



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

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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***Notice of Time Change***

**PLANNING COMMITTEE**

**Tuesday, January 9, 2024**

**9:00 a.m.**


**Boardroom**

**375 11<sup>th</sup> Street**

**Oakland, CA 94607**

Notice is hereby given that the Tuesday, January 9, 2024 Planning Committee meeting of the Board of Directors has been rescheduled from 9:15 a.m. to 9:00 a.m. The meeting will be held in the Administration Building Boardroom at 375 11th Street, Oakland, California.

Dated: January 4, 2024

  
Rischa S. Cole  
Secretary of the District

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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA  
Planning Committee  
Tuesday, January 9, 2024  
9:00 a.m.  
Boardroom  
375 11<sup>th</sup> Street  
Oakland, CA 94607**

**\*\*\* Please see appendix for public participation instructions\*\*\***

*Committee Members: Doug A. Linney {Chair}, Lesa R. McIntosh, and Marguerite Young*

**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. Accessory Dwelling Units (Lee)
2. Walnut Creek Water Treatment Plant Pretreatment Project Update (Yoloye)

**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 11<sup>th</sup> Street, Oakland, California, during normal business hours, and can be viewed on our website at [www.ebmud.com](http://www.ebmud.com).*



# APPENDIX

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## Planning Committee Meeting Tuesday, January 9, 2024 – 9:00 a.m.

*EBMUD Board committee meetings will be conducted in person and via Zoom.  
These meetings are recorded and live-streamed.*

### Online\*

<https://ebmud.zoom.us/j/94576194030?pwd=dWZlc3hNU3JNUVBQYmNKWjJSNVZQdz09>

**Webinar ID:** 945 7619 4030

Passcode: 925293

### By Phone

Telephone: 1 669 900 6833

Webinar ID: 945 7619 4030

Passcode: 925293

International numbers available: <https://ebmud.zoom.us/u/kdmpbwwlg2>

\*To familiarize yourself with Zoom, please visit <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

**Providing public comment** - *The EBMUD 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.*

- Each speaker is allotted 3 minutes to speak; the Committee Chair has the discretion to amend this time based on the number of speakers
- The Secretary will track time and inform each speaker when the allotted time has concluded
- Comments on **non-agenda items** will be heard at the beginning of the meeting
- Comments on **agenda items** will be heard when the item is up for consideration
- The Secretary will call each speaker in the order received

### In person

- Fill out and submit a blue speaker card which is available in the meeting room

### Via Zoom

- Use the raise hand feature in Zoom to indicate you wish to make a public comment  
<https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar>
  - *If you participate by phone, press \*9 to raise your hand*
- When prompted by the Secretary, please state your name, affiliation if applicable, and topic

### Submitting written comments or materials

- Email written comments or other materials for the Board of Directors to [SecOffice@ebmud.com](mailto:SecOffice@ebmud.com)
- Please indicate the meeting date and agenda item number or non-agenda item topic in the subject line of the email. Contact information is optional.
- **Please email by 4 p.m. the day prior to the scheduled regular meeting;** written comments and other materials submitted to the Board of Directors will be filed in the record.

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**To observe the Planning Committee Meeting,**  
please visit: <https://www.ebmud.com/about-us/board-directors/board-meetings/>


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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 4, 2024

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Andrew L. Lee, Director of Customer and Community Services  *for ALL*

SUBJECT: Accessory Dwelling Units

### SUMMARY

During the 2019 legislative session, the California Legislature enacted several statutory changes shaping the development landscape for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). Subsequent legislative sessions have further refined the provisions to reduce the barriers to develop dwellings on both single-family residential (SFR) and multifamily residential (MFR) premises. These legislative changes have influenced the District's water metering requirements and assessment of System Capacity Charges and Wastewater Capacity Fees (collectively capacity charges). An overview of ADUs and JADUs, applicable laws, and the impact of these developments will be discussed at the January 9, 2024 Planning Committee meeting.

### DISCUSSION

For many years, California law allowed local agencies to adopt ordinances allowing for the development of “second units” which were defined as attached or detached dwelling units on the same parcel as a single-family dwelling. Local agencies were encouraged to permit these units to increase the availability of units for use as rentals or living quarters for family members. While local agencies allowed for the legal construction of these dwelling units since the early-2000s, it was not until recently that the California legislature adopted laws to specifically require local agencies to designate areas where these units could be permitted and to establish standards for how these dwellings could be regulated. In 2016, the Legislature amended California Government Code (Code) sections 65852.2 and 65852.22 to replace references to “second units” with “accessory dwelling units” and require local agencies to approve ADUs consistent with certain standards.

Recent amendments to Code sections 65852.2 and 65852.22 redefined the requirements for the creation of ADUs and JADUs, creating a simpler path for these types of developments. The updated Code provides details on how ADUs and JADUs are constructed, reduces existing permitting barriers, sets timelines for permit processing, and establishes utility connection exemptions for certain types of qualifying ADUs not afforded to typical SFR and MFR construction. As a result, ADUs and JADUs evolved beyond the SFR and MFR development

model familiar to the District and required the development of an updated review process for ADUs or JADUs.

