



**EAST BAY REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING
AGENDA STAFF REPORT**

DATE	April 15, 2025
TITLE	Termination of the East Bay Regional Park District 401(a) Plan and Authorization to Implement and Execute IRS Closing Agreement
DIVISION	Finance and Management Services
FROM	Deborah Spaulding, Assistant General Manager, Finance and Management Services/CFO
APPROVED	Sabrina Landreth, General Manager

RECOMMENDATION

The General Manager recommends that the Board of Directors terminate the East Bay Regional Park District's 401(a) Money Purchase Plan and implement steps identified in the proposed IRS Closing Agreement, including adoption of the IRS preapproved ICMA Governmental Plan & Trust for the first-year remedial amendment cycle.

BACKGROUND

The East Bay Regional Park District established a 401(a) Plan ("Plan") effective July 1, 1997, in the form of the IRS-preapproved ICMA Retirement Corporation (ICMA-RC) Governmental Money Purchase Plan & Trust. The Plan was established to provide a retirement savings opportunity for Park District managers. MissionSquare Retirement (previously known as ICMA-RC) contracted with the District to provide plan administration until 2024 when Empower was selected as the Plan's recordkeeper. The Park District restated the Plan, effective April 1, 2024, as the Empower Retirement, LLC Non-Standardized Governmental 401(a) Pre-Approved Plan.

In July 2022, by Resolution No. 2022-07-180, the Board of Directors directed the General Manager to ensure that the Plan was in compliance with applicable laws, including the Internal Revenue Code (Code). The Park District determined the Plan was subject to certain qualification errors that required permission of the Internal Revenue Service (IRS) to correct. The Park District amended the Plan effective August 1, 2022, to freeze it to new participants and discontinue all contributions. In July 2024, the Park District submitted an application to the IRS under the Employee Plans Voluntary Closing Agreement Procedures (VCAP) to correct Plan qualification errors under section 401(a) of the Code. On March 31, 2025, the IRS issued a draft Closing Agreement conditioned on the Park District doing all of the following:

- Adopting a resolution to terminate the Plan;
- Distributing employee contributions in excess of the Code section 402(g) limit to affected participants;
- Adopting the IRS-preapproved updated ICMA-RC Governmental Money Purchase Plan & Trust for that plan's first six-year remedial amendment cycle; and
- Executing the final Closing Agreement and paying a \$5,000 sanction to the IRS.

Once the 401(a) Plan is terminated and the other corrective measures are taken, Empower will work with participants to enable them to transfer their accounts to another retirement savings vehicle of their choosing

ANALYSIS

Funding is available in the 2025 budget for the \$5,000 payment to the IRS.

FISCAL IMPACT

There are no alternative recommended actions.

ATTACHMENTS

None.

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO. ~~2025 - 04 - XXX -~~

April
~~APRIL~~ 15, 2025

**TERMINATION OF THE EAST BAY REGIONAL PARK DISTRICT 401(a) PLAN AND
AUTHORIZATION TO IMPLEMENT AND EXECUTE IRS CLOSING AGREEMENT**

WHEREAS, the East Bay Regional Park District (Park District) adopted the East Bay Regional Park District 401(a) Plan (Plan), effective July 1, 1997, in the form of the IRS-preapproved ICMA Retirement Corporation (ICMA-RC) Governmental Money Purchase Plan & Trust, for the benefit of its management employees; and

WHEREAS, the Park District amended the Plan, effective August 1, 2022, to freeze it to new participants and discontinue all contributions; and

WHEREAS, the Park District restated the Plan, effective April 1, 2024, in the form of the Empower Retirement, LLC Non-Standardized Governmental 401(a) Pre-Approved Plan; and

WHEREAS, on July 2, 2024, the Park District requested the IRS issue a Closing Agreement under the Employee Plans Voluntary Closing Agreement Procedures (VCAP) to correct Plan qualification errors under section 401(a) of the Internal Revenue Code (Code); and

WHEREAS, on March 31, 2025, the IRS issued a draft Closing Agreement, conditioned on the Park District (1) adopting a resolution to terminate the Plan; (2) distributing employee contributions in excess of the Code section 402(g) limit to affected participants; (3) retroactively amending the Plan, effective January 1, 2012, to eliminate employer contributions to the Plan; (4) adopting the IRS-preapproved updated ICMA-RC Governmental Money Purchase Plan & Trust for that plan's first six-year remedial amendment cycle; and (5) executing the final Closing Agreement and paying a \$5,000 sanction to the IRS upon submission; and

WHEREAS, the Park District wishes to take all actions needed to satisfy the aforementioned conditions and enter into the final Closing Agreement with the IRS to resolve the Plan qualification errors; and

WHEREAS, Article VIII authorizes the Park District to amend and terminate the Plan;

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District (Board) hereby approves the adoption of the IRS-preapproved updated ICMA-RC Governmental Money Purchase Plan & Trust for that plan's first six-year remedial amendment cycle; and

BE IT FURTHER RESOLVED, that the Board hereby retroactively amends the Plan, effective January 1, 2012, to eliminate Employer Contributions to the Plan; and

BE IT FURTHER RESOLVED, that the East Bay Regional Park District 401(a) Plan is hereby terminated; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to direct Empower to distribute employee contributions to the Plan in excess of the Code section 402(g) limit to affected participants, pay the \$5,000 sanction to the IRS, execute the final IRS Closing Agreement, and to execute and deliver such other documents and to do such other acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director _____, seconded by Director _____
and adopted April 15, 2025, by the following vote:

FOR:

AGAINST: ~~ABSTAIN:~~

ABSENT:

ABSTAIN: