



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

375 – 11<sup>th</sup> Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

## **AGENDA**

### **Legislative/Human Resources Committee**

**Tuesday, January 8, 2013**

**10:15 a.m.**

**Training Resource Center**

**(Committee Members: Directors McIntosh {Chair}, Katz and Mellon)**

#### **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.

#### **DETERMINATION AND DISCUSSION:**

1. Project Labor Agreements (X. Irias)
2. Legislative Report: (Dumaine)
  - Federal Legislative Initiatives for 2013
  - Update on Legislative Issues of Interest to EBMUD

#### **ADJOURNMENT:**

##### **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.*



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 3, 2013

MEMO TO: Board of Directors

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

FROM: Xavier J. Irias, Director of Engineering and Construction *XJI*

SUBJECT: Project Labor Agreements

### SUMMARY

A preliminary draft policy on the use of Project Labor Agreements (PLA) was presented to the Legislative/Human Resources Committee on December 11, 2012. The draft policy calls for consideration of a PLA on a case-by-case basis for construction projects with an estimated contract value of \$25 million or higher. The committee provided input and requested that the policy be finalized for Board consideration. This memo provides the final draft policy. The topic will be discussed at the Legislative/Human Resources Committee on January 8, 2013.

### DISCUSSION

As described in the final draft policy (attached), staff will review projects with estimated construction bid costs over \$25 million in the design phase and, based on the project's anticipated complexity, time-sensitivity and other relevant factors, recommend whether or not to proceed with a study of the project's suitability for a PLA. If the Board determines that a study should be performed, staff will present the results of the study along with a recommendation of whether or not to require a PLA for the particular project. If the Board chooses to proceed with a PLA for the project, that requirement and project-specific PLA terms will be made part of the construction bid, including necessary coordination with various master labor agreements.

The policy provides flexibility for the Board of Directors to decide on PLAs on a case-by-case basis and take advantage of experience and future improvements in PLA implementation procedures. The policy also provides for an adjustment of the threshold dollar value for PLA consideration every five years.

XJI:OOY:th

Attachment



## Policy 3.XX



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 3, 2013

MEMO TO: Board of Directors

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

FROM: Marlaigne Dumaine, Manager of Legislative Affairs

SUBJECT: Federal Legislative Initiatives for 2013

### **OVERVIEW**

The 113<sup>th</sup> Congress convenes this month amidst a challenging political environment stemming from the continued need to address federal spending. In addition to the fiscal issues, congress' domestic policy agenda is likely to be comprised of issues of interest to EBMUD, including infrastructure and the Sacramento-San Joaquin Delta.

Infrastructure assistance will continue to be a key policy issue and congress is expected to continue to explore ways to allocate limited resources for infrastructure funding. The house and senate infrastructure committees have expressed interest in proposals to promote low interest loans, infrastructure banks, public-private partnerships, and other more traditional financing mechanisms. Congress may also review the issue of local and state tax-exempt financing as part of any tax reform efforts.

Congressional efforts to reauthorize the Water Resources Development Act (WRDA) are likely to gain momentum during 2013. Congressional leaders have been canvassing members to ascertain the value of earmarks with a particular emphasis on WRDA. The Senate Committee on Environment and Public Works held a hearing on a draft WRDA bill in late 2012, however, the legislation did not advance prior to the end of the session. Senator Barbara Boxer has identified WRDA as a top priority for 2013. The House Committee on Transportation and Infrastructure, with its new Chairman Bill Shuster (R-PA), has also signaled that WRDA is a priority. Accordingly, WRDA legislation is expected to be brought forth in this congressional session. A new WRDA is anticipated to be policy-oriented as opposed to the traditional focus on project authorizations. However, it will be important to advance EBMUD's project authorization needs to the extent feasible.

