



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Tuesday, October 22, 2013**

REGULAR CLOSED SESSION

11:00 a.m., Board Room

*(Director Frank Mellon will participate by telephone from
3850 S. Las Vegas Blvd., Las Vegas, NV 89109)*

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

ANNOUNCEMENT OF CLOSED SESSION AGENDA:

1. Conference with Labor Negotiators Bruce Heid and Glenn Berkheimer from the Industrial Employers Distributors Association (I.E.D.A.), Alexander R. Coate, Carol Nishita, Eric Sandler, Delores Turner, Michael Rich and Lisa Sorani pursuant to Government Code Section 54957.6: Employee Organizations International Union of Operating Engineers, Local 39 and American Federation of State, County and Municipal Employees, Locals 444 and 2019.

(The Board will hold Closed Session in Conference Room 8A/B)

REGULAR BUSINESS MEETING

1:15 p.m., Board Room

ROLL CALL:

BOARD OF DIRECTORS:

- Pledge of Allegiance

ANNOUNCEMENTS FROM CLOSED SESSION:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the Agenda.

CONSENT CALENDAR: (Single motion and vote approving 5 recommendations.)

1. Approve the Regular Meeting Minutes of October 8, 2013.
2. File correspondence with the Board.
3. Award a contract to the lowest responsive/responsible bidder, NMI Industrial Holdings, Inc., in the amount of \$484,664 for the construction of the Sobrante and Upper San Leandro Water Treatment Plants Flocculator Rehabilitation under Specification 2080.
4. Authorize an amendment to the agreement with the City of Albany in an amount not to exceed \$17,127 beyond the original authorization of \$93,600 for additional work associated with the installation of approximately 2,200 feet of 8-inch PVC recycled water pipeline along Buchanan Street and Marin Avenue.
5. Authorize an agreement with Pacific Gas and Electric Company in an amount not to exceed \$70,000 annually for a cooperative weather modification program in the Mokelumne River watershed during the period beginning November 1, 2013 to October 31, 2014, with four options to renew for an additional one year period, for a total estimated cost of \$350,000.

DETERMINATION AND DISCUSSION:

6. Legislative Update:
 - Mid-Session Report on State Legislation
 - Update on Legislative Issues of Interest to EBMUD
7. Approve the following three actions relating to the remarketing of Series 2009A-1 and Series 2009A-2 Water System Bonds: 1) Approve the execution of remarketing agreements and related supporting documents for the outstanding \$41.04 million Water Series 2009A-1 Bonds and \$41.035 million Water Series 2009A-2 Bonds; 2) Approve the appointment of Morgan Stanley & Co. LLC and Barclays Capital Inc. as remarketing agents for the Water Series 2009A-1 Bonds, and E.J. De La Rosa & Co., Inc. and RBC Capital Markets, LLC as remarketing agents for the Water Series 2009A-2 Bonds; and 3) Approve the form of the preliminary reoffering circular related to the remarketing of the Water Series 2009A-1 and 2009A-2 Bonds. (Resolution)
8. Authorize and approve the following three actions relating to the replacement of liquidity facilities and related fee letter agreements: 1) Authorize the execution of replacement liquidity facilities and related fee letter agreements for the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds, and extend the term of, and amend the commitment fee for, the existing liquidity facility for the Water Series 2008A-1 Bonds; 2) Approve the forms of the remarketing memoranda related to the remarketing of the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds in connection with the delivery of the new liquidity facilities; and 3) Authorize the transfer of remarketing agent assignment for the Water 2008A-4 Bonds from Bank of America/Merrill Lynch to Wells Fargo Bank, National Association (Wells Fargo) and approve the documents to execute the transfer. (Resolutions)

DETERMINATION AND DISCUSSION (continued):

9. General Manager's Report:
- Statewide Water Action Plan Proposals

REPORTS AND DIRECTOR COMMENTS:

10. Committee Reports:
- Planning
 - Legislative/Human Resources
 - Finance/Administration
11. Director Comments.

ADJOURNMENT:

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, November 12, 2013 in the Administration Center Board Room, 375 Eleventh Street, Oakland, California.

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.

BOARD CALENDAR

Date	Meeting	Time/Location	Topics
Tuesday, October 22	Sustainability/Energy Committee Linney (Chair), Foulkes, Katz	9:30 a.m. Training Resource Center	<ul style="list-style-type: none"> Wastewater Department Resource Recovery Program Annual Update FY13 Revised Energy Policy
	Finance/Administration Committee Coleman (Chair), Linney, Patterson	10:15 a.m. Training Resource Center	<ul style="list-style-type: none"> Remarketing of Series 2009A-1 and Series 2009A-2 Water System Bonds Replacement/Amendment of Liquidity Facilities FY13 Annual Power Sales Report Financial Quarterly Reports
	Board of Directors	11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting
Monday, November 11	Veterans Day Holiday		<i>District Offices Closed</i>
Tuesday, November 12	Finance/Administration Committee Coleman (Chair), Linney, Patterson	9:00 a.m. Training Resource Center	<ul style="list-style-type: none"> Closed Session Regular Meeting
	Legislative/Human Resources McIntosh (Chair), Coleman, Mellon	9:30 a.m. Training Resource Center	
	Board of Directors	11:00 a.m. 1:15 p.m.	
Tuesday, November 26	Planning Committee Foulkes (Chair), Linney, McIntosh	9:45 a.m. Training Resource Center	<ul style="list-style-type: none"> Closed Session Regular Meeting
	Board of Directors	11:00 a.m. 1:15 p.m.	
Thursday, November 28 & Friday, November 29	Thanksgiving Holiday		<i>District Offices Closed</i>

MINUTES

Tuesday, October 8, 2013

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

Vice-President Katy Foulkes called to order the Regular Closed Session Meeting of the Board of Directors at 11:05 a.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, and William B. Patterson and were present at roll call. President Andy Katz was absent at roll call but arrived at 11:06 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Engineering and Construction Xavier J. Irias (Item 1a), Attorney Xanthe M. Berry (Item 1a), Director of Finance Eric L. Sandler (Item 2), Director of Administration Carol Y. Nishita (Item 2), Manager of Human Resources Delores A. Turner (Item 2), Manager of Employee Relations Michael K. Rich (Item 2), Manager of Employee Services Lisa A. Sorani (Item 2), Attorney Lourdes Matthew (Item 2), and I.E.D.A. Representative Glenn Berkheimer (Item 2).

PUBLIC COMMENT

The following persons addressed the Board: 1) Jae Park, representing AFSCME Local 2019 presented statistics on actual versus net wage increases since 2007 and said the current proposal is not in parity with the previous contract; and 2) Eric Fieberling, representing AFSCME Local 2019 commented that the minutes of September 24, 2013 did not accurately reflect his comments and said that the Local 21 tentative agreement does not work for Local 2019.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Katz announced the Closed Session agenda. The Board convened to Conference Room 8A/B for discussion.

Regular Business Meeting

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:19 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, William B. Patterson, and President Andy Katz were present at roll call. Director Frank Mellon was absent at roll call but arrived at 1:26 p.m.

BOARD OF DIRECTORS

President Katz led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Coleman, to approve Items 1-7 on the Consent Calendar, carried (6-0) by voice vote. Director Mellon was absent.
1. **Motion No. 142-13** -- Approved the Regular Meeting Minutes of September 24, 2013.
 2. The following correspondence was filed with the Board: 1) Presentation entitled "Net Raise," submitted by Jae Park, representing AFSCME Local 2019; and 2) Memorandum dated October 8, 2013, to Andy Katz, President, Board of Directors from Frank Mellon, Member Board of Directors, regarding, "Request to be excused for Board Meeting October 22, 2013."
 3. **Motion No. 143-13** -- Awarded a contract to the lowest responsive/responsible bidder R.R. Donnelley Company in the estimated annual amount after the addition of taxes of \$37,985 for supplying water bill forms for the period beginning October 15, 2013 and ending October 14, 2015, with one (1) option to renew for an additional one-year period for a total estimated cost of \$113,955 under Proposal No. 1407.
 4. **Motion No. 144-13** -- Awarded a contract to the lowest responsive/responsible bidder, McGuire and Hester, in the amount of \$363,400 for construction of Argyle Reservoirs Access Road Improvements under Specification 2074.

5. **Motion No. 145-13** -- Authorized agreements with the following dump truck vendors for the rental of ten-yard dump trucks, 20-yard end-dump and transfer trucks, and 20-yard super dump trucks, in the combined estimated annual amount of \$1,250,000 for the period November 1, 2013 through October 31, 2015, with three options to renew for additional one-year periods, for a total estimated cost of \$6,250,000: A.I.P. Trucking; Adam Moreno & Sons, Inc.; Jarah Transportation, Inc.; D & S Trucking, LLC; De Bibb Trucking; E. M. Blair Trucking; Economy Trucking Services, Inc.; G. W. Trucking; Haver Transport; Hill Trucking; Inder Trucking; Jackson Transportation; JD Trucking Co., Inc.; Kemp Trucking; Mae Trucking; Robertson Trucking Service, Inc.; Roby Trucking; Royal Trucking; S&L Enterprises; Sandstone Trucking; SMG Trucking; Sudden Sam's Trucking, Co.; Tom Aikens General Engineering; and V. Dolan Trucking, Inc.
6. **Motion No. 146-13** -- Authorized an agreement with Stanford University in the estimated amount of \$64,038 for specialized research services to investigate the cause of process upsets at the Main Wastewater Treatment Plant.
7. **Motion No. 147-13** -- Approved the Water Supply Assessment requested by the City of Oakland for the Children's Hospital and Research Center Oakland Master Plan Project pursuant to California Water Code, Sections 10910-10915.

DETERMINATION AND DISCUSSION

8. Legislative Update.

Legislative/Human Resources Chair Director Lesa R. McIntosh announced that the Committee unanimously voted to support the 2014 recommendations for legislative proposals presented by staff. Special Assistant to the General Manager Marlaigne K. Dumaine highlighted the Committee's discussion on Initiative #4 related to the District's ability to reject bids and exclude bidders based on past performance. Ms. Dumaine pointed out that there is a remedy in current law that the District has not yet tested, and the Committee recommended that rather than seeking legislation, staff should establish a new practice of including information in staff recommendations for construction bid awards explaining EBMUD's experience with a proposed contractor in the past five years with regard to claims and litigation. Following discussion, the Board recommended including information regarding prevailing wage compliance.

- Motion by Director McIntosh, seconded by Director Coleman, to approve the staff recommendations on State Legislative Initiatives for 2014 Legislative Year and to exercise existing authority to reject bids by providing information on EBMUD's experience with the contractor in the previous five years with regard to claims, litigation, and prevailing wage compliance, carried (7-0) by voice vote.

Motion No. 148-13 -- Approved the following recommendations for the 2014 Legislative Year: 1) Protect EBMUD's interests, including its water rights and water supply, as the legislature continues to consider Delta-related water supply and reliability issues and Delta-related funding issues (Proceed); 2) Protect EBMUD's interests in any efforts to impose a

statewide water surcharge or public goods charge on water (Proceed); 3) Protect EBMUD's property tax revenues (Proceed); 4) Provide greater flexibility to reject bids and exclude bidders (Do Not Proceed); and 5) Revise the utility marking law to allow for the broader use of vacuum extraction techniques for planned and emergency excavations (Do Not Proceed--Engage in Legislative Discussions).

Ms. Dumaine reported that October 11 is the deadline for Governor Brown to sign legislation. She announced that staff would provide a status update at the next meeting of EBMUD position bills for the first year of the state legislative. She also reported that the federal government shutdown continues (Day 8).

9. **General Manager's Report.**

General Manager Coate noted that the Monthly Report – September 2013 had been submitted in the Board's packet. He noted that the District was notified that the Camanche Area Regional Water Supply Plan will be awarded full funding from the State's Integrated Regional Water Management fund.

REPORTS AND DIRECTOR COMMENTS

10. **Committee Reports.**

- Filed with the Board were the Finance/Administration Committee Minutes of September 24, 2013.

11. **Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA Board tours of EBMUD facilities on September 26 in Oakland and at San Pablo Reservoir; ACWA Executive Committee and Board of Directors meeting on September 27 in Oakland; CMAA breakfast for the San Francisco Public Utility Commission on October 3 in San Francisco; Bay Institute Annual Gala on October 3 in San Francisco; Upper Mokelumne River Water Authority Board of Directors meeting and Pardee Barbeque event on October 4 at Pardee; ACWA Executive Committee teleconference meeting on October 7; and the ACWA Strategic Vision teleconference meeting on October 8. He reported on plans to attend/participate in the following upcoming events: Exchange Club on October 9 in Danville; Freeport Regional Water Authority Board of Directors meeting on October 10; ACWA "Best of Blue" teleconference meeting on October 14; and ACWA Executive Committee teleconference meeting on October 14 and October 21.
- Director Foulkes reported attending the ACWA dinner on September 26 at San Pablo Reservoir, Pardee Home Museum Board meeting on September 30 in Oakland, and an interview with a reporter for Orinda news regarding the Orinda Treatment Plant on October 2.
- Director Linney had no comment.

- Director McIntosh announced being elected to the ACWA Region 5 Board, and said she would begin in January 2014. The Board congratulated her on this achievement.
- Director Mellon reported touring the Cape Coral Recycled Water Facilities in Cape Coral, Florida on September 27. He submitted a request to be excused for the October 22, 2013 Board meetings to attend an annual conference conducted by the International Foundation of Employee Benefits Plans from October 20-23, 2013.
- Director Patterson reported attending the Congressional Black Caucus Legislative Foundation Conference from September 17-22 in Washington, D.C.
- President Katz reported attending the Bay Institute Annual Gala on October 3 in San Francisco and attending the Pardee BBQ event on October 4.

ADJOURNMENT

President Katz adjourned the meeting at 1:44 p.m.

SUBMITTED BY:

Lynelle M. Lewis, Secretary of the District

APPROVED: October 22, 2013

Andy Katz, President of the Board



AGENDA NO.
MEETING DATE

3
October 22, 2013

**TITLE SOBANTE AND UPPER SAN LEANDRO WATER TREATMENT PLANTS
 FLOCCULATOR REHABILITATION**

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Award a contract to the lowest responsive/responsible bidder, NMI Industrial Holdings, Inc., in the amount of \$484,664 for the construction of the Sobrante and Upper San Leandro Water Treatment Plants (WTPs) Flocculator Rehabilitation under Specification 2080.

SUMMARY

Work includes demolishing the existing horizontal flocculator systems, installing new District-furnished horizontal flocculator systems and all appurtenances and fittings in addition to performing other related required work.

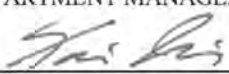

DISCUSSION

The current flocculator systems at Sobrante and Upper San Leandro WTPs are over 50 years old and are heavily corroded. A flocculator unit failed at the Sobrante WTP in 2013 due to corrosion resulting in a partial plant shutdown. The existing flocculator systems at the two treatment plants will be replaced to reduce the risk of future plant failures. See attached map for locations.

On July 23, 2013, the Board of Directors authorized the pre-purchase of the flocculator systems required for the project so they could be manufactured and ready for installation during the winter outages when water demands are low at both treatment plants.

BID RESULTS

Bids Received:	6
Documents Issued:	52
Range of Bids:	\$484,664 - \$945,000
Engineer's Estimate:	\$854,270

Funds Available: FY14-15; CIP #000437; Page 50		Budget Code: WSC\570\7999\5561\2008611:25
DEPARTMENT SUBMITTING Engineering and Construction	DEPARTMENT MANAGER or DIRECTOR  Xavier J. Irias	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

The District sent bid documents to 30 resource organizations and to 18 potential bidders. Most of the bids were below the engineer's estimate due to a competitive bid environment. The low bid is approximately 44 percent lower than the engineer's estimate and 25 percent lower than the second low bid amount. Major factors accounting for the differences are that the low bidder owns all the necessary equipment required for the project and that it plans to perform all the work utilizing its own workforce. See attached Bid Summary for additional information.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

Funds are available for this contract in the FY14-15 Capital Improvement Program for Treatment Plant Upgrades under the Water Treatment Upgrade Program.

PREVAILING WAGE

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

UNION NOTIFICATION

Local 444 was notified of this contract on July 3, 2013. Local 444 did not raise any specific issues related to this contract.