### Types of ADUs and Exemptions

The Code defines ADUs as attached or detached residential dwelling units that provide complete independent living facilities on SFR or MFR lots with an existing or proposed primary residence or existing multifamily structure. ADUs can be newly constructed detached structures, or conversions of existing structures (e.g., detached garages or sheds) or unused spaces within existing primary residences and multifamily structures. JADUs must be created entirely within the footprint of a new or existing SFR, cannot exceed 500 square feet, and must provide an efficiency kitchen and separate access from the main house.

The Code exempts certain qualifying ADUs and JADUs from new utility connection requirements and assessment of new capacity charges. To meet the exemption, the ADU must meet the following:

- On a SFR property;
- Provides complete independent living facilities for one or more persons;
- Is a conversion of a portion of the existing primary residence with its own exterior access or a conversion of an existing auxiliary structure; and
- No more than 150 square feet have been added beyond the accessory structure or primary residence to accommodate ingress and egress; or the ADU is a JADU

For ADUs that do not meet the criteria for an exemption, Code section 65852.2(f)(5) states that utilities “may require a new or separate utility connection directly between the accessory dwelling unit and the utility.” The Code also states that “the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit.” *Id.* ADUs that are subject to an assessment of capacity charges include:

- ADUs constructed on SFR premises:
  - Converting an existing structure and expanding by more than 150 square feet, or
  - Building a new structure or structures, or
  - Expanding the existing primary structure by more than 150 square feet, or
  - Involving new construction of a primary dwelling with an ADU.
- All ADUs constructed on a MFR premise.

### District Review Process & Requirements for ADUs

Any development project involving new water using features or equipment within the District’s service area is required to submit a water service application, abide by the Regulations Governing Water Service (Regulations), and pay their fair share of applicable capacity charges. The Regulations provide specific guidance for when the District requires a new meter, and the Rates and Fees Schedules provide the costs associated with new meters. The District reviews ADUs for compliance with the Regulations while also recognizing the Code provisions governing ADUs.

Due to the variations in ADUs and the complexity of State laws and District Regulations, staff work closely with developers of ADUs to provide guidance and facilitate their projects. All projects involving ADUs, whether exempt or not, are required to submit a water service application for review. During the review process, staff will identify if the ADU is exempt in accordance with Code and process the application according to the Code and District requirements.

Applicants with exempt SFR ADUs have the option to install a separate, dedicated District meter for their ADU or use a single existing meter to serve the ADU and existing primary residence. Applicants who opt for a separate meter are assessed the District's installation fees. If applicants opt to not install a dedicated meter for the ADU, staff verifies if the existing water service is sufficiently sized to meet the combined domestic water demands of both the ADU and existing primary residence. If the meter is undersized, the District will replace the meter with an appropriately sized meter and only assess the District's installation fees if the domestic water demand of the primary residence alone requires the larger meter.

Applicants with non-exempt SFR ADUs are provided the same metering options as exempt ADUs and are similarly assessed the District's installation fees for a new dedicated meter. If an applicant does not want a separate meter, the District's installation fees will only be assessed if the existing meter or service lateral is insufficiently sized to meet the combined domestic water demands of the ADU and the existing primary residence and must be replaced. Regardless of the metering option selected, non-exempt SFR ADUs are potentially subject to the assessment of new capacity charges based on the total combined domestic water demand of the structures on the property. Applicants must pay the difference between the new capacity charges assessed for the property and the capacity charge associated with the existing meter.

MFR properties may create up to two detached ADUs and convert unused, inhabitable space within an existing multifamily structure to create at least one ADU or multiple ADUs up to 25 percent of the existing number of dwelling units. New metering requirements for MFR ADU projects are determined in accordance with District Regulations and each new ADU is assessed capacity charges based on square footage. Installation fees are also assessed when District Regulations require the installation of a new dedicated meter.

## **NEXT STEPS**

Staff will continue to provide guidance to applicants on the District's Regulations and fees and charges related to ADUs. The District will also continue to monitor the evolving legislative efforts to facilitate ADUs, refine its processes for reviewing and processing water service applications related to ADUs, and perform additional outreach to local permitting agencies.

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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 4, 2024

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager *CCC*

FROM: Olujimi O. Yoloye, Director of Engineering and Construction *JM* for OOO

SUBJECT: Walnut Creek Water Treatment Plant Pretreatment Project Update

### SUMMARY

The Walnut Creek Water Treatment Plant (WTP) Pretreatment Project will incorporate new treatment processes for the Walnut Creek WTP to increase WTP capacity to meet planned future demands, improve water system reliability and operational flexibility, and allow for the potential future decommissioning of the aging Lafayette WTP which would require significant capital investment to ensure reliability and meet regulatory requirements. Staff will provide an update on the upcoming design for this project, including a phased approach for implementing the design and engineering services during construction contracts, at the January 9, 2024 Planning Committee meeting.