With regard to securing appropriations for projects with existing WRDA authorizations, including "new starts," the climate in 2013 will continue to be austere. House and senate rules continue to deny project earmarks. However, there are some indications these rules may be revisited in 2013. It is important that EBMUD continue to advance its project appropriation requests to ensure EBMUD's needs are communicated to its congressional delegation in the event the earmark rules are revised in a manner that allows for project funding.

On the policy front, issues of interest to EBMUD continue to be primarily focused on matters relating to the Sacramento-San Joaquin Delta, including funding, mitigation, and water supply.

EBMUD's 2013 federal legislative initiatives have been developed consistent with the past year's goals and objectives with the understanding that congress and the administration are operating in a constrained fiscal environment. EBMUD's 2013 federal legislative initiatives are focused on items of highest priority for EBMUD: infrastructure funding; fiscal year 2014 (FY14) project appropriations, WRDA project authorization requests, and advancing EBMUD's interests within the key policy area of the Sacramento-San Joaquin Delta. These four EBMUD 2013 federal initiatives are summarized in the table below and described in detail in the attachment.

FEDERAL INITIATIVE	ACTION
1. Seek federal funding opportunities for infrastructure projects via any new federal programs which may be developed and any existing programs.	<ul style="list-style-type: none"> <li>• Seek any available federal funding opportunities for EBMUD's infrastructure projects consistent with the District's current Capital Improvement Program.</li> </ul>
2. Continue to seek federal funding for EBMUD's three WRDA authorized projects - the San Ramon Valley Recycled Water Project, the Integrated Regional Recycled Water Program, and the Bay Area Regional Desalination Project.	<ul style="list-style-type: none"> <li>• Pursue FY14 federal funding appropriations of \$450,000, \$5 million, and \$4 million for the San Ramon Valley Recycled Water Project, the Integrated Recycled Water Program, and the Bay Area Regional Desalination Project, respectively.</li> </ul>
3. Continue to pursue new WRDA funding authorizations for EBMUD's seismic program and the San Ramon Valley Recycled Water Project.	<ul style="list-style-type: none"> <li>• Pursue new WRDA funding authorizations in the amounts of \$35 million for EBMUD's seismic program and \$20 million for the San Ramon Valley Water Recycling Project.</li> </ul>
4. Advance EBMUD's Bay Delta needs with its federal delegation.	<p>Staff will focus on EBMUD's priority issues:</p> <ul style="list-style-type: none"> <li>• EBMUD's ratepayers should not be held responsible for the flow obligations, project mitigations, or the expected habitat restoration success of others, including the state and federal projects.</li> <li>• EBMUD's ratepayers should not be asked to pay for costs that are the responsibility of others, or for any user fee or surcharge that subsidizes other parties.</li> <li>• Any solution that would impact the Mokelumne salmonid fishery should include mitigation by the responsible parties for the impacts.</li> </ul>



## **FEDERAL INITIATIVES - 2013**

### **INITIATIVE #1 – SEEK FEDERAL FUNDING OPPORTUNITIES FOR INFRASTRUCTURE PROJECTS**

#### **Background**

The 113<sup>th</sup> Congress is expected to focus in large part on infrastructure assistance policy as members consider how to support and spur economic growth. Congress is expected to convene hearings on the priority of water infrastructure with particular attention given to the role of private sector funding assistance and the use of tax-exempt funding tools. In addition, the conventional funding of the State Revolving Loan Fund Program, as well as how it would be impacted by private sector assistance, Water Infrastructure Financing Innovation Act assistance, infrastructure banks, or other innovative financing approaches, is anticipated to be part of the larger congressional debate on how water infrastructure needs should be addressed.

Staff will work with EBMUD's delegation, appropriate committee staff, and the administration to advance EBMUD's infrastructure funding needs.

#### **Recommended Action**

Seek any available federal funding opportunities for EBMUD's infrastructure projects consistent with EBMUD's Capital Improvement Program priorities.