CEQA/ENVIRONMENTAL COMPLIANCE

Notices of Exemption for Sobrante and Upper San Leandro WTPs were posted with the Contra Costa County Clerk on July 17, 2013 and the Alameda County Clerk on July 15, 2013.

ALTERNATIVES

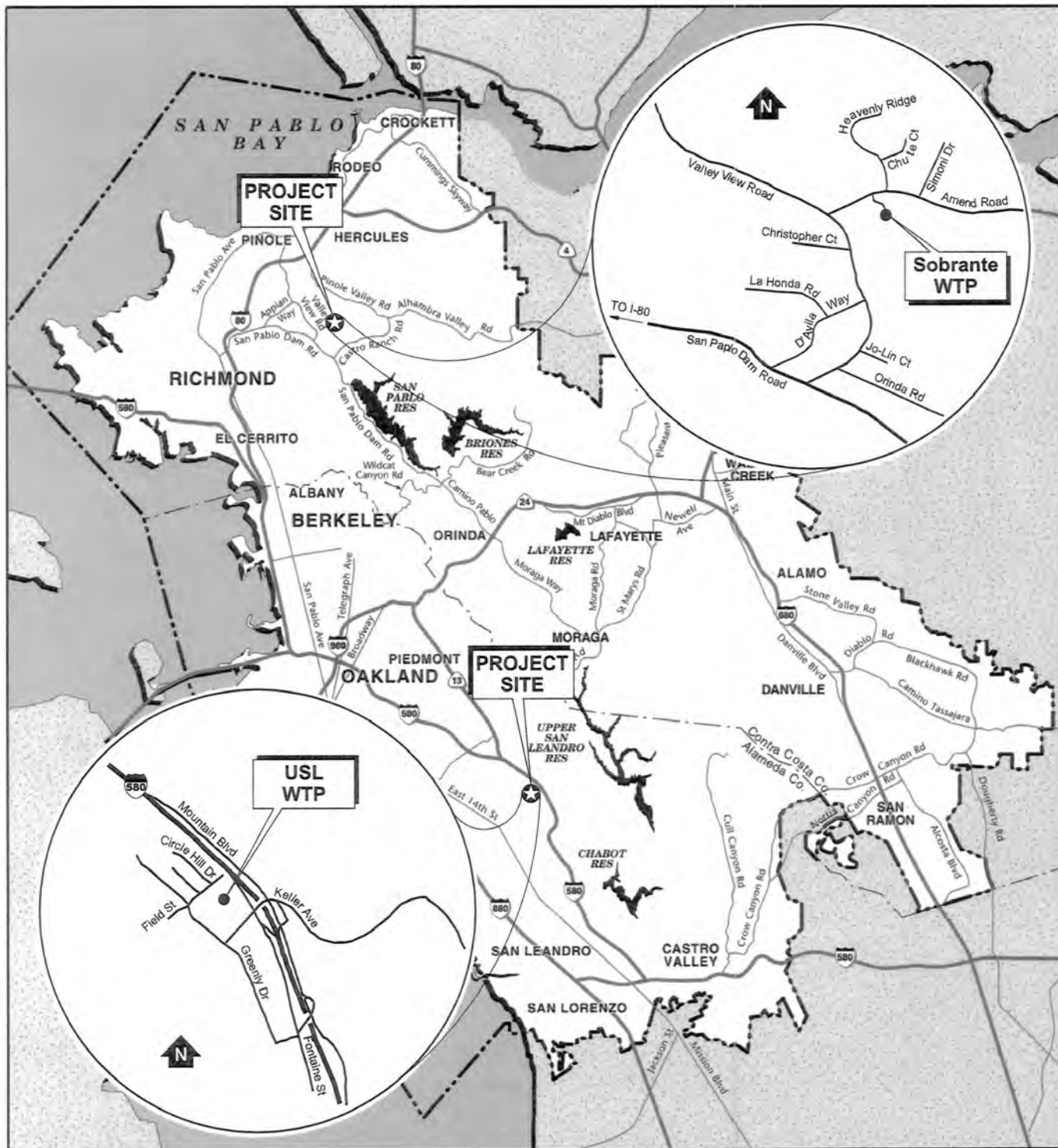
Do not perform the work. This alternative is not recommended because the existing flocculator systems are at risk of failure. System failure could result in plant closures and disruptions in water service to the affected areas.

Perform the work with District Forces. This alternative is not recommended because District staff does not possess the necessary resources needed to perform the project within the required time period.

Sobrante and Upper San Leandro Water Treatment Plants Flocculator Rehabilitation
October 22, 2013
Page 2

Attachments: Location Map
Bid Summary
Contract Equity Program Summary (P-035)
Affirmative Action Summary (P-061)

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PROJECT SITE LOCATION MAP

NOT TO SCALE

EAST BAY MUNICIPAL UTILITY DISTRICT

SOBRANTE AND USL WATER TREATMENT PLANTS FLOCCULATOR REHABILITATION

SPECIFICATION 2080

EAST BAY MUNICIPAL UTILITY DISTRICT
SPECIFICATION 2080
SOBRANTE and USL WTPs FLOCCULATOR REHABILITATION
Bids Opened September 25, 2013

	BIDDER	TOTAL AMOUNT BID
1.	NMI Industrial Holdings, Inc. (SBE) 8503 Weyand Ave. Sacramento, CA 95828 (916) 635-7030	\$484,664
2.	Monterey Mechanical Co. 8275 San Leandro St. Oakland, CA 94621 (510) 632-3173	\$648,000
3.	NTK Construction, Inc. 501 Cesar Chavez St. San Francisco, CA 94124 (415) 643-1900	\$657,000
4.	Aztec Consultants, Inc. (SBE) 2021 Omega Rd., Suite 200 San Ramon, CA 94583 (925) 837-1050	\$867,000
5.	TNT Industrial Contractors, Inc. (SBE) 3600 51 st Ave. Sacramento, CA 95823 (916) 395-8400	\$877,494
6.	D.W. Nicholson Corporation 24747 Clawiter Rd. Hayward, CA 94545 (510) 887-0900	\$945,000

SBE – Small Business Enterprise

Engineer's Estimate:

\$854,270



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE SPECIFICATION NO.: 2080 Sobrante and USL Water Treatment Plants Flocculator Rehabilitation						DATE: October 4, 2013					
CONTRACTOR: NMI Industrial Holdings, Inc. Local Small Business Sacramento, CA						PERCENTAGE OF CONTRACT DOLLARS					
BID/PROPOSER'S PRICE: \$484,664		FIRM'S OWNERSHIP		White Men		25%		100.0%			
		Ethnicity	Gender	White Women		9%		0.0%			
		White	Men	Ethnic Minorities		25%		0.0%			
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: NMI Industrial Holdings, Inc.	\$484,664	White	X		100.0%	---	---	---	---	---	---
SUBS: None					---	---	---	---	---	---	---
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TOTAL	\$484,664				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)											
	White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:	74		5		15		94				
Percent of Total Employees:	78.7%		5.3%		16.0%						
MSA Labor Market %:	36.1%		32.3%		31.6%						
MSA Labor Market Location:	Sacramento, CA										
COMMENTS											
Contract Equity Participation - 100% White Men participation.											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Sobrante and USL Water Treatment Plants Flocculator Rehabilitation		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
Spec. No.: 2080		DATE: 10/4/2013	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	
								MSA %	
RP	WM - L/SBE	Company Wide	-	14	1	-	15	16.0%	31.6%
NMI Industrial Holdings, Inc. Majid Rahimian 8503 Weyand Avenue Sacramento, CA 95828 916-635-7030		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	14	1	-	15	18.3%	
		Semi/Unskilled	-	-	-	-	0	0.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		NA		
		Co. Wide MSA:	Sacramento, CA		# Employees-Co. Wide:		94 Bay Area: 0		
P	WM - LBE	Company Wide	5	22	6	1	34	21.1%	39.9%
Monterey Mechanical Co. Richard Hamilton 8275 San Leandro Street Oakland, CA 94621 510-632-3173		Manager/Prof	-	2	2	1	5	19.2%	
		Technical/Sales	-	0	1	-	1	25.0%	
		Clerical/Skilled	5	15	3	-	23	19.5%	
		Semi/Unskilled	-	5	-	-	5	38.5%	
		Bay Area	5	22	6	1	34	21.1%	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		161 Bay Area: 161		
P	EMM:A/PI - L/SBE	Company Wide	1	31	4	-	36	83.7%	44.0%
NTK Construction, Inc. Tin Tran 501 Cesar Chavez Street, Suite 123 San Francisco, CA 94124 415-643-1900		Manager/Prof	-	9	4	-	13	72.2%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	1	22	-	-	23	766.7%	
		Semi/Unskilled	-	-	-	-	0	0.0%	
		Bay Area	1	31	4	-	36	83.7%	39.9%
		Co. Wide MSA:	San Francisco		# Employees-Co. Wide:		43 Bay Area: 43		
P	EMM:H - L/SBE	Company Wide	1	9	-	-	10	47.6%	46.2%
Aztec Consultants Ed Duarte 2021 Omega Road, Suite 200 San Ramon, CA 94583 925-837-1050		Manager/Prof	1	2	-	-	3	37.5%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	1	-	-	1	50.0%	
		Semi/Unskilled	-	6	-	-	6	54.5%	
		Bay Area	1	5	-	-	6	35.3%	39.9%
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		21 Bay Area: 17		
P	EMM:AI/AN - L/SBE	Company Wide	-	5	1	-	6	27.3%	31.6%
TNT Industrial Contractors, Inc. Joshua Twist 3600 51st Avenue Sacramento, CA 95823 916-395-8400		Manager/Prof	-	1	-	-	1	14.3%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	4	-	-	4	30.8%	
		Semi/Unskilled	-	-	1	-	1	50.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Sacramento, CA		# Employees-Co. Wide:		22 Bay Area: 0		
P	WM - LBE	Company Wide	3	17	4	-	24	22.4%	39.9%
D.W. Nicholson Corporation Thomas S. Reed 24747 Clawiter Road Hayward, CA 94545 510-887-0900		Manager/Prof	-	1	-	-	1	16.7%	
		Technical/Sales	-	2	-	-	2	15.4%	
		Clerical/Skilled	3	14	4	-	21	23.9%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	3	17	4	-	24	22.4%	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		107 Bay Area: 107		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO. 4
MEETING DATE October 22, 2013

TITLE AMENDMENT TO AGREEMENT WITH THE CITY OF ALBANY –
BUCHANAN BIKEWAY RECYCLED WATER PIPELINE INSTALLATION

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Authorize an amendment to the agreement with the City of Albany (City) in an amount not to exceed \$17,127 beyond the original authorization of \$93,600 for additional work associated with the installation of approximately 2,200 feet of 8-inch PVC recycled water pipeline along Buchanan Street and Marin Avenue.

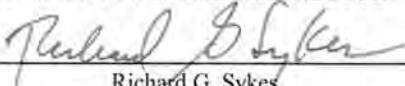

SUMMARY

On October 9, 2012, the Board of Directors authorized an agreement with the City in an amount not to exceed \$93,600 to install the recycled water pipeline. The pipeline alignment is along Buchanan Street and Marin Avenue from Pierce Street to San Pablo Avenue in the City, as part of the City's Buchanan Bikeway Project (see attached location map). In accordance with the original agreement, the City's contractor installed the pipeline and the District reimbursed the City for associated pipeline construction costs. Changes were encountered by the City's contractor during construction and an amendment is required to reimburse the City for the additional costs.

DISCUSSION

The original cost estimate of \$93,600 for the recycled water pipeline installation work was based on the low bid received by the City. During construction, unforeseen site conditions resulted in the need to adjust the pipeline alignment to avoid unmarked utilities. The pipeline alignment changes resulted in schedule delays. Changes in pipeline trench depth required additional costs for material disposal and backfilling a deeper trench.

District staff monitored changes encountered by the City's contractor and provided input to the City on the changes. This amendment will allow the District to reimburse the City for the increased amount the City paid its contractor. The City is disputing additional change orders submitted by its contractor. The District is coordinating with the City through its change order process.

Funds Available: FY14-15 CIP		Budget Code: WSC\S000873
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary regarding questions about completing or submitting this form.

FISCAL IMPACT

Funds for this project are included in the FY14-15 Capital Improvement Program for the Recycled Water Program.

UNION NOTIFICATION

Local 444 was notified of this contract on March 15, 2012. Local 444 did not raise any specific issues related to this project.

CEQA/ENVIRONMENTAL COMPLIANCE

An addendum to the East Bayshore Recycled Water Project (EBRWP) June 2001 Environmental Impact Report (EIR) and the December 2002 Subsequent Mitigated Negative Declaration (MND) was prepared and filed on March 19, 2012. The addendum documents the proposed installation. CEQA guidelines allow an addendum to be prepared when the modifications would not cause additional impacts.

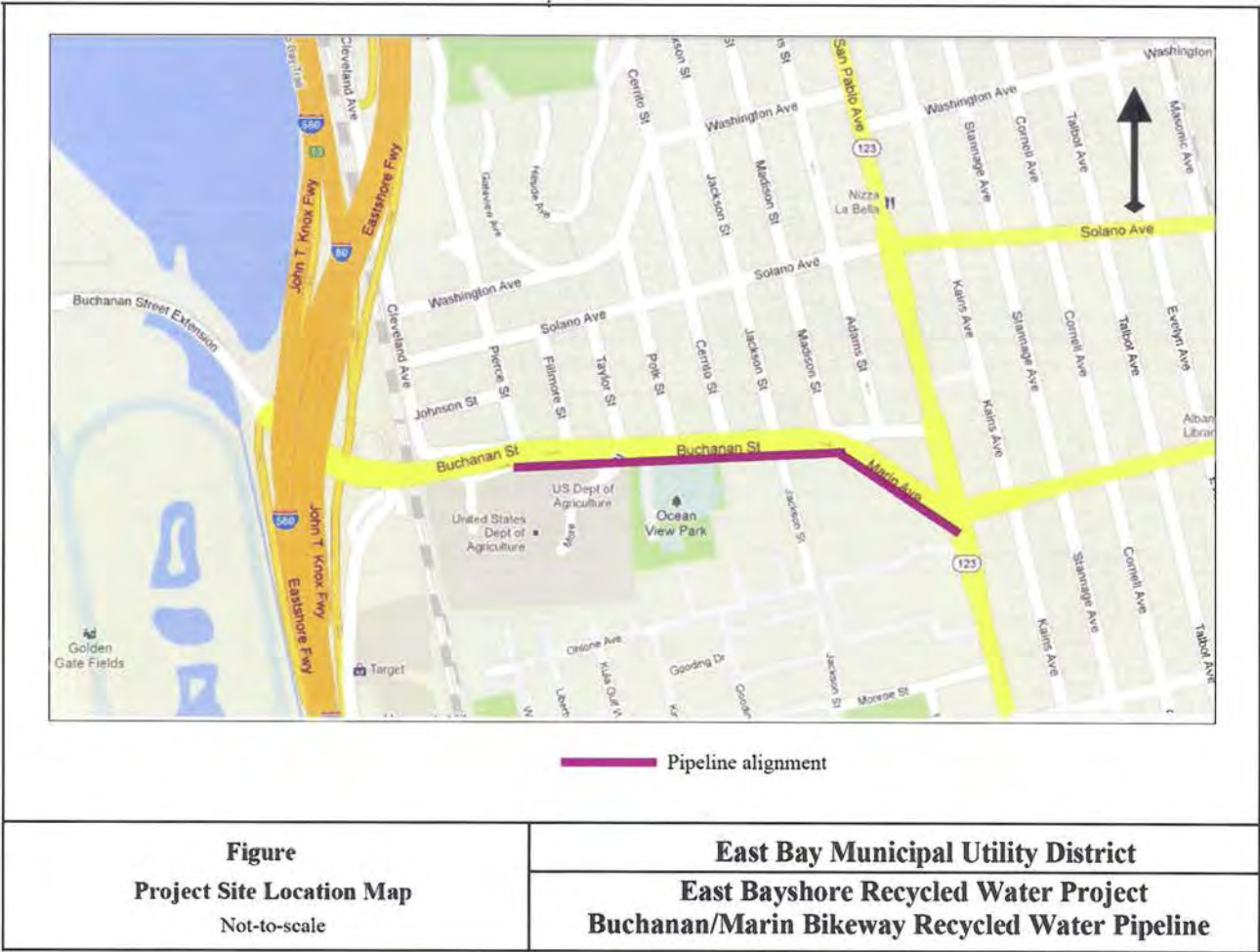
ALTERNATIVE

Do not amend the agreement. This alternative is not recommended as the District agrees with the construction change orders contributing to an additional cost of \$17,127 beyond the original Board authorized amount of \$93,600.