### DISCUSSION

#### Project Purpose and Description

The Walnut Creek WTP, located in the City of Walnut Creek, serves approximately 225,000 customers in the District's East of Hills service area, which includes portions of Pleasant Hill, portions of Walnut Creek, Alamo, Lafayette, Danville, Blackhawk, and other San Ramon Valley communities. The WTP was constructed in 1967 and upgraded in 2013. To increase flexibility and the ability to treat supplemental water from other sources (e.g., through the Freeport facility) pretreatment and ozone facilities are needed. It is expected that the quality of the water supply will continue to be impacted by climate change, high rainfall runoff, wildfires, algal blooms, and emerging contaminants. In addition, the water supply may contain high levels of organic compounds, disinfection by-product precursor material, taste-and-odor compounds, and other pollutants. This project will add the necessary pretreatment and ozone facilities to address these impacts.

The project will be designed and constructed in two separate phases. Phase 1 will increase the plant's reliable sustainable capacity from 115 million gallons per day (MGD) to 125 MGD, and Phase 2 will increase that capacity to 160 MGD. The design of Phase 1 improvements is

scheduled to start in 2024, with construction scheduled from 2027 to 2030. Timing of Phase 2 improvements will depend on future demands and source water quality conditions.

### **Project Status**

A project update was presented to the Planning Committee on September 12, 2023, and a Draft Environmental Impact Report (EIR) for the project was published in compliance with the California Environmental Quality Act (CEQA) on September 28, 2023. A virtual public meeting was held on October 19, 2023 to solicit comments, and the 45-day public review period ended on November 13, 2023. Staff are responding to comments received and the Final EIR is scheduled for Board consideration in June 2024.

Concurrent with ongoing CEQA efforts, a request for proposals for engineering design services was advertised in August 2023. Project design is anticipated to initiate in early 2024 and take approximately four years to complete, with Phase 1 construction currently scheduled to start in late 2027.

### **Approach to the Design Process and Design Contracts**

To reduce uncertainty in the project scope, better understand project sequencing and constraints, and control project costs, a phased approach to design contracts will be used. This approach is consistent with recommendations made to the Board of Directors on November 24, 2020 and builds upon lessons learned from recent large and complex capital projects.

As part of this approach, staff developed a Basis of Design Report and preliminary design criteria prior to advertising the project for a design services contract. In addition, in lieu of issuing a single consultant contract to complete design, the design process will be phased as summarized in Table 1. This allows the project scope and costs to be fully developed at the 30 percent design milestone, prior to contracting design services for detailed design (30 percent – 100 percent).

Table 1: Overview of Phased Approach to Design Contracts

Contract	Deliverables	Estimated Award Date	Approximate Duration
Basis of Design Report		Completed 2021 by District Staff	
Contract #1: Pre-Design	Technical Memoranda, pre-design up to 30% drawings, 30% construction cost estimate and schedule	Winter 2023	Winter 2023 – Fall 2025
Contract #2: Detailed Design (future)	Bid documents (100% drawings and specifications), construction cost estimate, bid phase support. Detailed scope based on results of Contract #1	Winter 2025	Winter 2025 – Fall 2027
Contract #3: Engineering Services during Construction (future)	Construction support and O&M documentation	Fall 2027	Winter 2027 – End Construction (TBD)

To provide continuity, staff will retain the same team of consultants throughout the entire design process; however, the District retains the option of negotiating contracts with a different consultant for Contracts #2 and #3 if required to meet the needs of the project.

### Consultant Selection Update

Proposals for engineering design services were received on October 18, 2023. Proposals were evaluated by a District selection committee comprised of stakeholders and subject matter experts. The selected consultant will work with District stakeholders under the direction of a District project manager and discipline leads. The recommended consultant, Carollo Engineers, Inc. in partnership with 18 other subconsultants, has demonstrated subject matter experts who have experience working with the District. The selected team also scored highly in contract equity participation goals by integrating small, local, women- and minority-owned businesses into their team. In addition, an independent peer review and quality management team was created as part of a robust quality assurance and control plan.

### District Forces Roles and Responsibilities

District staff will be involved at every stage of this project and will provide detailed, consistent oversight of consultants. Staff will perform overall project management, review consultant submittals for completeness and necessary level of detail, host workshops at each phase of the project, and provide overall quality assurance and quality control. In addition, staff will coordinate and perform pilot testing in 2025 that will assist with verification and optimization of the ozone design criteria including the selection of pre- or intermediate ozone prior to start of detailed design under Contract #2. To facilitate the pilot testing, pilot equipment skids will be purchased in 2024 as part of the Water Quality Research Facility project.

## Walnut Creek Water Treatment Plant Pretreatment Project Update

Planning Committee

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### **NEXT STEPS**

An agreement for pre-design services is scheduled for Board consideration at its January 23, 2024 meeting. If the Board authorizes the agreement, design will begin in February 2024, with completion of pre-design Contract #1 in winter 2025. Concurrently, staff will prepare the Final EIR for Board consideration in June 2024. A contract to purchase the Water Quality Research Facility pilot testing equipment will be scheduled for Board consideration in spring 2024. Detailed design under Contract #2 is scheduled to begin in winter 2025, with construction starting in late 2027.

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