased \$454,000 due to additional costs reported by CCWD for consultants and labor and in-kind services from Members.
- Received funds increased \$269,000 from Member in-kind services.
- Outstanding receivables increased due to draw requests submitted to the Bureau of Reclamation and CWC, \$3.3 million and \$3 million, respectively.
- Cash on hand decreased \$7 million due to payment of outstanding FY23 invoices.
- Early Funding Agreement summary reflects additional draw requests submitted for final FY23 costs incurred June 30, 2023, and prior.

Ms. Harris also noted an error in the reporting of Natural Resource Results’ invoices and she has corrected that error.

Ms. Harris introduced Maureen Martin who provided a CCWD Financial Administration Summary for the Project for FY 2023. Ms. Martin noted that Federal and State Funding for planning will be fully expended in FY24. Staff is working to amend and extend the federal funding agreement, but there is no possibility for extension with the State funding. CCWD will soon be issuing a final invoice to the State. The actual FY23 cash reserve carryover was \$6.6 million, which will ensure sufficient funding to achieve the Authority’s FY24 objectives.

Committee Member Tognolini asked how in-kind services are quantified. Ms. Martin stated that a fixed amount is retained in CCWD’s Fund 60 that addresses the in-kind services provided.

Chair Anthea Hansen called for comments from members of the Committee and for public comments; none were received.

FUTURE AGENDA ITEMS:

None.

The meeting adjourned at 3:10 p.m.

James D. Ciampa

James D. Ciampa
General Counsel