RGS:MTT:LHH

Attachment: Project Location Map

Attachment





AGENDA NO. 5
MEETING DATE October 22, 2013

TITLE COOPERATIVE AGREEMENT WITH PG&E FOR WEATHER MODIFICATION

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Authorize an agreement with Pacific Gas and Electric Company (PG&E) in an amount not to exceed \$70,000 annually for a cooperative weather modification program in the Mokelumne River watershed during the period beginning November 1, 2013 to October 31, 2014, with four options to renew for an additional one year period, for a total estimated cost of \$350,000.

SUMMARY

PG&E and the District have been cooperating since 1969 in the operation and maintenance of a weather modification program to augment precipitation. Estimates indicate that weather modification activities, carried out under suitable weather conditions, increase runoff from 5 to 15 percent within the watershed area. A cloud seeding-induced increase in runoff in the Mokelumne watershed of 5 percent would produce up to 20,000 acre-feet of additional water in a lower-quartile year.

The District and PG&E originally began the program as a cooperative partnership with the California State University at Fresno in 1969. Currently, PG&E operates and maintains the program, and the District pays 25 percent of PG&E's actual costs or up to \$70,000 per year.

DISCUSSION

The District has collaboratively worked with PG&E for many decades to manage the operations of the Mokelumne water system. PG&E shares weather forecasting information and data with EBMUD so the two agencies can cooperatively manage the water system. Since the District has worked collaboratively with PG&E for over thirty years to perform cloud seeding to increase Mokelumne watershed rainfall and runoff, it is their expectation that we will continue to work with them to develop and implement weather modification activities when potential increases in water supply and power generation have been identified.

Funds Available: FY14		Budget Code: WSG/761/7999/5296/VAR
DEPARTMENT SUBMITTING Water Operations	DEPARTMENT MANAGER or DIRECTOR <i>Eileen M. White</i> Eileen M. White	APPROVED <i>Alexander R. ...</i> General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

The District's participation in the weather modification program is consistent with its Weather Modification Policy 7.12. PG&E directs cloud seeding operations based upon atmospheric data derived from PG&E rawinsonde observations (instrumented weather balloons tracked by radar) near Angels Camp, and National Weather Service data. A total of six ground-based silver iodide burners at different locations within the upper Mokelumne watershed can be activated depending upon wind direction during the cloud seeding effort. The amount of seeding is also dependent upon precipitation and runoff conditions on the day seedable storms are identified. Seeding is not started or is discontinued if underway when, in the judgment of PG&E or the District, above normal runoff conditions exist in the watershed.

A report prepared for the U.S. Bureau of Reclamation for the California Energy Commission entitled "Optimizing Cloud Seeding for Water and Energy in California" (CEC-500-2007-008, March 2007), concludes that cloud seeding in winter is the most scientifically credible form of intentional large-scale weather modification, and found almost no evidence of decreasing precipitation downwind of seeding target areas. The report cites past research that concludes cloud seeding poses minimal environmental and health risks, echoing the findings from the environmental assessment. Other reports indicate that the increased yield from cloud seeding can range from 5 to 15 percent.

Environmental assessments of cloud seeding have found no significant impacts, including no effects found in fish, domestic animals, or endangered species. In addition, no evidence of biological concentrations through food chains has been identified. The United States Forest Service found no problems with cloud seeding in a Final Environmental Assessment prepared for PG&E in 1996 and issued a Special Use Authorization for equipment on Forest Service land. Currently, all PG&E equipment is positioned on privately owned properties and a United States Forest Service Special Use Authorization is no longer required.

FISCAL IMPACT

Approval of continued participation in this program would commit the District to an estimated total cost of \$350,000 for fiscal year 2014 through 2018. Funds for the initial two years of the operation are available within the District's FY14-FY15 operating budget.

ALTERNATIVE

Do not enter into an agreement with PG&E and discontinue involvement in weather modification. This alternative is not recommended because the District and PG&E have worked cooperatively for 38 years to perform cloud seeding to increase Mokelumne watershed rainfall and runoff in normal and below-normal rainfall years. The benefits of the cloud seeding effort are reflected in the District's precipitation records, and discontinuing the program could result in a reduction in runoff in future lower-quartile precipitation years.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: October 17, 2013

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Mid-Session Report on State Legislation - Status of EBMUD Position Bills for the First Year of the 2013-14 State Legislative Session

The first year of the 2013-14 state legislative session concluded on September 12th. The deadline for Governor Brown to act on all bills that passed out of the legislature was October 13th. This memo provides a summary of the status of each bill that EBMUD adopted a formal position on during the 2013 legislative year. The final status of these bills is reported as "chaptered," "vetoed," or "2-year bill."

All statutes will take effect as noted. Copies of the relevant legislation will be made available upon request.

EBMUD-SPONSORED BILL

AB 408 (Bonta) – Municipal Utility Districts: Elections
 Status: Chaptered – Chapter 108; August 16, 2013
 Effective Date: January 1, 2014
 EBMUD Position: Sponsor

AB 408 amends the Municipal Utility District Act (MUD Act) to allow the boards of municipal utility districts to appoint uncontested candidates in lieu of holding an election.

AB 408 provides EBMUD with the same authority other local government entities already have to use an appointment process for uncontested board seats. Specifically, AB 408 amends the MUD Act to allow, but not require, EBMUD's board to appoint uncontested candidates in lieu of holding an election. AB 408 is narrow in focus in that it applies only to municipal utility districts whose boards have seven members that are elected by ward, namely, EBMUD and the Sacramento Municipal Utility District. This measure will save EBMUD and its ratepayers the cost of elections for uncontested candidates when the appointment process is used.

EBMUD POSITION BILLS

AB 115 (Perea) – Safe Drinking Water State Revolving Fund
 Status: Chaptered – Chapter 630; October 8, 2013
 Effective Date: January 1, 2014
 EBMUD Position: Support

AB 115 is one of the two measures enacted this year to facilitate the distribution of funding from the Safe Drinking Water State Revolving Fund to disadvantaged communities by expanding the eligibility for planning grants. Specifically, AB 115 allows for multi-agency grant applicants by

authorizing a legal entity, as defined in the bill, to apply for grant funding for planning projects on behalf of one or more public water systems serving disadvantaged communities if specified requirements are met, including having a signed agreement in place with each public water system for which it is applying for funding.

AB 118 (Committee on Environmental Safety and Toxic Materials) – Safe Drinking Water State Revolving Fund

Status: Chaptered – Chapter 631; October 8, 2013

Effective Date: January 1, 2014

EBMUD Position: Support

AB 118 is the second of the two measures that facilitate the distribution of funding from the Safe Drinking Water State Revolving Fund to disadvantaged communities. AB 118 expands the grant and loan program by allowing the issuance of grants instead of loans to small water systems serving severely disadvantaged communities and allowing an applicant, under specified conditions, to receive a loan for up to the full cost of a project.

AB 122 (Rendon) – Energy: Energy Assessment: Nonresidential Buildings: Financing

Status: 2-Year Bill

EBMUD Position: Support

AB 122 would encourage the conservation and efficient use of energy and water in nonresidential buildings by providing financial assistance to assist nonresidential building owners in paying for energy and water efficiency improvements, and the installation of alternative sources of energy. AB 122 would enable the California Energy Commission to essentially aggregate loans for multiple non-residential property owners to obtain lower cost financing via mortgage-backed securities on the open market. The financing mechanism that would be created by AB 122 would be separate and distinct from the Property Assessed Clean Energy financing that is available under current law.

AB 145 (Perea) – State Water Resources Control Board: Drinking Water

Status: 2-Year Bill

EBMUD Position: Oppose Unless Amended

AB 145 would transfer the regulation and oversight of drinking water, and administration of the Safe Drinking Water State Revolving Fund (SDWSRF), from the Department of Public Health to the State Water Resources Control Board (SWRCB). Consistent with the approach advanced by the Association of California Water Agencies, EBMUD sought amendments to either move only the administration of the SDWSRF, and not the oversight of drinking water, to the SWRCB or to create a separate entity under the California Environmental Protection Agency to administer the state's drinking water program. These amendments were not accepted by the author.

AB 284 (Quirk) – Energy: Road to 2050 Board
Status: 2-Year Bill
EBMUD Position: Support

AB 284 would require the California Air Resources Board to convene a Road to 2050 Board and submit a report to the governor and the legislature on the impacts to California of global warming, including impacts to water supply, public health, agriculture, coastline, and forestry, and to prepare and report on mitigation and adaptation plans to combat these impacts. The bill would require that the report be used, on an advisory basis, to guide key infrastructure decision making processes and policies at the local and statewide level.

AB 371 (Salas) – Sewage Sludge: Kern County
Status: 2-Year Bill
EBMUD Position: Oppose

AB 371 would authorize the Kern County Board of Supervisors to regulate or prohibit by ordinance, the land application of sewage sludge (i.e., biosolids), including sewage sludge imported from another county, in unincorporated areas in the county in a manner that is more stringent than state or federal law.

AB 416 (Gordon) – State Air Resources Board: Local Emission Reduction Program
Status: 2-Year Bill
EBMUD Position: Support

AB 416 would create the Local Emission Reduction Program and would require money to be available from the state's general fund, upon appropriation by the legislature, to provide grants and other financial assistance to develop and implement greenhouse gas emissions reduction projects in the state.

AB 763 (Buchanan) – Aquatic Invasive Plants: Control and Eradication
Status: Chaptered – Chapter 330; September 23, 2013
Effective Date: January 1, 2014
EBMUD Position: Support

AB 763 provides the Division of Boating and Waterways (Boating and Waterways) broader statutory authority to address the threat of invasive aquatic plants by authorizing Boating and Waterways to take action as needed to control and eradicate those invasive aquatic plants it, through consultation with other specified agencies, deems to be a threat. This approach supplants the cumbersome process of seeking legislative approval on a species by species basis before action can be taken to control or eradicate an invasive plant.

AB 803 (Gomez) – Water Recycling Act of 2013

Status: Chaptered – Chapter 635; October 8, 2013

Effective Date: January 1, 2014

EBMUD Position: Support

AB 803 enacts the Water Recycling Act of 2013 to clarify rules related to recycled water in order to promote the increased use of recycled water while maintaining public health and safety. The result of a stakeholder process, and a follow-up to AB 2398 (Hueso) from 2012, AB 803 provides consistency and predictability in the reporting threshold for unauthorized discharges of recycled water and provides uniformity in the permitting of projects.

AB 803 does three specific things: (1) provides that the notification requirement for the discharge of treated sewage on or in the waters of the state does not apply to an unauthorized discharge of recycled water; (2) specifies that hose bibs are approved for use at cemeteries supplied with disinfected tertiary treated recycled water; and (3) authorizes that compliance with effluent limitations for recycled water used for surface augmentation or direct potable reuse be determined at the point where recycled water enters a conveyance facility (prior to commingling with any raw water).

AB 1349 (Gatto) – CalConserve Water Use Efficiency Revolving Fund

Status: 2-Year Bill

EBMUD Position: Support

AB 1349 would establish the CalConserve Water Use Efficiency Revolving Fund, to be administered by the Department of Water Resources, and would appropriate moneys in the fund for the purpose of water use efficiency projects. Similar to the Safe Drinking Water State Revolving Fund, which finances the design and construction of projects for public water systems, this new state revolving loan program would provide a sustainable funding source for urban and agricultural water use efficiency projects.

AB 1365 (John A. Perez) – State and Local Agency Reports: Legislative Counsel

Status: Chaptered – Chapter 192; August 28, 2013

Effective Date: January 1, 2014

EBMUD Position: Support

AB 1365 authorizes state and local agencies which are required or have been requested to submit a report to the legislature, to submit either a printed or electronic copy of the report to the Legislative Counsel, instead of having to submit a printed copy, as is the case currently. AB 1365 also modifies the requirements for Legislative Counsel's posting of reports.

ACA 8 (Blumenfield) – Local Government Financing: Voter Approval

Status: 2-Year Bill

EBMUD Position: Support

ACA 8, pending voter approval, would lower the threshold for the voters in cities, counties, and special districts from 2/3 to 55 percent to approve bonded indebtedness for specified public improvements and facilities. ACA 8 would also lower to 55 percent the voter approval threshold

for a city, county, or city and county to incur bonded indebtedness, exceeding in one year the income and revenue provided in that year, that is in the form of general obligation bonds to fund specified public improvements.

SB 123 (Corbett) – Environmental and Land Use Court

Status: 2-Year Bill

EBMUD Position: Support

SB 123 would require the Judicial Council to establish an environmental and land use division in at least two superior courts within each of the state's six appellate districts. The environmental and land use divisions would be responsible for processing civil proceedings brought pursuant to the California Environmental Quality Act or in specified subject areas, including air quality, biological resource, climate change, hazards and hazardous materials, land use planning, and water quality. In addition, the Judicial Council would be tasked with identifying statutes within the specified subject areas that are within the jurisdiction of the environmental and land use court division, and with establishing appropriate standards and protocols for these environmental and land use court divisions to accomplish the objectives of consistency, expediency, and expertise.

SB 181, 182, and 183 (Committee on Governance and Finance) – Validations

Status: SB 181 Chaptered – Chapter 57; July 3, 2013: Effective date - July 3, 2013

SB 182 Chaptered – Chapter 207; September 6, 2013: Effective date - September 6, 2013

SB 183 Chaptered – Chapter 209; September 6, 2013: Effective date - January 1, 2014

EBMUD Position: Support

These bills enact the First, Second, and Third Validating Act of 2013. These acts retroactively correct procedural errors or omissions that public officials of state agencies, cities, counties, and special districts may have made inadvertently and validate the organization, boundaries, acts, proceedings, and bonds of the state, cities, counties, and special districts. Enactment of these Validating Acts ensures the continued highest possible bond rating, resulting in the lowest possible interest rates on the sale of bonds. The three acts were chaptered at different times to validate actions of the state and local government agencies that occur throughout the year.

SB 322 (Hueso) – Water Recycling

Status: Chaptered – Chapter 637; October 8, 2013

Effective Date: January 1, 2014

EBMUD Position: Support

SB 322 aids the implementation of current law with regard to investigating the feasibility of developing uniform water recycling criteria for direct potable reuse by establishing target dates, clarifying the duties of an expert panel that must be convened under existing law, and providing the Department of Public Health with access to assistance from other entities.

SB 727 (Jackson) – Medical Waste: Pharmaceutical Product Stewardship Program
Status: 2-Year Bill
EBMUD Position: Support

SB 727 would facilitate the safe disposal of unwanted pharmaceuticals by requiring producers of pharmaceuticals to develop pharmaceutical stewardship plans, and operate, or have operated on their behalf, a pharmaceutical stewardship program to provide for the collection of unwanted pharmaceuticals throughout the state.

SB 750 (Wolk) – Building Standards: Water Meters: Multi-unit Structures
Status: 2-Year Bill
EBMUD Position: Support

SB 750 would require every water purveyor that provides water service to a newly constructed multi-unit residential structure or newly constructed mixed-use residential and commercial structure to require the installation of a water meter or submeter on each individual dwelling unit as a condition of water service to that property. SB 750 would establish rigorous administrative billing standards intended to protect tenants. SB 750 would allow water purveyors to charge appropriate fees and makes it clear that water purveyors would bear no responsibility for the installation, cost, or maintenance of submeters. EBMUD sought and secured amendments to protect the ability of local water purveyors to adopt and maintain programs that are more stringent than the requirements set forth in the bill.

SCA 9 (Corbett) – Local Government: Economic Development: Special Taxes: Voter Approval
Status: 2-Year Bill
EBMUD Position: Support

SCA 9, pending voter approval, would change the 2/3 voter-approval requirement for special taxes to, instead, allow cities, counties, or special districts to impose a special tax for the purposes of funding local community and economic development projects with the approval of 55 percent of its voters voting on the tax, if specified accountability provisions are met.

SCA 11 (Hancock) – Local Government: Special Taxes: Voter Approval
Status: 2-Year Bill
EBMUD Position: Support

SCA 11, pending voter approval, would change the 2/3 voter-approval requirement for special taxes to, instead, authorize a city, county, or special district to impose a special tax with the approval of 55 percent of its voters voting on the tax.