### **INITIATIVE #2 – PURSUE FISCAL YEAR 2014 (FY14) FEDERAL FUNDING APPROPRIATIONS FOR EBMUD'S SAN RAMON VALLEY RECYCLED WATER PROJECT, EBMUD'S INTEGRATED REGIONAL RECYCLED WATER PROGRAM, AND THE BAY AREA REGIONAL DESALINATION PROJECT**

#### **Background**

In 2012, EBMUD sought FY13 federal funding appropriations for the San Ramon Valley Recycled Water Project, the Integrated Recycled Water Program, and the Bay Area Regional Desalination Project. However, a combination of federal budget constraints and a congressional ban on project earmarks rendered each of these requests unsuccessful. Though the likelihood of receiving project-specific FY14 appropriations remains low, staff will continue to pursue appropriations for each of these projects as described below. The projects are presented in order of priority, from the highest to the lowest.

#### **San Ramon Valley Recycled Water Project**

The San Ramon Valley Recycled Water Project is estimated to provide approximately 6,400 acre-feet of recycled water per year for irrigation uses within the San Ramon Valley. Total joint project costs for the participating agencies (EBMUD and Dublin San Ramon Services District) are estimated to be more than \$150 million.

In 1999, the Water Resources Development Act (WRDA) provided congressional authorization for \$15 million in federal funding toward planning, design, and construction assistance by the U.S. Corps of Engineers for the San Ramon Valley Recycled Water Project. The total appropriations for this project to date have nearly exhausted the authorized funding level with approximately \$450,000 remaining in this initial \$15 million authorization. Project appropriations totaling approximately \$14.5 million were granted from FY02 through FY10 for planning, design, and construction activities.

Despite the austere federal funding climate, staff will continue to pursue the remaining \$450,000 in the existing WRDA authorization for this project. This funding will be used toward the construction of pipelines that are part of Phases 2, 3, and 4 of the project. Staff will simultaneously pursue a new WRDA funding authorization for this project in the amount of \$20 million, as discussed under Initiative #2.

#### Integrated Recycled Water Program

The 2008 enactment of WRDA provided a \$25 million funding authorization for the Integrated Regional Recycled Water Program project. An appropriation for this project has not yet been secured. Because this project is considered by congress to be a “new start,” it means that funding opportunities will hinge on how congress and the administration address new water infrastructure priorities.

EBMUD staff will continue to pursue initial funding for the Integrated Regional Recycled Water Program in the amount of \$5 million as an FY14 appropriations request. Funding for this project will be used for the design and construction of Phase 1B of the East Bayshore Recycled Water Project. This project could ultimately supply up to approximately 2.5 million gallons per day of recycled water, which includes replacing the use of potable water in portions of Alameda, Oakland, Emeryville, Berkeley, and Albany.

#### Bay Area Regional Desalination Project

The Bay Area’s largest water agencies, the Contra Costa Water District, the East Bay Municipal Utility District, the San Francisco Public Utilities Commission, the Santa Clara Valley Water District and the Alameda County Flood Control and Water Conservation District – Zone 7, are jointly exploring the development of regional desalination facilities that would benefit over 5.6 million Bay Area residents and businesses served by these agencies. The Bay Area Regional Desalination Project would consist of one or more facilities, with an estimated capacity range of 10 to 50 million gallons per day, enough water to serve 100,000 to 500,000 people. This project would provide a local water source and increase water supply reliability during emergencies, such as droughts and earthquakes, without increasing the region’s reliance on Delta tributaries and would present an opportunity to develop a highly collaborative approach to leverage funding at the federal level.

The existing authorization for regional desalination is \$4 million. Due to its presence in Washington, D.C., EBMUD has agreed to represent the partner agencies in pursuing this authorization. Accordingly, EBMUD staff will continue to pursue \$4 million on behalf of the project partners in FY14 funding for this project.

### **Recommended Action**

Pursue FY14 federal funding appropriations in order of priority: \$450,000 for the San Ramon Valley Recycled Water Project, \$5 million for the Integrated Recycled Water Program, and \$4 million for the Bay Area Regional Desalination Project.