AGENDA NO. 7
MEETING DATE October 22, 2013

TITLE REMARKETING OF SERIES 2009A-1 AND 2009A-2 WATER SYSTEM BONDS

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE


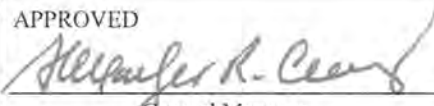
RECOMMENDED ACTION

Approve the following three actions relating to the remarketing of Series 2009A-1 and Series 2009A-2 Water System Bonds: 1) Approve the execution of remarketing agreements and related supporting documents for the outstanding \$41.04 million Water Series 2009A-1 Bonds and \$41.035 million Water Series 2009A-2 Bonds; 2) Approve the appointment of Morgan Stanley & Co. LLC and Barclays Capital Inc. as remarketing agents for the Water Series 2009A-1 Bonds, and E.J. De La Rosa & Co., Inc. and RBC Capital Markets, LLC as remarketing agents for the Water Series 2009A-2 Bonds; and 3) Approve the form of the preliminary reoffering circular related to the remarketing of the Water Series 2009A-1 and 2009A-2 Bonds.

SUMMARY

Currently a combined \$82.075 million of the Water Series 2009A Bonds are outstanding in two subseries, Series 2009A-1 and Series 2009A-2. The \$41.04 million Series 2009A-1 Bonds are currently outstanding in a twelve-month interest period ending in December with a mandatory tender by current holders on December 3, 2013. Therefore, it is necessary to remarket the Series 2009A-1 Bonds on or prior to December 3, 2013 to establish a new interest period and set a new interest rate. The interest rate will be based on the weekly Securities Industry and Financial Markets Association Municipal Index (SIFMA Index), plus or minus a spread, if any, as determined at the time of pricing. We anticipate that the pricing date will be on or about November 14, 2013 and that the term of the new interest period will be between 12 and 24 months.

The \$41.035 million Series 2009A-2 Bonds are currently outstanding in a twelve month interest period ending in February 2014. These bonds were subject to optional redemption by the District beginning on September 1, 2013, and they may be remarketed by the District at any time on or after that date. The District intends to exercise its right by calling the Series 2009A-2 Bonds for mandatory tender on December 3, 2013, concurrent with the mandatory tender date of the Series 2009A-1 Bonds, in order to remarket these bonds in conjunction with the pricing of the Series 2009A-1 Bonds and achieve certain economies of scale in issuance costs. A new interest period and new interest rate based on the weekly

Funds Available FY:		Budget Code:
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Finance	 Eric L. Sandler	 General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

SIFMA Index, plus or minus a spread, if any, will be set at the time of pricing on or about November 14, 2013, and are expected to match the interest period and interest rate spread established for the Series 2009A-1 Bonds.

The Series 2009A-1 Bonds and 2009A-2 Bonds will be remarketed at the same time, each with a different team of remarketing agents to ensure market diversification and provide the widest coverage of existing and potential investors.

The bond resolution approves the form of the remarketing agreements and preliminary reoffering circular, and delegates authority to the General Manager or the Finance Director to execute the remarketing agreements, the final reoffering circular and any other related agreements and to take all actions necessary to complete this transaction. This item was reviewed with the Finance/Administration Committee on October 22, 2013.

A copy of the bond resolution is attached. Copies of the other documents have been provided on the attached CD and paper copies are available from the Office of the Secretary upon request.

DISCUSSION

The District issued SIFMA Index Bonds beginning in 2009 as an alternative to Variable Rate Demand Bonds (VRDBs) to reduce third-party bank risk, diversify the investor base, diversify the District's debt product mix and achieve a lower cost of funds. While liquidity costs have declined significantly over the past four years (from over 100 basis points (1.00%) to approximately 30 basis points (0.30%)), SIFMA Index Bonds still provide a low-cost alternative to VRDBs, saving the Water System approximately \$260,000 annually in liquidity fees (based on an outstanding par amount of \$82.075 million for the Water Series 2009A Bonds and an annual fee of 30 basis points). The SIFMA bonds also diversify the District's mix of outstanding variable rate bonds to appeal to a wider investor base and mitigate commercial bank liquidity support exposure.

The currently outstanding Water Series 2009A Bonds were originally issued in March 2009 and the Series 2009A-1 Bonds and Series 2009A-2 Bonds have been successfully remarketed (in 2010, 2011 and 2012), both in tandem and separately. The current interest period for the Series 2009A-1 Bonds ends on December 3, 2013 and for the Series 2009A-2 Bonds on February 28, 2014. The Series 2009A-2 Bonds will be called for tender concurrently with the 2009A-1 Bonds, well before the expiration of their current interest period. This will enable both subseries of the bonds to be remarketed on the same day (expected to be on or about November 14, 2013). The term of the new interest period for both the Series 2009A-1 Bonds and the Series 2009A-2 Bonds will be determined at the time of pricing and is expected to be between 12 and 24 months. The new interest rate on the bonds will change weekly based on the SIFMA Index rate (plus or minus a spread), and is expected to closely match the floating rate of the pre-existing interest rate swap agreements hedging these bonds. At least three months prior to the end of the new interest period, the District will begin the process necessary to either (a) remarket the bonds and reset the interest rate for a new interest period, (b) remarket the bonds with liquidity support, or (c) refund the bonds with a new bond issue. The bond resolution authorizes the General Manager or the Director of

Finance to make the applicable determinations as to the actions the District will take at the end of the new interest periods and to provide notices required under the Bond Indenture.

A summary of the key bond documents is as follows:

- Amended and Restated Remarketing Agreements replaces the existing remarketing agreements and appoints Morgan Stanley & Co. LLC and Barclays Capital Inc. to continue serving as remarketing agents for the Series 2009A-1 Bonds and E. J. De La Rosa & Co., Inc. and RBC Capital Markets, LLC to continue serving as remarketing agents for the Series 2009A-2 Bonds and
- Preliminary Reoffering Circular provides information about the District, the Water System (primarily in Appendix A) and the terms of the bonds to be reoffered to potential investors by the remarketing agents. Under the federal securities laws, this disclosure document is required to contain all information that would be material to investors in making their decision whether to purchase the District's bonds.

FISCAL IMPACT

It is expected that the remarketing of the Water Series 2009A-1 and Series 2009A-2 Bonds will allow the District to avoid increased costs for liquidity support of approximately \$260,000 annually.

ALTERNATIVE

Do not remarket the Series 2009A-1 and Series 2009A-2 Bonds. Alternatives to remarketing the SIFMA Index Bonds include either remarketing the bonds as a VRDB or refunding them with fixed-rate debt. Either option would result in higher debt service costs for the District. However, the remarketed SIFMA Index Bonds will be monitored for inclusion in any cost-neutral re-financing opportunities which may arise as authorized by the Board on September 24, 2013.

Attachments

RESOLUTION NO. _____

APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF
REMARKETING AGREEMENTS IN CONNECTION WITH THE DISTRICT'S
WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2009A-1 AND
SERIES 2009A-2; AUTHORIZE THE DELIVERY OF A PRELIMINARY
REOFFERING CIRCULAR AND THE EXECUTION AND DELIVERY OF A
FINAL REOFFERING CIRCULAR; AND AUTHORIZE AND RATIFY
CERTAIN RELATED ACTIONS

Introduced by Director

; Seconded by Director

WHEREAS, as authorized by Resolution No. 33704-09 adopted on February 24, 2009 ("Resolution No. 33704-09"), the East Bay Municipal Utility District (the "District") previously issued its Water System Revenue Refunding Bonds, Series 2009A (previously designated "Water System Subordinated Revenue Refunding Bonds, Series 2009A" and hereinafter referred to as the "Series 2009A Bonds") in the aggregate principal amount of \$331,155,000, pursuant to the Water System Subordinated Revenue Bond Indenture, dated as of April 1, 1990, by and between the District and First Interstate Bank of California, which has been succeeded by The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), as amended and supplemented, including as supplemented by the Fifteenth Supplemental Indenture, dated as of March 1, 2009 (the "Fifteenth Supplemental Indenture"), by and between the District and the Trustee (as so amended and supplemented, the "Water Bond Indenture"), of which \$82,075,000 aggregate principal amount of such Series 2009A Bonds is outstanding as of the date hereof; and

WHEREAS, the Series 2009A Bonds are comprised of two subseries, Series 2009A-1 currently outstanding in the aggregate principal amount of \$41,040,000 (the "Series 2009A-1 Bonds") and Series 2009A-2 currently outstanding in the aggregate principal amount of \$41,035,000 (the "Series 2009A-2 Bonds"), and each subseries is currently in a SIFMA-Based Term Interest Rate Period (during any such SIFMA-Based Term Interest Rate Period the Series 2009A Bonds of each subseries will bear interest at a variable rate determined on the basis of the weekly Securities Industry and Financial Markets Association ("SIFMA") Municipal Swap Index plus or minus a spread, if any); and

WHEREAS, the current SIFMA-Based Term Interest Rate Period for the Series 2009A-1 Bonds ends on December 2, 2013 with the Series 2009A-1 Bonds subject to mandatory tender on December 3, 2013; and

WHEREAS, in accordance with the Fifteenth Supplemental Indenture, the District may elect to establish a new SIFMA-Based Term Interest Rate Period for the Series 2009A-1 Bonds to commence on the day following the last day of the current SIFMA-Based Term Interest Rate Period for such Series 2009A-1 Bonds; and

WHEREAS, in accordance with the Fifteenth Supplemental Indenture, the District may elect to establish a new SIFMA-Based Term Interest Rate Period for any subseries of the Series 2009A Bonds on a date on which such subseries of Series 2009A Bonds are otherwise subject to optional redemption; and

WHEREAS, the Series 2009A-2 Bonds are currently subject to optional redemption on any date on or after September 1, 2013 and the District may elect to establish a new SIFMA-Based Term Interest Rate Period for the Series 2009A-2 Bonds to coincide with the new SIFMA-Based Term Interest Rate Period for the Series 2009A-1 Bonds; and

WHEREAS, the District has reviewed its alternatives with respect to the Series 2009A Bonds as the end of the current SIFMA-Based Term Interest Rate Period for the Series 2009A-1 Bonds approaches and has determined that it is in the best interests of the District to provide for the establishment of a new SIFMA-Based Term Interest Rate Period for each of the Series 2009A-1 Bonds and Series 2009A-2 Bonds to take effect on December 3, 2013 and the proper officers of the District have taken, and will take, such actions and have given, and will give, such notices as required under the Water Bond Indenture in connection therewith; and

WHEREAS, the District intends to enter into a new remarketing agreement for each of the Series 2009A-1 Bonds and the Series 2009A-2 Bonds, each by and between the District and the respective remarketing agents named therein, pursuant to which the remarketing agents named therein shall agree, upon certain conditions, to purchase the respective Series 2009A-1 Bonds and Series 2009A-2 Bonds and to remarket such Series 2009A-1 Bonds and Series 2009A-2 Bonds upon the mandatory tender thereof on December 3, 2013; and

WHEREAS, the remarketing agents will distribute a preliminary and a final reoffering circular relating to the Series 2009A Bonds to prospective and actual purchasers of the Series 2009A Bonds in connection with the remarketing thereof; and

WHEREAS, there has been presented to this meeting proposed forms of certain financing documents relating to the Series 2009A Bonds and the remarketing thereof;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of East Bay Municipal Utility District, as follows:

Section 1. Recitals True and Correct. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Approval of Remarketing Agreement(s). The Board hereby approves the engagement of (i) Morgan Stanley & Co. LLC and Barclays Capital Inc. as remarketing agents for the Series 2009A-1 Bonds (and/or either thereof or such other remarketing agents as the General Manager or the Director of Finance shall determine) and (ii) E.J. De La Rosa & Co., Inc. and RBC Capital Markets, LLC as remarketing agents for the Series 2009A-2 Bonds (and/or either thereof or such other remarketing agents as the General Manager or the Director of Finance shall determine), in connection with the remarketing of the Series 2009A Bonds upon the mandatory tender thereof on December 3, 2013. The General Manager or the Director of Finance or the designee of either of such officers is hereby authorized and directed to execute for and on behalf of the District a new or an amended and restated remarketing agreement with the respective remarketing agents for the Series 2009A-1 Bonds and the Series 2009A-2 Bonds in substantially the forms of the remarketing agreements as submitted to this meeting, with such changes, insertions and omissions as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Fulbright & Jaworski L.L.P.

and Curls Bartling P.C., the District's Co-Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the remarketing agents' fees thereunder (excluding expenses) in connection with the remarketing of the respective Series 2009A-1 Bonds and Series 2009A-2 Bonds upon the mandatory tender thereof on December 3, 2013 shall not exceed 0.250% of the aggregate principal amount of the Series 2009A-1 Bonds or Series 2009A-2 Bonds purchased or remarketed under such remarketing agreement. The new or amended and restated remarketing agreements, as executed and delivered, are hereinafter referred to as the "Remarketing Agreements" and the Remarketing Agreements are hereby approved.

Section 3. Approval of Preliminary Reoffering Circular. The Board hereby approves the form of preliminary reoffering circular of the District relating to the Series 2009A Bonds, in substantially the form as submitted to this meeting, with such additions thereto and changes therein (including such changes and additions to reflect the terms of the Series 2009A Bonds as are approved by the General Manager or the Director of Finance after consultation with the District's General Counsel and Co-Bond Counsel). The General Manager or the Director of Finance is hereby authorized to authorize the remarketing agents to distribute such preliminary reoffering circular in connection with the remarketing of the Series 2009A Bonds. The General Manager or the Director of Finance or any duly authorized designee of the General Manager designated by the General Manager in writing to act on his behalf for such purpose is hereby authorized to certify that the preliminary reoffering circular is as of its date "deemed final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The General Manager or the Director of Finance or any duly authorized designee of the General Manager designated by the General Manager in writing to act on his behalf for such purpose is hereby authorized to cause to be prepared and to execute for and on behalf of the District a final reoffering circular in substantially the form of the preliminary reoffering circular with such changes therein (and additions thereto) to reflect the terms of the remarketing of the Series 2009A Bonds and to comply with applicable federal securities laws as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof.

Section 4. Authorization to Make Certain Determinations and Take Other Actions in Connection with Series 2009A Bonds Prior to the End of the New SIFMA-Based Term Interest Rate Period. The General Manager or the Director of Finance or any duly authorized designee of the General Manager designated by the General Manager in writing to act on behalf of such officer for such purpose is hereby authorized prior to the end of the respective new SIFMA-Based Term Interest Rate Period for each of the Series 2009A-1 Bonds and Series 2009A-2 Bonds to take effect on December 3, 2013 (a) to determine whether, upon the mandatory tender of such Series 2009A-1 Bonds and Series 2009A-2 Bonds prior to or following the end of such new SIFMA-Based Term Interest Rate Period, the Series 2009A-1 Bonds and/or Series 2009A-2 Bonds are to be remarketed in a subsequent SIFMA-Based Term Interest Rate Period or another Interest Rate Period (as such term is defined in the Fifteenth Supplemental Indenture), which determination shall be made taking into account the advice of the District's Financial Advisor and on the basis of what bond structure in light of the existing market conditions is in the best interests of the District, and (b) to take all actions to provide for the preparation and delivery of all written directions and notices required under the Water Bond Indenture in connection with any such remarketing; and (c) to provide for the preparation of a reoffering circular, one or more

remarketing agreements and such other documents necessary to effect such remarketing which, once prepared, will be presented for the Board's consideration.

Section 5. Additional Actions. The General Manager, the Director of Finance and all such other proper officers of the District are hereby authorized, individually and collectively, to take all actions and execute any and all documents necessary to effect the remarketing and redelivery of the Series 2009A-1 Bonds and Series 2009A-2 Bonds as contemplated by this Resolution, the Remarketing Agreements, the preliminary reoffering circular and the final reoffering circular; and to do any and all things and to execute and deliver such other agreements, documents and certificates (including, but not limited to: (i) executing and delivering, or approving, as applicable, any amendments to the Fifteenth Supplemental Indenture or other documents relating to the Series 2009A Bonds as shall be requested by any rating agency, the remarketing agents or any other entity if such changes are determined by the General Manager or the Director of Finance to be necessary or advisable and (ii) providing for the giving of written directions and notices or the securing of any required third party approvals required by the Water Bond Indenture or otherwise in connection with the transactions contemplated by this Resolution) as may be necessary, convenient, or advisable in order to consummate the remarketing and redelivery of the Series 2009A Bonds and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Series 2009A Bonds, the Water Bond Indenture, the Remarketing Agreements, the preliminary reoffering circular and the final reoffering circular and the transactions herein authorized. All such actions heretofore taken by such officers or their designees are hereby ratified, confirmed and approved.

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ADOPTED this 22nd day of October, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel



AGENDA NO. 8
MEETING DATE October 22, 2013

TITLE REPLACEMENT/AMENDMENT OF LIQUIDITY FACILITIES

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION



Authorize and approve the following three actions relating to the replacement of liquidity facilities and related fee letter agreements: 1) Authorize the execution of replacement liquidity facilities and related fee letter agreements for the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds, and extend the term of, and amend the commitment fee for, the existing liquidity facility for the Water Series 2008A-1 Bonds; 2) Approve the forms of the remarketing memoranda related to the remarketing of the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds in connection with the delivery of the new liquidity facilities; and 3) Authorize the transfer of remarketing agent assignment for the Water 2008A-4 Bonds from Bank of America/Merrill Lynch to Wells Fargo Bank, National Association (Wells Fargo) and approve the documents to execute the transfer.

SUMMARY

The Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds were issued in 2008 as Variable Rate Demand Bonds (VRDBs) and can be tendered by the investor for purchase by the District on seven days' notice. While most VRDBs remain with the same investors each week, to the extent some investors want their money back, the remarketing agent must find another investor for the VRDB. In the event the remarketing agent cannot place the VRDB with another investor, the liquidity provider will purchase the VRDB from the investor. The District has agreements with banking institutions to serve as liquidity providers. These agreements are known as standby bond purchase agreements (SBPA).

The District has three SBPA's which will expire in January 2014 and need to be renewed or replaced:

- with Bank of America, N.A. for the \$46.275 million outstanding principal amount of Water Series 2008A-4 Bonds,
- with JPMorgan Chase Bank, N.A. for the \$15.1 million outstanding principal amount of Water Series 2008B-3 Bonds, and
- with Bank of America, N.A. for the \$51.69 million outstanding principal amount of Wastewater Series 2008C Bonds.

Funds Available FY:		Budget Code:
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Finance	 Eric L. Sandler	 General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

In addition, the District has an existing SBPA with Wells Fargo Bank, National Association for the \$61.725 million outstanding principal amount of its Water Series 2008A-1 Bonds which is scheduled to expire in July 2014, and which the District is currently seeking to extend for reasons discussed below.

The District solicited indications of interest and proposed costs of renewing the SBPA's for the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds from the existing liquidity providers. The District also solicited indications of interest and proposed costs of providing replacement liquidity facilities from banks in the District's investment banking pool, as well as a variety of other banks currently providing liquidity in the market. As a result of the solicitations, the District received extremely attractive proposals from Wells Fargo and from The Bank of New York Mellon. The table below describes the terms of these facilities.

Because the Wells Fargo proposal was so attractive, the District requested that the bank amend the terms of its outstanding SBPA which provides liquidity for the Water Series 2008A-1 Bonds. This amendment lowers the annual fee to the District, and provides for a term consistent with Wells Fargo's proposed new SBPA's for the Series 2008A-4 and 2008B-3 Bonds. The amended terms are included in the table below. The amendment, which will take effect December 2013, will extend the SBPA term to December 2016 (from the current expiration date of July 2014). The new annual commitment fee would decline to 27.0 basis points (0.27%) from 37.5 basis points (0.375%).

Proposed Liquidity Facility Providers

Liquidity Provider	Approximate Principal Amount (\$ millions)	Term of Agreement (years)	Annual Fee (basis points)	Annual Cost* (\$ thousands)
Wells Fargo Bank, National Association (Water Series 2008A-4)	\$46.3	3.0 Years	27.0 bps	\$132.4
Wells Fargo Bank, National Association (Water Series 2008B-3)	\$15.1	3.0 Years	27.0 bps	\$41.2
The Bank of New York Mellon (Wastewater 2008C)	\$51.7	3.0 Years	27.0 bps	\$147.9
Wells Fargo Bank, National Association (Water Series 2008A-1) Term Extension and Fee Reduction	\$61.7	3.0 Years	27.0 bps	\$176.6

* Cost based on principal plus maximum interest for one payment period

In conjunction with the liquidity facility replacements, we are seeking approval to transfer the remarketing agent assignment for the Water Series 2008A-4 Bonds from Bank of America/Merrill

Lynch to Wells Fargo, which will also be the liquidity facility provider for the Water Series 2008A-4 Bonds.

There are two resolutions being presented: one related to the Water Bonds and one related to the Wastewater Bonds. The resolutions authorize the General Manager or the Director of Finance to execute the new SBPAs and the related fee letter agreements (or in the case of the Water Series 2008A-1 Bonds appropriate amendments to the existing documents) with the firms listed in the table above. The resolutions also provide flexibility to address any unanticipated credit or other events by allowing the General Manager or the Director of Finance to enter into agreements with any other financial institution rated not lower than A1/P1, as long as annual commitment fees (based on the District's current bond rating) do not exceed 50 basis points, which is the cost of the current liquidity facilities. The resolutions also approve the form of the remarketing memoranda that will be used by the applicable remarketing agents to remarket the bonds upon delivery of the new liquidity facilities, and authorizes the General Manager, the Director of Finance and other appropriate officers of the District to take any other actions necessary to complete these transactions.

A copy of each of the two bond resolutions is attached. The SBPAs (and related fee letter agreements) and Remarketing Memoranda and all other documents have been provided on the attached CD and paper copies are available from the Office of the Secretary upon request.

DISCUSSION

The District must periodically renew or replace the liquidity providers that provide support for the VRDBs that have been issued by the District. Agreements with the District's liquidity providers for the Water Series 2008A-4 and Water Series 2008B-3 Bonds (Bank of America, N.A. and JPMorgan Chase Bank, N.A., respectively) and the Wastewater 2008C Bonds (Bank of America, N.A.) will expire in January 2014. The District has solicited indications of interest and received very attractive proposals from both Wells Fargo and The Bank of New York Mellon to provide liquidity support for one- to three-year terms. In addition, Wells Fargo has agreed to extend the term of its current liquidity facility associated with the Series 2008A-1 Bonds at the new, proposed rate.

Selecting these two banks to replace the current liquidity providers will result in reductions from the current annual fees of approximately 50 basis points to 27 basis points. The proposed three-year term of the facilities enables the District to lock in this extremely attractive annual commitment fee (assuming maintenance of the District's current credit ratings). The substitution of Wells Fargo and The Bank of New York Mellon for the current liquidity providers allows the District to maintain a diverse pool of highly rated banks providing liquidity.

In conjunction with the proposed liquidity facility replacements, we are seeking approval to transfer the remarketing agent assignment for the Water Series 2008A-4 Bonds from Bank of America/Merrill Lynch to Wells Fargo, which will also be the liquidity facility provider for the Water Series 2008A-4 Bonds.

A summary of the key documents presented is as follows:

- Standby Bond Purchase Agreements (SBPAs) (together with fee letter agreements with each of the banks) that establish the terms and conditions of the liquidity commitments for an annual fee (subject to maintenance of the District's current credit ratings) of 27 basis points.
- Remarketing Memoranda that provide information about the District and the Water and Wastewater Systems (primarily in their respective Appendix A) and the terms of the bonds to be reoffered to investors by the applicable remarketing agents. Under the federal securities laws, these disclosure documents are required to contain all information that would be material to investors in making their decision whether to purchase the District's bonds.
- Remarketing Agreement that appoints Wells Fargo as remarketing agent and provides the terms and conditions on which Wells Fargo, as remarketing agent, will remarket the Water Series 2008A-4 Bonds. Remarketing fees will not exceed 7 basis points per annum (approximately \$33,000) plus certain remarketing expenses.

FISCAL IMPACT

The annual SBPA fees (at the proposed level of 27.0 basis points) are expected to save the District approximately \$224,000 for the Water system and \$126,000 for the Wastewater system. Specifically, savings for Water Series 2008A-1 approximate \$68,000, Water Series 2008A-4 approximate \$113,000, Water Series 2008B-3 approximate \$43,000, and Wastewater Series 2008C approximate \$126,000. There is no additional cost to the District for the reassignment of remarketing agent duties for the Water Series 2008A-4 Bonds.

ALTERNATIVE

Do not replace current liquidity facilities and amend the 2008A-1 facility. This is not recommended as the current liquidity facilities will expire in January 2014 and must be replaced. It would be more costly for the District to replace the outstanding VRDBs with fixed rate debt. Failing to execute the amendment would result in a lost opportunity to lower the cost to the District and lock in the lower rate for a longer term.

Attachments

RESOLUTION NO. _____

AUTHORIZE THE EXECUTION AND DELIVERY OF CERTAIN AMENDMENTS TO THE STANDBY BOND PURCHASE AGREEMENT AND CERTAIN OTHER DOCUMENTS RELATING TO THE DISTRICT'S WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2008A-1; AUTHORIZE THE EXECUTION AND DELIVERY OF STANDBY BOND PURCHASE AGREEMENTS AND CERTAIN OTHER DOCUMENTS RELATING TO THE DISTRICT'S WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2008A-4 AND WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2008B-3; AUTHORIZE THE EXECUTION AND DELIVERY OF A REMARKETING MEMORANDUM IN CONNECTION WITH THE REMARKETING OF SUCH SERIES 2008A-4 AND SERIES 2008B-3 BONDS; AND APPROVE CERTAIN OTHER ACTIONS RELATED THERETO

Introduced by Director

; Seconded by Director

WHEREAS, the East Bay Municipal District (the "District") has previously issued its (i) \$322,525,000 Water System Subordinated Revenue Refunding Bonds, Series 2008A (which have been re-designated as Water System Revenue Refunding Bonds, Series 2008A) pursuant to the Water System Subordinated Revenue Bond Indenture, dated as of April 1, 1990, by and between the District and First Interstate Bank of California, which has been succeeded by The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), as amended and supplemented (the "Water Bond Indenture"), of which \$200,550,000 aggregate principal amount is currently outstanding, including, among other subseries, \$61,725,000 principal amount of Series 2008A-1 Bonds (the "Water Series 2008A-1 Bonds") and \$46,275,000 principal amount of Series 2008A-4 Bonds (the "Water Series 2008A-4 Bonds"); and (ii) \$160,000,000 Water System Subordinated Revenue Refunding Bonds, Series 2008B (which have been re-designated as Water System Revenue Refunding Bonds, Series 2008B) pursuant to the Water Bond Indenture, of which \$15,100,000 aggregate principal amount of Series 2008B-3 Bonds is currently outstanding (the "Water Series 2008B-3 Bonds"); and

WHEREAS, the Water Series 2008A-1 Bonds, Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds were each issued as variable rate demand obligations in a weekly interest rate mode and subject to remarketing upon tender by the owners thereof; and

WHEREAS, a liquidity facility in the form of a standby bond purchase agreement is currently provided for the Water Series 2008A-1 Bonds by Wells Fargo Bank, National Association ("Wells Fargo"); a liquidity facility in the form of a standby bond purchase agreement is currently provided for the Water Series 2008A-4 Bonds by Bank of America, N.A.; and a liquidity facility in the form of a standby bond purchase agreement is currently provided for the Water Series 2008B-3 Bonds by JPMorgan Chase Bank, N.A.; and

WHEREAS, the liquidity facility for the Water Series 2008A-4 Bonds and the liquidity facility for the Water Series 2008B-3 Bonds each currently expire on January 10, 2014 and the District wishes to replace each such liquidity facility for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds with a substitute liquidity facility in the form of a standby bond purchase agreement provided by Wells Fargo, or in each case, with such other financial institution or institutions as may be selected by the General Manager or the Director of Finance as authorized hereby; and

WHEREAS, the liquidity facility for the Water Series 2008A-1 Bonds is currently scheduled to expire on July 3, 2014 and the District has requested Wells Fargo to (i) extend the scheduled expiration date of the liquidity facility for the Water Series 2008A-1 Bonds for a term concurrent with the replacement liquidity facilities being delivered by Wells Fargo for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds; and (ii) adjust the annual commitment fee to be payable by the District under the liquidity facility for the Water Series 2008A-1 Bonds to the level of the annual commitment fees applicable for the replacement liquidity facilities being delivered by Wells Fargo for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, and the District wishes to amend the liquidity facility (and related fee agreement) with Wells Fargo relating to the Water Series 2008A-1 Bonds in order to effect such extension and adjustment; and

WHEREAS, in connection with the foregoing transactions, the District desires to authorize the appointment of Wells Fargo as replacement remarketing agent for the Water Series 2008A-4 Bonds and the execution and delivery of a remarketing agreement therefor with Wells Fargo; and

WHEREAS, the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds will each be subject to mandatory tender by the existing owners thereof and remarketing in connection with the substitution of the liquidity facilities for such bonds, and the respective remarketing agents for such bonds will distribute a remarketing memorandum for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds to prospective and actual purchasers of such bonds upon the mandatory tender and remarketing thereof; and

WHEREAS, there have been presented to this meeting the proposed forms of certain documents relating to the delivery of substitute liquidity facilities for, and the remarketing of, the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, and the appointment of Wells Fargo as replacement remarketing agent for the Water Series 2008A-4 Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of East Bay Municipal Utility District, as follows:

Section 1. Recitals True and Correct. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Authorize Amendments to the Standby Bond Purchase Agreement and Fee Agreement for the Water Series 2008A-1 Bonds. The General Manager or the Director of Finance or the designee of either of such officers is hereby authorized and directed to execute for and on behalf of the District amendments to the standby bond purchase agreement and related fee agreement with Wells Fargo relating to the Water Series 2008A-1 Bonds, in order to

(i) extend the scheduled expiration date of the liquidity facility for the Water Series 2008A-1 Bonds for a term concurrent with the replacement liquidity facilities being delivered by Wells Fargo for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds; and (ii) adjust the annual commitment fee to be payable by the District under the liquidity facility for the Water Series 2008A-1 Bonds to the level of the annual commitment fees applicable for the replacement liquidity facilities being delivered by Wells Fargo for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, in such form as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Fulbright & Jaworski LLP (a member of Norton Rose Fulbright) and Curls Bartling P.C., the District's Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The amendments to the standby bond purchase agreement and related fee agreement with Wells Fargo relating to the Water Series 2008A-1 Bonds, as executed and delivered, are hereinafter referred to as the "Liquidity Facility Amendments" and such Liquidity Facility Amendments are hereby approved.

Section 3. Approval of Standby Bond Purchase Agreements and Fee Agreements for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds. The General Manager or the Director of Finance or the designee of either of such officers is hereby authorized and directed to execute for and on behalf of the District standby bond purchase agreements and related fee agreements with respect to the Water Series 2008A-4 Bonds and the Water Series 2008B-3 Bonds with Wells Fargo or with such other financial institution or institutions which are selected by the General Manager or the Director of Finance to serve as liquidity provider for such bonds (provided that such financial institution shall be rated not lower than A1/P-1 by Moody's and A+/A-1 by Standard & Poor's at the time of execution thereof and that the annual commitment fee to be paid (based upon the District's current credit ratings) to any such financial institution to induce it to execute and deliver the respective standby bond purchase agreement shall not exceed fifty (50) basis points per annum of such financial institution's available commitment under such standby bond purchase agreement), in substantially the form of the standby bond purchase agreement and fee agreement submitted to this meeting, with such changes (including changes to reflect the terms of the applicable Water Series 2008A-4 Bonds or Water Series 2008B-3 Bonds to which such standby bond purchase agreement relates), insertions and omissions as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The standby bond purchase agreements and fee agreements, as executed and delivered, are hereinafter referred to as the "Standby Bond Purchase Agreements" and the "Fee Agreements," respectively, and such Standby Bond Purchase Agreements and Fee Agreements are hereby approved.

Section 4. Approval of Remarketing Agreement for Water Series 2008A-4 Bonds. The appointment of Wells Fargo as replacement remarketing agent for the Water Series 2008A-4 Bonds is hereby approved. The General Manager or the Director of Finance or the designee of either of such officers is hereby authorized and directed to execute for and on behalf of the District a remarketing agreement relating to the Water Series 2008A-1 Bonds, between the District and Wells Fargo, as remarketing agent, in substantially the form as submitted to this meeting, with such changes, insertions and omissions as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof; provided that such annual remarketing agent fees payable by the District thereunder shall not exceed 0.07 of one

percent of the weighted average daily principal amount of bonds outstanding during each such period. The remarketing agreement, as executed and delivered, is hereinafter referred to as the "Remarketing Agreement" and the Remarketing Agreement is hereby approved.