### **INITIATIVE #3 – CONTINUE TO SEEK FUNDING AUTHORIZATIONS FOR TWO EBMUD WATER RESOURCES PROJECTS UNDER THE WRDA**

In 2012, EBMUD staff provided WRDA funding authorization requests for three projects: (1) the Regional EBMUD Seismic Component Upgrade (RESCU) program to increase the seismic stability of EBMUD's water distribution and raw water storage reservoirs; (2) interties between EBMUD's Mokelumne aqueducts; and (3) the San Ramon Valley Recycled Water Project. However, congress did not finalize a WRDA package in 2012. The aqueduct intertie project is expected to be substantially completed in 2013, therefore an FY14 authorization request for this project will not be appropriate. Staff will maintain the authorization requests for the RESCU program and the San Ramon Valley Recycled Water Project for FY14, as described below.

#### **RESCU**

EBMUD's RESCU program recognizes the presence of several active earthquake faults that run through its service area in the East Bay and on-going seismic risks in the Delta. This program is intended to increase the seismic stability of the water system, including water storage reservoirs, pipelines, and facilities to treat and pump water. This would help protect the proximate densely populated urban communities from flooding during a major earthquake and enhance EBMUD's water supply reliability. Components of the RESCU program include:

- Briones, Chabot, Upper San Leandro, and Lafayette Tower Seismic Upgrades;
- Dam Seismic, Operational, Surveillance, and Instrumentation Upgrades;
- West of Hills Pressure Zone Improvements; and
- Mokelumne Aqueduct upgrades

The cost of the RESCU program is estimated to be \$150 million or more. EBMUD's request for an initial authorization is \$35 million. This amount is consistent with prior federal authorizations for similar projects.

#### **San Ramon Valley Recycled Water Project**

With the near exhaustion of the existing \$15 million funding authorization for the San Ramon Valley Recycled Water Project, staff will request an additional authorization in the amount of \$20 million. Based on past authorization levels for similar projects, a request of \$20 million is feasible. This funding will be used for the design and construction of phases 3, 4, 5 and 6 distribution lines and two pump stations (Phases 3 and 4). The areas that will be served by these phases of the project are: San Ramon and Danville (Phase 3); Blackhawk (Phase 4); Blackhawk West (Phase 5); and Danville expansion (Phase 6).

### **Recommended Action**

Continue to work with EBMUD's congressional delegation to ensure continued support of EBMUD's WRDA authorization requests for the RESCU program and the San Ramon Valley Recycled Water Project.

### **INITIATIVE #4 -- ADVANCE EBMUD'S DELTA NEEDS WITH FEDERAL DELEGATION**

The appropriate federal response to the Bay Delta Conservation Plan (BDCP) and the efforts to address California water resources issues is likely to continue to be debated in congress. Over the past two years, EBMUD has worked with its congressional delegation and relevant stakeholders to ensure that any Delta-related federal policy or legislation does not negatively impact EBMUD ratepayers. Congress will likely continue to focus on Delta-related issues in 2013 and may continue to work on a federal response to address water supply, water quality, and ecosystem protection needs. Staff will monitor the development of Delta-related legislation and administration policies and work to ensure that EBMUD's needs are effectively communicated.

### **Recommended Actions**

Communicate and work with EBMUD's congressional delegation, the administration, and relevant congressional committees on EBMUD's Delta needs and respond to any questions on how proposals may impact EBMUD. Staff will focus on EBMUD's priority issues:

1. EBMUD's ratepayers should not be held responsible for the flow obligations, project mitigations, or expected habitat restoration success of others, including the state and federal projects.
2. EBMUD's ratepayers should not be asked pay for costs that are the responsibility of others, or for any user fee or surcharge that subsidizes other parties.
3. Any solution that would impact the Mokelumne salmonid fishery should include mitigation by the responsible parties for the impacts.

ARC:MD:JF