Section 5. Approval of Remarketing Memorandum. The Board hereby approves the form of remarketing memorandum of the District relating to the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, in substantially the form of the remarketing memorandum submitted to this meeting, with such changes, insertions and omissions as are approved by the General Manager or the Director of Finance after consultation with the District's General Counsel and Co-Bond Counsel. The Director of Finance is hereby authorized to authorize the applicable remarketing agents for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds to distribute the remarketing memorandum for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds in connection with the remarketing thereof. The General Manager or the Director of Finance or any duly authorized designee of the General Manager designated by the General Manager in writing to act on his behalf for such purpose is hereby authorized to execute for and on behalf of the District the remarketing memorandum for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds in substantially the form hereby approved with such changes therein (and additions thereto) to reflect the terms of the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds upon the remarketing thereof and to comply with applicable federal securities laws as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof.

Section 6. Additional Actions. The General Manager and the Director of Finance and such other proper officers of the District be and they hereby are authorized, individually and collectively, to do any and all things and to execute and deliver such other agreements, documents and certificates (including, but not limited to (i) executing and delivering bank bond custody agreements with the Trustee, as custodian, and the liquidity provider for the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, in substantially the form of the exhibit to the form of standby bond purchase agreement submitted to this meeting; (ii) executing and delivering a tax certificate or supplemental tax certificate in connection with the remarketing of the Water Series 2008A-4 Bonds and Water Series 2008B-3 Bonds, if applicable; (iii) executing and delivering, or approving, as applicable, any amendments to the supplemental indentures or remarketing agreements relating to the Water Series 2008A-1 Bonds, the Water Series 2008A-4 Bonds and/or Water Series 2008B-3 Bonds as shall be requested by any rating agency, the liquidity providers, the remarketing agents or any other entity if such changes are determined by the General Manager or the Director of Finance to be necessary or advisable, and (iv) providing for the giving of written directions and notices or the securing of any required third party approvals required by the Water Bond Indenture or other documents related to the Water Series 2008A-1 Bonds, the Water Series 2008A-4 Bonds and/or Water Series 2008B-3 Bonds or otherwise in connection with the transactions contemplated by this Resolution) as may be necessary, convenient, or advisable and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Liquidity Facility Amendments, the Standby Bond Purchase Agreements, the Fee Agreements, the Remarketing Agreement, the bank bond custody agreements, the remarketing memorandum, and the transactions herein authorized. All actions heretofore taken by the officers (or their designees), employees and agents of the District in

furtherance of the transactions contemplated by this Resolution are hereby approved, ratified and confirmed.

ADOPTED this 22nd day of October, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

RESOLUTION NO. _____

AUTHORIZE THE EXECUTION AND DELIVERY OF A STANDBY BOND
PURCHASE AGREEMENT AND CERTAIN OTHER DOCUMENTS
RELATING TO THE DISTRICT'S WASTEWATER SYSTEM REVENUE
REFUNDING BONDS, SERIES 2008C; AUTHORIZE THE EXECUTION AND
DELIVERY OF A REMARKETING MEMORANDUM IN CONNECTION
WITH THE REMARKETING OF SUCH BONDS; AND APPROVE CERTAIN
OTHER ACTIONS RELATED THERETO

Introduced by Director

; Seconded by Director

WHEREAS, the East Bay Municipal District (the "District") has previously issued its \$65,300,000 Wastewater System Subordinated Revenue Refunding Bonds, Series 2008C (which have been re-designated as Wastewater System Revenue Refunding Bonds, Series 2008C) pursuant to the Wastewater System Subordinated Revenue Bond Indenture, dated as of April 1, 1990, by and between the District and First Interstate Bank of California, which has been succeeded by The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), as amended and supplemented (the "Wastewater Bond Indenture"), of which \$51,690,000 aggregate principal amount is currently outstanding (the "Wastewater Series 2008C Bonds"); and

WHEREAS, the Wastewater Series 2008C Bonds were issued as variable rate demand obligations in a weekly interest rate mode and subject to remarketing upon tender by the owners thereof; and

WHEREAS, a liquidity facility in the form of a standby bond purchase agreement is currently provided for the Wastewater Series 2008C Bonds by Bank of America, N.A.; and

WHEREAS, the liquidity facility for the Wastewater Series 2008C Bonds currently expires on January 10, 2014 and the District wishes to replace the liquidity facility for the Wastewater Series 2008C Bonds with a substitute liquidity facility in the form of a standby bond purchase agreement provided by The Bank of New York Mellon ("BNY Mellon") or such other financial institution or institutions as may be selected by the General Manager or the Director of Finance as authorized hereby; and

WHEREAS, the Wastewater Series 2008C Bonds will be subject to mandatory tender by the existing owners thereof and remarketing in connection with the substitution of the liquidity facility for such bonds, and the remarketing agent for the Wastewater Series 2008C Bonds will distribute a remarketing memorandum to prospective and actual purchasers of such bonds upon the mandatory tender and remarketing thereof; and

WHEREAS, there have been presented to this meeting the proposed forms of certain documents relating to the substitute liquidity facility for, and the remarketing of, the Wastewater Series 2008C Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of East Bay Municipal Utility District, as follows:

Section 1. Recitals True and Correct. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Approval of Standby Bond Purchase Agreement and Fee Agreement. The General Manager or the Director of Finance or the designee of either of such officers is hereby authorized and directed to execute for and on behalf of the District a standby bond purchase agreement and related fee agreement with respect to the Wastewater Series 2008C Bonds with BNY Mellon or with such other financial institution or institutions which are selected by the General Manager or the Director of Finance to serve as liquidity provider for such bonds (provided that such financial institution shall be rated not lower than A1/P-1 by Moody's and A+/A-1 by Standard & Poor's at the time of execution thereof and that the annual commitment fee to be paid (based upon the District's current credit ratings) to any such financial institution to induce it to execute and deliver such standby bond purchase agreement shall not exceed 50 basis points per annum of such financial institution's available commitment under such standby bond purchase agreement), in substantially the form of the standby bond purchase agreement and fee agreement submitted to this meeting, with such changes (including changes to reflect the terms of the Wastewater Series 2008C Bonds to which such standby bond purchase agreement relates), insertions and omissions as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Fulbright & Jaworski LLP (a member of Norton Rose Fulbright) and Curls Bartling P.C., the District's Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The standby bond purchase agreement and fee agreement, as executed and delivered, are hereinafter referred to as the "Standby Bond Purchase Agreement" and the "Fee Agreement," respectively, and such Standby Bond Purchase Agreement and Fee Agreement are hereby approved.

Section 3. Approval of Remarketing Memorandum. The Board hereby approves the form of remarketing memorandum of the District relating to the Wastewater Series 2008C Bonds in substantially the form of the remarketing memorandum submitted to this meeting, with such changes, insertions and omissions as are approved by the General Manager or the Director of Finance after consultation with the District's General Counsel and Co-Bond Counsel. The Director of Finance is hereby authorized to authorize the applicable remarketing agents for the Wastewater Series 2008C Bonds to distribute the remarketing memorandum for the Wastewater Series 2008C Bonds in connection with the remarketing thereof. The General Manager or the Director of Finance or any duly authorized designee of the General Manager designated by the General Manager in writing to act on his behalf for such purpose is hereby authorized to execute for and on behalf of the District the remarketing memorandum for the Wastewater Series 2008C Bonds in substantially the form hereby approved with such changes therein (and additions thereto) to reflect the terms of the Wastewater Series 2008C Bonds upon the remarketing thereof and to comply with applicable federal securities laws as the General Manager or the Director of Finance shall approve after consultation with the District's General Counsel and Co-Bond Counsel, such approval to be evidenced by the execution and delivery thereof.

Section 4. Additional Actions. The General Manager and the Director of Finance and such other proper officers of the District be and they hereby are authorized, individually and

collectively, to do any and all things and to execute and deliver such other agreements, documents and certificates (including, but not limited to (i) executing and delivering a bank bond custody agreement with the Trustee, as custodian, and the liquidity provider for the Wastewater Series 2008C Bonds, in substantially the form of the exhibit to the form of standby bond purchase agreement submitted to this meeting; (ii) executing and delivering a tax certificate or supplemental tax certificate in connection with the remarketing of the Wastewater Series 2008C Bonds, if applicable; (iii) executing and delivering, or approving, as applicable, any amendments to the supplemental indenture or remarketing agreement relating to the Wastewater Series 2008C Bonds as shall be requested by any rating agency, the liquidity provider, the remarketing agent or any other entity if such changes are determined by the General Manager or the Director of Finance to be necessary or advisable, and (iv) providing for the giving of written directions and notices or the securing of any required third party approvals required by the Wastewater Bond Indenture or other documents related to the Wastewater Series 2008C Bonds or otherwise in connection the transactions contemplated by this Resolution) as may be necessary, convenient, or advisable and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Standby Bond Purchase Agreement, the Fee Agreement, the bank bond custody agreement, the remarketing memorandum, and the transactions herein authorized. All actions heretofore taken by the officers (or their designees), employees and agents of the District in furtherance of the transactions contemplated by this Resolution are hereby approved, ratified and confirmed.

[Remainder of page intentionally left blank.]

ADOPTED this 22nd day of October, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: October 17, 2013

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Statewide Water Action Plan Proposals

INTRODUCTION

This memo summarizes recent and ongoing efforts of various entities to craft a comprehensive water plan for the state, intended to be used by Governor Brown as he prepares his own plan. EBMUD has participated in the various processes and provided input. A presentation on these developments is scheduled for the Board meeting on October 22.

DISCUSSION

Brown Administration officials have said that the Governor intends to create his own statewide water plan with the input from both the water user and environmental communities. EBMUD has been actively working and/or observing the work of three groups that have been formed to provide input.

ACWA Statewide Water Action Plan. Last spring, ACWA Executive Director Tim Quinn initiated discussions with a group of upstream diverter members, including EBMUD, to address their concerns with potential impacts from the Bay Delta Conservation Plan (BDCP) and their needs as the BDCP progressed. Mr. Quinn's explicit goal was to develop an agreement that would encompass the goals of all his members, and support the advancement of the BDCP in tandem with storage, water supply assurances, Delta levee improvements and other priorities. These negotiations eventually included export contractor members as well as representatives from the Department of Water Resources (DWR), and the resulting document was entitled the Statewide Water Action Plan, or SWAP (see Attachment 1). The SWAP was unanimously approved by the ACWA Board of Directors on September 27 and transmitted to the Governor on October 2.

This week ACWA requested that letters of support from its members for the SWAP be provided as soon as possible. While EBMUD participated in drafting the document, some elements of the ACWA-adopted draft are not consistent with positions adopted by the EBMUD Board of Directors. Consistent with the Board's direction to date, the District's letter expresses strong support for and commitment to the process but qualified support for the SWAP document; it

points out that EBMUD has taken no position on the water bond and is still evaluating the BDCP (see Attachment 2).

Environmental Organizations. In a parallel process, a coalition of environmental organizations drafted their own proposal entitled “Water Action Plan Priority Goals and Objectives” with an emphasis on increased instream flows, ecosystem enhancements and habitat-friendly flood control (see Attachment 3). EBMUD was not involved in drafting this proposal.

Delta Stewardship Foundation. A third state water plan drafting process is being led by the Delta Stewardship Foundation (DVF). Throughout the development of the BDCP and the Delta Plan, the DVF has played a distinct role in the stakeholder community as a watchdog and advocate of the Delta Vision Strategic Plan, completed in 2008 by a Blue Ribbon Task Force. Among other activities, they issue an annual report card that assesses progress on the various goals identified in the Strategic Plan, as well as government agency performance. (For the most recent report card, see:

http://www.deltavisionfoundation.org/wp-content/uploads/2013/06/2013_Delta_Vision_Report_Card_6-16-13.pdf.) The DVF is a non-profit organization with several members of the Blue Ribbon Task Force on its board, as well as cabinet-level officials from the Schwarzenegger Administration.

In August, DVF Chair Sunne McPeak convened a broad group of stakeholders, also to discuss how broader statewide water needs might be met. The intention of the DVF forum is to craft a detailed comprehensive plan on an ambitious schedule. While the outcome of the DVF forum may ultimately be similar to the ACWA effort, it is a distinct and separate process. Ms. McPeak has since met separately with the heads of a number of export and upstream water agencies, seeking to confirm their participation in and support for this process. The DVF intends to complete the effort by April 2014 and deliver a consensual proposal to the Governor. EBMUD is participating in these discussions.

NEXT STEPS

It is anticipated that the Governor’s plan will help to shape the funding priorities for any revisions to the next water bond, which is slated for the ballot in November 2014. The DVF proposal may also influence the water bond discussions but it will also attempt to identify explicit linkages and agreements so all elements of a comprehensive plan can proceed with broad stakeholder support. EBMUD will remain actively engaged in all related forums and keep the Board apprised.

ARC:RGS:DW

Attachments

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Approved by ACWA's Board of Directors on Sept. 27, 2013

Statewide Water Action Plan for the Governor and the State of California

California's complex water management system is facing unprecedented challenges. Local investments in water supply reliability and ecosystem health have built upon the legacy infrastructure projects that served us well in the past, but the backbone water supply system we rely on today no longer satisfies the state's needs. California's statewide water system cannot respond effectively to our growing population, changing ecosystem needs, increasing flood risks and consecutive years of drought. Climate change and its impacts on public safety and long-term water supply reliability also pose a significant challenge to this generation of water and flood managers.

These problems are extraordinary, and their solutions will require an extraordinary commitment from state, local and federal agencies. They also will require a more evolved regulatory approach that will allow the system to operate efficiently and predictably to meet 21st century water supply and ecosystem needs.

The state has recognized the need for action in venues and initiatives such as the Department of Water Resources' (DWR) California Water Plan, the Delta Stewardship Council's Delta Plan, and the multi-agency Bay Delta Conservation Plan (BDCP). Now California's public water agencies are stepping forward to recommend this set of principles and actions to enhance these individual efforts and integrate them in a comprehensive Statewide Water Action Plan. Our recommended plan, submitted to the Governor for his consideration, provides context for a Delta solution and other critical actions as components of a broader set of strategies to address overall water supply reliability and ecosystem health in California.

When implemented together, this suite of statewide actions will serve as a sustainable path forward for California. Governor Brown's leadership and commitment will be central to the success of this action plan and to moving water policy forward in California.

I. Guiding Principles for Implementation of the Statewide Water Action Plan

- 1. Long-term water supply reliability and improved ecosystem health** are the core objectives of this statewide water action plan. In the course of achieving them, however, we must ensure that one region's increased reliability does not adversely affect another's near- or long-term water supplies.

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2. A **new regulatory approach** is essential to reflect today's realities and better serve the needs of California water users and the ecosystem. This is critical if we are to reduce scientific uncertainty and incorporate new understanding of operational and ecosystem dynamics. Under the current approach, regulatory agencies tend to focus only on their specific goals, resulting in duplicative and contradictory requirements that fail to deliver benefits to our water supply, water quality or ecosystem. To combat this, state agencies should commit to using collaborative processes as extensively and transparently as possible to achieve regulatory goals in a way that satisfies water supply, water quality, and ecosystem needs. This new approach should embrace enhanced sharing of data, consistent use of peer-reviewed science (including climate change models), coordinated review under the California Environmental Quality Act (CEQA), and improved integration and coordination of all related processes. This approach will help ensure continued ecosystem protections and increase the water community's confidence that regulatory investments will achieve benefits.
3. **The best available science** should be used to support every action, report or decision made as part of this Statewide Water Action Plan. The science should be inclusive, objective, transparent, and peer reviewed.
4. **Water rights and contract terms**, including area-of-origin protections, are foundational to our water system and should be respected and adhered to whenever projects and initiatives are implemented. State and federal facilities should be operated consistent with the conditions of water rights, contracts, and other entitlements.
5. **Bold actions guided by strong leadership** at the state, federal and local levels are essential for the successful implementation of this action plan. In particular, increased commitments by federal partners are needed to ensure the plan moves forward. The Department of Water Resources should provide leadership and support for these efforts from the department's highest level.
6. **Financing:** The state should fund investments that provide broad public benefits such as improved water supply reliability, water quality and ecosystem health. The state should also incentivize local projects that advance statewide water priorities and require public assistance to be cost effective.

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Approved by ACWA's Board of Directors on Sept. 27, 2013

II. Statewide Actions

To be most effective, the following suite of statewide actions should be implemented as a comprehensive package. Indeed, many elements – including a Delta conveyance solution – are much more likely to succeed if they are part of a broader action plan. Statewide support for the action plan is essential. Advancing all elements of the plan simultaneously will help secure and maintain that support and build a statewide coalition capable of achieving these ambitious goals.

- 1. Storage:** California's water infrastructure has proven inadequate to meet the state's needs in a two-year drought, let alone a multi-year drought. This deficiency, coupled with the already measurable effects of climate change, makes construction of new storage facilities and expansion of existing storage imperative. A wide range of options should be on the table, including new surface water projects; re-operation and expansion/enlargement of existing storage projects; groundwater and conjunctive use; and development of other local and regional storage facilities. Additional storage will add flexibility to the water management system and help ensure a more reliable water supply to serve California's diverse needs, including drought resilience and ecosystem protection (e.g., improved temperatures and flows for fish).

Actions

- **Studies.** In coordination with DWR, the responsible state, federal or local water agency proponents of projects should complete storage studies by June 2014 and formally determine whether a particular project is environmentally and economically sound and will provide benefits for water supply and the ecosystem.
- **Permitting.** Within six months of a local determination based on these studies, DWR and the California Department of Fish and Wildlife (CDF&W) should begin coordinating with local agencies to expedite permitting and CEQA compliance for new storage facilities. For storage projects found to have statewide benefit, DWR and CDF&W should take the lead in expediting the permitting process. The state also should coordinate with federal agencies as needed on permitting, the National Environmental Policy Act (NEPA), water rights issues and potentially construction.
- **Financing.** Under comprehensive water legislation enacted in 2009, the California Water Commission is tasked with defining and quantifying the public benefits of water storage projects eligible for funding with state dollars. By June

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Approved by ACWA's Board of Directors on Sept. 27, 2013

2014, local water agencies that would receive identifiable water supply benefits from water storage projects should provide a plan outlining their commitment and steps they will take to pay for those benefits. This Statewide Water Action Plan recommends that any water bond that moves forward in 2014 provide for continuous appropriation of funding for the public benefits of storage as outlined in the bond measure currently slated for the November 2014 ballot.

- **Construction.** By January 2018, construction should commence for new groundwater and surface water storage projects with an initial target of 1.5 million acre-feet of new storage capacity, as documented in the 2000 CALFED Record of Decision.
- **Local Construction.** As soon as practicable, construction of local facilities with a target of 1 million acre-feet should be completed.
- **Reoperation.** DWR should complete its study of reservoir reoperation by June 2014, including reoperation of existing reservoirs and integration of new storage into system operations.

2. **Water Use Efficiency:** Water conservation and water use efficiency are central elements of the state's strategy to enhance water supply reliability, restore ecosystems and respond to climate change and a growing population. It should continue to be the state's policy to encourage investments in water conservation and water use efficiency by ensuring that the right to conserved water remains with the conserving entity. Local and regional water agencies have made significant multi-decade investments in water conservation and water use-efficiency activities and continue to do so under new state requirements enacted in law. The state should acknowledge that local agencies are in the best position to determine compliance with these requirements and should respect local determinations as sufficient.

Actions

- The state should provide funding for water use efficiency activities in disadvantaged communities and support programs that are not locally cost effective but contribute broad benefits to California.
- DWR and local water agencies should coordinate with groundwater management agencies where applicable to enhance conjunctive use opportunities and minimize potential impacts on groundwater recharge that may result from water use efficiency and conservation efforts.

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Approved by ACWA's Board of Directors on Sept. 27, 2013

3. **Water Supply Assurances:** California law establishes a goal of improving water supply reliability throughout the state. Water supply reliability in regions that rely on water conveyed across the Delta is of obvious importance to the California economy. A BDCP is being developed in part to improve and protect water supply reliability for the agencies that will benefit from its completion. However, it is important that these improvements be accomplished in a manner consistent with this principle.

When the Central Valley Project (CVP) and the State Water Project (SWP) were built, assurances were incorporated in their authorizing statutes that water needed to meet present and future beneficial uses in the areas of origin (i.e., the Sacramento Valley, the east side of the San Joaquin Valley and the Delta) would be available to those areas when needed. All of California has benefited from these fundamental assurances. The state should commit to implementing an action plan that augments storage and modifies regulatory approaches to ensure that positive storage balances can be maintained at all times to provide for improved water supply reliability and ecosystem health and protection of the state's economy.

Actions

- As the state implements this plan, all relevant agencies should adhere to water rights protections in state law and comply with existing water rights and contractual requirements.
 - The Administration should continue to affirm through its policies and actions that the implementation of a BDCP will not adversely affect existing water rights of those in the watershed of the Delta, nor will it impose any obligations on area-of-origin water users, including in the Delta, to supplement flows in and through the Delta.
 - Those seeking to secure permits for a BDCP will be responsible for meeting all applicable conditions in their BDCP permits, including any obligations in those permits for Delta flow, which as required by law must avoid redirected impacts to area-of-origin water users, including in the Delta, unless provided for in voluntary agreements or settlements.
4. **Operational Assurances:** Recent modeling indicates that, in the driest 10% of years, some major reservoirs will hit "dead pool," the condition in which water levels fall below a dam's lowest outlets and no operable storage exists to deliver water for supply, environmental, and power generation purposes. The ramifications of hitting dead pool at that frequency could be catastrophic for water users who rely on these facilities for a

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Approved by ACWA's Board of Directors on Sept. 27, 2013

portion of their supply, for the environment, and particularly for affected water agencies that do not have another viable source of water supply for their customers.

Allowing reservoirs to reach dead pool is not sound policy and is at odds with overall efforts by the state and federal governments to address California's water supply reliability and ecosystem health. Adaptive strategies that address this issue are critical to ensure that the operational rules for California's water delivery system will provide the water supply assurances needed by water users throughout the state. It should be the policy of the state to adopt regulations, develop operating rules, or take other actions that will ensure that reservoirs are not drawn to dead pool conditions, even in multiple dry years.

Actions

- The Administration should develop a strategy in coordination with state agency leadership and federal agency partners by January 1, 2015, to ensure reservoirs are not driven to dead pool levels. This strategy should identify needed regulatory changes, infrastructure improvements including increased storage capacity, and changes in reservoir operations, as well as support for additional local resources development.
- Initial actions identified through this process that can be implemented prior to January 1, 2015, should be included as part of the report outlined in the Governmental Coordination section of this Statewide Water Action Plan.
- As part of this strategy, the Governor should direct state agencies to implement new and existing water management and water quality programs in a manner that will help ensure California's reservoirs do not reach dead pool conditions.

5. Improved Regional Self-Reliance: In addition to water use efficiency and water conservation, California's water agencies utilize a variety of methods to increase local water supplies and reliability for water users and the environment. The state should continue to support development of local and regional water resources that improve each region's water supply reliability and, where applicable, augment imported water supplies. This includes surface water diversions for in-basin uses, conjunctive use, stormwater capture, recycled water, desalination, and groundwater cleanup. Projects and programs that achieve multiple benefits should be a priority.

FINAL

Approved by ACWA's Board of Directors on Sept. 27, 2013

Actions

- Local agencies should improve self-reliance by planning and implementing projects consistent with decisions made by local and regional water agencies.
- DWR should consult with local and regional agencies to develop a statewide strategy to improve regional supplies, in accordance with the Sacramento-San Joaquin Delta Reform Act.
- The state should continue to support Integrated Regional Water Management Plan (IRWMP) efforts that successfully provide for regional and local needs.
- DWR should work with existing IRWMP programs and stakeholders to evaluate the state's Integrated Regional Water Management program and identify areas for improvement, including streamlining the application process, developing specific criteria to determine successful plan implementation, and reducing transaction costs. This effort should include ways to enhance the program's effectiveness in serving disadvantaged communities in IRWMP-eligible areas.

- 6. Headwaters:** Because nearly all of the state's water supplies originate in California's headwaters, more effectively managing these areas is integral to optimizing the water supplies that nature provides. Adapting to climate change and improving watershed resiliency to reduce the likelihood of catastrophic wildfires and increase water yield and quality will require substantial investments by the state.

Actions

- State land and resource management agencies with jurisdiction in headwaters areas should draft a joint report to the Governor and the Legislature analyzing the impacts of climate change on headwaters. The report should identify the benefits that headwaters currently provide, identify models to assess the impacts of climate change on these resources and outline strategies to adapt to those impacts. The appropriate state agencies should invite their federal agency partners to participate in the development of the report.
- The Natural Resources Agency, in consultation with the Sierra Nevada Research Institute (UC Merced) and the U.S. Departments of Agriculture and the Interior, should provide a report to the Governor outlining and prioritizing investments that can be made on public lands to improve the condition and functions of California's headwaters to benefit water supply reliability for the state.

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Approved by ACWA's Board of Directors on Sept. 27, 2013

- Working with local agencies, the state should assess and support solutions for legacy issues affecting water quality and supply to improve the condition of affected watersheds.
- The state should seek to partner with the U.S. Forest Service in meadow restoration projects that can control excessive soil erosion and sediment delivery in California's watersheds to help maintain reservoir storage capacity, reduce flood risks and increase conjunctive use capability.

7. Water Quality: Protecting water quality is a critical aspect of water management in California. The state should continue to pursue actions to protect, maintain and enhance surface water and groundwater quality for all applicable beneficial uses, consistent with meeting all applicable standards, agreements and regulatory requirements.

Actions

- The Department of Public Health should fund the development and use of new analytical methods and cost-effective treatment technologies to better detect and remove chemical and microbial contaminants from drinking water supplies.
- The state should provide funding support for local water agencies to develop and implement salt and nutrient management plans that will reduce salinity in surface and groundwater supplies and provide enhanced conjunctive use opportunities.
- The State Water Resources Control Board and the Regional Boards should review and better match water quality standards to the locally appropriate and demonstrated use of the water. Water quality program expenditures should be focused where they will provide the greatest water quality benefits. Source water quality for municipal uses should continue to be protected.
- The state should continue to develop solutions for assisting disadvantaged communities that do not have safe drinking water.

8. Bay Delta Conservation Plan: A Delta solution, including a BDCP, is a critical component of a broader set of actions that will address water supply reliability and ecosystem health in California.

FINAL

Approved by ACWA's Board of Directors on Sept. 27, 2013

Actions

- Within the scope of existing regulatory statutes, all state agencies involved in developing a BDCP should exercise their discretion and authority to ensure the final project is consistent with the principles of this Statewide Water Action Plan.
- A Delta solution is expected to provide substantial public benefits, which will be funded from public sources including a revised 2014 water bond. The state should work with its federal partners to secure long-term, non-reimbursable federal funding to pay for the federal share of these public benefits.
- Any large construction project, including a BDCP, may have adverse impacts related to the project's "footprint." Where feasible, a BDCP should be designed to avoid or minimize adverse impacts in the first place. When adverse impacts cannot be avoided, the permittees of a BDCP should mitigate project-related environmental impacts, including water supply impacts, in accordance with existing law.
- The permittees of a BDCP, including the Central Valley Project and State Water Project contractors, should work collaboratively with other water users in good faith on all statewide water issues to find mutually acceptable solutions on the broader statewide water issues.

- 9. Levee Improvement and Maintenance:** Levees in the Delta and throughout California are key features of the state's water system and are subject to many risks, including those associated with earthquakes and floods. To protect against and prepare for future levee failures, the state should continue to support and prioritize the maintenance of levees in accordance with state law, including critical near-term actions and the Central Valley Flood Protection Plan.

Actions

- The Delta Stewardship Council should complete its prioritization plan by July 1, 2014.
- The state should continue to support DWR's Delta Levee Maintenance and Special Projects programs and provide support for local flood protection measures throughout the Central Valley by partnering with local agencies in projects that can incorporate public benefits.

- 10. Emergency Preparedness and Public Safety:** Recent events in California and other states have demonstrated that water-related emergencies can have significant impacts

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Approved by ACWA's Board of Directors on Sept. 27, 2013

and put public safety at risk. A robust emergency response plan is essential for minimizing disruption due to floods, earthquakes, wildfires, power outages or contamination of drinking water supplies. The state, working with federal partners, should continue efforts to improve response strategies to enhance public safety during these unforeseen events.

Actions

- DWR should implement pertinent recommendations of the Sacramento-San Joaquin Delta Multi-Hazard Coordination Task Force Report of 2012.
- To reduce the risk of catastrophic wildfires, the California Department of Forestry and Fire Protection (CAL FIRE) should review and, if necessary, revise relevant state regulations to better accommodate and effectuate the use of forest management tools such as forest thinning, biomass removal and controlled burns that reduce fuel loading.
- DWR should coordinate with the California Governor's Office of Emergency Services and the U.S. Army Corps of Engineers to ensure public safety in the Delta and upstream will not be compromised by actions that might otherwise degrade the performance of flood management facilities; create or redirect hydraulic impacts; or, interfere with or impede flood facility improvements, operations or maintenance.
- DWR should implement the pathway strategy adopted in its draft Delta Flood Emergency Preparedness and Response Plan and supported by the U.S. Army Corps of Engineers. This effort includes all measures to facilitate restoration of an emergency freshwater pathway to water export facilities in approximately six months.

11. Bay-Delta Water Quality Control Plan: Multiple regulatory agencies, including, but not limited to, the State Water Resources Control Board (State Water Board), National Oceanic and Atmospheric Administration (NOAA) Fisheries, U.S. Fish and Wildlife Service (USFWS), CDF&W, U.S. Environmental Protection Agency (USEPA), DWR, Army Corps of Engineers, and the Delta Stewardship Council are tasked with making decisions affecting California's water supplies. Continued coordination among these agencies is essential to avoid duplicative and possibly conflicting policies and regulations, and to make the most efficient use of the state's resources. Negotiated programs and planning efforts have been and likely will be the most effective tools to protect beneficial uses in the Bay-Delta. The State Water Board has the opportunity to lead this coordination through its

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Approved by ACWA's Board of Directors on Sept. 27, 2013

review and update of the 2006 Water Quality Control Plan (Bay-Delta Plan). In its review of the Bay-Delta Plan, the State Water Board should:

Actions

- Encourage and facilitate negotiated programs, planning efforts and settlements that will implement flow and non-flow actions consistent with the need to protect beneficial uses and public trust balancing.
- Require a tri-annual review of water quality objectives and implementation accountability through annual reports by local agencies, state offices, departments and boards with responsibility to implement the Bay-Delta Plan.

12. Water Bond: Significant investments in California's water infrastructure, water management improvements and ecosystem health are critically needed and long overdue.

Actions

- The water bond currently set for the November 2014 ballot should be modified, consistent with the ACWA Board of Directors' Water Bond Policy Principles, in early 2014 to ensure its placement on the November ballot. An appropriately crafted general obligation bond can fund broad public benefits associated with investments identified in this Statewide Water Action Plan. Priorities for funding should include new surface and groundwater storage; local and regional projects that support greater regional self-sufficiency; investments in Delta ecosystem restoration; safe drinking water projects and water quality improvements; water conservation and water use efficiency; and watershed management.

13. Groundwater Resources: Many regions of the state rely on groundwater for a significant portion of their water supply. In recent years, climate change, regulatory restrictions on surface water supplies, and increased demands have forced greater reliance on groundwater as a principal or supplemental supply for urban, agricultural and environmental uses. More sustainable management of groundwater is needed, but in order to succeed the state must invest in improvements to its water storage and Delta conveyance infrastructure to optimize both surface and groundwater supplies. Consistent with ACWA's strategic policy document, *Sustainability from the Ground Up: A Framework for Groundwater Management in California*, the state should support and incentivize effective local and regional groundwater management, resolve conflicting

FINAL

Approved by ACWA's Board of Directors on Sept. 27, 2013

state regulatory requirements and streamline its policies to optimize and increase surface and groundwater storage opportunities.

Actions

- DWR should convene a multi-agency workgroup with participation by local groundwater agencies to coordinate, review and facilitate implementation of local and regional groundwater management performance objectives.
- Groundwater recharge, banking and conjunctive use projects are critical to the future sustainability of California's groundwater resources. DWR and State Water Board (and Regional Boards) should support and facilitate these activities when programs are implemented as part of an IRWMP or legally recognized groundwater management plan.
- DWR, in consultation with other agencies that gather data, should develop a single data portal on a publicly accessible website for groundwater quality information. DWR also should continue to expand the CASGEM database for groundwater quantity.
- The state, through the Regional Boards, should support and incentivize local agencies' efforts to develop long-term, sustainable solutions for cleanup of existing groundwater contamination and prevention of future contamination.

14. Water Transfers: Water transfers can provide much-needed flexibility in meeting water supply and environmental needs and have proven invaluable in dry years and droughts. A well-defined set of policies and procedures that provide certainty to transferring parties is essential to facilitate future transfers and promote local and statewide economic, social and environmental sustainability.

While federal and state laws promote transfers, DWR's current approval processes should be streamlined. These issues should be resolved as expeditiously as possible so water transfers can be implemented quickly – when they are needed – without adversely affecting third parties.

Actions

- DWR should convene stakeholder meetings, including with the U.S. Bureau of Reclamation, to identify and resolve, at a minimum, the following issues by December 1, 2013:
 - Identify a process to expedite transfers within a region;
 - Assess the role of CEQA in water transfers,

FINAL

Approved by ACWA's Board of Directors on Sept. 27, 2013

- Review DWR and Reclamation processes and criteria that are used to determine what water is transferrable; and
 - Investigate and review contracting practices within Reclamation and DWR for approving agreements to use conveyance and storage facilities of the Central Valley Project and the State Water Project.
- DWR also should review the 2002 SWRCB report, [Water Transfers Issues in California](#), for background and relevant recommendations to further facilitate water transfers.

15. Governmental Coordination: For this plan to be successful, improved coordination among state agencies and between the state and federal government will be critical.

Actions

- The Governor and state agency leadership should follow up with their federal counterparts, including the President, to assess actions, policy direction and commitments in response to the memo from the President's Council on Environmental Quality (CEQ) to his cabinet directing that a BDCP be a priority for the Obama Administration. The state should further coordinate with federal agencies to advance other actions identified in the CEQ memo, including conservation and water use efficiency, enhancing water supplies and storage, and facilitating water transfers during times of shortage.
- The secretaries of the Natural Resources Agency, California Environmental Protection Agency and the Health and Human Services Agency, in coordination with their respective boards, departments, offices, councils, commissions and conservancies that have a role in implementation of this plan, should produce within 90 days of the Governor's approval of this plan a joint report that details how the agencies and entities they oversee will exercise their authorities to implement this plan in an expeditious and integrated manner.

October 23, 2013

Randy Record, President
Association of California Water Agencies
910 K St., Suite 100
Sacramento, CA 95814

Dear President Record:

I am writing to express my thanks to ACWA for including the East Bay Municipal Utility District (EBMUD) in the effort to prepare a Statewide Water Action Plan (SWAP) for the Governor's consideration. This document is an important step in forging a comprehensive solution that can be broadly supported by all stakeholders.

The SWAP addresses a suite of critical actions called for by upstream diverters, export contractors, and in-Delta water users. EBMUD agrees that making progress on all these fronts is essential if the state is to resolve the conflicts that have persisted in recent decades. We particularly appreciate the careful attention given to assurances for water rights and supply protections for upstream diverters as the Bay Delta Conservation Plan (BDCP) continues to be developed.

EBMUD supports advancing the SWAP as a key component of a final plan that the Governor will approve, after receiving input from other stakeholders including the environmental community. Regarding the specific elements of the SWAP, EBMUD must remain neutral on two major areas, the water bond and the BDCP. At this point, our Board of Directors has taken no position on the water bond that is currently slated for the 2014 ballot, and we are closely monitoring negotiations in the Legislature on potential amendments to that bond.

Regarding the BDCP, EBMUD continues to support the export contractors in their effort to improve their supply reliability – a critical priority for all public water agencies. EBMUD has offered constructive input at every stage of the BDCP's development to ensure that it will protect our ratepayers' interests and meet the needs of all stakeholders. EBMUD concurs with the actions specified in the SWAP regarding BDCP, and also maintains that its costs must not be redirected to entities that will not benefit from the project. Our Board will consider a formal position on the BDCP when the final draft BDCP is available for review. This prudent approach is consistent with the actions other water agencies took when EBMUD and Sacramento County were developing a water pumping facility at Freeport.

Randy Record, President
Association of California Water Agencies
October 23, 2013
Page 2 of 2

Many of the challenges identified in the SWAP resist easy solutions, which is indicative of their magnitude and significance. EBMUD will remain an engaged and constructive partner with ACWA and other stakeholders in creating a durable and comprehensive water plan for California.

Sincerely,

Alexander R. Coate
General Manager

ARC:RGS:DW



Water Action Plan Priority Goals and Objectives September 6, 2013

PREAMBLE:

Our organizations strongly support the development of a meaningful Water Action Plan that includes sufficient funding, deadlines, and other commitments to ensure that the Plan will be implemented and these goals are achieved. We would like the opportunity to work with the Administration to estimate the total funding needed for Plan implementation, identify reliable and sustained funding sources, and a timeline for implementation. A beneficiary pays approach to funding is essential to the success of this Plan, with public funding expended on public benefits including ecosystem preservation and restoration, safe drinking water for disadvantaged communities, cost-sharing to incentivize local supply development that meaningfully reduces reliance on the Delta, and related co-benefits. A suite of funding tools, including bonds and fees, should be considered.

GOALS:

Any action or project that is implemented as part of the Water Action Plan should:

1. Be consistent with the Delta Stewardship Council's Delta Plan.
2. Advance the dual goals of providing for a more reliable water supply for California, and protecting, restoring and enhancing California's aquatic environment.
3. Increase water, ecosystem, and economic resiliency in the face of climate change.

OBJECTIVES:

- 1.) Provide the flows necessary to meet the state's mandate to produce 990,000 naturally spawning chinook salmon annually, support viable, self-sustaining

populations of a broad range of other native aquatic species, and ensure sustainable river and estuary habitat conditions for a healthy, functional Bay-Delta ecosystem.

- Secure a major increase in ecologically vital freshwater flows into, through and from the Delta to San Francisco Bay at all critical times, with a primary goal of cumulatively moving significantly closer to the public trust target of 75% of the watershed's winter-spring flows reaching San Francisco Bay.
- SWRCB completes Phases 1 and 2 of the update of the Bay-Delta Water Quality Control Plan by December 31, 2014 to reestablish more natural flow patterns and increase Delta inflows, through-flows and outflows to achieve salmonid doubling, viable fish and wildlife populations, and functional habitats.
- SWRCB completes Phase 3 by 2017 to allocate responsibility for meeting Phase 1 and 2 requirements.
- SWRCB completes Phase 4 by 2018 to establish instream flows and temperature requirements for tributaries in the Central Valley watershed.
- Cal-EPA and Resources Agency adopt a plan by 2014 to implement habitat, fish passage, and other actions, including actions upstream of the Delta, in the WQCP program of implementation that complement a water rights decision.

2.) Implement the state's policy to reduce reliance on the Delta watershed by substantially reducing demand and diversions from the Bay-Delta watershed from current average diversions, and investing in local and regional water supply tools. The current BDCP cost/benefit analysis prepared by DWR identifies an approximate 25% reduction in future diversions as a likely and reasonable target (establishing a future export baseline of 3.45 MAF on average, as compared to a 4.7 MAF average under existing requirements).

- Expand wastewater recycling sufficient to exceed the state's water recycling goal of 1 MAF over 2002 levels by 2020.
- Expand agricultural and urban water conservation and efficiency to exceed SB 7x7 targets and requirements.
- Expand stormwater capture and re-use sufficient to meet or exceed the SWRCB's goal of increasing stormwater re-use by 500,000 acre-feet over 2002 levels by 2020.

3.) Effectively integrate groundwater use into comprehensive water supply management to reduce impacts of groundwater withdrawals on stream flows and surface water supplies, reverse trends of overdraft, and enable more effective groundwater storage and conjunctive use.

- Strengthen current groundwater management plan requirements by establishing clear guidance on reducing impacts to surface water in effective groundwater management.
- Accelerate pilot tests of managed groundwater recharge approaches.

- Encourage and fund local and regional conjunctive management and groundwater banking programs.
- Provide funding and incentives to clean up contaminated groundwater basins.

4.) Reduce the risk of catastrophic flooding and significantly expand the area of frequently inundated floodplain habitat for fish and wildlife.

- Protect undeveloped and agricultural floodplains.
- Expand floodplain and floodway capacity to safely accommodate large floods, provide increased habitat, and enable more flexibility in reservoir operations.
- Restore the area of frequently inundated floodplain habitat for native fish and wildlife species:
 - called for in the 2009 salmonid biological opinion by 2020;
 - called for in the Central Valley Flood Protection Plan.
- Improve levees in selected locations to provide needed flood protection, appropriately incorporating our modern understanding of flood hydrology and risk management.

5.) Promote a sustainable and vibrant agricultural economy, including maintaining the Williamson Act and developing and investing in programs designed to compensate farmers and ranchers for good stewardship practices that provide public trust benefits.

6.) Protect and restore natural watershed processes in both urban and rural environments to reduce flooding and polluted run-off and to increase groundwater recharge and dry season stream flows.

- Protect and restore mountain meadows and forested lands.
- Invest in green infrastructure to infiltrate stormwater in developed areas.
- Implement the current state policy of “no net loss” of wetlands, including finalizing the proposed SWRCB’s State Wetlands and Riparian Protection Policy.

7.) Create a transparent, equitable, and efficient decision making process that allows all Californians to shape decisions that determine the allocation of water and water management resources as well as the management of beneficial uses of the state’s water.

8.) Improve water quality to provide drinkable and swimmable water for all people with special attention provided for disadvantaged communities and a healthy ecosystem for aquatic organisms.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: October 17, 2013

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager

FROM: Lynelle M. Lewis, Secretary of the District

SUBJECT: Planning Committee Minutes – October 8, 2013

Chair Katy Foulkes called to order the Planning Committee at 9:45 a.m. in the Training Resource Center. Directors Doug Linney and Lesa R. McIntosh were present at roll call. Staff present included: General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Wastewater Bennett K. Horenstein, Laboratory Supervisor Daniel E. Jackson, Special Assistant to the General Manager Cheryl A. Farr, and Secretary of the District Lynelle M. Lewis.

Public Comment. None.

Wastewater Treatment Plant Process Upsets and Mitigation Efforts. Laboratory Supervisor Daniel E. Jackson presented an update on process upset events at the Main Wastewater Treatment Plant (MWWTP) in its activated sludge biological treatment system. He reported that there have been six such episodes since 2010 with the most recent incident in May/June 2013 nearly resulting in a National Pollution Discharge Elimination System (NPDES) permit violation. Staff has implemented process control strategies to respond to these incidents of unusually rapid-growing bacteria that include the addition of chemicals to enhance flocculation and settling. While some of these actions resulted in improved effluent, the dispersed cells continue to episodically bloom and impact effluent quality. He noted that the District has incurred significant capital and operating costs responding to these events and has not been able to identify the cause of the episodes.

To develop a long-term strategy to address this unique phenomenon, staff proposed collaborating with Stanford University to investigate the microbiological causes of these upset conditions at the MWWTP. Mr. Jackson said the results of this study should provide valuable information to guide efforts in preventing and managing future episodes. An agreement for this research project will be presented to the full Board for consideration. The research protocol will include bringing in additional wastewater process experts from around the country to peer review and provide input into possible cause and/or mitigation techniques. The Committee asked about a possible correlation between these upsets and the trucked food waste accepted at the MWWTP. Mr. Jackson said staff will be looking at this as part of the study, but the data have not indicated a correlation.

Update on Richmond Wastewater Services. Director of Wastewater Bennett K. Horenstein reported on a presentation to the Richmond City Council on the Richmond Wastewater Services Joint Study (Study). He reported that District staff presented technical findings from the Study and the City of Richmond (City) presented conclusions and recommendations. Mr. Horenstein said that the District staff presentation focused on the technical basis of the Study findings to date. Of the three alternatives evaluated in the Study, one (converting the City's Water Pollution Control Plant to a liquid-treatment-only plant with removed solids conveyed to the District's system) was found to be feasible from a regulatory and cost perspective.

City staff recommended that the City continue to evaluate regionalization approaches that could facilitate long-term management of the City's wastewater treatment services, including annexation by the District and conversion of the City's Water Pollution Control Plant to a liquid-treatment-only plant with solids conveyed to the District. City staff also proposed further assessment of two other regionalization approaches that would involve sending flows or solids to West County Wastewater District (WCWD). He said the City Council voted unanimously in favor of the City staff recommendation to continue evaluating these regionalization approaches.

The Committee asked about the pros and cons of annexation. Mr. Horenstein said the District would only consider annexation if it did not adversely impact the District's existing ratepayers and if capital improvements required to accommodate City flows were paid by City ratepayers. District staff will provide support to City staff in further evaluating the alternatives and will continue to update the Board regarding the analysis and future discussions with the City.

Gateway Park Project and New Bike Path Update. Director of Wastewater Bennett K. Horenstein reported that the park project planning is moving forward and public outreach is underway. He also reported that a new bike and pedestrian path immediately north of the MWWTP was opened during Labor Day weekend and is well utilized. Mr. Horenstein pointed out that the District's primary interest in the project is to ensure that critical wastewater facilities located within the project development area are protected and accessible during and after project construction. Next steps are for the consultant team to present a revised park design and phasing plan to confirm broad agency input and support. A public scoping meeting to initiate the environmental review process is expected to be conducted by the end of the year. The Environmental Impact Report process is anticipated to be completed by March 2015. Mr. Horenstein said that staff will continue to ensure protection of critical infrastructure and safe and continuous access to District facilities. A representative of Scenic East Bay expressed opposition to City of Oakland plans to increase the number of billboard locations along east bay freeways around the project area and along the bike path that will extend out to the new park.

Adjournment. Director Foulkes adjourned the meeting at 10:35 a.m.

ARC/LML/slb

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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: October 17, 2013

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager

FROM: Lynelle M. Lewis, Secretary of the District

SUBJECT: Legislative/Human Resources Committee Minutes – October 8, 2013

Chair Lesa R. McIntosh called to order the Legislative/Human Resources Committee at 10:40 a.m. in the Training Resource Center. Directors John A. Coleman and Frank Mellon were present at roll call. Staff present included: General Manager Alexander R. Coate, General Counsel Jylana Collins, Special Assistants to the General Manager Marlaigne K. Dumaine and Cheryl A. Farr, and Secretary of the District Lynelle M. Lewis.

Public Comment. None.

State Legislative Initiatives for 2014 Legislative Year. Special Assistant to the General Manager Marlaigne K. Dumaine reported that the Office of Intergovernmental Affairs received and evaluated the following legislative initiatives for 2014: 1) Protect EBMUD's interests, including its water rights and water supply, as the legislature continues to consider Delta-related water supply and reliability issues and Delta-related funding issues; 2) Protect EBMUD's interests in any efforts to impose a statewide water surcharge or public goods charge on water; 3) Protect EBMUD's property tax revenues; 4) Provide greater flexibility to reject bids and exclude bidders; and 5) Revise the utility marking law to allow for the broader use of vacuum excavation techniques for planned and emergency excavations. She noted that staff will continue its ongoing efforts on Initiatives 1-3 to protect EBMUD's water supply and water rights in addition to its local property tax revenues.

Regarding Initiative 4, there was considerable discussion focusing on the District's ability to reject bids and exclude bidders based on past performance. Ms. Dumaine pointed out that there is a remedy in current law that the District has not yet tested. Following the discussion, the Committee recommended that instead of than seeking legislation, staff should establish a new practice of including information in staff recommendations for construction bid awards explaining EBMUD's experience with a proposed contractor in the past five years with regard to claims and litigation.

Next, the Committee discussed Initiative 5, which would allow for broader use of vacuum excavation for planned and emergency situations. Ms. Dumaine said staff has contacted entities representing excavators within and outside of the water community and has been unable to secure sufficient support to advance this proposal. However, she noted that discussions in the legislature on the broader issue of excavation safety are expected in the coming months and that staff would encourage discussion of vacuum excavation as a safety consideration. It was moved, seconded and carried to support the staff recommended positions on Initiatives 1-5 with direction to administratively implement recommendations on Initiative 4.

Adjournment. Director McIntosh adjourned the meeting at 10:59 a.m.

ARC/LML/slb

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